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3RD SESSION, 37TH PARLIAMENT

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CONTENTS

Tuesday, May 28, 2002
Morning Sitting

Routine Proceedings

	Page
Committee of the Whole House	3631
Employment and Assistance Act (Bill 26) (<i>continued</i>)	
J. Kwan	
Hon. M. Coell	
Labour Relations Code Amendment Act, 2002 (Bill 42)	
Hon. G. Bruce	
J. MacPhail	
Report and Third Reading of Bills	3645
Labour Relations Code Amendment Act, 2002 (Bill 42)	

TUESDAY, MAY 28, 2002

The House met at 10:04 a.m.

Prayers.

Orders of the Day

Hon. G. Collins: I call committee stage of Bill 26.
[1005]

Committee of the Whole House

EMPLOYMENT AND ASSISTANCE ACT (continued)

The House in Committee of the Whole (Section B) on Bill 26; J. Weisbeck in the chair.

The committee met at 10:08 a.m.

On section 2 (continued).

J. Kwan: Section 2 deals with the eligibility of a family unit. Most recently an article in the *National Post* dated May 14, 2002, announced a major win for people receiving income assistance. On May 13, 2002, Ontario's highest court ruled that citizens on welfare cannot be discriminated against. I quote: "The Ontario Court of Appeal ruled yesterday that welfare recipients form a protected category under the equality provisions of the Charter of Rights and Freedoms, just like sex or race."

[1010]

Ernie Lightman, who is a professor of social policy at the University of Toronto, is quoted in that article as saying: "The court explicitly recognized and accepted the argument that social assistance cannot be used as a basis for discrimination. Social assistance has now been added to the list of Charter protections. It's hard to overstate the significance of this. This is the first time a case has made it to this level." Lightman states that it will be difficult for other provinces to ignore this decision.

It was the spouse-in-the-house rule that brought this case to the Ontario Court of Appeal. This policy singled out women receiving income assistance. Currently, the definition of a spouse in the B.C. Benefits income assistance regulations states that a spouse is anyone who (a) is married to the other person or (b) is living with the other person in a marriage-like relationship.

Could the minister please advise: will this definition need to be changed in order to comply with the recent Ontario court decision for eligibility under a family unit?

Hon. M. Coell: We are aware of the Ontario court decision and are reviewing that decision at this point, both our ministry and the Attorney General. I would,

however, emphasize that Bill 26 was prepared mindful of the Charter of Rights and Freedoms.

J. Kwan: Could the minister then please advise, given that he's stated that the ministry had been aware of the Ontario court case.... With that in mind, what is the Ministry of Human Resources doing to ensure that the legislation and regulation it is introducing under Bills 26 and 27 comply with the decision made by the Ontario Court of Appeal?

Hon. M. Coell: At present the decision only affects the Ontario government. Again, we were very mindful of the Charter of Rights when we prepared both Bills 26 and 27.

J. Kwan: Yes, I know the case took place in Ontario. Nonetheless, there is such a thing as case law, and case law could actually apply in other jurisdictions as well. British Columbia would not be exempted from that. As was pointed out by the professor of social policy at the University of Toronto, Ernie Lightman, it will be difficult for other provinces to ignore this decision.

To be specific — and I want to be specific, Mr. Chair, because we don't have that much time to debate this bill.... The government has brought in closure on all the bills that are remaining in the House, so I want to be very specific and get specific answers from the minister so that we can get on with it.

[1015]

What is the ministry doing to ensure that we in British Columbia comply with the court decision from Ontario?

Hon. M. Coell: I guess it's of some interest, too, that Ontario has appealed that decision as of this morning. Our legal counsel felt that our definition of "spouse" was very straightforward and simple to determine: whether they're living in a marriage-like relationship. We feel that the definition is quite secure.

J. Kwan: Is the minister saying that he's sought legal counsel on this matter and that legal counsel has advised him that this definition within the ministry's bills, Bills 26 and 27, would not be contravening the most recent decision from Ontario's Court of Appeal? Is that what he's saying? I just need a confirmation.

Hon. M. Coell: We did ask for a preliminary opinion.

J. Kwan: And the opinion was that it's not in contravention of the Ontario Court of Appeal decision?

Hon. M. Coell: Yes. We feel secure with the preliminary decision that we received.

J. Kwan: Could the minister, then, please clearly define for the record what this eligibility requirement is

for a spouse in this context? Could he be clear about its application?

Hon. M. Coell: The definition of spouse is in relation to another person. It means anyone who is married to the other person or is living or cohabitating with the other person in a marriage-like relationship, including marriage between persons of the same gender.

J. Kwan: Well, under the Family Benefits Act of Ontario, a couple become a common-law family unit for social assistance purposes only after living together for three years. Is the minister stating that that is the rule that would apply — only after living together for three years, then that person would be deemed to be in a spouse-like relationship?

Hon. M. Coell: No, that's not what we would mean.

J. Kwan: Is the minister saying that the minute you are in a common-law relationship, even if it's the first day of you being in a common-law relationship, that would deem you to be in a spouse-like relationship under these acts, Bills 26 and 27?

Hon. M. Coell: The answer to that would be yes, if they are in a marriage-like relationship.

J. Kwan: Could the minister, then, please advise: what is his knowledge of the case that has proceeded to the Ontario Court of Appeal? What is his knowledge around it?

[1020]

Hon. M. Coell: Briefly, the issue in Ontario was that they would include anyone living with an individual. The court's concern, I believe, was that people who aren't in a marriage-like relationship could have been caught and their benefits changed because of that.

J. Kwan: In the Ontario situation it is true that there have been issues, particularly with women and single mothers who would be penalized, because if they had someone else living in the house, that would be deemed to be a partner-like relationship, and it penalized the individual for income assistance.

In British Columbia those situations may occur as well. As I mentioned earlier, having previously been an advocate, I've seen individuals who have been threatened to be cut off income assistance or have their rates reduced because of that.

Could the minister please advise clearly: under this act on the question around eligibility, what is the onus of proof for the applicant to show that they're not in a marriage-like relationship? What is required for the applicant to demonstrate that fact?

Hon. M. Coell: I'll try to clarify for the member. The definition hasn't changed from the B.C. Benefits

other than to have the definition expanded to include same-sex couples.

J. Kwan: Could the minister please advise if, under section 2, on the eligibility of a family unit, individuals who are refugee claimants would be eligible to receive income assistance under Bill 26 under this definition?

Hon. M. Coell: Yes, they are included, and refugees are eligible for hardship assistance.

J. Kwan: The minister said that they are included under the eligibility of the family unit. Therefore, they'd be eligible to receive hardship assistance. The issue, as I understand it, around people who are refugee claimants is that they may not be able to receive income assistance with the changes under Bills 26 and 27.

Is the minister advising that the regulations which will be drafted to accompany these two bills would not eliminate refugee claimants from eligibility?

[1025]

Hon. M. Coell: The member is correct. That would be done by regulation, as they determine eligibility.

As I've said in the past, we are going to enter into some discussions with the federal government with the belief that they need to play a much larger role in refugee claimants and income assistance.

J. Kwan: I want to ask the minister this question because many of the issues around eligibility are not spelled out in the legislation. People don't know whether or not they'd qualify until they see the regulation; yet, we don't have the regulation before us.

I want to be very clear in terms of where the government is going with this. During estimates the minister did say that they were in negotiations with the federal government for eligibility for refugee claimants, and the minister just restated that it is his intention to get the federal government more involved in providing support to refugee claimants in the area of income assistance. That's all very well and fine, but the issue, of course, is: if the federal government does not come to the table, is it the minister's intention then to eliminate eligibility for people who are refugee claimants?

Hon. M. Coell: The proposed legislation does not preclude refugee claimants. I've said that we're going to be speaking with the federal government. The issue also affects Ontario and Quebec who have large refugee claimant populations. I'm optimistic that we'll have very fruitful discussions with the federal government on this issue.

J. Kwan: Will the minister just confirm for me, irrespective of the outcome of the discussions with the federal government, that this province under these acts, Bills 26 and 27 and the accompanying regulations that will be brought forward, will not exclude refugee claimants for eligibility?

Hon. M. Coell: As I said, the proposed legislation does not preclude refugee claimants, nor will the regulations change until discussions with the federal government are concluded. I can't speculate beyond that.

J. Kwan: Time is short here in the debate because closure has been brought in for the discussions under all of the bills that are remaining, and that includes Bill 26.

What I want to get is a certainty from the minister that eligibility for refugee claimants will be maintained irrespective of the discussions with the federal government. It's all very well and fine for the minister to say, "While we're engaging in negotiations with the federal government, we don't know what the status is," when the minister knows very well that the regulations will be drafted and that it has nothing to do with the bill that is before us right now. Unless I can get the minister to commit and advise this House and British Columbians what his intentions are, it is very difficult for one to understand how refugee claimants would be eligible for income assistance under the eligibility of a family unit in Bill 26, because it doesn't say if they will be eligible or not.

[1030]

In the event that the provincial government and the minister are successful in getting further assistance from the federal government, that's great. Then, that will ensure that people on income assistance who are refugee claimants would continue to receive support.

In the event that the government does not succeed in those negotiations, I want certainty from the minister that refugee claimants will continue to receive income assistance under Bills 26 and 27 and that the regulations that are not before the House but are being drafted right now would include their eligibility, irrespective of what happens.

My concern is not who pays; my concern is that the people who need the support will actually be able to get access to it. In this particular instance I'm referencing the refugee claimants.

Hon. M. Coell: As I've said, the new regulation will not change from the current regulation until we know the outcome of the discussions taking place with the federal government. Refugee claimants will continue to be eligible for hardship assistance.

J. Kwan: The minister is resorting to a non-answer in this set of debates. I want certainty from him about whether or not refugee claimants will be eligible.

The minister knows very well that if he's successful in the negotiations for providing more dollars from the federal government to support refugee claimants, then that support will be there. In the event that the minister is not able to get more dollars from the federal government, will refugee claimants then be eliminated for eligibility under Bills 26 and 27 and the regulations that will be forthcoming?

The minister will not answer the question. Why won't he? If his intent is to make sure that the people

who need assistance get the assistance, then all the minister has to say is: "Yes, no matter what happens, refugee claimants will be eligible for income assistance."

Hon. M. Coell: Again, refugee claimants will continue to be eligible for hardship assistance. The bottom line is: we don't want the claimants to be disadvantaged.

At this point it's really not appropriate to make a statement like the member would like me to make, while we're attempting to negotiate and have discussions with another level of government.

J. Kwan: I think otherwise. I think it would be inappropriate for the minister not to state clearly what the intent is of these bills, Bills 26 and 27, and the regulations behind them, which we have no opportunity to review. The regulations are not before us. The minister said during estimates that those regulations would be before this House. First he said they'd be before the House at the same time the bills are introduced. Then he backtracked and said it would be a couple of weeks later.

Well, it's been a couple of weeks later already, and we still haven't seen the regulations. British Columbians have no way of knowing who is eligible and who is not eligible. The only way that British Columbians can find out is to find out in this House from this minister what his intentions are. What are his intentions behind Bill 26 and Bill 27 and the regulations that we don't have before us?

That's the only way we can go to make sure we know the ramifications of the changes being brought before us in this House for income assistance recipients.

[1035]

Hon. M. Coell: With regard to refugees, it's our belief that the federal government needs to play a much bigger role across the country, not just in British Columbia. In an attempt to do that, we're going to have discussions with them as to what role they can play with regard to refugee claimants and income assistance. The legislation before you does not preclude refugee claimants. Nor will the regulations change until those discussions with the federal government have concluded. As I said, to speculate beyond that at this point would be inappropriate.

J. Kwan: I'm just going to conclude with this statement around refugee claimants. The fact of the matter is this. The bill — it's true — doesn't say that it precludes it, but what defines who's eligible is going to be defined in regulations. The regulations are not before us. We have no way of understanding what the regulations are going to say, save and except that we can get the minister to answer the questions in this House to advise British Columbians what his intentions are around those regulations.

When the minister says that they're engaging in negotiations with the federal government and that the decision is subject to the federal government's decision, that's not good enough, because there's a responsibility for the provincial government to ensure that people who need income assistance get income assistance. That is a provincial responsibility. That's why there's the social transfer payment dollars sent to each of the different provinces from the federal government. Income assistance falls within that jurisdiction, within that bracket.

It is the minister's responsibility to ensure that people who need income assistance get it. Irrespective of what the outcomes are with the federal government, that responsibility still remains with the provincial government. You can't shirk your responsibility by saying: "Hey, you know what? We couldn't get more money for it, so therefore we may not be able to provide the assistance." You cannot do that, and the minister ought to know that.

All the minister needs to do is confirm that refugee claimants will continue to receive support from the provincial government and be qualified for income assistance under Bills 26 and 27. It would be great, and the opposition will offer its assistance, to work with the minister in any way that we can to try and get more dollars from the federal government. I don't oppose that whatsoever, but in getting more dollars, then the people on income assistance and those who are refugee claimants ought to continue to receive support.

Even in the event that you're unable to get moneys from the federal government, the responsibility remains — that is, refugee claimants should continue to receive the support from the provincial government. That's what the minister needs to do to clarify that point — that it is the intent of the government to not cut refugee claimants off of income assistance, irrespective of the negotiations with the federal government.

The minister has refused to do that to date. One has to wonder what his real intentions are, what the real intentions behind Bills 26 and 27 are, what the real intentions are behind eligibility of the family unit in the case of refugee claimants.

Hon. Chair, I see that the Minister of Labour is now in the House, and the bill that I know is supposed to be in discussion is the Labour Relations Code Amendment Act, 2002, so I will now yield the floor and resume Bill 26 debate after the Labour Code. I move the committee rise, report progress and ask leave to sit again.

Motion approved.

The committee rose at 10:39 a.m.

The House resumed; Mr. Speaker in the chair.

[1040]

Committee of the Whole (Section B), having reported progress, was granted leave to sit again.

Hon. G. Bruce: I call committee stage of Bill 42.

Committee of the Whole House

LABOUR RELATIONS CODE AMENDMENT ACT, 2002

The House in Committee of the Whole (Section B) on Bill 42; J. Weisbeck in the chair.

The committee met at 10:42 a.m.

On section 1.

Hon. G. Bruce: I just wanted to thank the indulgence of the House and the opposition. I wasn't late; nor was I sleeping in. I was flying around in the fog. I'm not always in a fog, just sometimes. At any rate, we're here....

Interjection.

Hon. G. Bruce: I figured I'd better get the shots in first, so I got them in. We're landed and we're safe.

Interjection.

Hon. G. Bruce: We're not done? I see. I thought we were wrapping this.

I'd just like to introduce my deputy minister, Lee Doney, and my assistant deputy minister, Richard Longpre.

J. MacPhail: I fully understand the requirement to accommodate travel arrangements. It is an interesting juxtaposition, though. I was in a committee this morning to deal with my colleague here and her availability in terms of where her future lies, and the committee this morning was unwilling and unable to accommodate her schedule or her lawyer's schedule at all. It was kind of an interesting juxtaposition to see how cooperative the opposition is in accommodating schedules and how uncooperative the Liberals are in that.

Section 1 adds duties under this code. There is a series of changes to what used to be the section that outlined the principles which parties seeking assistance under the Labour Relations Code would abide by. This is a particularly interesting section because some types of legislative changes have a very clear purpose, a very well-defined result, a very specific intent. I would say that the types of changes included in section 2 here, adding duties under this code, are provisions that have a very sweeping effect.

These changes that have been added in the form of duties by which the parties seeking assistance under the Labour Relations Code must abide really will apply broadly to all aspects of the application of the legislation. In fact, there are many now who are examining these changes in the field of labour relations and who say that previous jurisprudence that was relied upon in the proceedings have little weight. I would suggest that we are starting in an area of application of labour relations law in this province in a time of uncertainty be-

cause of the substantive change that occurs within this section.

[1045]

In his remarks at second reading the Minister of Labour said that the changes to section 2, this section we're dealing with right now, would add certainty — that's the word he used — to decisions at the LRB — and to other decisions, he also said. I don't know whether the minister has engaged with anybody in the community directly since he introduced these changes to the act, but there is a lot of disagreement. There is a lot of discussion, and there is a lot of disagreement. It's not necessarily unhealthy disagreement, but there's a lot of disagreement in the labour relations community about how this section will materially affect labour relations decisions.

Mr. Chair, my question to the minister is: can the minister describe — with a substantial amount of detail, please, because of the effect this discussion will have on future labour relations — how these additions and changes in section 2 will add the certainty to the decisions in regard to the different types of applications, complaints and grievances that are considered by the Labour Relations Board?

Hon. G. Bruce: Indeed, these now-called duties under this code — which of course, as the member knows, before were entitled "purposes" — are the very essence of labour relations and labour law in British Columbia. They are the principles, as she well knows, that make up labour law in British Columbia. There were six; those six still remain. We have added two.

In respect to the legislation, what we're looking at in this regard is that it would add consistency to the decision-making process when the board is bringing forward decisions and that they would pay close attention to these principles, not just passing regard, but these are the substance of what makes up law in the province of British Columbia.

None are more important than one or the other of the eight principles. They are to be taken in whole as important points. They flow logically from (a) through to (h). They're there for the board and others — arbitration, adjudication that takes place — to pay credence and to pay attention to.

In the issue of labour relations, it is important that there be consistency in decisions that are handed down and how that adjudication takes place. We believe that with the clarity that has been provided here and the fact that we are making it clear that these principles are to be held to in rendering decisions, it will offer the certainty necessary in the labour relations community.

J. MacPhail: That's a very good general statement, and it was what the minister said both in his news conference and then at second reading as well, but this is the time when the minister can provide clarity of intent. As I said in my opening remarks, Mr. Chair, there is a great deal of discussion and disagreement going on within the labour relations community.

The way an act is written is always important as well. One examines, in the field of jurisprudence, the order in which legislation is written. So not only have there been principles applied here, but there has been a rewriting of the order in which the responsibility of the Labour Relations Board takes place.

There's much to be discussed here — much to be discussed, Mr. Chair. Let me try to narrow it down then. How will these principles...? Actually, they're not principles; they're duties now. The previous section was purposes of the code, so I'm sure the minister had something in mind when he changed the word "purpose" to duty. How will this apply, for instance, in certification or decertification applications?

Hon. G. Bruce: Yes, clearly, there was every intention in respect to the changing from purposes to duties. We are emphasizing the importance. It used to be that the code was having regard to these purposes or principles. Now, under this code, they "must exercise the powers and perform the duties in a manner that..." And then the eight principles follow — but "must exercise..."

So going down there to (a), the first one, we are suggesting here it is important that the board not only recognize the rights of employers and trade unions but also recognize the rights of employees. That's our view, and I think everybody understands that the employees have rights as well.

[1050]

In regard to the second part, (b), "fosters the employment of workers in economically viable businesses..." Without economically viable businesses we won't have jobs, and we won't have places for which people can work.

Then "(c) encourages the practice and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees." We are fully aware that unions and companies have to look to work together and that the board in their determination here must understand that the collective bargaining process is an important process. Indeed, it "encourages the cooperative participation between employers and trade unions in resolving workplace issues, adapting to changes in the economy" — things will happen; they must pay credence to that as the economy changes — "developing workforce skills and developing a workforce and a workplace that promotes productivity."

That statement is a fairly encompassing statement. It's meant, I'm sure, when the drafters brought it in, as a way of trying to bring the parties together and the aspect that when the board's adjudicating, they're looking at how the arguments are being made relative to those specific issues.

"Promotes conditions favourable to the orderly, constructive and expeditious settlement of disputes." I think it's in everybody's best interests, in respect of resolving disputes, that they be done expeditiously to try and find a way quickly to get on with keeping the employment and the operation in full swing.

"Minimizes the effects of labour disputes on persons who are not involved in those disputes." Obviously, the board must give some regard to that. You can have a situation. It's a difficult issue, obviously. I know fully the extent of that, as we went through a very long, protracted labour dispute in our area in the pulp sector in the last go-round — a difficult dispute for the union and for the company and very difficult relative to the community.

"Ensures that the public interest is protected during labour disputes" — an eye to that, of course — and "encourages the use of mediation as a dispute resolution mechanism." That's obviously a good tool.

The board must exercise the powers and duties that are there in a manner that reflects those eight principles as a way of trying to improve labour relations in the province of British Columbia.

J. MacPhail: Let me try to get more specific with my questions, then. We are changing legislation mid-stream. This legislation will impact decisions that have already been made by the Labour Relations Board. As the minister knows, the Labour Relations Board has the right to reconsider. There's a reconsideration process at the LRB. I don't think it's been removed. I don't think this government has outlawed the reconsideration process. What that is, is that decisions that have been made by Labour Relations Board vice-chairs or the chair can then be reconsidered to correct errors that may have been made by the initial panels.

I'm curious to know....Well, let me ask my first question. For reconsideration processes that are mid-stream, will these new rules apply?

Hon. G. Bruce: No, they will not.

[1055]

J. MacPhail: Some of the discussion that's been occurring in the community is that this legislation has the potential for being the equivalent of breaking private sector collective agreements, changing the rules in midstream, so I'm reassured by the minister's remarks. How would people take comfort from the fact that in the reconsideration process of the Labour Relations Board...? Is there some sort of grandfathering of all cases that are before the Labour Relations Board then that the previous legislation applies, and how would we determine that?

Hon. G. Bruce: Current cases under the existing legislation and, of course, new cases when the bill is proclaimed.... As we go forward, when the bill's proclaimed, those new cases would come under this legislation. Current cases will be under the legislation as it is currently written.

J. MacPhail: I was looking for greater comfort than that. In order to dispel any of the views that this is the equivalent of private sector contract-breaking by having rules change midstream, I think it would be appropriate for the minister to grandfather all cases before

the Labour Relations Board. Even the answer that he gives, Mr. Chair, I don't think will satisfy those.

The minute this legislation is proclaimed, which — let me see — will be done by regulation, the new rules apply unless otherwise specified. There will be cases caught in the middle. How are we going to avoid that occurring? Let's say — and this is mere speculation for making my point — that the legislation is proclaimed May 31, and there's a case under consideration on May 30. What rules apply?

Hon. G. Bruce: First of all, I'd like to be very clear: this is not about breaking contracts.

Coming back specifically to your question — the May 30, and I'm not sure just exactly of the date line on that — any issues under review or under discussion now in the decision-making process will continue under the existing legislation. As the bill is then proclaimed, any new issues arriving to the table will be under the new legislation.

J. MacPhail: I'm nervous about taking comfort from that. There will be cases caught, absolutely, because there's a backlog at the LRB. With the reduced staff available under the LRB, their backlog is growing. There will be cases caught. On the day the legislation's proclaimed there will be cases for reconsideration.

I need more specific comfort from that. They're not new cases that we're talking about. They're cases that are before the Labour Relations Board's reconsideration right now where the rules will change.

Let me give you another example about whether one can indeed interpret this as contract-breaking or not. Once again, as I said to the minister last night in the debate around the Employment Standards Act, there are collective agreements in place right now that have provisions that are less than the employment standards. However, those collective agreement provisions cannot be implemented because of the law of the Employment Standards Act that was in place before, which said: "Here is the floor below which no one can go, even if you have a collective agreement." So the minute the Employment Standards Act is changed now, that threshold, that floor, is removed, and any collective agreement can sink into the mud.

There may be a grievance that's being ruled upon at the Labour Relations Board for proper consideration where the rules change midstream. What applies?

Hon. G. Bruce: Again, I'll try and be clear for you. Any cases that haven't been started, if they haven't been started when the bill's proclaimed, will find themselves under the new legislation. If argument has already been made prior to the bill being proclaimed, then they'll carry on under the legislation as it currently exists.

[1100]

As the member well knows, having been in this position herself, there are transition steps that take place. As you change rules or change laws, every government tries its best to mitigate that transitional impact from the standpoint that somebody started a process as

the rules were set and then, as changes come along, they find themselves caught in others. You have to try and do that in such a way that's reasonable and respectful of the people who are in the process. At the same time, there has to be an ending and a beginning.

I can tell the member: it's not focused on what's in the docket of cases or anything else along that line. It's simply a transitional period that government has to go through as you bring through new legislation.

J. MacPhail: Well, most governments legislate transition procedures. In fact, there are other bills before this House that do have transition procedures legislated right in them, and that's to provide clarity. As far as I can see, there are no transitional procedures in this legislation. Will the determination of what is a new case before the Labour Relations Board be made when the parties apply to the registrar?

Hon. G. Bruce: The board has dealt with these extensively in respect to cases as they come forward. It's clear jurisprudence. They have got this in their mandate of looking after and making sure that they are dealing with issues as it was meant to be, either with the existing legislation or the new legislation. I have confidence they'll be able to do that properly.

J. MacPhail: Good. Then explain it to us, please.

Hon. G. Bruce: I just did. We can go back to that line if you like. The fact of the matter is that if you have already started argument relative to a case before the board, you will then find yourself carrying on in that argument with the existing legislation. If you have not started argument in respect to a case before the board, then you will find yourself under the new legislation.

J. MacPhail: My question was: is an application to the registrar the commencement of argument?

Hon. G. Bruce: As I said, that's in the jurisprudence of the board. That's what the board will have to decide. That's the role of where that case has started or not. They'll make that decision.

J. MacPhail: Well, then, I'm back. Perhaps the minister could enlighten us on what the jurisprudence is around this. This is a very serious situation. People may be out there on both the employer side and the union side contemplating whether they want to work under the old rules or the new rules. I expect I could put the dividing line in place, but they need to know. Should people listening today...? Should we be sending out a notice to all interested parties to say: "If this is the set of rules you want to work under, get your application in now; if these are the sets of rules you want to look at, get your application in now"? Or is it too late regardless?

Has the board got jurisprudence in place that says applying to the registrar is commencing argument or not?

Hon. G. Bruce: To be clear again, those cases that arrive to the board after this legislation is proclaimed will find themselves under the new legislation. Those cases currently in the system will continue to be heard under the existing legislation.

J. MacPhail: Well, I'm not quite sure why the minister can't give a definitive answer to this question. I'm not quite sure why at all. The Labour Relations Board operates under jurisprudence. The minister is surrounded by experience in that area. I'm not quite sure why the minister can't just say. Is an application to the registrar the commencement of argument? Or maybe the minister could say....

[1105]

Well, let me ask this. Maybe I'll take it from this approach, Mr. Chair. What advice would the minister give to those who would like to proceed under the rules of the previous Labour Relations Code in ensuring that they have commenced argument?

Hon. G. Bruce: If the issue is before the board prior to this legislation being proclaimed, it will be heard under the existing legislation. If the issue comes before the board after the proclamation of this legislation, it will be heard under the new legislation.

J. MacPhail: I interpret that to mean that making application to the registrar is commencement, putting the issue before the board. There it is. Those who wish to work under the old act, get your application in now.

One of the reasons why I raise this issue.... I hope the minister doesn't think in any way that I'm belabouring a point. As the minister well knows, these matters affect people's lives greatly. The Labour Relations Board in this province plays a very significant role in ensuring the rights of all who are affected by this law.

Existing collective agreements have been negotiated without the knowledge that this government was going to change the rules of interpretation. I don't know whether the minister has been involved in any negotiations directly, but I do know that he has a wealth of expertise. He's demonstrated that. Often collective bargaining takes place in the context of ensuring protection, given the current rules of interpretation of the law. In fact, many collective agreements negotiate a clause to say that if the rules of law change, then the parties must come together and negotiate new provisions to deal with the rules of law, the rules of interpretation, but lots of collective agreements don't have that in place.

I'm wondering why the minister chose to enforce these new rules of interpretation on collective agreements rather than allowing the new rules to apply to collective agreements as they become renegotiated. That would have ensured that there could be no charge against the minister that he's breaking private sector collective agreements.

Hon. G. Bruce: I thank the member for her question.

In contemplating and looking at this, the substantive changes we're talking about in this regard are the purposes, now the duties. Six of those eight principles applied some time ago, although we've clearly restated that they now must be taken into account. That's the whole point of them. The whole reason for bringing them into existence is so that there is some consistency of lawmaking in this province. We think that benefits all.

The addition of the two principles. We've added one there in respect of the rights of employees as well as the rights of employers and unions, along with making sure it fosters the employment of workers in economically viable businesses. Taken together as eight principles through the adjudication process, I think they can only help to strengthen the labour relations climate and the economy of British Columbia with jobs for workers.

[1110]

I don't believe there's an imbalance in any of this. I'll state very clearly that this is not in any way, shape or mind an attempt to imbalance. What we're attempting to do is take what was there — in fact, I believe it was your government that brought in these principles — and expand on them and try to improve upon them. We think we are doing that. We are being very clear that they must now exercise — that being the board — their duties keeping these eight principles in mind, rather than just having regard.

I think there is fairness and balance here. I think there's protection in respect of the manner in which the board would review matters. We believe these principles need to be adhered to and need to be taken into account when one is adjudicating issues. That's why, as we've said, that proclamation.... Those that would find themselves in front of the board would be then under these eight principles.

With regard to your question, I don't think there is a vulnerability — if you like, an untowardness — in respect to contracts that were already signed and in respect of the fact that there are changes to the principles here now.

J. MacPhail: Well, I'll get into the specifics of that, but I'm always amused when a minister of this government — this government that is making the most radical changes across all aspects of life in British Columbia — stands up and says: "Oh, there's nothing really here." That's like saying: "Really, you know, we've changed the balance completely about what has to be taken into account, but don't worry. We've just added two new principles to six."

I hope the minister's been out talking to his stakeholders. Every single stakeholder, whatever side that stakeholder is on — whether it be on the employer side or the union side — is suggesting these changes are very far-reaching. The employer welcomes them, and the unions want their questions answered. That's all. That's what this debate is about.

Let's go from what the minister has just said — that these principles must be adhered to now, and that's the change. The minister has also repeatedly mentioned that other persons will be bound to apply section 2. Those are his words. Perhaps the minister could be specific about who will be obliged to adhere to the duties listed under this new section.

Hon. G. Bruce: I want to be clear. These are important changes — absolutely. They are very important changes. They come from where we've been in the past ten years. They come from trying to give some direction to the board so that there will now be consistency in how they apply the Labour Relations Code.

It was your government that brought in the six principles. I happen to think that those principles make sense. I don't happen to think that they should only be just left as kind of having regard. They're important current principles of how labour law ought to be adjudicated in the province of British Columbia. We think — and I can appreciate if you don't agree, although I wouldn't see why you wouldn't agree that the obligations of....

J. MacPhail: Just answer the question.

Hon. G. Bruce: That's fine. I'm just answering. But why you wouldn't agree that employees also ought to have rights like employers and trade unions under this code.... Maybe you do. I would hope that you do. In that respect, these are important changes.

I make no small measure of anything that we are doing. Clearly, the province needed significant change to get itself turned around, and we are doing that. We said we were going to, and we're following through with that.

These particular principles, rather than wiping them out and doing away with the purposes.... We've taken your principles, we've added to them, and we've said: "Look. They're good." We think we've strengthened them. Now we think that the board ought to pay close attention to those principles in its adjudication process. That's what we've done.

In respect of the other issue of the transition, I believe in '93 there was a new arbitration process brought in. What was that — section 104? You didn't wait for renegotiation of collective agreements for that, for whatever reason. You do things differently, one government to another. I understand that.

J. MacPhail: It was an improvement on the process, not a...way. People were clamouring for the new rules.

[1115]

Hon. G. Bruce: That may well have been. We think now the changes that we're bringing in are an improvement to the system as well. I suspect that as time goes on, we will see that this will work very effectively.

J. MacPhail: Mr. Chair, just a couple of procedural matters. Given the limited time with this legislation

being rammed through, I hope we could actually answer the questions that I ask rather than going back and canvassing all of the previous questions that I asked. It's very important.

My last question was this. I'll ask the two of them together, Mr. Chair, just because of time. I asked the minister: who would be bound? He has repeatedly said that other persons would be bound to apply section 2. Who specifically is he suggesting has to abide by this?

My second question arises out of what his comments were just now. The minister has admitted that there are changes. Fair enough. What problems is the minister trying to solve that needed to be solved — specific examples — with the addition of the two principles?

Hon. G. Bruce: The people that would be affected by this include the people at the board, obviously, who make decisions and also the arbitrators that are appointed under the code. Okay? That's very clear in that respect.

I respect your concern that I answer the question that you ask and the time element of that. We would look at problems differently than you would. I don't want to wax eloquent, which I'm certain you don't want to sit through, as to the problems of the last ten years, but the problems of the last ten years are what we're trying to turn around here. We took the economy of the province and trashed it — your government did. I'm left with nothing left to do but try and find ways within labour relations and employment standards in British Columbia to inspire confidence once again; to find ways to encourage people — British Columbians, in fact — to invest again in their businesses and their people and to expand their businesses, which creates jobs in the province; and also, hopefully through this, to inspire confidence in people who invest from outside this province.

We think these types of changes are important in what we, I and our government, consider to be the balance of labour relations in British Columbia.

J. MacPhail: I would just ask the minister, an experienced parliamentarian, to go through the Chair.

I believe I know the minister's rant very carefully on that. He left out the part about fast ferries. He can take it from me that I know his rant, including the one about fast ferries.

These are very specific questions I'm asking. He now admitted that arbitrators have to abide by these rules. It isn't clear from the legislation, but it is now. That's exactly why I was asking my questions about this being the equivalent of contract-breaking, because arbitrators will have to live with these principles given the interpretation of collective agreements. So let's get into some specifics around that, then — the new sections. Let's get into it.

Section 2(a) — and this is brand-new — says: "The board and other persons who exercise powers and perform duties under this code must exercise the powers and perform the duties in a manner that (a) recognizes the rights and obligations of employees, employers and trade unions under this code." I'm wondering: does

that mean that by the including of this, the word "employees" in here...? Is that going to require decision-makers, including arbitrators, to recognize the rights and obligations of employees, unions and employers, and that that will mean individual workers, the employee, will have to have a greater claim to participate as separate parties to Labour Relations Board matters, arbitration cases?

[1120]

Hon. G. Bruce: Let me be clear. There's nothing hidden here. Duties under this code, section 2, "The board and other persons who exercise powers and perform duties under this code must exercise the powers and perform the duties in a manner that," and then (a) to (h). Anyone who knows about labour law — and you do.... That's arbitrators; that's people. Okay, so it's there. That's clearly stated as far as I can see, right there in the act, but for your edification we've said that.

J. MacPhail: Oh yeah, we do understand arbitrators. You're right. I bet you everybody....

Hon. G. Bruce: Well, you're talking....

J. MacPhail: How silly of me to even ask the question.

The Chair: Order, members. Let's hear the question.

Hon. G. Bruce: I'm not arguing. Excuse me. I'm not at all intoning that the question was silly. I'm not meaning that at all. If that's how the member takes it, I apologize for that. That's not what I'm talking about. I'm talking about the fact that there was some intonation that we were trying to secretly hide something. I'm absolutely not trying to hide anything at all, with all due respect. I'm not taking the member's questions as being silly at all.

In regard to the rights and obligations of employees, yeah.... I mean, we're saying that it is employees that make up trade unions. It's actually employees that make up the basis of a good, vibrant, economically viable and profitable business. We're saying in both instances that where you would recognize trade unions, where you would recognize employers, there is a third very vital component that's probably as important if not more important than the other two components: the very people that actually make up the trade union or make up the business. We're recognizing those rights. Is there something untoward in that respect? I think not.

J. MacPhail: Yes, it's a substantial change in labour relations law. Maybe the minister just put his foot in it by saying that without seeking advice before he actually said that. It is a huge change in labour relations law — huge. Until this point, that has not been how labour relations law has been interpreted, other than to say it is a given of jurisprudence that in labour rela-

tions law, where trade unions are involved, the trade union represents the employee. Secondly, where there are duties of fair representation questions arising, the employee has the right to raise those questions. But now there are two things the minister has admitted. One — and this is an addition — in the section that says "the board and other persons," it was, before, the board that must exercise the powers.

The minister has clarified that there are new additions that arbitrators must abide by these rules. Arbitration hearings now could proceed in this fashion: you have the trade union that may have a principle of collectivity it's making on behalf of bringing the case of one individual worker forward, or there may be an individual worker that gets to be heard as well, which allows the employer to interfere with the collectivity of the workplace by taking issue directly with the employee. That's brand-new, and somehow the minister thinks that's an improvement.

Hon. G. Bruce: I think it's important that one read all eight principles together. Of course, as the case would be in a debate like this — and I understand the importance of trying to canvass every section — it's also important to know that where you would have principle (a), which talks about recognizing the rights and obligations of employees, employers and trade unions under this code — understandable in the concern that's being expressed by the member opposite — you must then read (c) as well. It says: "...encourages the practice and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees." It isn't picking one over the other. It's recognizing all as part of industrial relations in the province when one is taking into account adjudications, whether they be arbitration decisions or at the board.

[1125]

J. MacPhail: My gosh, the minister is reading much more into subsection (c) than I would have anticipated. It says "collective bargaining." The labour relations procedures deal with much more than just collective bargaining and the procedure of collective bargaining. They deal with, in fact, the certification and decertification of bargaining units. The Labour Relations Board has the ability to review arbitrators' decisions that have nothing to do with collective bargaining. Now the minister has admitted that there will be a third party to arbitrators' decisions, arbitrators' proceedings and Labour Relations Board proceedings, which is the employee. That, combined with the section of increasing the employer's right to communicate, inalterably shifts the fulcrum toward the employer's side, away from collective protection of employees at the worksite.

Well, let me ask this, then: have the rights of the employees been improperly treated at the Labour Relations Board or ignored in the past? What problem was the minister trying to correct, Mr. Chair?

Hon. G. Bruce: I appreciate that the member opposite is asking questions. I would take it that certainly

she doesn't disagree with the fact that one would state that employees have rights. That's what we're stating right here in subsection (a) of section 2 — that employees have rights, as do employers, as do unions. I, quite frankly, think it's a balancing, a recognition of that fact — that it is employees that make up unions. It is employees that make up businesses.

So why, by gosh, wouldn't you have that stated in your principles, when one is looking at the adjudication of how you're making decisions — that you take into account all that you represent? It isn't just two separate bodies that can have at it. There has to be some attention paid to the fact that the rights of employees are there to be paid attention to. There'll be lots of times, I'm sure, where cases are heard, and there's nothing to do specifically about the rights of employees.

But it's stated and clearly enunciated so that the board — arbitrators — understand that employees are a very important part, obviously, of the economy of British Columbia, of successful unions and of successful businesses. They're, in fact, what make it all go together.

J. MacPhail: The minister, I submit, Mr. Chair, is being disingenuous, absolutely disingenuous. The premise of collective labour relations law across this country is on the basis that employees join together collectively under labour law, under a union, and deal with the employer as a bargaining unit. That's what a bargaining unit is. To say anything else is to ignore the law as a consequence of a bargaining unit.

I asked the minister a question: what rights of individual employees have been ignored or ruled against in the past that the minister is now trying to correct? Name cases. Name problems, please.

Hon. G. Bruce: Just coming back on your opening comments there, in respect to the unions and companies, again I refer to (c) so that we take all of this together. Principle (c) says: "...encourages the practice and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees." I mean, it couldn't be clearer in the aspect of: employees have rights. They also have rights to choose whether or not they wish to be certified and by whom they wish to be certified.

That's what these eight principles are talking about. What we're doing in this regard is showing that they be adhered to. Again, I'll come back to the whole issue of where we've come off over the last ten years. We're attempting to improve the labour relations in the province of British Columbia. It is a challenge in regard to getting people to look at this province differently than they have in the past. We're attempting to do it in a moderate and balanced way.

We were very clear on the changes that we talked about in our campaign, in our *New Era* document and in the platform we had put together, probably one of the most comprehensive election platforms that any party has put forward. We are following through on

those items, as we have laid out. Employee rights were clearly stated. I think it's on page 11 or page 12.

[1130]

J. MacPhail: Gosh, I'm sure people will feel reassured about going to that *New Era* document, because of course we have to read all of this in the context of the bad, bad, bad old days. I gather the minister is saying that so much was lost to labour unrest that he needed to tighten up the rules so that labour unrest wouldn't be able to affect the economy anymore.

Yesterday the minister brought in legislation, though, that increases the likelihood of worker injury and illness, which far, far outweighs any loss of productivity due to a day's job action.

It'll be interesting to see, over the course of the next six months, 12 months or two years, with the minister's great changes to labour law — whether it be workers compensation, employment standards or the Labour Relations Code — just how much productivity is enhanced. Will there be more work-related injuries and illness because of his watering down, axing protection under workers compensation? Will this kind of legislation under the Labour Relations Code get the predictions, the economic forecasts for the next five years in this province up beyond No. 10? Let's see.

Let's go on to section 2(b). We didn't get an answer specifically. You know, Mr. Chair, those who would be listening here would think that this is all esoteric. In fact, there are years and years of labour law decisions in this province that set precedents. There's a body of jurisprudence that is as big as this room. If the minister had any specifics to cite, he could easily cite them, just the same way the Attorney General does when he's pushing back on some legal point. He does it very effectively. He cites jurisprudence; he cites the principles of common law.

The minister could easily push back and say to me: "Here are the specific cases where employees' rights have been ignored by the Labour Relations Board, and here's why we had to correct the law." He chose not to. I would suspect that there aren't decisions that point to the fact that employees' rights have been ignored, and where they have been ignored, the Labour Relations Board has dealt with those under the duty of fair representation.

What's really the intent of section 2(a) is to give the employers another crack by picking off one employee against the other in a collective bargaining unit situation where we now enter the element of an employee siding with the employer against the wishes of the very bargaining unit to which she belongs. That's what I predict. Call me wrong; stand up and prove me wrong. The minister should stand up and cite jurisprudence that says that employees' rights have been ignored.

We'll talk about the economy because there's the problem the minister's trying to correct. Thirteen months into a new government, and they're No. 10. They are No. 10 in the economy for the years 2002, 2003 and 2004. You bet the government needs help, because looking over the horizon it looks pretty dismal down

the road. What this government has introduced is a section.... Let me read it, Mr. Chair: "The board and other persons who exercise powers and perform duties under this code must exercise the powers and perform the duties in a manner that (b) fosters the employment of workers in economically viable businesses." This is new.

Let me ask a series of questions on this. I expect the minister is resting a great deal of hope on this. I hope he's resting more than a prayer on this. The definition of "economically viable" is nowhere to be found in here. So where did I go? I had to go to the dictionary. There are two definitions of "viable." One is: "capable of living, developing or germinating under favourable conditions." That's a basis of survival. That establishes the baseline for survival of a business. There's another definition: "capable of success or continuing effectiveness." The latter suggests that the board, and now arbitrators, would have to assess the impact of businesses' growth, businesses' effectiveness, businesses' profits. It suggests that there would be some determination by the Labour Relations Board about what is the proper effectiveness or growth or profit for a business.

[1135]

Here's what I suggest may happen as the board interprets this particular clause about "fosters the employment of workers in economically viable businesses." I expect that the Labour Relations Board will now become a venue for huge disclosure of business facts, business intentions, because that will require the board to assess the financials of a business to determine its viability. I assume that the board will have to investigate that. It's now their duty. They will investigate how viable a business is.

Let me ask a couple of questions. I'm nervous about bringing this up, given the event I had to attend this morning, where I found out that the rules of natural justice don't apply throughout this institution. But the rules of natural justice do apply at the Labour Relations Board. There are rules of natural justice that dictate disclosure.

Here's the question. Well, let's start with the basic one: can the minister explain how he expects the definition of "economically viable" to be applied?

Hon. G. Bruce: I thank the member for the question. As she built up to this, we talked about what we're trying to correct and about labour unrest in the province of British Columbia. After, during, through and up till now, the investment community or the business community, or even the small mom-and-pop shops that one wouldn't always put in their mindset as the investment community in the province, simply saw British Columbia as a very poor place to do business. In fact, the policies of the former NDP administration were such that people literally moved their businesses out of the province. They saw that the government that was in existence had no appreciation or understanding of what it took to operate a business — what people put on the line to invest and to try and create jobs, or what it meant to them. All they really wanted was for

the government to get out of their way and allow them to get on with doing what they do best.

British Columbia was clearly seen as a very, very poor place to do business. You're right, absolutely right. As a former administration, as a government, the NDP did that in spades. They took what had once been a strong and prosperous province and drove it — the member opposite is right — to the bottom, right to No. 10. Out of ten provinces we're in tenth spot. What an absolute disaster those previous ten years were in driving this province virtually into bankruptcy.

What do we have to do? We have to do a number of significant things to once again have people feel confident that the province is a good place to invest. The member opposite has mentioned the rating of tenth. We're also seeing today, after one year, a move from tenth to third spot in respect to being a good place to invest. Before they'll invest, first you have to gain the confidence of people. It doesn't just happen — blank. You don't have an election, and then people say, "Oh, they've changed the government. That's wonderful. That's great. Simply by changing the government, now everybody's going to get busy and start investing again" — not after ten years of government that absolutely thrashed the business and investment community of British Columbia.

However, after a year of us working along a process of trying to bring about change that was necessary to instil confidence in people, in the citizens of British Columbia.... We're working on that. In respect to the investment community, people now see the province as the third-best place in Canada to invest. And yes, I'm quite confident that by the time we finish doing what needs to be done and as we roll around to the end of this mandate, British Columbia will be right up there as one of the best places, if not *the* best place, to invest in all of Canada. That's what we're intending and attempting to do through the changes that we've made here to the code.

[1140]

The member speaks about other issues in respect to the WCB, which I realize is not the legislation on the floor today, and also speaks about other issues relative to employment standards, which is clearly not on the floor today. But I'm happy to talk about them because they are all of one package. They are all together. They are all significant changes. The WCB.... I mean, it's not a question.... The opposition tries to make out, in respect to members that would be in need of benefits from WCB.... In fact, the member knows all too well — the former government, after commissioning the Royal Commission on Workers Compensation in British Columbia — that it was in trouble. It needed to be fixed, and we are fixing it. The people who are currently on benefits of WCB will remain the same benefits they have today as they will tomorrow when the legislation is brought in or as we pass that legislation, and we will still have amongst the best benefits in a WCB system in respect to any others in Canada.

J. MacPhail: The minister didn't answer my question, but that's not a surprise. If the minister had actu-

ally paid attention to debate last night, he would have known that the investment report says British Columbia is the third place to invest now, but no one is going to invest. Private sector investment is going to fall in this province over the next two years.

The question was about how the minister is going to apply this section. Well, let me just ask a very specific question, then. In its submission in response to a discussion paper on the Labour Code changes, the Business Council of B.C. called for the introduction of the term "viable" in this section in order to ensure that the Labour Relations Board made international comparisons as opposed to comparisons with businesses operating in our jurisdiction. The Business Council of B.C. got its wish. Viable is in there, and this minister will probably interpret — because he wouldn't answer my question — that international comparisons will have to be made.

Just yesterday I read an article in the *Vancouver Sun*. It was an excellent article written by Gordon Hamilton in the business section about the pulp and paper industry. The minister raised earlier the pulp and paper industry. I'm sure the minister read it; it was in the business section yesterday. This article talked about how the viability of the pulp and paper industry here in British Columbia is directly impacted by markets well outside Canadian jurisdiction — South American markets, Russian markets, old eastern European markets, old Soviet Union markets — and that the competitiveness, the viability, of those industries far exceed the viability of the industry in British Columbia.

I'm curious to know, given the fact that the B.C. Business Council asked that viable be included in the Labour Relations Code and that it mean international comparisons: will our pulp and paper workers now have to become viable in the context of South American and Russian markets?

Hon. G. Bruce: We have some of the most creative and good opportunities, if you like, in respect to the forestry sector anywhere in the world right here in British Columbia. The pulp and paper sector.... You know, it was my community that lived through that last strike. I talked to the people who were on strike, I talked to the union leaders in those particular instances, and I also talked to the people on the industrial side of that. We went through a dispute there for ten months. At the end of that ten-month dispute, nobody was any further ahead — neither the company nor the union. In fact, all will admit that....

J. MacPhail: That's not my question; we're running out of time. That's not my question.

Hon. G. Bruce: In fact, you're asking that question.

J. MacPhail: We're running out of time.

The Chair: Order, member.

Hon. G. Bruce: You're asking for economic viability. They went through a ten-month strike, and nobody

gained anything. Nobody gained anything, and the community got hit.

Now, your terminology of where you would....

J. MacPhail: It was a very specific question.

Hon. G. Bruce: Yeah, I'm coming to your very specific question. What you would like me to do is to stand and say economic viability in the province of British Columbia means that one has to run to the bottom — the race to the bottom. That's where you've gone. The former administration understood that all too well. It was a race to the bottom; they raced this province to the very bottom.

I don't happen to believe that. I happen to believe that we've got entrepreneurial spirit, people who know how to work in a workforce...

J. MacPhail: Answer the question.

Hon. G. Bruce: I am answering that question.

J. MacPhail: Answer the question.

The Chair: Order, member. Order.

Hon. G. Bruce: ...and rebuild the economy. Economic viability isn't a race to the bottom; it's a race to the top. We have got the creative skills and the abilities of people in this province to do just that.

[1145]

J. MacPhail: Clearly, no one read the article by Gordon Hamilton about the pulp and paper industry. Stop filibustering with this silly rhetoric. It was a specific question.

Economic viability in South America and Russia results in lower pulp production costs in those countries than in British Columbia. The Business Council wanted comparisons with those countries to be included, and they asked for the word "viable" to be included. Why does the minister get up and give some stupid rhetoric...?

The Chair: Member.

J. MacPhail: I'm sorry, Mr. Chair. I withdraw it.

It's absolutely ridiculous rhetoric that has nothing to do with answering the question, when these are important questions. Let me, then, continue to ask the minister the series of questions. I'll tell you, they are matters that he refuses to address. His silly bombastic rhetoric is ticking this clock. It just goes to show how absolutely undemocratic this whole process of bringing in closure is.

Answer these questions. That's what I'm asking the minister. What impact does this section have on disclosure of business information to unions? Will the comparisons of economic viability be international comparisons? Lastly, the minister repeatedly said.... Actually, in his backgrounder he cited the example of a

railway company's union bargaining structure as an issue that this particular amendment was to address. He could only mean the B.C. Rail bargaining council. After he tells me whether the business information will be disclosed to unions now to determine economic viability, after he answers the question about whether international comparisons of viability will apply now, he then can answer the question about how he expects this change to affect the B.C. Rail bargaining council.

Hon. G. Bruce: If the companies in a dispute raise economic viability, the board may very well ask them to open up their books and put it on the table.

J. MacPhail: There were two other questions.

The minister himself brought up the race to the bottom. I asked whether this economic viability will meet the tests asked by the Business Council, which will mean viable in an international comparison — i.e., with South America and Russia, who have no environmental standards or labour standards equivalent to British Columbia. Will that mean the test of economic viability?

The minister specifically cited that the bargaining structure of the railway company unions would be changed by this section. What does he mean?

Hon. G. Bruce: I used it as an example of how the bargaining structure could be impacted — absolutely, as units; not certification or decertification, union or non-union, but from the standpoint of an operation with a bargaining unit.

We talk about economic viability. The member asks the definition. How about: that the province maintains and enhances its competitive position in the world marketplace? Is that a test? Is that something that should be taken into account?

J. MacPhail: I guess British Columbians will be the judge of that, won't they? Whether we live in a society where we want to compare ourselves and become viable with jurisdictions that have no labour standards, no environmental standards.... I guess British Columbians will judge whether that's what they voted for.

[1150]

Sections 1 and 2 approved.

On section 3.

J. MacPhail: I want to make it quite clear that there are dozens of questions left to be asked, but I refuse to take away time from the debate around the legislation that will affect people on social assistance and people with disabilities. I want to make it clear that there are many, many questions gone unasked and therefore unanswered.

Section 3 is the right to communicate. This is where the Minister of Labour, when he was on *Voice of B.C.* a few days ago — Wednesday, May 22, he was on this — was referring to the Labour Relations Code changes

expanding the employer right to communicate and interfere in union organizing. The minister said: "We have strengthened the aspect of intimidation and coercion. It's just not on." Perhaps the minister could explain how that has changed. While it is included in an amended section to the bill, it contains exactly the same words in this matter that were in the previous legislation. Perhaps the minister could explain his words.

Hon. G. Bruce: By allowing a process where parties that genuinely want to talk about an issue in respect to hearing a certification process, certainly, you'll greatly reduce where one might be faced with challenges or charges of intimidation or coercion. If you follow through on the fact that you have the right to communicate: "Subject to the regulations, a person has the freedom to express his or her views on any matter, including matters relating to an employer, a trade union or the representation of employees by a trade union, provided that the person does not use intimidation or coercion...." You go on to the fact that we're going to provide for the...

Interjection.

Hon. G. Bruce: Yeah.

...opportunity — sorry — of a private, supervised....

I smell a little smoke. That's okay. I think we're okay. It was just the hot air in here or whatever.

If you provide for the opportunity for a supervised meeting to be held, which can be at the request of either the union or the employer, and that meeting is supervised, it provides a half-civilized way for people to discuss and hear from either of the parties the facts of the situation. That must be done. We will build on that regulation. We will talk to both labour and business on how best to go about that.

Generally, what we envision happening is that after a certification request has been had and the cards have been put into the board, there's a ten-day window in which a vote must be conducted. During that ten-day window and only during that ten-day window, either the employer or the union rep can ask for a meeting to be held. It's a supervised meeting. Both parties can attend. They can state their cases. It's not a debate. Then they leave. The employees then are given the opportunity to go ahead and conduct their vote.

J. MacPhail: I asked a question about the provisions saying that it's just not on and that "we have strengthened the aspect of intimidation and coercion." The minister didn't answer the question because in fact there's been no change — no change whatsoever. It's not been strengthened at all — no change to it whatsoever. In fact, I would suggest that the proposed language of section 3 appears to be the weakest protection in all of Canada. In Alberta, the great jurisdiction that this government bows to every day, the Alberta code prohibits employers' speech that constitutes coercion, intimidation, threats, promises or undue influence,

while this language only prohibits intimidation or coercion.

Can the minister explain why he decided to change this law so that it's the weakest in all of Canada?

[1155]

Hon. G. Bruce: Of course, Mr. Chairman, it's not. Let's just read it back. This is already existing in the code. The old section 8 in the code reads: "Nothing in this code deprives a person of the freedom to communicate to an employee a statement of fact or opinion reasonably held with respect to the employer's business." But the new legislation reads this way: "Subject to the regulations, a person has the freedom to express his or her views on any matter, including matters relating to an employer, a trade union or the representation of employees by a trade union, provided that the person does not use intimidation or coercion." There is a significant difference in that respect; it's stated there.

One then must follow through with the process of how one can go about actually discussing things in the workplace so that they don't have to do it all out behind the garbage can and in the back alley and in darkly lit corners and the like.

J. MacPhail: I was relieved that the minister didn't somehow suggest that there was no change here, because he knows full well that the granting of a right to an employer to communicate changes completely the balance of the right to join a union at the workplace — completely. Make no mistake: no one is saying otherwise. Employers are saying this. Employers are lauding this change, because it now gives them a direct right to communicate with employees. Employers are now saying, "This is exactly what we wanted," because the previous law protected against employer interference — completely protected against it.

Even the Alberta code hasn't sunk to this level of employer interference, but in B.C. we've got a new made-in-B.C. standard. We're tenth among ten jurisdictions. We're at the bottom of the barrel for employee protection.

[1200]

Section 3 approved on the following division:

YEAS — 63

Falcon	Coell	Hogg
L. Reid	Halsey-Brandt	Hawkins
Whittred	J. Reid	Bruce
Santori	van Dongen	Barisoff
Nettleton	Roddick	Masi
Lee	Thorpe	Hagen
Murray	Plant	Collins
Bond	de Jong	Nebbeling
Stephens	Abbott	Neufeld

Coleman	Chong	Penner
Jarvis	Anderson	Orr
Harris	Nuraney	Brenzinger
Bell	Long	Chutter
Mayencourt	Trumper	Johnston
Bennett	R. Stewart	Hayer
Christensen	Krueger	McMahon
Bray	Les	Nijjar
Wong	Bloy	Suffredine
MacKay	Cobb	K. Stewart
Lekstrom	Sultan	Hamilton
Hawes	Kerr	Hunter

NAYS — 2

MacPhail

Kwan

Sections 4 to 9 inclusive approved.

Title approved.

[1205]

Hon. G. Bruce: Mr. Chairman, I move the committee rise and report the bill complete without amendment.

Motion approved.

The committee rose at 12:05 p.m.

The House resumed; Mr. Speaker in the chair.

Report and Third Reading of Bills

Bill 42, Labour Relations Code Amendment Act, 2002, reported complete without amendment, read a third time and passed.

Hon. G. Collins moved adjournment of the House.

Motion approved.

The House adjourned at 12:06 p.m.