

Hansard
May 15, 2007

MR. BALL: Mr. Speaker, alarming news has come to light in recent years about the false testing results involving breast screening in the Eastern Health district. In recent days the news has become even more disturbing, as it has been exposed that close to 50 per cent of those tested positive for this disease had been given false information that prevented them from receiving the appropriate life-saving treatment.

I ask the minister: Has his department carried out any independent inquiries and investigations into this shocking matter from a departmental level, or external inquiries from the findings already uncovered by the Eastern Health Authority? If so, is the minister prepared to release those results?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, we fully understand and fully appreciate the anxiety that has been created for many individuals and families in this Province as a result of the test results that came about as a result of some, I guess, false negatives that occurred over a period of about five years. That was a very unfortunate set of circumstances.

One of the things that has happened as a result of that, there were some 900-and-some-odd tests repeated last year. As a result of those repeat tests, there were about 117 or so women who had their course of treatment changed as a result of the new test results.

On the bigger picture that he has raised with respect to the future and with respect to an investigation or analysis, there was a complete review done of that program and service. What has happened: at the time that surfaced, a halt was put in place. No further tests were done until very recently. That area has now reopened. We now have a dedicated lab of dedicated technologists, dedicated pathologists, a Centre of Excellence with pathologists and oncologists providing that support to that particular program. We now have a quality assurance program in place that ensures there is an ongoing monitoring program to ensure that does not happen again in the future.

We have put in place some really strong, I say, Mr. Speaker, some very stringent and some very strong requirements to ensure quality, some additional training for the technologists and the pathologists working in that area, and pooled the resources we have in the Province in the creation of the Centre of Excellence. So, on a go-forward basis, the women of Newfoundland and Labrador can be assured -

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

The Chair recognizes the hon. the Member for Humber Valley.

MR. BALL: Like I said, it was a long answer to the independent inquiries.

Recently, news stories indicated that Eastern Health has been aware of these erroneous results for several years. In fact, the Canadian Cancer Society has indicated they have been lobbying for quite some time for the information related to the tests; really, since 2005.

I ask the minister: How long did you and your department have the results of these re-tests, and when were the women involved notified of the errors?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Thank you, Mr. Speaker.

As I understand it, the 900-and-some-odd tests that were redone last year, there were some 300-and-some-odd of those, just a little over 300 of those tests, that were found to be inaccurate. That information was available to Eastern Health last year. That information was available to Eastern Health and to the department last year.

In December of 2006, Eastern Health held a techno-briefing where they provided information to the media and to the general public on the whole issue of the history, the chronology, of what actually took place, so there was an understanding of the period of time involved when these test results were inaccurate, what the response had been up to that particular point, what the re-testing had actually disclosed. So, Eastern Health provided that kind of briefing in December of 2006, I say, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Humber Valley.

MR. BALL: Mr. Speaker, I was actually more concerned about when the women were notified about this problem.

While this problem may extend beyond our own boundaries, women in our Province are gravely affected by the very serious error in testing. In fact, the 307 women whom the minister spoke about in our Province were provided with the wrong results, and 104 of these now require different treatment.

I ask the minister: Has the equipment used to test the hormone receptor been replaced? If not, is it tested on a regular basis to ensure the results now provided are accurate, and are trustworthy so that public confidence is restored in our health care system?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: I think, Mr. Speaker, if the member will refer to the first answer I gave him, in terms of the response and what has happened since then, I have given the member here, and I give the people of Newfoundland and Labrador a reassurance that new protocols are, in fact, in place. We do have a new quality assurance program. We do have a dedicated lab dealing with this issue, these tests. We do have a Centre of Excellence created where we pool the expertise we have in pathology and oncology, and the technologists who work in the labs have come together to create that pool of resources that we need to truly call ourselves as having a Centre of Excellence to deal with breast cancer testing in this Province.

We want to provide some comfort to the women of Newfoundland and Labrador that the tests that they are getting done today have been subjected to a very rigorous quality assurance program. They should be assured that what happened last year, or what had happened over a period of about five years, should not repeat itself in Newfoundland and Labrador again.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Humber Valley.

MR. BALL: As we all know, Mr. Speaker, our Province's population is aging. With an older population comes a need for improved and expanded services to address the challenges. Home support workers increasing play a more significant role in our health care system. In addition to providing cost-saving services to patients discharged from hospitals, they also provide support to people living with disabilities. Unfortunately, Budget 2007 failed to recognize the valuable contribution and the struggles of these workers who face low wages, increased responsibility and who work under stressful conditions.

I ask the minister how he plans to deal with the shortfall of home support workers, including compensation and other benefits, to stabilize the important workforce?

MR. SPEAKER: The hon. the Minister of Health and Community.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, a couple of weeks ago, my colleague, the Minister of Finance, stood in this House and read a Budget Speech. In that speech he highlighted the significant issues we are going to deal with in Newfoundland and Labrador this year; major investments in all fronts. One of the other pieces as a part of the budgetary process, there is an Estimates document. In that Estimates document, it outlines all of the expenditures of every department.

The member opposite sat in this room last Wednesday night, I believe it was, in the Estimates and never asked one question; never raised that question at all about home support. Had he raised the question, I would have referred him to page 202 in the Budget document, and I say on line 3.1.01.10, there is a line there that says Grants and Subsidies. If you had to ask me the question last week, what was included in that figure, I would have laid out \$2.5 million for you to respond to home support -

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: - that would have provided a salary increase for home support workers and another \$4 million to increase capacity for home support. All you had to do was ask it.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Order, please!

The hon. the Member for Humber Valley.

MR. BALL: Mr. Speaker, I am sure when I leave here today the question I am going to be asked, so I will ask the minister right now: How much an hour are you prepared to pay home support workers and how much in block funding will you give to the agencies?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Number one, Mr. Speaker, we do not provide block funding to agencies. We provide them for services they provide. If they do not provide the service, we do not pay them. So, there is no block funding for agencies. The increase equates to about twenty-five cents an hour for home support workers, I say, Mr. Speaker

MS MICHAEL: Thank you, Mr. Speaker.

I would like to come back to the Minister of Health and Community Services. I would like to do a couple of follow-up questions with the question that was started by the MHA for Humber Valley.

Many of the women who were affected by the poor testing that went on did not receive direct contact from Eastern Health but learned about it through the media. Women of this Province and their families really deserve to know personally what had happened.

Minister, with regard to the quality control that you are telling us about, what has been put in place to assure that this kind of lack of direct information to a patient is never going to happen again?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Test results - the member is talking about a change. Test results always have been communicated to patients. I think the difficulty in this particular instance here was that there were a number of tests that were done and the tests were inaccurate. What has happened here, when that was discovered the tests were completed again, and the new results were communicated directly to each of the patients.

As I understand it, Eastern Health had direct contact with either the patient themselves, and in some cases it was through the family physician, but the information did get communicated to the patients. The unfortunate thing about it was many patients heard about the retesting process, as you have described, through the media, rather than having it coming directly from Eastern Health themselves.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Signal Hill-Quidi Vidi.

MS MICHAEL: Thank you, Mr. Speaker.

What I am asking the minister is, I am aware of the fact that they heard about it through the media instead of it coming through Eastern Health, itself. What, in the quality control, is now in place that this kind of thing will never happen again?

I understand about tests going to a doctor, I have tests myself, but when an error is made people should not be learning about that error and the retesting through the media. So what in the quality control will make sure that this will not happen again?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: One of the integral parts of a quality control program includes the whole process of reporting, reporting to patients, reporting to physicians, referring physicians, ongoing treating physicians and family physicians. Inherent in a quality, quality control program, which is what we have here now, are the whole issues around protocols for communication, protocols for disseminating reports coming from those tests. So, as a part of the normal structure of a quality control program, these are some of the components.

I say to the member, inherent in the quality control program that I outlined a moment ago, are mechanisms in place to ensure appropriate reporting takes place.

MR. SPEAKER: The hon. the Member for Signal Hill-Quidi Vidi.

MS MICHAEL: Thank you.

I do not think the minister knows the answer to my question, but I will ask one more question.

I am asking the minister now, since he is convinced that we have an excellently run pathology department and everything is going so well. We have tremendous people in that department, and I certainly hope we do, and we have quality control.

Would the minister communicate to his Eastern Health the need to do a public information program with the details, so that people will feel confident, so that if I ever have to have a test for breast cancer, that I will feel confident staying here in my own Province to have that done?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, I say to the member opposite, that is an excellent suggestion and I will, in fact, relay that directly to the CEO of Eastern Health, because it is an ideal suggestion. Thank you very much for making it.

Hansard
May 16, 2007

MR. BALL: Mr. Speaker, questions have been raised within our health care system relating to false testing results in breast cancer screening. At the center of this controversy is whether the department and the minister withheld from the public critical information relating to the number of women affected by this error in testing.

In today's *Telegram*, the Minister of Health and Community Services is quoted as saying: I understand and I appreciate the dilemma that Eastern Health found themselves in trying to balance their responsibility to the patients who needed a change, referring to treatment, and their responsibility to protect in the interests of the organization in the event of litigation.

I ask the minister: Given his ultimate role and responsibility to public health and safety in this Province, does he still stand by this incredibly shocking statement?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, as I indicated to the hon. member in this House yesterday, two years ago Eastern Health recognized and found out themselves that they had a problem with some of the tests being done in their facility. In recognizing that they needed to understand the scope and the extent to which that problem existed, they referred out some 700-and-some-odd tests that had been provided for at the Health Sciences Centre. They sent them out to Mount Sinai for a recheck. Of those that they sent out, there were 317, I believe is the exact number, that came back and suggested that the test results down at the Health Sciences were very different than those that were gotten from Mount Sinai at that particular time.

Of those 300-and-some-odd, an expert panel reviewed the files, reviewed the cases and reviewed the test results and suggested that 117 of those patients needed a change in the course of their treatment, and all of those patients had their changes made. The remaining 200 patients were contacted through their family physicians -

MR. SPEAKER: Order, please!

The Chair appreciates the nature of the question, but I ask the minister if he could complete his answer quickly.

MR. WISEMAN: The 200 remaining patients were advised, through their family physicians, that their test results were, in fact, a false negative and they were advised of the results of the new tests that were completed. At no time were those 200 women at any

risk. The risks were associated with the 117 who had their treatment regimes changed. So, I say, Mr. Speaker -

MR. SPEAKER: Order, please!

The Chair recognizes the hon. the Member for Humber Valley.

MR. BALL: Mr. Speaker, we understand there was actually about 1,000 women who were retested. It appears to me that the minister has not answered, and he does not really intend to retract this appalling statement. There is a price, I guess, that this government puts on the lives of women in our Province.

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MR. BALL: Mr. Speaker, almost 1,000 women have been retested to determine the accuracy of their results. Almost half the people received inaccurate information and, unfortunately, there are women and families still waiting results.

I ask the minister: How long will it take for this critical information to be released, or will it take another affidavit to pry these results from your department and your government?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

MR. WISEMAN: Mr. Speaker, this is a very serious issue. It is a significant issue that has had a tremendous impact on many families and women in this Province, and to try to play politics with it I guess speaks to the credibility of the members who are raising it in that fashion. It speaks to the depth that they will reach to try to play cheap politics in this Province.

Mr. Speaker, the fact of the matter is, I heard the member opposite make comments yesterday in the press, bringing into question the credibility of the people who currently, today, are performing those tasks at the Health Sciences Centre. What he is suggesting, I say, Mr. Speaker, and what I laid out in this House yesterday, is - he was asking questions about what happened between 1997 and 2005. There was a problem, an acknowledged problem. It has been dealt with. The fact of the matter is, between last year and today, the people who are having tests performed at the Health Sciences today can be assured that there have been major changes made in the program. I laid them out for the member opposite yesterday. So, to be standing outside of this House or standing in this House and suggesting that there are women today who are awaiting critical results, there are women today who are getting inaccurate information (inaudible) is not responsible, I say to the member opposite.

MR. SPEAKER: Order, please!

The Chair recognizes the tremendous sensitivity of the series of questions being asked, however, I would ask the minister if he could keep his comments relatively within the one minute time frame.

The Chair passes the Question Period back to the hon. Member for Humber Valley.

MR. BALL: Mr Speaker, communication has been a serious problem, I guess, through this whole process. I mean, we heard first-hand yesterday - people were telling us that they were hearing this from the media themselves. That is the only thing I am referring to here. The minister does not seem to appreciate these testing errors, that not just created fear and anxiety in the lives of women and their families, it probably led to some mistreatments and we have seen that.

I ask the minister: Can he be upfront once and for all and confirm when the department first became aware of this serious problem with testing?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: As I understand it, Mr. Speaker, the Department of Health and Community Services was advised when Eastern Health realized that there had been problem. The department was advised that the problem did exist. They were advised the extent to which it existed. They were also advised as to how Eastern Health was going to approach that and they, in fact, concurred with the approach being taken, which was to have some - and the member opposite was right, there were close to 1,000 - 900-and-some-odd, actually, to have those tests redone. The department was aware of that at that particular time and concurred with the direction that Eastern Health had taken to correct the issue before them.

MR. SPEAKER: The hon. the Member for Humber Valley.

MR. BALL: I still do not know when you found out.

My final question to the minister is: Given the urgency of this matter, why did it take two long years to carry out these retests; and, more importantly, why wasn't the process fast-tracked?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: I think the member opposite needs to look back at the chronology here. He may be reading some recent press and responding to a CBC story the other day, which is two years ago that the issue arose, but I want to just retract here a bit because it is important to put this in perspective.

Eastern Health became aware of this in the spring of 2005. They took their action in 2005, so in July 2005 they started a process to have the retesting done. We are here today, in May 2007. What the member is referring to is an event that occurred two years ago. The people found out about it back then. This is not a new story emerging now. This was an event that occurred two years ago, was dealt with two years ago.

What we are seeing here now is new information that has come in the public domain as a result of an affidavit filed in the courts, I say Mr. Speaker. The issue before us surfaced two years ago, was dealt with two years ago, and the changes made in the system have already been implemented and on a go-forward basis the system currently reflects that new change.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Opposition House Leader.

SOME HON. MEMBERS: Hear, hear!

MR. PARSONS: Thank you, Mr. Speaker.

The circumstances surrounding the decision to cover up the true magnitude of the problems with the Province's breast screening program is very troublesome. It was certainly unacceptable for government to sit idly by and place litigation costs ahead of the health and treatment needs of the women of this Province.

I ask the Minister of Justice: When was the former Minister of Health - that was yourself - advised of this situation? When was the then Minister of Justice advised of this situation, and what action did the Minister of Justice at that time take?

MR. SPEAKER: The hon. the Minister of Justice.

SOME HON. MEMBERS: Hear, hear!

MR. T. OSBORNE: Mr. Speaker, I thank the member for his question.

I was advised, I think it was in November or December of last year, of the severity of the number of cases and the details around the cases that led up to the circumstances that are currently before the House today.

I cannot answer as to when the former Minister of Justice was advised. That is a question that you would have to ask that particular member.

MR. SPEAKER: The hon. the Opposition House Leader.

MR. PARSONS: Thank you, Mr. Speaker.

The people of the Province were indeed shocked upon learning of this inaction and non-disclosure by government, and the statements of the minister trying to justify the decision to keep this important health issue hidden from the public. It is certainly inappropriate and unacceptable.

I ask the Minister of Justice: Do you feel, as the Minister of Justice, that the actions taken from a legal perspective were indeed appropriate, and why would government accept these recommendations knowing that it was putting litigation costs ahead of people's lives?

MR. SPEAKER: The hon. the Minister of Justice.

SOME HON. MEMBERS: Hear, hear!

MR. T. OSBORNE: Mr. Speaker, I believe that there are cases that are currently before the court regarding this particular issue as it stands today. As an issue that is currently before the court, Mr. Speaker, I cannot comment or answer in response to the question that the member has raised.

MR. SPEAKER: There is time for the Opposition House Leader to have a very brief supplementary.

MR. PARSONS: Thank you.

It sounds like you are putting litigation costs and concerns ahead of the people again.

Minister, laws are put in place to protect the people, not to protect governments against legal action that might come as a result of your action or inaction.

I ask the Minister of Justice: Whom did you consult with at the time you made the decision to keep this hidden?

Also, in view of how important this is to every woman in this Province, and to everybody in this Province, I ask you: Will you immediately undertake to commit to a judicial inquiry to get to the bottom of this travesty and hold those persons responsible accountable?

MR. SPEAKER: The hon. the Minister of Justice.

SOME HON. MEMBERS: Hear, hear!

MR. T. OSBORNE: Mr. Speaker, this was an issue that was being dealt with by Eastern Health. When I had first become Minister of Health, I understand there were patients who had gone to Ontario for retesting, and that the lab, that the testing facility here in St. John's, was shut down until we could confirm and prove, in fact, that the test results and the standards at that lab were up to standard.

As far as a judicial inquiry, or an inquiry into this issue, Mr. Speaker, this government certainly does not put litigation or legal issues ahead of the health of individuals. I can assure the member of that, and I can assure the people of the Province that we take this issue very, very seriously. We have taken it very seriously. We had asked, Mr. Speaker, for Eastern Health to provide us with the statistics and the results based on the retesting in Ontario. That information was provided to me in either November or December - I would have to double-check the date for the individual - but, as far as an inquiry into this particular matter, it is currently before the courts and I think, Mr. Speaker, the courts will make a ruling based on the actions or the inactions of Eastern Health.

MR. SPEAKER: The Chair recognizes the Member for Signal Hill-Quidi Vidi.

MS MICHAEL: Thank you, Mr. Speaker.

I would like to continue questioning in the same area, and the questions I have are for the Minister of Health and Community Services.

One of the concerns I have is: How many of the women who tested with false negative tests might have not been able to have been contacted because these women had already passed away from breast cancer as a result of incorrect testing?

Eastern Health has not said if any of the patients mistakenly denied hormone treatment had died, or were needlessly given mastectomies when they could have been treated with drugs. Does the minister know - and, if not, is the minister trying to find out - what the mortality rate of women who received incorrect test results is?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Thank you, Mr. Speaker.

As I understand, Mr. Speaker, of the 939 tested that were re-performed, there were 176 of those individuals who had died before the new test results were found.

MR. SPEAKER: The hon. the Member for Signal Hill-Quidi Vidi.

MS MICHAEL: Mr. Speaker, I just have to say that answer has given me a cold shiver. I cannot tell you what is happening to me at this moment with that answer. We have gotten the answer, though, and I thank the minister for having it, but it is shocking.

I will go on with my next question. I am finding it very hard to go on, but I will.

Mr. Speaker, in news reports yesterday, a U.S. specialist said that there are no national standards in Canada when it comes to hormone receptor testing. The minister said in the House yesterday, "We now have a dedicated lab of dedicated technologists, dedicated

pathologists, a Centre of Excellence with pathologists and oncologists providing that support to that particular problem. We now have a quality assurance program in place that ensures there is an ongoing monitoring program to ensure that does not happen again in the future."

Will the minister take steps to see that this centre, if this centre has so much expertise in it, will start working with other centres in Canada to develop and adopt what could become national standards?

I never again want to hear that we have people who died, most likely because of wrong testing. I am shocked.

MR. SPEAKER: The hon. the Minister of Health and Community Services.

MR. WISEMAN: Thank you, Mr. Speaker.

The member opposite raises an interesting question with respect to the work that Eastern Health and the Health Sciences Centre in particular would be doing with their colleagues. I understand that kind of interaction is existing between hospitals and testing sites, like you have mentioned, formalizing that kind of initiative. I will take your suggestion and raise it with the CEO of Eastern Health. It is a reasonable suggestion to look at how we might, as a part of a national system, work collectively in establishing standards for a critical area like this.

Hansard
May 17, 2007

MR. BALL: Mr. Speaker, my question is to the Minister of Health and Community Services and it concerns the faulty breast screening test results.

Today we know we have close to 1,000 women who have been retested for possible testing errors. While the minister has indicated that women needing a change in treatment have been contacted, can the minister confirm whether all women who have been retested have been notified and, if not, does the minister consider the failure to communicate this information acceptable?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Thank you, Mr. Speaker.

Mr. Speaker, as I indicated in the last couple of days in the House, all of those tests that were repeated and the test results came back different than those that were gotten at the Health Sciences Centre, all of those patients have been contacted. All of the tests that were redone, all of those individuals have not been contacted because, some of them, their test results did not change. For those whose test results did change, they have been contacted. One hundred and seventeen of them had their treatment regime changed. The remaining patients were contacted through their family physicians for appropriate follow-up, I say, Mr. Speaker.

MR. SPEAKER: The hon. the Member for Humber Valley.

SOME HON. MEMBERS: Hear, hear!

MR. BALL: Mr. Speaker, every year we have hundreds of new cases of breast cancer in the Province, and since the error in testing was discovered by Eastern Health in 2005 I understand that the tissue samples of women being tested since that time have been sent out of the Province right up until February of this year.

I ask the minister: What reassurances can you provide to the women who have been tested and diagnosed in the past two years, that their test results are indeed accurate?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Thank you, Mr. Speaker.

Mr. Speaker, as the member just pointed out, when Eastern Health realized that there was an error in May of 2005 they did some auditing on their own, and as a result of that auditing in July they ceased to operate their own lab. From that point on, until February of this year when it reopened, those exams and those tests were sent out of the Province to Toronto for testing. Those results would have come from that test result in Toronto.

Since February, as I laid out in this House in the last couple of days, since the lab has reopened there is a whole new structure we have put in place. As I pointed out, we have dedicated technologists working in that lab now. We have a director of the laboratory, a dedicated pathologist in that area. We have established a centre of excellence of using oncology and pathology to ensure that we have pooled the skill sets that we have in this Province to ensure that the women of Newfoundland and Labrador have access to a quality program.

The other piece of that, that I have outlined in this House, is the new quality assurance program that ensures that there is a monitoring mechanism in place, that there is a mechanism in place to have those test results randomly selected and sent outside the Province for confirmation to ensure that we are providing a quality program to the women of Newfoundland and Labrador, Mr. Speaker.

MR. SPEAKER: The hon. the Member for Humber Valley.

MR. BALL: Thank you, Mr. Speaker.

One of the concerns of my first question had to do with the 700 women, I guess, who probably have not been notified. I don't know about the minister's office, but I know we have been getting calls from women in this Province who are very concerned about the whole affair. Indeed, they are calling MHAs, they are calling doctors offices and even support groups.

I would ask the minister: Given the fear and anxiety with the many questions still remaining about this whole process, will the minister commit to immediately setting up a toll-free line to provide assurance, information and counseling to these women and their families?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Thank you, Mr. Speaker.

One of the things that we have recognized in the last two days is that there is a lot of misinformation being given to the general population. There have been a number of questions raised by members opposite. Some of them are really legitimate questions and I appreciate them and understand them. Mr. Speaker, unfortunately, many of them have

been very cheap political questions to try to raise an unwarranted fear among many Newfoundlanders and Labradorians.

As a result of that, I have asked Eastern Health if they would, in fact, tomorrow, arrange for a full briefing, a public briefing, for the media and those members opposite who wish to attend, to be able to understand fully what has taken place here from the period of time that they have reviewed, and the actions that have taken place since then. There will be clinical people there to be able to answer some of the very specific clinical questions that you might have.

Hopefully, I say to the members opposite, you will attend that briefing as well so you can get some clarity around the questions that you have been raising here and raising fear among many women in this Province unnecessarily, I say, Mr. Speaker, in many cases.

MR. SPEAKER: The hon. the Opposition House Leader.

MR. PARSONS: Thank you, Mr. Speaker.

I will not even attempt to comment on what the minister just said about fearmongering here. It is shameful. Shameful.

Mr. Speaker, there are certainly communication problems between government, Eastern Health and the general public regarding the breast screening results. There are women who are contacting not only our offices but I am sure people on the government side as well, wondering if their results were part of the retesting process.

For clarity purposes, could the Minister of Justice, the former Minister of Health, confirm when Eastern Health became aware of the magnitude of the false results, when the retesting began, when the women affected were notified, and when the Department of Justice became involved?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, Eastern Health became aware of the problem they had in May 2005. They very quickly then moved to try to confirm the extent to which the problem existed. In July 2005 they ceased to operate their lab and they made a decision then to start transferring the tests in that facility outside the Province. They also made the decision at that time that they would now start to have all of the negative results that occurred from 1997 to 2005 sent outside the Province for rechecking. At that time, they met with the department to advise them of the circumstance, to advise them what they found. The process started then in August, I believe, of 2005 to send these tests out for re-evaluation.

In was in October 2005 when Eastern Health received the first response from Toronto. The first grouping of tests to be repeated were done in October 2005.

MR. SPEAKER: Order, please!

I ask the minister if he could complete his answer quickly.

MR. WISEMAN: I appreciate your suggestion, Mr. Speaker, but the hon. member was asking for a sequence of events.

It was in October 2005 that those first results came back, and all of them were back by February 2006, I say, Mr. Speaker. By February 2006 all of the tests that had been sent out, the results were now back and Eastern Health became aware then of the total numbers that they had at that particular time.

MR. SPEAKER: The hon. the Opposition House Leader.

MR. PARSONS: Thank you, Mr. Speaker.

Notwithstanding the Health Minister's comments a couple of days ago about the balance, I guess, between the need to inform and disclose information versus the possible negative consequences it might have on litigation, I come back to this issue again: We need to find out what went wrong here to make sure that it does not happen again. That is what this is about. This is not a blame game, and we are not only concerned about civil liability. We do not know, for example, even if there was any criminal responsibility here. That is the point we are missing here, and what government seems not to be acknowledging.

I say to the Minister of Justice again, I asked this question yesterday and I will continue to ask it because I think it is foolhardy and misguided and misdirected of this government not to undertake what is an essential, necessary and obvious judicial inquiry that needs to be done.

We have had inquiries, Minister. When we had an industrial accident at Come By Chance, we did a judicial inquiry because we wanted to know what happened so it would not happen again. When we had the police shootings in this Province by the RNC and by the RCMP, we did a judicial inquiry. We have twenty-four judges on the Provincial Court; they are equipped to do it. It is not costly, it is not time-consuming.

I say again to the Minister of Justice: To ensure that every woman in this Province has the full details of what happened, including the families of the 176 women who have passed away since the details of this have been made public, will you and this government commit to a full judicial inquiry to ensure that all of the information is put on the table and disclosed here? It is absolutely necessary.

MR. SPEAKER: The hon. the Premier.

SOME HON. MEMBERS: Hear, hear!

PREMIER WILLIAMS: Mr. Speaker, I think everybody in this room is very, very sensitive to the issues involved here. I think everybody in this room, on both sides of the House, want to have the answers, want to have all the answers. I think that is very, very important. In the interest of openness, it is extremely important that this be done properly.

This government is certainly prepared to do a review in order to find the information. At the end of the day, we want to make sure that the people of Newfoundland and Labrador, but most importantly the people who are affected here - the patients, the people who have suffered, their families - they all need to know the answers.

It is a very sensitive issue and a very delicate issue, and there are issues of confidentiality of information here that are very important because it is a medical matter. On that basis, now, we are seeking advice from the Department of Justice with regard to the best way to go about this, to make sure that this is fully reviewed in a proper manner.

The other thing we want to do is, we want to make sure that we do not create a problem in the Province whereby people lose complete confidence in the health care system because that is unfair to the people of the Province and it is also unfair to medical professionals and people who are in the medical field throughout the Province. So, we do not want to do anything that sort of reflects on everybody in the system in any manner whatsoever, and I think you would agree with me in that perspective.

So, we want to move properly, we want to move carefully, we want to move cautiously, but we will move expeditiously. We will not delay this for any extended period of time. The first step, of course, is what the minister has indicated today, is that we are going to ask Eastern Health immediately, to get out and have a technical briefing so that all the facts are disclosed. When it comes to the legal issues, Eastern Health are on the front line here, and the hon. gentleman opposite knows that. The legal advice came from Eastern Health because it is their issue and that is where the liability rests.

On this side of the House, however, there is a moral responsibility as well that rests with this government, and rests with everybody inside the House. So, we undertake to have a very, very hard look at this. We are going to do something. It is a question of going about it and doing it right, but, at the end of the day, we want to assure people of the Province, particularly the people who have been affected here, that we will get full disclosure and we will get the answers that they require.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Signal Hill-Quidi Vidi.

MS MICHAEL: Thank you very much, Mr. Speaker.

I will continue on from that point, I guess. I was very glad to hear the minister talk about the briefing, that was going to be one of my questions. So, I will ask then some further questions around it. I think the minister said that it was going to be a public briefing and that we would be able to attend. Is this a fully public briefing? Will we be able to ask questions? Has the format been decided? Mr. Speaker, the hon. Minister of Health and Community Services.

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Thank you, Mr. Speaker.

I had indicated that it would be a public format, that we want to make sure that the information gets out into the public domain and the questions that you have been raising here and others have been raising are fully answered.

The issues that the member opposite raised in terms of exact location and exact time, it was before I came to the House today that I had that discussion with Eastern Health to ensure that it took place. I asked to have it happen tomorrow, and they are immediately working towards that now. I assume and will assure you that before the day is over, we will be making a public announcement about when and where that will occur, and the time that it will happen as well.

MR. SPEAKER: The hon. the Member for Signal Hill-Quidi Vidi.

MS MICHAEL: Mr. Speaker, could I just make one comment to the minister? I would encourage the minister to see that the briefing is held in the morning, since a lot of MHAs leave to go to their districts in the afternoon.

I do have a couple of more questions. It is my understanding, Mr. Speaker, that the families of the 176 deceased women have not been personally notified that there was retesting of the tissue samples of those women, and also whether or not any of these women received a new result from the retesting. Papers filed with the court show that thirty-six of the 105 deceased women have been confirmed to have had false negatives. These thirty-six women could have availed of potentially life saving therapies.

Can the minister confirm that the families of the deceased have not been personally contacted by Eastern Health authorities, and if not, why were they not informed?

Thank you, Mr. Speaker.

MR. SPEAKER: The hon. the Minister of Health and Community Services.

MR. WISEMAN: Mr. Speaker, as I understand the process for those family members of the deceased individuals, they have an opportunity to make a request to Eastern Health

and have the results. That is what I understand has happened. I cannot tell you how many people have actually done that. I cannot tell you how many families would be aware of the changes in the test results, if any. I know that is the kind of question that Eastern Health would be able to provide for you, which is kind of a technical and detailed question that they would be able to answer for you.

MR. SPEAKER: Final supplementary to the Member for Signal Hill-Quidi Vidi.

MS MICHAEL: Thank you, Mr. Speaker.

Well, then I will wait and put that question tomorrow because my question really gets at where they informed personally or just through advertisements that went out in the newspaper, but I will ask that tomorrow.

I do have then a final question, Mr. Speaker. The minister informed the House on Tuesday that there is a quality control procedure in place, you spoke about it again today. In a scrum, the minister said that approximately 10 per cent of samples are sent away for retesting.

I would like the minister to inform us as to what are the results of that quality control testing? Are we seeing, through the quality control testing that is going on, that the testing which is now going on here is hopefully error free, and how is that information going to be relayed to the House?

Thank you, Mr. Speaker.

MR. SPEAKER: The hon. the Minister of Health and Community Services.

MR. WISEMAN: Just on that point, Mr. Speaker, I do not recall having quantified the percentage of tests that would be sent out. What I had indicated was that as a part of the quality control program, a random cross-section of tests to be performed at Eastern Health would now be selected and sent outside for a retesting, just to validate the test results at Eastern Health, I think was my comment.

To answer your question about whether or not there has been any sent out to date, how many have been sent out, and what the results have been, that is an answer I do not have for you. I can get it for you though. I would be only too glad to table it here for you in the House.

Hansard
May 22, 2007

MR. PARSONS: Thank you, Mr. Speaker.

My questions are for the Minister of Health.

We had a briefing this morning - I should say, not yet completed - with the officials of Eastern Health with respect to the ongoing issue involving the breast screening process, and we are due to finish it tomorrow.

The minister, of course, just held a press conference outside the House, just before the House convened, dealing with the appointment of a judicial inquiry. I say to government, I am very pleased that finally, after three days of prompting last week when the seriousness of this issue was brought to government's concern, they finally woke up and, at the request of the Opposition, you have now agreed to do a judicial inquiry. I thank government for that; you are certainly on the right track.

I ask the minister: In your press release that you just put out, I am a little confused in that you say, in paragraph four, "Cabinet will appoint a commissioner, set the terms of reference for the inquiry and authorize an appropriate budget."

The issue is, "...set the terms of reference for the inquiry...". Then you go on later in your press release to outline six key questions, you call it, and you conclude in the second last paragraph by saying that, "The Commission will make recommendations as necessary to address the issues identified above."

My questions to the minister: Who decided that these would be the six key issues, and will the inquiry be limited to just these six or will there be further Terms of Reference coming from Cabinet?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Thank you, Mr. Speaker.

There will be additional Terms of Reference provided for the Commissioner. I think the member has raised an issue around the numbers of questions to be asked. What is important, I say to the member, is, if you look at the very first key question - this is one of six - we asked: What went wrong with the ER/PR tests that resulted in a high rate of conversions when retested? Now, we are going to prescribe to the Commissioner exactly how you will approach the inquiry. We provide the Terms of Reference, set the Budget and appoint the Commissioner. The approach taken by the Commissioner to seek answers to these questions may prompt many other questions that will need to be posed to come to

an understanding of what the answer to those six key questions would be. We assume that during the inquiry the Commissioner will, in fact, delve into a variety of issues that will give rise to his insight into what actually took place here that will give him the ability to answer that very first critical question.

Inasmuch as we provided in these six key questions some key issues that we want to ensure are answered as a result of the inquiry, I am very certain the Commissioner will explore other issues that will lead him to an understanding of the issues that we have raised here.

MR. SPEAKER: The hon. the Opposition House Leader.

SOME HON. MEMBERS: Hear, hear!

MR. PARSONS: Thank you.

Because, Mr. Speaker, we went through this with the fibre optic inquiry whereby the Auditor General was brought in and we found out a few days later that Cabinet papers would be exempted, I ask the minister again, for certainty: Are you telling the people of this Province that whoever is appointed Commissioner here will not have any limits placed on him as to what they inquire into when it comes to this breast-screening incident? Can you give that undertaking to the people?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: As the member would fully understand, having been a former Attorney General, under the current legislation, the Public Inquiries Act, the Commission has the authority basically to run the Commission as he or she sees fit, but that Commissioner will also have the ability to subpoena witnesses, to be able to subpoena any information that they want. The rule of evidence that applies here is very different than what the Auditor General may be going through, which is the reference that you are making to the other kinds of issues that have been raised in this House in recent months.

MR. SPEAKER: The hon. the Opposition House Leader.

SOME HON. MEMBERS: Hear, hear!

MR. PARSONS: Yes, I say to the minister, the six key items that you have currently identified in your press release deal solely and wholly with the involvement of the testing, vis-à-vis the Eastern Health Care authority. I say to the minister, that this issue goes beyond that. In particular, it concerns the issue of, was there or was there not any involvement or knowledge, or the level of knowledge and understanding of officials in the Department of Health, including the Ministers of Health.

I ask the minister: Do you think it is appropriate that you, as the current minister, the Minister of Intergovernmental Affairs as a former Minister of Health, and the current Minister of Justice as a former Minister of Health, should be a part of Cabinet which is setting the Terms of Reference which should, in fact, be examining the actions of you people yourselves? Isn't that a conflict of interest?

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Minister of Health and Community Services.

MR. WISEMAN: Thank you, Mr. Speaker.

I realize the member opposite just got a copy of the release moments before we came into the House, but I would ask him to refer to the second page. I would ask him to refer particularly to the fourth question, which says, "Once detected, did the responsible authorities communicate in an appropriate and timely manner with the general public about the issues and circumstances surrounding the change in test results and the new testing procedures?"

Very clearly, if the Commissioner - in their review of the circumstances around this ER/PR testing - comes to some conclusions about what information Eastern Health Authorities had, or what information any minister in this House would have, or any official in government would have had at that time, they have been directed, in this question here, to, in fact, report on that, to comment on that, to bring some conclusion, to get an understanding of who knew what, when. Clearly, number four very specifically speaks to that particular point, I say, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Opposition House Leader.

SOME HON. MEMBERS: Hear, hear!

MR. PARSONS: No, Mr. Speaker. Just so there is no uncertainty here - because words are very important, and there is nothing worse than saying one thing today and then trying to fish yourself out of that hole later on and say, I did not say this or I did not say that - my question was quite simple: Does the Minister of Health, and the former two Ministers of Health who form part of Cabinet, and you are saying here in your press release issued a few moments ago that Cabinet will decide the Terms of Reference, don't you think that is an obvious conflict of interest when you three, who probably and no doubt will be summoned as witnesses in this very inquiry, are playing a role in deciding what the Terms of Reference will be for that inquiry? Now, that is pretty simple. Don't you see that as a conflict and that you should not be involved in setting those terms?

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, what I want to assure the member opposite, and the members of this House and the people of Newfoundland and Labrador, is that when this government appoints the Commissioner to do this review, this Commissioner will have the ability to garner what information that person wants to ensure that they get a full understanding of what actually took place here, what actually happened, what gave rise to the issue before us, and any information that Commissioner wants to have, they will have available to them. If the Commissioner, and I say, Mr. Speaker, if the member opposite has some real concerns around the Terms of Reference and the questions being posed as being too narrow in scope, if that is the issue he is raising, I am certain that the Commissioner, once appointed - if the Commissioner has some concerns about their ability to carry out the functions because the Terms of Reference or the questions themselves may be too narrowly defined, we would only be too glad and be prepared to look at the Terms of Reference to give that person an ability to be able to get full access to the information that they want, I say, Mr. Speaker.

There is no intent here at all, none whatsoever on the part of this government, no intent to restrict what the Commissioner may want to do to ensure that they get the answers for the people of Newfoundland and Labrador, so all of us in this House and the people of the Province will fully understand what happened with respect to ER/PR testing with the Health Care Corporation of St. John's between 1997 and 2005.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Opposition House Leader.

MR. PARSONS: Thank you, Mr. Speaker.

I hate to belabour the point, but it is pretty straightforward, very straightforward, Minister. Don't you see that it is an obvious conflict of interest when you, as the Minister of Health, Minister Ottenheimer and Minister Osborne, who were former Ministers of Justice while this was going on, are in a conflict of interest? Will you agree to exempt yourself from any consideration as to what the Terms of Reference are? It is not about what the Commissioner can or will or shall do, it is about: Do you think you should be part of that decision-making process? That is pretty simple, and if you do not, you have tainted the process from day one. If you are going to do this, do it right.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, clearly, the member opposite is standing in this House today prejudging what the Terms of Reference might say. When the Terms of Reference are developed, Mr. Speaker, the member opposite will have an opportunity if he wants. If he reviews the Terms of Reference, because it will be public, if, in fact, members opposite or anyone in this House sees the Terms of Reference and feels they are so restrictive that the Commissioner will not have an ability to come to the right conclusions and to gain an understanding - but to stand in this House today and suggest that a Terms of Reference, that have not yet been developed, would be restrictive and would, in fact, not allow the Commissioner to have an ability, whether or not there is a conflict here, let's judge that based on whether or not the Terms of Reference in any way handicap the Commissioner, I say, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Opposition House Leader.

MR. PARSONS: Thank you.

Mr. Speaker, I did not think this was such a complicated issue; and, with all due respect, Minister, there is a big difference. What I am asking here is not whether the Terms of Reference will ultimately be fair, be broad enough, be expansive enough, to do the job that needs to be done. My question is to you: Don't you see it is an obvious conflict of interest for you, the minister in charge of the Department of Health, which is going to come under the examination of this commission, to be deciding what the Terms of Reference should be?

Now, what is so difficult about you responding to that? Can't you just say you will not take part in it or you are going to take part in it? Just let us know, which do you plan to do?

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Order, please!

The Chair recognizes the hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, in my capacity as Minister of Health and Community Services, I have a duty and a responsibility to the people of Newfoundland and Labrador. When we participate as a Cabinet, we participate in the development of the Terms of Reference for this commission, we will, in fact, have the best interests of the people of Newfoundland and Labrador at heart. There will be no interest, no intent and no desire - and, in fact, the Terms of Reference will clearly reflect that - to, in fact, conceal anything, to hide anything, or to try to, in fact, protect anyone who may have been involved in this whole process.

This is a very transparent process, and that is why we have selected a commission to do this, so it will be open, it will be transparent. The people of Newfoundland and Labrador can participate if they wish. As I understand it, there is a process where people can contact the commissioner if they want to make a contribution; so they can, in fact, have that input if they want.

I say, Mr. Speaker, at the end of the day, the interest of this government is to ensure that we fully understand, and the people of Newfoundland and Labrador fully understand, what happened in this set of circumstances. That commissioner will be able to comment on that.

I say to the member opposite, before you start judging what the Terms of Reference might be, wait until you see them in print.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Order, please!

References to the Chair should never be made in the House.

The Chair recognizes the hon. the Opposition House Leader.

MR. PARSONS: Thank you, Mr. Speaker.

It is obvious the minister is fudging on his answers. This is pretty straightforward questioning here, and I am sure the media and the people of this Province are going to put it to you again, but you cannot duck it like you can here in Question Period.

Will you or will you not play a role in deciding the Terms of Reference? That is the issue, and you will have to deal with that in your conscience.

Now, I am talking to the same individual across this House today, Mr. Speaker, who was here last week putting litigation above the system, about safety, and this is a person who is asking us to trust him and what he says.

I say to the minister again - a simple question, Minister, a simple question - your press release of a few moments ago, number four, when you used the words "responsible authorities", can you give us your undertaking that responsible authorities will include the Department of Health and any other function of government that needs to be examined? Can you say that?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, if that is what the hon. member was asking, why didn't he ask the question instead of that song and dance? Because, very clearly, the answer to that is yes, absolutely yes.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Opposition House Leader.

MR. PARSONS: Thank you.

Pulling teeth again, Mr. Speaker, with this crowd.

One final question. I will get an opportunity, obviously, once I have had more time to go through this, and we can ask further questions in the days to come.

For example, we talk about the independence of this commissioner. I ask the minister - I assume that in the interest, again, of total openness and transparency - would government consider, when they choose the commissioner here, that you, of course, will look for, no doubt, the best person to do it, but also not necessarily confine to within the Province?

For example, when we did the Lamer Inquiry into the justice system, we chose the former Antonio Lamer, Chief Justice of the Supreme Court of Canada, which brought - to me, he was beyond reproach to do that inquiry.

I am just wondering if the minister can assure us that we will not be restricting ourselves. Not that there are people in this Province who are not capable - I am sure there are - but that we will also look wherever we need to look to get the best person to do the job outside of the Province, if need be, and to ensure the absolute independence that is necessary here.

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: I say to the member opposite, I want to assure him and members of this House, that is exactly what we will do. We want to make sure that we have the best person available to us to do this job, regardless of where they live.

The member has our assurance, and the people of this Province have our assurance, that the person that we select to be the commissioner for this inquiry will be a person who has the credentials, has the ability, has the independence, to be able to do this job and do it appropriately to give the people of Newfoundland and Labrador exactly what they deserve in this inquiry.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Humber Valley.

SOME HON. MEMBERS: Hear, hear!

MR. BALL: Mr. Speaker, one of the many issues that has arisen as a result of the problems associated with breast screening is a shortage of health care professionals in the Province, and how this many have contributed to the problems in the health care system today.

As confirmed this morning in our meeting with Eastern Health, we are already at a 30 per cent shortage of pathologists in the Province. We also recognize that the work of the pathologist and the oncologist, they determine the treatment levels for women diagnosed with breast cancer.

I ask the minister: What is this government doing to address recruitment and retention of pathologists in the Province?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Thank you, Mr. Speaker.

There are some twenty-one pathologist positions in the City of St. John's, under the Eastern Health Authority. Since 1997, and predating that time, there has been some turnover in that position. In fact, during that period we have probably had about a 50 per cent turnover. What we are experiencing in the last two or three years is no different than was being experienced by Eastern Health in the proceeding five, six, seven and eight years.

One of the most significant changes that we have made recently, we have made a tremendous enhancement to their compensation package that has recently been put in place for them, which we hope will make a major difference in our ability to be able to recruit, and to retain those that we have. We now have a compensation scheme that makes us competitive with the Atlantic Provinces.

One of the things that is interesting, Mr. Speaker, about this particular discipline, there is a major shortage in the entire country. In fact, the programs across the country, the residency programs across this country, are not generating enough to satisfy the demand in the entire country. We are one of many provinces, many jurisdictions, that is not uncommon to be out continuously recruiting pathologists.

We have had some success, we have had some turnover, but we now have made ourselves much more competitive compensation-wise.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Order, please!

The Chair asks members to keep their questions and their responses to roughly a minute.

The Chair recognizes the Member for Humber Valley.

SOME HON. MEMBERS: Hear, hear!

MR. BALL: One of the things we might want to do, I say to the minister, is put more focus on what we do with our own graduates, I guess, Newfoundland graduates in particular.

Mr. Speaker, Eastern Health stated this morning that it was never the intention to ignore the issue of incorrect breast screening results and, once they were identified as an issue, they would be acted upon as quickly as possible.

I ask the minister: After two Ministers of Health became aware of this alarming situation, why was this information never released to the public, and only released based on a court affidavit?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, I have said in this House, and said outside several times, that the responsibility for the delivery of programs and services has been given to the four health authorities in this Province. As a government, we respect their ability to be able to deliver programs and services. We take advice from them on critical issues facing health care, the advice that they get from the experts within their organizations. The advice that was provided to Eastern Health in this particular circumstance was to, in fact, focus on those individuals who needed a change in their treatment regime, and that is exactly what they have done here.

The exploration of what happened here - and I think beyond what I have shared, which are just statements of fact in terms of the timelines here, who knew what, when, and what information we had available to us, I think became statements of fact that I have made here, and others have made, in and outside the House, particularly Eastern Health.

The member opposite now is starting to explore an area where I think is one of the reasons that we have, in fact, put in place an inquiry. We need to fully understand what happened here, the why and the how come.

I say, Mr. Speaker, some of the questions that are -

MR. SPEAKER: Order, please!

MS MICHAEL: Thank you very much, Mr. Speaker.

Having just received the press release with regard to the judicial inquiry after I had sat in the House, I am trying to get my thoughts together because I do have a lot of questions.

When the minister spoke in response to the Opposition House Leader, he indicated that the Opposition would have an opportunity to see the Terms of Reference after they are put together. If the minister is open to input into the Terms of Reference, then why wouldn't the minister set up - and this is my question for the minister - a process whereby the two parties in Opposition could have input into the Terms of Reference before they are finalized?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Thank you, Mr. Speaker.

The questions raised by the House Leader of the Official Opposition are clearly around wanting to make sure that the Terms of Reference were broad enough to ensure that the Commissioner would have an ability to get answers to all of the questions that would be necessary to bring closure to this review and to gain an understanding of what has taken place here. I gave the member opposite the assurance that it was our government's intention to ensure that the Terms of Reference were broad enough to allow that Commissioner to get those kinds of answers, so there would be no conflict here. It would be quite open, and I wanted to give him an assurance that when - in fact, he was commenting today and criticizing what might be in a Terms of Reference before they are published. My point was very clear. These Terms of Reference will be broad enough to ensure that happens, and that the commissioner will not be restricted in any way by the Terms of Reference that they have to work within.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Signal Hill-Quidi Vidi.

MS MICHAEL: Thank you, Mr. Speaker.

The implication of the minister is that the minister and the Cabinet have all the wisdom and that there is no possibility that perhaps the two parties in Opposition might have something to add.

I did hear the minister say that you would be able to have your input after they come out; the public could have input into the Terms of Reference after they come out. I do not know what he meant by that, so I am asking once again: Why wouldn't you consider getting input to draft before you finalize the Terms of Reference, Mr. Minister?

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Clearly, Mr. Speaker, what I had said, when questioned earlier, in my answer earlier, was that, when the Terms of Reference were made public, I had made a commitment and an undertaking that they would be broad enough, they would be clear enough, they would not be restrictive, and that they would not reflect any kind of an attempt by government to conceal information that might protect either the health authority or current ministers or former ministers or anyone in Cabinet, I say, Mr. Speaker.

What we will have in this Terms of Reference will be very broad. It will give the commissioner an ability to be able to do the review in a very thorough, a very open, a very transparent and a very unbiased fashion, I say, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Signal Hill-Quidi Vidi.

MS MICHAEL: Mr. Speaker, I just have to say that we have just gone through a very, very intense, difficult week, and the public has been speaking to us about their concerns.

The minister is asking me to be confident in what he and the rest of the Cabinet are going to come up with. I now know that three Ministers of Health had reports made to them by the Eastern Health Board on this issue, that they all chose, with Cabinet, I assume - I cannot say for sure - did Cabinet join them in saying this information does not go public?

Mr. Minister, are you asking me to have faith in you when three ministers did not see the need for this information to go public until the information came out in affidavits?

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Minister of Health and Community Services.

MR. WISEMAN: Mr. Speaker, I am not sure if there is a question in that rant anywhere, but just to make sure that the member has a clear understanding, I was clear in this House today that the Terms of Reference that will be developed by the Cabinet of this government will, in fact, make sure that this commissioner has an ability to conduct a review in a fair and open fashion. In no way whatsoever will these Terms of Reference restrict the commissioner's ability to look at any decisions that were made by this government, this minister, former ministers, anyone in Cabinet, Cabinet as a whole, the health authority.

If the member would read question number four in the release that was distributed today, it was clear, abundantly clear, that the commissioner will be asked to address that very specific question about responsible authorities. The responsible authorities in question would be the health authority itself and the government of the day, I say, Mr. Speaker. I do not know how clearer that can be.

Hansard
May 23, 2007

MR. SPEAKER: The hon. the Member for Humber Valley.

MR. BALL: Mr. Speaker, the Minister of Health and Community Services led the House of Assembly to believe that all hormone receptor testing for women affected by breast cancer was being done in Newfoundland and Labrador. However, Eastern Health confirmed today that the only testing now being completed is that for patients in the Eastern Health region. In fact, testing for Labrador, Western and Central continues to be done at Mount Sinai Hospital in Ontario.

I ask the minister: He stated on May 17 that we have a Centre of Excellence at the Health Sciences Centre serving the women of this Province, so what is the reason these tests are being sent out of the Province and not done at this new Centre of Excellence in St. John's?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, the member uses words like, led to believe. What I had indicated in this House and publicly, with the lab, was now reopened in February 2007, pure and simple. I had indicated the lab was reopened in February, 2007.

MR. SPEAKER: The hon. the Member for Humber Valley.

MR. BALL: Mr. Speaker, the Chief Pathologist at Eastern Health has indicated that he does not have the staffing complement to be able to complete all the hormone receptor testing for the various boards in the Province. Yesterday, the minister said that they have made a tremendous enhancement to the compensation package. However, clearly, this has not been successful.

I ask the minister: What other initiatives are you doing to put the necessary supports in place to allow this testing to take place for the entire Province?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, I had indicated, clearly, yesterday that we have made some major improvements in the compensation package for pathologists. That has been a recent announcement. I indicated, clearly, that the Eastern Health were continuing with

their recruitment initiatives to be able to recruit additional pathologists for the Province and that is an ongoing effort, I say, Mr. Speaker.

I had indicated to him yesterday in the House that there are some twenty-one approved positions with Eastern Health for pathology positions and we will continue to endeavour to have those continuously filled.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Humber Valley.

MR. BALL: Well, that will be another booth, I am sure.

Mr. Speaker, the government reduced the number of health care boards in the Province from fourteen down to four in 2004.

I ask the minister: Has the decision to make the health care agencies so large, restricting the level of attention, that important issues like we hearing about today are not receiving the proper attention on a daily basis?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, when this government made an announcement to merge health authorities in this Province, we now have four regional health authorities. We believe that they are appropriately staffed with good senior people who have the abilities and skills to manage the health system. We have been able to actually create some economies of scale. We have been able to pool resources to provide a better health care service for the system.

What is very critical about this, Mr. Speaker, is that when we made that move we made an integration. We now have a totally seamless health system. We span the institutional side. We span the community side. We have now provided integrated services, whether you are in the community or you are in the institution, whether patients are making a transition from the community into an institution or from an institution out into the community. We now have a seamless movement of patients and provision of services across the community and the institutional sector, I say, Mr. Speaker.

MR. SPEAKER: The hon. the Member for Humber Valley.

SOME HON. MEMBERS: Hear, hear!

MR. BALL: Thank you, Mr. Speaker.

There is a huge seam, I think, especially in hormone receptor tests, and I just identified that.

Mr. Speaker, with the problems that we have identified with the Eastern Health Authority with inaccurate hormone receptor testing of women affected by breast cancer, many people are questioning what has happened and the extent to which these problems exist across the Province.

I ask the minister: Have you, your department, or the health authorities across the Province, been made aware of any other problems or potential problems that may impact the health of individuals anywhere in Newfoundland and Labrador?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: I am confident that each of the four authorities, through their quality improvement initiatives, are evaluating the programs and services they provide on an ongoing basis.

They are always looking for opportunities to improve, to enhance and to build on what is now being provided, so I would assume that each authority out there, not only in this Province but throughout the country, would be continuously re-evaluating what they are doing, continuously looking at how they provide programs and services, and if at any time they identify a better way of doing it, then they do so. If at any time they find that there is a problem in the way in which they are delivering the service, or the quality of that service, they take an action and improve it. That is what the whole process of quality improvement is all about.

I am not going to stand here today and suggest to you that every single thing that has been done and every single nook and cranny today in this Province could not be improved upon. I say they could be, Mr. Speaker. That is the definition of continuous quality improvement, and that is a term that is continuously being used in the health sector, I say, Mr. Speaker, and something the member opposite should be very much aware of.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Opposition House Leader.

SOME HON. MEMBERS: Hear, hear!

MR. PARSONS: Thank you, Mr. Speaker.

Maybe we can see if we can get something of substance out of this minister. The false results of the breast cancer testing continues to raise concerns today, and I would like to continue to probe who knew what, when, because you are pretty good at hiding stuff.

At the briefing of Eastern Health care today, we were advised that this issue was first brought to the attention of the former Minister of Health in July 2005. Another Minister of Health, the current Minister of Justice, was given a briefing in November of 2006. Meanwhile, between that time period, July 2005 and November 2006, ongoing briefings were provided to the various Health Ministers on this issue. That was made known to us this morning, and confirmed by Eastern Avalon Health. At no time during this period was the public made aware of these problems.

I ask the Minister of Health: Why was the public of this Province left in the dark for sixteen months? That is the issue here. Why were they left in the dark, Minister? You all knew.

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, I say to the member opposite, he did not need to go to that briefing to find that out. All he had to do was listen to me a couple of days ago, because I gave him that answer a couple of days ago.

With respect to the whole issue of process here, I just want to bring the member back to a comment I made the other day in the House. This is important, I think, Mr. Speaker, to understand how this unfolded.

Back in May 2005 when the Eastern Health Authority recognized that they had an issue here, they started to evaluate the extent to which it existed. When they realized that they had some 900-and-some-odd tests that had been done, that had been tested negative, at that particular time they pulled together, Mr. Speaker, a subcommittee of their ethics committee which consists of people from the community - physicians and others who are experts in this field - to look at how they might do this, how they start to deal with the issue that they had before them.

One of the things, the advice that Eastern Health was given at that time, rather than create alarms among 900-and-some-odd people who may not have any change in their circumstance whatsoever, they decided at that time, and the advice that they received at that time from that group, was to do the tests first rather than to alarm 900-and-some-odd people, to do the tests first. When the test results were done -

MR. SPEAKER: Order, please!

The Chair appreciates the co-operation of all members in keeping their questions and their answers roughly to a minute.

The Chair will pass it back to the Opposition House Leader.

MR. PARSONS: Thank you, Mr. Speaker.

I do not mind the minister taking all of the time in the world if he is going to give the people of this Province an answer, but I have no time, and they have no time, to listen to a bunch of guff, and that is what we are getting out of this minister.

I say to the minister: We know where you stood in *The Telegram* when you put the cost of litigation ahead of lives in this Province. That is what you did.

SOME HON. MEMBERS: Hear, hear!

MR. PARSONS: My question is pretty simple and straightforward. Never mind what Eastern Health did. Why did you, as the Minister of Health, not inform the public of this Province of this issue? Why not?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Let me continue, Mr. Speaker, because this is important. It is important for the people of Newfoundland and Labrador to understand this.

As I was saying, Mr. Speaker, in the summer of 2005 Eastern Health sought advice, sought advice from an expert group of people, as to how to handle the 900-and-some-odd test results that they had to deal with. The advice that they were given at that time, rather than create undue anxiety for 900-and-some-odd people, let's do all the tests first and then we will decide how we are going to manage it then.

I say, Mr. Speaker, when the test results started to come back in October 2005, the people whose tested were impacted were contacted. As we indicated earlier, there were 117 people who had their tests come back different. They needed a change in their treatment regime, and that happened.

The remaining people who were impacted - and this is important, something has been lost on the members opposite - those other 200 people whose test results had changed were contacted either directly by Eastern Health or through their family physicians. Those individuals whose tests were impacted by those results had contact made to them and appropriate action taken with respect to their treatment, I say, Mr. Speaker.

For the members opposite, what is very important in this, those people who were impacted by this had knowledge. Those people who were impacted were informed. The mass media of Newfoundland and Labrador may not have known -

MR. SPEAKER: Order, please!

Again, the Chair asks all members for their co-operation.

The Chair recognizes the Opposition House Leader.

MR. PARSONS: Thank you, Mr. Speaker, and I appreciate that you ultimately have to cut this minister off, because he says absolutely nothing.

Mr. Minister, I will ask the question again, a different tact, because you obviously do not want to discuss this issue: Did you, as the Minister of Health - a pretty straightforward question - at any time, as the Minister of Health, when this matter was brought to your attention - you knew it was very serious - did you discuss this issue or seek any legal advice from anyone in government or the Department of Justice?

That is pretty straightforward.

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, what is really important here is an understanding of the facts. What is really important is an understanding of the facts -

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MR. WISEMAN: I say, Mr. Speaker, as I was saying a moment ago, when these test results started to come back in October of 2005, the people who were impacted, contact was made with them. As those results came back in October 2005, and February 2006, those individuals who had their test results changed were contacted. So those individuals who knew had contact made with them.

The issue here, in terms of legal opinion, Eastern Health have their own solicitors. Eastern Health sought their own legal advice, from their own law firm who provides advice to them. They, in turn, got their legal advice directly from their own solicitors. Any reference I have ever made to legal counsel has always been referenced to what legal advice Eastern Health received. Eastern Health received their own independent legal advice from their own law firm and any legal advice on this issue has been provided by their firm.

MR. SPEAKER: Order, please!

The Chair recognizes the Opposition House Leader.

MR. PARSONS: Thank you, Mr. Speaker.

The people of this Province, I say to the minister, will not be fooled. You are not ducking this issue. I will ask you again. Never mind a BS answer. I asked you a straightforward question. The people of this Province deserve an answer.

SOME HON. MEMBERS: Oh, oh!

MR. RIDEOUT: A point of order, Mr. Speaker.

MR. SPEAKER: Order, please!

A point of order has been called by the Government House Leader.

MR. RIDEOUT: I am the last one in this House to get up during Question Period on a point of order, but I am not going to allow the Opposition, the Opposition House Leader, or anybody on the other side to take this House on their back. I do not care if we run through every minute of Question Period, BS - everybody in Newfoundland and Labrador knows what BS is. BS is out of order, Your Honour, and I would ask that the hon. member be directed to withdraw it forthwith.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Order, please!

Wishing to speak to the point of order -

MR. PARSONS: No, I withdraw the comment, BS, Mr. Speaker. I withdraw it, not a problem. It is unparliamentary. I said it and I withdraw it. That does not detract from the seriousness of this issue.

MR. SPEAKER: Order, please!

The Chair appreciates the co-operation of the hon. member.

The Chair recognizes the hon. the Opposition House Leader.

MR. PARSONS: Like I said, I did withdraw it and I will withdraw the remark. This is an important issue and this minister cannot duck the issue.

Now my question, again, to this minister - never mind what legal advice Eastern Health had. My question to you, the Minister of Health, have you at any time, in your capacity as Minister of Health, sought any legal advice or discussed this matter with anyone once it was brought to your attention in the Department of Justice of this Province or anyone else to seek legal advice? Now that is pretty straightforward, minister.

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: If members opposite are going to ask questions they need to listen to the answers. I had said - just reflect on what I said a moment ago. I said any legal opinion provided on this issue has been provided by Eastern Health's own private legal counsel. Any legal opinion provided on this issue has been provided by Eastern Health's legal counsel, their own independent legal counsel. Their lawyers are the only individuals who have been asked for or provided a legal opinion on this issue. How much clearer do you want to have the answer?

MR. SPEAKER: The hon. the Opposition House Leader.

MR. PARSONS: Thank you, Mr. Speaker.

I put to the minister, we know now the results of the briefing this morning that the legal counsel involved here, the law firm of Stewart McKelvey are the legal counsel to the insurance company which insures Eastern Health. That is who gave advice to Eastern Health. They are not the legal counsel to the government and to the minister. It has also been confirmed by Mr. Tilley, because I asked the question of him this morning, when you brought this attention to the minister, do you know if any of the ministers that you talked to this about went to Justice? He said: I do not know, we have our own lawyers. So, they do not advise you, minister.

My question again to you, minister - Stewart McKelvey is not your law firm because you distanced yourself, by the way. You people only took moral responsibility for this, at this point. You do not want any legal responsibility. But my question is the same and it is very straightforward. Have you, knowing about this serious issue, once it was brought to your attention, did you ever think that it might be important, it might be necessary, it might be an obvious step that you should consult with somebody in Justice? I am asking you, did you do that, and if not, why not?

MR. SPEAKER: Order, please!

The Chair recognizes the hon. Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, I will make it a little clearer for the member opposite because obviously, when I said the only legal advice was legal advice provided to Eastern Health. He did not understand or did not conclude that that was the only legal advice provided on this opinion. The Department of Justice has not been asked for a legal opinion on this issue by the Department of Health and Community Services.

MR. SPEAKER: The hon. the Opposition House Leader.

MR. PARSONS: Thank you.

I, at least, now know that this minister did not take it upon himself to get any advice. That is fine, thank you, finally. Pulling teeth again.

I ask the Minister of Intergovernmental Affairs: When he was the Minister of Health and it was brought to his attention back in 2005, did he, at any time, discuss this matter with anyone in the Department of Justice and seek a legal opinion regarding this issue when it was brought to his attention on his watch as early as July, 2005? That is for the Minister of Intergovernmental Affairs.

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Thank you, Mr. Speaker.

Again, the member opposite asks a lot of questions but he is not really listening to the answers. I do not know how much clearer I can make it again, but let me repeat it. Let me repeat it, I say, Mr. Speaker.

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

All members of the House know that it is the responsibility of the Opposition and other private members to ask questions. The government will decide who answers.

The Chair recognizes the Minister of Health and Community Services.

MR. WISEMAN: Thank you, Mr. Speaker.

Let me repeat it again. I ask the member opposite to pay attention this time. I had said clearly that the Department of Health and Community Services, as a department, has not asked the Department of Justice, as a department, for a legal opinion on this issue. Period. That is crystal clear. It identifies that the department has not sought legal advice. Hopefully, that satisfies the member.

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

The Chair recognizes the hon. the Member for Signal Hill-Quidi Vidi.

MS MICHAEL: Thank you very much, Mr. Speaker.

My question, too, is for the Minister of Health and Community Services.

Mr. Speaker, when the MHAs had their briefings over the past two days with Eastern Health Authority, we learned that in order to maintain proficiency and quality control in the laboratory that does estrogen and progesterone receptor testing, Eastern Health must have a stable team of specialists devoted to breast cancer treatment. Pathologists form an essential component of this team. I understand from the head of pathology that there has been a 100 per cent turnover of staff over the past number of years which is affecting the stability of the team. The head of pathology has indicated that poor retention of pathologists is an ongoing issue that has been brought up to government over the past three years.

My question for the minister is: Is this government ready to offer remuneration to pathologists competitive to that in other parts of Canada in the same way that it already offers stipends to oncologists in order to attract and keep the specialists we need?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, let me correct the member opposite in her question. She made a reference to the last three years, but I want to extend that. Since 1997, long before we formed government, until 2006-2007, I told you yesterday that there are twenty-one positions at Eastern Health. They have been occupied by some thirty-seven people. That is a turnover of one point seven, and that has occurred since 1997 up to now, so it is not a new issue, I say, Mr. Speaker, as I mentioned yesterday in the House.

The whole issue of supply of pathologists in this entire country, we are not generating enough as a country to satisfy the supply we have in this country, so it is not just unique to this Province. In fact, it is not just the last three years; it has been a long-standing issue.

To the second part of your question, it is a very specific question in terms of what exactly are we going to pay the pathologists. The question you have asked, we are, in fact, doing that. That is exactly what we are doing. We are, in fact, providing for them a stipend consistent with that of the oncologists in the Province.

I made that comment here yesterday in the House, that we have now enhanced the compensation, and that is the manner in which we have enhanced it, I say to the member opposite.

MR. SPEAKER: The hon. the Member for Signal Hill-Quidi Vidi.

MS MICHAEL: Thank you, Mr. Speaker.

Then I need the minister to tell me when that happened, because I have been told, as of this morning, by the head of pathology, that is not the case. I had a pathologist sitting in my office two hours ago telling me the same thing. So, if it has happened, when has it

happened? When was the announcement made? Because the pathologists do not know they are getting the stipend.

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Thank you, Mr. Speaker.

That is an arrangement that was negotiated between government and their association. That information has been communicated directly to the Medical Association, who in turn will communicate it directly to the pathologists involved; because we have, in fact, communicated directly to Eastern Health as well, who are the employer here in this case.

MR. SPEAKER: The hon. the Member for Signal Hill-Quidi Vidi, time for one brief supplementary.

MS MICHAEL: I still did not hear when, Mr. Speaker. It was the head of the Association of Pathologists this morning who said that the stipend has not been approved yet, so when is the head of the association and the head of this department at the Health Sciences going to find out?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: The decision was made, I think, last week. It has been communicated directly to the Medical Association.

Hansard
May 24, 2007

MR. REID: Thank you, Mr. Speaker.

I am glad to hear the minister is telling Eastern Health what to do because that means that you control Eastern Health.

Mr. Speaker, between the date that problems with the hormone receptor tests were identified and the date that the retests were completed, some seventeen months lapsed. Mr. Speaker, had Eastern Health or this government released the information about these faulty tests upfront in May, 2005, some of the affected individuals, or women, could have sought other tests elsewhere and arrange for appropriate treatments elsewhere, whether that be inside of this country or outside.

I ask the minister: Knowing that this was a possibility, why did you and your predecessors decide to keep the information about the faulty testing secret?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, I want to correct something. The members opposite have been saying this for two or three days now. There was no attempt here to withhold information. There was no attempt here to try to conceal anything. There was no attempt to cover up anything. These are the words that have been used over recent days and I want to ensure people in this House and the people of Newfoundland and Labrador, that is not what happened in this case here at all.

Eastern Health's primary focus was ensuring that they had accurate tests, and that is why they sent out some 900-and-some-odd tests to get redone. That was their initial focus. As soon as they had the test results back their focus was on ensuring that the patients knew and the patients all understood about their individual tests.

In fact, members opposite sat in a presentation this past week. For two days they had presentations. One of the slides that they were shown was very clearly in October, 2005 - not eighteen months later, as you just suggested, but in October, 2005. They indicated to you in recent days that they, in fact, made contact with all of the patients who were impacted. Eastern Health's primary focus was to ensure that those individuals who needed a change in their treatment regime, they were contacted and that changed. Those individuals who had -

MR. SPEAKER: Order, please!

Again, the Speaker asks the minister if he could keep his responses to approximately a minute. This is the protocol we follow.

The Chair recognizes the hon. the Leader of the Opposition.

MR. REID: Thank you, Mr. Speaker.

The minister himself is on record in the papers in this Province as saying that the information was not released because of a threat of litigation. Minister, you also said that all of these people affected by those tests - so it is 900-and-some-odd individuals who were notified before October, 2005. That is not the information we were provided by Eastern Health, I say to the minister, and some of them were into the fall of 2006. Again, some of them were never notified, I say to the minister. So, the information you just gave was not completely true.

MR. SPEAKER: I ask the hon. member now to get to his question.

MR. REID: Mr. Speaker, the Minister of Health admitted yesterday that he did not seek legal advice from the Department of Justice as to whether the results of the faulty hormone receptor tests should be made available to the public. Instead, the only legal advice that Eastern Health and government received came from a law firm representing the insurance company of Eastern Health.

Mr. Speaker, we know that the minister has already stated that litigation costs were balanced against health concerns. I ask the minister: Why would government accept the legal opinion of a law firm who was working for an insurance company, rather than seek the advice from your own Department of Justice?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, I need to put the member's preamble into some kind of context, because this is very important. Let me finish what I started to say the first time.

I had indicated clearly to you, and you know very well, because you sat in the room, as I understand, together with the rest of your colleagues, and Eastern Health started to tell you, and told you, as I started to tell you a minute ago, that in October 2005, not eighteen months after May, but in October 2005, they started to make contact with those patients whose tests had to be sent outside of the Province. They started to tell those individuals whose test results had come back that their treatment regime had to change.

AN HON. MEMBER: (Inaudible).

MR. SPEAKER: Order, please!

MR. WISEMAN: As the test results started to come back - and all of them were back in February, so I do not know how you get eighteen months from May to February, I really do not know, but that is not eighteen months.

Secondly, Eastern Health's focus was to ensure that the test results that were done during that period 1997-2005 were, in fact, accurate. They made an effort to ensure that they had good information to treat their patients. They sent 900-and-some-odd test results out to be redone. As the information came back, they started to inform patients.

Their primary focus was on informing patients so that their treatment would not be compromised. Their primary focus was not in ensuring that the Opposition knew. Their primary focus was not to ensure that the media knew -

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

The Chair appreciates the great sensitivity of the questions, and the need to have the answers, but we ask members for their co-operation.

The Chair passes the matter back to the Member for Humber Valley.

MR. BALL: Mr. Speaker, yesterday I questioned the Minister of Health as to why the people of the Province were led to believe that all hormone receptor testing for women affected by breast cancer was being done in Newfoundland and Labrador.

As confirmed yesterday by Eastern Health, the only testing now being completed in this Province is for patients in the Eastern Health region. Testing for women in Labrador, Western and the Central region continues to be sent to Mount Sinai Hospital in Ontario.

The minister later stated in the media that he was not aware of the circumstance, and committed to investigating the reasons for this.

I ask the minister: Now that you have had the opportunity to investigate, why are these tests being sent out of the Province and not being done in the Centre of Excellence in St. John's?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, let me correct the member again today. I did not say all of the tests were done in this Province. I said the lab reopened in February. I said the service recommenced in February. That is correct, the facts. If you are going to ask questions, get your facts right.

Now, to get to the substance of your question, I said earlier in this House that Eastern Health has created a Centre of Excellence within the Eastern Health Authority. It is located at the Health Sciences Centre. It includes a team of oncologists, radiologists and pathologists dealing with cancer.

Now, Mr. Speaker, there is a process here. Let me explain it. I may have to get into two shifts of questions to get my answer out, but it is an important point.

Here is the issue: Prior to the whole issue surfacing in May 2005, what was happening in this Province, the Eastern Health Authority, the tests that were being performed within Eastern Health on behalf of those patients, they were being done in St. John's.

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MR. WISEMAN: What was happening was, the tests were performed here, the pathologist was interpreting them and the pathologist was reporting them. All the other three authorities were sending in their specimens for testing and Eastern Health were taking the tests, performing them, but sending them back to the other three authorities for reporting and for interpretation.

What is happening now, Mr. Speaker, -

MR. SPEAKER: Order, please!

The Chair recognizes the Member for Humber Valley.

MR. BALL: Mr. Speaker, there are two facts. One, not all of the people have been notified. The second fact was, in answer, it did speak to the women of Newfoundland and Labrador. I believe that includes Labrador, Central and Western.

Mr. Speaker, we have been advised by some women who have been impacted by the incorrect hormone receptor test results that they were not initially told that the results were wrong. Instead, these individuals had the impression they were part of a focus group or study looking into the results of breast cancer testing.

I ask the minister: Is it true that these women whose test results were inaccurate were not given the full details once it was discovered?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Before I get to that one, let me answer the first question he posed.

As I was saying, the other three authorities were sending their tests into Eastern Health Authority to have the test performed, and Eastern Health Authority would send it back. The pathologists back in the other three regions would interpret it and would report it to the physician.

What is now changing is, in the future, on a go-forward basis, all of the tests from across the Province will come into Eastern Health. Eastern will not only perform the tests, but the pathologists there will interpret it at the Centre of Excellence and will report it back to the physician.

That transition, that shift, has not yet occurred. The lab only reopened in February. The lab wants to be able to ensure that it is up to speed, it has made that transition, and that some standards need to be put in place for the transition of the specimens from the other regions.

That is the long answer to your very short question, but you need to understand the facts. These, Mr. Speaker, are questions that are very technical in nature in some cases. When you start asking pieces of a question, and only taking pieces of an answer, and running with it in the media, as you have been doing, you create a lot of unnecessary anxiety for the people of Newfoundland and Labrador.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Order, please!

The Chair recognizes the Member for Humber Valley.

MR. BALL: Mr. Speaker, yesterday we talked about one of the reasons why the tests were not all being done in the Centre of Excellence in St. John's was because of a shortage of pathologists.

Mr. Speaker, I think I have a fair grasp on what the facts are, but the minister also stated yesterday that compensation packages for pathologists were being implemented, that they would make their salaries competitive with their counterparts across the country. This compensation request has been before government for two years, but only approved last week when the results of inaccurate testing for breast cancer were made public.

I ask the minister: Knowing the challenges that exist in the Province as a result of pathologist shortages, why did it take government over two years to address this significant problem?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, I have said in this House in the last two or three days that the issue of pathologists, the recruitment and supply of pathologists in Newfoundland and Labrador, is not unique to this Province. Right across this country, we have a shortage of pathologists in the entire country. As a country, each and every province, as an entire country, we do not generate enough pathologists to satisfy the demand in the country. In fact, even larger provinces like Ontario - Ontario today, for example, Mr. Speaker, is experiencing a major shortage in pathologists.

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MR. WISEMAN: It is not unique to this Province, I say, Mr. Speaker. It is not unique to this Province at all. We have had some real good success. I said in this House the other day that we had some twenty-one positions at Eastern Health. Unfortunately, we have had some turnover. In that same period we have had thirty-six, I think it is - thirty-odd, or thirty-six, I think, is the precise number - of pathologists filling those twenty-one positions, so we have had some real good success in recruitment. We have some challenges in some of the retention issues, but we have had some real good success in recruiting capable, competent pathologists to provide services to the people of this Province.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The Chair recognizes the hon. the Opposition House Leader.

MR. PARSONS: Thank you, Mr. Speaker.

I will continue from yesterday when I was attempting to get some answers to my questions. While government may not like the questions, of course, it is very important, the actual facts of what ministers knew about this inaccurate breast testing debacle and what actions or inactions they had on this issue.

I ask the Minister of Intergovernmental Affairs, who was the former Minister of Health during part of this time frame involving this matter: Did you, sir, at any time consult or seek advice from the Department of Justice regarding the inaccurate testing results?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, I say to the member opposite, if you are not going to listen to questions at least read Hansard from the day before, because I answered that question perfectly clear yesterday. In fact, I think I answered it about five times in five different ways and today we are getting the same question. The answer I gave yesterday

was very clearly, the Department of Health and Community Services did not seek a legal opinion from Justice.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Opposition House Leader.

MR. PARSONS: Thank you, Mr. Speaker.

The answer will show that my question was directed to the Minister of Intergovernmental Affairs.

My next question is for the current Minister of Justice, who was a former Minister of Health for the longest period of time while this investigation was ongoing, from March 2006 to January 2007. According to officials with Eastern Health, the minister was given numerous briefings and updates about the retesting results but the issue was never made public.

I ask the current Minister of Justice, former Minister of Health: Can you and will you tell us, were you at any time or did you at any time consult with or seek advice from the Department of Justice regarding this issue?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, I do not know how many more times I can answer the same question in a different way. Let me try a different answer, Mr. Speaker. Let's see if he can get this one. Regardless of who was the Minister of Health and Community Services, the Department of Health and Community Services did not seek a legal opinion from the Department of Justice on this issue.

Now, Mr. Speaker, it is a slightly different answer, maybe we will get through this time.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Opposition House Leader.

MR. PARSONS: Thank you, Mr. Speaker.

For the record, I am not asking if the department asked. I am asking specific persons who filled the role of minister.

My next question, Mr. Speaker. I ask the current Attorney General and a former Acting Minister of Justice: Were you, sir, at any time consulted or discussed or made any recommendations or provided any advice to government on this particular issue?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: I am not certain, Mr. Speaker, how any minister in this House could answer a question that was never asked. As I have said before, Mr. Speaker, the Department of Health and Community Services and the Ministers of Health and Community Services did not seek a legal opinion from the Department of Justice.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Opposition House Leader.

MR. PARSONS: Thank you, Mr. Speaker.

I ask the current Minister of Finance, the former Minister of Justice: Were you, sir, consulted or did you at any time discuss this issue or make any recommendations or provide any advice to government regarding this issue?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: If I get asked this question any more I am just going to replay it, because the answer is the same.

Mr. Speaker, the Department of Health and Community Services, the Ministers of Health and Community Services have not asked the Department of Justice or the Minister of Justice an opinion on this issue.

MR. SPEAKER: The hon. the Opposition House Leader.

MR. PARSONS: Thank you, Mr. Speaker

My final question is for the Minister of Health.

Minister, did you at any time, when you became aware of this issue, advise or seek advice or discuss this matter with the Premier, and if so, when?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: I discussed this issue, I think it was two weeks ago. I cannot give you an exact date but it would have been about two weeks ago. This issue was raised in the House of Assembly, I think it was one day last week. I will get the exact date for you

because I want to be precise in my answer, but it was a very recent conversation that I did have.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Opposition House Leader.

MR. PARSONS: Thank you, Mr. Speaker.

Just one point of clarification, supplementary to that question. Can the minister be more specific? And I will be more specific in my questioning. Did you only discuss this issue with the Premier after it has now become a matter of public record, or did you at any time, before this was discussed and raised in this House of Assembly, discuss the issue with the Premier?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: This issue, Mr. Speaker, has been a public issue since October, 2005. Anyone who has lived in this Province in 2005 would have been very much aware of the media coverage of the issue in 2005; would have been very much aware of the ads being placed by Eastern Health during 2005 asking people to call a toll-free number to get in touch with them about their test results. So, this has been a public issue for quite some time. In fact, I recall, since about October, 2005, it was well publicized in the papers throughout this Province. It has been a public issue for quite some time, I say, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: A final supplementary to the Opposition House Leader.

MR. PARSONS: Thank you, Mr. Speaker.

Just, again, for clarification, because we do not get exactly straight answers from this minister. I ask you again, minister - not whether this was a public issue. I am asking you, before this matter arose in this Chamber in the last week or two, did you discuss this issue, going back to when you became the Minister of Health, at any time with the Premier? Now that is pretty straightforward.

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: I told you a few moments ago, Mr. Speaker. I gave the member opposite an answer a moment ago. Rather than giving an approximate date, I will just

check my notes and I will tell you exactly when I had the discussion with him. I will get that for you and let you know, but it was in the recent past that I had the discussion.

MR. SPEAKER: The hon. the Member for Signal Hill-Quidi Vidi.

MS MICHAEL: Thank you, Mr. Speaker.

My question is for the Minister of Health and Community Services.

On Tuesday, the minister announced that there was a tremendous compensation package now in place for pathologists; a package, I would like to note, that only arrived officially this morning at the offices of the Newfoundland and Labrador Medical Association.

Mr. Speaker, yesterday the minister said that this compensation package is on a par with Atlantic Canada, however, evidence here is that the pathologists that the labs are losing, especially the lab in Eastern Health, the pathologists are going to Ontario. I am sure the minister must realize that the Province is competing with the whole of Canada, not just with Atlantic Canada.

Why then is the government not making a real investment in our system to keep medical specialists in the Province by making the stipends competitive nationally, not just with Atlantic Canada?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, across this country, not just today, not yesterday, but for years and years now, across this entire country there are health professionals, there are educators, there are many other disciplines where there are great differences, great variances in compensation packages; whether it is the salary piece or the benefit piece, but there are great variances across this country. We have always attempted to make sure that we are competitive, particularly with Atlantic Canada. We may not always have the same kind of financial resources that some other richer provinces may have, but we have always attempted - in fact, since we formed government we have always tried to ensure that the compensation package, the total compensation package that we provide to people who work in public service in this Province, is provided with a competitive package that makes us competitive with, particularly Atlantic provinces. In some cases we are competitive on a national scale, but we will not have, I say, Mr. Speaker - it is going to be very challenging for a Province like Newfoundland and Labrador to always be able to say we have the best compensation package of any jurisdiction in the country. In fact, we will frequently be challenged to say that we have a compensation package that is equal to the best in the country, so we will always try to be competitive within the fiscal capacity that we have as a Province.

We believe that the recent announcement of what we are providing to pathologists, because it is consistent with what we are doing for oncologists in the Province -

MR. SPEAKER: Order, please!

Again, the Speaker is trying to keep the responses and questions to within a minute

The Chair recognizes the Member for Signal Hill-Quidi Vidi.

MS MICHAEL: Thank you, Mr. Speaker.

I just want to speak practically. You know, the tremendous package the minister is talking about, and I admit it looks like a good package in comparison to what is there now, it brings the salary of pathologists to a maximum of \$241,000. The four residents who are now leaving Newfoundland and going to Ontario, they are going to be starting at \$330,000. That is a difference of \$89,000.

How does the tremendous package make us competitive with the lowest paid pathologists in Ontario?

MR. SPEAKER: The hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. WISEMAN: Mr. Speaker, one of the very common problems when you start making some comparisons of salaries is just that whole issue, the use of the terminology.

One of the things we need to be very careful of, when we talk salaries, it is actually what you get on your paycheque. When you start looking at the benefits, there might be educational leave allowances in there, there might be opportunities for continuing medical education, and whether or not we are paying for their medical malpractice insurance. All of those things become a part of the benefit package. So, when you are looking at a total compensation package, you have to incorporate all of those in making you comparisons.

The other thing, Mr. Speaker, there is a difference in living in Newfoundland and Labrador. We would like to think that there are some advantages to living in this Province. There are some very big issues with respect to lifestyle, a place to raise a family, the cost of living here relative to what it might be in downtown Toronto, so you have to look at the market you are competing in, I say, Mr. Speaker.

She used the term, practically speaking. Well, you do have to look at this from a very practical perspective and not just look at the salary piece when you are making a comparison.