

# PRINCE EDWARD ISLAND LEGISLATIVE ASSEMBLY



Speaker: Hon. Francis (Buck) Watts

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POINT OF ORDER .....	3207
(Georgetown-St. Peters) .....	3207
(Leader of the Third Party) .....	3210
MATTERS OF PRIVILEGE AND RECOGNITION OF GUESTS .....	3210
STATEMENTS BY MEMBERS .....	3212
BELFAST-MURRAY RIVER (Belfast Highland Greens – Lord Selkirk Campground).....	3212
WEST ROYALTY-SPRINGVALE (United Nations Memorial Service) .....	3213
ORAL QUESTIONS.....	3213
LEADER OF THE OPPOSITION (Child advocate and best practice) .....	3213
LEADER OF THE OPPOSITION (Independent child advocate) .....	3214
GEORGETOWN-ST. PETERS (RFP process for PNP intermediaries) .....	3215
GEORGETOWN-ST. PETERS (Location of office and scoring model).....	3216
GEORGETOWN-ST. PETERS (RFP and number of intermediaries) .....	3216
GEORGETOWN-ST. PETERS (Liberal insiders and RFP process) .....	3217
GEORGETOWN-ST. PETERS (Government and rules of PNP program) .....	3217
GEORGETOWN-ST. PETERS (Previous track record of intermediaries) .....	3218
GEORGETOWN-ST. PETERS (Sunrise re: diversity and retention) .....	3218
GEORGETOWN-ST. PETERS (Premier and Frank Zhou re: immigration in PEI) .....	3219
LEADER OF THE THIRD PARTY (Carbon tax increase in BC) .....	3219
LEADER OF THE THIRD PARTY (PEI plan for carbon pricing) .....	3220
LEADER OF THE THIRD PARTY (Government position on carbon tax) .....	3220
MONTAGUE-KILMUIR (Incentives for first-time home buyers) .....	3220
MONTAGUE-KILMUIR (Affordable housing for youth) .....	3221
MONTAGUE-KILMUIR (Incentives for first-time home builders) .....	3221
VERNON RIVER-STRATFORD (IRAC report on land ownership) .....	3222
VERNON RIVER-STRATFORD (Results found from IRAC report) .....	3223
MORELL-MERMAID (Cuts in spending in health system).....	3223
MORELL-MERMAID (Current status of industrial engineer team) .....	3224
MORELL-MERMAID (Finding efficiencies in Health PEI) .....	3224

MORELL-MERMAID (Employment of system engineers) .....	3224
MORELL-MERMAID (Measures in place for health cards) .....	3225
STATEMENTS BY MINISTERS .....	3225
FINANCE (Launch of New Open-data Portal) .....	3225
TABLING OF DOCUMENTS.....	3227
ORDERS OF THE DAY (GOVERNMENT) .....	3227
COMMITTEE .....	3227
BILL 38 – Electoral System Referendum Act .....	3227
ADJOURNED.....	3248

The Legislature sat at 2:00 p.m.

### Point of Order

**Speaker:** The hon. Member from Georgetown-St. Peters.

**Mr. Myers:** Thank you, Mr. Speaker.

I rise this afternoon on a point of order in relation to the injustice which occurred in this Chamber last night.

At roughly 8:56 p.m., the Member from Vernon River-Stratford interjected into ongoing debate on Bill No. 114 stating: We need to make a decision and we need to move that the Speaker take the chair and report the bill agreed to with amendment.

Armed with this motion, the Member from Charlottetown-Lewis Point, as Chair, ignored myself and other hon. members of this House, who had legitimate questions on the bill and who were on the list. This led to great confusion and concern for myself and other members of the opposition.

When reviewing the video evidence, one can clearly hear the clerk assistant whisper to the Chair: So, the motion was passed for the committee to report back. The clerk assistant explained to the Chair, again, things that are clearly heard in the video evidence that you need to come to a consensus and went on to explain the motion needed.

The Member from Charlottetown-Lewis Point, as Chair, stated and I quote: I'm going to use some discretion here as Chair, so I'm going to have a show of hands those, who would like us to call the Speaker back.

Thus, the motion was moved and approved by this government to abandon the committee and have the Chair leave the chair and call the Speaker back. All of this occurred without a vote on said bill.

According to the *House of Commons Procedure and Practice*, the Member from Charlottetown-Lewis Point moved a motion to have the Speaker return to the chair and for herself to leave the chair. This motion was not debatable, and if adopted the committee rises without a report to the House, and the matter before committee

disappears from the order paper. So, because it was voted on she had no more authority in this House.

Thus, it would appear, the efforts of the Member from Charlottetown-Lewis Point should perhaps result in order 27 being dropped from the order paper as no vote on the bill and no report to the House should have occurred if the member was following the procedural letter of the law.

As a former speaker herself, who travelled the world from Swaziland to India, from Tanzania and all points in between, attending parliamentary conferences, perhaps, this topic of open and honest debate would have been covered at one point.

Furthermore, according to the rules of this House, 83 (5) "A motion that the Chair leave the chair is always in order and shall be decided immediately without debate –

**Mr. LaVie:** Don't worry, we read it.

**Mr. Myers:** – but no second motion to the motion to the same effect may be made until after some intermediate proceeding has been had."

According to the rules of our House and the rules of the House of Commons, the two main methods utilized to limit debate are to invoke closure or to move the previous question.

Last night, it appears clear for all to see that this tired government ignored the rules of this House and hamfistedly jammed Bill No. 114 through second reading, while members still wished to speak and ask questions.

The intent of government and for the Member from Vernon River-Stratford are clear, even if the execution is not.

This is not the first time, in this session, that the Member from Vernon River-Stratford has failed to cover himself in glory. The Montague Consolidated School and their parents certainly have not forgotten and neither have I.

Mr. Speaker, as you are aware the *Rules of the Legislative Assembly of Prince Edward Island* do not specifically deal with closure. However, Rule 2 does state: that

proceedings in un-provided cases, the uses and customs of the House of Commons of Canada shall be followed.

For the benefit of the government members, I will outline the rules around closure as provided by the House of Commons.

*House of Commons Procedure and Practice* states: prior to moving a motion of closure, an oral notice of intent to do so must be given by a minister on a previous sitting day of the House or a committee of the whole.

“After notice has been given of the intention to move a motion of closure, the motion may be moved during a subsequent sitting, whether the following day or later. The motion for closure must...” also, “...be moved by a Minister...”

The proper form of closure of a motion is that: debate be not further adjourned.

“The motion of closure requires that these parts of the bill be the first business taken up in Committee of the Whole that day and not be further postponed. Basically, the adoption of a motion of closure in a Committee of the Whole ensures that the committee stage will be completed in that sitting.”

“Closure motions are neither debatable nor amendable. However, once moved, the House or the Committee of the Whole proceeds to a question and answer period of not more than 30 minutes, when Members may put brief questions to the Minister responsible for the item subject to the closure motion or to the Minister acting on his or her behalf.

“In a Committee of the Whole, following the question and answer period, the Chair... will put the question on the motion for closure. If closure is adopted, the resolution, or a specific part of the event of the committee is considered a legislative measure, is immediately taken under consideration. In the case of a bill, the first clauses will likely be at issue. During the ensuing debate, as is the case in the House, no Member may speak more than once, nor for longer than 20 minutes. If consideration of one clause ends and debate begins on the next clause, Members have a further 20 minutes to speak to that clause.”

The intent of government and the Member from Vernon River-Stratford are clear. As he said: In the view of government, we need to make a decision. Unlike the House of Commons rules on closure, no advance notice during a previous sitting was given; in fact, no notice was given at all. Notice is required from a Cabinet minister, which the Member from Vernon River-Stratford is not. No question and answer period took place; no further debate past the member’s stunt happened at all; and this all occurred after 8:56 p.m.

The second method to limit debate is to move the previous question. The *Rules of the Legislative Assembly of Prince Edward Island* are quite clear in this method.

Rule 84, Previous question may not be moved states, “The previous question may not be moved in Committee of the Whole House.”

Furthermore, chapter 19 of the *House of Commons Procedure and Practice* states that: it is prohibited to move a motion that this question be now put. The reason for this prohibition, as stated by Marleau and Montpetit is that given the bill is referenced to committee of the whole for clause by clause consideration, the moving of the previous question would prevent members from proposing amendments and considering the legislation to the fullest extent possible.

The prohibition to limit debate in the Committee of the Whole House is noted by *House of Commons Procedure and Practice* as appearing back as far as the first edition of Erskine May. As I’m sure the clerks are aware, the first edition was printed back in 1844. I refer the Speaker and clerks to a ruling of speaker Milliken given on November 27<sup>th</sup>, 2002.

A second important point to make in this particular circumstance is that the use of the previous question, that is, the question be now put, is not permitted in committee.

As the *House of Commons Procedure and Practice* points out on page 786, the previous question is not permitted in any committee of the House, even the committee of the whole. This rule was found in all authorities, dating back as far as the first

edition of Erskine May in 1844. It is expected, not just by the Speaker, but also the House itself, that its committees will conduct its business that is before them with consideration of these time-honoured practices.

Another mechanism utilized in Ottawa that was referred to by the Member from Charlottetown-Parkdale last night online was time allocation. However, I would correct my hon. colleague from the third party that time allocation is only used on public bills, not private bills, such as Bill No. 114.

While this tired government may have acted like it was a government bill last night, it is actually a private member bill that the Member from Montague-Kilmuir is taking his golden parachute and no longer in Cabinet, but even he forgets that sometimes.

The other great concern last night was that the Member from Charlottetown-Lewis Point, acting as Chair, turned to the Premier for judgment and his views on ending debate after the Member from Vernon River-Stratford moved his motion. This is also not right. The Premier was the only member recognized by the Chair to speak. So it was another case of his way or the highway, especially if that highway's being paved by his family construction company like the \$65 million MacKinley bypass in Cornwall. I suppose this is not surprising, however, given the revelation yesterday that the only unincorporated landowner on PEI given a free pass in amalgamation was the Premier's own brother.

I want to be perfectly clear, my frustration and my concern is not with the subject of the bill in question – and I was very clear with that last night in debate – but rather with the underhanded means this government employed to stifle debate and democracy to push it through.

**Mr. LaVie:** Shame.

**Mr. Myers:** For the members from Montague-Kilmuir, Vernon River-Stratford, and Charlottetown-Lewis Point who have all publicly indicated they are not reoffering in the next general election, there has been a significant and coordinated effort to jam this bill through in the spring session. Given this

House is clearly scheduled to resume sitting in November, these members clearly know something – or appear to know something – that the rest of us do not.

As I have outlined, there are serious concerns as to the abuse of democracy that took place last night. When you re-entered the Chamber, your first action was to acknowledge me for my point of privilege, and I appreciate that. This took place prior to any other interjections or business. When you review the video evidence, the clerk assistant is clearly heard pointedly stating, once I begin speaking, that we are still in committee. This refrain was repeated two or three further times by the Chair as she stood waiting to deliver the committee report: We are still in committee.

This is a very important fact, because this House was still in committee of the whole when I delivered my point of privilege. Since the chair deliberately refused to hear my question of privilege, I was grateful that you provided me with the floor while the committee was still in Committee of the Whole House.

When I concluded my point of privilege, Mr. Speaker, you stated that this issue should have been dealt with in committee, which I agreed with. Clearly, there may have been some confusion around what was occurring. This House was still in Committee of the Whole House. Therefore, this matter has not been properly dealt with.

Notwithstanding this very important fact: Ordinarily, the House is only ceased of a committee matter when the committee reports to the House outlining the situation that must be addressed. However, this is not an absolute requirement.

As Speaker Fraser said during a ruling given on March 26<sup>th</sup>, 1990 (Debates page 9,756):

In very serious and special circumstances, the Speaker may have to pronounce on a committee matter without the committee having reported to the House.

Therefore, on both counts it's your duty and right as Speaker to uphold the honour and traditions of this House against this undemocratic actions which took place last night.

The limiting of the rights and freedoms of all members that you claim to vow and uphold earlier this session surely qualify in a very serious and special circumstance.

I would urge you, Mr. Speaker, to do what is right and what you are empowered to do. If you require an adjournment to consult with the clerks and perhaps Legislative Counsel, I urge that you do so.

This House must not proceed any further with business until this wrong has been righted. I would suggest the easiest way to repair the damage would be to immediately revert back to committee of the whole, with a new Chair, and to conclude second reading and allow all members to finish asking their questions.

If this tired government wants to trample democracy once we revert to Committee of the Whole House, government can give a proper sitting day notice through a Cabinet minister that they intend to invoke closure on this private members bill the next time it hits the floor.

Thank you, Mr. Speaker.

**Speaker:** Thank you, hon. member and, hon. member, I will certainly be taking this under advisement.

The hon. Leader of the Third Party.

#### Point of Order

**Dr. Bevan-Baker:** Thank you, Mr. Speaker.

I also rise on a point of order.

Yesterday during debate on bill 38 in committee of the whole, I asked the Chair that we proceed through the bill clause by clause rather than section by section and the Chair decided by show of hands citing majority rule that we'd proceed section by section.

It is my understanding that it is the tradition of this House that if even one solitary member wishes to proceed line by line, then that is how debate will progress. While I cannot reference a rule that mandates this, it is certainly the convention of this House as confirmed by the Clerk last week in correspondence that that is the case.

I respectfully ask that a ruling on this point of order be brought as soon as possible as we are currently in active debate on this bill.

Thank you, Mr. Speaker.

**Speaker:** Thank you, hon. leader and I will, too, take that under advisement.

#### Matters of Privilege and Recognition of Guests

**Speaker:** The hon. Premier.

**Premier MacLauchlan:** Thank you, Mr. Speaker.

I'll be brief; on with our business.

I'll mention two events; one in my district, the L.M. Montgomery school spring concert tomorrow evening. I'm sure it's always a great event for the students and the school and the community to get together.

Also tomorrow evening, being the eighth annual fundraising dinner for the Victoria theatre, at the Landmark Café, and this is getting on for close to 40 years for the Victoria Playhouse, and I want to wish Pat and Emily Smith, and all of the people involved with that great institution, a successful season.

Let me welcome everyone who is here in the gallery, and joining us from afar. I want to especially welcome Margaret MacKay from Linkletter who joins us from time to time and keeps a close eye on things in public affairs of this province.

Thank you, Mr. Speaker.

**Speaker:** The hon. Leader of the Opposition.

**Leader of the Opposition:** Thank you very much, Mr. Speaker.

It's a pleasure for me to rise as well and to bring greetings, especially to those who may be joining us today over the Internet or Eastlink.

I'd also like to just acknowledge the farmers that are currently out in our fields planting the annual crop, particularly with potatoes. I had an opportunity to meet with several of

the farmers last evening and I'm very happy to report that the weather thus far has been very accommodating towards the planting season.

I'd also like to acknowledge, of course, the fishers that are out daily right now with the lobster fishery, and wishing them all the best of luck and I plan on doing a little bit of a tour this weekend and getting out around some of the ports and talking to many of our fishers. So again, I wish both our farmers and fishers a very successful harvest.

Thank you very much, Mr. Speaker.

**Speaker:** The hon. Leader of the Third Party.

**Dr. Bevan-Baker:** Thank you very much, Mr. Speaker.

I'd like to welcome everybody to the gallery today and particularly Pauline Howard from the Food Exchange PEI, who does such great work for that organization. Thank you, Pauline.

I also want to take this opportunity to pass on my deep regrets about the loss of a dear friend of mine and a constituent of District 17; Harry Baglole passed away this morning. I'm sure many in this House know Harry. He was a deeply respected and very much loved elder of this Island community. Harry's loving fingertips are all over this Island from the Institute of Island Studies which he helped found back in the 1970s to the Macphail Homestead to the Bonshaw community hall in the community in which he lived. Ragweed Press; Acorn Press; the Macphail Homestead; the Island Magazine; The Brothers and Sisters of Cornelius Howatt, and on and on.

Harry dearly loved this Island and he showed that love in so many ways and he will be deeply missed. He, just a couple of years ago, won the inaugural special honour at the Atlantic PEI Book Awards gala.

Paul Robinson, who nominated Harry for this award said this about him, "From the birth in 1976 of The Island Magazine, where he served on the editorial board, to the summer of 2014, when the play, The Master's Wife will open at the Orwell Historic Village Hall, the name 'Harry

Baglole' has been inseparable from the cultural and artistic life of P.E.I. in all of its varied and rich dimensions."

And indeed he has.

I want to, on behalf of everybody in this House pass on our condolences to his family and friends, particularly his two sons, Sebastian and Keith.

Thank you very much, Mr. Speaker.

**Speaker:** The hon. Minister of Rural and Regional Development.

**Mr. Murphy:** Thank you, Mr. Speaker.

Pleasure to rise and welcome all the folks in the public gallery, especially one of my constituent that travelled all the way down from Alberton, Christine Batten, came down to see her daughter working here again.

Christine is a great community supporter. She's on the advisory council and economic advisory council. She operates the PennySaver, her and her husband. She's also employed at Holland College with the Transitions program, which is a great program that's in a pilot project at Westisle school that's supported by our hon. Minister of Workforce and Advanced Learning. It's a program that's really worthwhile and we'd like to see it continue. Welcome Christine.

I'd like to say a pleasant welcome and a pleasant day to all the good folks that are watching out in Alberton-Roseville district.

Thank you, Mr. Speaker.

**Speaker:** The hon. Member from Rustico-Emerald.

**Mr. Trivers:** Thank you, Mr. Speaker.

It's a pleasure to rise today. Welcome to everyone watching from District 18 Rustico-Emerald. Especially, I wanted to say hello to Mark Gallant and Margaret Howard, two community leaders. They do things like, for example, look after the seniors dances out in Rustico. The reason I mention them, as well, today is because Margaret's daughter Pauline Howard is in the gallery. I wanted to welcome her there. It's great to see you. Thanks for all the work you do with the PEI

Food Exchange. And, just in general, to advocate for food equality on our Island.

It's great to see Margaret MacKay and Eddie Lund.

**Speaker:** The Member from Vernon River-Stratford.

**Mr. McIsaac:** Thank you very much, Mr. Speaker.

I want to welcome everyone in the gallery. I want to express my condolences to two families. The MacKenzies in Millview and the passing of David. He was a great farmer and a member of the hog board, as well. A deep loss there, as well. Also, the late Harry Baglole, who was quite involved in Macphail Homestead, which is in my riding; as well as Farmers Helping Farmers, an absolute awesome gentleman, as well. Two great losses to our province; so condolences to both families.

Thank you very much, Mr. Speaker.

**Speaker:** The hon. Minister of Education, Early Learning and Culture.

**Mr. J. Brown:** Thank you very much, Mr. Speaker.

I, too, would like to rise too, on behalf of our department to express our condolences to Harry Baglole's family. He was obviously an integral part of the Orwell Corner operation and Macphail Homestead. He will be missed certainly in that capacity. We wish the best to his family and friends and to those organizations in particular, Mr. Speaker.

Thank you.

**Speaker:** The hon. Member from Souris-Elmira.

**Mr. LaVie:** Thank you, Mr. Speaker.

I'd like to say hello to everyone in the gallery, too, especially the media, who looks after us daily. And to those that are in District 1 watching online and on Eastlink.

I'd like to give a big shout-out to the Souris Fire Department today. We received a call at the Souris Regional School today. There

was a fire that set off the sprinkler system and shut down the school this afternoon approximately around 12:30.

I'd like to give a shout-out to the Souris Fire Department for handling the issue so well. Especially, when I'm away, I get a great group of volunteer fire departments and officers that handled the case very well.

I was talking to one of the officers and the Fire Marshal's Office. It was a case that was handled really good. They brought in the school buses and got the kids on the school buses and got them home, Mr. Speaker.

Thank you.

### Statements by Members

**Speaker:** The hon. Member from Belfast-Murray River.

### **Belfast Highland Greens – Lord Selkirk Campground**

**Ms. Compton:** Thank you, Mr. Speaker.

It's my pleasure to rise today and recognize Belfast Highland Greens and Lord Selkirk Campground. Nestled in the community of Belfast with captivating views of the Pownal Bay and Northumberland Strait, you can guarantee you will always have something to do.

With the campground and the golf course situated side-by-side it's a unique set-up and is an excellent tourist attraction for the area.

The Belfast Highland Greens, which opened in 1996 is one of the finest nine-hole golf courses in Atlantic Canada and was one of the most scenic on Prince Edward Island.

The 3,209 yard course features a unique layout with four par 5's, three par 3's and two par 4's. If you can shoot your handicap at Belfast then you had a great game.

There is lots happening every week at Belfast Highland Greens; Tuesday is two-for-one green fees all day long; Wednesday is ladies night social starting at 4:00 p.m.; Thursday is men's night, and Fridays is 9 and wine, couple's night.

Lord Selkirk Campground, which is now owned and operated by the Belfast Community Development Corporation, boasts a nine-hole golf course, a heated pool and mini-putt to name just a few amenities.

They just celebrated their opening on May 18<sup>th</sup> of this season and are looking forward to a great summer. Plans are underway for a big Canada Day celebration, so stay tuned for details.

The campground features six un-serviced sites; 18 two-way sites, and 56 three-way sites. I would like to invite members of this House and all Islanders to make the drive to Belfast this summer for a round of golf, a relaxing swim in the pool and spend the night in our campground. It will be most enjoyable, a common relaxing event and experience for everyone.

Thank you, Mr. Speaker.

**Speaker:** The Member from West Royalty-Springvale.

### **United Nations Memorial Service**

**Mr. Dumville:** Mr. Speaker, each year in May, the United Nations Memorial Service is held in Bass River, Nova Scotia.

Dr. Karen Ewing created a permanent memorial park in this community, unique, in that it consists of multiple cenotaphs in tribute to honour veterans and recognize the harsh reality of peacekeeping, peacemaking and sacrifice.

This year's event began with the RCMP piper and drum band on parade. It was largely attended by military, police, firefighters and their families, many riding motorcycles that filled the parking lot.

The hon. Karen Casey representing the Province of Nova Scotia spoke warmly and passionately of her community and the veteran service.

Silver Cross Mother Angela Reid spoke of sacrifice. Many wreaths were laid by many services including the RCMP and the Government of Canada.

I had the honour to attend this service this past Sunday and I encourage all Islanders to

consider attending this memorial. I invite everyone to Google Veterans Memorial Park, Bass River, Nova Scotia, and to visit this world class collection of 12 cenotaphs dedicated to our fallen and those that continue to serve us.

Thank you, Mr. Speaker.

Responses to Questions Taken As Notice

### Questions by Members

**Speaker:** The hon. Leader of the Opposition.

**Leader of the Opposition:** Thank you, Mr. Speaker.

Prince Edward Island continues to stand alone as the only Canadian province without an independent office of a child advocate.

### **Child advocate and best practice**

Question to the Premier: How can you try and justify your refusing to create an office of a child advocate when so much evidence and best practice points in the opposite direction?

**Speaker:** The hon. Premier.

**Premier MacLauchlan:** Mr. Speaker, this is something that we've discussed previously in this House. From the outset, we have said, and I have said, that our priority is to emphasize frontline services to address the issues that, indeed, may lie behind the initiative of the Leader of the Opposition to ask about a child advocate. Most recently, to put in place a children's lawyer.

Going back, there was the bridge program, which is a very robust effort across departments and with community organizations, with the very direct objective and the collaborative work that goes to protecting children in our province. Thank you, Mr. Speaker.

**Speaker:** The hon. Leader of the Opposition.

**Leader of the Opposition:** Thank you very much, Mr. Speaker.

Let me be very clear: a child's lawyer is not an independent child advocate. At its core, a child advocate is an independent voice from government that has a laser focus on the welfare of the child.

### **Independent child advocate**

Question to the Premier: Which part of having an independent child advocate do you object to more, the focus on the child's welfare or your inability to control it?

**Speaker:** The hon. Premier.

**Premier MacLauchlan:** Mr. Speaker, our government has been clear. Indeed, there is a clear record of our commitment to children's welfare and to the protection of children, and to building strong families. And, where families are broken to addressing those issues.

We put in place, in addition to the bridge program, in addition to the children's lawyer, the supervised exchange, which came out directly from the matters that have given rise to a lot of the discussion about a child advocate.

We have also introduced parenting coordination and alternative dispute resolution. These are all measures that together are giving children in our province protection.

Thank you, Mr. Speaker.

**Speaker:** The hon. Leader of the Opposition.

**Leader of the Opposition:** Thank you very much, Mr. Speaker.

The measures that the Premier speaks of, I would agree, they are good measures that he's brought in. We continue to hear from families and people working in justice and child welfare that the Premier's alternative is just not filling the void created by not having an independent child advocate here on PEI.

Question to the Premier: Why are you being so rigid about having an independent child advocate that could build on the measures that you have brought in?

**Speaker:** The hon. Premier.

**Premier MacLauchlan:** Mr. Speaker, we have, indeed, been flexible and taken a progressive and an evolving approach to the issues that we are talking about here and that has led to a collaborative effort across departments, with community, with families. We've also made significant effort in strengthening families such as the Triple P program.

I believe we will also see that there will be significant benefits for children and families from the groups that are being put together in schools to support children.

From the outset what we have said is: First things first. Frontline services first. I believe that families and children in our province are benefitting from that approach and from that commitment.

Thank you, Mr. Speaker.

**Speaker:** The hon. Leader of the Opposition.

**Leader of the Opposition:** Thank you very much, Mr. Speaker.

First things first, a child advocate would be a frontline service.

Federal changes being proposed to the *Divorce Act* indicate a change in philosophy that will put greater emphasis on the best interests of the child. A change in philosophy that aligns perfectly with the goals and the agenda of an independent child advocate.

Question to the Premier: In light of the shift at the federal level, will you finally reconsider your opposition and once and for all put in place an independent office of child advocacy here on Prince Edward Island?

**Speaker:** The hon. Premier.

**Premier MacLauchlan:** Mr. Speaker, the change, or the greater emphasis on the best interests of the child in divorce proceedings is one that we welcome.

It is one that indicates the – I will say – the good judgment in strengthening the team in

the Family Law Centre, notably the children's lawyer. In other services in and around alternative dispute resolution; in working with families, and in being sure that in all of the ways that children are being approached, who are in family situations where there is – where there are broken families that we have in place the people and the services and the coordinated effort that is going to ensure that the best interest of the child is looked after.

Thank you, Mr. Speaker.

**Speaker:** The hon. Leader of the Opposition.

**Leader of the Opposition:** Mr. Speaker, making divorce proceedings less confrontational will benefit the welfare of the children.

Although, these changes are being made federally, it will fall upon the provinces to ensure that the proper support systems are in place to follow through. That's where our status as the only standalone Canadian province that still does not have a child advocate, an independent child advocate here to serve our children.

Question to the Premier: To give full benefit to Island children from these federal changes, will you commit, I'm asking you again, will you commit finally to establishing an office, an independent office of a child advocate here on Prince Edward Island?

**Speaker:** The hon. Premier.

**Premier MacLauchlan:** Mr. Speaker, let me say that when we go from the changes that are being made or being proposed to the federal divorce law to emphasize the best interest of the child, let us draw the line to the changes that were made here on the floor of this House and supported by all sides to bring forward an alternative dispute resolution process in our family courts to bring forward and put in place the resources for parenting coordination; to put in place a children's lawyer.

I believe what we can see is that Prince Edward Island is in a much stronger position. We've all worked together to put this in place. Including, through our

budgetary resources so that the best interest of the children in our province will be looked after.

Thank you, Mr. Speaker.

**Speaker:** The hon. Member from Georgetown-St. Peters.

**Mr. Myers:** Thank you, Mr. Speaker.

### **RFP process for PNP intermediaries**

Question to the immigration minister: Do you believe the recent RFP process to select PNP intermediaries was run fairly?

**Speaker:** The hon. Minister of Economic Development and Tourism.

**Mr. Palmer:** Thank you, Mr. Speaker.

We did have an RFP process and we engaged a number of new agents that are helping us to populate Prince Edward Island. We had a scoring grid that went along with that. It was a public tender and it was done very fairly.

Thank you, Mr. Speaker.

**Speaker:** The hon. Member from Georgetown-St. Peters.

**Mr. Myers:** Thank you, Mr. Speaker.

RFPs that are run fairly usually don't end up in court, however, yours did.

Question to the minister: Why wasn't the scoring process for bidders evenly applied?

**Speaker:** The hon. Minister of Economic Development and Tourism.

**Mr. Palmer:** Thank you, Mr. Speaker.

A number of the staff of IIDI had scored the RFP. There was a scoring grid that was related to that. A number of agents were given a particular score. We took the very best scores that are willing to work in the new model that we have, which is largely based around the expression of interest model that we have with communities to help grow the population right across PEI.

Thank you, Mr. Speaker.

**Speaker:** The hon. Member from Georgetown-St. Peters.

**Mr. Myers:** Thank you, Mr. Speaker.

So court documents filed over your fair process include government documents that show how applications were weighted and scored.

### **Location of office and scoring model**

Question to the minister: Why was the physical location of an office weighted twice as important as the bidder's experience with immigration?

**Speaker:** The hon. Minister of Economic Development and Tourism.

**Mr. Palmer:** Thank you, Mr. Speaker.

The location of the office was important in the RFP, which was important in the scoring model that we had laid out with the RFP. So, all bidders clearly understood that our goal here is to help with newcomers populating right across PEI and we're engaging communities to do that and agents knew that and everybody was aware of that when the RFP went out.

Thank you, Mr. Speaker.

**Speaker:** The hon. Member from Georgetown-St. Peters.

**Mr. Myers:** Thank you, Mr. Speaker.

Actually, court documents say otherwise so your RFP documents did not tell bidders that they would get extra points for having offices outside of Charlottetown, yet bidders got extra points for having offices outside of Charlottetown.

Question to the minister: Why would your fair RFP process leave out such a crucial detail, other than to bend the rules for Liberal insiders?

**Speaker:** The hon. Minister of Economic Development and Tourism.

**Mr. Palmer:** Mr. Speaker, our RFP process was fair. It was published; there was a scoring grade that was involved with that; a number of people that were engaged in the

file had scored the various responses that we received; and we took the very best agents that were willing to work with our new model that would help populate newcomers right across PEI as we know immigration is a very important piece to help our economy grow and a very important piece of our population strategy.

Thank you.

**Speaker:** The hon. Member from Georgetown-St. Peters.

**Mr. Myers:** Thank you, Mr. Speaker.

So the minister's own RFP stated it wanted to grow the number of intermediaries in Prince Edward Island from seven to 10, but when the dust settled, this government announced 12.

### **RFP and number of intermediaries**

Question to the minister: Why did you ignore your own rules and name 12 intermediaries instead of 10?

**Speaker:** The hon. Minister of Economic Development and Tourism.

**Mr. Palmer:** Mr. Speaker, we found some very good responses from agents right across PEI that were really ready to step up to help us grow the population across PEI and to help us bring in the very best newcomers to PEI that would help us to do a number of things: creating jobs, fill key labour gaps, and to help populate those newcomers right across PEI so that cultural diversity can be shared, not just in the center in Charlottetown, but right across PEI.

**Speaker:** The hon. Member from Georgetown-St. Peters.

**Mr. Myers:** Thank you, Mr. Speaker.

If the government had followed its own rules, there would have been several – at least two that wouldn't have made the cut – that don't belong there – one of them is Cox & Palmer.

**Mr. LaVie:** Rules? They don't have rules.

**Mr. Myers:** Cox & Palmer made the cut when they shouldn't and everybody on the

ground who was involved with immigration knows they shouldn't be there. It just so happens that the Attorney General was still actively practicing at Cox and Palmer when this all went down.

### **Liberal insiders and RFP process**

Question for the immigration minister: Doesn't it seem like an awful coincidence that Liberal insiders are able to sneak in through the backdoor of your fair RFP process?

**Speaker:** The hon. Minister of Economic Development and Tourism.

**Mr. Palmer:** Thank you, Mr. Speaker.

There are Liberal agents. There are agents that have leanings towards the Green Party and through the Tory party. That wasn't part of the RFP process. It was about engagement and helping us grow the population and bring the very best newcomers to PEI and that wanted to live in areas other than Charlottetown and help us to grow that population and take advantage of the tremendous assets that we have here in PEI.

**Speaker:** The hon. Member from Georgetown-St. Peters.

**Mr. Myers:** Thank you, Mr. Speaker.

Well this Liberal playbook is getting pretty dog-eared. This government sets up a fair process, then they micromanage it and they meddle and they manipulate in the shadows until they get the result that they want and it usually ends up filling the pockets of some well-heeled Liberal friends of theirs.

Question to the minister: How does this give Islanders any more confidence that your government can be above board when dealing with immigration?

**Speaker:** The hon. Minister of Economic Development and Tourism.

**Mr. Palmer:** Thank you, Mr. Speaker.

Our RFP was published, it was evaluated by a number of staff members from the immigration office that looked at a number of criteria including: location, experience,

ability to adapt to a new program that's helping to place newcomers right across PEI and we're very pleased that we're able to do that and we're working with a number of communities to do just that – to grow the population right across PEI.

**Speaker:** The hon. Member from Georgetown-St. Peters.

**Mr. Myers:** In theory, Mr. Speaker, and if you listen to what this minister says, government is focused on attracting immigrants who will stay on Prince Edward Island and who will follow the rules of the Provincial Nominee Program.

### **Government and rules of PNP program**

Question to the minister: How is your government pursuing this objective?

**Speaker:** The hon. Minister of Economic Development and Tourism.

**Mr. Palmer:** Thank you, Mr. Speaker.

I'm glad you asked because it's the expression of interest model that we're working with a number of communities across PEI who are interviewing newcomers on their business plan that would come to their various communities. So they're endorsing those newcomers to come to their community, to set up their business practice, to bring their families, to be involved in the community. So we continue to work on that and the agents are a very important piece of that – to work with our newcomers to make sure that they can identify opportunities right across PEI.

Thank you, Mr. Speaker.

**Speaker:** The hon. Member from Georgetown-St. Peters.

**Mr. Myers:** Thank you, Mr. Speaker.

Well we're hearing from Island communities that are already quitting or drastically cutting back the amount of work that they're doing for this government because they're doing all the work and government's pocketing all the money.

In a presentation made to Cabinet in October 2017, it was made clear that the percentage

of immigrants who followed the rules and had their escrow deposits returned – broken down by intermediaries.

**Previous track record of intermediaries**

Question to the minister: How is the previous track record of intermediaries factored in on your latest fair RFP?

**Speaker:** The hon. Minister of Economic Development and Tourism.

**Mr. Palmer:** Thank you, Mr. Speaker.

Our evaluation process had to do with who was able to respond to the new model that we had. Some of those were returning agents and some of those were new agents. We continue to evolve the program. Every year it continues to get better. We continue to bring newcomers to PEI and some of the agents are able to adapt to that and scored very well on the RFP, and some others may not have scored as well as they would have liked. We had a fair process. It was evaluated by staff who have a lot of experience with the process. We're happy the population's continuing to grow right across PEI.

**Speaker:** The hon. Member from Georgetown-St. Peters.

**Mr. Myers:** Thank you, Mr. Speaker.

You know what they say? Past performance predicts future performance. In the same presentation to Cabinet, it shows that Sunrise Immigration and Investment had only 32% of immigrants follow the rules and receive their escrow deposit refunded to them.

Question to the minister: Do you consider 33% an acceptable success rate?

**Speaker:** The hon. Minister of Economic Development and Tourism.

**Mr. Palmer:** Thank you, Mr. Speaker.

We've evolved our process so that we continue to identify areas that we can continue to grow and 32 is not a good number. We want that to continue to grow and we've identified issues and we work very hard to increase that because we know

the intent of the program is to have newcomers come to the Island, to bring new ideas, to fill important labour gaps for us, and bring their culture here to PEI. So we're continuing to work on that and I don't know if we'll ever be satisfied until we get to 100%.

Thank you, Mr. Speaker.

**Speaker:** The hon. Member from Georgetown-St. Peters.

**Mr. Myers:** Thank you, Mr. Speaker.

We all know retention is an important part of the immigration process. It was the Premier himself who said that as part of the retention strategy, he was going to diversify the places that immigrants were coming from. Sunrise has nearly 100% Chinese immigrants coming in – 33% of which would stay – all according to a Cabinet presentation.

**Sunrise re: diversity and retention**

Question to the minister: How is Sunrise helping diversity and retention as outlined by the Premier?

**Speaker:** The hon. Minister of Economic Development and Tourism.

**Mr. Palmer:** Thank you, Mr. Speaker.

Some of those stats may be old because we have immigrants coming from all over the world, and we have various agents that have relationships in different places and they are bringing new people here to PEI and we're very happy that they're working with communities right across PEI to continue to grow the population and bring those new ideas here.

Our department will continue to work to evolve our program, to continue to make it better so that we can have the very best immigrants coming here to PEI.

Thank you, Mr. Speaker.

**Speaker:** The hon. Member from Georgetown-St. Peters.

**Mr. Myers:** Thank you, Mr. Speaker.

So, between 2011 and 2015 Sunrise pumped through one of the highest numbers of immigrants through this program out of any of the intermediaries at all, and it's funny how this government continues to feed Sunrise. The Premier himself has a really cozy relationship with Frank Zhou. It's because of Frank that his book made it to China, in the Anne in China project that the Premier partnered with Frank Zhou from Sunrise on. This is the Premier who continued to let him do this after he became Premier.

### **Premier and Frank Zhou re: immigration in PEI**

Question to the minister: Do you think the relationship between the Premier and Frank Zhou has created a cozy and uncomfortable practice in immigration here in Prince Edward Island?

**Speaker:** The hon. Minister of Economic Development and Tourism.

**Mr. Palmer:** Thank you, Mr. Speaker.

Our immigration program continues to grow, continues to get better. Last year, actually, most of our newcomers, I believe, came from India so it continues to grow and our various agents are reaching out. They're expanding their networks. They are responding to what we were really looking for in the RFP, and they were able to deliver on what we're looking for, and that's why we were able to get a number of agents that responded to the RFP that were successful and they continue to help us grow the population and we're very happy to have them, and we're going to continue to work on our retention rates.

Thank you, Mr. Speaker.

**Speaker:** The hon. Leader of the Third Party.

**Dr. Bevan-Baker:** Thank you so much, Mr. Speaker.

Last Friday in the House the Minister of Communities, Land and Environment tabled a media article which he used to defend this government's opposition to carbon pricing. The article claimed that despite carbon pricing in 2015, which is the most recent

year for which we have figures, British Columbia's carbon dioxide emissions actually rose.

However, if we look back at the history of carbon pricing in British Columbia from 2008, we see that not only has it accomplished the goals it set out to achieve; lowering emissions, maintaining a robust economy, and creating employment, it actually surpassed them all.

### **Carbon tax increase in BC**

A question to the Minister of Communities, Land and Environment: How much did the carbon tax increase in British Columbia in the two years preceding the figures that I cited, 2013 and 2014?

**Speaker:** The hon. Minister of Communities, Land and Environment.

**Mr. R. Brown:** Thank you, Mr. Speaker.

I thank the member for this debate because the more we can debate this topic; I think it's better for the environment and better for Islanders.

I have a report here that indicates that Vancouver, right now, is experiencing \$1.60 in gas prices. CTV has reported one of the major reasons it is at \$1.60 is because of the carbon tax.

I don't know why the Green Party is so against helping Island families here, and to live an affordable life here on Prince Edward Island.

Thank you, Mr. Speaker.

**Speaker:** The hon. Leader of the Third Party, your first supplementary.

**Dr. Bevan-Baker:** Thank you, Mr. Speaker.

Well, the answer is the carbon tax didn't rise at all. For five straight years following its inception in 2008, it did increase up to an accumulative total of \$30 a tonne, and then the government stopped increasing the price. So, the fact that emissions in British Columbia actually started to rise when they stopped increasing the tax actually supports the argument for carbon pricing.

**PEI plan for carbon pricing**

Minister, given that you tabled a document that adds to the weight of evidence in favour of carbon pricing, when will we see details in this House on PEI's plan in order that we can comply with federal rules, and do so in a way that protects low and middle-income Islanders?

**Ms. Biggar:** (Indistinct) the budget.

**Speaker:** The hon. Minister of Communities, Land and Environment.

**Mr. R. Brown:** Thank you, Mr. Speaker.

I thank the member for his question.

British Columbia and Prince Edward Island have the fastest growing economies here in Canada. But, British Columbia also has the highest fuel prices.

Our plan has included reducing prices on electricity to move to a less-carbon economy. We are already 10% there. Nova Scotia and New Brunswick are close to their 30% reduction without a carbon tax. Like I have said, we can meet our targets. If this is about reducing carbon in the atmosphere and not about taxation, we will meet our carbon requirements and reduce carbon in the atmosphere. I believe we can do it with the plan we have.

Thank you.

**Speaker:** The hon. Leader of the Third Party, your second supplementary.

**Dr. Bevan-Baker:** Thank you, Mr. Speaker.

Successive Liberal administrations on Prince Edward Island have made a habit of saying that they won't do something prior to an election, and then completely reversing that position. Of course, implementing the HST back in 2013, and then raising it again by a point in 2016, come to mind.

**Government position on carbon tax**

Minister, how do you expect Islanders to believe that this Liberal government – I'm sorry – how do you expect Islanders to believe this Liberal government when you

say you won't impose a carbon tax on Islanders leading into the next election?

**Speaker:** The hon. Minister of Communities, Land and Environment.

**Mr. R. Brown:** Mr. Speaker, I'll table later on a CTV report and the headline is: BC carbon tax helps push gas prices to record heights. That is April the 2<sup>nd</sup>, 2018.

I will also be tabling a chart here showing the 120-month average retail price of gas prices across the country and you'll see that BC is at 100 and Vancouver is at \$1.55, and the rest of Canada is at \$1.30.

I cannot understand why the Green Party wants to hurt Island families here on Prince Edward Island. As we have heard earlier, vehicles are important in Prince Edward Island because we have a diverse or spread out population and our cars are needed. Why does the Leader of the Green Party want to tax families, Mr. Speaker?

**Speaker:** The hon. Member from Montague-Kilmuir.

**Mr. Roach:** Thank you, Mr. Speaker.

My question today is for the finance minister. We have talked in this Legislature about the importance of retaining our youth and keeping Islanders as Islanders. People truly are our greatest asset. If we are able to find ways to keep them here, I'm all for it.

When it comes to buying your first home there's anxiety involved, whether it's financial stress, uncertainty, or simply confusion.

**Incentives for first-time home buyers**

Minister, what incentives or credits is there for young people looking to buy their first home and to stay on Prince Edward Island?

**Speaker:** The hon. Minister of Finance.

**Mr. MacDonald:** Thank you, Mr. Speaker.

We know how important it is to keep young Islanders here on Prince Edward Island. Just from our most recent budget, the incentives that we've put in place to try to retain them, but the hon. member is exactly right.

We are at a crossroads for home buyers and vacancy rates, especially in our city centres; Summerside and Charlottetown. There are different programs available to those individuals that want to build homes. First-time home buyers' tax credit, we have GST/HST new housing rebates and there's one that was implemented October 1<sup>st</sup> of 2016, which one of the only provinces in Canada that does this, is the provincial tax exemption.

Those are some of the incentives, basically, that new home buyers or builders should be looking at, Mr. Speaker.

Thank you.

**Speaker:** The hon. Member from Montague-Kilmuir, your first supplementary question.

**Mr. Roach:** Thank you, Mr. Speaker.

I thank the minister for that answer, but last month the City of Charlottetown released a report on youth affordable housing which found there is a need for more affordable housing for youth within the Greater Charlottetown Area, and I'm sure that has a lot to do with the young people here in university.

### **Affordable housing for youth**

How will the province help to address this particular issue?

**Speaker:** The hon. Minister of Finance.

**Mr. MacDonald:** Well, first of all, Mr. Speaker, I was actually there and attended that and kudos for those three young people for taking that on. I think it was an exceptional presentation.

**Mr. LaVie:** (Indistinct) the question (Indistinct)

**Mr. MacDonald:** But, provincial housing strategy; being released so there are certain ways. But, there are also communities on PEI that understand about wanting to maintain people and bring new people in to rural PEI and there are incentives in some of those communities, or there was at least. I can't remember, but I believe Georgetown was one of those communities that were

providing land for new builds. So there are things like that.

But, there are also issues relevant to Airbnb, for example, that we're also dealing with but it's also investing in housing. We've shown through our last budget up to 1,000 new low-income housing units. There is a trickledown effect. Hopefully, that'll open up some new of the lower-level apartment rentals and housing possibilities for our youth coming forward.

Thank you, Mr. Speaker.

**Speaker:** The hon. Member from Montague-Kilmuir, your second supplementary.

**Mr. Roach:** Thank you, Mr. Speaker.

It's been suggested that there is a specific area that we're dealing with here. It certainly has to do with the younger people that are trying to find accommodation or build accommodation.

### **Incentives for first-time home builders**

Minister, would you ever consider implementing new incentives, such as rebates, when young people under a certain age decide to build their first home?

**Mr. MacDonald:** I think, Mr. Speaker, our whole emphasis in this government is growing the population, repatriation, and trying to ensure that, especially our youth and graduating students, stay on Prince Edward Island; work at a profession of their choice. We've seen it with what we've done with the rebate reduction in student loans when they return to Prince Edward Island up to \$14,000.

More so, I think if there's a possibility there that we could create something relevant to a rebate program for first time homeowners or builders, I think a government that's in the economic position that we're in right now, and leading the country in the fastest-growing economy, we have to ensure the infrastructure is there for these young people. It would be more than opportune for us to take a look at it.

Thank you, Mr. Speaker.

**Speaker:** The hon. Member from Vernon River-Stratford.

**Mr. McIsaac:** Thank you very much, Mr. Speaker.

My question is to the Minister of Communities, Land and Environment, and it has to do with the land. It's one of the most, greatest assets that we have here on PEI. It's certainly a hot topic every time it comes to the floor.

I know the minister recently asked IRAC to do a report on land ownership, not only of the corporations, how much land they own, but also for non-residents.

### **IRAC report on land ownership**

I'm wondering if the minister could tell us what led him to move on towards this report.

Thank you, Mr. Speaker.

**Speaker:** The hon. Minister of Communities, Land and Environment.

**Mr. R. Brown:** Thank you, Mr. Speaker.

There has been a lot of concern or questions about land ownership on Prince Edward Island over the last number of months, in the last number of years.

It also goes back a long ways, these questions. The Boylan report of 1990, also questioned it. The Carver report that was – came out, one of the recommendations was that IRAC institute or do a study on land ownership here on Prince Edward Island so Islanders can see the facts of who owns what land and its distribution across Prince Edward Island.

Thank you, Mr. Speaker.

**Mr. LaVie:** (Indistinct)

**Speaker:** The hon. Member from Vernon River-Stratford, your first supplementary.

**Mr. McIsaac:** Thank you, Mr. Speaker.

During this report, I know when the topic comes up, whether it's in the rural or whether it's in the city area, people love to have their input on it. I'm just wondering if

there is a possibility to have comment before this report is finalized and how the members would go about making comment towards this report.

Thank you, Mr. Speaker.

**Speaker:** The hon. Minister of Communities, Land and Environment.

**Mr. R. Brown:** Thank you, Mr. Speaker.

Prince Edward Island is an Island and we have a limited amount of land on Prince Edward Island. Due to climate change, we're losing some of it each and every year. It's important that we protect and we use our land the best we can.

With agriculture being our most important industry on Prince Edward Island, it is crucial that we protect agricultural land on Prince Edward Island. It's important that we protect our view-scapes here on Prince Edward Island. We have one of the best islands in Canada and I'd say the world. Our tourists come here to Prince Edward Island to see those beautiful view-scapes so we have to protect them.

The IRAC report will set out the statistics and a bunch of numbers on land ownership and the distribution of that land ownership. I see that as a beginning of a journey for Islanders to get involved in developing policies towards land use and how we protect that land use on Prince Edward Island.

I've met with the agriculture community. I've met with the National Farmers Union. I've had a lot of a number of conversations. Once the House closes, I will be concluding my discussions with them to see once we get the report where to go from there.

Thank you, Mr. Speaker.

**Speaker:** The Member from Vernon River-Stratford, second supplementary.

**Mr. McIsaac:** Thank you, Mr. Speaker. I'm glad they're going to have the opportunity to have input into this report. There's already some rumours going around about more trees being planted, reforestation and that, and when there's some concern that that may happen on the very best land. I

think reforestation is a great idea.

I'm just wondering if the minister can look at, if we are going to reforest, and I'm not against that in any way shape or form, that, maybe, we put it in perhaps the second-grade land, not so much the (Indistinct) cultural land. We don't want to lose any of that, at all.

### **Results found from IRAC report**

Again, another question: Again, what are we expecting to find from this report in the end?

Thank you very much, Mr. Speaker.

**Speaker:** The hon. Minister of Communities, Land and Environment.

**Mr. R. Brown:** Thank you, Mr. Speaker.

There's also another report. You see a number of reports coming out: How PEI's salt marshes could join the battle against climate change. We have salt marshes. We have watershed groups out there working.

These people are at the frontlines of climate change. They see what's going on. Whatever we can do, and take their recommendations when the watershed groups talk about land use on Prince Edward Island.

As for forestry, I have a dream that we will get rid of the oil tanks here on Prince Edward Island and we will heat our houses with local supplied locally-supplied renewable energy including wind and biomass –

**Mr. Trivers:** I have the same dream –

**Mr. R. Brown:** – and we'll have our –

**Mr. Trivers:** (Indistinct)

**Mr. R. Brown:** – cars on electricity. I think Prince Edward Island will be one of the first places in the world to go with a no-carbon economy and Islanders (Indistinct)

Thank you, Mr. Speaker.

**Speaker:** The hon. Member from Morell-Mermaid.

**Mr. MacEwen:** Thank you, Mr. Speaker.

Last week, the minister of health talked about Health PEI running multi-year deficits.

### **Cuts in spending in health system**

Minister, what cuts will you make to bring spending under control now that you've taking the decision-making authority away from Health PEI board?

**Speaker:** The hon. Minister of Health and Wellness.

**Mr. Mitchell:** Thank you, Mr. Speaker.

Obviously, one of the roles of the whole department now will be to develop a strategic plan going forward. Obviously, the part of that – there are several parts to a strategic plan.

The first part is vision. A vision for, not only today, but for a year out, five years out, 10 years out, so we'll be looking at that big picture. It also tells us about our mission and our purposes. Are we following the wishes of the Islanders when we're looking at this new piece of work?

It also talks about values; values of keeping Islanders in health care facilities for the appropriate amount of time until their ready to go home. Other such things as making sure their needs are met both with quality health care and efficient health care. Those are the things that contribute to efficient health care on Prince Edward Island. That's what we're working towards, Mr. Speaker.

**Speaker:** The hon. Member from Morell-Mermaid.

**Mr. MacEwen:** Thank you, Mr. Speaker.

We know that this government always talks about wanting to spend tax dollars wisely. The big thing in health is spending tax dollars efficiently. Industrial engineers or system engineers take large systems, they analyze them and in turn they create efficiencies.

We had an industrial engineer in our health care systems a few years ago that was basically solely dedicated to projects that saved money; improved work flow; created

efficiencies. Her and her team realized significant improvements in the department.

### **Current status of industrial engineer team**

Now, she left to take on new responsibilities in a new position. What is the current status of this engineering team?

**Speaker:** The hon. Minister of Health and Wellness.

**Mr. LaVie:** (Indistinct)

**Mr. Mitchell:** Thank you, Mr. Speaker.

I am not aware of every member that works at Health PEI. I do know that every person that works there are very great worker with great backgrounds with great credentials and training to be in the roles they're in.

As we move forward, we will be taking a look at all of those needs. Obviously, when you look at an entity the size of Health PEI and when working with the department of health. Absolutely, we need to take in those areas of accountability and transparency.

We have teams and team groups that are working towards that now; have been working towards it in the past. We will work cooperatively with them in the future when it comes to those matters, Mr. Speaker.

**Speaker:** The hon. Member from Morell-Mermaid.

**Mr. MacEwen:** Thank you, Mr. Speaker.

I'll tell you what, if I had a government that had a department of health that took up a significant portion of the budget, as we do here on PEI, I would certainly make it my business to get to know this group, this team within Health PEI that actually creates efficiencies that will save hundreds of thousands, if not millions of dollars over the long term.

I understand that now the current person that's in health optimization is not solely dedicated to it and has many, many roles to fulfill.

### **Finding efficiencies in Health PEI**

Can the minister of health tell us why this important job is now rolled in with other ones and isn't a dedicated specialty to find efficiencies in Health PEI?

**Speaker:** The hon. Minister of Health and Wellness.

**Mr. Mitchell:** Thank you very much, Mr. Speaker.

It's exactly what the hon. member is talking about for the recent – some recent changes. Up until last week, I wouldn't have the ability to investigate the concerns that he's bringing forward today.

As we move forward collaboratively with a vision for extremely high quality, safe health care for Islanders, I will now have that ability to go down and research exactly the comments that the hon. member's making. And I will work with those people and I will look into the situation that you brought forward to ensure that the right people are doing the right jobs so that health care for Islanders is the best it can be.

**Speaker:** The hon. Member from Morell-Mermaid.

**Mr. MacEwen:** Thank you, Mr. Speaker.

Health departments all across the country have industrial engineers in them and they have whole divisions of them. These are the groups that make the tough decisions and find the efficiencies. They're the ones that can find those efficiencies, find that money, so that we can afford those new cancer drugs; we can make things work better.

### **Employment of system engineers**

Why don't we employ system engineers to help make these tough decisions and improve our service?

**Mr. Trivers:** Great question.

**Speaker:** The hon. Minister of Health and Wellness.

**Mr. Mitchell:** Thank you, Mr. Speaker.

Certainly, again, the hon. member talks about other provinces. Other provinces did have the ability where their minister could

go in and look at those types of situations. We will now have that moving forward and I can commit to the fact that, yes, I will get in there; I will look at teams; I will look at teams that need assistance and if we need to hire other staff, I will now have the ability to see that; and I will work so to ensure that Islanders are protected when it comes to their health care.

**Speaker:** The hon. Member from Morell-Mermaid, your final question.

**Mr. MacEwen:** Thank you, Mr. Speaker.

### Measures in place for health cards

My final question is to the minister of health: Have you found any other residences in PEI that have hundreds of health cards addressed to it?

**Speaker:** The hon. Minister of Health and Wellness.

**Mr. Mitchell:** Thank you, Mr. Speaker.

Certainly I'd had an opportunity a few days ago to bring forward – when it comes to health cards – all the measures that are put forward: where people have to show up, they have to prove who they are, they have to prove where they live. Obviously, the hon. member probably would have liked that tabled document and I can look forward to bringing those comments back to him in a document form, but when it comes to the health cards on Prince Edward Island, there's a lot of work goes on to ensure that those that need them, get them, but those that don't qualify, don't.

### Statements by Ministers

**Speaker:** The hon. Minister of Finance.

### Launch of New Open-data Portal

**Mr. MacDonald:** Thank you, Mr. Speaker.

Increasing openness and transparency has always been a priority for our government and we are always looking at ways to continue to move in this direction. Our government launched a new website with an assortment of open data sets available for public use. Today we are making even more

open data freely accessible for Islanders to use and republish.

Today we are launching a new open-data portal that includes 52 government datasets from across government departments. These datasets include things like: groundwater level monitoring; motor vehicle registrations as back as far as 1918; Confederation Bridge two-way crossing; chart of pesticides by rivers; total number of new conservation license plates sold; and much, much more including consolidated revenues.

The portal can convert the raw data into charts and graphs and with new search function makes information even easier to find. Many individuals including students and organizations will find it a huge asset to have this data readily available. Socrata, the portal software company, is a market leader in making existing government data discoverable, useable, and actionable for government workers and those who they serve.

Mr. Speaker, I want to thank open data community for engaging with our IT staff on this initiative. Islanders can check out the new portal on our website at [data.princeedwardisland.ca](http://data.princeedwardisland.ca).

Thank you.

**Speaker:** The hon. Member from Rustico-Emerald.

**Mr. Trivers:** Thank you, Mr. Speaker.

Anyone who's listened to me in the Legislature over the last few years knows that I'm a big proponent of open data and so, of course, I'm really glad to see that government's finally making some progress on this file.

Originally, when they released open data, it was PDFs of information and this sort of thing, so the fact that they have a third party tool that they're integrating is a great sign and I congratulate the minister on getting that done.

Providing open data doesn't have to be a big, expensive implementation. They're going in the right direction and I'm glad to hear that, but – I should mention, as a developer myself, I'm going to go in and

take a look at this and see exactly how we pull this data, but one thing that could have been done years ago – indeed, it was this regime that brought in the change – was to remove the CAPTCHA from the corporate registry.

We had a resident on Prince Edward Island, Peter Rukavina who was – he took it upon himself to write software to scrape the data from the corporate registry to create opencorporations.org. It was fantastic. You could go in, you could search by the name of a director of a company, and you could see all the companies they were directors for. It was excellent – they were all linked together, but you know what happened? The Liberal government put a CAPTCHA on the corporate registry so that Peter Rukavina's software opencorporations.org, could no longer get access to that data.

**Mr. LaVie:** What a shame.

**Mr. Fox:** That's a shame.

**Mr. Trivers:** So that's exactly the opposite of what open data is. So, unfortunately what Peter Rukavina did, he had to change the name of the website to closedcorporations.org. We've been waiting now a decade to have that CAPTCHA removed. I think it's fantastic that we're getting new data out there and available, but I put this challenge to this minister here today: Minister, if you really care about openness and transparency; if you really care about open data –

**Mr. LaVie:** Election coming.

**Mr. Trivers:** – remove the CAPTCHA and have it done by the end of today.

**Mr. LaVie:** Election coming.

**Mr. R. Brown:** You don't mind if the banks have lost millions of records of people's private information.

**Mr. Trivers:** What are you talking about?

That has nothing to do with anything we're talking about.

**Mr. MacKay:** Well, you don't really have a good track record of holding on to files. They seem to go missing.

**Mr. LaVie:** You're in trouble. You're digging.

**Speaker:** The hon. Member from Charlottetown-Parkdale.

**Ms. Bell:** Thank you, Mr. Speaker.

In the time that my hon. colleague was speaking, I was able to get on to data.princeedwardisland.ca and download my first data set, so it is really exciting to be able to thank the government, thank the minister, for this exciting and important first step.

One of the key things around this is accessibility of the raw data that allows us to do analysis, comparison, and work with that. We know that when we give data to people, they will find new and exciting things to do with it. As we mentioned, our friend Peter Rukavina has often said: PDFs is where data goes to die, so the further we can get away from PDFs and more into sort of this open link – there is no fear of giving other people access to information which should be publicly available. Publicly available information is part of our democratic right – to know what is going on, how decisions are made, and what the outcomes of those decisions are.

So I thank you for recognizing that this is not data that should be hidden, but data that should be made publicly available so we can do the best things with it.

Thank you, Mr. Speaker and thank you, minister.

**Mr. Trivers:** Get rid of the CAPTCHA. It's pretty simple.

**An Hon. Member:** It'll never happen.

**Mr. Trivers:** Pretty simple. You've got the power. Make it happen.

**Mr. LaVie:** (Indistinct) tired. You're a tired government, Premier. One minister (Indistinct)

**Mr. R. Brown:** No.

**Mr. LaVie:** You're tired. Get the pillows out.

## Presenting and Receiving Petitions

Tabling of Documents

**Speaker:** The hon. Member from Charlottetown-Parkdale.

**Ms. Bell:** Mr. Speaker, by leave of the House, I beg leave to table a document entitled Does a Carbon Tax Work? Ask British Columbia from *The New York Times* dated March 2016, and I move, seconded by the Honourable Member from Kellys Cross-Cumberland, that the said document be now received and do lie on the Table.

**Speaker:** Shall it carry? Carried.

**Ms. Bell:** Thank you.

## Reports by Committees

## Introduction of Government Bills

## Government Motions

Orders of the Day (Government)

**Speaker:** The hon. Minister of Health and Wellness.

**Mr. Mitchell:** Mr. Speaker, I move, seconded by the hon. Minister of Education, Early Learning and Culture, that the 15<sup>th</sup> order of the day now be read.

**Speaker:** Shall it carry? Carried.

**Clerk:** Order No. 15, *Electoral System Referendum Act*, Bill No. 38, in committee.

**Speaker:** The hon. Minister of Health and Wellness.

**Mr. Mitchell:** Mr. Speaker, I move, seconded by the Honourable Minister of Education, Early Learning and Culture, that this House do now resolve itself into a Committee of the Whole House to take into consideration the said bill.

**Speaker:** Shall it carry? Carried.

I'll call on the hon. Member from Charlottetown-Lewis Point and Deputy Speaker to come and chair the Committee of the Whole House.

**Chair (Casey):** The House is now in a Committee of the Whole House to take into consideration a bill to be intituled *Electoral System Referendum Act*. Is it the pleasure of the committee that the bill be now read clause by clause?

**An Hon. Member:** (Indistinct)

**Chair:** Thank you.

Permission to bring a stranger to the floor?

**Some Hon. Members:** Granted.

**Chair:** Thank you.

We'll allow him to come to the floor and set up.

Good afternoon. Could you introduce yourself and your title for the record?

**Gary Demeulenaere Director:** It's Gary Demeulenaere, director of legal and policy services with justice and public safety.

**Chair:** Welcome.

Hon. members, we are on number one: definitions. I'm going to start to read the section line by line and then when I finish section one; I will open the floor for discussion.

Thank you.

## Definitions

In this Act,

(a) "Chief Electoral Officer" has the same meaning as in the *Election Act R.S.P.E.I.* 1988, Cap. E-1.1;

(b) "contribution" includes

(i) money donated in order for a registered referendum advertiser to incur referendum expenses, or to otherwise support a registered referendum advertiser's opposition to or support of a mixed member proportional voting system related to the referendum, as the case may be,

(ii) other property or services provided free of charge –

**Mr. J. Brown:** (Indistinct)

**Chair:** (Indistinct) thanks.

(ii) other property or services provided free of charge or at less than market value, when provided in order for a registered referendum advertiser to incur referendum expenses, or to otherwise support a registered referendum advertiser's opposition to or support of a mixed member proportional voting system related to the referendum, as the case may be, and

(iii) any fees paid to a registered referendum advertiser for membership in the organization,

but does not include

(iv) public money paid to a registered referendum advertiser under section 16, and

(v) any voluntary unpaid labour;

(c) "election ballot" means a ballot used to vote at the general election;

(d) "financial agent" means a person who is appointed as the financial agent of a registered referendum advertiser under section 9 or 15;

(e) "general election" means, unless the context requires otherwise, the first general election to take place under the *Election Act* after the coming into force of this Act;

(f) "opponent", in respect of the referendum, means an organization that is registered as a registered referendum advertiser in accordance with section 10 and identifies in its application for registration that its members oppose a change in the voting system to a mixed member proportional voting system;

(g) "ordinary polling day" means the day fixed pursuant to section 5 of the *Election Act* for holding the poll at the general election;

(h) "organization" means a group of individuals, whether incorporated or not, who are acting together by mutual consent for a common purpose;

(i) "principal member", in relation to an organization, means

(i) an individual director of the organization, or

(ii) if there are no individual directors of the organization, the principal officers or the members that the organization identifies as the principal members of the organization in its application for registration;

(j) "proponent", in respect of the referendum, means an organization that is registered as a registered referendum advertiser and identifies in its application for registration that its members support a change in the voting system to a mixed member proportional voting system;

(k) "public money" means money paid out under the authority of this Act to be used by registered referendum advertisers for the purposes set out in subsection 17(2), and includes, for all purposes including the repayment of the public money, any interest earned on the money;

(l) "question" and "referendum question" mean the question specified in section 3;

(m) "referendum" means the referendum required to be conducted under section 3;

(n) "referendum advertiser" means any individual who or corporation or organization that intends to incur or has incurred referendum advertising expenses during the referendum period;

(o) "referendum advertising" means a message, respecting the referendum, transmitted to the public by any means during the referendum period, that opposes or supports, directly or indirectly, one or the other of the possible answers to the referendum question, but does not include

(i) the transmission to the public of an editorial, a debate, a speech, an interview, a column, a letter, a commentary or news, if published in the same manner and under the same standards that prevail outside the referendum period, without payment, reward or promise of payment or reward, and the means of transmission is not established for the purpose of the referendum or with a view to the referendum,

(ii) the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value, if it was planned that the book be made available to the public regardless of whether the referendum is being held,

(iii) the transmission of a document directly by a person or an organization to its members, employees or shareholders, as the case may be, and

(iv) the transmission by an individual, on a non-commercial basis, of his or her personal political views via the Internet;

(p) “referendum advertising expense” means an amount paid or a liability incurred for the purpose of producing or transmitting referendum advertising during the referendum period;

(q) “referendum ballot” means a ballot used to vote at the referendum;

(r) “referendum ballot paper” means the ballot paper to be used in the referendum;

(s) “Referendum Commissioner” means the person appointed as Referendum Commissioner under section 5;

(t) “referendum expenses” means an amount paid or a liability incurred by or on behalf of a registered referendum advertiser, during the registration period, for the purpose of opposing or supporting, directly or indirectly, one or the other of the possible answers to the referendum question, as permitted by section 17, including

(i) the cost of producing or transmitting referendum advertising,

(ii) the cost of acquiring the services of any person, including remuneration paid to the person, and

(iii) the cost of acquiring meeting or event space, providing refreshments and acquiring and distributing promotional material, but does not include

(iv) the reasonable expenses incurred by a person, out of his or her own money, for his or her own lodging, food or transportation during a journey for purposes related to the

referendum, if the expenses are not reimbursed to the person;

(u) “referendum period” means the period commencing on the date of the coming into force of this Act and ending on ordinary polling day, inclusive of those days;

(v) “registered political party” means a registered party as defined in the *Election Expenses Act* R.S.P.E.I. 1988, Cap. E-2.01, and includes an association or organization of a registered political party;

(w) “registered referendum advertiser” means a referendum advertiser that becomes registered under section 10;

(x) “registration period” means the period commencing July 1, 2018, and ending on ordinary polling day, inclusive of those days;

(y) “voting system” and “electoral system” mean a system for electing members of the Legislative Assembly.

Shall the section carry?

The hon. Leader of the Third Party.

**Dr. Bevan-Baker:** Thank you, Chair.

We left off yesterday talking around restrictions of freedom of expression and I had talked about how this might impact one’s time on Facebook, for example, or blog posts, in the media regarding editorial space.

The question I asked as the hour was called yesterday was: What other Canadian jurisdictions have legislation that restricts expression in the form of political advertising by private citizens? The first thing I’d like to know is during referendum campaigns.

**Gary Demeulenaere Director:** In follow up to that one in particular, I think I took the question you’re wondering where the referendum advertising definition derives from in that particular section where we had gone through.

**Dr. Bevan-Baker:** Yes.

**Gary Demeulenaere Director:** It derives from the New Brunswick act. It's defined in their 'regulations' in section two, in particular. It does also have origin in BC legislation from 2009. I recognize that that's since been repealed and replaced, and the regulations to the 2018 act are actually not out yet.

**Dr. Bevan-Baker:** Yet.

**Gary Demeulenaere Director:** From the federal election advertising rules, you'll see that the language in the Harper decision, that the minister referred to yesterday, are very similar and that decision is online and I can give you a citation if you needed to refer to it.

**Dr. Bevan-Baker:** Okay.

And those same restrictions, private citizens in the form of political advertising, what's the sort of norm during election campaigns for that? I know that will vary from province to province, but there are some fairly standard ways that goes.

Restricted advertising or restrictions on advertising and freedom of speech and expression during writ periods, or before writ periods, during an election campaign; how provinces enforce that.

**Gary Demeulenaere Director:** Yeah, what I can say, I guess, is that I understand that the language from these referendum legislations would presumably derive from the election wording, but I don't know if I can give you specific timelines of those different periods in each jurisdiction.

**Dr. Bevan-Baker:** Okay.

Sorry, Chair. I fear I haven't expressed my questions clear enough. I'm sorry, Gary.

I wasn't looking for the source of where we drafted our legislation; rather, how it compares to other provinces in terms of their restrictions, not where it was derived from. So, I think during election campaigns it's reasonably standard across the country, but referendum campaign legislation is much more. It varies much more.

I'm wondering about during pre-writ periods now, not during the election campaign itself,

but pre-writ. What are the differences in the provinces there?

**Mr. J. Brown:** I want to be just clear before we get into that question.

What we are seeing here is that the legislation is effective as of the day that it starts. In other words, that is the writ period for the referendum.

I say this because we've spoken about this at length and then at length again yesterday. That's something that you've not acknowledged in any way tacitly or directly. The reality is and I think you could say, we could all say that this campaign has effectively started now.

As I said yesterday, the (Indistinct) of the paper to the motion on the question was announced. The paper started to liven up with reports of the question itself and different considerations that would be coming out.

I would say to you, the minute that motion was tabled, we were on the track to a referendum with a question that we all knew was going to be the question that would be put forward as a clear question that we'd hope to get a clear answer that supports the will of Prince Edward Islanders, too.

And that's relevant in the consideration of –

**Dr. Bevan-Baker:** Absolutely.

**Mr. J. Brown:** – what you're asking.

**Dr. Bevan-Baker:** Absolutely, but the big difference is, that at the moment until this bill does come into effect, anybody could write in the newspaper; anybody could raise money; anybody could spend money advertising or promoting or whichever side they wanted on this, without restriction, but as soon as this bill comes into effect that will not be true. It's the restrictive period that I'm interested in.

Is there another province that has had a bill designed as this one is with such a, sort of, ambiguous writ period, typically a writ period will be between 26 and 32 days for an election, for example. Referendum periods can vary.

In this case, the referendum period is so woolly. It starts the date this bill is proclaimed and it goes until the election. Despite the fact that we have fixed date election laws here on PEI, which could take that writ period over a course of almost two years; it could be as short as a few months.

Is there any other legislation that exists in Canada that has that, sort of, flexible and ambiguous writ period as your legislation does before us?

**Mr. J. Brown:** Again, I feel as though I'm somewhat compelled to respond to your characterization of a woolly period or a – to me, the period is, at its maximum two years as defined in the legislation. There's an expectation that October 19<sup>th</sup> would be the date that you'd base your presumption on and work from that.

I don't think it's woolly; it's relatively defined in the circumstances that we're dealing with right here.

To be very clear about it, we know what the playing field is here. It's very defined. We're saying what people are and are not able to do. I guess really, we're saying what they're not able to do. It's really a very small piece of what they are able to do and we feel that it creates a level playing field. That's really the consideration that's important in terms of the timing as you go forward, in other words.

**Dr. Bevan-Baker:** It's clear. It's not woolly in wording. It's clear when the writ period begins. That's absolutely true. The problem is we don't know when it ends, minister.

I'm wondering if you could tell us: What is the end date of the referendum period?

**Gary Demeulenaere Director:** In regards to your initial question about timing just for, I guess, for information purposes.

Either in Quebec or in Canada, you can't tie the referendum to the fixed election date, like to an election date. They don't allow the referendum to coincide at the same time. In most other jurisdictions the referendum period would be whenever they've decided under their legislation to conduct a referendum and with a particular period.

I think the more direct answer to your question is, I don't think that there's a specifically competing example where you could say that the period is equally as long as what's being contemplated here.

The distinction being is that the exception, I guess, of the discourse that's been affected by the legislation is much narrower here than it is in some of the other jurisdictions.

**Dr. Bevan-Baker:** I guess we'll get to the debate on that statement later, Gary.

Minister, you said that you used October, 2019 as the next fixed date election. That would have this bill in place with the restrictions which it imposes for a period of about 16 months. And you would be okay with that if that were the case?

**Mr. J. Brown:** Yes.

**Gary Demeulenaere Director:** Yes.

**Dr. Bevan-Baker:** Okay, thank you.

**Mr. J. Brown:** I think, too, so, just a couple of points I'm going to make on that.

One is that again you look at a very, kind of, unique situation that we have here and a unique purpose surrounding this legislation. As I think we had said earlier, we would see a referendum would be very different than a general election, obviously.

We would see the kinds of advocacy that goes on in relation to a referendum to be a much narrower, I was using the analogy yesterday, of the fruit basket; it's the apples, not everything else that's in the fruit basket. It's a very small piece of what people would normally be involved in in their political discourse or their day-to-day discourse.

The importance here is that – of the referendum being set on the same day as the election is that the kind of turnout or acceptance or the drive to encourage Prince Edward Islanders to at least go to the ballot box is tied to an election year. Traditionally, on Prince Edward Island, have seen very high turnout; I think the last election was 82.11% of the eligible voters turned out to vote. You contrast that with what we have seen in any of the plebiscites that we've had

on Prince Edward Island before. It's a very significantly higher number.

The hope in looking at a change as significant as we are looking at here and looking to tie that to an election is that you have 82.11% or something like that, that come to the ballot box and say, I wish to change our electoral system (Indistinct) question or I don't. Whatever is the wish of the people that's what we do and we do it because it's clear and unambiguous and it's an expressed wish of the whole spectrum of Prince Edward Islanders.

The fuller answer to your answer that you asked last is: Am I okay with that? I'll note the amendment that's been tabled the Minister of Finance and I think it's something that, again, you look at it along a spectrum. The question is, in trying to achieve that objective of driving people out to the referendum, or, in other words, of involving Islanders in the discourse related to their electoral future, what is the most advantageous way you can do that and still keep a fair process going on throughout.

We've set out what we feel is a very fair way of achieving that. I do think that – not wanting to prejudge the Minister of Finance's proposed amendments – but I think that's also a further interesting way to improve upon what we have here by allowing, if we go past certain threshold dates, the release of further monies for the proponent and opponent groups by the referendum commissioner. That will, of course, then, enable further – whether it be folks that have gone over a personal threshold limit or people that say: okay, I get it. Now, after time I want to go join a group. They have the ability to do that on into the period as time moves on.

**Dr. Bevan-Baker:** One of the principles that when we're talking about compliance with the Charter of Rights and Freedoms is minimal impairment.

In this case, we're looking at a 16-month period, which you say you're comfortable with, of some fairly severe restrictions on the expression on Islanders' ability for freedom of expression and political speech.

Do you feel that that is in line with the Charter's requirement for minimal

impairment and that is be reasonable, and that it be justified?

**Mr. J. Brown:** Yes.

**Dr. Bevan-Baker:** You do?

**Mr. J. Brown:** Yes.

**Dr. Bevan-Baker:** On that issue of constitutionality, again, the vagueness of the referendum period is what concerns me and concerns many of the people that I have talked to. You have used the metaphor of a basket of apples or basket of fruit a number of times now, both once today and a couple of times yesterday and before also. I think what you're – forgive me if I'm misinterpreting this, minister, but I think what you're saying is in a referendum, we're just looking at really a very small part of the political spectrum here. We're just looking at a single question which is an apple in a bowl of fruit.

But actually, I'm not concerned about the issue – the topic that's being discussed. Indeed it is a narrow topic – a referendum topic. I'm more concerned about the broadness of the restrictions that this act imposes. So the topic may be narrow, but the restrictions are very broad and that's where I have concerns and people I have spoken to have concerns about the constitutionality of this.

Again, I'd like to ask a few questions on that. The limitations on advertising in this bill are obviously limitations on freedom of speech, but the question is whether those infringements are reasonable – that's the question – and that's in a court of law, which has to be determined and that's what will determine its constitutionality.

Again, I have to ask you if you feel that the basket of restrictions – not the topic, but the basket of restrictions which is wide and broad – for a period of 16 months, particularly with some of the restrictions on, for example, third party donations – which are absolute. They are certainly not minimal, those are maximal restrictions. You still feel that that is charter compliant?

**Mr. J. Brown:** What do you mean by third party donations?

**Dr. Bevan-Baker:** There's a restriction on third party donations to any of the groups who are – they have to use public money. So there's a prohibition – an absolute prohibition on third parties making – not third parties, sitting in this corner of the room – a third party. That can hardly be viewed as a minimal interference. That would be maximal, would it not?

**Mr. J. Brown:** I think – and what we said, to be clear in relation to that, would be that we would see that third parties, as you say, that are doing things in the ordinary course of business, are not going to be prohibited from doing things in the ordinary course of business. If they're looking to take money and use it for referendum advertising, then that's a problem. They're going to have to clearly set up a system that will allow them to kind of move aside from that purpose, or not use the money that they're bringing in for that purpose for something else. But there's a number of other restrictions that we've noted that are going to be something that third parties, quote unquote, are going to have to look at before they can be a part of the proponent or opponent group as well.

**Dr. Bevan-Baker:** One of the concerns, again, that I have with this is the idea that this is a fair and level playing field that – sorry Gary, did you have an intervention?

**Gary Demeulenaere Director:** The only thing that I mentioned to the minister is that what the case law says is that the option chosen doesn't have to be the most minimally impairing; it has to be in the spectrum of what's reasonable for minimal impairment. There can be other options available to achieve minimal impairment, but what's chosen by the Legislature doesn't have to be the least impairing option in order to be saved under the section one analysis.

**Dr. Bevan-Baker:** With the ambiguity of the writ period – it could be anything from three to four months if the Premier decides to call a fall election this year, up to 22 months if we comply with the fixed election date law that we have – the money that would be going to these groups, how will they be able to regulate or plan their campaigns and their spending, not knowing whether they may have to do that over a period of three months or over a period of

23 months? How can that possibly create a fair or level playing field?

**Mr. J. Brown:** As I had just indicated, that's one thing that we had looked at and the Minister of Finance has made a proposed amendment in relation to the legislation to deal with a situation that should help in that regard. But again, that's the path that's been set forward and when you look at it, historically, you would see the lion's share of that spending spent in the run-up to whatever the final – in this case, the referendum date or the election date would be in – the groups will know within 26-32, I think, is the timeframe days – what that will likely be and so they'll have the opportunity.

But what this does is it gives them both public money and the time to go out and to formulate an education plan for the folks that they wish to bring in under their wing, or whatever, to propone or opone in relation to the system that's there and to build momentum.

It allows for a fair process to be set out for that to happen. It allows for the referendum commissioner to commit to an education program during that time and to get the process set out. It allows folks to assemble into groups and to be able to figure out – you can think about that just from an organizational perspective, that if we said it's going to be, as an example, a 32-day campaign. On most occasions, if you're saying that folks have to form into a proponent and opponent group, it's going to take them two or three weeks, probably, to get together and figure out what it is they're going to do.

It'd be like you being told that you're not allowed to do any organizing until the election writ's dropped and at that point in time, you have to get your team ready, you have to figure out what your campaign's going to look like and then you have to actually do all the campaigning.

So here, what we're saying is, this starts from the time that the legislation kicks in. It's fair and even in terms of the resources that folks are going to get. We think there are reasonable abilities for folks to go out and do what they normally would have done. Whether it's 500 or whether it's 1000 bucks, that's a fair degree of latitude to

spend money on a very narrow window of things that folks would often use to participate in the democratic process the way it is. If you look at the paper, or radio, or CBC, or whatever right now, there's not a lot of people buying up ad space to advocate in relation to whatever might be going on in here or even at election time, it's fairly narrow.

We have heard from a number of different folks, including members of your party and members of the coalition, or former coalition, or whatever it is, that have indicated they do not wish to have a campaign where traditional political forces would be able to rally a group to effectively spend the kind of money that would make it very difficult to be on the opposite side of the campaign. We've heard that and we've put those restrictions in place and we think that they're fair.

I will say I find it interesting – and I'm curious to know what you would ultimately think would be a fair and even playing field given the way this discourse is unfolding and given the comments that we have heard from members of your party and members of the coalition over the course of time.

But we think, to be blunt and forward about it, we think we've put a very reasonable, very well thought out plan forward and again, I've said this a number of times: We think it speaks for itself.

**Chair:** Leader of the Third Parry, I'm going to allow this question and I'm going to go to the other side but then I'll come to you if you have other questions.

**Dr. Bevan-Baker:** Sure, so I have a comment first and then a question.

Gary talked about the spectrum of minimal impairment and we don't have to choose the least minimal, but we certainly shouldn't choose the most impairing, which I think is what this legislation does. On the spectrum, this is right at one end. It's an entire prohibition on third party ability to make donations. I think the argument that, yes, there's a spectrum and that we don't have to choose the least impairing, I get that, but I also think that we're obligated not to choose the most impairing, which is what this legislation does.

Going back to the minister's comments there, I think we have to clarify for, perhaps, some hon. members of this House, but certainly for Islanders, the difference between the registration period and the referendum period.

Absolutely, it takes time to organize; it also takes money to organize and that is part of the rationale for having the public funding for the various groups.

I am not suggesting – I think it's really important that we make a distinction between the registration period, where these groups can form and start to prepare, and the referendum period where the restrictions on spending apply.

At the moment, they're happening at exactly the same time. You ask me what I think is fair and you will see when we bring forward our amendments. You've already seen them, minister.

The first one is that the referendum period be restricted to the period of the writ, the writ campaign and that that be the time when the public money is spent, and where the restrictions on freedom of expression and all of that happen.

And that the registration period, which is, from, I would suggest, and we will make clear in our first amendment, will actually start, the registration period can start immediately, but the referendum period, which is the part of this bill that carries all of the restrictions on freedoms of expression that that not start until the referendum period.

I just want to make sure that you are – I know you are clear, minister, but I want to make sure that Islanders are aware that there is a very distinct difference.

I have more questions, Chair, but I appreciate that.

**Chair:** The hon. Premier.

**Premier MacLauchlan:** Thank you, Chair.

First, the overall discussion has been about the impairment or restriction of expression. I think it's important to recognize that, at the heart of this bill, is provision and public

funds to enable and facilitate and to fund a robust dialogue, an informative period of dialogue that will enable Prince Edward Islanders to make an informed choice on a clear question, in response to a clear question. And to draw on the language of the Supreme Court that we have from the secession reference to have a result that is unambiguous or that is to have a process that is not ambiguous as to its result.

That is the objective that we have with this process. I'd be surprised if there's anybody in this House who opposes that or doesn't fully appreciate that that's our starting point. Then, the measures that are put in place, including the facilitating of an active dialogue and a balanced one or a fair and level playing field, is indeed what this bill is all about.

The, let me call it, regulation of speech is focused on and limited to advertising. There is a great array of other ways in which speech is not restricted, or that is – we can fully expect we have the experience really going back to 2015 that Prince Edward Islanders have taken part in a debate.

Some might question whether it's been as fulsome on all sides as it might be. There has been an active debate through media and in fora that are not restricted by this bill or not regulated by this bill.

I might ask if I may, Chair, the minister to speak on that aspect of the ways in which Islanders – individual Islanders or others – will be able to express their views and participate in what we expect and hope will be a fulsome and (Indistinct) debate.

**Mr. J. Brown:** Thank you, Premier, for making that point.

Yes, that is the overall, as we've indicated a few different times, that's the purpose of this legislation and I'd reaffirm it here today.

The purpose is that Prince Edward Islanders be able to go out and to do what they feel is appropriate to advocate for their choice in relation to this referendum. We are doing that really in two ways.

One is by enabling people to do, on their own, what they would normally do, and we're putting what we feel is a very

reasonable limitation on that. Again, whether it's \$500 as was originally set out or \$1,000, we're enabling them to do everything that they would normally have done except those things that we have defined in the referendum advertising section.

They include things like; putting a post on Facebook; sending a Twitter message; doing a YouTube video; writing and giving a speech; hosting a group that would speak about one or the other of the options; writing an opinion letter in to the paper; an editorial that would be in a paper as something that's expressly permitted. You can have a debate with a group that would normally go on. You can talk to a person on the street. You can talk to a person at a party. You can go in and give a lecture at school. You can do just about anything that you would normally do. Really, except take out advertisements. You can even do that to the tune of \$500 or if it ultimately ends up being \$1,000 or whatever it might be.

Two things, further, if you're a group, what we're saying is, that wants to get together and wants to advocate for one or the other of the options, you're able to do that. Not only are you able, you're encouraged to do that. You're encouraged to get together as a group of likeminded individuals, Prince Edward Islanders and to assemble around an idea and to promote others joining your group, and to take the public resources that we have aligned to be given to you and to advocate for the option that you support.

We have set this up so that there can be a number of groups, both on the proponent and opponent side. We have set it up so that folks can join after the initial date if there's been an amendment requested stating that money would continue to be released if time moves along, for those groups to continue to do their work.

We have also enabled and there will be a budget for a referendum commissioner to enable a fulsome education campaign in relation to the referendum and the pieces of it that will go forward.

Really what we feel is that, and this is the, you know, stems directly out of the, kind of, case law in the Harper case and in Libman and from the Lortie Commission as the – I

think the word laudable is used somewhere along the line; laudable objectives of creating a fair and level playing field, and enabling a fulsome discourse so that, in this case, Prince Edward Islanders can have an equal opportunity to educate themselves on the possibilities that they're voting on in that referendum.

That's really the key because in order to have a clear question and a clear answer that supports the will of Prince Edward Islanders, Prince Edward Islanders need to understand what the question is, and they need to be able to consider what the answer might be.

In order to do that you need to remove the ability for an entity that would be predisposed to coming in and buying up large swaths of traditional advertising from unduly influencing that process.

**Premier MacLauchlan:** It's really to follow on that and on the point, but it may not have been fully intended, but I just want to pick up and address it, about the way in which the *Election Act* does permit a number of approaches to when an election may be held. It was suggested that that would take away from the level playing field that is fully supported and squarely an objective of this legislation.

I don't see any scenario under which the 'yes' or the 'no' side, or anybody with a view on this would have any advantage one way or the other in terms of when that referendum period will come to its conclusion in conjunction with an election.

I just want to make that clear, Madam Chair.

**Chair:** The hon. Leader of the Third Party.

**Dr. Bevan-Baker:** Thank you.

Yeah, and I'm not concerned about giving one side or the other the advantage in this debate. I am concerned, regardless of whether you're a proponent or an opponent of change to our electoral system, that you have freedom to express that desire openly. That's where I have an issue with the vague and ambiguous writ period that we will be dealing with here – referendum period, excuse me, as it's termed in the act.

I want to come back to the minimal impairment that we were talking about a little while ago. Is there another jurisdiction which has elected to completely prohibit, in Canada, another jurisdiction that's elected to completely prohibit third-party donations in similar legislation?

**Mr. J. Brown:** Gary is saying he doesn't know the answer to that but let me just say this: That I can think of off the top of my head, it would be a unique situation where public money would be put into this too.

Although, that being said, we'll look at some of the situations that we've referred to from outside of Prince Edward Island or outside of Canada, or that have been referred to in the debate here, and this is something that would be more commonly done in relation to a referendum in places where they're more often held than they are on Prince Edward Island or in Canada.

**Gary Demeulenaere Director:** (Indistinct)

**Mr. J. Brown:** Anyway, so there are different ways of doing things.

Gary was just saying he thinks in Quebec, a lot of the election funding, as an example, would be government funding but the history here has been that that's not the way that we conduct ourselves.

So, there is a number of different ways of accomplishing objectives, and what we have said here is that this is not about one – the 'yes' or 'no' sides' ability to raise funds. We're going to give the money to the 'yes' or 'no' side to do their campaign. It's really about what's a fair amount of money to propose or open in relation to the referendum? I get what you're saying about the timing, and unfortunately we don't have any more control of that than what's set out in the election.

But, what we do have control of is the amount of money that we're giving out and when or how it would be given out. That's the effective balance that we've looked to come to in terms of creating a fair and even playing field, by utilizing public resources to ensure that that is the case and that continues to be the case.

Then, also on top of that, by allowing people to spend money out of their own pocket to be able to do this. Again, I think it's reasonable both that folks be able to spend a certain amount of money, and that we only confine or require folks to that amount of money in relation to, as little as we possibly can, in order to meet the objective of keeping a fair and even playing field throughout that referendum period.

Then in the course of doing that, too, we're also saying that once you hit that limit, whatever it might be, it's not that you can't do this anymore, you just have to go join one of the groups, and at that point in time we'll actually give you money to be able to continue to do it.

**Dr. Bevan-Baker:** Thank you.

I appreciate, minister, your description that there are different ways of doing things and absolutely, there are. In Quebec, during election periods and making donations to parties, they have a very restrictive – I think it's \$100 per voter, is what's allowed there. But, they do have more public money, which is – so I understand that.

But in answer to the question, I'm almost certain that there is no other jurisdiction that has this complete prohibition on third parties being able to make donations during, again, such a long writ period.

I suppose my big concern with this – I think everybody in this House wants to be done with the debate on electoral reform. We do want a clear answer. We want to move on. There are so many other important topics that Islanders are concerned about, and that the members of this House want to be talking about, other than electoral reform. We've been doing this for three years and we're all sick and tired of it, and I include myself in that.

My concern is if we're not absolutely certain that we have a constitutionally-valid bill before us, regardless of the result with the plebiscite – referendum, pick your wording – this debate is going to go on. It doesn't matter how clear the answer is if the rules under which we came to that decision are not constitutionally valid, then we'll be back talking about this next year and the year after that. I just don't want that.

We've already had a fistful of amendments from the government side on a bill that was only tabled here less than two weeks ago. That suggests to me that there's a lot of work left to do on this bill and you've already, obviously, made some changes based on concerns from within your own caucus. We have another fistful of amendments here in an effort to make this constitutional so that we are done with this question when it's done – when this referendum is done – and so the fact that we have this novel complete prohibition on third-party donations – this is only one small facet of the restrictions that are in place here – but the fact that that's a novel restriction and that it's far from minimal, it's maximal, we could very easily, on a number of levels here, have an unconstitutional bill.

Then, this argument is just going to carry on and we're not going to be done with it and that's why –

**Ms. Biggar:** Pass the bill.

**Dr. Bevan-Baker:** – that's why I'm concerned about this.

Yeah, I have some other comments, Chair.

**Mr. J. Brown:** Chair, if I could, I'd like to address (Indistinct)

**Dr. Bevan-Baker:** (Indistinct)

**Mr. J. Brown:** In the context – so we are, to be clear, talking about section 1 subsection (o), as far as I'm aware, anyway; your concerns about the restrictions that are in there – in that context in the larger piece that we're talking about here now, I seem to recall that you had advocated that all donations should be done away with for political parties and that government should finance elections. I'm pretty sure that was you –

**Dr. Bevan-Baker:** (Indistinct) the money (Indistinct)

**Mr. J. Brown:** Okay, well it's the same difference one way or another. That's what we're doing here, is public money financing this referendum.

We've just passed, in second reading anyway, amendments to the *Election*

*Expenses Act*, which were very significant and you applauded and went a long way from where we had been and the spirit of them, we would feel, coincides very well with the spirit of what's being done in this legislation.

But, it seems to me, to be honest and blunt, and I don't mean to be questioning what you're saying to me, but it seems to me that what you're saying now flies in the face of what you had said previously in relation to both elections and election expenses, and that folks shouldn't be confined to those kinds of things.

I guess all I'm saying is this: We have put forward a very fair process. I think there are a number of different variables that you can look at in terms of, if you want to create a system that creates a fair and even playing field, and likewise, there are a number of different objectives you would look at or variables in terms of restrictions that you might utilize to maintain that.

Here we have said: This is the basket of restrictions in referendum advertising and I haven't heard that you want to amend that, so really what we're saying is the time is your issue.

Again, the time is in a different section of the legislation, so if it's the time that you have a problem with, we have addressed that and we feel very comfortable with it, but if you think that's an issue, then we can look at that – I would suggest in that section, or if you think in this basket of variables right here, there's something that you wish to do, maybe I would ask that you put that forward in earnest and we can all have a debate about that, as opposed to the conjecture and the postulating that we're doing in relation to the constitutionality of the legislation.

If you truly think that this legislation is not constitutional and you want to have a record that goes forward that reflects that, it would do you and whoever you're representing in saying that well to get that on the record here. I've said a few different times in different ways, but I want to say that very directly because that is part of the process in coming to a conclusion on a bill of this nature.

**Chair:** The hon. Leader of the Third Party.

**Dr. Bevan-Baker:** Thank you.

I think I've made it clear that I, as a layperson with instruction from people who are far more familiar with this sort of issue than I am, I do have concerns about the constitutionality of this bill and I think I've made that abundantly clear in many of my statements.

Again, it's not my legislation, so it's not up to me to ensure that this bill is constitutional; that's your job as the Attorney General.

**Mr. J. Brown:** So what I'm saying to you is this: If you think – so go back to what you just said to me a minute ago. A lot of the debate around these – a constitutional debate around this kind of a question centers around the minimal impairment test. If there are no other alternatives that are on the table for consideration as something that we would look at to achieve the valid objectives that we're trying to achieve, then you have nothing else to inform that minimal impairment test.

So I guess what I'm saying to you is if you have a true belief that this can be done in a less minimal way, and I recognize that you have said time is one variable that you take an issue with, and I've said my piece or our piece in relation to time, and we're here talking about the other basket of variables that go into this, or one piece of them anyway, and you haven't said anything in terms of what you think would be different or would work to achieve those same objectives. What I'm saying to you is: Overall, that's a very relevant consideration if you were down at 42 Water Street trying to sort this issue out.

If you think there is something that should be done differently, we ought to have that conversation here on the – it's not just my job to put that forward. It's everybody in here's job. You have been very plain in saying that on occasions before as well and I guess what I'm saying is it's not enough to just say: this is unconstitutional. To make that out in this kind of a situation you have to say why you think it's unconstitutional, or what would be less of an impairment that would be reasonable to achieve the objectives that have been set out and that it sounds like we all agree to.

**Dr. Bevan-Baker:** Thank you.

I think the answer to that is contained in all of the amendments that I've passed on to you a couple of days ago, minister, so I think you're fully aware of what I feel needs to be done to ensure that this bill – I mean, one can never ensure, but to do the best we can to protect us from a charter challenge when it comes to this legislation when it's finally passed.

I absolutely think that we have done our due diligence in this corner of the room to try and make this bill as constitutional as we can and none of our amendments, of course, has come up yet for debate, so I don't know whether you're going to accept any of them or not, but I think by the end of this debate, it will be clear where the third party feels this legislation needs to sit in order to protect us from a charter challenge. I think it's a long way from where it currently sits – I'll put it that way, minister.

You mentioned about – no, I'm not going to go there – you talked about election financing and election – and it's really – although it's peripherally relevant, it's not the centre of this. I, too, want to get forward with this. I absolutely do.

We're still in the definitions portion of this. I want to go back to (o) again. We've sort of slid around between (o), (t), and (u), they're all relevant.

Section (o) states that the bill defines a referendum expense as: an amount paid or a liability occurred by, or on behalf of a registered referendum advertiser during the registration period for the purpose of opposing or supporting 'directly' or 'indirectly'. I'm placing emphasis on those words because my questions are related to that. Directly or indirectly, one or the other of the possible answers to the referendum question as permitted by section 17. Of course, there's certain organizations and people who would not be registered referendum advertisers and the limit for them, as the bill currently stands, is \$500. I know there are amendments to increase that, but currently \$500 is the limit that would apply to everybody who's not a registered referendum advertiser.

The inclusion of that word 'indirectly' in that definition is what concerns me. It makes it highly uncertain as to whether an organization, for example, could write materials or have a website or other materials – other media of any kind that would be deemed to have committed an offence if they – for example, can you make a general statement of support for proportional representation or even electoral reform – would that be considered directly or indirectly supporting the 'yes' side or the MMP referendum side – even if MMP is not directly specified in that statement?

**Mr. J. Brown:** You can make the statement, but again, if you're buying advertising, you can only do that within the defined parameters.

Let me, maybe, put this to you a different way. As a trial practice professor of mine used to say: You can't sell Hondas by trashing Toyotas. That's the general intent here: You can't sell mixed member proportional representation by trashing the existing system. That's what the indirect wording is all about.

So if you are – and if you get into the – how you would break that section down to answer the question that you're looking at. The wording is 'opposes' or – and you'll see this kind of throughout – 'opposes or supports directly or indirectly' – one or the other.

**Gary Demeulenaere Director:** (Indistinct)

**Mr. J. Brown:** So Gary's saying: Whether you're –

**Gary Demeulenaere Director:** I'm just trying to clarify. Were you reading from the definition of referendum expenses in that particular one, as opposed to referendum advertising?

**Ms. Bell:** Referendum expenses.

**Dr. Bevan-Baker:** I'm sorry, yes, referendum expenses.

**Mr. J. Brown:** I think you had said – but it doesn't matter. The same wording is in both of them.

**Dr. Bevan-Baker:** Yes.

**Mr. J. Brown:** So that's really what informs and I think the common sense meaning of that would be: If you make a statement or you – whatever you're doing, if somebody reads it and they walk away thinking: this is the natural and only message out of this and it either opposes or supports one side or the other, then at that point in time, you're going to be caught by these sections.

**Dr. Bevan-Baker:** I think it's time that we – really, the central amendment that we will be presenting is around the time frame of the writ period, because I think that's where our grid is peril in terms of constitutionality lies.

So, I will table the amendment that we have and basically it suggests that we shorten the writ period – I'm sorry, the limitation on freedom of speech which would occur as the bill is currently written from the day it's proclaimed until whenever the election is – whenever that might be – simply to the writ period. That's a very standard period of restriction on freedom of speech, and advertising, and raising money. We're totally familiar with that with elections.

Political parties, for example, can raise and spend as much money as they – not anymore, prior to now we could spend lots of money outside a writ period without any restrictions, but as soon as the writ period kicks in then that's when the restricted period is. That's the, sort of, typical and traditional way that we do restricted time periods here.

I'm going to change – our amendment states that the referendum begin when the writ is issued. Basically, the referendum period, rather than beginning when the legislation is proclaimed here in the House, the writ period will take effect – sorry, the referendum period will be synonymous with the writ period from whenever the writ period is drop – is when the writ is dropped.

I feel very confident that that would withstand a Charter challenge because that's a typical period, an accepted period throughout which it is considered reasonable to have restrictions –

**Chair:** Hon. member, are you moving –

**Dr. Bevan-Baker:** Yes –

**Chair:** – this.

**Dr. Bevan-Baker:** – I am.

**Chair:** And is it in this section that you're –

**Dr. Bevan-Baker:** It is, indeed.

**Chair:** – moving?

Thank you.

**Dr. Bevan-Baker:** It is.

**Chair:** Can you move it?

**Dr. Bevan-Baker:** I move that this House amendment to Bill No. 38 be now read.

**Ms. Biggar:** Which? Where is it?

**Chair:** Can we –

**Ms. Bell:** You've all been issued copies of it.

**Dr. Bevan-Baker:** Yeah, everybody has a copy.

**Chair:** Okay, good job.

**Ms. Biggar:** Which one is that?

**Chair:** Could you please read it?

**Ms. Biggar:** (Indistinct)

**Dr. Bevan-Baker:** Yeah, absolutely.

The motion reads as follows it, "...amends clauses 1(t) and 1(u) of Bill No. 38. In clause 1(t), the words "registration period" are deleted –

**Mr. LaVie:** (Indistinct)

**Dr. Bevan-Baker:** – and the words "referendum period" are substituted. In clause 1(u) the definition of "referendum period" and the reference "on the date of the coming into force of this Act" is changed to "on the date of the issuance of the writ for the general election".

In other words, the referendum period will not begin on proclamation of this bill, rather it will begin when the writ is dropped.

**Chair:** Thank you.

**Dr. Bevan-Baker:** Thank you.

**Mr. J. Brown:** Can I just ask a question before we –

**Chair:** Yeah, sure.

**Mr. J. Brown:** – keep going?

**Chair:** And do we – do you have copies for everybody or have they already been circulated?

**Dr. Bevan-Baker:** They were circulated.

**An Hon. Member:** Got one.

**Chair:** Thank you.

**An Hon. Member:** Thank you.

**Chair:** The hon. Minister of Justice and Public Safety.

**Mr. J. Brown:** I'm just curious. Back to your last question: Are you now saying that the amendments that were made to the *Election Expenses Act* are not something that you agree with?

**Dr. Bevan-Baker:** Oh no. I absolutely do.

**Mr. J. Brown:** So, what? You just said a minute ago that all along we had allowed a broad ability to donate and spend during a non-writ period. Now that has changed, but you want this legislation to be synonymous, with what we had done previously?

**Dr. Bevan-Baker:** No.

**Chair:** The hon. Leader of the Third Party.

**Dr. Bevan-Baker:** Thank you, Chair.

No. What has changed with the *Election Expenses Act* that we passed in the House is not the ability of political parties to spend outside of a writ period, it's the limit to which individuals can donate to those parties. The restrictions are still only during the writ period. I was using that as more than an analogy, a straight parallel to what we're doing here.

I feel that the restrictions on spending and advertising during a writ period, which are typical for election legislation and other referendum legislation, would be an appropriate thing to do here. Also, again, most importantly will protect us from a Charter challenge and will finally bring an end to this seemingly interminable debate.

**Mr. J. Brown:** Chair?

**Chair:** Thank you.

Hon. members, we do have an amendment on the floor. Copies were circulated. I'm now going to open the floor for discussion on the amendment and the Premier is up.

**Premier MacLauchlan:** Chair, without repeating everything that was said yesterday in the lead up to our consideration of section 1 of this bill, the objective that is to be achieved here is to have a clear question and to have an unambiguous result.

The measures that are then taken to achieve that or to pursue that objective are those laid out in the bill. One of which is that the referendum period starts when we pass this bill. The point of that is that many comments were made that we will not serve Prince Edward Islanders and we will not achieve our objective if we then launch into a free-for-all that doesn't stop until there's an election called.

This has got – if there's going to be a level playing field it has to start now. And, there's not much point in trying to, sort of, bring that all to a halt, which may, indeed, be the objective in moving this amendment is it's, you know, everybody just does what they want to do or carries on with some of the ways in which there were concerns raised in comments yesterday or before.

Let me, just, sort of, put this into the technology or to the structure or the logic of the Charter, which is what we have heard so much about. The steps that are taken under this bill are in the first part is to be tested as to whether there is a rational connection to the objective. And, there is, clearly, a rational connection in starting the referendum period when the referendum debate starts. That is not when an election is called.

Let me, just stick with the constitution, the concerns that are raised, or the references that are made, including to the cases that were tabled here are about elections. This is a referendum. And a referendum and an election are different things. They may arrive to the same end point in a temporal sense, but there's a very clear reason why the approach, as laid out in this bill, has to start with the passage of the bill. That's how we'll have our clear and level playing field.

That, I think is really the core point here, is that, if we're going to have a referendum; we're going to have a level playing field; we're going to have fair terms and even terms for everyone, then there's not much point in starting it after we've had a free-for-all.

**Chair:** The hon. Minister of Justice and Public Service.

**Mr. J. Brown:** I thank the Premier for those comments. I would certainly echo them, particularly, as they speak to the purpose of this legislation.

I'd point out, beyond that, too, you know, that in the Harper case that the Supreme Court said, and it's a quote from paragraph 98, "Surely, Parliament does not have to wait for the feared harm to occur before it can enact measures to prevent the possibility of the harm occurring or to remedy the harm, should it occur." The court says, "As noted earlier, this Court has concluded on several occasions that a reasoned apprehension of harm is sufficient."

I haven't investigated all the different matters that have been discussed in debate here to date. What I would ask the hon. member in relation to this amendment and I'm not sure, I asked the question, but not, perhaps, in as direct a way as I should.

Based on the amendment that I see there would then be no limitation on either the amount that could be expended or the donations that could be made including union and corporate donations to a proponent or an opponent group going forward. Is that to be the general understanding?

**Dr. Bevan-Baker:** I have no problem at all in putting in reasonable restrictions,

including those that you just mentioned there.

But, the purpose of this amendment is to clearly identify the length of the writ period nothing more than that. For me, this is the seminal part of the potential unconstitutionality of this bill.

Unless, we figure that out first, then all of those other things you said are, sort of, almost immaterial.

**Mr. J. Brown:** Political parties, I guess, would be the other one. Are you advocating that political parties can spend limited or unlimited resources between today and the writ period?

**Dr. Bevan-Baker:** If we pass this amendment I have other suggestions on what –

**Ms. Biggar:** (Indistinct)

**An Hon. Member:** (Indistinct)

**Dr. Bevan-Baker:** – reasonable restrictions, I think, could apply.

**Mr. Roach:** Sure.

**Mr. J. Brown:** Other folks in here will, I'm sure, speak to this, but if it was me I'd want to see a package for consideration as opposed to that one amendment and then go forward on it.

In any event, I just make that point, Madam Chair.

**Chair:** The hon. Member from Charlottetown-Parkdale.

**Ms. Bell:** Thank you, Chair.

I think to bring the discussion back to what we are hearing from our constituents and from those who are concerned about this bill is to clarify the intent of this intensive discussion and the amendments that we had brought forward. In this case, the particular amendment is, in focusing particularly in this case, on adjusting the writ period – or sorry, the referendum to reflect the writ period – is that we are trying to achieve – we're trying to minimally impair the restrictions on political speech of every day

Islanders that the minister proposes should be in place for a period, currently, of at least 16 months, if not 22.

We have heard very strongly from constituents and from across the board who have said that: We do not encourage public discourse and public engagement through the restriction of speech. Not only is that about the right to free expression as individuals, but also that right to expression and the right to associate.

And so, where we have freedom of expression as individuals in that we do not – we know, unfortunately, that one of the impacts that happens when there is any intent on purpose or otherwise, or implied intent, that there is a penalty that could be imposed, in this case of this case, of a \$10,000 fine, then often people will choose not to engage at all for fear of the potential reprisal.

We are hearing really strongly from potential participants in this process that they are genuinely concerned about whether they should even be speaking, or whether they will be able to continue to express themselves because of the fear of reprisal, and that is effectively shutting down their opportunity to participate.

In terms of for associations, we have a freedom of association – I'm just checking to make sure I get my words right because I know we've been bogged down in legal definitions and I'm not a lawyer – but the freedom of association is interpreted as ensuring the right to associate collectively in order to raise resources which are not necessarily financial. Raising resources is about raising volunteers. It's about raising voices. It's about raising opinions and gathering information, and advocating for political ideas. That is a right that we have as free people in a democratic society.

We also have the Canada versus Somerville case which states: that an important aspect of an association is the ability to combine resources, to pursue common goals, influence others, exchange ideas, and affect change. If the right of a group to speak is limited, then the good that comes from that association is thwarted. Association for the purpose of participation and communication during an election must surely stand as a

primary reason for constitutionally entrenching the right to associate.

We are continually speaking about this as if this is actually a broad election, but this is about a referendum that happens to be taking place at the same time as an election. So we have a layering of the rights that we have as participants in the democratic process of election, and then a layering of the additional challenges and restrictions, real or perceived, that are felt to (Indistinct) addressed through this legislation to address the specific case of the referendum.

But, we are also in a very small society where things are very complex and there are many roles and crossovers. And we've talked about, for instance, non-profit organizations that already exist and have already had active work as existing associations, who are genuinely concerned about what their role may be able to be in terms of advocating for special interest groups, for example, whether it be people with disabilities, for women, or whoever that may be. The complexity and the nuances of that in our own space is something that we don't see reflected in this legislation.

Whether you believe that those rights are rights that you want to support or not, those are rights that are actually entrenched in our process. They've been respected as something that we can and should protect in any way we can, and that is what we are hearing from Islanders, and that is why we felt this amendment was important; that recognizing that it mirrors, in some ways, what we already have in place. It's working well under the elections with the newest amendments under the election space. But for referendum, by taking the referendum period itself with those restrictions, which in that context make sense because frankly, that's about as close as anybody is going to want to be talking about this again at this point – we need a bit of a break – so in 16 months when we get to that point, then yeah, we can have this intense period of \$150,000 being spent talking about 'yes' or 'no' or 'maybes'. But, until that point, the freedom of expression and the freedom of association need to be honoured.

That's all I have to say about that, Chair.

**Chair:** Thank you.

Do you have a response?

**Mr. J. Brown:** I do have a couple of things that I would wish to say in relation to that.

The first is that I, again, in addition to the comments that I made the last time that I spoke, we've certainly recognized all of those freedoms that you've just mentioned. In fact, they've been discussed here at length in relation to election expenses.

The Green Party, and in your capacity here as legislators, has advocated that those freedoms be constrained through the election expenses legislation, and that's been something that's come forward in this House and has been passed through second reading, and again, we feel that those restrictions are reasonable in the circumstances, much like the restrictions that we put in here.

To be very clear, those do not apply in the amendments that have just been proposed, in so far as I'm aware, in any event. I'd wonder, when we start to hear things like –

**Mr. Trivers:** (Indistinct)

**Chair:** (Indistinct) like you to speak up a little.

**Mr. J. Brown:** Yeah, I'll do my best.

I never question – I know everybody in here is listening. We're all performers for our constituents, not mediocre.

Basically, we need to be very conscientious about, whether it be Fair Vote Canada or aggregate IQ – anyway, whatever the other –

**Mr. Roach:** Aggregate IQ.

**Mr. J. Brown:** – things were or the person coming from the BC Green Party even, if that's the case.

We need to have a piece of this, and the amendment that I put forward on the table in relation to the purpose makes this very clear, that it needs to be Islanders in the sovereign sense that decide this referendum, not folks from anywhere in the rest of Canada or anywhere in the rest of the world, because it's convenient for the BC referendum that will occur later this year, or Ontario, or whatever. I get that your party and a number

of Islanders wish to move to a mixed-member proportional representation system. It was chosen as the top system in the plebiscite in terms of those that were there on offer.

I get all of the pros and cons of the different systems that we're considering here now, and there are two of them, but it needs to be all of Prince Edward Islanders that get what goes into that consideration or the consideration of what voting system they wish to have. It needs to be them alone that makes that decision, and it needs to be them that makes that decision based on good information that is available to them and is not skewed or promoted disproportionately by a group that's got funds.

All of that is all linked back to statements that have been made by mostly the Supreme Court of Canada, but courts and commissions on this subject throughout.

**Chair:** The hon. Member from Vernon River-Stratford.

**Mr. McIsaac:** Thank you very much, Chair.

Interesting debate.

I have a serious concern with this amendment and I'll just come at it from this direction; I think everyone needs to have a good discussion on this, and this should be discussed for a long time. My concern with this amendment is if we don't start dishing out any of the money until the drop of the writ, the whole election could be on the referendum.

During an election, I know a lot of us have run in a lot of them, it's flat out on policies, platforms, all this sort of thing; knocking on doors, and we want to talk about those issues. The people of the province want to speak about those issues, find out from the candidates: what's your opinion on health care? What's your opinion on education? What's your opinion on agriculture, fisheries, the roads, whatever it might be.

But, if all of a sudden we're jammed into this 26 to 38 to 32 days with the referendum as the front topic, I mean, what's getting shortchanged here? We have an opportunity now. The money will flow the first of July or whenever, to debate the whole idea of the

referendum. Maybe, we can have that debate and everyone will be decided or have their decision made on: am I for MMP or am I not? Because we have this window. Be it six months. Be it a year. Be it a year and a half before we have the next election.

We need this window and I think it's only fair that we have the dollars put forward for this window. Because if we're jammed into the writ period and nobody really has the dollars to gear up for this until, all of a sudden, boom, the writ is dropped for the election. We're not talking platforms. We're not talking policy. Or, they get short shifted because of lack of debate because they're jammed together or the whole referendum gets short shifted because of this.

I think this is actually ideal the way that it's set-up that we have the opportunity to have a fulsome whole debate on what we really want for our province going forward. Do we like first past the post? Do we want mixed member proportional? What would that look like? But, man, if we're left to have a full access to that until the writ is dropped, we're going to be arguing and we're not really going to have a full, fair discussion on all our platforms, all our policies, the referendum bill.

I think we need to get that started right now. I honestly do not think we should wait until the drop of the writ to start the money flowing, to get the discussion going and let everyone know exactly what is available out there so they can get all their questions answered. If we jam it all into that 26 to 32-day period or whatever, people are going to say to us: well, what happened? We never had the opportunity to discuss this whole thing. We don't fully understand it. The members came to my door and all we were talking about was the referendum. We never got a chance to talk about issues that I wanted to talk about.

The press will be all over it, likely. I think we need that writ time, after the writ is dropped, to discuss policies, platforms and what we usually do. I think we should take advantage of the time we have right now, to start this off and have that debate on yes/no, no/yes, whatever, on the change to our electoral system.

We're given the opportunity for a great chance here for the window. It's equal to all sides, proponents, opponents; whatever. The money is going flow now. I think we should continue this and I think this amendment goes against that and will actually detract from the debate. We'll find out later: well, why didn't you start this earlier on?

For that reason, I want to have a debate on this. I want to have a debate during election time on the policies and platforms.

For that reason, I don't think this is a positive move to pass this amendment.

Thank you.

**Chair:** The hon. Minister of Justice and Public Safety.

**Mr. J. Brown:** Hon. member, that's actually a great point. It's one that I wasn't thinking of right off. Now, that you've raised it, a couple of points do come to mind.

Going to the multiple topics of discussion during the election time. Back to the 2009 BC referendum, that was actually widely found to be and reported as being an issue and an issue in a number of ways.

It was an issue, just as you had mentioned, in terms, of the election, but it was also an issue for the referendum. Because folks didn't have the time to devote to it, it was seen to be something that detracted from the referendum and took away from the voice that was there.

Frankly, there was a linkage between the support for the referendum, or support for a 'yes' or a proponent vote being at something like 46% in 2009 versus 57.7% in 2005 as that having been tied to the process just being ongoing during the election writ period.

I would note, as well, that if you link back to our 2005 referendum there was a – I'm going to use the word 'commission' here. I can't recall if that was the word that was used or not, but it had a chair and a number of members that were appointed by the Legislature that were to go around and inform Prince Edward Islanders in relation to the referendum back at that point in time.

A number of their, in fact, all of their meetings, as I recall, took place over a span of, I think, it was less than two months leading up to the actual referendum.

There was a 'yes' and a 'no' campaign, officially, unofficial, I guess you might say, that developed during that period of time. I think most that were involved in that – or certainly it was a widely reported complaint that there wasn't enough time for people to get up to speed even with that one issue in that short, kind of, a window.

I, all to say, and this is my only, my personal opinion, I agree with what you're saying. I think it makes a lot of sense and I think those are real issues that have borne out in history that we need to be thinking about if we are looking at this kind of an amendment.

**Chair:** The hon. Member from Rustico-Emerald, speaking to the amendment.

**Mr. Trivers:** Thank you, Chair.

I just wanted to speak in favour of the amendment. I think the amendment is good because it simplifies things.

I think that when it comes to our electoral officers here in Prince Edward Island, it's going to make their job easier to enforce any rules that are in place. They're used to doing that during a writ.

I think that the arguments I've heard against it are puzzling. Especially, the argument that Islanders will be overwhelmed by discussions about a referendum during a campaign period to the extent that their discussion of other issues will be excluded. I disagree with that wholeheartedly.

The argument that it's going to be a free-for-all, I mean, this is a democracy. We have free speech as a country. We're living in a free-for-all right now. You know what? It's great. I can go and I can talk to anybody about anything and it's fantastic. I really just don't think we need the restrictions for the amount of time that this bill –

**Mr. LaVie:** Try talking to –

**Mr. Trivers:** – has.

**Mr. LaVie:** – frontline workers.

**Mr. Trivers:** Chair, it makes a lot of sense to me that these amendments are being made. Because I believe in Islanders. Islanders are smart. They're really smart. If someone goes and tells them that they should vote a particular way, they're only going to do that if they truly believe it. I don't think that all this discussion about money coming from outside the Island is really going to sway most Island voters. I think that, if it even comes at all – also, I think, Islanders are passionate about what they believe in. Once they do the research and they understand what the options are they're going to make an informed decision.

When they do, hopefully sooner rather than later, they're going to go out and they're going to advocate for what they believe in. I think you'll see just as much advocacy for the 'no' side as the 'yes' side.

I don't particularly like the way the question is worded at this point, but I think these amendments are great. I think they promote democracy. I think they promote free speech and I think they show that Islanders are people that can be believed in. They're smart and they're to be trusted. Let's entrust our future with Islanders.

Thank you, Chair.

**Chair:** The hon. Member from Charlottetown-Parkdale.

**Ms. Bell:** Thank you, Chair.

Just an opportunity to identify an important section that does apply later on, but it's been referenced. In section 6, the powers and duties of a referendum commissioner specifically include, and that commissioner is to be appointed immediately, specifically include the implementation of, "...public education and information programs relating to the referendum and referendum advertising."

That ensures that there is actually an ongoing public education campaign that will begin. It will be the responsibility of an independent official identified in this. That, hopefully, will address the concerns of the hon. Member from Vernon River-Stratford regarding, sort of, the ongoing discussion

and that kind of intensity that may happen with a shortened period.

The other couple of quick points are, just we need to be really clear for Islanders, who may be following this, or trying to follow this, the different between the election and the referendum. The fact that they're happening together is clearly making it complicated.

This is an entirely separate set of legislation relating to a referendum. When we discuss things around the election, it is unnecessarily complex and is creating a complexity and a confusion that we just don't need and isn't really necessary.

The rules around election expenses are governed by the *Election Expenses Act* and they are not reflected in here in the same way that privacy and data information are also not reflected in this bill, despite some of the concerns around what may or may not happen with those.

My other point is also, we seem very focused on talking about money and the expenditure refunds and while that is a critical part of a successful campaign, a large amount of the things that we're hearing regarding freedom of expression or freedom of association are not about fundraising or even about, necessarily, expending direct funds.

Most of the organizations that were involved in the PR coalition were existing non-profit organizations who generally – or volunteers – who, a lot of the time, are about getting together and sharing ideas and that's where real grassroots democracy starts. It starts with people getting together in a coffee shop or around their kitchen table and talking about things that matter to them. It's not about spending tons of money and most of the time they don't have tons of money to spend.

I think we also need to be very careful that we don't automatically connect referendum advertising with referendum expression, discussion, and education because education, discussion, and general expression of free speech does not necessarily include anybody taking out an ad in any way. So that continual focus on money and where that money may come

from is not actually the issue when we talk about free speech and the concerns around that. The issue is around can we actually speak; can we actually get together and organize, and discuss, and plan, and think of change?

Those things don't require any money at all. Those initial conversations never do. If people feel they can't do that, then we're never going to get to the point where we actually need to spend money because everybody's going to be too afraid to even have those conversations in the first place.

So – difference between election referendum, (Indistinct) money, and planning, and thinking, and changing, and the fact that the commissioner has a requirement to educate as part of his mandate effective immediately with the passing of the legislation.

**Ms. Biggar:** Call the question, Madame Chair.

**Chair:** Minister.

**Mr. J. Brown:** Thank you, Madam Chair.

Just to be clear, I do wish to point out that you're effectively making the point that we've already made and that is that during the referendum period, as the legislation's prepared right now, all those folks would be free to do all of the things that you just mentioned except the one caveat is that referendum advertising, as it's defined in the legislation, would have limitations set on it. The only one – just to add clarity to that – that's fear mongering in relation to getting together has been you folks.

We're encouraging people to get together; in fact, we're saying if you get together, we'll give you money. Not too many other places in our democracy that you'd see that happen, other than perhaps raising money in relation to political parties for an election and that's something that we have said that we've supported as well.

I think if we're going to have open and honest debate about this, I think we really need to recognize what things are for what they are and stop carrying on saying that people aren't going to want to get together and move forward to advocate for something

that they believe in. We're saying: Let's get together and advocate and we'll give you money when you get together to advocate. I want to make that point and make it very clear.

**Chair:** Thank you.

The hon. Leader of the Third Party.

**Ms. Biggar:** Chair? Can I ask a question? Are we talking to this amendment?

**Chair:** Yes.

**Ms. Biggar:** Are you allowed to talk more than once to an amendment?

**Chair:** Yes.

**Ms. Biggar:** Okay, I just wanted clarification.

**Chair:** The hon. Leader of the Third Party.

**Dr. Bevan-Baker:** The language of bills and legislation is new to me and I've learned a lot over the last few years and I can say that our office – I wouldn't like to guess how many hours we put into thought behind how we were going to amend this legislation and I can tell you it was extremely difficult to come up with amendments that would work because the essential problem with this piece of legislation – in terms of presenting amendments regarding the referendum period – is we don't know when the election is going to be. Unless you have a fixed date that you can head to, we couldn't present an amendment, for example, that said: 60 days before the write period, because we don't know when the write period is going to be, so you were not able to do that.

I would love to have had a longer time to talk about this and I wonder why, if some members feel that this is going to detract somehow from the election campaign, why we tied this to an election in the first place, but I can tell you that it was impossible legislatively to define a referendum period that was not either as it is defined now on the passage of this bill because we will know when it passes, it passes and it takes affect then, or on the date in which the writ is dropped. Any date in between those two things, to present as a possible referendum

period was impossible because we had this moving target.

**Mr. Roach:** Call the hour.

**Chair:** Hon. members, the hour has been called.

**Mr. J. Brown:** Madam Chair, I move that the Speaker take the chair, and that the Chair report progress and beg leave to sit again.

**Chair:** Shall it carry? Carried.

Mr. Speaker, as Chair of a Committee of the Whole House, having under consideration a bill to be intituled *Electoral System Referendum Act*, I beg leave to report that the committee has made some progress and begs leave to sit again. I move that the report of the committee be adopted.

**Speaker:** Shall it carry? Carried.

The hon. Government House Leader.

**Mr. McIsaac:** I move, seconded by the hon. Member from Montague-Kilmuir, that this House adjourn until tomorrow, May 31<sup>st</sup> at 2:00 p.m.

**Speaker:** Shall it carry? Carried.

The Legislature adjourned until tomorrow, May 31<sup>st</sup>, at 2:00 p.m.