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3RD SESSION, 37TH PARLIAMENT

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Afternoon Sitting

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THURSDAY, OCTOBER 24, 2002

The House met at 2:04 p.m.

Introductions by Members

K. Manhas: I'd like to make an introduction I was asked not to do, but I did not say I would not. This might provide an important lesson to this person on how to deal with a politician. I'd like the House to make welcome an important personality, at least to me: my new legislative assistant in her first time in the House, Sarah McLaughlin.

[1405]

Hon. C. Clark: In the Speaker's gallery today we have some remarkable students. They represented British Columbia at the eighth Canadian Skills Canada competition this year in Vancouver. Skills Canada competitions allow our students to showcase their skills and demonstrate their excellence in a wide array of areas every year, improving the image and the status of technology and trades careers in B.C.

They did something extraordinary this past year. Team B.C. beat out every province and won the Skills Canada competition, bringing home medals in 31 competitions. These young people demonstrate that British Columbia need not play second fiddle to any other province or in any other sector. We can compete and we can win. They demonstrate, I think, the general direction our entire province is heading in.

It is my pleasure to introduce them to all of you today: Dave Heyduck of Osoyoos Secondary is here from Osoyoos; Anthony Yang of Walnut Grove Secondary, from Langley; Jason Shellborn of the Abbotsford Career Technical Centre, from Dewdney; Tim Hung of Eric Hamber Secondary in Vancouver; Kris Armstrong of the Abbotsford CTC, from Abbotsford; Jason Gussen from Hatzic Secondary, from Pitt Meadows; Emerson Ramirez, from Windermere Secondary in Vancouver; Michael Taekema from Sardis Secondary, from Chilliwack; Johnson Ng and Jackson Jue of Port Moody Secondary, both from my home riding of Port Moody-Westwood; Tyler Bancroft and Jonathan Taggart from Eric Hamber Secondary; Roselynn Vernwood from Vic High in Victoria; Chris Holbrow and Sean McMurchy of Robert Bateman Secondary, both from Abbotsford.

I'd also like to recognize Brad Radmaker of Earl Marriott Secondary from Surrey. Brad will be representing British Columbia on Team Canada at the World Skills Competition this June in Switzerland. Congratulations to Brad and all of the Team Canada winners.

Hon. L. Stephens: Visiting the precincts today are some other very excellent students. From Apex Secondary School in Langley there are 12 grade 11 students with their teacher, Mr. Johnston. They're here to learn about government procedures, the legislative procedures of government and also the history of this beautiful, wonderful building that we all cherish and value

so much. Would the House please make them welcome.

Hon. S. Bond: I want to join my colleague in congratulating the students. I want to recognize, in particular, the post-secondary students who participated on Team B.C. at the national skills competition that was held in Vancouver. I can tell you, I was in Vancouver when the medals were presented. It was one of the most high-energy, exciting events. Over 1,000 people were in the facility. Parents were there; students were there.

Team B.C., I should tell you, literally kicked butt. We beat the second-place team by a significant number of... Okay, I take back...

Interjections.

Hon. S. Bond: All right. Moving right along, Mr. Speaker....

An Hon. Member: A technical term.

Hon. S. Bond: It is a technical term. Thank you.

I want to tell you that these are extraordinary students who are the future of the province of British Columbia. Their skills are significant. They will be the future of skilled workers in this province. I'm so pleased that they were recognized. It is a legitimate, valid option. I know there are students and parents here today and teachers with them as well.

I want to introduce several post-secondary students: Matthew Greenless of Kwantlen University College, from Surrey; Desmond Hart of BCIT, from Burnaby; and Paul Kettlewell of BCIT, from Langley. I'd also like to recognize Eric Vachon of UBC, from Burnaby. Eric will also be joining Team British Columbia as they compete in the World Skills Competition in Switzerland in June. Please join me in welcoming and congratulating these extraordinary students.

V. Anderson: I would ask the House to join me in welcoming here today Ray Jones, who has come here to visit and have meetings with the Minister of Water, Land and Air Protection. Please welcome Ray into our precinct.

[1410]

Mr. Speaker: Hon. members, I would like to introduce a special guest in the gallery this afternoon. Daphne Izard is visiting us today. She's been married to Ian since 1984.

Daphne and Ian met in the precinct in 1977, when Daphne was an essential member of the Hon. Garde Gardom's staff. She worked directly with Mr. Gardom from 1977 to 1986. Daphne and Ian are the parents of Sasha and Diana, and she is joining us today to celebrate Ian's 25 years of gainful employment with the Legislative Assembly. Please join me in extending a warm welcome to her.

**Statements
(Standing Order 25b)**

SURREY BUSINESS EXCELLENCE AWARDS

D. Hayer: I would like to speak today on the merits of teamwork that creates strong business. Last night in the riding of Surrey-Tynehead, the Surrey Chamber of Commerce held its annual Business Excellence Awards ceremony. This sold-out event was a very successful event with the help of many volunteers, sponsors, chamber directors, the president for the year 2002-03 Bill Hayes, executive director Patsy Bourassa, Anita Patil and all other staff members.

To achieve nomination status means they all are winners, but without teamwork, without all employees and business managers and owners working together, none of them would have made this honours list. Part of the success of these businesses comes from the environment this government has created for small business to succeed. I was past president of the Surrey Chamber of Commerce for '96-97, and for many years I was the board director, and I know from personal experience how hard our Surrey businesses work to succeed.

With that, I would now like to name the Surrey Business Excellence Award winners. For small business, Liquid Labs and CAQTI Cosmetics; for medium business, Astrographics Industries; for large business, B.C. Biomedical Laboratories; new entrepreneur of the year, A Dog Day Afternoon, founded by Evelyn Devonshire in my constituency; customer service of the year, Gold Room Jewellers; and the businessperson of the year, Lloyd Craig, president and CEO of Coast Capital Savings.

My colleagues and I ask that everyone in the House join me in congratulating these business success stories

REFORM OF HEALTH CARE SYSTEM

J. Kwan: I rise today to speak about an important initiative that's taking place across this country. Sponsored by the B.C. Health Coalition and supported by hundreds of organizations across the country, the Call to Care initiative lays out eight progressive principles to help guide the reform and renewal of our health care system.

Universal health care is the most powerful expression we have of our commitment to each other and to the greater public good. Its future will determine whether those values still have meaning and a place in our society. But we must continue to ask the basic question: will health care remain a public good or become a private commodity? Poll after poll shows Canadians and British Columbians believe health care should remain public and be a public good and not a private commodity.

But they're being worn down. Right-wing governments like the one we have in B.C. pay lip service to the values of medicare. Bit by bit, cut by cut, they're making the case for privatization. A few weeks ago, we

learned that what now passes for emergency care in a small community in the Fraser Canyon is a broken telephone outside a locked emergency door. Who can blame the people of this community if, even for just one moment, they wonder whether private companies could do a better job? That's exactly the reaction right-wing governments hope for. What better way to promote privatization than by so mismanaging the public services that private, for-profit options begin to look appealing?

Overcoming that right-wing strategy requires that progressive voices reaffirm our commitment to medicare's core values but also take very seriously the need for medical reform and renewal. The status quo is not an option. Money is needed, but it's not the only answer. Times have changed dramatically since medicare was founded, and we need to modernize and reform the delivery of public health care in a way that responds to these changes but remains true to its core values. That's what the Call to Care initiative is about, and the opposition congratulates the B.C. Health Coalition for their work.

[1415]

BURNABY CAVALCADE OF STARS

J. Nuraney: Last Saturday night the Burnaby Arts Council held its annual event called the Cavalcade of Stars. This was the tenth anniversary of this program, where the best of Burnaby's talent was showcased. This program encourages our youth to show their talent and skills on the stage in various forms of art. The event was held in the Michael J. Fox Theatre, which is also a pride of our community.

As I watched our young performers, I could not help but feel proud of our superb talent. Some of the performers have attained world renown and are performing in the entertainment centres of the United States.

Michael Bubl , a singing sensation with a voice that harks back to the great singers of the forties and fifties, recently signed with Warner Bros. Records. His debut CD will be produced by yet another famous British Columbian, David Foster, and is scheduled to be released on Valentine's Day of 2003. He first performed for the Burnaby Arts Council some six years ago.

Murray Sawchuk, another performer, started his magic at the age of ten, became professional at the age of 15 and began to tour the world and became one of America's top magicians at the age of 20. He presently performs in Las Vegas.

Jonathan Chan. This 12-year-old is proficient both in piano and in violin. In 1996, when he was only seven years old, he won the medal of the Royal Conservatory of Music. He has also performed for the Prime Minister of Canada, and his performance was an absolute delight.

Michael Cheung obtained his ARCT, performer's diploma of distinction, at the age of 14. He has won several awards and certificates of distinction. His performance on piano was a very impressive treat.

Other performers included Tap Dance Society, Spotlight Dance Centre, youth ballet; Alita Dupray, a jazz singer; Fraser River Fiddlers; Shayne Johnson; Nadia Kyne, a young flute player; Sean Bayntun; and Darcelle's Dancers.

The evening was a wonderful experience, and what is more pleasing is the fact that there are people like Rose Farina, Nancy Gobis and Linda Cunningham working with the Burnaby Arts Council seeking out talents to produce the stars of tomorrow.

Mr. Speaker: That concludes members' statements.

Oral Questions

HEALTH CARE IN NORTHERN B.C.

J. Kwan: The opposition has obtained a memo from Peter Warwick, the CEO of the northern health authority. It's a frank assessment of the failure of the government's health care reorganization. Mr. Warwick says that the planned cost savings have not materialized. He says the cost containment strategies are not working, and he says the reorganization of health care is going ahead much slower than planned. The result: the northern health authority has incurred a \$1.3 million deficit for the first four months of this year, when it was planning for a surplus.

Does the Minister of Health Planning agree with her hand-picked CEO that her plan for health care in the north is failing?

Hon. C. Hansen: I would invite the member to a briefing in terms of the division of responsibilities between health planning and health services. The hiring of the CEOs is the responsibility of the boards. The boards are appointed under the advice of the Minister of Health Services.

Mr. Warwick was the acting CEO of the northern health authority. We now have a permanent CEO in place by the name of Malcolm Maxwell, who has just recently assumed that position.

The information in Mr. Warwick's memo is accurate in that the health authorities are being cautious in how they roll out the redesign of health care, because we want to make sure that health care in each of these communities is not compromised in any way. If it means taking a little bit slower pace in some cases to make sure that we're 100 percent certain that patient care and safety are not being unduly compromised, then that is wise and prudent. Thanks very much.

[1420]

Mr. Speaker: The member for Vancouver–Mount Pleasant has a supplementary question.

J. Kwan: The minister's words are just full of rhetoric, and the minister knows that.

In his memo Mr. Warwick warns that the deep cuts are on the way in the north if things don't start to improve soon. That's on top of the huge cuts that have

already been put in place. The memo is right here for the members to see.

The northern health authority just fired its recruiting consultant and is planning to reduce the number of operating rooms to four in Prince George. Doctors say it's going to be a disaster. When will the minister listen to what his own bureaucrats and the public are telling him and take action to avert the looming health care crisis in the north?

Hon. C. Hansen: The action we are taking is, in fact, averting the crisis that would have happened had we continued with the status quo in health care. I would advise the member that we made a commitment to maintain a health budget in this province. We in fact increased it by \$1.1 billion. Every single health authority in the province, including the northern health authority, has seen an increase in its budget over what was there a year prior.

When I was up in Prince George just a few weeks back, what I learned while I was there is that we now have an emergency room that's fully staffed with emergency room nurses for the first time in many years as a direct result of the changes we have made. We are opening new renal dialysis programs in Terrace. It's the first time that whole northwest portion of the province has been served with renal dialysis services.

Throughout the north we are seeing, community by community, renewed stability in terms of the ability to recruit doctors, to train nurses and to train young British Columbians from those communities in health professions so that they can serve those communities in the future.

Mr. Speaker: The member for Vancouver–Mount Pleasant has a further supplementary.

J. Kwan: Maybe the minister would take a moment and read the memo, and he'll know what is true and what is not.

It is not only the north where this minister's health care restructuring is failing. It is in every part of the province. Let me give the minister one more example. On October 4, Ingeborg Fuhrmann was admitted to the Peace Arch Hospital after breaking her hip, following a stroke. Ms. Fuhrmann is 72 years old.

Soon after, she was kicked out of her room and forced to spend a weekend lying in a hospital hallway. Her daughter, Doris Madigan, says she was left defenceless. No one was able to see her or help her. She was not even able to get assistance to use the wash-room. Why, Mr. Speaker? Ms. Madigan says it's because of provincial cutbacks. The hospital administration says it's the result of overcrowding. If the minister's plan is working as he says it is, can the minister explain why this 72-year-old senior citizen spent a weekend lying in the hallway of the hospital without assistance?

Hon. C. Hansen: The legacy of health care we inherited as a government was one that saw emergency

rooms being closed. It saw hospitals that were being shut down around the province because they couldn't be properly staffed.

Interjection.

Mr. Speaker: Order, please.

Hon. C. Hansen: We had ICUs in communities in the province that were being closed down for months at a time because that previous government had not trained the number of nurses necessary to make sure these facilities are properly staffed.

We have brought in a major redesign of the way health care is delivered in British Columbia. It is working because we're actually able to give more dependable, stable care to British Columbians in every single community throughout British Columbia. I think we're going to see continued improvement. Clearly, we have a long way to go to change from the status quo that was there, which clearly was not working, to a new design that will work for British Columbians in the future.

SEA TO SKY HIGHWAY AND TRANSPORTATION INFRASTRUCTURE IMPROVEMENTS

R. Sultan: My question is to the Minister of Transportation. Recently the government outlined its plans to upgrade the Sea to Sky Highway, Highway 97 and Kicking Horse Canyon. My constituents support the 2010 Olympics. They also support seeing that the province's transportation needs are met. Can the Minister of Transportation explain the government's objectives for Sea to Sky Highway and other transportation projects in British Columbia?

[1425]

Hon. J. Reid: It's really important to look at our transportation network as it integrates, but one of the responsibilities of the province is safety. As we recognize where the safety problems are, the Sea to Sky Highway has been identified for many, many years as being a safety concern. In the years 1996 to 2001, there were 3,300 accidents along that section of highway and, unfortunately, 34 tragic deaths. So it has been clearly identified as a problem with safety. Whenever we look at a highway where there is an increased usage, it changes the dynamics. It is time to address those safety issues, and, the same as the Kicking Horse Canyon, those are safety issues that need to be addressed.

Mr. Speaker: The member for West Vancouver-Capilano has a supplementary question.

R. Sultan: A number of my constituents have expressed their desire to be heard on the transportation needs of our province. After ten years of neglect by the previous government, many of my constituents want us to get moving on improving the transportation infrastructure. Can the Minister of Transportation tell us

how British Columbians can provide input into decisions being made by her ministry?

Hon. J. Reid: It is important that as we move ahead making decisions in transportation, we do involve people from all the regions of the province. To that end, we're going to have regional transportation advisory committees. They will be in place by the end of this year — just formalizing a structure for them now. That will provide the regions of the province with direct input into the provincial decision-making to advise us on the priorities, the spending of scarce dollars, to make sure we're making the very best decisions that are going to work for those communities and those regions.

COMMUNICATION WORKSHOP FOR HEALTH CARE STAFF

J. MacPhail: My colleague was referring to Ms. Fuhrmann, the patient who had to sit in the hallway for three days. The same week that Ms. Fuhrmann was lying in a hospital hallway with a broken hip, down the hall the Fraser health authority was putting on — wait for it, Mr. Speaker — a communications workshop for employees. Entitled "Delivering Difficult Messages," the workshop promises health care professionals help in communicating messages they themselves don't believe or support.

This government's botched reorganization of the health care system has made things so bad at the local level that the health authority now needs to hold workshops to teach middle managers how to spin bad news. Can the Minister of Health Services tell us whether he thinks it's better to spend money coaching employees how to deliver bad news to patients — bad news like, "We don't have a room for you, Ms. Fuhrmann" — or whether it would be money better spent to actually give her a room?

Hon. C. Hansen: I have come to realize, in the 18 months I've had this responsibility, that there are lots of people who would like to try to protect the status quo in health care. Clearly, there are those voices who are working against everything we try to do to modernize and fix and redesign the health care system in this province.

As I wind up talking to front-line workers as I go around the province.... Initially we find people who are anxious about change. I think that's human nature — that people are anxious about change. But increasingly, as I go around to hospitals and talk to some of the nurses and the other health professionals in the facilities, they're saying they're starting to see improvements. They're starting to see it actually working better throughout the province. I'm the first one to admit that we have a long ways to go to make sure that the health care system is actually back on track again compared to what we inherited 18 months ago.

Mr. Speaker: The Leader of the Opposition has a supplementary question.

J. MacPhail: Here's the notice. It says: "Delivering Difficult Messages." It's from the health authority, talking about delivering difficult messages as a result of this government's action. The workshop is about telling seniors and the employees who have to deliver the services to seniors like Ms. Fuhrmann that there's no room for Ms. Fuhrmann in the hospital. British Columbians don't want their increasingly scarce health dollars spent on teaching spin to health care managers. They want it spent on patient care — patient care they were promised would be there when they need it, where they need it. This government promised that to British Columbians.

[1430]

Can the Minister of Health Services explain to Ms. Fuhrmann and her daughter, who is distraught, why money is better spent on spin workshops rather than on a room for Ms. Fuhrmann?

Hon. C. Hansen: One of the instructions that we gave to health authorities in the province was that they had to, first of all, look at administrative costs in the province. That's the first place that they had to go in terms of trimming costs. We took all of the money that was saved by...

Interjection.

Mr. Speaker: Order, please.

Hon. C. Hansen: ...reducing administrative costs and administrative duplication in the province, and we directed that money into patient care. All of the initiatives that we have undertaken in health care have been aimed at saving money in places where it's not necessary and redirecting those dollars into direct patient care so that people throughout the province can get the care they need. Hon. Speaker, we're starting to see the results of that reinvestment, and we will continue to see improvement in the months and the years to come.

GOLD TRAIL SCHOOL DISTRICT AND SCHOOL BOARD SPECIAL ADVISERS

D. Chutter: My question is to the Minister of Education. During this past summer, a special adviser was appointed to the Gold Trail school district to help manage its budget and to address student needs. Last week the special adviser released his report. Could the Minister of Education tell us how she intends to address the findings of the report and ensure that students in my riding are receiving the education they deserve?

Hon. C. Clark: I recognize, as a result of calls from many members in the community, including the hard work of the MLAs in that community, that this school district was facing some very, very significant challenges. They had some significant budget challenges that they had been struggling with for many, many years since amalgamation. They have some other significant challenges with respect to student achievement in the district, and they have some big issues with equity

and the delivery of education between different groups and different parts of the district.

I recognized that. That's why we appointed the special adviser. Dr. Saywell has come back with his report and identified a whole number of very, very serious concerns. I have directed the board to scrap its plan and to come forward with a new plan forthwith that will allow them...

Interjection.

Mr. Speaker: Order.

Hon. C. Clark: ...to deal with these challenges with which they are faced. As Minister of Education, I need to be concerned at all times with the quality of education that we provide and make sure that that similar quality is available in every single district across the province, and that's what we've directed the district to do.

Mr. Speaker: The member for Yale-Lillooet has a supplementary question.

D. Chutter: It was only last April that the minister was entrusted with the responsibility to appoint special advisers to help school boards to provide quality education to students. In fact, the Gold Trail school district was the first to have one appointed. Can the Minister of Education tell us how the ability to appoint special advisers will help to improve the education of students?

Hon. C. Clark: We received requests from across the district, from a whole host of different groups, to think about appointing a special adviser in this district. Not only did we hear from MLAs, but we heard from local government, and we heard from parents that there were concerns that were profound, which we needed to make sure were addressed.

Our province, based on estimates from across the country, is about the third-best funded per pupil across the country, and that's in an environment where we have the slowest economy in Canada. I think that speaks to our government's commitment to make sure that education is a priority...

Interjections.

Mr. Speaker: Order, please.

Hon. C. Clark: ...that spending money on education is a priority and that making sure that every student, no matter where they live in British Columbia, has access to a world-class...

Interjections.

Mr. Speaker: Order, please.

Hon. C. Clark: ...top-quality education that will allow them to compete anywhere, anytime, around the world.

[End of question period.]

Orders of the Day

Tabling Documents

Hon. G. Collins: Pursuant to section 10 of the Auditor General Act, I'm pleased to table the annual report of the office of the auditor general for British Columbia for the fiscal year 2001-02.

[1435]

I call committee stage debate on Bill 64.

Committee of the Whole House

HUMAN RIGHTS CODE AMENDMENT ACT, 2002 (continued)

The House in Committee of the Whole (Section B) on Bill 64; J. Weisbeck in the chair.

The committee met at 2:36 p.m.

On section 3, sections 5 and 6 (continued).

J. Kwan: The issue we're discussing, of course, is about education and information programs. The minister has appointed himself to be responsible for this, taking it away from an independent source. Of course, the government has also taken away some of the key components to education — that is, not just the requirement to promote the understanding of the code but also to promote the acceptance of this code.

There is a myriad of questions that surface with respect to this issue. Just prior to the lunch break, I asked the minister the question around some of the programs that were cancelled and were no longer funded, like, as an example, the "Youth Act Now — End Discrimination" program to fund programs that address issues of discrimination and bullying in the schools and communities. In the year 2001, 96 proposals were received. Sixteen actually received funding. The minister did not answer the question about how he will now engage with youth in the education system in combatting discrimination and bullying, and I would like an answer from the minister on that.

Hon. G. Plant: The question we're debating is whether, in this new code, there should be a responsibility for developing and conducting a program of public education and information designed to promote an understanding of this code. That is a fundamentally forward-looking issue. The decision government has made is that there should be a provision in the code that speaks expressly to that and that the minister who is responsible for the Human Rights Code should be the minister responsible for developing and conducting that program.

We're not here to debate the details of programs that were administered by the Human Rights Commission. I don't think we're going to advance our under-

standing of the basic decision that is before us by dealing with particular decisions made by the commission with respect to particular programs. There is no doubt that the commission has made some decisions to cut back or eliminate the support it provided to particular programs. I suppose we could have had that debate in the context of the estimates debate this spring, but we're not going to get very far along the road towards deciding what to do about section 5 by dealing with the particular programs that the commission undertook.

[1440]

J. Kwan: With all due respect, the change before us right now, the section we're debating, is as follows: "The minister is responsible for developing and conducting a program of public education and information designed to promote an understanding of this code." Within that responsibility, the parameters which now exist under Bill 64, I think it is very relevant for this House and for British Columbians to know what the intentions of this government are.

Just before the break, when I asked the Attorney General to clarify what his intentions are, he said: "Don't worry; trust me. I will do my job." Yet if you press for more details, the minister would likely get up and say: "Don't ask me that now; ask me later." Well, no. The debate is before us now; the bill is before us now. The changing of the responsibilities of the Human Rights Act in the area of education is before us now. What are those changes we are anticipating?

I think it is incumbent upon the minister to provide those answers and not just hide behind a process that says: "Don't ask me now. Ask me during estimates." We will ask questions during estimates. There's no doubt about it — absolutely. But those questions are just as relevant now, relative to this legislation, because that's what this minister is changing. He is changing the mandate and the provisions in the existing Human Rights Code. What are his intentions? What is he going to do? What are the programs? How does he expect that youth will be involved in understanding and learning, advocating and promoting human rights in British Columbia?

Hon. G. Plant: I think I already answered a variation of this question. The fact is that we spent a fair amount of energy over the past year or so looking, fundamentally, at the structural issues that are the main heart of this legislation, and we continue to devote a significant amount of energy toward the anticipated transition from a dysfunctional structure to the new structure this bill is intended to put in place.

At the same time, I am mindful of the interest that exists out there in the public and in the communities, particularly of groups that are interested in human rights issues and the question of education. That is why we have ensured that the minister will have responsibility for developing and conducting a program of public education and information designed to promote an understanding of this code.

If the member herself has suggestions about what that program of public education and information should look like, I would certainly welcome them. She should feel free to correspond directly with me about those suggestions. She may be of the view that there are particular programs carried on by the commission that she thinks we should look at seriously. If that's so, I would certainly welcome that. We are not, however, going to get to that point until we reach a point of deciding whether or not the government should have this responsibility. That is the issue before us now.

J. Kwan: So the minister has refused to answer the question. He has refused to answer the question. Maybe (a) he doesn't plan to do education involving youth, or maybe (b) he has no idea, no inkling. It's sort of like the Health minister: charge seniors first, with income testing, without looking at other options.

The Chair: Member. Member. Would you sit down, please, member. Would you take your seat, please. Let's confine our questions to section 3. Thank you.

J. Kwan: Yes, Mr. Chair. The questions are related to section 3. I'm setting out a juxtaposition of how the minister answered the question or didn't answer the question.

That is to say, I suppose it's common practice amongst government to simply pass the buck: "Let's kill the program, eliminate it, and then we'll think about how to do it later." It's the same thing with what has happened in the health care system, and it's the same thing happening right now in the education programs. Right now the debate before us, Mr. Chair, is a section about education programs. I'm asking the minister, as he's changing the legislation, what his plans are.

[1445]

What education programs will we see? How does he expect to promote the education and understanding of the Human Rights Code? He has already said he's not going to promote acceptance of the code. He will simply send out pieces of information or pieces of paper, and then that's it. I've already stated that's not good enough. It's not good enough for a government that proclaims it cares and wants to advance human rights.

On the issue around education, which is what we're debating under this section — education and information — what are the plans for the government and this minister to promote education? How are they going to go about doing it? These are legitimate questions, because formerly in the act, that work was being done by the commission, an independent arm of government subject to scrutiny by the public.

I asked the minister earlier how much he has set aside for some of these initiatives. He couldn't say. There's no number set aside. Well, formerly the Human Rights Commission had a budget to do their work. It was laid out; it was clear. Some of those questions were answered by that. They provided public information

for British Columbians to see and to access. I don't see any indication that this is going to be the case.

There's no answer with respect to how this government, this minister, is going to deal with accessing, providing, encouraging and including youth in advancing human rights. Will the government conduct research into the human rights performance of government, like the commission did, with respect to the lack of accessibility of government services and information to persons with disability? Is that part of the scope under this section, section 5, around education and information?

Hon. G. Plant: No, that's part of section 6.

J. Kwan: Okay. The minister goes: "It's section 6." Well, will the minister do that work, then, under section 6? Sections 5 and 6 fall under the realm of section 3 of the act, which is what the government is eliminating, and that's what we're debating right now.

Hon. G. Plant: Well, I am not sure that I captured a coherent question there. Section 6 speaks for itself. Section 6 is about research and public consultations.

J. Kwan: How arrogant can we be? Well, Mr. Chair, we can go through this line by line. Let's go through this line by line. We're debating Bill 64, Human Rights Code Amendment Act, 2002. We're debating section 3 under this bill, in which sections 5 and 6 are repealed and the following substituted:

"Education and information programs

5 The minister is responsible for developing and conducting a program of public education and information designed to promote an understanding of this Code.

Research and public consultations

6 The minister may

(a) conduct or encourage research into matters relevant to this Code, and

(b) carry out consultations relevant to this Code."

That's what this debate is about.

The Chair: Member, would you please be seated for a second. I am finding this line of questioning very tedious and repetitious, so I would think that we would try to get to the point. Ask your questions of the minister, and be much more pointed. Thank you very much.

J. Kwan: Well, the minister just said he didn't understand what I said. He was suggesting that my questions were incomprehensible, and I am laying it out clearly for the minister so he can follow what my questions are. I'm sorry if the minister finds this tedious. I'm sorry if people find this tedious.

The Chair: Member, would you be seated, please. Would you please be seated. That is not the statement the minister made. It is the statement that I have made — that I am finding it tedious and repetitious. For the Chair's sake, would you please move on.

J. Kwan: Actually, Mr. Chair, I have not gotten an answer. If the minister does not understand my questions, then I have to find another way to lay it out, a way in which he can understand and follow what it is that I am saying. That's what I'm attempting to do here. I thought that under committee stage, we actually have an opportunity to ask questions.

[1450]

Relative to "Education and information programs" and "Research and public consultations," which fall under section 3 — which is what we're debating right now in this House — which is to be eliminated from the old act with a new substitution of what is prescribed under Bill 64.... I'm asking questions relative to those programs within it.

What are the expectations that British Columbians can see? What can they expect to see from this minister in this area? These are questions that not only I have but other British Columbians have as well. In fact, I know they have, because I've received correspondence on it. As we speak, new correspondence has just come into my office from people who have e-mailed us, who want to ask further questions of the minister around these changes. I'm just doing my job. I'm doing my job.

I would like the minister to explain the question around research. Will he conduct research into the human rights performance of government, like the commission did, with respect to the lack of accessibility of government services and information to persons with a disability? That's the first question I have for the minister, and I hope to get an answer.

Hon. G. Plant: The issue before us in section 3 is twofold. The first part of that is whether the minister should have a responsibility for developing and conducting a program of public education and information designed to promote an understanding of this code. We've had a discussion about that for quite some time. My sense is that the member for Vancouver–Mount Pleasant is opposed to providing the minister with that responsibility. I sense that we're getting close to the moment when we ought to make up our minds as a committee about that provision.

The second part of section 3 is, if you will, the answer that the government gives to the question of whether the minister may have the power to conduct or encourage research into matters relevant to this code and carry out consultations relevant to this code. The government's view is that the minister should have that power. I can tell the House that if the Legislature gives the minister that power, I intend to exercise it.

I have studied the research that has been done from time to time by the former Human Rights Commission, and I am confident that government and my ministry can do at least as good a job as the former commission did with respect to those issues. The details of what research and/or what consultations might be undertaken are interesting questions. However, they are, sadly, for the moment entirely hypothetical, because the minister doesn't have that power yet.

The question is whether the minister should have that power. That's the issue before us. My view is that the minister should have the power. I've said that if the minister is given that power and I'm the minister, then I intend to exercise it. I intend to exercise it in a manner that gives effect to the purposes of the code, which we have already approved in this committee stage debate.

J. Kwan: The issue, in my view, is bigger than just having the right to exercise that power — so the minister says — in some non-independent agency that will be doing this work, because in this case we're talking about monitoring government practices, which the Attorney General is part of.

It's fundamental to ensure that human rights are enforced and that violations of human rights, when they are found, are challenged. In my view, to have a non-independent agency such as the ministry and the Attorney General do that work compromises the very work it's supposed to do and the goal and the mandate it's supposed to have.

Now the minister says: "Trust me. Don't worry. I'll do it." As I said earlier, I remain suspicious about what exactly this government will do. Let me ask this minister this question: will he conduct research into the employment equity performance of the government?

[1455]

Hon. G. Plant: I might draw the member's attention to the fact that the power that we're speaking of here is a power both to conduct and to encourage research into matters relevant to this code. If I were the minister, I could cause someone in the ministry or someone contracted by government to conduct research, or I could encourage others to conduct that research. I think that's the power that the commission had.

The question is whether we think that power should continue, that opportunity should continue. If we make that decision here in the Legislature, then certainly I will be interested in the member's views on what areas should be researched and what consultations ought to be conducted.

J. Kwan: I'll just give one example where I think, perhaps not in a big way but certainly not in the spirit of supporting the advancement of human rights, this minister, this ministry, has violated.... I know of an individual who was trying to get access to the new Human Rights Code. The person is blind and could not get the information because her computer did not provide the information in a form that she could read in terms of the changes. The minister actually sent out a letter to some people — of which I have copy from one person who received this letter — to say that there would be a redline version of the act to show the differences, the changes that have taken place between Bill 53 and Bill 64.

This person, who is blind, tried to get a copy of this information and couldn't. They phoned the ministry's office, but couldn't. The ministry's office just said: "Hey, we don't have that available." In a very small

sense, the person, who has a visual disability, could not access the information, tried to get that information from the ministry and was not able to do so. In a very small case, the person was denied, I think, the access that she duly should have had.

The person ended up getting the information — unfortunately, not through the ministry but through other sources: the defenders of the human rights coalition. They provided the information so that she could read it on her computer. The computer would read it out loud to her in terms of what the changes are so that she could see for herself what the information was. It wasn't forthcoming from the ministry.

This is from a minister who says: "Don't worry; we'll protect everyone." The minister couldn't even perform the very basic minimum, which is to get the information out to the public so that they know what's going on. If part of the mandate is to promote education about the code, you would think that the bare minimum that the ministry would do is to provide the information in a readable form for people who have visual challenges. That was not done. It simply wasn't done. What's the explanation? How can we trust him?

Hon. G. Plant: The member's question raises a difficult challenge for me. My information is that the facts that she has described are not the facts. That happens from time to time, and I'll refrain from saying how often it happens when it's this member asking questions. It happens a lot. So the member's....

J. MacPhail: At least she cares. No one else does — including you.

Hon. G. Plant: You know what, Mr. Chair? I spent days trying to convince the former government to start sending its documents out to the visually impaired community in a way that they could read. The former government did not do that. I spent days writing letters to the members opposite when they were cabinet ministers, asking: "Could you please respect the needs of the visually impaired people in British Columbia?" They would not do that...

Interjection.

The Chair: Order.

Hon. G. Plant: ...until they were brought and required to do it. To hear those questions from the members opposite....

Interjection.

The Chair: Order. Order.

Hon. G. Plant: The hypocrisy they are capable of has no limits — no limits to the hypocrisy they're capable of.

[1500]

Interjection.

Hon. G. Plant: If the member opposite who is making her voice heard wants to engage in the debate, I am certain she will, but from her seat on the floor she should listen. The truth is that when she was in a position to make a difference, she had to be dragged kicking and screaming before she would make a difference in the lives of the visually impaired people of British Columbia.

Interjection.

The Chair: Order.

Hon. G. Plant: They came to my constituency office, and they said: "Why will this government do nothing to help ensure that the people who have visual impairment have access to the information that people need in order to form decisions about government programs?"

Interjections.

The Chair: Order, members. Order.

Hon. G. Plant: The member from Mount Pleasant raises an issue that is of concern to me. The facts that I have been...

Interjections.

The Chair: Order, members. Order. The Attorney General has the floor.

Hon. G. Plant: ...told to date in respect to the matter brought to my attention a few moments ago by the Vancouver-Mount Pleasant member are different from the ones that she has relayed, but the issue is of concern to me. If she wishes to write to me to bring that issue of concern directly to my attention, I will certainly inquire into it.

J. Kwan: This is the answer from the minister. He tried to imply that somehow the question that was asked was a made-up question. That's what he implied that I did. You know what? That question came from the human rights defender.

Interjections.

The Chair: Order, members.

J. Kwan: If the Attorney General has forgotten what he said, he can check *Hansard*. It's not difficult to do — just like he forgot that he signed an accountability contract with the Premier.

Interjection.

The Chair: Order.

J. Kwan: All he has to do is look back on the record. It's there in black and white.

The question, for the record, came from the human rights defender. I didn't make the question up. The person was not able to get access to the ministry. Maybe if the minister speaks with his ministry staff, he'll know that.

The reality is that the person was not able to get access to the changes proposed under 64. The minister had promised that a redline copy would be made available to individuals, but the person did not get one.

By the way, it was just checked yesterday. The website does not show a redline copy. It's just the plain copy. There's nothing that actually shows there were changes in comparison. There was a letter from the minister who sent out a letter saying that a redline version of the changes will be on the website, and it isn't. Maybe the minister should double-check his facts before he goes about accusing people of not presenting accurate information, because his credibility, quite frankly, is on the line.

In spite of my efforts to ask the minister a question, he hasn't answered the question in terms of what the new research components will be. Will he conduct research into the employment equity performance of the government? That was the precise question that I asked. I just need a yes or no. Is that part of the work plan under this new research capacity for the minister? Yes or no?

Hon. G. Plant: I didn't hear the question.

The Chair: Member for Vancouver–Mount Pleasant, could you repeat the question, please.

J. Kwan: Mr. Chair, for the third time the question is: will the minister conduct research into the employment equity performance of the government — yes or no?

Hon. G. Plant: I certainly won't be able to consider whether or not I should do that until such time as we make a decision whether or not I should have the power that is conferred or proposed by the new section 6 of the act. That's the issue which is before us.

R. Stewart: I want to raise an issue here, because we've heard a request several times for an exhaustive list, I guess, of the types of research the Attorney General may undertake under section 5 or 6 as amended by section 3 of Bill 64. I wonder if I could ask the Attorney General if he has made an exhaustive list of the issues that he may choose to research into or conduct consultations on or promote education for. Or is it too early yet to have such an exhaustive list established?

Hon. G. Plant: I appreciate the question. I think it's early yet.

[1505]

J. Kwan: Well, I would like to know from the minister, then, what's being done now. The Human Rights Commission has been fired. The mandate falls within

the ministry to do this work. He says he can't do anything until the code has been passed, the new code, under 64. So what's being done now? Is there anything at all?

Hon. G. Plant: Contrary to the statement of the member in the last question, the Human Rights Commission has not been fired. In fact, it continues to operate as we speak.

J. Kwan: Well, I have press releases from the minister, from the government, saying that the human rights commissioner has been fired. Maybe he's forgotten about that too — slipped his mind, sort of like the accountability contract he signed with the Premier. I have a whole stack of press releases from this government firing the former human rights commissioner and the interim human rights commissioner.

Hon. G. Plant: The chief commissioner of the B.C. Human Rights Commission, appointed in accordance with the statutory requirements, is an individual named Keith Saddlemeyer.

J. Kwan: Mr. Keith Saddlemeyer is a member of the minister's staff which he says he's responsible for. If the minister says, "No, Keith Saddlemeyer is not a member of my staff," then the information that has been passed to the public is erroneous. I spoke just yesterday with a representative of the B.C. Human Rights Coalition who advised me that she's been dealing with Mr. Keith Saddlemeyer from the ministry's office, the ministry's staff.

Hon. G. Plant: Well, if the member is challenging the question of whether or not Mr. Saddlemeyer is in fact the chief commissioner of the B.C. Human Rights Commission, that's, I suppose, what parliamentary privilege is about. But the last time I looked, there was an OIC that appointed Mr. Saddlemeyer. Mr. Saddlemeyer is not an employee of the Ministry of Attorney General. In fact, the information I have received here, without having done much research to know whether this is in fact categorically true, is that he has not been an employee of the Ministry of Attorney General.

I'm not sure where the member is going with these questions, but there is in fact a Human Rights Commission in British Columbia. It has a chief commissioner, and the chief commissioner is discharging his responsibilities.

J. Kwan: Well, if the information I received is incorrect, then I suspect the B.C. Human Rights Coalition's information they received from the government is also incorrect, because that's where I received the information from.

The minister has refused to answer the question on if he will conduct research into human rights performance of the government, like the commission did, with respect to the lack of accessibility of government services and information for persons with disabilities.

He's refused to answer the question of if he will conduct research into the employment equity performance of government. He's refused to answer any questions relative to the educational programs, such as how he would outreach to the youth, such as the bullying program that has been cancelled or not funded anymore. He's refused to answer those questions.

I wonder if the minister will answer this question. Probably not, but I should ask it anyway. Will the minister be critical of his own cabinet colleagues if they are in violation of human rights provisions?

Hon. G. Plant: Actually, I have a public record already of being critical of my cabinet colleagues when they do not discharge their obligations.

J. Kwan: The question, to be specific, is about human rights violations. That is the bill before us that we're talking about. It seems to me the minister is refusing to answer that question as well. I'm not quite sure what he's afraid of.

How will he encourage human rights research?
[1510]

Hon. G. Plant: Well, I think there are lots of ways you can encourage human rights research. You could speak about the need for research. You could talk to people who are out there in the world who do this kind of research and sit down with them and examine the issues that are there and see whether they are interested in doing this research. It's a pretty open invitation and, I think, a welcome one.

J. Kwan: Another non-answer from the minister: "Oh well, it will happen. Something will happen." That's what he said so far on education, on research. Well, he's taken away the provision to ensure that the acceptance of human rights will be promoted by the new Human Rights Code. He's taken away that provision — unimportant; don't want to be the Big Brother to be doing that. That's what the minister said.

Who else will be doing the work of education and research? Does the minister anticipate that he'll be farming some of that work out to agencies, groups? I want to ask the question: what kind of funding does the minister anticipate will be provided for this function?

Hon. G. Plant: Well, I won't have any funding to do this unless we decide in this chamber whether or not the minister should have the power that is contemplated by the new section 6. So as soon as I find out the answer to that question, I'll be in a position to determine how to exercise that authority.

Interjection.

The Chair: Order, members, order.

J. Kwan: I guess the Attorney General's attitude is reflective of the new-era agenda — no consultation, no

transparency, no discussion. The minister doesn't want to answer questions because perhaps it's difficult for him. Perhaps there's no funding available for it. Maybe that's the real issue here. Maybe he's worried that the 77 MLAs sitting on the government bench....

The Chair: Member, be seated, please. I wish you would confine your questions to section 3.

J. Kwan: Well, relative to section 3 is the notion that the minister is suggesting that somehow perhaps he would not get the mandate to do this. Well, I question that logic, quite frankly. Is he anticipating that he would not have the mandate to do that, given that there are 77 elected government members?

The Chair: Member, would you please be seated. Member, would you please be seated. I would ask you once again to confine your questions to section 3.

J. MacPhail: I fully understand the rules of the House as well, and let me just try to rephrase the question that's acceptable to the Chair.

The member for Vancouver–Mount Pleasant asked what other sources may provide education and research. She asked a question about whether there might be agencies that would provide that same education or research.

The Attorney General rose up and somehow intimated that that couldn't even be contemplated until he got the power. Inside that was the Attorney General, in a petulant way, somehow suggesting that none of this would be decided until he could ram this legislation through, and then maybe he'd contemplate it. We don't believe that to be true. If it is, isn't that poor planning? If the Attorney General is somehow saying, "I can't possibly believe that I would get my legislation through, that the backbenchers may rise up and actually question this legislation," that would be a first in the history of this government. But he hid behind that to avoid answering the question.

Through you, Mr. Chair, to the Attorney General: is the minister at any point contemplating seeking outside assistance in delivering education and research?

[1515]

Hon. G. Plant: Yesterday in second reading debate, I spoke at some length about this subject. I spoke about the mandate that the bill confers upon the minister in the section which is now before us, but knowing that there was an interest in this subject generally, I also spoke at some length about at least two other ways in which the broad objective of educating people will be achieved. One of those is the fact that the Human Rights Tribunal itself will have an educative function in terms of helping people understand how to use its processes. That's just a summary of what I said yesterday. Another such is the clinic that will be established, which will have responsibilities for training and education.

Now, one of the problems with the debate is that the questions are asked again and again, and after I've answered them three or four times, which is the case in this case, I eventually find myself incapable of providing the same information over and over again. I understand the information is not acceptable to the opposition. I understand that we have a difference of opinion on whether or not the minister should have these responsibilities.

Fair enough. But the broad question of education, the broad issue of research and consultation is in part an issue of principle, if you will. It's whether or not the minister should have that responsibility. In addition to the responsibility that is contemplated by the new sections 5 and 6, there are the responsibilities that the tribunal and the clinic will have, which I spoke about and have just a moment ago summarized. In addition to that, I think there may well be opportunity to conduct or encourage research, as is contemplated here by the new section 6, and I can imagine a wide range of ways in which that research can be undertaken.

Let me say this. I agree with what I think the member opposite, the member for Vancouver–Mount Pleasant, was implying at one point in her remarks a few minutes ago, which was that to some extent, that authority may exist now without this provision. In fact, I have done that. I have conducted and encouraged research into matters relevant to this code. In fact, that is the work the administrative justice project has been undertaking. One of the work products of that was the 181-page background paper entitled *Human Rights Review*, which is part of the public consultation process that led to this legislation.

If I may say, with respect, to those who might doubt my intentions, I think that in the brief time I have been a minister with some responsibility for human rights issues, I have actually established a track record of showing my interest in and commitment to the conduct and encouragement of research into matters relevant to this code. I think it goes beyond that. If you take the code and its purposes somewhat more broadly than.... Well, in fact, you don't have to.

One of the first acts we undertook when we were elected to office was to appoint a task force that examined pay equity issues, public sector pay equity generally and the specific provisions of the Human Rights Code that deal with equal pay for equal work. That also was a very extensive study. It involved a considerable amount of research and resulted in a report that was presented to government. In both those cases, I could say that the work done by the administrative justice project and by the pay equity task force involved consultations with the public and with interested stakeholder groups.

What I think I'm laying out for the consideration of members is some indication that I have an interest in this subject, that I have a commitment to it and that I am willing to follow through on that commitment. I can inform the House that my interest in this subject has not waned. I believe there is a need for continuing research and consultations, and I'm hopeful that the

House will ensure that the legislation takes what I think is the desirable step of stating quite clearly on its face that the minister responsible for the code has the power to undertake that research and those consultations where necessary.

[1520]

J. Kwan: The minister keeps on saying: "Trust me; trust me. I'll do it. I have the power to do it, so don't worry. My interest is there." We have seen where the minister has gone, where his interest has been directed — elimination of legal aid as an example in terms of a significant portion of the funding for people who need legal aid. We know that. I don't know how one could simply trust this minister, when even his own colleagues didn't trust him in a non-confidence vote. Colleagues from his own profession could not trust him.

As we speak, Mr. Chair, e-mails are pouring into our office, questions for the minister. These are actually quite pointed, these questions. There are some statements as well.

I would like to ask these questions to the minister on behalf of this individual who sent this in just now to our office. She starts off, though, with a couple of statements:

"The Attorney General cannot realistically provide human rights education without a conflict of interest. The AG's legal services branch houses the lawyers that routinely fight human rights complaints all the way to the Supreme Court of Canada" — and then it lists some examples. "The cases were lost at the Supreme Court of Canada at a greater expense to taxpayers."

"The issue of the Attorney General providing education in human rights is also unlikely in this era of cabinet solidarity. Will the Attorney General risk criticizing a fellow cabinet minister" — the Education minister in this instance — "by speaking out against the lack of accommodation for special needs students in the school system? Will he encourage parents to file complaints against the Ministry of Education and the Minister of Education?"

It's a question that's just come into our office by e-mail today.

Hon. G. Plant: Well, then I want to take advantage of the opportunity to set the record as clear as I can on that general question.

I think that wherever people of this province believe they have been the victims of discrimination contrary to the provisions of the Human Rights Code, they should know there is in place a tribunal which is there to respond to those complaints, to receive them, to require the respondent to make answer and, if necessary, to move towards mediation, negotiation and adjudication of those complaints. For me, that need is there and that opportunity is there whether the complaint is against a private party, a neighbour or a government ministry. It matters not to me if the respondent is the Minister of Education or the member for Vancouver–Mount Pleasant or the operator of a corner store in some small town in British Columbia.

If someone believes they have been the victim of discrimination, they should have access to a process that is fair, effective, efficient and affordable to resolve those complaints. My strong view is that they do not have that access today, because the existing institutions do not function well. What we're trying to do is put in place new institutions that will function well, new institutions that will be independent. A tribunal will be as independent tomorrow as it is today, and the tribunal will continue to hear complaints against government tomorrow just as it hears them today.

I don't think there is substance to the contention that there is a conflict of interest. I respectfully suggest that those who make that argument may not fully understand the unique constitutional role that an Attorney General has in an executive council. Although I respect the fact that not everyone may understand that, my view is that there is no conflict. My view is that if called upon to speak out on behalf of human rights issues, I feel it is my obligation to do so irrespective of who is the target or the author of the discrimination.

[1525]

J. Kwan: Maybe what's at issue, then, in the public's mind is that they simply don't trust this Attorney General. The statutory obligation, as the minister says, is there. Maybe the issue is that people don't trust it, because they haven't seen it practised in reality. Maybe that's where the problems lie.

These questions come in, questions around a potential bias issue. The fact is that when the commission was in place, it was completely independent of government. The commission rightly took cases to the court. In the Meiorin case, the female firefighter denied a government position because of her gender went to the Supreme Court, and she won — good on her, and good on the Human Rights Commission, as well, for actually bringing that forward.

A person with a disability was denied a driver's licence because of his disability — good on that case as well.

The crux of the issue, aside from a trust issue in terms of who's going to carry out this task in a way that meets the public standards, is the issue around monitoring. I asked the question of the minister earlier: who's going to do the work of monitoring? There's nobody, especially when the work is to be done in-house by the government. There's nobody who is there to monitor — no watchdog. Where is the watchdog provision within education and research?

The Chair: Member, would you please be seated. Would you be seated, please. I ask you once again to please confine your questions to section 3. We're talking about education and information and research.

J. Kwan: Yes. My question, Mr. Chair — through you to the minister — is: where is the watchdog provision that should be required and that needs to be in place for the minister to actually do the job of research and education?

Hon. G. Plant: It appears that notwithstanding my valiant attempts, I have not succeeded in persuading the member for Vancouver–Mount Pleasant that the Human Rights Code should contain a provision that makes the minister responsible for developing and conducting a program of public education and information designed to promote an understanding of this code.

It appears that I have also failed to persuade her that the Human Rights Code should contain a provision that's required, which says the minister may conduct or encourage research into matters relevant to this code and carry out consultations relevant to this code.

I understand that she is opposed to these amendments. We have discussed them at some length. I do not think there is more that I can add to this discussion. I can say that these are here for a reason. They are here because the issues are important. If these amendments pass, the obligations and the responsibilities will be stated there in the code, to be discharged over time as the ministers who have this portfolio may feel they are able to, in all of the circumstances, as they try to do the job they are assigned to do in the best way they know how.

The question before us, of course, is whether these responsibilities should be in the act. I know that the member herself is interested, as are those who are corresponding with her, in detailed questions about detailed activities. That is not, frankly, in my respectful view, the issue that is before us. I also respect the fact that the member herself may disagree with my characterization of what the issue before us is.

What is clear to me is that we disagree on whether or not these provisions should be in the code. I think we have made that disagreement as clear as it can be made, and I am not sure that I am going to be able to provide the member with any further assistance in terms of understanding the operation of these two provisions.

J. Kwan: Why did the minister take away the requirement to hold public hearings that was in the previous code?

[1530]

Hon. G. Plant: The former act did not include any inquiry act or subpoena powers in relation to the public hearing component in what was section 6. I think the word "consultation" is broad enough to encompass the widest possible range of discussions, including discussions held at public meetings. The section as worded is good enough for the purpose of ensuring that where the minister believes it's important to do so, consultations can be undertaken that will ensure that the widest possible cross-section of views is obtained and heard.

J. Kwan: The previous act, under section 6(2), reads as follows: "The chief commissioner or the deputy chief commissioner may hold public hearings and consultations regarding matters relevant to this Code." The

new, revised act says: "The minister may...carry out consultations relevant to this Code."

Public hearings have been eliminated as a process. Why is that? Does consultation, in the minister's mind, already include public hearings? In my view, they're significantly different in terms of a public hearing versus what one might describe as consultation.

Hon. G. Plant: I've already answered that question.

J. Kwan: The minister talked about the requirement for subpoena powers. In my view, holding public hearings and consultation are not one and the same.

Hon. G. Plant: They are the same.

J. Kwan: They're not one and the same. Maybe in the minister's mind they are, in this supposedly open and accountable, consultative government. The reality is that when you have a blind person trying to access the new code, they can't even get a copy of that from the ministry in a format that's readable for her as we talk about the revisions of the changes to the code. In August the minister wrote a letter to people telling them there would be a redline version of the act showing the changes between Bill 53 and Bill 64. That didn't happen either.

A matter of consultation may mean one thing to the minister, but to the wider public it means something completely different. A matter of consultation may mean one thing in the mind of the minister, but its practice may mean something else altogether. That's what we've seen to date from this minister. There's no consistency to all of that, and that's the reality of it.

Sections 5 and 6. What are the changes that we see? We see the government eliminating the requirement to promote the acceptance of the Human Rights Code. We see the government taking away its independence — the formerly independent role of the commissioner to do education, information programs, research and public consultation. We see the government taking away the prospect of holding public hearings, making the new code far more restrictive, narrow in its parameters and vague in its responsibilities.

In the meantime the minister says, "Don't worry; trust me," when we know his past record spells it differently.

[1535-1540]

Section 3, sections 5 and 6 approved on the following division:

YEAS — 43

Coell	Halsey-Brandt	Hawkins
Cheema	Hansen	J. Reid
Barisoff	Nettleton	Roddick
Masi	Lee	Hagen
Plant	Collins	Clark

Bond	de Jong	Nebbeling
Stephens	Coleman	Chong
Anderson	Orr	Harris
Nuraney	Bell	Chutter
Trumper	Krueger	McMahon
Bray	Les	Wong
Suffredine	Cobb	Visser
Brice	Sultan	Hamilton
Hawes	Kerr	Manhas
	Hunter	

NAYS — 2

MacPhail	Kwan
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Section 4, part 1 approved.

On section 5, part 2.

J. Kwan: Section 5 is a significant one. The entire part 2 of the former Human Rights Code is being eliminated. Part 2 speaks to the Human Rights Commission and the advisory council, and of course, this establishes the Human Rights Commission and its advisory council.

To have the statutory responsibility for the Human Rights Commission and the Human Rights Advisory Council, if this clause under the new Bill 64 passes, it would mean we will no longer have a Human Rights Commission. We will no longer have a Human Rights Advisory Council. Before we move into eliminating this independent role that was put in place about five years ago, moving in the same direction as the rest of the country, could the minister please advise what role the advisory council had?

[1545]

Hon. G. Plant: The advisory council had the responsibility to inform the public about the work of the commission, ensure that the concerns of the public were brought to the attention of the commission — I think principally the chief commissioner — and advise both the commission and the minister on matters relevant to the administration of this code.

J. Kwan: With the elimination of the advisory council, how will the community be able to provide input into the Human Rights Code administrative process?

Hon. G. Plant: Well, one of the ways would be some of the opportunities for interested persons and members of the public to participate in some of the processes that might be instituted under sections 5 and 6. I believe, and it has been my experience, that interested members of the public are able to bring these issues to the attention of the minister directly. They frequently do so. That includes, of course, people with

expertise in human rights issues. There was an extensive amount of that sort of input undertaken in the context of the review we did as part of the administrative justice project, so I know there will be avenues available for people to provide advice on matters relevant to the administration of this code without the need for a statutorily created body to undertake that function.

J. Kwan: Will the tribunal or the clinic be undertaking that function in terms of receiving input from the public?

Hon. G. Plant: Well, I don't think probably in the way the advisory council may have done it in the past, but for example, I can imagine the tribunal receiving input and suggestions from time to time on issues like the rules they adopt for procedure for hearing matters. In that respect, I'm certain the tribunal will receive and listen to the input that it gets from time to time. I'm sure the clinic operators will also get suggestions from the people who use their services about how they might do a better job in providing those services. There will be some of that, but not, perhaps, in the way the advisory council used to function.

J. Kwan: So really, the only access for the public is through the minister. The tribunal does not necessarily do that work, and the clinic does not necessarily do the work, the function that used to be provided under the advisory council, so the only access is through the minister. The minister says we don't need that in the code; we don't need a statutory authority. It goes back to the whole issue around independence, the issue around access, and the capacity and ability for the public to provide that input.

In the previous section we've just seen that whatever program is put in place is at the discretion of the minister. It's up to him to decide by way of consultation. Public hearings are now gone, no longer available. It's a problematic, regressive step, if you will, in terms of receiving access for input.

How much is the annual budget for the commission?

[1550]

Hon. G. Plant: One thing I might say as we are discussing the advisory council, for the benefit of those who may be following the debate.... I think the advisory council was brought in when the current act came into force in the early days of 1997. My understanding is that the council was not actually appointed for the first 18 months. I think the council during its life provided two reports, and I'm not certain that the council had much success in persuading the commission to adopt its recommendations. Viewed from a distance, I'm not certain that the council during its life added to the process of our continuing development of our understanding of how human rights processes ought to work — or, at least, added much. In saying that, I want to be clear I'm not saying anything about the diligence

or the dedication of the people who may have from time to time served as members of the council. It's more a structural question.

I know this advisory council did also make some recommendations with respect to substantive amendments to the code, which the former government chose not to implement. So in that respect, too, I think you could say there was probably a sense of unfulfilled purpose. For that reason, also, I think we can make the decision to move forward without this council. The member was asking what the budget was for the commission. I'm not certain what financial year she means.

J. Kwan: For this fiscal financial year.

The Chair: For this fiscal year? Attorney General.

Hon. G. Plant: The budget for '01-02 is \$4.685 million. I don't have the number for '02-03 in front of me, but I expect it's in the estimates of the Ministry of Attorney General.

J. Kwan: Maybe I can give that information to the minister. The reason I ask this is important. One would have expected the minister to know, in an area as important as human rights, how much he has allocated to it in his budget this fiscal year and how much has been cut from it, then to anticipate the same amount being transferred to the clinic and to the tribunal. The information from the estimates process has it that the Attorney General's budget for '02-03 is \$3.9 million for the commission and \$1.2 million for the tribunal. It's a substantial difference in terms of the dollars. The question to the minister is: will the \$3.9 million attributed to the commission now be transferred to the tribunal, or does the money go back to general revenues?

Hon. G. Plant: I'm not certain I can give the member an exact figure at this point. We are still looking at what it's going to cost to operate the tribunal in its re-configured form, assuming this legislation passes. I expect that much of what is unspent from the current fiscal year will be available for the tribunal to spend in the balance of the fiscal year, assuming it gets up and running in the next few months, and then we'll get into the business of determining what the budget will be for the tribunal for fiscal year '03-04.

J. Kwan: It's a fairly straightforward question, I think. This act says the Human Rights Commission is now gone. The budget for it for '02-03 was \$3.9 million. In addition to that, there was \$1.2 million for the tribunal. Now there's a new system in its place. Well, how much money is being put forward for the new system? Is it the full \$3.9 million plus the \$1.2 million, or is it just \$1.2 million? What is it as a ballpark figure, if the minister doesn't have the exact amount?

Hon. G. Plant: That was almost exactly the question that was asked of me a moment ago, and I did try to answer it. I'm not in a position to give an exact num-

ber, because we are still putting in place the transition into the new system. While we have some pretty well-developed ideas about what the new system will require, we are still doing the final work necessary to put the new system in place. Then we will, of course, be on the cusp of a new fiscal year.

[1555]

But I am quite confident that all of the money that was allocated for both the commission and the tribunal will be available to ensure that we have funding for the new tribunal as we move forward into the post-transition era.

Whatever is left from the \$3.9 million and the \$1.2 million....

J. MacPhail: The post-transition era. When will that be — tomorrow?

The Chair: Order, member. Let's listen to the response, please.

Hon. G. Plant: Whatever is left from the \$3.9 million and \$1.2 million will be available for the tribunal when the tribunal is up and running, which I expect to happen before the end of the current fiscal year — some months before that.

J. Kwan: It's astounding. Is the minister saying he has not gone to Treasury Board with respect to this issue in terms of how much funding he needs to fund the new model, the new system? It will be unbelievable if it's the case that he doesn't know what the Treasury Board submission is.

Hon. G. Plant: The legislation will come into force by regulation. One of the reasons why that is so is that when we have the statutory framework in place, we will then be in a position to design the finishing touches of the structure that we believe will work. As we do that, we will then go to Treasury Board and cement the funds that are necessary.

I've already explained to the member that the dollars that are available now, I expect, will be available and will be spent by the tribunal when the tribunal is up and running, which I hope will be in the early part of the new year.

J. Kwan: The minister doesn't know what education programs are going to be in place. He doesn't know what research consultation is going to be in place. He doesn't even know what the budget's going to be, yet he's brought in a new model. He's eliminating the old Human Rights Commission. So he has no idea what this new model really is going to do or how much is going to be in place for it to do its work.

He says: "Don't worry; trust me." It's stunning. It's unbelievable for the minister to make such a suggestion. Have there been any negotiations with the Human Rights Coalition on how much money will be allocated or provided to them for them to do the tribunal work?

Hon. G. Plant: I actually think it's reasonable to start with the statutory framework. We, of course, have done a significant amount of work in anticipation that the change will take place, but the final details are not in place, as the member herself knows.

We were engaged in a process of public consultation after Bill 53 was introduced, and Bill 64 was introduced at the beginning of this week. It is different in some significant respects from Bill 53. We are building a model for how the new structure will work that will, I hope, be given approval by this assembly, at least the framework will be given approval, and in the months to come — and weeks to come; it's not going to take forever — we will put the finishing touches on the institutional design. We'll sit down with Treasury Board to ensure that we have adequate resources so that this tribunal can move forward and do the work it will be required to do.

J. Kwan: So the minister doesn't know. I asked a specific question around negotiations and discussions with the new agencies that are supposed to take over this work for direct access in terms of tribunals. Have there been any discussions or negotiations with these agencies in terms of what role they might take? How much would it cost the government for them to perform that task? Is the minister saying he doesn't know and that there have been no negotiations taking place?

[1600]

Hon. G. Plant: It's 4 o'clock on a Thursday. I just hope that when I say what I'm about to say, the member will understand that I'm trying to make sense of her question.

I actually was sitting in this chamber when they — it may even have been her, for all I remember — stood up and announced they were going to spend \$125 million on a mental health plan. In fact, they made that announcement without actually having secured any funding.

That's a pretty remarkable way to do things. I think the better way to do things is one step at a time instead of standing up and telling the people of British Columbia that they're going to spend a concrete sum of money when you don't even have permission to spend five cents of it. I'm not sure that's a model that works.

For me, we're doing this one step at a time. Yes, we have had some discussions with the coalition and with the Community Legal Assistance Society about their role, and we've certainly worked with them. What I can say is that we are also beginning the work to develop what I expect will be an RFP, or some process similar to an RFP, and working with the Purchasing Commission to ensure that we take the steps we need to take to ensure that as we move forward in the months to come, we put in place a program and an institution that is on solid and sound fiscal footing and that has the resources it will need to do the job we will be asking it to do.

[G. Trumper in the chair.]

J. Kwan: Isn't that fascinating? The minister has not gone to Treasury Board. He doesn't know how much is

going to be allocated for this work. He doesn't know what the process is going to be. He doesn't even know what it is that they're going to do. Yet when this piece of legislation passes, when this section passes, the government is going to eliminate the Human Rights Commission and the tasks and responsibilities associated with it.

He has no replacement. He doesn't know what the replacement is going to look like. He says: "We're planning it."

Then he brought up the whole issue around the mental health plan. I was just talking to members in the community about how it's going. "Are you guys getting the services? Is the funding in place that the government supposedly says is in place?" Meanwhile, we see mental health services, agencies, living rooms, counsellors, outreach workers being eliminated from the communities. Community agencies are shutting down because they don't have the money.

I ask them: "The government says the money is there. Where is it?" Maybe this is what's happened. The Minister of State for Mental Health has forgotten to go to Treasury Board. Maybe that's the issue here, just like the Attorney General who has not gone to Treasury Board to get approval to fund the tribunal and the clinic in the new model that is supposed to replace the Human Rights Commission. Maybe that's what's happened.

You talk to the people on the ground in the area of mental health, and they are saying that they don't see the money. The money has not flowed. They have not received it. If it has gone to the health authorities, they have not passed it on to the arena of mental health. That's why you see living rooms closing and you see counsellors and outreach workers being eliminated. People who have mental illnesses do not have access to services all throughout British Columbia. That's the reality of it.

Maybe therein lies the problem. The minister forgot to go to Treasury Board to get approval for it. Maybe that's the Minister of Finance's problem, actually. Is it any wonder under the new Liberal regime that we have the highest deficit ever in the history of British Columbia? Is it any wonder that they cannot manage their finances? They, perhaps, don't know what the ministers are doing because they haven't gone to Treasury Board. Or is it more plausible that the information is available and the minister is not providing that information in the House? Either way is equally bad. Either way it doesn't matter. The government is not providing the information.

What about the staff? I wonder if the minister would know what would happen to the staff. Will the staff currently working at the Human Rights Commission have the opportunity to be transferred to the tribunal model?

[1605]

Hon. G. Plant: I'm informed that the workforce adjustment policy is being applied here in the same

way as it has been applied to other agencies in government that are in a line-down situation.

J. Kwan: In other words, no. The staff at the Human Rights Commission would not be transferred to the new model or would not have access to the positions open in the new model because in the new model, as I understand it, the Attorney General is contracting out these services. I suppose the individual would be able to apply through an open process just like everybody else who is lined up, but none of the provisions around seniority, experience, etc., would apply to them. Those workers would have the rights within government but not in the new tribunal clinic model.

Hon. G. Plant: Well, I think I answered the question by saying that the workforce adjustment policy will be applied. Within the terms of that policy there are, as I understand it, many different options about what may happen to individuals that are employed in these agencies. No doubt a number of them will be let go. That is a regrettable consequence, I suppose, of restructuring.

I think the overriding public interest here is to move to the construction of a new framework that will operate a little bit differently and, I hope, more effectively. That, fundamentally, is the question raised by section 5 of this bill, which, as the member knows, will repeal the commission and the advisory council.

J. Kwan: There is a simple answer. The answer is just no. Why doesn't the Attorney General just say that? The minister wants to hide behind notions of: "I don't know. I haven't been to Treasury Board yet. I don't know what the funding is going to be. I don't know what the new program is going to be. I don't know anything." You start to wonder: what does the minister know, then?

We're bringing forward a brand-new act, a brand-new model. We're throwing everything out. This section talks about eliminating the Human Rights Commission. Never mind that. Let's just get rid of it. We don't know what we're going to replace it with. The staff, quite frankly, who are working there now wouldn't have a right to be transferred to the tribunal, to the clinic. There will be a variety of workplace adjustment initiatives and so on within government, but the government is going to contract out these services. That's the reality of it.

I don't know why the minister just doesn't come clean. Maybe it's difficult for him to admit what they are really doing. Maybe that's just hard for him to do. But if you're doing it, stand up. Stand up and admit it.

What will the intake process be like under the direct access model?

Hon. G. Plant: Well, I think that we're not there yet, because the direct access model really is part of the provisions around the new, expanded role that the tribunal will have.

The section that is before us is a section that will eliminate the commission and the advisory council. I certainly look forward to discussing the intake model when we get to the sections of this act that deal with the tribunal.

J. Kwan: So the minister is eliminating the Human Rights Commission and the advisory council. That's the section we are dealing with. In its place, the Attorney General says there will be the direct access model and says: "Oh, can't talk about that."

[1610]

Maybe the minister doesn't know what that model would look like either, seeing as he doesn't know how much is going to be required, what function or what education programs, what research programs are going to be in place, what consultation processes are going to be in place. Why not add this one too? Who knows? Let's just throw the baby out with the bathwater, and then we'll decide later.

Then on the process, he says: "Trust me; don't worry" — sort of like the Minister of Education when she increased pressures for the school boards for education. Sort of like that, Madam Chair. "Don't worry. I'm not cutting education funds. It's just that schools are closing. It's just that classroom sizes are increasing. That's all. Don't worry."

In this case around the Human Rights Commission, the government is eliminating the Human Rights Commission, eliminating the advisory council, but he has no answers on what some of the programs would look like once this takes place. It's rather astounding. He doesn't even know what the budget would look like once this happens. It really is quite astounding.

How does the removal of part 2 of the Human Rights Code, which establishes the Human Rights Commission and puts in place a chief commissioner, a deputy chief commissioner, a commissioner of investigation and mediation, the terms of appointment, its functions...? How does the removal of the Human Rights Commission comply with the Paris principles?

Hon. G. Plant: I respect that the member has interest in international law, but I'm a bit loath to get into a line-by-line discussion of the Paris principles. One of the requirements of the Paris principles is that there be an independent institution capable of dealing with human rights issues. Well, we'll have that. We have that now. It's called the tribunal.

There are other requirements of the Paris principles: that the people who are appointed to that agency be appointed for certain terms, that the agency be independent of government, that the composition of the members of that agency be diverse. Those are all aspects of this new structure that will be in place when the bill is passed, assuming it's passed. I think they all comply with the basic requirements of the Paris principles. I spoke about that in second reading debate.

I also spoke a little bit about the failure of the current model. Some will say I spoke at some length about the failure of the current model. My view is I didn't

speak at enough length about the failings of the current model, because they were many, and I think it's an exciting time here to move forward to a new model that I believe will provide complainants and respondents with a process that's fair, that's independent and that focuses on problem-solving.

I think we're doing some good work here. We're doing work here that I think is consistent with Canada's international obligations. I might point out that other jurisdictions around the country and, I think, in other parts of the world are wrestling with the problems of a model similar to the model we have in place now. I think there is a reform movement growing and that the reform movement that is building is a reform movement which will look to this new model as a leading-edge example of a system that will do a better job of protecting complainants and respondents than the current failed system.

I'm confident that we are in compliance with Canada's international obligations. I'm certain that the tribunal, in its operation, will continue to respect those principles.

[1615]

J. Kwan: So everybody else is wrong. The minister is right. The Greater Vancouver Japanese Canadian Citizens Association, the BCGEU, the Canadian Centre for Policy Alternatives, Amnesty International, the B.C. Association of Social Workers, West Coast LEAF Association, the Canadian Association of Statutory Human Rights Agencies, the B.C. Coalition of People with Disabilities and, I would venture to add, even the B.C. Human Rights Coalition — they're all wrong when they say that the government, by doing this, has stepped backwards in time by taking away the independent role of the Human Rights Commission to advance human rights, in violation of the UN Paris principles. All these agencies are wrong. The Attorney General himself is right. All these people are wrong.

Let me just put on the record, to remind the minister, the Attorney General, the premise of the Paris principles, which establish minimum standards for human rights agencies. Standards include independence guaranteed by statute or constitution, autonomy from government, diverse membership, a broad mandate based on universal human rights standards, adequate powers of investigation and sufficient resources. The Paris principles make clear that the independence of human rights agencies is important to ensure that human rights agencies are able to speak out on important human rights issues, that complaints against government are dealt with fairly, that they advocate for marginalized groups in society and that they educate the public on the impacts of discrimination. In other words, issues around independence, around education and around the promotion of human rights all fall within the realm of the Paris principles.

Yet what we see now under Bill 64 is the elimination of independence. The role now falls on education, on the promotion of the understanding of the code — what's now eliminated on the promotion of the accep-

tance of the code. Those things are now gone. It's to be done by government, done by the minister. It's no longer an arm's-length independent agency that would do that work. Only government would. It's a fundamental violation. I would argue, as other groups have — all the groups that I have read out — that this is a violation of the UN principle.

The government, the Attorney General also, under this part, would be eliminating annual reports that were put forward by the Human Rights Commission. Will there be annual reports from the new model? Who will be putting out the annual reports, or will there be any?

Hon. G. Plant: Section 39.1 of the new act, which is in section 20 of the bill, has an annual report obligation.

J. Kwan: What about special reports? Who will be doing special reports?

Hon. G. Plant: There's no special report function in the new act. The commission, of course, will cease to exist.

J. Kwan: Nobody will be doing special reports. Under the old code, which the government is now going to eliminate after this section passes, is section 19, on special reports.

"(1) The chief commissioner may submit a special report to the minister concerning any matter regarding human rights in British Columbia that the chief commissioner considers to be of such urgency or importance that it cannot be deferred until the next annual report under section 18.

"(2) The minister must promptly lay the report before the Legislative Assembly if it is in session or, if it is not in session when the report is submitted, within 15 days after the beginning of the next session."

[1620]

There will be no more special reports under this new model. Whose role, then, would it be to monitor issues around human rights that are of such urgent nature — that was formerly done by the commission, by the chief commissioner — that the commissioner deems it important enough to put forward a special report? Whose role would that be now?

Hon. G. Plant: I am advised that the only occasion on which a special report was ever prepared was in about 1998. There was a special report prepared by the commissioner. It was submitted to the former government, and the member opposite and her colleagues rejected the recommendations in the report. My view, looking at that track record along with the overall institutional issues I described at some length in my second reading remarks, is that for that particular function, I think its removal will not represent any significant impact on the protection of human rights in British Columbia.

J. Kwan: The Attorney General misses the point entirely. The function was there under the old Human

Rights Code, and it was up to the commissioner to exercise that right. Now the minister is saying: "You know what? I'm not even going to give you that right to exercise." It's not there. There is no opportunity for any body to do that, and that's precisely the issue of independence — an agency separate from government is given these authorities to bring forward issues and matters for the information of the Legislative Assembly.

That function is now gone, and the government says it doesn't matter. It's sort of like: "I don't know what the budget is. I don't know what the education program's going to be. I don't know what the research capacity is going to be. I don't know what the new direct access model is going to be. I don't really have answers to all of that, and by the way, there's no need for special reports. It was only exercised once. So what? Get rid of it — unimportant."

Maybe that's all part of the Attorney General's vision of how British Columbia should not promote equality and justice, not promote the acceptance of human rights. Maybe that's the real approach: to eliminate all the tools that are available to it so I could achieve that goal of not promoting acceptance of human rights in British Columbia. That's the pattern that has been developed. It almost makes no sense. Actually, it makes no sense whatsoever to say that issuing special reports was only exercised once and that the government of the day did not accept the recommendations, so don't even give them the capacity to raise the issues. It is unbelievable.

Interjection.

J. Kwan: The Attorney General is saying: "There's no them." Yes, there is no "them," because under this provision the Human Rights Commission is being eliminated. It is being eliminated, and the minister is so proud of that. It is just fantastic: "Hurray, hurray for us. We got rid of the Human Rights Commission. No more Human Rights Commission for British Columbia. It's the first jurisdiction to cancel human rights. Excellent. Isn't that just fantastic?" The Attorney General is just so proud of that record. It's another notch to add to his belt. Cancel legal aid. Cancel the Human Rights Commission. "Gee, what else can I do? How else can I set the clock back?" I'm sure the minister will think of many ways. I have no doubt about it. But you know what? The public finds it quite reprehensible. Even people who agree with some of the changes find it reprehensible. The Human Rights Coalition finds it reprehensible. This is in violation of the UN Paris principles. That's what we have right now.

[1625]

No special reports. Does the minister not anticipate there would be human rights issues which may surface that need urgent attention, that need to be brought to the attention of the Legislative Assembly?

Hon. G. Plant: On the general issue of how and when we'll... As members of the public learn about the

adjudication, it's always in the best interests of the administration of justice to ensure that we move quickly so that witnesses are available and memories are fresh.

I think it's also important to point out in this context that there is a provision that will give the member of the tribunal the discretion to extend the time limit in certain limited circumstances. That's there to ensure that the process is fair and the public interest is served. I think, on the whole, this is a good step in terms of achieving our overall objective of trying to make the process — which has been, sadly, riddled with delay — move a little bit more quickly.

J. MacPhail: Well, there's always been a right for the commissioner of investigation to extend the time period for filing a complaint, so that's not new. The only new aspect of this is the reduction of the time a complainant has the right to file her claim from one year to six months.

I noted with interest that the Attorney General did a survey of the time limits across the country, and it turns out that British Columbians now will have the shortest time line available to file a complaint. Government didn't decide to extend the right of a British Columbian to file a complaint to the longest time limit existing in Canada, but to the shortest time limit existing.

Once again, unless you're a business person in this province, you get ratcheted down. If you're a business person, you get the maximum benefit, when looking at a survey across other jurisdictions. The bar is raised for business people, but if you're an ordinary British Columbian just asking to exercise your rights, this government puts you down to the lowest bar possible.

What has the Attorney General prepared to inform the public of the difference in time lines now available?

Hon. G. Plant: I'm sorry, Madam Chair. I didn't hear the question at the end of the statement.

J. MacPhail: What preparation has the Attorney General done to inform the public of the changed time lines available for filing a complaint?

Hon. G. Plant: Well, we haven't done that yet. We are about to decide whether to do that. Of course, this debate is taking place in public, so that's part of the process. As we move towards the implementation of the new system, we will be preparing information and documents that will publicize the new model. I expect that information will include information about the new time limit for filing complaints.

J. MacPhail: I may be repeating a question that's already been asked, but it's a short one. The act will be brought in by regulation. It sounds to me like none of this work is being prepared as we speak, so I assume bringing it in by regulation is quite down the road. Can the Attorney General tell us when it's going to be

brought in by regulation? Then that would allow us to continue to ask the questions about informing the public about these changes.

[1645]

Hon. G. Plant: We are hopeful that the new system will be up and running sometime between the first of the new year and the end of March.

J. MacPhail: That's at the outside five months from now. Are there no thoughts on how there's going to be a public information campaign about these changes?

Hon. G. Plant: There are, I suppose, a variety of ways that this can be done. As I've said, with respect, we're doing it now. There are TV cameras. People at home are watching.

Interjection.

Hon. G. Plant: No, in fact, the former chief commissioner, I'm certain, is glued to her TV screen at this moment. But that's neither here nor there.

There will be widespread publicity of the implementation of this new scheme. If the member has particular suggestions about the form that should take and whether she believes government should undertake a campaign of public advertising or notification, I'd certainly be interested in hearing her views. What I can say is that we will do what is necessary to ensure that members of the public have an understanding that we are changing the way in which the human rights system works, and we will do what is required to provide the tools necessary for people to understand what those changes are.

J. MacPhail: So I take it, with that vague answer, that there are no plans in the making as we speak. The communications of the public affairs bureau, the ministry of truth, hasn't actually prepared any initiative around this. Is there nothing in the works?

Hon. G. Plant: I am advised that the arrangement we have concluded or expect to conclude shortly with the coalition will give them.... I'm told that what will happen is that we will collectively start publicizing the new code once the bill is passed.

J. MacPhail: What will the change mean for complainants? What's the history of the time lines for filing complaints?

Hon. G. Plant: I don't know if the commission kept statistics about the length of time complainants took to file their complaints. In our view, six months is a reasonable time line. It's a time line within which, for example, complaints under the Employment Standards Act must be filed. It's also the same time limit, for example, that charges that are being proceeded with under the Criminal Code by way of summary conviction must be laid. Six months is, I think, a reasonable length

of time for people who have been the victims of discrimination to step forward and at least initiate the process that is going to be available to them to lead to a resolution of their complaints.

J. MacPhail: I just note for the record that the filing of employment standards complaints within six months was a reduction brought in by this government in terms of the time available to file an employment standards complaint. It is a bit surprising that the minister did a survey across the country, chose the absolute minimum time available to file a complaint that exists anywhere and then has no statistics to back up how this would affect complainants. I assume that on an application, one has to file the date when the alleged offence occurred, and then there would be a date on the application. That would be the length of time it's taken to file the complaint. Am I to understand there are no statistics to that effect?

[1650]

Here's why I ask, Madam Chair. It's because I would like to know whether the reduction from one year to now six months.... How many complaints would that have affected in the past?

Hon. G. Plant: We have had some discussion over the past few hours and this week about the institutional history of the commission. Those who followed that discussion may not find it a surprise when I say that the commission actually did not keep any statistics about the matter the member is asking about.

J. MacPhail: Was it just a survey of what's the least commitment the government can make to people who have human rights complaints? Is that the basis on which it chose six months? I'll tell you, it is not a legitimate reference to make to the time that police can file charges, because police have institutional resources. I'm sure the minister, if given a chance, will stand up and say it's not the police who file charges. Whoever it is — the Crown.... If it's the Crown who has to file charges, the Crown has institutional resources that are not available to a complainant on a human rights matter.

Hon. G. Plant: The rationale behind the reduction in the time limit has already been explained. We have a process that was riddled with delay, a structure that bred delay. Delay has the impact of reducing and minimizing the opportunities for early resolution of the issues that give rise to these complaints.

We looked at this structure from the perspective of how we could simplify it, streamline it, make it more effective and achieve the goal of early resolution of disputes. From that examination one of the things that we looked at was the time limit for filing complaints.

The point of referring to what other provinces are doing is simply to illustrate that there are a variety of approaches taken across Canada. Other jurisdictions, I know, are grappling with these issues of delay. It will

be interesting to see what they do, if anything, to reform their systems and processes over time.

This is not something that sprung from a piece of statistical research. It was not something that sprung from a survey. It sprung from a fundamental rethinking of this institution and a redesign intended to ensure that we achieve a new orientation — an orientation focused on problem-solving. We think that the reduction of the time period to six months is a perfectly reasonable component of that.

I might add that the process for initiating a complaint under the Human Rights Code is a very, very simple and straightforward process. Of course what happens after that traditionally has been extraordinarily complex, but that's largely because of the way in which the institutions have functioned, which we are going to try to repair. But the process of getting the matter started is very straightforward and won't be made any more complex under the new scheme.

J. MacPhail: Two points. The initial filing of a complaint will do nothing to assist in the deliberation of the complaint. So there have to be resources after the filing of the complaint. It's not the initial filing of the complaint that creates a backlog. Also for the record, the Human Rights Commission, over the course of the period from about '98 to 2000 and beyond, substantially eliminated the backlog — in fact, virtually eliminated the backlog.

Who did the Attorney General consult with on this change in B.C.?

Hon. G. Plant: In my second reading remarks I spent some time talking about the process that we followed in developing the proposal that is before the House now. I think at various times there were some hundreds of people who were communicated with — in fact, more than once. Of course, that's just an additional element that did not form part of my comments in second reading, but the substance of the answer to the member's question will be found in my second reading remarks yesterday.

[1655]

J. MacPhail: Yes, and I read those. But I'm asking about this specifically.

Did the Attorney General consult with the human rights commissions in other jurisdictions that have a six-month time limit in terms of whether, as the Attorney General hinted, that assists in expediting resolution?

Hon. G. Plant: The consultation process that we undertook was wide-ranging, and it took the form I have described — albeit in actually a fairly short, summary way — in my second reading remarks. As I think those processes worked, different people offered insight into different issues, and we received a variety of input on issues. At the end of the day, government makes decisions, and we made this decision. We made the decision to reduce the time limit for filing, recog-

nizing that the tribunal member charged with the conduct of a complaint always has the discretion to extend the time in any case that meets the criteria for a time extension.

J. MacPhail: Just to be clear, the Attorney General is suggesting that if I call the commission, I will not be able to find out the information about how many complaints are filed within 12 months or six months — just for the record.

Hon. G. Plant: I'm certain that if the member wanted to ask one complaint at a time, she could probably conduct her own research, and in the fullness of time, having surveyed the hundreds or thousands of files that might be involved, she would learn for herself the average length of time that complainants currently take before they file complaints.

What we're doing here obviously is creating a new system where there will be a new time limit. I'm confident that people who experience discrimination — i.e., who are in that circumstance where they believe they want to exercise their right to file a complaint — will be able to do so in the vast majority of cases within six months. Those who are unable to, have the option of applying for an extension of time.

J. MacPhail: Could the Attorney General provide some examples of what type of complaint would be accepted based on it being in the public interest to do so?

Hon. G. Plant: That will be a decision made on a case-by-case basis by panel members who will, I'm certain, have regard to the purposes of the code as they make those decisions. We'll try to strike a fair balance between the interests of complainants in having their matters received and heard and, also, the interests of respondents in ensuring that they can get on and live their lives without worrying about whether something that happened some time ago might turn out to materialize in the form of a human rights complaint.

Those are balancing exercises. The balancing exercises, in fact, are undertaken now by tribunal members in somewhat similar circumstances, and I'm confident that tribunal members will be able to continue that exercise as they discharge the powers they will have as a result of the amendments to section 22 of the code.

J. MacPhail: In almost every other jurisdiction, public interest has a meaning. In the consultation, was there any discussion of what would be constituted as in the public interest?

Hon. G. Plant: I'm sorry, I didn't catch the member's question. I have to say, also, that one aspect of this issue that is important... I talked about concerns about confidence, quality, adequacy of investigations, and so on, as being concerns that people brought to our attention during the course of the consultation process that led to this bill. I do know that there was also a question about whether or not the exercise of the discretion to

extend time that was formally in the bill was done in a manner that was consistent. I think the new system has a better chance of achieving that measure of consistency.

Again, I apologize. I didn't catch the member's question, so if she'd ask it again.

J. MacPhail: In other laws, public interest has a specific meaning. I'm wondering: in the consultation that the Attorney General conducted, was there any discussion of public interest, given how it exists in other laws?

[1700]

Hon. G. Plant: I think that fundamentally the question for us here on the floor of the Legislature is whether we think a public interest test is the right test. Consultation is useful, sometimes essential. What consultation does is allow a variety of opinions and points of view to be put on the table. Then, if you're in government, you have to make some decisions about what it is you think is right to do. Here we think the public interest test, which is only one component of the test, is a good test because it ensures that panel members will have the ability to strike the balance I spoke about earlier, keeping in consideration, as I'm sure they will, the purposes of the code. That, I think, is a reasonably good way of expressing the criteria by which someone sitting as a panel member would have the ability to extend time.

J. MacPhail: Well, others have thought about this question as well. West Coast LEAF, an advocacy group on matters of law that relate to issues of affirmative action, said in their submission that the language in Bill 53, which is now replaced by Bill 64, implies that "the onus will be on the complainant to establish the public interest if her complaint is to be accepted late." Remember, this is a way that the six-month time limit can be overridden and extended. West Coast LEAF writes: "It's on the complainant to establish the public interest. The evidence and argument necessary to establish such a public interest is beyond the resources of most British Columbians. It's an unrealistic expectation and will result in legitimate complaints being put aside." How does the Attorney General respond to that concern?

Hon. G. Plant: I'm advised that in respect of the application to extend time, the onus has always been on the complainant, and that question has been subject to judicial review and was upheld on judicial review. I hear what the member is saying about what West Coast LEAF says, but with respect, I don't think I agree with it.

J. MacPhail: Well, actually, this is new — the addition of "in the public interest" — as I understand it. The previous act said: "The commissioner of investigation and mediation may accept a complaint filed after the expiration of the time limit referred to in subsection (1) or (2) if that commissioner determines that (a) the delay

in filing the complaint was incurred in good faith, and (b) no substantial prejudice will result to any person because of the delay." This government has removed the concept of filing a complaint late in good faith — and good faith is an easily understood concept with a huge amount of law behind it — and has replaced it now with the concept that the complainant has to prove it's in the public interest to do so. The commission has no experience in this matter.

Hon. G. Plant: There will be no commission.

J. MacPhail: I'm sure I have to take what might be determined as a petulant comment by the Attorney General as, perhaps, just being tired. Perhaps he could answer my question in good faith.

Hon. G. Plant: The last part of the member's question, which I took seriously, was that the commission had no experience in the issue. I responded, I think, in a way that's legitimate — to observe that there will be no commission. The issue here is the tribunal.

J. MacPhail: The previous commission had no....
[1705]

Hon. G. Plant: That's true. The point I made in my last answer was that in respect of satisfying the requirements for getting an extension of time, the onus had always been on the complainant. I believe that was the point that was upheld on judicial review. The member is right: the test is changing. My own view, the view of government, is that the public interest test is a reasonable test. I would suggest, with respect, that it's probably at least as comprehensible to the average citizen as the idea of good faith. I think it's a better test because it moves away from a consideration of merely subjective considerations into a consideration of whether the complaint raises an issue that it would be in the public interest to have determined by the tribunal.

Assuming that no substantial prejudice would result to any person because of the delay in filing, that means the panel member would have the opportunity to extend the time for filing. I think that's a comprehensible, fairly straightforward and fairly easily applied test, and I am certain that we'll see how it's applied in the fullness of time by the tribunal members who have to deal with it.

Section 8, section 22 approved on division.

On section 9, section 22.1

J. Kwan: Section 9 in Bill 64 is the new section to be added to the Human Rights Code. Under this section it introduces to the code section 22.1, "Intervenors." Why was this change made?

Hon. G. Plant: The new model does not maintain the deputy chief commissioner's ability to become a

party to complaints and/or hearings. That was a power that was originally designed to ensure that systemic issues could be brought to the attention of the tribunal.

What we are doing here is adding an express intervenor provision to ensure that the code allows tribunal members or panels to hear from intervenors, which will allow for the introduction of additional views and perspectives on systemic issues that are raised in some complaints to be presented.

[J. Weisbeck in the chair.]

I think in my second reading comments yesterday I suggested at one point that the panel members would be able to invite interventions. That's not a very precise way of putting the provision. The provision is worded to contemplate applications being made by persons or groups of persons who seek to intervene, and the provision gives the member or the panel the power to allow such an application, if it's made.

J. Kwan: What would be the "terms specified" by the panel or the members?

Hon. G. Plant: The power to allow interventions is a power that will be exercised by panel members or panels on a case-by-case basis. Over time they will, I'm certain, develop some sense of principle and practice around how to ensure that people have the opportunity to intervene so that systemic issues can be raised. It may even be the case that the provision could be used in a case that doesn't raise a systemic issue, but where there is an issue raised that is of interest to some public interest group that wants the opportunity to provide submissions to the panel.

I think this power will probably also be exercised in a way that ensures that the introduction of intervenors does not end up taking the case away from the complainants. I know that in the jurisprudence around intervenor powers in judicial settings, that's a principle that is frequently restated.

It's pretty important to the success of this model that complainants have control over their complaints. I certainly have been in processes where I've seen intervenors seek to come in, and if they had been allowed to come in, something which began as a manageable issue would have been transformed into something completely beyond manageability. I expect that those kinds of considerations will also be part of the way in which this provision is applied.

J. Kwan: How will the invitation to participate be issued by the tribunal? What resources will be provided to enable a person or group of persons to intervene?

[1710]

Hon. G. Plant: This is the issue relating to my second reading comments where I attempted a moment ago to clarify what I had said. I think that I was a bit overenthusiastic when I used the term "invite." The

power or the idea of an invitation is not contained within this provision. This is a provision which, like many other intervener provisions in similar statutes or judicial processes, contemplates that someone who wants to intervene will apply to intervene, and they will have that application determined by the panel or panel member.

J. Kwan: Will there be resources available to groups or individuals to act as interveners?

Hon. G. Plant: I don't think it's contemplated that we're going to, within my service plan, establish a separate fund to provide additional or new dollars to public interest advocacy organizations. There are many of them, and they receive funding from a variety of sources. They will continue to do what they believe to be in the interests of their organization as cases arise that engage their interests.

J. Kwan: So there will be no resources available. Will there be criteria for the types of groups who will be permitted to join a complaint? Is there a set of criteria that would apply?

Hon. G. Plant: I expect that this provision will be applied in much the same way that other standard intervener provisions are applied. It's really a matter for the exercise of the independent discretion of tribunal members or panels who will have this authority.

The member, I'm certain, knows that the general law around interveners is pretty flexible. It often means, fundamentally, whether the person in charge of overseeing the proceeding thinks that the proposed intervener will add something useful that might not otherwise be before them in the course of hearing the matter. I should point out that there is also a power to add persons as parties that rises from the redefinition of the term "party," which we have already discussed and passed in section 1 of the act.

J. Kwan: It's a bit problematic, because the minister is saying it's up to the panel to decide what criteria would apply and who can become an intervener, yet there are no resources available to support individuals or groups of individuals to become interveners. The government says: "You know, the NGOs have their own resources; they can do their own work." The reality is that there are tremendous amounts of budget cuts going on right now. The resources that the minister thinks are available are being stretched far to provide direct services on the ground.

A lot of agencies I've spoken with talk about almost the impossibility for them to do advocacy work. This will simply add to their burden, because the government is asking them to be the watchdog, as well, in the role of human rights advocacy.

How will NGOs know about a complaint that may involve...? I always have trouble saying this word. I always end up saying "systematic," and what I mean is systemic discrimination. Every time I say systematic,

that's not really what I meant. It's a language issue. It's my ESL background coming back to haunt me.

How will they know when to be involved? How will they learn of a complaint that is broader than just an individual case but has, rather, a systemic discrimination element? It's good practice for me to say this word a few times.

[1715]

Hon. G. Plant: Well, the process by which this happens now will, I think, probably not change much. Complainants often seek out advocacy groups. Sometimes complaints are, in effect, sponsored by advocacy groups. If they're not sponsored by advocacy groups, they're sponsored by or assisted by large organizations — for example, public sector unions if it's a complaint against government.

What happens is that these issues become known within a community in much the same way as happens when lawsuits are commenced in court. I don't think there will be much change in that. I think this is a step forward in ensuring that in fact there is an express power to permit intervention. I think it will be exercised in the way that I've described, which ensures that systemic issues can be raised where that is appropriate.

J. Kwan: Is the Attorney General expecting that there would be certain types of complaints or a requirement for the panel to put forward certain types of complaints to be investigated or classified as systemic complaints?

Hon. G. Plant: I don't have that expectation. The panel and tribunal are independent, of course. They'll decide these things as they consider to be appropriate on a case-by-case basis, I would think.

J. Kwan: If addressing the issue of systemic discrimination is important for the government, why wouldn't the government put forward a requirement for the panel to do that work, so that it is flagged, so that the NGOs and the people who may want to access interveners will actually know about it and therefore take forth the challenge of advancing human rights in a broader sense? Why not? Why not establish it as a requirement for the panel or for its members?

Hon. G. Plant: I don't know that it would be appropriate to place on individual panel members the burden of deciding that a case raises systemic issues. The way that the argument is made... I'm talking about in the early stages. The way that the issue arises as often as not is when someone takes a complaint that on its face looks like an ordinary complaint, and then begins to design and construct an argument that suggests that there are systemic issues. In my view, the best place for that to start is with the complainant and those assisting the complainant, including the organizations that are there in the clinic that we are putting in place. That, I think, is much better than trying to create some bureaucratic structure that says we will stream

all complaints into different categories, some that are systemic and some that aren't. I think it's better to have these issues arise on a case-by-case basis.

J. Kwan: The issues will arise on a case-by-case basis. What is important is to identify which are just individual cases and which are not when the issues arise. Which has the nature of systemic discrimination to it? Then you can pursue it more broadly than just on a case-by-case basis. That's exactly the point. That's why it is important to say that if we want to pursue the advancement of human rights in a broader sense than by a case-by-case basis, make sure that there is a clear understanding of what some systemic discrimination might be, and make sure we actually identify it, make a conscious effort around it, and make sure people know about it and have the opportunity to intervene.

Why else set aside a specific section that talks about interveners, yet not facilitate the importance of allowing for interveners to act in their capacity, particularly to facilitate NGOs and others who may well have a strong interest but may not have all of the resources to always be the watchdog in these issues?

Hon. G. Plant: I think, actually, the section that we're looking at could be called the section that in fact facilitates interventions in a way to ensure that there is a tool in place for bringing systemic issues to the attention of a tribunal member or a panel that is hearing or has conduct or carries on the progress of a complaint.

[1720]

J. Kwan: With all due respect to the minister, I know that perhaps he thinks that creating or putting in a process to make sure that you identify systemic discrimination is bureaucratic and somehow is too Big Brother for the government to do such a thing, and we should just simply let it happen on a case-by-case basis.

I suppose that goes to the point we debated earlier. That is, the government is actually taking a hands-off approach to advancing the acceptance of human rights and the provisions within the code. I think these two things go hand in hand. That's why the government is taking a hands-off approach with regards to that. It's disappointing, because I think there's an opportunity here for the government to simply say that this is really important. And irrespective of the fact that we eliminated the requirement from the code for us to be active in promoting the acceptance of the code, here's another way to promote the greater good, to ensure that the greater good is being pursued. That is, we'll not only address individual cases on discrimination, but we'll go broader than that and look specifically at systemic discrimination in a larger society.

It's a shame. It's another opportunity missed by the government. I can't help but think that this is all very conscious from the government, because they no longer see their role to be responsible in terms of advancing the greater good for eliminating systemic discrimination in our communities.

Section 9, section 22.1 approved.

On section 10, sections 23 and 24.

J. Kwan: Section 10, in which sections 23 and 24 are to be removed. This section allows for the investigation of complaints. The *Human Rights Review* provided some statistics on the number of complaints that are dismissed before and after investigation. The numbers were provided originally by the annual reports produced by the Human Rights Commission. In the year 1996-97 the dismissal without investigation was 10½ percent; in the year 1997-98 it was 7.28 percent; in 1998-99 it was 5.62 percent; in the year 1999-2000 it was 8.7 percent; and in the year 2000-01 it was 19.3 percent. On disposition, with dismissal after investigation, in the year 1996-97 it was 11.2 percent; 1997-98, 23.31 percent; '98-99, 33.99 percent; '99-2000, 41.5 percent; and, 2000-01, 48.8 percent.

These are important statistics for us to refer to. At a meeting put on by the Human Rights Coalition, a ministry representative stated that the tribunal would have the ability to "get to the heart" of a complaint. Is this ability reflected in the addition of sections 27, 27.1, 27.2, 27.3, 27.4, 27.5, 27.6 and 30 to Bill 64?

Hon. G. Plant: Well, among the reasons why the investigation provisions are being deleted are of course reasons I spoke about in second reading remarks.

One thing I did not explain in the context of my remarks in second reading was.... I didn't take the time to explain one of the problems that exists in respect of the intersection between the commission and the tribunal. As I have heard people speak about the commission in some of the meetings that I've held with respect to this proposed reform, it's clear to me that even though we've been using this model for five years, there are lots of people out there in the community, particularly people who haven't used the model, who don't understand that strange connection between the commission and the tribunal, particularly in respect of this issue of investigation.

[1725]

Investigations, as I said, take time to complete. There are all too many investigations that still take years to complete, and investigations aren't required to result in the resolution. The results of an investigation are used solely to determine whether to dismiss a complaint or refer it to the tribunal for a hearing. In fact, after all the work and after all the stress and anguish of an investigation, the reality is that the results of investigations by the commission are not actually even sent to the tribunal. It is the case that a large majority of cases are dismissed, either after investigation by the commission or by the tribunal. In fact, that is evidence that speaks to some extent against the model rather than in favour of it.

The tribunal actually has to hear the evidence from the original sources. It doesn't receive a report from the commission, as I said, and that means that all of the work done in the investigation has to be done all over

again in the tribunal hearing. This is the connection that is so dysfunctional.

In addition, of course, the way the investigation process has worked is that traditionally it promotes an adversarial dynamic between the parties rather than one which supports settlement of disputes. The elimination of the investigative stage will be a significant step forward in the reform that we have undertaken here.

With respect to the member's questions, it is really all of the act together — including the provisions she specifically referred to — that will help achieve the result we want.

J. Kwan: The theory, I suppose, that the Attorney General is advancing is that because there's an investigative role, sometimes the complaints take a long time to be resolved, whether or not it goes to tribunal or otherwise. I suppose that's part of the argument here.

The trouble here is this: in terms of not having an investigative role at all, under the new model the tribunal can still dismiss all or part of a complaint with or without a hearing. That could still take place. The old system, which is being eliminated by the government now under this section, does provide for a gatekeeping section. It does eliminate cases after an investigation, either to dismiss them or to proceed. To suggest that somehow that might facilitate more of an adversarial role is also not true, because the commission has also adopted the approach of mediation in the process as well.

All the investigation does is determine whether or not a case should proceed. You would think that it is valuable to have some preliminary assessment from an investigator to determine how a case should proceed. This section takes that away.

A new addition in terms of the power to dismiss a complaint under this new model is that "there is no reasonable prospect that the complaint will succeed." That ought not be the threshold for determining whether or not a case should succeed, so why would the government bring forward a provision under the new model, where tribunal members cannot investigate complaints? Tribunal members would not be able to investigate complaints, because that conflicts with their role as adjudicators. You can't do both. So why take away the investigators — the investigative officers, if you will — whose job is to do exactly that?

[1730]

Hon. G. Plant: I just explained why the existing model didn't work. I explained that at some length in my second reading remarks. I also gave more information or detail a moment ago. Fundamentally, the investigation process fails to achieve the result that the member wants for it, and that is the lesson we have learned. That is the experience of this structure and its predecessors, and that is why it is so important we move to a model where tribunal members have the power to require disclosure of facts to ensure that all the relevant documents are there, and so on.

I think members will be interested in having their recollection refreshed about what we're talking about here. We did have a discussion about systemic discrimination a few minutes ago, and I know there are cases that raise systemic issues. I think we've done quite a bit here to ensure that this process will permit the raising and consideration of systemic issues. But you know, the vast majority of these complaints don't raise systemic issues, and frankly, it's those complainants and the respondents in those complaints that have been failed by and have been let down by the processes that exist today. The vast majority of these complaints are matters that I think could be resolved in a straightforward way, and if we can just somehow get in place a process that focuses on early identification of a problem and the solution, I think we'll make great strides.

We were talking the other day about the kind of complaints I'm thinking about here. An example was given to me about someone, an employer, who said to a gay worker: "You know, I don't want you to talk about your dating habits in the workplace." Well, that strikes me as being something that looks a lot like discrimination, but you know, I've probably provided, just in that very brief summary, almost all the facts you need before we should be thinking about how it is we can get that employer into a position where he or she understands the hurt caused by that kind of prohibition and how that workplace can be changed a bit so that in fact all employees, whatever their sexual orientation, are treated with equal dignity and respect.

The issues here are often very easily captured in a relatively narrow compass. That's not true of all complaints, and that's why we have the full-scale adjudication model for those complaints that need it. What we do need is a process that will do a better job of getting to the heart of the straightforward complaints sooner, and that was not the experience under the old code. That's why we're moving to the reform we're talking about in the amendments that are before the House now.

J. Kwan: If the argument is that it wasn't working before, so let's get rid of it, it doesn't make sense. You'd think that if the Attorney General says: "Well, it wasn't working very well before, so we must improve on it..." The fact of the matter is that with the new system that's being brought in, you cannot have the tribunal members investigate complaints and also be an adjudicator at the same time. There's a fundamental conflict for them to be in both positions. That is an issue. The UN Paris principles state that human rights tribunals must have adequate powers of investigation. By simply eliminating it, striking it out, it violates that fundamental principle.

What does the Attorney General consider to be adequate powers of investigation? He obviously sees that there's no conflict for tribunal members to also be adjudicators.

Hon. G. Plant: Well, I think the answer to the first question is comprised in the whole package of authori-

ties and powers that the tribunal has. We'll get to those when we get to that section.

I don't remember the second half of the question. I'm sure the member will remind me.

J. Kwan: What does the Attorney General consider to be adequate powers of investigation?

Hon. G. Plant: That was the part I did answer.

J. Kwan: No, what the minister said was on the issue around the conflict. He said we'll deal with that — the adjudicator's position. Then I asked him what he thinks are adequate powers of investigation. He has not answered the question.

[1735]

Hon. G. Plant: The answer to that question is comprised in the provisions that are before us. That is, I have thought about this issue of investigation, and I have thought about how the current structure doesn't work, for all the reasons I've talked about. We're putting a new structure in place, and the new structure will take a different approach. I will make sure the member understands this as she, I'm certain, quite clearly does.

We're not going to have someone who will independently go out and conduct roving field trips around the place where people are alleging that discrimination took place. Complainants will come forward, and they will say: "I was discriminated against, and here's what happened." The tribunal will become seized of these issues and will have a wide range of tools, an advanced set of dispute resolution tools, that ensure that all of the facts can be brought before the tribunal as they are relevant or are required to be brought forward.

Then I hope the matter will be settled soon. If it's the kind of matter that at the end of the day requires adjudication, it will be adjudicated. There is no conflict. The tribunal members will not be conducting an investigation in the manner that was formerly the process or the activity undertaken by investigators under section 23 and section 24. That's the process that has failed. We're eliminating that process.

J. Kwan: So that's the nub of it from the Attorney General's point of view. The adequate powers of investigation, from the Attorney General's point of view, are to simply eliminate what was there to provide for that function. That's what the Attorney General has identified. Then he said that in its place, the tribunal will do it. They will deal with it as an adjudicator as well, and he sees no conflict. That's the advancement we're now making.

Just to be clear in terms of what section is being eliminated and what the terms are within section 23:

"(1) The commissioner of investigation and mediation may designate an employee appointed under section 17 (1), or any other person, as a human rights officer for the purpose of conducting investigations of complaints. (2) The commissioner of investigation and mediation must assign a human rights officer to investigate a complaint unless that commissioner

determines that the complaint can be disposed of under section 26 without an investigation. (3) A human rights officer must submit to the commissioner of investigation and mediation a report of the findings of an investigation."

Under section 24, it goes on to talk about the powers of investigation. It's a lengthy section under section 24, so I won't read that onto the record, but the premise is this. What we're eliminating under section 10 now is the ability and the capacity for an independent officer to look into a complaint and investigate it. The government says: "Don't worry. It's fine. Justice will be served, and somehow the system will be made more efficient and better for it."

The statistics I put out earlier — just picking one year, the year 2000-01 — show that 48.8 percent of all complaints at the commission level were dismissed after the investigation. Does the minister think that the tribunal will have the administrative capacity to hear nearly 50 percent more complaints and that it is somehow cost-efficient under this new model?

Hon. G. Plant: I think the tribunal will have the capacity to deal with the caseload that will be presented to it by the complaints that are filed, and we'll deal with those complaints in the variety of ways I have described over the course of the debate here. I am confident the tribunal will be able to do what it has to do. I think it's important to say we're not talking about — I don't know what the right word is — a zero-sum game here. This tribunal is going to have more to do, and we're going to make sure the tribunal has the resources it needs to do more work than it has done in the past.

[1740]

J. Kwan: The reality is that the budget for this work is being cut. Already, as it was under the old system, there was a backlog. The minister suggests that cases weren't being processed quickly enough and, in some cases, made the argument that justice delayed is justice denied. So the preliminary process of investigating complaints to determine whether or not they should move on to the next stage is being eliminated, scrapped — gone. By the statistics alone, it will show a nearly 50 percent increase in caseload — 48.8 percent, to be exact. Somehow that is a more efficient system, and the minister says that there are enough resources to deal with it. How could that be?

Hon. G. Plant: Actually, the member understates the additional workload of the commission, because all complaints that are filed will now go to the tribunal. In terms of the raw numbers that the member is using, I suspect the total workload of the tribunal will increase by more than the 48 percent number that she was using.

We are working on designing the framework in a way that ensures that we can give it the resources it will need to do the job it has to do.

J. Kwan: Will there be supports for complainants and respondents during, I suppose, the investigative

process that's now being eliminated, however the tribunal panel will actually keep that on, even though in my view they are in a conflict?

Hon. G. Plant: There won't be an investigative process in the way the member uses the term. The section before us is intended to eliminate that function. I think that represents the best I can do in terms of answering the question the way that she has put it.

J. Kwan: Just some points I want to make and questions to ask the minister on this. This is another e-mail that just came in this afternoon from a person who knows the system well. Let me ask and put forward these statements and questions.

The person wants to note that the new adversarial direct access model could cost more for a large number of small business owners. With the current system, small business owners regularly call the commission for assistance. Also, during the investigation human rights officers are in a neutral role and are able to give information to both the complainant's and respondent's business community. Often this happens without the need for lawyers.

In the new system employers will have to incur the cost of legal counsel as they will not be able to use the legal clinic, which is only available for complainants, and the tribunal cannot assist, as they are adjudicators. This, of course, will be a windfall to the legal community but will present a hidden cost to the employers and, therefore, to the broader community.

I'd like the minister to respond to the statements made by this individual.

Hon. G. Plant: I don't think that's a correct description of the system that we're intending to put in place. I heard several errors in it that were quite different from the model that I described in second reading.

J. Kwan: This is a person who actually knows the system well. If the minister suggests there are errors, I ask the minister to identify which of the statements put forward by this individual is in fact in error.

[1745]

Hon. G. Plant: I respect the member's interest in ensuring that her correspondent's e-mail is brought to the attention of the House. It was a quote that raised a number of issues. If the individual wants to write to me or my ministry directly, I will explain as best I can some of the aspects of the description that I think were not an accurate summary of the new system.

One of the things I did hear that struck me as being wrong is the contention that there will be no legal assistance available to respondents. In fact, the clinic model that's being set up will provide legal assistance to respondents. That's one error I heard in the contention made by the author of the hot-off-the-presses e-mail that the member has read.

I think the important thing to point out is that the information and, to some extent, the assistance that the clinic is going to provide will be available to anyone.

J. Kwan: Then let's go through these questions one by one and these statements one by one, because the minister suggests the individual has wrong information. I would like to know, and I'm sure the individual would like to know, which statements are incorrect.

The first statement the individual has made is that the new adversarial direct access model could cost more for a large number of small business owners. In the current system small business owners regularly call the commission for assistance.

Let's just stop there for one minute and have the minister respond to this statement in terms of increased costs for small business owners and the system now in place where people could phone the commission for assistance. With the commission gone, obviously, they wouldn't be able to have access to that.

Hon. G. Plant: Complainants and respondents will, among other things, be able to call the tribunal. As the member may know, litigants, for example, in Supreme Court actions show up at the desk in the court registries around the province every day, asking for assistance in finding out what form is required to start an action, getting help filling out the form, finding out a little bit about what courts do. I think the tribunal will be established in a way that will ensure that kind of information is available to people who call and have questions. There will also be the clinic that I have spoken about.

I think there will be lots of ways in which people can get the kind of information that was contemplated in that first sense — and not just small business owners, but everybody.

J. Kwan: The tribunal that would be set up — will they be setting up offices? Will they be advertised? Will the numbers be available for people to phone to find out where they are so that people can access information from them, as is now the case with the commission?

Hon. G. Plant: There is a Human Rights Tribunal now. I'm sure you can find it in the phone book if you looked, and I know it has offices. That's going to continue to be the case.

J. Kwan: The Human Rights Commission's office will be gone, but the tribunal's offices would still be available? Is that what the minister is saying? Is it status quo then on the tribunal side?

Hon. G. Plant: The answer to the question is yes, there will be a tribunal. In fact, it exists now. It's going to be continued. It's going to have different and expanded powers. It's going to have, I think, a slightly different infrastructure than it has had, because it is going to be dealing with a wider range of tasks, and it's

going to need the staff and the organization in place to cope with that additional workload.

People will go and be able to phone the tribunal and, for all I know, get access to information on the Internet. There will probably be offices that people will be able to go visit. I regret to say that I think it's unlikely there will be offices around the province, but that's, of course, the status quo now with respect to both the commission and the tribunal.

We're going to be working hard to find different ways in which to ensure that people in other parts of the province — that is, outside the lower mainland and southern Vancouver Island — will have some means of getting access to the services of the tribunal.

J. Kwan: For the tribunal, by the Attorney General's own admission, the workload would not only be just a 50 percent increase but more than that. He said I underestimated when I said it was going to be at least 48.8 percent.

Is the minister anticipating that the tribunal would actually have more resources to deal with these calls that are coming through? Or would it be like MSP, where it takes you about three months to get through if you're lucky?

[1750]

Hon. G. Plant: I think the tribunal is almost certainly going to have more — is certainly going to have more — in the way of resources than it has now, because its workload will be enhanced.

J. Kwan: How much more? So far the minister is unable to provide information in terms of what the budget is going to be.

Hon. G. Plant: And that hasn't changed in the last hour and a half since the member first raised that issue.

J. MacPhail: How do you know there'll be more resources? You don't even know what the budget is.

J. Kwan: Well, my colleague's question is absolutely dead-on. How would the minister know that he's going to get more resources from Treasury Board and from the Minister of Finance when he doesn't know what the budget is? He says he hasn't gone to Treasury Board, yet he knows the caseload is going to increase by at least 48.8 percent — at least that. In fact, he said I've underestimated that. So the resources that need to be increased at the tribunal level are going to be substantive, yet he has no idea how much resource is going to be available. Is he making this up as he goes along? It's a valid question from the opposition. British Columbians should know. Does the minister know?

Hon. G. Plant: One of the aspects of particularly the stakeholder community debate that I think has been less constructive, if I can put it that way — and I don't mean to impute motive here — is the assumption that I think is implied in some of these concerns, that because

we have now a commission that has a budget of whatever it was — \$3.9 million — and a tribunal that has a budget of \$1.2 million, we're dropping the commission, and the \$3.9 million the commission had will be gone, and the poor tribunal will be stuck with \$1.2 million to do a different job.

What I think the authors of that concern failed to grasp is that we're creating a new system, and in this new system the tribunal.... Perhaps we should have called it something else. Actually, it occurred to me from time to time that if we called the tribunal the commission, much of the public concern expressed or encouraged — certainly by former employees of the commission — may have been dissipated. The tribunal will be a different institution in many ways from what it is now. This is not something I am making up as we go along. This is, in fact, the product of a very extensive, expensive public process of policy development that the entire government has been a part of.

My colleagues know we are moving forward to do this. My colleagues know that reform of human rights is coming. It's in my service plan. It's been talked about, and we are moving to develop this new model where I am certain the tribunal will require more resources. Now, the members want to know exactly what the dollar figure is. I can sympathize with their curiosity, but in fact, we are still working through that process. We will, I am confident — because I know my colleagues are with me on this — have a tribunal model that will have the resources it will need to do the new and different jobs it's going to have to do under this model.

J. Kwan: The fact is that the minister doesn't know. Maybe if he keeps saying it, he's hoping it will become true that there will be resources to support the tribunal and this so-called new model to advance human rights. But the opposition and, I suspect, many British Columbians remain very skeptical. Absolutely, the minister is right: many British Columbians don't trust this Attorney General and this government.

[1755]

Interjections.

The Chair: Order.
Carry on.

J. Kwan: Thank you, Mr. Chair. It's good to know that I do have the floor. I do have questions.

My next question for the minister is this: what role will the Human Rights Coalition and CLAS have during the investigative process, or will they have a role?

Hon. G. Plant: There is no investigative process within the meaning of the term that the member uses in her questions. I thought I had made that point clear. In fact, Mr. Chair, as you may be aware, the section we're debating is a section that, if it is passed, will eliminate the investigation process followed by the commission.

J. Kwan: The Attorney General can get into terminologies if he wants to. The question is about the elimination of the investigative procedures, but the minister also said: "Don't worry, because those procedures will be covered off by the tribunal. They'll provide for it." If there is a process to be covered off in some other format in the tribunal, I'm asking the Attorney General a very legitimate question: will the Human Rights Coalition and CLAS have a role in that process?

Hon. G. Plant: I anticipate that in the new structure we are hoping to put in place with this legislation, the Community Legal Assistance Society and the Human Rights Coalition will have a role to play on a contract basis in supplying a clinic model that includes information, assistance and, in some cases, legal representation.

The Chair: Minister, noting the time.

Hon. G. Plant: Well, Mr. Chair, I look forward to the continuation of this debate. Noting the hour, I move that the committee rise, report some measure of progress and ask leave to sit again.

Motion approved.

The committee rose at 5:57 p.m.

The House resumed; Mr. Speaker in the chair.

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

Hon. G. Plant moved adjournment of the House.

Motion approved.

The House adjourned at 5:58 p.m.