

# Legislative Assembly of New Brunswick

## Oral Questions



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[Original]

### PROTECTION OF PERSONAL INFORMATION

**Mr. McKee** (Moncton Centre, L): Mr. Speaker, the Premier's story appears to change by the day. One day, the public was led to believe that there was a secret stash of documents in the Premier's possession relating to Dr. Ngola. Now he says they were only verbal communications. It is unconvincing, to put it politely.

I would like to hear today from the Attorney General, who has been very quiet on this matter. We have serious questions that need to be answered, and he is the province's top legal advisor. To start off with, I have an easy one. The Premier provided personal health information to the public that led to the identification of Dr. Ngola as the one who had violated the emergency order. As the Attorney General, do you have concerns that the Premier violated RTIPPA or PHIPAA privacy laws?

**Hon. Mr. Flemming** (Rothesay, Minister of Justice and Public Safety, Attorney General, PC): You know, Mr. Speaker, anyone who knows me knows that I have a deep and profound respect for the rule of law that exists in the constitutional democracy in which we live. I profoundly believe in the separation of powers. I profoundly believe that the investigation of criminal or quasi-criminal matters is with the police. There is a wall that politicians do not cross and that they do not enter. They do not try to enter a domain in which they have no legal purpose, function, or constitutional existence.

As Attorney General, I have maintained that position from the start, notwithstanding a countless number of attacks. That is what I believe. It is what I continue to believe, and my conscience is clear.

**Mr. McKee** (Moncton Centre, L): I could not agree more with the Attorney General. I do agree that the rule of law and the separation of powers are most important here. That is why I believe the Premier's actions were wrong. The Premier continued to pit New Brunswickers against Dr. Ngola. He was implying that he has information of his culpability, even though the Crown has withdrawn the charge. Now he is hiding behind a false claim of privacy.

As the Attorney General, do you condone this shocking behaviour of the Premier, his trying to retry Dr. Ngola in the court of public opinion with additional information that has supposedly not been made public?

**Hon. Mr. Flemming** (Rothesay, Minister of Justice and Public Safety, Attorney General, PC): I can repeat myself over and over and over again if you would like. I have no plans to go anywhere until 6 p.m.

Having said that, the Ngola case was dealt with by prosecutors independent of the Office of the Attorney General. The decision to proceed or not to proceed is a matter totally within

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the discretion of public prosecutions, which is independent of the executive branch of government. They did that. It is not my place to call the prosecutors and ask why or anything like that. It is not my place to stick my nose into that because if I do, then I am functioning in a matter improper as Attorney General and the members opposite would be howling for my resignation, with good reason. My conscience is clear. I have dispatched my duty.

**Mr. Speaker** (Hon. Mr. Oliver): Time, minister.

[*Translation*]

**Mr. McKee** (Moncton Centre, L): Mr. Speaker, the Attorney General talks about the independence of the police and prosecutors. I totally agree with him. That is why I am asking him how he can reconcile that with the actions of the Premier who has indicated that an investigation would be undertaken and charges laid before any involvement of the police and Public Prosecution Services.

[*Original*]

**Hon. Mr. Flemming** (Rothesay, Minister of Justice and Public Safety, Attorney General, PC): Mr. Speaker, whatever charge is being considered by the police, that is within its purview. Whatever issue the police feels that it should investigate, that is within its purview. Whatever subject matter the police believes may have occurred that it should investigate, it is the independent duty of the police to embrace that obligation separate from the executive branch of government.

If the member opposite has any specific issues that he is concerned about, let him bring them forth. But speaking as the Attorney General, the line between the executive branch and this office and the independence of the police, of the judiciary, and of the prosecutors will stand separate for as long as I am the Attorney General.

[*Translation*]

**Mr. McKee** (Moncton Centre, L): Thank you, Mr. Speaker. I do have concerns. The Premier says he will disclose more information if he gets a guarantee of immunity from prosecution from Dr. Ngola. It appears that the Premier has already broken the law and has exposed himself and the province to civil action. That is why I am concerned, Mr. Speaker.

Why would Dr. Ngola even consider letting the Premier off the hook? That is completely ridiculous. I am asking the Attorney General, as the chief legal counsel for the province, to ensure that the government is not more vulnerable to civil action. Why are you not advising the Premier to stop digging himself into a hole and exposing taxpayers to more risks?

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[Original]

**Hon. Mr. Flemming** (Rothesay, Minister of Justice and Public Safety, Attorney General, PC): Mr. Speaker, if people want to commence a civil action, they can do so. This is a constitutional democracy. They do not need the permission of anyone on this side of the House if they feel so inclined.

I advise the Premier on a regular basis on a number of issues. That is privileged and confidential, based on attorney-client privilege, and you should know that. You do know that. To ask me questions about what I may or may not have advised the Premier from time to time is completely inappropriate. The member opposite knows full well that I have no legal capacity to answer such a question.

I will say this: As Attorney General, I will continue to the best of my ability to honourably execute my office in accordance with the rule of law, our Constitution, and our way of life.

**Mr. McKee** (Moncton Centre, L): Mr. Speaker, in the statement from the defence lawyers, they stated that Public Health officials in Campbellton told law enforcement that Dr. Ngola had committed no crime or infraction and that his behaviour was actually in accordance with Public Health expectations, so I do not know where this took a turn for the worse. It must have been the pressure from the Premier. He has been digging himself a hole that he will have a hard time getting out of. Apparently, he now has only verbal communications that were not recorded, not written, not transcribed, and not witnessed by anyone but the Premier himself. It sounds a little convenient to me.

Mr. Speaker, principles of disclosure dictate that evidence in verbal or written form that is relevant to a case must be disclosed. I do not understand. If you have evidence that you claim would vindicate you and incriminate Dr. Ngola, surely you would disclose it. If the Premier had information, why not provide it to Crown prosecutors? I cannot help but ask or speculate: What did the Premier have to hide?

**Hon. Mr. Higgs** (Quispamsis, Premier, Minister responsible for Intergovernmental Affairs, PC): Mr. Speaker, mostly what the member opposite is doing is speculating and assuming and putting all kinds of doubts or fearmongering into the play of all of this. It is actually very simple. The question that was asked, when he produced his sheet yesterday on the question that was made by the doctor's lawyers to the Crown prosecutors, was this: Are there any documents that would say that the Premier ordered this or the Premier requested this or the Premier asked that? The member should know the answer because none were produced. The member also knows, as do the other members of the COVID-19 Cabinet committee, that many things get discussed in these meetings and that we get information directly from health officials and directly from Public Safety, Mr. Speaker.

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So I talk about the process and why it keeps going. The only reason it keeps going is that Dr. Ngola wants an apology. What I am saying is, Let's put the facts on the table, and then we will decide who apologizes to whom. But the member wants to continue...

**Mr. Speaker** (Hon. Mr. Oliver): Time, Premier.

[*Translation*]

### NURSES

**Mr. Melanson** (Dieppe, Interim Opposition Leader, L): Thank you, Mr. Speaker. Our health care system continues to bleed out. We know that we have spent a lot of time in the House asking relevant and essential questions to find solutions to the shortage of nursing staff here in New Brunswick.

We know that there are challenges at the Dr. Georges-L.-Dumont University Hospital Centre, as well as the Saint John Regional Hospital, the Dr. Everett Chalmers Hospital, the Moncton Hospital, and the Sackville Hospital. Moreover, this morning or yesterday, the Tracadie Hospital had to close four acute care beds.

I make the following request with great sincerity: Can the Minister of Health do something and convince the Premier to resolve the collective agreements matter so that nursing staff can be retained?

[*Original*]

**Mr. Speaker** (Hon. Mr. Oliver): Time, member.

**Hon. Mrs. Shephard** (Saint John Lancaster, Minister of Health, PC): Mr. Speaker, I appreciate the question, and I believe in the sincerity of it because we are all concerned about the shortage of medical professionals that we have in this province, just as every other province in this country is experiencing.

The collective agreements are very important; and certainly, negotiations are underway, so I am not at liberty to discuss that here. In fact, that actually falls under our Treasury Board.

But I will say this: We certainly, certainly respect and admire the work of our medical professionals in this province. We know that there will be challenging months ahead, and we want to try to help address this. And we are certainly putting every effort forward for our universities to ensure that we have those student seats filled, just as we have been doing from the very day that we took government.

So, Mr. Speaker, we know the concern that New Brunswickers have regarding our complement of medical professionals, and we work every day to try to meet that gap.

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**Mr. Melanson** (Dieppe, Interim Opposition Leader, L): Mr. Speaker, when I speak with nurses and LPNs all across the province, they are saying that they are kind of sick and tired of the verbal communication that the government provides. They really want to have some results now. They are going to go through a very difficult summertime. We know that.

I think that the health authorities are doing their very best in trying to manage the situation, and I think that the health professionals are also putting incremental effort into providing the best quality of care for their patients. But I do believe that the government is not doing its fair share toward the solution. The collective agreement for nurses expired in December 2018. Where is the Premier on this one? Where is the minister responsible on this one? Get it resolved. Retain nurses and LPNs, and we can fix...

**Mr. Speaker** (Hon. Mr. Oliver): Time, member.

**Hon. Mr. Higgs** (Quispamsis, Premier, Minister responsible for Intergovernmental Affairs, PC): Mr. Speaker, as the Leader of the Opposition knows, discussions on those contracts are well underway. We are, I would say, making progress in that regard.

You know, I do not think that the 100-day ultimatum provides any sort of benefit to a good discussion in dealing with a lot of issues. In the discussions, as I have said over and over again, we want to talk about more than just wages, recognizing the need to have wages. We want to talk about the issues that the leader refers to and the closures that happened at different hospitals because staffing is a problem, Mr. Speaker. It is a problem all across the country.

Are we also discussing doing things differently going forward? Absolutely, because part of these debates is on how to do things differently. How do we work together? How do we avoid duplication in our system? How do we work together to ensure that the service that we provide is the very, very best for every citizen in this province? That is our number one goal, and these discussions are about more than just wages, Mr. Speaker.

## TELECOMMUNICATIONS

**Mrs. Harris** (Miramichi Bay-Neguac, L): Mr. Speaker, the lack of high-speed Internet for the people in my riding of Miramichi Bay-Neguac and in many rural communities throughout New Brunswick is unacceptable. High-speed Internet is an essential service that all New Brunswickers should have access to regardless of where they live. How can we continue to let children who are learning remotely be disadvantaged in their studies because they do not have access to high-speed Internet? How can we deny rural residents access to a family doctor or specialist because they do not have high-speed Internet to support virtual medical appointments? How can we attract new business to New Brunswick if we cannot provide high-speed access to all of New Brunswick?

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Mr. Speaker, what is this government's plan to ensure that all New Brunswickers have adequate Internet access, and what is the timeline to make this happen?

**Hon. Ms. Dunn** (Saint John Harbour, Minister responsible for Economic Development and Small Business, Minister responsible for Opportunities NB, Minister responsible for Immigration, Minister of Aboriginal Affairs, PC): Mr. Speaker, thank you to the member opposite for the question. It is a pleasure for me to rise today to give the House an update with respect to Internet. I will advise you that Phase 1 has actually been completed with Xplornet.

Thus far, we have hooked up over 10 000 rural homes to Internet, and that was in 48 communities across New Brunswick. Some of those rural communities are Dawson Settlement, Hillsborough, Weldon, Hopewell Cape, Memramcook, Upper Dorchester, Taylor Village, Dorchester Cape, Clarks Corners, Sypher Cove, Whites Cove, Waterborough, Keswick Ridge, Mactaquac, Lower Kingsclear, Keswick, Scotch Settlement, Hampton, Bloomfield, Norton, Central Norton, Passekeag, Plaster Rock, Sisson Ridge, Wapske, Port Elgin, Coburg, Baie Verte, Timber River, Richibucto, Rexton, Upper Rexton, Pirogue, Bedec, Bells Mills, Grande-Aldouane, Cap-de-Saint-Louis, Upper Greenwich, Grays Mills, Long Reach...

**Mr. Speaker** (Hon. Mr. Oliver): Time, minister.

**Mrs. Harris** (Miramichi Bay-Neguac, L): Mr. Speaker, I did not know whether she was singing *I've Been Everywhere*, but let me tell her that although many of these communities may get some sort of Internet access, it is not adequate. I have a person who lives in Wayerton and works for the payroll centre. She needed to work from home and was unable to because her Internet service is not adequate enough to support the systems that she needs to have at home. She was very nervous that she was going to lose her job.

Also, Tabusintac, Wayerton, Lower Newcastle, parts of the cities of New Brunswick, Maple Glen—these were not in the song that you sang. These people need to have Internet that is of a quality such that they are able to work, able to learn, and able to have visits with their doctors. So you can get up and brag all you like, but what am I supposed to say to these people when they are asking me: What is this government doing for me? When am I going to be treated like the rest of New Brunswick and have Internet?

**Mr. Speaker** (Hon. Mr. Oliver): Time, member.

**Hon. Ms. Dunn** (Saint John Harbour, Minister responsible for Economic Development and Small Business, Minister responsible for Opportunities NB, Minister responsible for Immigration, Minister of Aboriginal Affairs, PC): Mr. Speaker, thank you again to the member opposite for the question. I am pleased to report that Phase 2 is actually underway. It will see an additional 73 000 rural households connected to Internet.

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Also, I would appreciate the opposite member's support with respect to a number of applications that are currently in the federal hopper with respect to Internet connections—Xplornet, Rogers, Bell, Proximity, Elsipogtog First Nation, Belledune, CyberNB, and Indigenous opportunities. A number of towers were installed. Once again, I would appreciate support from the member opposite with respect to those applications that have been sent to the federal fund for opportunities there. Thank you.

[*Translation*]

### EROSION

**Mr. Mallet** (Shippagan-Lamèque-Miscou, L): Thank you, Mr. Speaker. Part of my riding is at the mercy of a major problem, that of erosion along the east coast facing the Atlantic Ocean, stretching from Pigeon Hill through Cap-Bateau and Sainte-Marie-Saint-Raphaël. The coastline needs to be secured to protect homes, roads, and utility infrastructure. I would like to know if the government plans to take responsibility and do what is necessary to deal with the situation.

[*Original*]

**Mr. Speaker** (Hon. Mr. Oliver): The Minister of Transportation and Infrastructure. Oh, excuse me. The clock is ticking.

(Interjections.)

**Mr. Speaker** (Hon. Mr. Oliver): The Minister of Environment and Climate Change in the gallery.

**Hon. Mr. Crossman** (Hampton, Minister of Environment and Climate Change, Minister responsible for the Regional Development Corporation, PC): Thank you very much, Mr. Speaker, for the question from the member opposite. With the climate change money coming down, there is money going through DTI and other departments, which I mentioned yesterday, and some of it is going toward adaptation, mitigation, and education. More information will follow soon.

Under the adaptation plans, the money is going to the mitigation of farms, and I believe there is some for the coastline. There are problems inland, as well, with the rivers and streams of farms that are eroding away. It is a real problem, and it needs to be taken seriously. Thank you.

[*Translation*]

**Mr. Mallet** (Shippagan-Lamèque-Miscou, L): Mr. Speaker, in 2015, VALORES, a coastal research institute, estimated that the cost of relocating 24 homes in erosion-affected areas

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was \$2.5 million. When floods occur in New Brunswick, the government responds quickly. However, it does nothing as the sea eats away land by the foot. Does the government plan to use the Climate Change Fund to address the situation before a disaster occurs?

[Original]

**Hon. Ms. Green** (Fredericton North, Minister of Transportation and Infrastructure, PC): You noticed the two of us getting up to answer the questions because we really share...

(Interjection.)

**Hon. Ms. Green** (Fredericton North, Minister of Transportation and Infrastructure, PC): We work as a team, and we share responsibilities. The Department of Transportation and Infrastructure is working very closely with the Department of Environment, and we are working very closely under the Climate Change Fund to identify projects that are necessary to help with the climate change issues that we are all experiencing here in the province.

We are looking at the studies for things that we can do to make things better. We are making changes in how we design and build our infrastructure to address climate change. We are working to identify very critical projects to be able to be funded under the Climate Change Fund.

It really is an effort shared by our two departments, so we are both trying to answer the question to give you the information that you need. We are very aware of the issues, and together, we are working very hard to address the climate change issues that we will have going forward. Thank you.

## ELECTORAL REFORM

**Mr. K. Arseneau** (Kent North, G): Mr. Speaker, historically, the appointments of electoral returning officers in Canada have been political appointments made by Cabinet for Liberals and Conservatives alike. Every province except New Brunswick and Prince Edward Island has removed this form of political patronage from its electoral system.

Elections New Brunswick made a proposal to government two years ago that had 108 recommendations to modernize New Brunswick's electoral laws. In the two years since, the recommendations have just sat on a shelf. Following the 2020 election, Elections New Brunswick highlighted nine amendments to the *Elections Act* that it thought were crucial, and the top recommendation was to end political patronage with respect to returning officers.

My question is for the Premier. Will he bring forward legislation this fall to implement the recommendations from the Chief Electoral Officer to ban political appointments for

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returning officers and instead give the Chief Electoral Officer the authority to hire returning officers through a merit-based process?

**Hon. Mr. Higgs** (Quispamsis, Premier, Minister responsible for Intergovernmental Affairs, PC): Thank you for the question. I think there is validity to analyzing the proposals and understanding the pros and cons of them. The commitment today certainly would be to review that process, review those recommendations in real terms, and have discussions about them to see the merits of change. If other provinces are doing this to the extent that the member recognizes, then what have they learned from the experience and what benefits are there? I think it sounds as if there is a lot of information already to warrant that sort of review. That would be the commitment, to do a decent review of the recommendations and to see where we go from there.

**Mr. K. Arseneau** (Kent North, G): Thank you, Mr. Speaker. Let's get it done.

Without electoral reform, we cannot truly end our system of political patronage. The current electoral system in New Brunswick is unfair and unrepresentative. In last year's election, less than 40% of voters and only 26% of eligible voters voted for the PCs, yet they obtained the majority government for four years.

(Interjections.)

**Mr. K. Arseneau** (Kent North, G): Yes, that is a huge problem—26% of the people voted for them, and they are happy. That is incredible, Mr. Speaker.

Almost 20 years ago, Bernard Lord's New Brunswick Commission on Legislative Democracy recommended a mixed-member proportional representation system for New Brunswick. In 2017, the Commission on Electoral Reform recommended that the Electoral Boundaries and Representation Commission consider some form of proportional representation.

Will the Premier direct this board to recommend a proportional representation voting system for New Brunswick?

**Hon. Mr. Higgs** (Quispamsis, Premier, Minister responsible for Intergovernmental Affairs, PC): So what is wrong with that program? Mr. Speaker, we will be doing a whole reform package in terms of analyzing that. That falls within our term here at this point. We will be reviewing not only the number of ridings but also all of the aspects of electoral review.

Certainly, the minister, through the municipal reform and how that looks in terms of... We discussed different regions and we discussed a different autonomy. I think that it is a bigger bucket that we are thinking about now in terms of how our province really is divided into regions and how we can make sure that whatever we end up with is the best solution for a given region, no matter where it is in the province. We want more regional autonomy in

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decision-making and control. I think that a lot has been suggested about that. Minister Allain has done a lot of traveling to get feedback and views. I think the entire thing is being looked at under the municipal reform review.

**Mr. Speaker** (Hon. Mr. Oliver): Time, Premier.

### FOREST FIRES

**Mr. Austin** (Fredericton-Grand Lake, Leader, PA): Mr. Speaker, with the hot weather coming upon us and summer officially just a few days away, it is a reminder that fire season is also here. The GNB fire index website has had a no-burn order for several days. Some long-term weather forecasts are predicting a hot, dry summer, which is always bad for potential forest fires across the province.

Recently, Forest Protection Limited, which was in Miramichi, was relocated to Fredericton at the direction of the board and with the approval of the Minister of Natural Resources and Energy Development. Can the minister tell us how this new location is going to enhance fire protection in the province? Is FPL prepared for a potentially active fire season, considering this recent relocation?

**Hon. Mr. Holland** (Albert, Minister of Natural Resources and Energy Development, PC): Mr. Speaker, I want to thank the member opposite for the question. There were a couple of questions in there. I think that, as evidenced by the efforts of FPL last summer, which was the driest summer we had seen since 1956, and the tremendous job done by FPL and DNR staff with the entire collaboration of groups... That showed that we got through that horrifically dry season well and that we were ready. They did a good job, and I have no expectation of any lower level of service.

Interestingly enough, the member opposite should relate the entire story as it relates to that. FPL has pads throughout the entire province. They are in 11 different locations, with Miramichi being one. DNR has operations that are there. We are certainly ready. We hope that we do not have to deal with a massive number of fires, but we certainly are ready. You will have our level best, and we will ensure that the absolute best effort is embarked upon to ensure that we protect the forests this fire season, both private and Crown, here in New Brunswick.

### CORONAVIRUS

**Mrs. Conroy** (Miramichi, PA): Many of our businesses have taken a huge hit this last year, and many are still struggling. Sadly, some have had to shut their doors for good. In the past few months, indoor venues such as arenas have been allowed to fill their stands to half their capacity, which has allowed events to continue, but outdoor venues are still allowed to have only 50 people. This leaves racetracks and ball fields allowing only 50 people

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outside in the stands, some of which will hold up to 2 000 people. Some of these places struggle in the best of times. As it is, Mr. Speaker, having only 50 people in the stands certainly does not make enough money to pay the bills.

My question is for the Minister of Public Safety or the Premier. Racing season and ball season are well underway. The only difference between an arena and a ball field or a racetrack is that there is a roof over people's heads. Why can racetracks and ball fields not be filled at half their capacity? There is lots of room to social distance, plus they are outside where there is little or no risk of transmission. Will you change this?

**Hon. Mr. Higgs** (Quispamsis, Premier, Minister responsible for Intergovernmental Affairs, PC): Thank you for the question. That is our drive to 75. If we reach our goal... Obviously, we have another few days. We cannot exactly prescribe the number of days, but we are getting down now to days and hours. The point is that when we hit our number and move beyond it, that will all be addressed. We are looking forward to having those events return to New Brunswick.

## SMALL MODULAR REACTORS

**Mr. Legacy** (Bathurst West-Beresford, L): Mr. Speaker, earlier this year, this government entered into an agreement with ARC Nuclear for the purpose of developing and commercializing SMR technology. This agreement is heavy on conditions for ARC to find private investors to match the public money that is being invested. Our concern has always been more about where the money will be spent.

We have obtained a copy of the MOU through access to information, and the references to this issue in this agreement are very vague. In section 2.9, it uses language such as: Where possible, in terms of cost, quality, and availability, ARC will use New Brunswick goods and services in relation to the development activities. "Where possible"—what does that mean? Who defines that term? Who has final word when different interpretations come into play? Can the minister elaborate on what provisions his department has put in place to guarantee this development?

**Hon. Mr. Holland** (Albert, Minister of Natural Resources and Energy Development, PC): Mr. Speaker, as with any initiative that is well thought out, moved forward, and planned to succeed, the guarantee is in the results. "Whereas" and "should have" and all sorts of other clauses are standard language. Whether it be an MOU or a contract, when we come together and go to work and move forward with an initiative, everything is framed in a variety of language. You can look at the language in many different contracts or MOUs and see that it is very similar.

Now, let's talk about what has actually happened. Let's talk about ARC reaching the Phase 1 vendor design review certification in a timely fashion. Let's talk about ARC Nuclear investing in UNB and creating programs where students will now have a chance to have

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postsecondary education right here in New Brunswick as it relates to nuclear. Let's talk about the incredible progress ARC is making toward Phase 2 of the vendor design review. Let's talk about the fact that it is heading headlong toward putting New Brunswick first in the world with SMR technology. Thank you, Mr. Speaker.

**Mr. Speaker** (Hon. Mr. Oliver): The time for question period has ended.