

Beautiful doctors, beautiful nurses, everybody cleaning. It's a clean hospital. But, we've got the pressure on it. We've got too much pressure on it. Not only do we have the pressure on the hospital, we've got the pressure on our senior housing in here because we don't have a plan. We're putting everybody in the city. We've got no housing, no roads, no hospital and no schools, and no plan.

There's got to be a plan, guys, to take care of this. Somebody has got to start thinking because she's going to crash and it's going to crash, and we're going to hear the crash. The boundaries are going to keep moving toward the city, and we see it. Look at where my boundaries went. We've got to take note.

The traffic pressure, we've got pressure on the roads. We haven't got the RCMP to take care of our roads, watch our roads and we know it. We're cutting back the most important part of PEI; our health care is suffering, education is suffering, RCMP is suffering and no plan. Suffering; we're suffocating. PEI is suffocating. We're going to need our lifejackets.

I believe the physicians are given a chance to come up with some improvements, efficiencies in dealing with their patients. Let's hear it from the physicians. Go out to rural PEI, randomly. Just ask a physician and see what they have to say. Go to your nurses, just randomly, and see what they have to say. Give them a chance. Don't fire them, just give them a chance. I speak to them. I spoke to nurses. But, these nurses got their fingers slapped from me speaking to them. That is very unfair in these situations, and that has happened in two situations. I went to my hospital and talked to the nurses and they got their fingers slapped: Wrong. Not only in PEI and Canada, that's wrong. You fellows are wrong. You fellows haven't got a plan.

In closing, I hope the minister of health has been listening. Put a plan in place. Work the plan. Don't have me here in 2018 speaking that the women and men and children in PEI haven't got a doctor. Don't let me say that in 2018. Let's be a leader. Be the leader. Take leadership in this. Sit down at the table every day if you have to, minister, every day and talk. I'll travel PEI with you if you can get everyone doctor, man, woman, and

child. I'll make every stop with you if you can make that happen. I'll be happy to do that because that would make me so happy, especially with the children – when you see the children sick. Nobody wants to see children sick without a doctor. I know I don't. I don't like to see anybody sick, let alone children.

It's a great motion. I support it. Everybody knows where I stand on it, for sure, especially the people who have been here for the last six years.

Mr. Myers: Or the last 20 minutes.

Mr. LaVie: Or the last 20 minutes. You know where I stand with this motion on the shortage of doctors. It's dear to my heart, it's close to my heart and I'll have it to my heart until it's resolved, Madame Speaker.

I'd like to adjourn debate on this motion.

Thank you.

Deputy Speaker: Thank you.

An Hon. Member: (Indistinct)

Orders Other Than Government

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

Dr. Bevan-Baker: Madame Speaker, I move, seconded by the hon. Member from Tignish-Palmer Road, that the 12th order of the day be now read.

Deputy Speaker: Shall it carry? Carried.

Clerk: Order No. 12, *An Act to Amend the Employment Standards Act*, Bill No. 100, ordered for second reading.

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

Dr. Bevan-Baker: Madam Speaker, I move, seconded by the Honourable Member from Tignish-Palmer Road, that the said bill be now read a second time.

Deputy Speaker: Shall it carry? Carried.

Clerk: *An Act to Amend the Employment Standards Act*, Bill No.100, read a second time.

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

Dr. Bevan-Baker: Madam Speaker, I move, seconded by the Honourable Member from Tignish-Palmer Road, that this House do now resolve itself into a Committee of the Whole House to take into consideration the said bill.

Deputy Speaker: Shall it carry? Carried.

Thank you.

Thank you, hon. members, I will now call on the hon. Member from West Royalty-Springvale to come down and Chair the Committee of the Whole House.

Chair (Dumville): The House is now in a Committee of the Whole House to take into consideration a bill to be intitled *An Act to Amend the Employment Standards Act*. Is it the pleasure of the committee that the bill be now read clause by clause?

Some Hon. Members: Yes.

Leader of the Opposition: If we could have just a quick –

Chair: Quick overview?

Leader of the Opposition: – get some information first and then we'll start on that.

Chair: Okay. Is it all right to bring a stranger on the floor?

Granted.

Dr. Bevan-Baker: Thank you.

Chair: Would you state your name in full for the community members, please?

Joanne MacKinnon Assistant: Joanne MacKinnon, legislative assistant for the Office of the Third Party.

Chair: Hon. member if you'll get an overview of your bill, please?

Dr. Bevan-Baker: Sure.

Thank you, Chair.

This amendment will provide basic whistleblower protection to workers in the private sector. We thought, in our office, this would make a good compliment to government's public sector whistleblowing legislation, which was introduced in the spring.

Currently employees in Prince Edward Island are only protected from reprisals if they report violations in the *Employment Standards Act* or the *Occupational Health and Safety Act*. I think all workers should be protected whenever they have the courage to come forward and report wrongdoings.

Indeed, we all know the news of the last few days; the vulnerability of workers when faced with potential wrongdoing in the workplace was brought home to me again when I read the article in *The Guardian* that discussed certain alleged abuses of the PN Program and although the affected students would receive a certain amount of protection if they reported their violations under the *Employment Standards Act*, they would not be able to report violations of any other laws without risk of being dismissed.

So, this is a very timely bill and in preparing this bill, we issued a discussion paper, we sought input from the minister in the department, the deputy minister, various community organizations, unions, the business association. This has been widely distributed for public input and we've received nothing back other than positive feedback.

That's what this bill is about.

Chair: The hon. Minister of Workforce and Advanced Learning.

Mr. Gallant: Thank you, Chair.

Thank you very much for bringing this bill on, hon. member. Just to have a question on your last comment there that you had a lot of public engagement; in your discussion paper that we've received this morning there – we got it around 11:30 a.m., there was also some information of support from two organizations and one individual.

Is that what you're referring to with your – you had a lot of public consultation?

Dr. Bevan-Baker: We sent it out to many more people than that and I can give you the whole list here: the Canadian Federation of Independent Business, Department of Workforce and Advanced Learning, Charlottetown Area Chamber of Commerce – there's about 12 organizations on this list. We did not receive feedback for all of them, but yourself and your deputy minister would have received it not just this morning, but maybe two months ago? Would that be –

Joanne MacKinnon Assistant: October 2nd, I think.

Dr. Bevan-Baker: October the 2nd.

Mr. Gallant: Now, in one of them, they were concerned that maybe your legislation should be beefed up – that there should be an internal process first before it goes any further than that?

Dr. Bevan-Baker: I don't recall that.

Mr. Gallant: Would you give that any consideration?

Dr. Bevan-Baker: I'm sorry. Which reply? Erin McGrath-Gaudet's?

Mr. Gallant: Yes, it is, yeah.

Dr. Bevan-Baker: Yes.

She was actually very supportive and the only suggestion she had was to change the order of the report – the body to which the person would report and we actually included that. We adjusted the bill accordingly. The only suggestion she had, we incorporated.

Mr. Gallant: So you beefed up your legislation to the expectation that employees follow internal reporting procedures prior to external reporting?

Dr. Bevan-Baker: I'm sorry. I just need to find that, minister on the –

Mr. Gallant: Because that was the only recommendation she had. As you say, she was in favour of it, but that was a concern she had.

Dr. Bevan-Baker: Yeah, I'm sure.

Joanne MacKinnon Assistant: In response to Ms. McGrath-Gaudet's recommendations, what we did do was change the order of the definitions of legal authorities so that we placed immediate supervisor in advance of law enforcement; however, it does not actually indicate that a complainant would have to respond in that order. Even in her own letter she indicated that it's not always practical to go to your immediate supervisor, especially in instances where there could be criminal code violations, where evidence could be tampered with or destroyed – because you've alerted your employer that you intend to report the wrongdoings.

So, that way we put greater emphasis on using internal mechanisms first, but there's actually no requirement within the bill that you have to consult first internally within the organization.

Mr. Gallant: If you had a contractor that reported an infraction against a firm that he was doing work for, how would you deal with that? You know?

Dr. Bevan-Baker: Yes.

Chair: Minister, could you speak up? They can't hear you on this other side of the room.

Mr. Gallant: What happens if a contractor reports an infraction? Are they protected from losing their contract with the firm they were doing the work for?

Dr. Bevan-Baker: No. This is just for individual employees, not for corporations or companies.

Mr. Gallant: You also indicated in your discussion paper that there's only two jurisdictions. Could you explain a little bit about that, why these two jurisdictions have it and no other jurisdictions in the country do? Saskatchewan and New Brunswick are the only two.

Dr. Bevan-Baker: I would like to think that they are the more progressive jurisdictions – and indeed Saskatchewan and New Brunswick. Every province has public whistleblower protection, and we – well, Prince Edward Island is in the process of adopting that now.

Only two provinces have private whistleblower protection; however, there are certain protections in every jurisdiction for private workers, but those are the only two provinces where there is a blanket protection, which I think is the way we should go. I don't see why workers in the private sector should not have the same protections and coverage as the workers in the public sector do.

Mr. Gallant: So under this bill, how would a person go about reporting wrongdoing, like internally, for the internal process?

Dr. Bevan-Baker: Well, that would depend on the nature of the violation. As Jo said, there may be times when reporting to a supervisor is neither sensible or even possible; but that would be, in most cases I would imagine the preferred route, but again it would depend on the circumstances of the violation.

Mr. Gallant: I have some more other questions now, I don't –

Chair: Okay. I'll come back to you, Minister.

Mr. Gallant: Okay.

Chair: The hon. Minister of Transportation, Infrastructure and Energy.

Ms. Biggar: Thank you.

Just in regard to reporting is where I was going to go with this as well. Have you had discussions with police agencies, enforcement agencies? Like if it's something that would be applicable to them, or who – if I'm not comfortable going to report something to my employer, what's my recourse?

Dr. Bevan-Baker: Well, an appropriate agency would be the RCMP or a police force of some kind; so yes, absolutely. We did not contact them, but certainly that is one of the agencies that would be an appropriate place to go.

Chair: Continue, Minister.

Ms. Biggar: So if this were to go through, and this is the reporting agency or agencies, I'm just curious that it would put a lot of

extra responsibility on them to take on those cases. That's why I was wondering if you've had consultation with, whether it's city police or RCMP. So it would be interesting; or the police chiefs association in that regard, that I would think would be good to have some input from them.

Dr. Bevan-Baker: Well –

Ms. Biggar: Wouldn't you agree?

Dr. Bevan-Baker: The bit that I would not agree with is that this puts a large, new responsibility on them. I mean, that's what law enforcement is there for, to enforce the law, so that this is not something that would be outside of their jurisdiction or outside of something they are comfortable with.

Indeed, in part of our communication, you'll see that there's an aspect of the criminal code which covers people, employers bringing forward complaints. Actually, there has never been, since that was enacted in 2014, I believe –

Joanne MacKinnon Assistant: 2004.

Dr. Bevan-Baker: – 2004, excuse me – there have never been any criminal prosecutions, and that's across Canada. So we're not putting an onerous amount of extra work on our law enforcement agencies in doing this.

Chair: The hon. Minister of Transportation, Infrastructure and Energy.

Ms. Biggar: So you don't think it's necessary to even consult with them?

Dr. Bevan-Baker: I don't –

Ms. Biggar: Is that correct?

Dr. Bevan-Baker: Did we send this out to –

Joanne MacKinnon Assistant: No, we didn't.

Dr. Bevan-Baker: No, we did not send this out to police agencies; but again, I think this is something that they would be familiar with and would not have any issue.

Chair: Continue, minister.

Ms. Biggar: So you're saying you don't think it's necessary to consult with them.

Dr. Bevan-Baker: Not on the content of the bill, no, because it's a piece of legislation which is in keeping with other jurisdictions and I don't think, again, it would bring any onerous responsibilities on them at all.

Ms. Biggar: Okay, thank you.

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

Mr. J. Brown: Thank you, Chair.

Just as a practical question, I'm kind of curious as to how you would envision this being enforced. Say somebody is a whistleblower, maybe give me a 'for example' of what would happen and how you see this being –

Dr. Bevan-Baker: Sure.

Mr. J. Brown: – pertinent legislation.

Dr. Bevan-Baker: Okay, well, let's imagine you're working in a convenience store and a minor comes in to purchase cigarettes and one of the people you work with sells them cigarettes. You know that's a violation of a law. You speak to them. They do not alter their behaviour at all, and in the public interest it's something that you feel you should do something more about. You would then go and report that to the appropriate agencies, in this case the RCMP or police. That's an example.

Chair: The hon. Minister of Workforce and Advanced Learning.

Mr. J. Brown: Chair, if I could – I had a follow-up question on that.

Chair: Oh, I'm sorry.

Mr. J. Brown: I'm not sure if it's appropriate.

Chair: Go ahead, Minister.

Mr. J. Brown: I'm just kind of curious. The reason I asked you that question is more related to what we do when we have the legislation there. There would be common law now that would prevent that employer

from firing that employee because of that. We see in your materials that were provided earlier there today; there's criminal code sections.

And so I guess what – and overall I see where you're going and I don't have a material issue with the legislation, but I do take the hon. Minister of Transportation, Infrastructure and Energy's point to say: Are we really doing anything additional here, and if we are, should we be talking to whomever we're asking to enforce this that's any different than it is now?

I guess that's the pointed question that I would put to you is the difficulty that I would see as somebody kind of with a legal background in terms of what's there in the common law right now is that it can become difficult.

Like say in your example, you're the gas station attendant that gets dismissed and you might only have been at work for a month or something like that. Were you going to sue your employer for that dismissal? Probably not, because it wouldn't be worth your while to do it.

You may run into the same kind of a situation here unless there's a practical kind of enforcement mechanism that goes along with it as well. In other words, you may have the legislation, but the legislation's only as good as the paper that it's written on if there's not an enforcement mechanism to go along with it.

Joanne MacKinnon Assistant: With the criminal code provisions, there are a couple of issues that we identified with them. First, they've never actually been used that we could find. Secondly, the only redress under the criminal code is it's a criminal offence against the employer, which doesn't actually address what the employee may want, which is either appropriate severance pay or to be reinstated in their position.

Again, I'm not a lawyer so I can't speak to this, but my understanding is the burden of proof under a criminal code violation would be much higher, so we really didn't feel that the criminal code provided the adequate and the type of flexible protections that our act envisions.

Using the previous example, after the tobacco enforcement officer from the department of health came and dealt with the violations of selling tobacco, if the employer then assumed that a particular employee was the one that had made the report and dismisses that employee, then the employee can go through the employment standards board like any other employment complaint that would be made under the act because the violation is embedded in the act.

Chair: Minister of education, do you have another question?

Mr. J. Brown: Yeah, I do.

So I guess what I'm saying is – a few different things I'll set up and kind of try and address things as you did in your comments.

I'd agree there's probably a different standard in terms of making out a criminal complaint than not. There are, in the sentencing provisions in the Criminal Code of Canada, there is the ability to deal with all of those things that you were just talking about. I don't think I'd take that statement at its face value. In other words there would be an ability for a court to, you know, require the, in this case, a convicted person or enterprise to do certain things to give remedy to the victim. The provisions are fairly broad to do that.

In terms of the employment, or the enforcement piece, I think, I guess what I'm saying, I think that that legislation probably already exists in part at this point in time. If you were going to set out that you were unjustly dismissed, at least up to a certain circumstance and then after that, so basically the level, typically, is \$5,000 worth of wages. After that, common law would kick in. There are very specific damages remedies that are set out in common law particularly where, you know, you, in an egregious way dismiss somebody for something that you shouldn't have dismissed them for.

As I said, the difficulty when you get into that situation is more around access to that than it is, you know, what the law says about it. In other words, if you were the gas station attendant that we were just talking about. You get dismissed, you might be entitled to

say, \$1,000 in wages. You're not going to go out and hire a lawyer to pursue that \$1,000 in wages because it's going to cost you \$5,000 to get the lawyer to get you your 1,000 back.

You know, I guess, I'm back to – I don't disagree, but I think there, maybe, needs to be a larger conversation with the employment standards officers to figure out what practically are we into here in terms of enabling. Like, if you're going to have legislation like this, you have to enable it, as well and ensure that they would be onboard to have a mechanism to allow that to happen.

Joanne MacKinnon Assistant: In terms of the employment standards, we did send a discussion paper out. We did make an attempt to open a conversation with them around how the act could be implemented.

I'm not entirely sure I'm following, in terms of, in what prohibited behaviours. Under the *Human Rights Act* there is a list of prohibited behaviour, prohibited reasons for dismissal. Within the *Occupational Health and Safety Act* there are prohibitions around disciplining an employee for making reports on that act, and the *Employment Standards Act*.

Again, I'm not a labour lawyer, but we hear stories all the time from people saying, you know, that they've made a complaint and were just terminated with two-weeks notice and told to hit the bricks. Perhaps, there are other remedies, which would require hiring a lawyer and going to court, but we feel that this would be simpler and more direct remedy than using the other civil process.

Chair: The hon. Minister of Workforce and Advanced Learning.

Mr. J. Brown: I'll give you an –

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

Mr. J. Brown: – example –

Joanne MacKinnon Assistant: Yeah.

Mr. J. Brown: – in hopes that it'll explain it.

Just as you just mentioned. If you were discriminated against on the basis of one of the enumerated grounds in our human rights legislation, you'd go down to the Human Rights Commission and you'd file a complaint. That complaint would then be reviewed. It would be determined on a prima facie basis whether there's merit to that complaint or not. If there is found to be merit there's an investigation done. At that point in time, the complainant has made their submission.

The party complained against has the opportunity to respond to it. Then, there's a further opportunities for the parties to submit, you know, basically the facts and argument that they would have relating to it. At that point in time, it would be determined whether or not the matter would go forward to a hearing.

I guess what I'm saying is there are mechanisms in our *Employment Standards Act* to allow for some of that kind of thing, and again, I did not specialize in this area of the law, but what I'm wondering is if you have spoken with them. I would be surprised if the way the employment standards legislation is set-up right now there is provision for that kind of a process to take place. Or, at least, I'm not aware of it. I'm not saying it doesn't exist, but I think we would want to know that before we put the legislation in place that would, kind of, require it.

I guess I'm asking the question: Have you had conversation –

Joanne MacKinnon Assistant: Yes.

Mr. J. Brown: – and the answer is yes, then great –

Joanne MacKinnon Assistant: Yeah. We didn't have –

Mr. J. Brown: – if you haven't then –

Joanne MacKinnon Assistant: – the conversation directly with the director of labour relations. When we were drafting the bill with Legislative Counsel, it was brought in, in an area of the bill, which deals with processes around making complaints for violations of the act. Clearly, that process is there.

Mr. J. Brown: Sorry, you said you did or you did not have the conversation?

Ms. Biggar: (Indistinct) did not.

Joanne MacKinnon Assistant: We didn't speak to the director of labour relations, but when we were drafting it that there was a process within the act itself to, if you have a complaint against a violation of the act it would be treated the same as that because it becomes a violation of the act once it's prohibited to discriminate against people based on providing information to lawful authorities.

Chair: Are you still going, minister?

Mr. J. Brown: Yeah, I'm just curious as to what the process would then be. If I'm dismissed for, you know, I'm dismissed and I want to make the allegation I'm dismissed because I'm a whistleblower, what then happens to –

Joanne MacKinnon Assistant: It would follow the same process as if you had any other complaint. Whether you had a complaint that your wages weren't paid by your employer, whether you had a complaint that your employer denied you of legislated leave, didn't pay you time-and-a-half on a holiday, if you have a complaint that your employer dismissed you because you complained about not being paid for your holiday. There's, I think, a fairly robust mechanism within the employment standards regime we have in order to address these complaints. This would just be an additional type of behaviour, which is prohibited, and therefore would be subject to complaint.

Mr. J. Brown: I'm curious as to what that is, though, and where the burdens lie in setting it out and that kind of thing.

Joanne MacKinnon Assistant: My understanding is that you go first to the employment advisor. I think it's Shawn Shea, and explain what happened and then they can provide you with guidance on whether or not it falls under the act. Then, often these things are tried, my understanding is they try to resolve them informally. But then, there are, mechanisms, I believe, to have hearings in front of the Employment Standards Board, at which

point they would determine how the issue should be resolved.

Mr. J. Brown: Okay, so, I guess what I'm wondering though, and I'm not trying to be difficult here.

There would be a very technical process that you'd go through and sections in the legislation that would say: You're pursuant to whatever section, alleging that you have been dismissed and you've been discriminated against because you're a whistleblower. That would trigger a requirement then for, I'm guessing, for somebody to review that complaint, do an investigation, determine whether there was merit and report back.

Through that, the employer must have some ability or recourse to put their two cents in and there would be a standard, upon which they would be either held to, or there would be a presumption one way or another as to whether or not they would have met that standard, some point throughout that legislation.

That's a fairly, kind of, technical question I appreciate, but I think it's an important piece that we would need to know if we're going to put this in place that that's there in the legislation to go along with it.

Chair: Minister, could I – excuse me for a moment. Minister, could we kind of move on and come back to you?

Mr. J. Brown: Sure, yeah, sure.

Chair: Here's where we're at: we have the hon. Minister of Workforce and Advanced Learning next, we have the hon. Member from Rustico-Emerald, if he returns –

Some Hon. Members: Oh! Oh!

Chair: – and we have the minister of transportation, and we've got the Member from Summerside-Wilmot.

We'll go to the hon. Minister of Workforce and Advanced Learning.

Mr. Gallant: Thank you, Mr. Chair.

I know there are some other people who want to speak, but in the process and your

intent of this bill, I can certainly understand it. I would like to recommend that, maybe, after some discussion here we take this to a committee of the whole – to the appropriate committee and hear from some of these stakeholders that we've mentioned earlier.

Could we agree to that?

Dr. Bevan-Baker: To a standing committee?

Mr. Gallant: Bring it to the appropriate standing committee.

Dr. Bevan-Baker: I feel that this was a well-researched piece of work. I think it's a solid piece of legislation crafted on a template from an existing jurisdiction, where they have such an act in place.

We sent a discussion paper to yourself, minister and other ministers in government and their deputies for feedback.

I really feel that if you had any concerns about this piece of legislation, you had ample time to bring them forward to us and did not. I would have hoped that would have happened before we reached the floor here.

I would rather, if government is not prepared to stand up for all of the workers on PEI, I would rather –

Mr. Gallant: Mr. Speaker –

Dr. Bevan-Baker: – I would rather send it to a standing committee to vote on it here.

Chair: Go ahead, continue, minister.

Mr. Gallant: Just to your comments. It's not that we're not willing to stand up to the workers on PEI, it's to take it to that step further to get some more dialogue and consideration to your bill, hon. member. By working together we'd bring it to that committee.

Dr. Bevan-Baker: Minister, we, with all due respect, we did send it out to several unions who supported the bill. I feel that sufficient consultation has been done here, both internally and outside of government. I really feel that this is a solid piece of work.

If I look at, to digress slightly, Chair, if I

look at the title of the throne speech, it's: working together. If this is not, not an example of working together, in the introduction of the throne speech it says speaking to MLAs: I encourage you to work together for the best outcomes for our province.

I really feel that, in drafting this legislation, sending around an invitation for input, both internally and externally, that we are trying hard to work together and I feel that we have done that. We have met that expectation. If there were problems that we should have been notified prior to this is my opinion on that.

Chair: Okay, we'll go to –

Mr. J. Brown: Did we get, sorry, we got an email (Indistinct)

Chair: Excuse me.

Mr. J. Brown: (Indistinct) before that.

Chair: Excuse me. I've got the hon. Member from Rustico-Emerald, you have the floor.

Mr. Trivers: Thank you, Chair.

I did want to commend the Leader of the Third Party for brining this bill to the floor to amend the *Employment Standards Act*.

I know there is legislation in place that deals with public whistleblowers. I know when I was out talking to Islanders this summer, many, many times I approached people and they said they weren't comfortable with, for example, buying a membership in a political party because they're afraid of how it would impact their job, especially if they were government employees.

I mean – this was really disturbing. This is something, I don't, in many cases it could have been an excuse, that they just didn't really want to buy a membership, but, you know, let's face it, but –

Some Hon. Members: (Indistinct)

Leader of the Opposition: It worked for me.

Mr. Trivers: Yeah, I knew if I didn't get them, I knew James would.

An Hon. Member: He had no tenders to give out.

Mr. Trivers: There were definitely genuine concerns.

I was wondering would this act apply in those cases, or that would be more the public whistleblower legislation?

Chair: The hon. Leader of the Third Party.

Dr. Bevan-Baker: If we're talking about civil servants, then that would fall under the public whistleblowers act. No, this legislation would not be applicable in that case.

Mr. Trivers: One more.

Chair: One more, go ahead.

Mr. Trivers: If they were working for a private business or individual or partnership, would this act apply to them then when it came to purchasing a political membership?

Joanne MacKinnon Assistant: It would not apply, this act wouldn't, but it would be a violation under the *Human Rights Act* that you're not allowed to discriminate based on political affiliation.

Ms. Biggar: Remember those 800?

Mr. Trivers: That's all, thanks.

Chair: The minister of transportation, then the hon. Member from Summerside-Wilmot and the hon. Leader of the Opposition.

Ms. Biggar: Thank you, Mr. Chair.

Just a couple of questions. This, you said, is in two other jurisdictions? So did you just adopt it from that or did you have discussions with the other jurisdictions?

Dr. Bevan-Baker: We did not discuss it with the other jurisdictions, but we did a jurisdictional scan of all provinces, came up with these two provinces where there is private whistleblower protection.

Chose the one that we felt offered the best protections, amended it slightly, sent that out for discussion. Got the feedback from Erin McGrath-Gaudet, amended it a little bit more based on her input and ended up with the bill that we currently have in front of us.

Ms. Biggar: Couple of more.

Chair: Go ahead minister.

Ms. Biggar: In regard to your discussions with different people did you have discussions with the chambers of commerce and the Tourism Association of PEI?

Dr. Bevan-Baker: Yes. We had sent it to three chambers of commerce; Charlottetown, greater Summerside, and Kensington and area chamber of commerce.

Ms. Biggar: And they responded?

Dr. Bevan-Baker: I don't believe they did, actually.

I took that to be that they had hearty endorsement of what we were doing. If they'd had problems, I assumed they would have got back to us.

Ms. Biggar: I still have some concerns that I think we should have some – and I think it would be good to have further discussion on this, really. To see just what the impact would, and who else may have some input in it. That's my only concern about it, and suggesting, you know, I liked the minister's suggestion that we take it to a standing committee and if you didn't get response back from certain people, then the committee can call them to committee and have that input required.

I have a bit of concern as an MLA. I know you sent it to one but I don't recall ever getting an email, myself, discussing that this was coming to the Legislature. That's my concern as a private member, not being able to support it because I would like to have more information.

Dr. Bevan-Baker: May I just respond to this –

Chair: Yes –

Dr. Bevan-Baker: – here for a second?

Chair: – respond.

Dr. Bevan-Baker: Indeed, we sent it to the, what we felt was the most appropriate department, which was workforce and advanced learning, which is the department under which this legislation would fall.

In terms of sending the bill to a standing committee, it's been my experience as a private member, is that when bills get sent to standing committee to die; they go there and often the interest is not so much in learning more about them, it's about getting them out of the way and letting them disappear. I have certainly had experience with that personally.

Again, if I felt that there was some major flaws with the bill before us, or if we hadn't researched it properly or sought sufficient input, then, absolutely, I just, personally, do not feel that that's the situation.

Chair: The hon. Member from Summerside-Wilmot.

Mr. Palmer: Thank you.

Can you give me any background information or the evidence of how often this happens in your jurisdictional scan. What did you find out about what the, kind of, occurrence of this could potentially be right now.

Joanne MacKinnon Assistant: Our research has shown that actual complaints under this legislation are fairly rare, whether it has a deterrent effect because employers are aware that that's a prohibited behaviour, or whether, even with whistleblower protections, employees are afraid to come forward and make complaints. But either way, it tends not to, yeah, result.

Even looking at the policy that the provincial government had with whistleblowing to the ethics and integrity commissioner, I think in her first report she didn't have a single complaint that she needed to investigate. So one would hope that just having the legislation in place is enough to have an impact on people's behaviours.

Mr. Palmer: Would there – Chair?

Chair: Hon. member.

Mr. Palmer: Would there be any records or any data with maybe the human rights commission of folks that are going there and trying to make a complaint to it? Or I guess since it doesn't fall under their jurisdiction they wouldn't necessarily keep stats on that, but have you had any conversation with those?

Joanne MacKinnon Assistant: We've not had any conversations with the human rights commission. I suspect that information would be easily found in their annual reports if that's something you think is valuable and we could bring back.

Mr. Palmer: So you think they could potentially have some data based on things that your bill would be able to –

Joanne MacKinnon Assistant: No, no.

Mr. Palmer: – protect?

Joanne MacKinnon Assistant: It would be against – it would be relative to the prohibited basis of discrimination under the *Human Rights Act* because they wouldn't have any authority to respond to a complaint based on whistleblowing.

An Hon. Member: Right.

Joanne MacKinnon Assistant: It's not –

An Hon. Member: Call the hour.

Dr. Bevan-Baker: Mr. Chair, I move that the Speaker take the chair, and the Chair report progress and beg leave to sit again.

Chair: Shall it carry? Carried.

Madam Speaker, as Chair of a Committee of the Whole House, having under consideration a bill to be intituled *An Act to Amend the Employment Standards 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.

Deputy Speaker: Shall it carry? Carried.

Hon. Minister of Workforce and Advanced Learning.

Mr. Gallant: Thank you, Madam Speaker.

I move, seconded by the hon. Member from O'Leary-Inverness, that this House adjourn until tomorrow, November 29th at 2:00 p.m.

Speaker: Shall it carry? Carried.

The Legislature adjourned until Wednesday, November 29th at 2:00 p.m.