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(Entered Confederation July 20, 1871)

LIEUTENANT-GOVERNOR  
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**3RD SESSION, 37TH PARLIAMENT**

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Afternoon Sitting

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WEDNESDAY, NOVEMBER 20, 2002

The House met at 2:04 p.m.

Prayers.

[1405]

### Introductions by Members

**A. Hamilton:** Joining us this afternoon in the House are 12 students from China who are enrolled in the MBA program at Royal Roads University. Accompanying them is their instructor, Mr. Adelson. Would the House please join me in making them all welcome.

**S. Orr:** I have the pleasure today of introducing a terrific bunch of young people, UVic students and a whole group of young Liberals. They are Dallas Henault, Trisha Girard, Spencer Sproule, Robert Boyd, Adam Trombley, David Girard, Tom Grainger, Lyssa Marcil, Patti Boyden, Arik Broadbent, Richard Wise, Agata Lis and Mike Allison.

Also with them is one of the parents. Her name is Patricia Girard. She is the mother of Trisha and David Girard, and she's come here all the way from Maine to make sure her kids are behaving.

**B. Kerr:** I like introducing people in the House so much that I sometimes get to do it twice. Yesterday I introduced Heidi Harmes, her son Ryan and friend Mark Jaeger. Heidi had worked in this precinct for a number of years, but it turns out she's in the House today, not yesterday, so she didn't get to hear my introduction. I would like the House to make her feel doubly welcome today.

**H. Long:** The one thing I have done is made sure the gentleman I'm going to introduce is in the House today. I would like the House to make welcome Jeremiah Archambault, who's here right from Victoria, actually, visiting. He's a good friend of mine, so I'd like to make him welcome.

### Tributes

ROGER MADSON

**W. McMahon:** I rise today to pay tribute to Roger Madson of Invermere, who passed away suddenly on Sunday, November 17. Roger was born in Vancouver and spent the majority of his life in Radium Hot Springs and Invermere. In 1970 he founded Radium Hot Springs Glacier Skiing, and today his business operates as R.K. Heli Ski Panorama.

Roger was a businessman and a pilot. Roger was an organizer both in business and in politics. Roger was dedicated with a passion to the industry he loved: heliskiing. At times he may not have agreed with what you had to say, but he was always upfront about it. Roger met with many of my colleagues over the past

year and a half, raising his concerns and frustrations with an environmental review process that has gone on and on over the past decade.

Roger always advocated for what he believed in. During the CORE process in the early to mid-nineties, he was always front and centre, ensuring that his tourism views were factored in. He was a pioneer in the tourism industry in the Columbia Valley. Being committed, he knew he could make a difference.

Untimely deaths are often difficult to deal with. Roger was a husband to Jenny and a father to Christy and Shaw. Roger offered his friendship openly, but you had to earn his respect. He loved life and lived it to the fullest. He will be missed.

### Statements (Standing Order 25b)

#### YACHT-BUILDING INDUSTRY

**R. Sultan:** I want to pay tribute to the British Columbia yacht-building industry. We're not talking here about millionaires' toys; we're talking about export products built by highly skilled British Columbians using craft skills and marine savvy based on generations of fishing, tugboating and ferry boat operations in one of the world's toughest marine environments. In this we are the best.

The title of this book says it all — *British Columbia Yachts: Building Dreams*. We have a tradition of construction going back to the late nineteenth century. In the twenties, B.C. rum-runners were about as fast as anything in the world. In 1930 Bill Boeing's 125-foot *Taconite*, which you can see down in Coal Harbour, became famous, and postwar wooden boats built by Grenfell are even today lovingly restored.

[1410]

Today 5,000 people are employed in the construction and refit of luxury yachts. Fibreglass, aluminum and steel yachts are manufactured by over a dozen boatbuilders, most of them here in the lower mainland but also on the Island and up-coast. Our system design, our wood joinery, our seaworthiness and our competitive pricing are now recognized around the world. We build offshore passage-makers, sailing yachts and custom motor yachts. We also manufacture a full complement of marine component systems and electronics. Total economic benefit is about three-quarters of a billion dollars a year right here in British Columbia.

Once our customers take delivery, the best is yet to come: cruising the waters of our inland sea, up the coast to the mid-coast and on to Prince Rupert — might even drop in and see Mr. Belsey here.

Tied up in Victoria's Inner Harbour right outside this Legislature, the fruits of this industry are frequently on display. I appreciate that on 5 percent reduced salaries, most MLAs can only dream. But if the price tags are beyond reach, the high-paying jobs aren't, and I mean really high-paying jobs, as any shocked boat owner will verify when presented with

the bill when the boat goes back in the water. Any industry that pays so well, brings so much money into the country and provides so much enjoyment to so many people surely deserves our encouragement and our salute.

#### CT SCANNER FOR RIDGE MEADOWS HOSPITAL

**R. Hawes:** This coming Saturday, November 23, will mark the official opening of the CT scan suite in the Ridge Meadows Hospital. This is a multi-slice CT scanner that originally was approved as a single slice, but the community, led by Dr. Frank Ervin, a local specialist in the Maple Ridge Hospital, and Bart Findley, a lawyer from Maple Ridge, got together with the Ridge Meadows Hospital Foundation and galvanized the community into putting hundreds of thousands of dollars towards increasing or improving the CT scanner to a multi-slice scanner. This is a tremendous innovation for Maple Ridge and for the Maple Ridge Hospital and, indeed, for all the people in the Fraser Valley. Over the last decade the previous government put us hundreds of millions of dollars behind in medical equipment in our hospitals throughout the province. This is a great step forward as we move towards repairing the damage that was done over the last decade.

On behalf of my colleague from Maple Ridge-Pitt Meadows and myself, I'd like to invite you and anyone else who wants to come to Ridge Meadows Hospital on Saturday afternoon from one to three for the official opening. You will find it's a great day and, for British Columbia and the Fraser Valley, just more good news.

#### INDEPENDENT POWER PRODUCERS

**B. Penner:** There's been considerable public discussion of late regarding electricity issues in a number of provinces, including British Columbia. However, an important component has been overlooked, and that is the emergence of an independent power producer industry in our province. On Monday I heard the opposition leader say that IPPs can't be counted on to supply the growing electricity needs of British Columbians. She indicated that IPPs aren't investing anywhere at the moment. Well, IPPs certainly are investing right here in British Columbia.

B.C. Hydro has entered into 23 agreements with IPPs in just the past year. These agreements will facilitate projects that, in total, will generate an average of 112 megawatts of electricity — enough to supply about 80,000 homes — and help to meet our incremental electricity load growth.

All of these projects are environmentally friendly; 20 of the projects are small or microhydro developments, which divert a portion of water from creeks without adversely affecting fish habitat. Two are biomass operations, and one will utilize methane gas escaping from a landfill, gas that would otherwise be wasted.

The developers of these projects carry the financial risks, protecting taxpayers from cost overruns or construction problems, and will sell their electricity at a set price to B.C. Hydro, which is and will remain publicly owned. Already two of these projects are built and delivering power — Hystad Creek near Valemount and Raging River on Vancouver Island — creating jobs in rural communities. This past summer I had an opportunity to visit a 30-megawatt project that is currently under construction on Miller Creek near Pemberton. More than 100 people were working on the site when I was there, and the foreman told me that the average wage was about \$25 per hour. The owner of the project, an Alberta-based company, has brought about \$40 million into our province in order to build just this single project.

[1415]

British Columbia is blessed to have so many potential energy sources. We're fortunate to have a very creative and talented private sector that can help harness that energy for the benefit of our great province.

**Mr. Speaker:** That concludes members' statements.

#### Oral Questions

##### DIVISION OF B.C. HYDRO OPERATIONS

**J. MacPhail:** Mr. Speaker, the Minister of Energy says that he must carve up B.C. Hydro into two companies because American regulators demand it if we want to continue selling energy to them. Manitoba Hydro and Hydro-Québec also export energy to the U.S., at a greater proportion than B.C. does, but those companies remain whole and in public hands. In just the last few months Manitoba Hydro signed a contract worth \$1.7 billion to sell electricity to Minnesota.

To the Minister of Energy: why does B.C. Hydro have to split into two separate companies to meet American demands, when Manitoba Hydro and Hydro-Québec don't?

**Hon. R. Neufeld:** We have consistently stated in this House and around the province of British Columbia that B.C. Hydro will remain in public hands. If we want to continue to trade in the Pacific Northwest, there are some steps we have to take. That's one of them: to have transmission separate from generation. That's exactly the way it is in the U.S.

The member is wrong. Quebec has separated transmission from their generation and distribution, although it remains in public hands — exactly the same way as B.C. Hydro is.

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

**J. MacPhail:** Yes. Actually, the minister is right. Quebec hydro is as B.C. Hydro is now. The minister wasn't listening. He already announced that he's separating B.C. Hydro into two companies. Or have they

reversed themselves from just last week, when he announced that on radio? All I can rely on is what the minister said just last week.

Manitoba Hydro and Hydro-Québec live by the same American rules as B.C. Hydro, but the Manitoba government and the Quebec government don't use those rules as an excuse to break their companies up into pieces. They simply restructured their administrative functions, keeping their companies whole and intact, protecting them against the kind of incremental privatization that the member for Prince George-Omineca warns will happen if B.C. Hydro is broken into pieces.

Will the Minister of Energy please explain to a very suspicious public — and now to his own back bench — why he's pushing ahead with the plan to carve up B.C. Hydro instead of following the Manitoba model?

**Hon. R. Neufeld:** Mr. Speaker, it's always difficult to get a point across to that member. I'll try again.

As we've said, British Columbia Hydro will remain in public hands — transmission, distribution and generation. That is exactly the same way that it is in Quebec and the same as it is in Manitoba. We're doing the same as Quebec and Manitoba have done. They have separated their transmission aside from generation — still owned by the Crown, still owned by Quebec hydro. Transmission will still be owned by B.C. Hydro. In fact, transmission will always be owned by B.C. Hydro. We have committed to that. We will continue to commit to that.

We're going to keep it in public hands. We're looking forward to keeping prices as low as we possibly can for consumers in the province of British Columbia. There are some steps we're going to take to make sure that happens.

[1420]

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

**J. MacPhail:** Mr. Speaker, it's....

Interjections.

**Mr. Speaker:** Order, please. Order. Let us hear the question.

**J. MacPhail:** It's no wonder this minister has caused so much anxiety and concern about the future of B.C. Hydro, because he doesn't have a clue what's going on in other jurisdictions. It probably is because he doesn't care. It doesn't work for their agenda. But let me read from a letter sent just this morning from Manitoba's director of energy policy.

Interjections.

**Mr. Speaker:** Order, please.

**J. MacPhail:** Just this morning, he says: "The previous government" — actually, he says it's the previous

Conservative government — "looked at deregulating the retail market but rejected going down that route. In hindsight, that was the best decision for Manitobans. Manitoba Hydro has been able to satisfy U.S. requirements, thereby protecting its export business at the same time as keeping the utility whole and in Crown hands."

Before the minister uses any more phony excuses about needing to carve up B.C. Hydro, will he agree to release the top-secret energy task force report and commit to a full public consultation on his plans to break up B.C. Hydro?

**Hon. R. Neufeld:** The member she refers to, who is not in this House today, and she are both wrong. They just don't get it. We are not selling B.C. Hydro. We are not going to market rates. We are not deregulating, as a lot of other provinces have. We're going to keep it in public hands.

Interjections.

**Mr. Speaker:** Order, please.

**Hon. R. Neufeld:** Let me read to you very quickly....

Interjections.

**Hon. R. Neufeld:** Can you listen? I listened to you. I listened to you.

Interjections.

**Hon. R. Neufeld:** Let me read what Quebec has done, for your information, so it will be in the record: "Quebec has functionally separated under common management...." That's exactly the same as what we are doing. "They have adopted the...."

Interjections.

**Hon. R. Neufeld:** Listen up.

Interjections.

**Mr. Speaker:** Order, please.

Interjections.

**Hon. R. Neufeld:** Listen. Mr. Speaker, this was....

Interjections.

**Mr. Speaker:** Order, please, hon. members.

**Hon. R. Neufeld:** This was the group that was going to sell B.C. Hydro. We're not selling B.C. Hydro. They were the ones that were going to sell B.C. Hydro.

Mr. Speaker, I just want to finish this one sentence. "They have adopted the FERC open access transmission tariff, which allowed them to receive a power

marketers authorization to transact in the U.S., same as B.C. Hydro's wholesale transmission tariff."

FUNDING FOR CANADIAN CENTRE  
FOR POLICY ALTERNATIVES

**R. Hawes:** The Canadian Taxpayers Federation has learned that in the dying days of the previous NDP government, \$200,000 of taxpayers' money was handed out to the Canadian Centre for Policy Alternatives, a left-wing think tank, with no strings attached.

**An Hon. Member:** Didn't they write your Hydro stuff?

**R. Hawes:** In fact.... That's where this Hydro stuff came from, I think.

The previous government spent this money in contravention of their own government policy. To the Minister of Finance: given the underhanded way this money was shovelled out to the Canadian Centre for Policy Alternatives, is there any way for our government to reclaim this money?

**Hon. G. Collins:** I think it's true....

**J. MacPhail:** CCPA was a major source for you in March of 2000 — major.

**Mr. Speaker:** Order, please.

[1425]

**Hon. G. Collins:** That's right, Mr. Speaker. They were, because they contradicted what the NDP government was doing at the time. However, I've never given them any taxpayer money despite government policy.

Now, we all know about the long, close relationship between the Canadian Centre for Policy Alternatives and the NDP government. But I think what is a surprise is the fact that in the very dying days of the NDP government, within days of the election, the NDP government and the member for Vancouver–Mount Pleasant, as a member of Treasury Board, ushered through \$200,000 in taxpayers' money to that agency despite government guidelines. I'm going to ask the Deputy Minister of Finance to investigate whether that was done properly. If it wasn't, I'm going to demand that money be repaid to the taxpayers of British Columbia.

Interjections.

**Mr. Speaker:** Order, please.

Interjections.

**Mr. Speaker:** Order. Order, please. No one has the floor at the moment. Thank you. If we cannot get some decorum into question period, it will be terminated immediately. The member for Maple Ridge–Mission has the floor.

**R. Hawes:** Not only did the previous government shovel that \$200,000 out, but they paid \$35,000 a year for an enhanced government subscription to the Canadian Centre for Policy Alternatives, which gave them 50 copies of their monthly newsletter that's available for free on their website. However, interestingly, the Manitoba NDP government had a similar subscription, except they only paid \$15,000 and received 100 newsletters. In other words, the NDP government in B.C. paid about \$700 a newsletter, and their cousins in Manitoba paid only \$150 for the same thing.

Interjections.

**Mr. Speaker:** Order, please.

**R. Hawes:** To the Minister of Finance: was the previous NDP government swindled, or were they once again using taxpayer dollars to pad the pockets of their buddies?

Interjection.

**Hon. G. Collins:** I hear the voice, the ever-attentive voice, of the former Minister of Finance, the member for Vancouver–Hastings, saying to check the Legislative Library. I doubt there are 50 copies of the Canadian Centre for Policy Alternatives....

Interjections.

**Mr. Speaker:** Order, please.

**Hon. G. Collins:** I guess it's not surprising for the people of British Columbia when you think that the previous NDP government, with the member for Vancouver–Hastings sitting in the Finance chair and various other positions in cabinet, actually spent \$400 million-and-some for \$70 million worth of fast ferries. It's probably no surprise to the taxpayers of British Columbia when they know that the member opposite, as the head of ICBC, paid \$312 million for a \$100 million building in Surrey. It's probably no surprise, knowing that information, that they paid seven times — or whatever it was — what they paid in Manitoba than what they did here in British Columbia. I guess it just goes to prove that the NDP in Manitoba are a heck of a lot smarter than the NDP in British Columbia.

LONG-TERM CARE BEDS

**J. Kwan:** Jim and his wife Frances O'Conner have lived in the Kootenays for 57 years. Jim is 78; his wife is 77. Frances O'Conner has been living with Alzheimer's for the last six years. Recently Jim had major abdominal surgery, and he's had a weak heart. Frances has been in a respite bed since July, but because of government cuts to long-term care beds in the Kootenays, Frances will be sent home next week to live with her

very ill husband. He can't take care of her. They're both too sick.

To the Minister of State for Intermediate, Long Term and Home Care: is this her idea of a care plan for seniors — to force one very sick senior to take care of another?

[1430]

**Hon. K. Whittred:** This snapshot of this couple in the Kootenays exemplifies the very reason we have put in place a plan to add 5,000 beds to the system for long-term care. The previous government was in power for ten years. Do you know how many beds they added to the system? One thousand in ten years. We are committed to 5,000 beds in five years.

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

**J. Kwan:** Frances O'Conner had a bed before this government started to shut down long-term care facilities. Francis and Jim have pleaded with the government for help. They've written to the Premier; they've written to the Minister for Long Term Care. Their daughter told the minister that her family has to come to the realization that if they do not get the 24-hour care for their mother, there will be a disaster. The Premier wrote back, telling them to explore other options. The clock is ticking. Next week Frances will be forced out to go back home into the care of her husband, who is just unable to provide the physical and mental care or to have the stamina to provide the support for his wife.

Will the minister ensure that by the end of the week, long-term care is provided for Frances O'Conner?

**Hon. K. Whittred:** We are the first and, as far as I know, the only government in Canada to put in place a long-range plan to deal with the very challenging problems. We are committed, and we have...

Interjections.

**Mr. Speaker:** Order, please.

**Hon. K. Whittred:** ...a plan in place to provide 3,500 units, which is the first stage of meeting our commitment for 5,000 beds.

[End of question period.]

### Tabling Documents

**Hon. S. Hagen:** I have the honour to present the service plan report for Land and Water British Columbia Inc. for the year 2001-02.

### Orders of the Day

**Hon. G. Collins:** I call second reading of Bill Pr403.

### Second Reading of Bills

HANSLER OZONE CANADA INC.  
(CORPORATE RESTORATION) ACT, 2002

**D. Jarvis:** I move that the bill be now read a second time.

This bill is to restore the company named Hansler Ozone Canada Inc. to the registrar of companies and deem it to have continued in existence.

Motion approved.

**D. Jarvis:** By leave, I move that the bill be referred to the Committee of the Whole to be considered forthwith.

Leave not granted.

**D. Jarvis:** I move that the bill be placed to the committee in House to be read at the next sitting.

**Mr. Speaker:** The motion is that the bill be referred to a Committee of the Whole House for the next sitting of the House after today.

Motion approved.

**Hon. G. Collins:** I'm glad. I expect that the people from Hansler Ozone Canada Inc. will be pleased to see what just happened here on the floor of the House today.

Bill Pr403, Hansler Ozone Canada Inc. (Corporate Restoration) Act, 2002, read a second time and referred to a Committee of the Whole House for consideration at the next sitting of the House after today.

**Hon. G. Collins:** I call second reading of Bill Pr404.  
[1435]

GOLD STANDARD RESOURCES LTD.  
(CORPORATE RESTORATION) ACT, 2002

**R. Nijjar:** I move the bill be now read a second time. This bill is to restore the company name, Gold Standard Resources Ltd., to the registrar of companies and deem it to have been continued in existence.

Motion approved.

**R. Nijjar:** By leave, I move that the bill be referred to a Committee of the Whole House to be considered forthwith.

Leave not granted.

**R. Nijjar:** I move that Bill Pr404 be referred to a Committee of the Whole House at the next sitting.

Motion approved.

Bill Pr404, Gold Standard Resources Ltd. (Corporate Restoration) Act, 2002, read a second time and referred to a Committee of the Whole House for consideration at the next sitting of the House after today.

**Hon. G. Collins:** I call second reading of Bill 77.

ACTING POLICE COMPLAINT  
COMMISSIONER CONTINUATION ACT

**Hon. G. Plant:** Mr. Speaker, I move that the bill be now read a second time. This bill extends the appointment of the acting police complaint commissioner until a permanent commissioner is appointed by the Legislative Assembly. I am pleased to say I'm speaking to second reading on behalf of my colleague the Minister of Public Safety and Solicitor General.

When the police complaint commissioner resigned earlier this year, cabinet appointed an acting commissioner while the Special Committee to Appoint a Police Complaint Commissioner began the search for a permanent commissioner. Under the terms of the Police Act, the acting commissioner can only serve for 20 sitting days of the Legislature after appointment. When that formula is applied to the circumstances of the present case, the result is that the term of the acting commissioner expires on November 21, 2002. The Police Act makes no provision for the reappointment or extended appointment of an acting commissioner while the Legislature is sitting.

The Special Committee to Appoint a Police Complaint Commissioner has been hard at work. However, its work is not complete. We need to give that special committee the time it needs to recommend the best candidate possible to ensure that the office and the public interest are well served in the future. It is in the public interest to have the position continue to be filled by an acting commissioner while the search continues so there is someone with decision-making authority to discharge the functions of the commissioner under the act, including the acceptance of complaints and the investigation and disposal of complaints against municipal police officers.

It is also, however, important that the Legislature respect the basic framework of autonomy represented by the appointment provisions in the act. By that, I mean that the decision with respect to the selection and appointment of the police complaint commissioner as an officer of the Legislature is a decision for this Legislature, not a decision for cabinet.

With that in mind, the bill has been drafted in a way to ensure that the extension of the appointment or the continuation of the appointment is not indefinite. Accordingly, the bill, by its own operation, will be repealed on March 31, 2003, or sooner if prescribed by the Lieutenant-Governor-in-Council. Our intention is to repeal the bill as soon as a permanent police complaint commissioner is appointed, as there will no longer be any need for this bill.

Motion approved.

[1440]

**Hon. G. Plant:** I move that the bill be referred to a Committee of the Whole House to be considered at the next sitting of the House after today.

Bill 77, Acting Police Complaint Commissioner Continuation Act, read a second time and referred to a Committee of the Whole House for consideration at the next sitting of the House after today.

**Hon. G. Plant:** As Government House Leader, I call second reading of Bill 72.

LOBBYISTS REGISTRATION  
AMENDMENT ACT, 2002.

**Hon. G. Plant:** I move that Bill 72 be now be read a second time. This bill amends the Lobbyists Registration Act to close a loophole that would have allowed consultant lobbyists, who are currently engaged in a lobbying undertaking on behalf of a client, to avoid registration. The loophole is unintended, and in fact, the exemption in the act before this bill comes forward.... The exemption made sense when the act was passed in August of 2001. The idea of a lobbyists registration act was a new concept and an advance in open and transparent government not seen before in British Columbia.

At the time the act was drafted and introduced and debated in the House in the summer of 2001, it was, in our view, quite reasonable to exempt current undertakings from registration on the basis of an argument that those who were in the business of consultant lobbying could not at that time have anticipated or prepared for the requirement to register.

That was then, and this is now. Fifteen months have passed, and during those 15 months, we have developed a totally new system to handle the registry. What has also happened, of course, is that lobbyists have had the opportunity to familiarize themselves with the basic requirements of the act and the registry itself, so the requirement to register is no longer a surprise.

We're speaking here about the consultant lobbyists. They are one of the three groups of lobbyists that are required to file under this act. As you may know, some lobbying undertakings are short-term. Many, however, will last for several months or even years. If we miss the opportunity to capture these ongoing contracts, we will fail in our goal to provide the people of British Columbia with the full disclosure of lobbying activities that we promised when we passed this act as one of the first initiatives of the new government in 2001, so we have drafted the amendment.

The amendment is intended to capture those existing lobbying undertakings — that is, agreements to undertake specific lobbying activities for a client on specific issues for specific periods of time. I should make it clear, however, that this amendment does not require consultant lobbyists to register retainers to lobby. However, as soon as the retainer is activated and the consultant begins a specific undertaking, that undertaking will have to be registered and a fee paid. The result is that there may be several undertakings that will have to be registered within the course of the retainer. If, however, the retainer is never activated and no lobbying is actually done under the retainer, there

will be no need to register. It's not the fact of the re-tainer but the activity of lobbying that is the public policy object of the act and this amendment.

This bill also amends section 11(2)(c) of the act to expand the reasons that the Lieutenant-Governor-in-Council may set different registration fees or waive those fees. Different fees may be set, or the fees may now be waived, based on the time when a registration is submitted or on the class of lobbyists. This will allow the flexibility to address expeditiously any unforeseen unfairnesses or anomalies in the fee structure.

[1445]

This is a new undertaking. It is, I believe, an exciting undertaking, and it is a new step forward in putting in place government in British Columbia which is open, which is transparent and which is also accountable. I am certain these amendments will improve a scheme that was basically sound when it was introduced and will ensure that as we continue to get the registry up and running, it will serve the public interest that lies behind it. I urge all members to continue to support the initiative generally and this particular amendment which is before the House in these provisions in this bill.

**R. Sultan:** I seek leave to acknowledge the presence in the Legislature of a visiting group of students from Handsworth Secondary School.

Leave granted.

### Introductions by Members

**R. Sultan:** Handsworth Secondary School in North Vancouver, in my riding, is one of the jewels in the crown of the North Shore's secondary school system. They strive to achieve their personal best in all areas. They have a well-balanced program of both athletics and cultural activity. The teachers are extremely dedicated. In fact, I think Handsworth is an example of how our school districts in the North Shore have adapted very flexibly to the new arrangements under the new era. I just wanted to acknowledge their presence in the Legislature. They are having a tour.

Interjection.

**R. Sultan:** It's fabulous.

Anyway, I won't go on describing the glories of Handsworth. I just wanted to acknowledge the presence in the Legislature of this fine institution.

### Debate Continued

**Mr. Speaker:** The question, hon. members, is second reading of Bill 72, the Lobbyists Registration Amendment Act, 2002.

[1450]

**J. MacPhail:** Thank you to the Attorney General for giving me an opportunity to speak at second reading.

This is an amendment that, while the Attorney General needs to be congratulated for quickly amending the legislation to fill a huge loophole that was in the legislation that was amending the original legislation.... Let's see, this is the second amendment to the legislation before it's even been put in place. It was to close a loophole that actually was identified very quickly by the opposition, and then the media raised it with the Attorney General. It was to say that lobbyists who currently hold contracts and are lobbying the government have to also register as lobbyists.

So congratulations to the Attorney General for closing the loophole. I am taken aback a little that the loophole was there in the first place. It was such a substantial loophole that one has to question why the Attorney General didn't know about it, and one has to question why the Attorney General didn't know about it when it was because of his own news release that the opposition quickly identified the loophole and then brought it to the media.

It is important for us to make sure this lobbyist registration works properly. I actually happened to go onto the site shortly after its introduction. Maybe it was just startup. Maybe it was just a situation where somebody was testing the lobbyist registration, but when I looked at the people who had registered, they were joke names. They were sort of like high school people who had registered in jest. The media didn't seem to be interested in that, so that's why I'm bringing it to the Attorney General's attention.

Even though there's a rather late, slow start to this lobbyist registration, I hope that people take it very seriously. Now that the loophole is closed and that everybody — people who have current contracts and people with new contracts — has to register, it should work well. We'll be monitoring it closely. If there have been jokesters registering that weren't just tests of the system, we'll have to figure out a way to prevent that from happening so British Columbians can take this very seriously.

I guess when the Liberal government actually allows the public to see what legislation's intent is, when they announce transparently what the intent is and find out very quickly that the intent is not what British Columbians want and then come in and amend the legislation, that's good. That's the way the system should work.

**Hon. G. Plant:** I agree with many of the comments of the member opposite. I'll certainly go back and scrutinize *Hansard* from last summer, because one thing I recall from looking at it when this issue first arose was that, actually, it was not identified on the floor of the House by anyone who participated in the debate. It is certainly unfortunate that the matter arose. It was not discovered until later.

I'm sure that all of us as members collectively, both government and opposition, hang our heads in shame that we did not introduce an amendment then, as would have been easily possible to do, had the matter been identified — as easy, actually, for the opposition

as for government to do, in fact, had the matter been identified. Sadly, the matter was not identified then either by opposition or by government. Fortunately, however, I think it was identified in time to ensure....

Oh, I'm sorry.

**An Hon. Member:** I'll wait.

**Hon. G. Plant:** Fortunately, however, it has been identified in time to make sure that it's part of the scheme as it gets up and running. I will be as interested as the member opposite in following the development of this registry to be sure it is subscribed to seriously by those who are required to file. Since I suspect I have a moment or two to speak about the registry, maybe I could say this.

[1455]

One of the things we looked at when we were designing this model a year ago last summer was the experience in Ontario and in the federal registry, which are the two other registries that exist in Canada. We tried to borrow what we thought was the best of their structures and put in place something that is also a made-in-B.C. solution and meets the public policy objective of transparency and openness, without becoming an exercise in regulating the profession of lobbying.

But as we did that research — and as I had done the research in the years before then, when I was thinking about this initiative — I did discover that in both Ontario and the federal registry, there is from time to time a tendency to take the provisions of the statute and the requirement to register and to construe them narrowly and legalistically. I recognize that all statutes are intended to be lodged, and people are free to do the best they can to read about their obligations and try to ensure that they organize their affairs in a way that they believe is consistent with those obligations. But there is this tendency from time to time to look at the basic spirit of the requirement to register and respond to it in a very technical and legalistic way. I hope that is not the experience that we have in British Columbia. I hope the experience we have in British Columbia is that the different categories of lobbyists who are intended to be caught by this act will recognize that the burden of registration is not great, the fees are relatively modest and the information that's required to be disclosed is not overwhelming or, frankly, that intrusive.

I hope we'll see that there is a recognition that this is a statute that can serve us all well. It will serve government well. It should serve the public interest. But I also think it can perhaps serve the profession of lobbying well if those who engage in lobbying read the act and look at its obligations from the perspective of ensuring that they comply with the spirit as well as the strict letter of the law.

It's early days yet. I don't doubt that there will be a few more growing pains as we move through the months to come. But I'm confident that these amendments will help ensure that we get on the right footing, and I look forward to the support of the House in bringing them to enactment.

[J. Weisbeck in the chair.]

**Deputy Speaker:** The motion is second reading of Bill 72.

Motion approved.

**Hon. G. Plant:** I move that the bill be referred to a Committee of the Whole House for consideration at the next sitting after today.

Bill 72, Lobbyists Registration Amendment Act, 2002, read a second time and referred to a Committee of the Whole House for consideration at the next sitting of the House after today.

[1500]

**Hon. G. Plant:** I call committee stage debate on Bill 74.

### Committee of the Whole House

#### FOREST AND RANGE PRACTICES ACT (continued)

The House in Committee of the Whole (Section B) on Bill 74; H. Long in the chair.

The committee met at 3:01 p.m.

Sections 11 and 12 approved.

On section 13.

**J. MacPhail:** Section 13 is entitled "Content of woodlot licence plan." The section is similar to section 5 in this bill, which outlines requirements for forest stewardship plans, but there are some differences that I would appreciate having an explanation of.

Section 13(1), dealing with the woodlot licence plan, requires a map, which includes providing "prescribed information about forest resources." Could the minister explain what this requirement is and why it's necessary here but not in the forest stewardship plans?

**Hon. M. de Jong:** I'll just make a couple of general comments and then, hopefully, answer the member's question. Philosophically, we have tried to reflect in this section the realization and the fact that woodlots are smaller entities of 400 to 600 hectares. We've tried to simplify the planning process for them.

The other significant departure from the forest stewardship plan is that there is not a requirement on the woodlot side of things for subsequent site plans. The more detailed mapping that a licensee would be required to do following the acceptance of the forest stewardship plan in order to get cutting permits and road permits.... A similar requirement doesn't exist here, so we thought it made sense to include something of a mapping requirement at the stage where the woodlot licence plan was presented.

**J. MacPhail:** So is it size that matters?

Interjections.

**Hon. M. de Jong:** That's never been my position, hon. Chair. [Laughter.] But it certainly has a relevance; so I'm advised.

[1505]

That's not the only consideration. The fact is that there is a mapping requirement with the forest stewardship plan, and there is one here as well. It's obviously a much smaller land area, but because that mapping requirement isn't attached to, for example, a site plan on the woodlot side of things, we thought it made sense to include it at the stage in the process where the plan itself is filed.

**J. MacPhail:** Section 13(2) lists the same subjects of objectives set by government that were listed in section 5, and we had a thorough discussion of the intent there on the forest stewardship plans. Will the objectives of these ten subjects be the same for the forest stewardship plans and woodlot licences? Perhaps, if there are distinctions, the minister could outline them.

**Hon. M. de Jong:** With the exception of those values listed in subsection (3), the answer is yes. For example, if you have a woodlot licence contained within a particular TSA for which these objectives have been set, they must be met within the context of the woodlot licence plan in the same way that they must be met within the context of a forest stewardship plan.

**J. MacPhail:** Subsection (3) has some exceptions. Maybe that's not the right word. Let me ask about subsection (3), which says that a woodlot licence need not be consistent with objectives set by government referred to in subsection (2) to the extent that those objectives pertain to retention of old forest, seral stage distribution, landscape connectivity or temporal and spatial distribution of cutblocks.

Could the minister just outline for the record why those are exempted?

**Hon. M. de Jong:** In fact, in this case it really is a matter of size. These are features that have application over a much broader area than a 400- or 600-hectare woodlot licence. The ability to practically apply them on that scale simply isn't there.

**J. MacPhail:** Are there any consultation requirements around woodlot licence plans and objectives? There's no specific reference to consultations here, but are they occurring? Are they occurring now? If so, what are they, or what's the intent?

**Hon. M. de Jong:** In fact, they do occur now, and pursuant to section 18 of this bill, there is a requirement that they continue to occur.

**J. MacPhail:** How does that occur? I had a presentation, along with my colleagues, from the woodlot licensee association — one woodlot licensee association, anyway. Is there only one in the province? Is that the body with which the government is consulting?

**Hon. M. de Jong:** There is certainly a provincial body, and then there are regional components to that provincial body. I can't recall offhand how many regional units there are. I'm familiar with the one in the Fraser Valley and in the Stewart area. I can get that information for the member.

[1510]

Sections 13 to 15 inclusive approved.

On section 16.

**J. MacPhail:** Mr. Chair, this is the section entitled "Approval of forest stewardship plan, woodlot licence plan or amendment." We'll be spending a bit of time on this section — well, I guess not that much but a little bit.

I've raised some of the concerns under section 5 about the approval process of forest stewardship plans. Let me ask the minister this: what's the process that will be followed by ministry staff to determine if the forest stewardship plan's results or strategies are likely to achieve the objectives set by government? What's the process that will be followed by ministry staff to approve, sign off on approval, so that the forest stewardship plan's results and strategies are likely to achieve the objectives set by government?

**Hon. M. de Jong:** I'll start with the process, and then the member may have questions about the considerations that are employed during the course of that process. We expect that a stakeholder would present a forest stewardship plan at the district office level. The district manager would then assign a team of individuals within the office to conduct the review of the plan and would apply some tests, which I can go into in a moment for the member. Our hope is that within a period of 30 days, assuming that the plan is complete, that review process would itself be completed and the proponent would receive either an approval or, as the legislation sets out, reasons for non-approval.

**J. MacPhail:** Will there be actual visits by ministry staff? What's the actual hands-on approach that the ministry staff will do in evaluating the plans?

[1515]

**Hon. M. de Jong:** Hon. Chair, first, I neglected to inform the member — through you — that the expectation is that in advance of preparing and submitting the forest stewardship plan, the proponent would actually sit down with the district manager and review what the expectations from the Crown side were. There would be that discussion, which presumably would influence to some extent the content of the plan itself.

The member's particular question related to the possibility or the likelihood of site visits. There will certainly be circumstances where that is deemed necessary or more necessary. I'll give the member an example where I think it would be entirely legitimate to expect a site visit. Earlier in these debates we canvassed around the discussion of objectives. We talked about riparian zones and the fact that there would be some detail maintained around riparian zones. I think I also said to the member that the option under this legislation does exist for a licensee to make the argument that those default positions should be varied in unique circumstances and that the onus would fall to the licensee or proponent to demonstrate why that could be done without compromising the overall objectives. I think that is a case where a site visit would make sense. That's one example. I can think of others where, at this stage of the process, Forest Service staff would want to examine on a site-specific basis.

**J. MacPhail:** I think it was yesterday that the minister reported that the reduction to the approval of one plan would eliminate 1,000 pieces of paper. I think it was 1,000 forms or 100,000. Is that figure of 100,000 per approval or provincewide?

**Hon. M. de Jong:** Provincewide.

**J. MacPhail:** My next area that I wish to explore is: how does the current approval process, even though it involves just one plan, differ from the previous approval process? What are the forms...? How is the 100,000 made up? Just let me ask this: in the context of the approval of the forest stewardship plan, how is that process different than the forest development plan? Now I'm not talking about the site plan but just the forest development plan approval.

**Hon. M. de Jong:** I think there are two parts to the member's question. The bulk of that paper at this stage relates to the silviculture prescriptions that flow back and forth between government and licensees. That accounts for a goodly portion of the 100,000 documents that I referred to last day. In broad terms, I'm not sure the review process undertaken at a district office would be that different as between a forest development plan and a forest stewardship plan, although admittedly the document itself and the contents of the document and what is being measured and actually reviewed will be quite different.

[1520]

**J. MacPhail:** Could the minister outline the differences, please?

**Hon. M. de Jong:** Hopefully, this is helpful. Under a forest development plan, given the legislative regime that gives it its existence, the licensee is really charged with the task of demonstrating how they are going to, during the course of their operations, conform with a prescribed set of rules.

That contrasts with a document which — again, broadly speaking — charges the proponent with, first of all, in part setting objectives that are consistent with the government values set out in regulation and higher-level plans and also obligates that licensee to demonstrate how they will be meeting those objectives and achieving those results. There is that fundamental difference in content that should reveal itself.

**J. MacPhail:** To whom are the plans submitted?

**Hon. M. de Jong:** To the district manager.

**J. MacPhail:** I understand there are 11 district offices that will be closed. How does that work? What impact does that have? Have you taken into account the timing for approval that will now, I'm sure, change because of the closing of 11 district offices?

[1525]

**Hon. M. de Jong:** Well, one of the obvious results of the closures the member has referred to is that for some proponents, they will be sending or transporting their proposed forest stewardship plans a further distance if they are located in centres that no longer have a forest district office. As this legislation has been developed, the executive within the Forest Service have modelled and, I am advised, are confident that we can, in virtually all cases, meet the 30-day test we have set for ourselves. Admittedly, that is something we will need to attract to ensure we are meeting the performance objective.

**J. MacPhail:** I'm sorry, but is the 30 days set as an objective separate and apart from the legislation?

**Hon. M. de Jong:** The 30 days is not set out in legislation. It is an objective we have set.

Sections 16 and 17 approved.

On section 18.

**J. MacPhail:** This is the section that deals with review and comment of the forest stewardship plan where there is a requirement for the plan or amendment to be publicly available for review and comment before submitting the plan or amendment to the minister for approval. That's why I ask the question. So the 30-day approval time is after the forest stewardship plan is submitted to the district office? The minister is nodding his head yes. What does the minister anticipate in urging proponents to put forward as a time frame for the review and comment period?

**Hon. M. de Jong:** I think it will vary. Although we do intend to bring some regulatory guidance, I think it's fair to point out to the member that what is reasonable in one circumstance or location may be entirely unreasonable in another — in a very isolated part of the province where there are no additional licensed

interests or no first nations interests engaged. A different length of time will be appropriate in a situation where the opposite holds true. The test that will be applied in measuring whether or not the review and comment period has been reasonable is a subjective one, but we will endeavour to provide some regulatory guidance.

**J. MacPhail:** Will the regulatory guidance also stipulate...? I mean, there's a difference, in my view, between review and comment. There could be a review and comment that doesn't involve public scrutiny. Will there also be an indication through regulation about how long the plan has to be available to the public before it can be submitted?

**Hon. M. de Jong:** That is the case now, and it strikes me that if.... Well, the member asked the question. It strikes me that it's a reasonable proposition to suggest a minimum specified period. But as I say, in some cases a minimum period may not in and of itself be reasonable, given the circumstances surrounding the application.

[1530]

**J. MacPhail:** This is a two-part question. Will the ministry play any role in informing the public that there are plans to be considered? Secondly, will the ministry staff review the submissions and comments made during this period of time prior to deciding the fate of the application?

**Hon. M. de Jong:** The answer to the second question is yes. Obviously, that will become a fundamental feature of passing judgment within the approval process, and there is that obligation imposed on proponents.

The first question, I think, focused on whether or not the Crown, via the Forest Service, will itself have responsibility for the distribution of information to interested parties. The answer to that is no, but it will exercise a very significant role in determining whether what the proponent has done meets the reasonableness test.

**J. MacPhail:** I want to just explore for a moment the consultation process, because the minister did earlier in the discussion refer me to this section, section 18, about the issue of consultation. We've had some discussion about it, but I am particularly concerned about the issue of consultation and review and comment that's available to first nations.

The reason why I am particularly concerned about it is because the industry itself is raising concern about the lack of investor confidence in British Columbia. They've done that very recently. My experience has been that the reason why there's any concern amongst investors is lack of certainty of land use. Part of that concern — a substantial amount — arises because the market campaigns we've managed in this province to ameliorate their concerns, and I hope we continue to do

that.... So most of the concern about lack of certainty arises out of first nations treaty claims, treaty negotiations. There is also a body of law that we have discussed very briefly that concerns what I would call a different right to consultation entrenched now in law for first nations who are in treaty negotiations.

I know the minister has seen the letter from the Carrier-Sekani tribal council dated November 7. Their concern is specifically around consultation around the Forest Practices Code. It's dated November 7, so it's after the introduction of this legislation. They still are concerned about consultation. I'll just read the concluding paragraph. If the minister doesn't have the letter in front of him, I'm happy to provide him with a copy. I know he gets a lot of correspondence.

What they have said is — this is from Mavis Erickson, who's the tribal chief of Carrier-Sekani tribal council:

"I would also like to note that your deputy minister stated that the Ministry of Forests would work with these groups to create an area-based first nations tenure for legislation. To date no discussions on the creation of this tenure have commenced. We request that a meeting be arranged with this group and your assistant deputy minister to receive a response to the paper and initiate negotiations on November 28 in Vancouver."

[1535]

Now, that's one. I know that's on the issue of tenure. The previous part of the letter also says: "We're still waiting for the consultation on Forest Practices Code." They do refer to the forum that the minister had, but the parties agreed that it wasn't consultation on the Forest Practices Code.

I'm aware of first nations both in the First Nations Summit and the Union of B.C. Indian Chiefs specifying at the very beginning of every meeting now whether the government considers this to constitute consultation, and there was an agreement that it didn't.

I'm just curious. In order to ensure investor confidence and allow our forest sector to thrive — always in a sustainable way, but in order to allow them to thrive — we need to have certainty around land use. That begins with first nations ensuring that their legal right to consultation takes place. Perhaps the minister could help me in a little more specific way, because after our dialogue around this issue — I'm not sure whether it was yesterday or the day before — I did receive feedback that the concerns are still there. What can the minister hold out in the way of ensuring adequate consultation around the Forest Practices Code for first nations?

**Hon. M. de Jong:** I think, first of all, the observation offered by the member around the importance of working towards the resolution of some of these issues as a way of establishing a greater degree of certainty, and the economic benefits which flow from that, are arguments that I think are beyond any question and are certainly ones I agree with.

For those that look at these or any other legislative provisions and ask about the obligations that the

Crown has vis-à-vis first nations, I would hasten to respond that we intend to discharge those duties fully not just because there is a legal requirement to do so, but in large measure because of the reasons the member has alluded to. The establishment of that certainty has benefits for first nations, non-first nations and the province as a whole. This legislation specifically refers to first nations in ways that the existing Forest Practices Code does not. I would point to those provisions as a signal that we take that duty seriously.

Similarly, I would point.... I think there are people who are much more interested in what governments do than what they say. I'm not sure that if I spoke for the next five hours in this House, I would entirely eliminate doubts or concerns. What I can say is that in the consultation exercise leading up to the tabling of this legislation, we did meet with first nations, and there are tangible examples of how we responded to their concerns, particularly with respect to the values that we intend to manage for. Cultural values are set out. That is in direct response to suggestions and submissions we received from first nations.

The Crown primarily has duties in this respect, and we intend to discharge those duties. The courts recently are issuing pronouncements around other duties that may or may not exist, and to the extent that those are confirmed judicially, those obligations and duties must be upheld by the parties they affect. It is an evolving matter.

[1540]

Lastly, I will say this to the member. When I and, I think, my colleagues meet with first nations, in most cases our interest is to proceed with the dialogue that will help us achieve solutions. What I said to the group at the meeting in Richmond, which the member is referring to, was: "I don't want us to get bogged down in how we characterize this meeting. What I want us to do is meet and find some solutions." So if it is significant to you that this not be labelled consultation within the legal meanings of that term, then don't. I want to talk, and I want us to move forward, and I want us to develop some economic opportunities for first nations.

**J. MacPhail:** I understand that it's subjective, and believe you me, I haven't had any first nations in any way characterize the relationship as unworkable. But they also are fully aware of their legal rights, as the minister said. How would the minister characterize the ability to move forward in a way that will actually reach practical resolution of this matter, in a way that will contribute to investor confidence?

**Hon. M. de Jong:** The entire legislative regime — and not just the Forest and Range Practices Act, but the Forest Act itself — is designed, firstly, to make provision for the Crown discharging its duty as it relates to first nations and, at the Forest Act stage, to preclude the possibility of issuance of licence rights without ensuring that those duties have been properly discharged. The proof is always in the acting. The provisions requiring the discharge by the Crown of its duties

are there, and we intend to abide by and fulfil those duties.

Sections 18 to 21 inclusive approved.

On section 22.

**J. MacPhail:** This is the section of the act that deals with roads. We've had some discussion earlier on approval for roads, but perhaps the minister could explain the changes here in terms of the shift from the original Forest Practices Code to this new act. Let me put it out. What I'm looking for is clarification on section 22 in relation, again, to Bill 75 — about to be debated — which repeals and/or amends several sections of the Forest Practices Code that deal with roads.

I think the minister and I have an agreement on this. We both understand — particularly, I now fully understand — that there are two processes, the old process and the new process, and that proponents can choose either. But at the same time that we're introducing this new road section for the new process, the government is amending the old process in a way that changes.... The gap is even bigger between the two processes now. Perhaps the minister could explain the thinking.

[1545]

**Hon. M. de Jong:** Maybe what I'll do, for the purpose of the discussion, is compare the Forest Practices Code process No. 1, as amended by Bill 75, to the regime that would exist under this act. I think the short answer is this: under process No. 1 that will remain in effect for a little more than two years, there is still something of an approval process for specific roadworks, whereas under this regime, except insofar as roads will be referred to in a general way in the forest stewardship plan and although roads will show up on a subsequent site plan, they are not approved by the Crown in the way that they were and would be under the Forest Practices Code. That's probably the fundamental difference.

**J. MacPhail:** Section 22(2) states: "A person must not use, construct, maintain or deactivate a road" — this is under Bill 74 — "except in accordance with this Act, the regulations, the standards and any forest stewardship plan or a woodlot licence plan, if the road is...." It goes on to list some qualifications. Will it be that the clear guidelines for the requirements will be established by regulation? Is that the intent?

It says here: "...in accordance with this Act, the regulations...." What section in here permits regulations to be established around roads? That's what I'm asking.

**Hon. M. de Jong:** The statutory provision that enables the creation of regulations relating to roads is section 155(c).

[1550]

**J. MacPhail:** Thank you very much to the minister.

How much of the road design legislation in the Forest Practices Code, which I think is sections 53 through 56, will still apply? In other words, I don't think there are any amendments in 75 to 53 and 56 of the current code. Is there a difference between licence holders if they use the old system and those using the new system? Now, the minister has kind of answered that question, but let me just tell him finally where I'm going on this. Even though the new process is a broad overview and the old process is a very specific overview, are there two completely different processes that will now be put in place for the different plans during the transition period?

**Hon. M. de Jong:** I think there were two questions: one relating to the provisions of the Forest Practices Code and whether they will continue to apply. For people who are operating within the context of the existing Forest Practices Code, all of those provisions will continue to apply through the life of that document — a little more than two years — until that person makes the shift to a forest stewardship plan.

The second question about the differences is, I think, an excellent question. It does go to the heart of a lot of the input that I have received over the last two or three months from many affected parties, so I thank the member for her question. What they have said to me is that at a practical level, this doesn't really change what they do on the ground. They are still going to have to employ those practices. It won't alter in large measure their on-the-ground practices. It will provide them with a degree of flexibility when they are confronted by a unique set of circumstances not contemplated by a standard set of rules, and it will also — I need to acknowledge — ultimately remove much of that bank of prescribed regulation that governs every facet of road construction, maintenance and deactivation. But in large measure what I am told and what we will be watching for is to ensure that on-the-ground practices remain consistent with the highest standards.

Sections 22 to 28 inclusive approved.

On section 29.

**J. MacPhail:** This is the section dealing with silviculture. Perhaps the minister could explain how the changes are here around silviculture — just general comments to begin with. I have some specific questions. We learned earlier in the debate today that the elimination for what I think was called the silviculture plan....

[1555]

Interjection.

**J. MacPhail:** Sorry, I can't hear the minister, but he can correct me when he stands up.

The approval process around silviculture will eliminate the 100,000 pieces of paper. Oh, I'm sorry — silviculture prescriptions. The elimination of the re-

quirement for silviculture prescriptions, which was in section 12 of the old Forest Practices Code.... That's gone now. So what happens? How is it that the 100,000 pieces of paper get eliminated, and what were they doing before that's being done in some other way now?

**Hon. M. de Jong:** In general terms, I think the point I want to make is that the holder of a forest stewardship plan — and that could be the timber sales manager in an area — or the holder of a woodlot is charged, under the provisions of this legislation, with establishing a free-growing stand in areas they have harvested specifically in accordance with the terms of the plan they themselves have created and, in addition, any additional prescribed requirements.

If we can start there, there is presently an obligation that is tracked via the silviculture prescriptions. It involves a tremendous transference of documentation back and forth between government and licensees or operators on the land base. In general terms, what is taking place now is that obligation is confirmed in legislation and becomes a fundamental feature of the forest stewardship plan or the woodlot plan that the operators themselves submit, and they must conform to it.

**J. MacPhail:** Unlike the silviculture prescriptions under the old code, it seems that section 29 is much less clear — vaguer — about the requirements that would be contained in a silviculture plan. Actually, in my discussions with government caucus members it is this area particularly that they hold out as the reduction in paperwork. This still requires a silviculture plan, as the minister has just said, but it's not going to be turned in. Is it the minister's view that those 100,000 pieces of paper were all about the exchange of approval and that the requirement for a plan now doesn't in any way take away from that reduction of the 100,000 pieces of paper that will no longer be needed?

[1600]

[J. Weisbeck in the chair.]

**Hon. M. de Jong:** I want to be as candid as I can about the significant change that is occurring here. I am reminded that under the existing regime, what was taking place was the preparation by forestry professionals, on a site-by-site basis, silviculture prescriptions that were prepared by professionals, submitted to government and reviewed by another set of professionals. That's where that paperwork was generated. What is taking place here is the imposition of a straightforward obligation to take a harvested cutblock back to free-to-grow. That would normally take eight to 15 years, but that will be specified in the forest stewardship plan with measurable results that could be tracked in terms of getting there. That becomes a legal...as it is today, but it remains a legal obligation. Rather than the detailed exchange of documentation on an ongoing basis, the Crown looks to the forest stewardship plan in conjunction with this section and the regulations and

tracks whether or not that obligation is being discharged.

Some people have made the suggestion: "Ah, but then it's 15 years until the Crown can bring sanction to bear." Well, pretty clearly, that's not the case. It becomes pretty obvious to Forestry officials within the compliance and enforcement section when the work has not been taken that would lead to the achievement of those results, and that constitutes an offence under this statutory regime.

**J. MacPhail:** I note that this legislation eliminates the requirement that the new silviculture system relate to higher-level plans, but I also note that Bill 75... Oh, and there is a requirement under the old code that section 12(c) said that silviculture prescriptions had to be consistent with higher-level plans, but I note that Bill 75 actually eliminates that requirement from the old code too. We've got to a situation where no silviculture plan or prescription has to relate to higher-level plans. So what will be the relationship between the silviculture plan and a higher-level plan? Is it volunteer?

**Hon. M. de Jong:** I apologize for either not referring to that or doing so unclearly. Because the silviculture requirements and objectives are set out within the forest stewardship plan and because the forest stewardship plan itself must be consistent with higher-level land use plans, that link is very direct. The fulfilment of the silviculture obligations must, therefore, be consistent with the higher-level land use plan.

[1605]

**J. MacPhail:** Section 29(5) grants a person the ability to transfer the obligation to establish a free-growing stand to another person. I want to discuss this in terms of liability. Under the current system, if a holder fails to comply with the silviculture prescription, the government has several opportunities for recourse, since there are various sunk assets like mills, bridges, etc., on the land base. It's the licensee. Normally, you know, the proponents have substantial assets; they're responsible for the silviculture prescription.

Under this legislation, that can be transferred. Of course there are issues. When I say issues of liability, I mean that some of the silviculture companies now operate with a very, very small margin, with very few assets. How will the government take action on a silviculture outfit that's not associated with the licensee, not associated with any of the sunk assets that the larger licensee may have to hold as penalty?

**Hon. M. de Jong:** I think the member has identified correctly a point of departure from the previous act and an area of concern that I am also alive to. That is, it is one thing to provide the means to transfer that obligation or to sell that obligation.

I'll tell the member in part what the thinking was here, and she's already cottoned on to it. There are some companies out there now whose stated expertise is in the silviculture business and who have demon-

strated both an ability and a desire to assume these responsibilities. The member's also correct that the Crown has an interest.

Part of the value in dealing with the licensee is that there is some security there. Ultimately, the security is the interest in timber that the Crown grants to the licensee. There is potentially a risk associated with allowing the licensee to transfer the obligation if the Crown is put in a position where there is not the same degree of security. One of the options that is provided for in these provisions is the requirement that security be posted. At the regulation stage we'll have to specify where that is appropriate. There are silviculture firms in this province that have been doing good work on Crown land for many, many years, but we'll want to, obviously, take appropriate steps to minimize the risk to the Crown.

There's another example, though, for which this section is relevant that we haven't talked about, and that's the woodlot licensees. What we have found, I am advised, is that you get a woodlot owner who is coming to the age of retirement and is looking to transfer the obligation to another party to maintain the silviculture obligation. This act also facilitates that kind of transference. I don't take issue with the point the member has raised about needing to ensure that there is appropriate security for the Crown.

**J. MacPhail:** Under section 5 around the objectives and the values, we did have a discussion about what the minister's intent was for establishing regulation around achieving the values. Silviculture was not part of that; it's part of this section.

[1610]

Could the minister elaborate on what he thinks the prescribed requirements, the regulations, would look like around silviculture?

**Hon. M. de Jong:** Here are some of the indicators and features that will both be included within the plan and for which the Crown and the Forest Service will demonstrate an interest — some basic things. How long to free-to-grow? At what height do the replanted trees reach free-to-grow status? What kinds of species, interdistance between species and competition between species?

Those are some of the features that will need to be addressed and that the Crown will have an interest in, in terms of sign-off. That's ultimately where we get to with this: at what point do you effect sign-off that the objective has been met? At the end of the day, it is probably the most important feature of all this, because it is what constitutes regeneration of our forests and sustainability. Of course, it takes the longest to achieve, so having an appropriate measurable regime in place becomes that much more important.

**J. MacPhail:** Thank you.

Just one final question on this section. I'm back to the transfer from a licensee to another person in terms of the silviculture plan. Section 29(6) says: "An agreement referred to in subsection (5)" — which is the

transfer — "has no effect if it does not receive the minister's approval under subsection 5 (c)."

Can the minister outline what the approval process will be for that transfer?

**Hon. M. de Jong:** There will, in fact, be a prescribed process by which that transference can occur. Further to what the member raised earlier, at the end of the day the primary consideration for the Crown is going to be if we're satisfied that the replanting, the silviculture work, is going to be done and maintained to free-to-grow, to ensure that the Crown has not exposed itself to any additional risk that that won't occur.

Sections 29 to 31 inclusive approved.

[1615]

On section 32.

**J. MacPhail:** Section 32 deals with the issue of range use plan and range stewardship plan. We're now into range planning.

Could the minister give me specifics around what the difference is between a range use plan and a range stewardship plan and the sort of circumstances under which each becomes applicable? That's the difference between range use plan and range stewardship plan. Who gets what?

**Hon. M. de Jong:** I apologize to the member. There is an amendment standing in my name on the order paper which refers specifically to the cross-reference section. I wonder if I might begin by moving that amendment and advising the members that the purpose of the amended provision is to provide greater planning flexibility to range tenure holders who have demonstrated range management competence for five years or more.

Let me put it in terms that perhaps make more sense as to what the general intent is here. I should say I'm obliged to the member for Cariboo North for pointing out the error in terms of the cross-reference.

What we're really trying to accomplish here is to provide range stewardship holders — ranchers, cattlemen and -women, who occupy an unique place in terms of their role as practitioners on the land base — with some recognition that if they have demonstrated themselves to be good stewards over a period of time, the obligations they face in terms of the content of their range stewardship plans or the burden they face in satisfying the decision-maker will diminish over time. There's a two-year threshold and a five-year threshold. That's the purpose.

The specific amendment is to correct what is in effect a typographical error that relates to a cross-reference to another section.

[SECTION 32, in the proposed subsection (2) (a) and (b) by deleting "section 35 (1)" and substituting "section 35 (2)".]

Amendment approved.

On section 32 as amended.

**J. MacPhail:** Shall I repeat my question, then?

This section deals with the range use plan and the range stewardship plan required. My question was: could the minister provide, with specific examples, the difference between a range use plan and a range stewardship plan and the circumstances in which each would become applicable?

**Hon. M. de Jong:** I don't pretend that this is an exhaustive description of the differences, but I can tell the member that further to what I said earlier about providing ranchers with a degree of credit for good practice.... A range stewardship plan is similar to a range use plan for things like grazing, but it also may include intended results and strategies to achieve them. Unlike a range use plan, range stewardship plan content wouldn't include an actual grazing schedule. It wouldn't be that specific. That's one example.

[1620]

Section 32 as amended approved.

On sections 33 to 35 inclusive.

**J. MacPhail:** Sections 33, 34 and 35 are integrated. With the indulgence of the Chair, I might ask my questions across those three, and then we can vote on them together if that works in terms of integration.

The sections deal with the content of the range use plan for grazing, content of range use plan for hay cutting and then the content of the range stewardship plan. I note that the legislation lists the ten subjects in which the government will set objectives. Those are soils, visual quality, timber, forage and associated plant communities, water, fish, wildlife, biodiversity, resource features and cultural heritage resources. Those are the same ten subject areas required for a stewardship plan, and we've already discussed those. Could the minister explain how these same subject areas will be developed in setting objectives in relation to range use plans? Will they be the same objectives as for forest stewardship plans?

**Hon. M. de Jong:** In fact, there will be differences, and they relate to the, I suppose, obvious differences between a forestry operation and managing a ranching operation where the subject matter tends to be a bit more mobile.

We were discussing some of the examples that I might offer to the member on the wildlife side. For example, the objectives that would be set as it relates to the interaction between an elk herd and a range user would be different than the interaction that would take place between a forest licensee on that front.

Riparian standards. Again, the application of the objectives would be different given the fact that you're dealing with a herd of cattle and the potential damage they could inflict. There will be differences that are specific to the range use side of things.

**J. MacPhail:** That is exactly the area I was going to discuss next with the minister, so just let me ask specifically around livestock.

[1625]

Will there be provisions that tie the objectives of water and soils, particularly with livestock, with the Drinking Water Protection Act or the protection of groundwater sources? It's my information, particularly in the area of range, that often the sources for drinking water for the area would perhaps be the same as livestock grazing.

**Hon. M. de Jong:** In fact, it's a valid question and something that we heard about during the course of the consultation with the public. In fact, there will be specific regulations, and they are contemplated and provided for in the act itself around watershed protection. Ironically, one of the examples I have cited in making the case for tougher and heightened fines on the administrative penalty front relates to protection around domestic water intakes, and that actually relates to both logging operations and grazing range use operations.

**J. MacPhail:** I want to just explore this a little further as the concluding area in these three sections. Section 17 of the old Forest Practices Code outlines the planning requirements for holders of an agreement under the Forest Act or the Range Act. In the old section there were some very specific requirements for identifying and classifying several valued ecosystem components. It's my understanding that the specific nature of ensuring protection of those values was because of the circumstances that the minister and I have just been discussing.

Now, the list there is similar. There's no question that it's similar to the ten subjects we've been working with under Bill 74. It's section 17 — I think I've already said that — of the old code. The old code, I would suggest, is more specific, and it's actually very clear with its objectives and intent.

Now, in Dr. Hoberg's report — Dr. Hoberg did the review of the original consultation around changes to the Forest Practices Code — he recommended that the government should review the proposed regimes for environmental values and ensure that, at a minimum, they maintain the existing environmental standards. I want to discuss with the minister how he's going to ensure that the objectives outlined under the old section 17 are going to be maintained.

I almost.... Well, it's hard to put a rank order of importance, but this is an extremely important issue for people not only around the environmental values, because we have domestic animals integrating with wildlife, but we also have huge tracts of land, and we have populations who will be using the groundwater as their source for drinking water as well.

If I could just read one into the record: "Assess watersheds that meet the prescribed requirements to determine the impact of proposed timber harvesting and

related forest practices." This was the old Range Act as well.

[1630]

Can the minister give the public some reassurance that the environmental values will still be maintained?

**Hon. M. de Jong:** Thanks to the member for additionally referring to the commentary from Professor Hoberg. I agree with him and the member when she says this is an issue that sorts of transcends interest in forestry. It impacts on anyone — well, all of us. It's water quality. It is one thing for me to profess our absolute commitment to ensuring that what Professor Hoberg recommends actually takes place and is achieved. I think the member, though, asks me properly to go further and express how that will happen — in addition to the statutory measures contained in this act, the regulatory provisions it provides for.

I want to tell members that one of the things any range use plan or range stewardship plan will be measured against — and it will be a key component of those plans — is the degree to which protection for those domestic water sources, domestic water intakes, is identified, recognized and protected at a practical level. Those are issues that will need to be addressed specifically by the people who seek the right to operate grazing operations on the public land base.

Sections 33 to 40 inclusive approved.

On section 41.

**J. MacPhail:** Again, this is a section that talks about the review and comment of range use and range stewardship plans. We've already looked at the review and comment section for the forest stewardship plans, but I want to ask the minister if he could reassure us on the same items affecting range use and range stewardship plans. Will the same prescriptive regime, regulatory regime, around review and comment we've discussed under the forest stewardship plans apply to the range use and range stewardship plans?

**Hon. M. de Jong:** I think the member's question is this: is what I have said about the processes that relate to the public consultation review and comment provisions as they apply with respect to the forest stewardship plan — all of those processes I have described — equally applicable to section 41 and range use plans? The answer to that question is yes.

Section 41 approved.

On section 42.

[1635]

**J. MacPhail:** Again, we're still in the section of range. Section 42 is entitled "Proportional objectives." It's the section that says: "In prescribed circumstances, the minister may establish targets for sharing — in specified proportions between or among the holders of

range use and range stewardship plans — the responsibility to achieve the objectives by government."

Again, I would ask the minister to give examples of circumstances where he would work to establish the targets for sharing, what the targets would look like and how this would be achieved administratively.

**Hon. M. de Jong:** Conceptually, this section is not that dissimilar from section 9, which we discussed earlier, which spoke to a degree of coordination amongst forest licensees and the government's interest in ensuring that overall objectives are met by their combined efforts. An example that came to my mind as the member was asking the question would be grasslands and the distinct possibility that one would have two, three or four operators grazing cattle over a particular tract of Crown land and the Crown's interest in going beyond imposing an obligation on those operators individually. Really, the Crown's interest is in ensuring that their combined operations on the land base achieve a particular result or, in the negative, don't impose a degree of degradation that goes beyond a certain level. That's what this section is designed to facilitate.

**J. MacPhail:** I appreciate it's probably the same discussion that we had around section 9, but I've been thinking about this. I'm wondering about the legal issues. I assume it's that the plan has to include shared responsibility or an acknowledgment and a description of how the shared responsibility will work under the plan, but what about the legal issues here? I was thinking about this following our discussion. How does the liability regime work when more than one holder has responsibility to achieve the objectives set by government? I want to make it clear that I support the concept of shared responsibility and the requirement to plan for it, but what happens in terms of the legal ramifications?

[1640]

**Hon. M. de Jong:** Holding with the example we were discussing with cattle grazing on grasslands, in the event of a situation where there was overgrazing.... I am advised, first of all, this is not a unique situation. It's the kind of thing that occurs now, and I appreciate that the member is not opposed to that taking place. Compliance and enforcement would try to ascertain as best they could who among the shared partners was responsible — or in this case, whose cattle were responsible — for the violation. It may be that it was one of them. It may be that it was a number of them combined, and enforcement action would be commenced against that individual or those individuals who had contributed to the violation.

Sections 42 and 43 approved.

On section 44.

**K. Stewart:** I have one question with regard to the availability of the request for the grazing schedule.

With regard to that, what's the intent? Is that for anyone wanting to come on that doesn't believe you have a permit? What's the rationale for having anyone that comes upon a grazing area to ask for that? And who is a person? That's the second part of that.

**Hon. M. de Jong:** A person, obviously, is any individual but pursuant to, I think, the terms of the Interpretation Act in this province is also a corporation, so standing to make the request is pretty broad. The rationale behind the section is the realization that in areas where grazing is taking place on Crown land, there are often other interests. It might be forestry interests. It might be recreational interests. I suppose that if you're in an area or on a trail with your mountain bike or otherwise, you might be interested to know when the bulls are running, as it were.

**K. Stewart:** What would be the time frame in which a person would be required to produce this schedule for a person who asked?

**Hon. M. de Jong:** In fact, the expectation and obligation would be to provide the information within a reasonable period of time. What is reasonable may differ. I'll suggest that if the member has the range use plan or the grazing rights and I inquire as to what is going to be occurring there next month or the month after, that is a reasonable request to be made.

[1645]

I suppose I could think of circumstances where a shorter notice period might impose itself on me or the holder of the grazing rights. It's not prescribed certainly in the act, and I honestly can't tell the member.... I haven't made up my mind on the extent to which I would want to specify something in regulation beyond reasonable.

**K. Stewart:** The reason for my request is sort of a nuisance factor. This could give someone an opportunity to be a nuisance to somebody by constantly coming on, constantly asking or having a troop of people constantly coming on or asking when there's maybe a conflict of usage of land. I notice it not only applies to this section but applies to earlier sections with regard to forestry. That was the nature of my questioning.

Sections 44 and 45 approved.

On section 46.

**J. MacPhail:** I need to spend some time with the minister on section 46. The section is entitled "Protection of the environment." I'm actually going to ask the minister to indulge the discussion by looking at section 45 of the old code. I want to compare it to 46 of the new Forest and Range Practices Act.

I'll just reiterate. We've discussed this recommendation from Dr. Hoberg earlier today, but I'll repeat it. Dr. Hoberg recommended that "the government should review the proposed regimes for environmental values

and ensure that, at a minimum, they maintain existing environmental standards." It's on that premise that I'm going to ask the minister to meet that test.

Section 45 of the Forest Practices Code is entitled "Protection of the environment," which is the same as this new section we're dealing with. I cannot find anywhere else in the legislation where there would be other sections that would deal with the matters contained in the old section 45 of the code. If there is, I'm going to ask the minister to point me to it.

Under section 45(3) of the old code, the Forest Practices Code.... I will read the language into the record.

"A person must not carry out a forest practice if he or she knows or should reasonably know that, due to weather conditions or site factors, the carrying out of the forest practice may result, directly or indirectly, in:

- "(a) slumping or sliding of land,
- "(b) inordinate soil disturbance, or
- "(c) other significant damage to the environment."

That's the old language. The new language under section 46(1)(b) is an odd change, and perhaps the intent can be made clear and my concerns will be allayed. Here's what the new language says:

"A person must not carry out a forest practice, a range practice or another activity that results in damage to the environment, unless in doing so..."

"(b) the person does not know or cannot reasonably be expected to know that, because of weather conditions or site factors, the carrying out of the forest practice, range practice or other activity may result, directly or indirectly, in damage specified by regulation."

I expect that people might be concerned about the transparency of that, but it's an odd shift. I need reassurance that the odd shift enhances protection of the environment.

[1650]

**Hon. M. de Jong:** I wanted to ensure that I give the member as complete and accurate a response as I can. What both acts do is create an obligation and impose an obligation on someone operating on the land base. They both then provide an exception and specify circumstances in which one can be excused from the fulfilment of that obligation.

In the case of the old code, it specifies in the subsections (a), (b) and (c), a degree of.... It specifies specific damages that may occur and from which individuals can be excused responsibility in certain circumstances. In the Forest and Range Practices Act there is a broader opportunity to define what that damage may be.

The presence of the word "reasonable" speaks to the issue, also, of due diligence as a defence. Now, we'll get into that discussion, as well, when we come to those specific sections of this act. The presence of the word "reasonable" is also significant insofar as it imports a test or a threshold beyond which the individual has to establish that they conducted themselves.

[1655]

**J. MacPhail:** I confess, Mr. Chair, that I'm not reassured. Here's why. Under the old code, the Forest Practices Code, which will be gone in two years, there is no

exception. It is a positive obligation. I'm not using these terms in any legal meaning, because I'm not a lawyer. I'm just trying to explain it in the context of lay language. There is a positive obligation on a person to not carry out a forest practice that he or she should know or should reasonably know will create slumping of land, inordinate soil disturbance.

The new act allows for an automatic exception. It doesn't impose a positive obligation. It actually allows for an automatic exemption, buying out of an obligation. Let me read: "A person must not carry out a forest practice, range practice or another activity that results in damage to the environment, unless in doing so...the person does not know or cannot reasonably be expected to know...."

It's a very different standard being set. Frankly, I didn't think ignorance was a defence under the law. Right now under the new Forest and Range Practices Act, ignorance is a defence. The person doesn't have to comply if, in doing so, the person does not know that this will create.... Well, Mr. Chair, that's a pretty big hole to drive a damaging truck through. Unless I can have a much greater reassurance, I cannot support this clause.

**Hon. M. de Jong:** What I can say to the member — and I'm not sure it will offer her the assurance that she is looking for — is that the advice I have received from legal quarters and otherwise is that the legal effect is the same. In making that submission to the member, I will point to section 45(3) of the existing Forest Practices Code and point out that the test of reasonableness exists there as well, and the reference again is made to weather conditions.

I'm not sure it's a question of hiding behind ignorance. I'm going to suggest that in both instances, there is an application of the principles of reasonableness, and at the end of the day — convincing or not for the member, who is certainly entitled to ask the questions and is — the advice I have is that the legal effect of these sections we are comparing is in fact the same. Now, when we get to a subsequent discussion around liability, I won't be making that same claim, but I am here.

**J. MacPhail:** Yes, and these aren't issues of liability. It's not due diligence. These are issues of actually protecting the environment in a way that could involve administrative penalties, or they could involve actually ensuring that there's a positive obligation to protect the environment rather than to allow for an exception to it.

It's a very different point from which one starts to impose an obligation to say, "You should know," or "You should reasonably know," rather than saying: "Oh well, you're let off the hook if you don't know," or "You can't reasonably be expected to know."

[1700]

Let me just tell you why it's of concern. I had my own concerns with this, but when I discussed it with the West Coast Environmental Law Association, they said that my concerns on the face of the matter are even more justified because of changes elsewhere. I'll just read this section from the West Coast Environmental

Law. Some of it isn't particularly flattering to the old code either.

"Section 46 is the one section that focuses on results, making it an offence to carry out a forest practice that 'results in damage to the environment.' However, if one is operating in accordance with the plan or permit, there is no offence regardless of whether there is damage to the environment. While this section carries forward provisions in the current code, they were justified there on the basis of the level of prescribed content in the plans and the fact that government was approving plans right down to the site level. By moving away from approval of site plans and making the one plan that is approved more general in nature, there is no longer justification for this broad indemnification for harm to the environment in our view.

"We find it quite surprising" — I'm reading from the letter from the West Coast Environmental Law Association — "that government would allow as a defence to environmental damage compliance with site plans that the government does not even see, let alone approve. Is that not a prescription for writing one's own defence? This raises serious enforcement difficulties in our view and does not amount to meaningful accountability for results on the ground."

They're quite concerned, and I accept their concerns, but my concerns are not even based on the expertise of the West Coast Environmental Law Association, which stands on its own. It's that as soon as a government imposes the right to an exception rather than a positive obligation, I believe the legal test is completely different.

**Hon. M. de Jong:** I guess what I can do firstly is repeat my earlier assertion that the advice I have received is that the legal effect of this section, notwithstanding the different drafting, is the same.

I should also make the point that, as it relates to the passage that the member read from the oft-quoted letter, this provision isn't actually.... It's not intended that site plans will be captured by the provision because, as we've already discussed, they are not approved under this regime in the way that they were formerly. The test then relates back to the forest stewardship plan, and the compliance and enforcement takes place vis-à-vis that plan.

**J. MacPhail:** That's their exact point — that the test under the old code allowed people to say that the plans are approved and therefore based on the plans, the person should or can reasonably know that damage would occur. But it's on that basis that the plans were approved right down to the site level, that there were road and cutblock approval plans. Their point is that because that approval right down to the site-plan level is no longer there, the government is allowing a defence of ignorance to blossom basically, because they're not requiring approval of those plans. That's the point.

I think the minister — I'm not sure whether it was intentional or not — by his own words confirms the fears of the West Coast Environmental Law Association.

I also want to examine subsection (2) of section 46 under the Forest and Range Practices Act, and compare

it to the section under the old code that it's replacing. Section 46(2) is replacing 45(4) under the old code. Let me read the old code into the record first. "A person who contravenes subsection (1) or (3) must (a) stop the forest practice in the area affected, (b) prevent any further damage to the environment, (c) promptly notify the district manager, (d) take any remedial measures that the district manager requires."

[1705]

That's replaced with 46(2) of the Forest and Range Practices Act. "A person who contravenes subsection (1) must (a) take appropriate action to prevent any further damage, (b) promptly notify the district manager of the damage, and (c) take any remedial measures that the minister requires." I assume that for the delegation, that will mean the district office.

What is glaringly absent is that there's no requirement to stop the forest practice in the area affected. While I would never impugn a broad base of intentional wrong to the industry, there is no requirement for the industry or the licensee or the stakeholder to immediately stop the forest practice that's causing the damage. They could carry on while they're putting in place a prevention plan or an action for prevention to prevent any further damage.

**Hon. M. de Jong:** Actually, I am not at all troubled by this section and the difference in the way the member is. I suppose it is the difference, even at the statutory level, between ultimate prescription and results. Under the act we are debating, section 46(2), it seems to me that any reasonable reading of that section would take a reasonable person to conclude that we're actually achieving the result that you look for, which is to take appropriate action to prevent further action.

In most cases, that would mean stopping what you're doing. I suppose one could consider a circumstance in which the degradation or the damage has already ended and that it is now a question of remediating it. I must confess I take comfort in the wording of the section that the ultimate result we are looking for — in this case, the ending of the damaging activity — is provided for in the section, notwithstanding the absence of the word "stop," which the member has correctly pointed out doesn't exist in these provisions.

**J. MacPhail:** It is an area where we will disagree, and we'll disagree on record. Under section 46(3) of the new act, the Forest and Range Practices Act, let me read the section into the record before I ask my questions: "A person who discontinues a forest practice, a range practice or another activity referred to in subsection (1) may resume that practice or activity only if and when (a) it can be resumed without contravening subsection (1), and (b) any remedial measures required under subsection (2) (c) have been carried out to the satisfaction of the minister."

What is the compliance and enforcement regime that will apply to this particular section? Will there be written records required? Will site visits and evaluation occur before the person can resume the practice?

**Hon. M. de Jong:** Generally speaking, that would be the case, and that is no different than the regime that presently exists, but generally speaking, there would certainly be a written record. To my mind, the likelihood of a site visit or inspection would be high.

[1710]

Section 46 approved on the following division:

YEAS — 48

Falcon	L. Reid	Halsey-Brandt
Hawkins	Whittred	Cheema
Santori	van Dongen	Barisoff
Roddick	Masi	Hagen
Murray	Plant	Collins
Clark	de Jong	Nebbeling
Stephens	Abbott	Coleman
Penner	Jarvis	Anderson
Orr	Nuraney	Brenzinger
Long	Mayencourt	Bennett
R. Stewart	Krueger	McMahon
Les	Locke	Nijjar
Wong	Bloy	Suffredine
K. Stewart	Visser	Brice
Sultan	Hamilton	Sahota
Hawes	Kerr	Hunter

NAYS — 2

MacPhail	Kwan
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[1715-1720]

Sections 47 to 58 inclusive approved.

On section 59.

**J. MacPhail:** We're entering the part of the new act, part 6, that deals with compliance and enforcement. Just a couple of general comments before we enter into clause-by-clause debate. There are two aspects of the results-based management process that are, in my mind, absolutely critical. We've already discussed the first. It's that clear objectives be set and that they be consistent with higher-level plans. The minister has made a commitment that that will be the case, but we will be watching very carefully the establishment of the regulations to ensure that the commitment is delivered.

The second critical piece is compliance and enforcement. That's something the minister talked about vigorously and with great pride when he introduced the legislation, and in second reading it was a major thrust of the government caucus members' praise for this new legislation. I need to spend some time with the minister now on knowing how the compliance and enforcement regime will work. I would very much appreciate specifics because, of course, compliance and

enforcement is absolutely critical to assess the new code, because the act, by virtue of it now being a results-based system, is what everyone acknowledges is of an after-the-fact nature.

I am going to ask the minister — and he can do this section by section if he wishes — what the specific information is now, with as much detail as he can muster about how the compliance and enforcement regime will work. Perhaps in so doing, he can explain how the new regime is different from the old regime.

[1725]

**Hon. M. de Jong:** Maybe the first thing I'd like to do is try to disabuse anyone that might be watching of one proposition. The member has said it, and it's something others have repeated, so I'm not going to suggest she is the only person making this suggestion. It is the one that says this is a purely after-the-fact model. In fact, when we get to section 77, if we have a discussion around that section, I will take some pains to emphasize that we have preserved in this act the ability for the Crown to step in where it is clear that environmental degradation and damage is taking place, notwithstanding the fact that this damage may not have perpetrated itself in its entirety. The ability to step in and issue a cease-and-desist order is preserved in this act. It is not accurate to characterize this as purely an after-the-fact model of compliance and enforcement.

[K. Stewart in the chair.]

The general comments that I could make before we begin to move through the sections would relate to, in large measure, how this part within the act is going to be utilized by a reconfigured Forest Service. This gets to the point, as well, that others have made — and I think the member and her colleague may have referred to it in second reading debate — and that is the reductions in staff that have taken place within the Forest Service.

I want to say a couple of things about that pretty clearly. Most recently there have been involved in various aspects of compliance and enforcement within the Forest Service upwards of 350 to 360 individuals. The point I want to emphasize is that in large measure, if not entirely, most of those people have been involved on a part-time basis and have had other duties, and as we've discussed, the paper burden associated with the existing code has imposed that upon them.

What we are in the process of establishing is a core of approximately 300 full-time, fully trained compliance and enforcement officers. That training is ongoing, of course, following the passage of this bill. If it passes, as I hope it does, then that training will continue to familiarize them with the provisions of the act and the regulations that follow. The key feature is that they will be full-time, specifically trained and dedicated to being on the land base and conducting those audits, those inspections and those enforcement activities, some of which we've referred to during the course of our discussion and debate to this point in the bill.

That is something that I take a degree of comfort in and have candidly highlighted when we have come to discussing how compliance and enforcement under this regime will, at a practical level, be different — more focused — than it has been previously.

**J. MacPhail:** I'm sorry. Could the minister run through those numbers again in terms of the FTEs that will now be dedicated full-time?

**Hon. M. de Jong:** I think the numbers I mentioned were 350 to 360 previously, though the point I made is that they were by no means full-time dedicated. We are now looking at a core of between, I think, 295 to 300 full-time individuals within the compliance and enforcement section.

**J. MacPhail:** Well, maybe we can get into the specifics by going through the section, then. I am going to address the minister's point here, because it is going to require some explanation of how, given the current cuts to the ministry, this will work.

Let me just start. I'll go through it on the specifics. Section 59 is entry and inspection. This is the on-the-ground work of Forestry officials who monitor forest practices. It's entry and inspection.

[1730]

A substantial number of interested parties, and it isn't.... The minister is quite right that my colleague from Vancouver-Mount Pleasant and I are concerned about this, but there are other interested parties concerned about this too — environmental groups for sure. But forestry union workers are very concerned about this.

Frankly, even industry commented in the last few months that the results-based approach requires more on-site evaluation to ensure that the results are achieved. They offered that as comfort to the public. It wasn't that they were complaining about it. It was almost to say, "No, no. Don't worry about going to a results-based code. There will be more on-site inspection." That's the only way this shift can work. The reason why they were saying that is because they needed to offer the assurance that that's the only way you can achieve the point of getting rid of a prescriptive approach. That's because, in order to know whether the results are being achieved, more inspections and follow-ups will be required.

I just want to outline the cuts that this ministry is undergoing. This is from the minister's own service plan. The number of full-time-equivalents working in the ministry in '01-02 was 4,061. That was last fiscal year. This fiscal year, 2002-03, there are 3,566 workers. In the next fiscal, 2003-04, there will be 2,929 workers, full-time-equivalents. In the year 2004-05, there will be 2,625 full-time-equivalents throughout the Ministry of Forests. That's a total cut of 35 percent from '01-02 levels, and the minister has acknowledged that this is from a service plan.

I am curious. In terms of the overall demands of the ministry, the minister's assurance over the last few days that the achievement of the move to one plan that

needs to approve doesn't necessarily mean that there won't be requirements in all other areas of the ministry. He gave that as a reassurance. How is that, given these substantial cuts in ministry staff?

For those who are watching and will berate me if I don't admit to my own government's record on this, there were cuts in the previous Ministry of Forests prior to this government taking over that were very controversial and not particularly welcomed — by my own government. With the acknowledgment by virtually everybody that there will have to be more on-site inspection, not less, how is it that the minister can assure that that will take place? As I understand it, it isn't just the compliance and enforcement staff that carry out this work.

[1735]

**Hon. M. de Jong:** I would return to the point I tried to make initially. If one reviews the numbers that the member has related.... She has indicated that she's taking them from the service plan. I haven't cross-referenced them, but I assume they're right off the service plan. If you cross-reference that with what I said earlier, it is clear that the one division within the Forest Service that has largely been spared from what are otherwise very significant reductions in staffing is the compliance and enforcement section.

The assurance that I have offered is probably, at the end of the day, not much more complicated than this. The work performed by roughly 300 full-time, fully trained, dedicated compliance and enforcement officers is going to be more effective and more focused than the efforts, albeit well intentioned, of 350 or 360 part-time individuals whose attention was diverted to processing an incredible degree of paperwork back at the office.

**J. MacPhail:** In fact, it isn't the compliance and enforcement paperwork that the minister's cutting out now, as I understand it. I've been very clear — I've asked specifically: where is the reduced paperwork? — that it's in the approval process around the silviculture prescription.

Actually, the minister has been very diligent in not engaging in rhetoric, and I appreciate that. This is the section where we really have to work with the facts, because the reduced paperwork isn't around compliance and enforcement, as I understand it.

Let me just deal now with the facts in the overall level of employment. There were 360 compliance and enforcement people, officials, in a workforce of 4,061. There are now 300 compliance and enforcement officials in a workforce of 2,625. I appreciate the minister's willingness to dedicate those officials solely to compliance and enforcement, but they are now — I'm sorry I don't have my calculator right here — about 12 percent of the overall workforce. Previously, even though they were working less than full-time, they were about 9 percent of the workforce. Dedicated as they may be, they are now forming a substantial part of the workforce, of the overall workload, of the Ministry of Forests. I'll get to that in a moment.

What is it in terms of paperwork that these workers will now not be doing that they did before?

**Hon. M. de Jong:** Right. I think what I have not properly, adequately or clearly articulated for the member's benefit is that because these people were dedicated only part-time to compliance and enforcement, much of their other time was spent not processing compliance and enforcement paperwork, but processing that very paperwork we have just spent time talking about — whether it is silviculture prescriptions.... It would be inaccurate to speak of stemming the paper flow within compliance and enforcement. These people were part-time because of duties that took them away from compliance and enforcement. I don't know if that helps the member.

**J. MacPhail:** That's not my understanding of how it worked before, and I did meet with some forestry workers just last week. I guess we'll have to take the minister at his word that that was the situation. I thought the work was a little more specialized than that between compliance and enforcement and approval of plans. If the minister is saying the same people are doing the work, I guess we'll have to see whether the actual people on the ground doing the work accept the minister's view of their current jobs.

[1740]

If indeed it is the situation, as the minister describes, that it was the compliance and enforcement officers who were doing the paper approval that is no longer necessary and they'll now be able to devote their time full-time to doing their work in the field, does that translate into logging more hours in the field that will be demanded by the results-based process?

My question was: does this actually mean that Forests officials in compliance and enforcement will actually be logging more hours in the field that will be demanded by the results-based process?

**Hon. M. de Jong:** Yes.

**J. MacPhail:** The reason I asked that is because the minister is shutting down 11 district offices. From my old days as a union rep, there's a lot of travel time — a lot of travel time. So how is it that the minister says...? In fact, with 11 fewer district offices and in a province that is a substantial size, perhaps the minister could tell me what account he has made of the increased travel time that compliance and enforcement officers will now be doing.

**Hon. M. de Jong:** No, and though it's been some time for the member, her recollections are, I dare say, accurate. It's why in every location where a traditional district office has been closed, we have actually maintained a field presence. I might just explain what that relates to. It is largely around compliance and enforcement. The idea was not to create a situation in which people were spending four hours on the road as opposed to time on tasks. We have done that. These are

offices or field locations that will not provide licensees or stakeholders with an opportunity to come in the door unannounced and meet with Forestry officials — that will be the big difference from the point of view of the customer and client — but it will ensure that in these locations where there was formerly a district, those field presence officials will be there. They won't be spending hours on the road each day. They'll actually be located in the areas from which they can then go out and conduct inspections and audits.

**J. MacPhail:** How does that work? Do they work out of their houses, then?

**Hon. M. de Jong:** In some cases there is shared space with other government agencies, and in some cases some of these officials will actually work out of their homes. Those arrangements are being made presently.

**J. MacPhail:** Are those arrangements being made through a bargaining process, a negotiating process?

**Hon. M. de Jong:** The discussions are taking place, and they do involve the bargaining agent.

**J. MacPhail:** That's interesting. They must have started very, very recently — this planning — because no one to date has mentioned that concept to me in any of my discussions. Perhaps the minister, then, could outline what concrete plans are in place for actual location of staff and the administrative structure that is attached to the compliance and enforcement unit.

**Hon. M. de Jong:** What I can do is provide the member with a breakdown of where there will be remaining district offices, where there will be field office locations. The other forestry presence in towns will be the timber sales program, formerly the small business program. That will be another forestry feature in many towns.

I realize I'm not the person who does the asking in these, but I noted the member's reaction to the idea that staff would be based out of their homes in communities, and with her experience, I'm curious whether that is something that she finds problematic.

[1745]

**J. MacPhail:** No, not at all. I'm speaking from my history of knowing that these matters have to be agreed upon — that as an employer, one isn't allowed to impose working conditions. That's all. Working conditions that change have to be agreed upon in a unionized workplace. That's all. There are certain areas that need to be changed in terms of.... There are substantial changes in the work relationship and work conditions when that circumstance becomes a requirement.

I'm just curious as to how far along the government is in establishing those working conditions in a way that actually gives the employee comfort that their new job is not slavery — that's all. In meeting....

Interjection.

**J. MacPhail:** Yeah. Well, I must confess. This is the first time after doing a lot of work on our skip week around this matter that I've heard about this situation. But I was curious. I haven't actually received that flow chart from the minister yet that was promised yesterday, and I would appreciate an assignment of where the compliance and enforcement employees will be located, and sooner rather than later would be appreciated.

I know that we have had very pragmatic discussions here. The minister's commitment to saying that compliance and enforcement officials will spend more time in the field, I'm sure, will be monitored very carefully.

Now, the minister's staff also informed me that there will be training at the Justice Institute of B.C. for compliance and enforcement officials. Could the minister explain what this training will entail and how many of the 300 compliance and enforcement staff will be going through it?

**Hon. M. de Jong:** I'm advised that the nature of that training would relate specifically to investigative procedures. An example: the legislation relates to inspections and seizures and ensuring that our officials have the proper tools and knowledge to ensure that takes place in a way that is consistent with our constitutional obligations and the rights of individuals and agencies. There are evidentiary issues around the obtaining of evidence, the marking of evidence, continuity of evidence, the presentation of a file, the keeping of notes and ultimately the presentation of evidence before a judicial panel of any sort. Those are all the features that the Justice Institute would be well equipped to provide training on, and will.

**J. MacPhail:** How many staff will be going through it?

**Hon. M. de Jong:** Our estimates are that between 25 percent and 50 percent of the compliance and enforcement officials would receive that training.

**J. MacPhail:** How will the trained staff be distributed throughout the province, and will the specially trained staff have a different designation than the overall staff?

**Hon. M. de Jong:** We will want to ensure that there is a fair representation of people with that training in all centres and across the province.

The member asked a second question.

**J. MacPhail:** Will they have a different designation than the compliance and enforcement officials?

[1750]

**Hon. M. de Jong:** No, although the expectation is that they would be the more senior officials.

**J. MacPhail:** Again, during my briefings with ministry staff and actually in second reading debate, the minister partially responded to this. I asked him if the 300 compliance and enforcement positions would be protected from future cuts, because as we've already discussed, the cuts are substantial in the overall Ministry of Forests complement. Rightfully so, the staff were unable to give that commitment, and the minister in his second reading reply acknowledged that he couldn't make that commitment either.

I'm wondering whether the minister has had a chance to think about this issue and whether there is now a guarantee that the 300 compliance and enforcement positions will be protected from government cuts.

**Hon. M. de Jong:** Guarantees, in order to be meaningful, have to be certain. It is my intention to ensure that we maintain a fully dedicated complement in the range of 295 to 300 compliance and enforcement officials. Of those employees that have left the Forest Service, the reductions in pure numbers — 2 percent, I believe — have related to compliance and enforcement. I want to ensure that the team of dedicated specialists is there, is maintained, for the reasons that the member herself has alluded to. In this regime, ensuring that we have a viable, functioning, proficient compliance and enforcement section is, admittedly, very important.

**J. MacPhail:** Well, what about the employees who are getting the special training in investigation? What about protection for that?

**Hon. M. de Jong:** I'm sorry if I wasn't clear about this. My hope and expectation is that we will maintain the complement that I have identified in this debate throughout the life of the service plan.

**J. MacPhail:** No, I understand that's the hope, but I'll make a prediction. The budget ain't going to be balanced if the government stays on course with the current budget plan. I make that prediction. There may be further cuts even beyond what the minister has already been asked to deliver.

I accept the minister's commitment on this — that the unit will be protected or that he hopes the unit won't have to be reduced. Perhaps the minister can tell me how much money is being invested in the new Justice Institute training on an annualized basis.

**Hon. M. de Jong:** I don't have that figure. I can obtain it for the member. I can say, however, that it is a fraction of the overall training that is taking place in-house. We've already spoken in part about the training that will take place with stakeholders and licensees. This is one component of that training, admittedly an important component because it relates to that compliance and enforcement function. I'll endeavour to get the figure for the member.

**J. MacPhail:** Well, I don't think the minister should speak too quickly that it's a fraction of the overall in-

house training. The Justice Institute costs more. Justice Institute training under this government now costs more than it ever has before, and my experience with employees who go to the Justice Institute is that they're multiweek training programs, that they're recurring training programs and that the Justice Institute fees charged back have increased substantially. Yes, I will be looking for that figure.

[1755]

Here's my premise. It seems penny-wise and pound foolish if a government makes their commitment to guarantee proper compliance and enforcement through increasing training through the Justice Institute and then somehow doesn't in any way get full and sustained value out of that training. Now, I also say that in no way am I suggesting that that training in and of itself should eliminate the obligations under other contractual arrangements of the employer to the employees.

Mr. Chair, we could vote on this section and then....

Sections 59 and 60 approved.

On section 61.

**J. MacPhail:** I have discussion on this.

Noting the hour, I would move that the committee recess until 6:35 p.m.

Motion approved.

The committee recessed from 5:56 p.m. to 6:37 p.m.

[H. Long in the chair.]

On section 61 (*continued*).

**J. MacPhail:** Again, for the benefit of the thousands tuning in, we are discussing Bill 74, the Forest and Range Practices Act. We're under the section dealing with part 6, "Compliance and Enforcement," and my questions are now about "Delivery of records," section 61.

This section requires holders to produce specified records upon request. We've dealt with this issue of the various plans and which ones have to be submitted, which ones don't have to be submitted. In fact, I think I'm summarizing the minister's response by saying it's the forest stewardship plan, the range stewardship plan and the range use plan. Those are the three that are similar, which have to be approved.

Could the minister explain how the Ministry of Forests staff will keep up to date on the critical information necessary regarding a licence or the forest practices of any given holder in a certain area when the records are substantially less to start with?

[1840]

**Hon. M. de Jong:** There are three things that I would offer in response. Firstly, for reasons that we

have already discussed, there is still a very significant record flow, particularly on the part of the licensee or the agreement holder, within the terminology used in this act. Not all of it flows back and forth between government and that agreement holder, as it did in the past. I'll use the example of the site plan. It's still there and available to third parties and government.

This section, however, I want to suggest, goes further and relates more specifically to the powers the Crown has with respect to records and documents that it may require in order to pursue an inspection or even an investigation. This goes beyond the availability of documentation that we have identified previously and is related, as one might expect, specifically to the process of pursuing compliance and enforcement by the Crown.

**J. MacPhail:** It's the compliance and enforcement records that allow for the results to actually be achieved. There is no other way of holding the stakeholder accountable.

Here's how I see it. There's one plan that the ministry has in its district office. It's the forest stewardship plan or the range stewardship plan for a different land use. There's that one plan. In my speaking with the workers in the field, it used to be that yes, it was quite a rigorous approval process, but those approvals of plans were in their own offices. Now those plans are going to be held elsewhere.

How is it that the compliance and enforcement officials get the records to hold the stakeholder accountable? Where are they held? Is there a requirement for them to be accessible readily?

[1845]

**Hon. M. de Jong:** A couple of things. First of all, I think I understand the point the member was trying to make, but I would add this to her assessment. At the end of the day, the determinative assessment around compliance takes place on the ground on a site-specific basis. The documentation unquestionably assists in determining whether or not the practices and procedures followed were responsible.

I am advised that work is already underway with licensees and stakeholders to facilitate the transference of this information via a website. The act clearly provides the Crown with the authority to, first of all, request the documentation and, second of all, if that request is not complied with, to order its production. Those powers are there.

The last point I would make relates to the member's comment around the maintenance and, ultimately, the production of the documentation. The regime that we have set up — and we're going to talk a little bit later about specific enforcement procedures and defences available — imposes or creates for these licensees an incentive to be able to demonstrate with clarity the practices and procedures they have followed. That is fundamental in a regime that embraces or provides for a due diligence defence. The onus will fall to the licen-

see to demonstrate that they have actually conducted themselves in a diligent manner.

**J. MacPhail:** I just want to make sure that we are fully cognizant of what the role is of everybody in this situation. Is it the minister's view so far that the proponents will basically have to have all the information prepared and readily available — virtually that they have to now — and that they may have to submit it via a website and then have it readily accessible for compliance and enforcement?

**Hon. M. de Jong:** I think we've established, with some degree of certainty, that there is a far diminished volume of paper moving back and forth between government and practitioners. In circumstances where inspections are taking place and in circumstances where — let's take an example — licensees are operating in high-risk areas, there will obviously be a heightened level of interest on the part of our compliance and enforcement section. In those circumstances, it would not be unusual for a request to go out to provide additional information regarding what has taken place and for that request to go even in advance of the issuance of a specific cut permit, because let us remember that those cutting permits still must be issued.

Yes, we're looking, to the extent that we can, to standardize some of those information flows and facilitate them via the Internet. We'd like to use the technology that's available in ways that heretofore we have not, but much of that speaks to a circumstance of standard day-to-day vigilance and maintenance. This section that we're dealing with provides the Crown with additional powers to pursue the receipt of documentation that, in those rare circumstances, licensees might be reluctant to disclose to the Crown.

**J. MacPhail:** Again, is it the minister's overall assessment that this work, in an administrative context, is less complex overall?

**Hon. M. de Jong:** It is, hon. Chair.

[1850]

**J. MacPhail:** Maybe I could just put my views on notice. I actually agree with the minister that it is less complex, but it's less complex substantially out of proportion for the Ministry of Forests than it is for the proponent. When I say this, it's on the premise that I'm trying to seek reassurance at every single turn to dissuade me of the view that this Forest Practices Code isn't being driven by budget cuts to the Ministry of Forests.

I'm just thinking of a woodlot owner who has to go through a substantial portion — in fact, as much planning as he or she did before. I hope that woodlot owners have the ability to communicate in the technological way that the minister is now suggesting. They also now have to provide, I hope quickly and readily, access to any documents that used to be held within the Ministry of Forests.

It will be interesting to see how this new act actually works for the proponents, for the licensees and for the stakeholders, because I'm trying desperately to figure out what has changed. So far we have, provincewide, 100,000 pieces of paper, and I was told at supertime — there are people watching, which is great — that the vast majority of those savings in paper flow come from the confines of the Ministry of Forests.

I'm not in any way suggesting it isn't the minister's intent, but it's hard to discern where the administrative burden is less on the proponent. Let me ask this. I'll just ask again: will there be a regulatory regime on requiring access to information for compliance and enforcement?

**Hon. M. de Jong:** The answer to the last question is yes, there will. Because I know the member is sincere in expressing her concerns on the point that she made, I'll try to offer a little bit more to provide her with — I'm not sure it will ultimately be assurance — some more evidence of the point I am trying to make. She mentioned woodlot owners, and I suppose the best assurance I can offer her is that the woodlot owners association for British Columbia were intimately involved in the preparation of this material and at the end of the day expressed their overall satisfaction and their belief that we had responded in a way that took account of their unique circumstances.

In their case it's not just the 100,000 pieces of paper. Their woodlot plans will now have a duration of five years, renewable for a further five years, contrasted with what I believe is presently a maximum five-year period. Right off the bat, there is the potential for a significant administrative saving there, as well as being relieved of the obligation to prepare site plans.

I don't want to descend necessarily into that level of minutiae for the purpose of this section, but the best testimonial I can offer in the case of the woodlot owners is that which they have offered themselves.

**J. MacPhail:** In terms of there being a regulatory regime for provision of records, because this is a brand-new area where there is not an administrative remedy now — a penalty — is the minister going to put in place...? We're going to get into administrative remedies in a bit, but will there be a penalty for a licence holder that doesn't provide the required records?

[1855]

Sorry. There is a penalty in place, but I think it's been used extremely meagrely in that area.

**Hon. M. de Jong:** Two things. First of all, the immediate remedy for failure to comply with an order under this section would be the obtaining by the Crown of an enforcement order through the courts. Failure to comply with such an order obviously carries with it a very serious sanction. The scenario that might arise out of that, however, is the fact that the required document does not exist. Let's take a site plan again. That does represent an offence under the act. There are documents that you must have. If you don't produce

them, you are subject to serious sanction by the courts. If you don't produce them because you don't have them, then that represents an offence.

Sections 61 to 70 inclusive approved.

On section 71.

**J. MacPhail:** This is a section under the new act entitled "Administrative penalties," and as best I can tell, it is going to replace section 117 of the Forest Practices Code. For the most part the whole division is exactly the same, with just a few housekeeping changes, with one notable exception, which we'll get into under section 72, due diligence.

Under section 71, I note that it is for the most part identical to the process described in section 117 of the Forest Practices Code. However, the minister has said that he's going to "bring the hammer down" on licence holders found to be in non-compliance, and that's to ensure that there is adequate incentive so that the sort of... I know the minister doesn't like me to use "after-the-fact" nature, and I'll allow.... I shouldn't say "allow." I'll welcome his comments under section 70 about his ability to intervene prior to after the fact. This is to provide adequate incentive so that the results-based management regime actually works.

We don't have any idea what those fines are going to look like. They are going to come down in regulation. Maybe the minister could clarify. Is there going to be a separate regulatory regime for administrative fines, a new regulatory regime for administrative fines?

**Hon. M. de Jong:** The answer to the question is yes, and it will enumerate the fines applicable to the specific administrative penalties.

**J. MacPhail:** Well, good. We can have a discussion about what the minister's consultation will show, what he hopes to achieve or what questions he's asking in the consultation around a new regulatory regime around administrative fines.

[1900]

The prosecution fines and penalties remain exactly the same as the old code. The discussion that we had.... There was a lot of discussion, and — God bless the media — it was as if a new million-dollar fine had come into being and that people were going to be imprisoned. I know the government caucus was claiming that as a breakthrough for the new regime. Well, they're identical. The prosecution penalties are identical under this new act to what they were under the old code.

The minister was very accurate in saying that the doubling or tripling of fines would be in the administrative penalty area. I'm sure that all those who spoke at second reading now understand there's no new ability for the government to send alleged criminals to jail or to fine them up to a million dollars. It's all in the administrative penalty area.

It's surprising how I got into my preparation for this. I went to the website and took off the pages dealing with administrative penalties under the current regime.

I'm wondering. First of all, let me just ask this. The prosecution penalties cannot exceed the legislated limits — we know that — but what's the law around administrative penalties in terms of the ability of the Crown to increase them?

**Hon. M. de Jong:** To ensure I give the answer to the right question.... I think the member is now referring not to individual matters but if there is an overriding maximum to the amount that can be levied as a fine on an administrative penalty. Do I understand that correctly?

**J. MacPhail:** Yes. What I'm asking as a layperson is.... I know that the ministry is not allowed to bring forward a penalty for prosecution that's higher than a million bucks, because that's what the legislation says. But how does one set a maximum for administrative penalties? Is there any requirement to do anything other than just regulate it?

**Hon. M. de Jong:** To answer the member's question, I am given to understand that you would first look to the regulation, the regulatory schedule, in determining what the maximum fine amount would be with respect to an administrative penalty. There is no other legislative provision, and none within this act, that sets an overall maximum limit, but there is common-law jurisprudence that speaks to the issue of when a fine reaches a certain level. Whether it's \$100,000 or \$200,000, when it reaches a certain level, it begins to attract the flavour of a prosecutorial offence. One has to be mindful of that in setting the schedule of penalties.

[1905]

Additionally, though, there are not similar limits when the sanction being imposed is the pursuit of compensation for damage done as the result of a breach of regulation. That is the distinction that one has to draw.

**J. MacPhail:** Just for the benefit of people who are listening, the administrative remedy regulations under the previous code had, I think — the pages aren't numbered, but I remember it being printed off — about 27 pages listing administrative penalties. Some may say: "See, that's how out of control the previous Forest Practices Code was." Whatever — we're beyond that now. Whoever thinks that every single one of these administrative penalties or remedies should remain in place probably will have their hopes dashed, because so many of these administrative penalties, the 27 pages, are based on a code that isn't results-based and that is prescriptive in nature.

Can the minister give me a sense of whether his ministry staff has done any work on the current admin-

istrative remedies regime and how it might change, and if so, what's the nature of that work?

**Hon. M. de Jong:** The work has begun; it has certainly not been concluded. For reasons the member has alluded to in comparing the different statutory frameworks, there will be significantly fewer enumerated penalties, but it would be unfair for me today to try to offer a meaningful prediction to the member about where that number might come in or compare the number of pages at this early stage.

**J. MacPhail:** I assume this is going to be a major thrust of work, because it was a major thrust of the announced changes that the government was going to double or triple penalties.

I do want to read into the record, then, some of the areas where I will be monitoring to see whether these administrative penalties still exist and how they're handled, whether they'll be doubled or tripled. This won't take long. I'm not going to read the 27 pages in, by any stretch of the imagination.

The first one is: "Failure to carry out the assessments and collect and analyze the data required by the regulations to formulate operational plans, and make the assessments, data and analyses available to the district manager." For instance, how would that...? Well, actually, that's pretty key, because there's still a requirement, as I understand it from our discussion, for the proponent to have that information readily available. I guess under the previous code they had to have it available before the plan was approved. Now they just have to have it available and on hand. The penalty for that was \$1,000.

I'll give the minister two and ask him what direction he wants to head in this area.

The second administrative penalty: "If a term of a forest development plan is extended, failure by the holder of the agreement to promptly amend the plan to the extent necessary to ensure compliance with the current requirements of the act, the regulations and the standard." That's actually a \$5,000 penalty.

Now, can the minister give me a sense of action on those two?

**Hon. M. de Jong:** Let me start with the first one, and I'm pleased that the member identified it. It is a little more specific than how I am going to characterize it, but her point was, correctly, the need under this statutory model to have certain records available for inspection.

[1910]

Let's go back to the site plan. Site plans are no longer approved by government, but they must be available to the public. My argument would be that one of the trade-offs for not requiring approval of each individual site plan is that they better be done, they better be available, and they better be produced when requested. Failure to abide by any of those requirements becomes a more serious matter under this model, and the penalties should reflect that. I hope that

provides the member with an indication of my thinking.

**J. MacPhail:** It's reassuring. I'll just give an example to enhance how important this area is, given the changes that are taking place in this new legislation. There is a penalty of \$5,000 for failure of a holder of a major licence or woodlot licence to prepare and obtain approval of a silviculture prescription for an area where the holder has contravened section 96. That's a \$5,000 penalty. Then, as a complement to that, "failure of the holder of a tree farm licence, timber licence or woodlot licence to prepare and obtain approval of a silviculture prescription for an area where timber has been damaged or destroyed, unless exempted."

We do have a situation.... We discussed that under section 46, I think it was, about protection of the environment, etc. The minister is reassured — I disagree, but the minister is reassured — that the same tests, the same responsibility exists, yet there won't be a silviculture prescription. I understand that, but I assume this is an area where the government will be ensuring administrative penalties that will invoke compliance.

**Hon. M. de Jong:** This will be a general comment, but it is genuine, and it is designed to signal my approach to this. A significant feature of this model is to ensure compliance, and the member has heard me talk about strengthening the administrative penalties section. The word that I think I would apply is "deterrent." There must be, in my view, in many of these areas a significant deterrent for those who would purport to utilize the flexibility and assignment of responsibility that this act enshrines to shirk their responsibility.

I appreciate and welcome the fact that the hon. member will be paying close scrutiny to the schedule that emerges from this process over the next period of weeks and months, but it will, I can assure her, reflect my intention to ensure that there are sufficient, adequate and effective deterrents in place for those who would purport to try and cut corners.

**J. MacPhail:** Well, just for the record — and my last comment on this area — I am going to put an area of concern on the record, particularly around the new section 46, the requirement to protect the environment. We had some discussion at length, Mr. Chair, about the old section 45, about the requirement to protect the environment and how I believed the onus was much stronger on the proponent to protect and that it was a positive onus rather than an exemption, which I think is in 46 now.

[1915]

Let me just give a couple of examples. Under the old code, the administrative penalties pursuant to section 45 were amongst the highest.

"Carrying out a forest practice that results in damage to the environment: \$50,000. Carrying out a forest practice if he or she knows or should reasonably know that due to weather conditions or site factors, the carrying out of the forest practice may result, directly or indirectly,

in significant damage to the environment: \$50,000. Failure of a person who contravenes section 45 to take required action" — that's now gone — "\$20,000. Inappropriately resuming a forest practice that was stopped under section 45: \$20,000. Exceeding the maximum amount of soil disturbance within the net area to be reforested specified in the silviculture prescription: \$100,000."

The reason why I was exploring so vigorously how the compliance and enforcement officers get access to the silviculture plans is because I'll also be watching if this is an area where the administrative penalty is increased.

"Failure to implement an approved rehabilitation plan: \$50,000. Failure to modify or stop any forest practice that is in the immediate vicinity of a previously identified resource feature to the extent necessary to refrain from threatening it: \$10,000."

In terms of the roads, we have talked at length about road construction and the road design plan and road approval plan. Sorry — there is no road approval plan anymore.

"Constructing or modifying a road without proper authority: \$50,000. Failure to obtain approval for a road layout and design before constructing or modifying a road to which the permit applies: \$50,000."

Well, that's no longer required.

Those are substantial administrative penalties already in place. I've heard a statistic — it was a statistic given to me to deride the strength of the previous Forest Practices Code — that the average amount of an administrative penalty was something like \$2,500. That would be the average. It's not like it's the median, but it is the average. The average one was \$2,500 per offence.

Those are the areas I'll be watching closely. I can't imagine how they're going to work, given the change to a results-based code. I hope this will be an area where you don't want to have the fox in charge of the henhouse in terms of determining the level of penalties. The minister can interpret that any way he wants.

Section 71 approved.

On section 72.

**J. MacPhail:** This is the area that I know the minister is aware I wanted to discuss at length. This is a section entitled "Defences in relation to administrative proceedings." This means all of the discussion around the administrative penalties, that 27-page document I have here.... It's what you can use as a defence to not be penalized. That's how I characterize this section we're debating right now.

During my discussion with various environmental groups over the last couple of weeks regarding this bill.... This is an area of great concern. Many have expressed concern over the inclusion of due diligence as a defence to administrative proceedings. Now, as a layperson, I interpret due diligence, as a defence against having a penalty imposed, to mean that as long as I can prove I thought I was complying with the requirements, that's good enough. Anyway, that's my inter-

pretation. I'd be happy to have a real, legal interpretation put on the record.

[1920]

West Coast Environmental Law has argued that including this defence allows a licence holder to not be liable for damage to the environment if it is acting in accordance with its one forest stewardship plan, even though the government will not have nearly the level of information available to it when approving those plans. It's back to that situation. I just want to take the minister back. Remember when I said the plan now can cover an area the size of P.E.I.? There's no specific requirement inside that area to do a cutblock plan. Let me tell you what I think some of the consequences of that might be in terms of environmental values.

There are all sorts of examples in which it's very important for the maintenance of environmental values to have a specific site plan within the broader area. Some examples: the instance where environmental objectives are expressed in general terms only. Then there's considerable discretion remaining with the proponent over where and how to log in places such as wildlife habitat — caribou habitat, deer or goat winter range — where it's a track, a path or a road for these animals. Riparian management areas, threatened or endangered species habitat, areas of visual sensitivity.... In other words, those environmental values are threatened if, indeed, the proponent gets general approval to log in a substantial area without having to provide plans for a specific cutblock.

What flows from that? Why am I discussing this under the issue of liability? Allowing a proponent now the defence of due diligence means that as long as they comply with the plan, which is so general in nature now, they can mount a defence that has to be accepted. Maybe what I can do is just put my entire argument on record, and we can have a discussion around that.

When I raised this issue with the chief forester, he said, "Well, due diligence is now a requirement under administrative law regardless of the body of administrative law," and he cited a case that occurred, I think, in Ontario. So I talked about that with the lawyers at West Coast Environmental Law, and here's what they had to say. They point to a 1997 Forest Appeals Commission decision, which says: "To import a due diligence defence into the administrative penalties section of the code would defeat the legislative intent to have a simple, effective approach to compliance and enforcement to deal with contraventions of a nature that would not normally be brought to criminal courts."

In other words, what that decision is saying, I think, is that the reason why due diligence was not a defence, specifically precluded as a defence, was because that would just muck up the whole system of administrative penalty. The idea of an administrative penalty is: you're found to be at fault; you get penalized. You can't go to court and start arguing extensively and at length that due diligence was provided. The Forest Appeals Commission is saying that defeats the purpose of an administrative penalty regime. Again, the minister has

said that he's going to be relying on the administrative penalties regime to keep proponents in line.

[1925]

When I raised this issue with the Ministry of Forests staff, the chief forester, it was then that he assured me that adding due diligence as a defence now was just codifying common law as it exists. Again, I investigated this, and I just don't buy that. Here's what the Forest Practices Board says about due diligence — the Forest Practices Board review and appeals. Now let me see if I can get a date: 2001 — sorry, last year. And due diligence was not allowed as a defence. Here's what the Forest Practices Board said last year:

"One of the results of not allowing the defence of due diligence is to ensure that licensees who have been given the right to do business on public land take comprehensive responsibility to avoid code contraventions. It ensures that those who have control over operations on the land become totally responsible for code breaches. Because there are no 'due diligence' excuses and because of the provisions providing for vicarious liability, they must make every effort to ensure that they, their contractors and their employees follow the law and protect public resources."

Sorry, Mr. Chair....

**The Chair:** It's okay.

**J. MacPhail:** Okay, yeah. I was just going to say.... My question is: why is the minister allowing for adding due diligence as a defence in administrative regulation?

**Hon. M. de Jong:** Thanks to the member for her submissions. It would seem that there are people watching, and I will try to take this opportunity — I may not do it all in one fell swoop, and I apologize in advance for that — to respond to some of the thoughtful points that the member has made.

This has been a point of great debate and discussion. That was certainly the case through the consultation period. It has been a matter that has been subject to debate, actually, before I took this office. I think it was a subject of debate under the existing Forest Practices Code regime. With the member's indulgence, maybe I can begin my discussion by pointing to a tangible example, and we can see how this might operate in practice.

Let's take the example of a licensee that begins to construct a road into a cutblock, and it is terrain of a sort that is fraught with certain risks, and soil disturbance becomes an issue. There's a couple of ways you can deal with that. Something bad happens. There is a slide. It's a slide on Crown land, and it's happened as a result of actions by a licensee. It conceivably invokes the administrative penalty provisions of the act in whole variety of ways.

Here's the question that I asked myself, and I want the member to know that I was.... One is intimately involved in the development of legislation, but I was particularly involved in this decision. I don't want to leave the impression that I am relying exclusively on

legal advice. I actually have an opinion on this matter that is reflected in this legislation. I'm not going to hide behind competing jurisprudence that is out there. There is certainly a body of law that speaks to the evolution of the defence of due diligence and its application within the parameters of administrative law. Similarly, there are other decisions — some in quasi-judicial bodies — that promote a different approach and different argument.

Here's the bottom line for me and what ultimately guides this decision. In the scenario that I have described, where an individual or a licensee could be facing penalties upwards of \$100,000 or \$200,000, it strikes me that whilst responsibility vests with them, my expectation of them is that they will employ all reasonable standards, that they will utilize the professionals that are out there, that they will rely upon sound professional advice, that they will take all reasonable precautions that a reasonable operator on the land base would take.

[1930]

If, notwithstanding that fact, something untoward, something completely unforeseen were to occur, the doctrine of fairness should operate to provide them with an opportunity to call that evidence and present it as a defence.

The member began her submission on this point by inviting me to respond to her definition of what constitutes due diligence, and I realize she wasn't laying this down as authoritative. She invited me to comment. I wrote down the words. To her mind due diligence meant: "I thought I was complying with the requirements." Actually, that's not it. In fact, you can make an argument that it's what we have now, that under a rules-based Forest Practices Code, all you really have to demonstrate is that you followed the rules, and whatever occurred as a result of that provides you with a defence. I don't agree with that. I actually want people to accept some responsibility for their actions.

Now, under this regime, that proponent must be able to call evidence and say: "It's not just that I blindly followed some instructions." That person or agency will have to demonstrate that they conducted themselves reasonably at every step along the way, and the onus shifts to them. That is again, admittedly, a significant departure, but I think one that can be defended along the doctrine of fairness and also one that operates to better protect our environmental values. I acknowledge that there are differences of opinion out there, but I will say on this point that I welcome the discussion with the author of the letter. No one's wrong, but I disagree with them. I disagree that you achieve the results you are after by providing people the opportunity to say: "I followed the rules, and that's what happened." I want them to think for themselves. I want them to accept responsibility for availing themselves of the expertise that is out there, and that's what.... We call it the defence of due diligence, but it becomes the obligation to demonstrate due diligence. That can be a burdensome thing, and well it should be.

That's what I'm seeking to achieve by virtue of this section.

**J. MacPhail:** I actually might be able to engage in a discussion accepting that premise if the legislation were a mature piece of legislation — been tested, been in place — and if the practices had been judged and there had been an accounting of the legislation. But we have a completely new approach from a rules-based codification to now a results-based piece of legislation.

It's my understanding that the reason why one could use the defence of "I'm following the rules" is because there was a complete codification of the rules required to follow in the form of an individual plan that included details at every level. That's the point the West Coast Environmental Law Association is making — that by virtue of the approval of that plan, with all of that detail, one acceded that just proving the following of the plan was a defence. The two went together. But what we have now is a much less rigorous approval process. I understand that the minister is saying that the proponent has to have plans available, but they're not approved, and now we also have the proponent being able to use the argument of due diligence against an administrative penalty.

[1935]

I just want to read the legislation into the record first.

"For the purposes of a determination of the minister under section 51 (7), 54 (2), 57 (4), 71 or 74" — and those are the ability to penalize — "no person may be found to have contravened a provision of the Acts if the person establishes that the (a) person exercised due diligence to prevent the contravention, (b) person reasonably believed in the existence of facts that if true would establish that the person did not contravene the provision, or (c) person's actions relevant to the provision were the result of an officially induced error."

Those are the tests that are now set out, which let the person prevail against a penalty. It's not unlike the reverse onus that I described in moving from the old code, section 45, to the new code, section 46. It doesn't impose an onus to comply; it says: "Here's how you get out of complying."

Now here's my understanding. I have to say, if indeed we were actually facing a situation where this government was going to be imposing \$100,000 penalties, I'd be willing to engage in a very rigorous discussion around the correctness of this direction, but we don't know that yet. We're having a discussion, and we don't even know what regulations are going to be put in place. We don't know what administrative penalties are going to be put in place, and yet we're automatically moving to allow this as a defence.

I found out where I saw where the average penalty was \$2,500. Let me just read into the record what the West Coast Environmental Law says about this. It's not a long paragraph:

"While due diligence is an appropriate and necessary defence to the prosecution of offences where the stigma and consequences are more significant, we agree with the Forest Appeals Commission finding in MacMillan

Bloedel Ltd. v. Government of B.C. that 'to import a due diligence defence into the administrative penalties sections of the code would defeat the legislative intent to have a simple, effective approach to compliance and enforcement to deal with contraventions of a nature that would not normally be brought to the criminal courts.'"

The B.C. Court of Appeal recently held that due diligence is available as a defence to public welfare offences in liquor control legislation. This was the court case that the chief forester referred to as well. It's Whistler Mountain Ski Corporation and the general manager, liquor control and licensing branch. They had administrative penalties. It's a discussion about the application of due diligence as a defence under liquor penalties. That was the law that the chief forester said they are now just codifying into legislation. It's true. That decision did hold that due diligence is available as a defence to public welfare offences and liquor control legislation, but here's what the court said. The court left the door open for the Legislature to expressly provide otherwise. In other words, what the decision said was that it's up to the Legislature to decide where due diligence.... It's not automatic that due diligence is a legitimate defence in administrative penalties, but if the Legislature wants to have due diligence as a defence, they have to expressly say so in legislation.

I think — and believe you me, I have the utmost respect for the chief forester — to somehow say that this B.C. Court of Appeal decision is just being codified in the legislation is dead wrong. What it says is that if you want to make due diligence a defence, it's not there via common law. If you want to do it, you have to expressly say so.

[1940]

What this government has done, then, is to expressly allow due diligence as a defence. It's not because they're just codifying what the law already says. That's not the case.

Interjection.

**J. MacPhail:** Okay.

For the record, the minister would like to reply. Go ahead.

**Hon. M. de Jong:** I did want to reply, because I don't want to leave any doubt about what has motivated this decision and why we are therefore having this discussion. There is clearly a body of jurisprudence that suggests that where administrative penalties reach a certain level, the courts are prepared to adopt the proposition that due diligence is an available defence. Has that been established conclusively? I don't think it has, because I think there's a competing body of jurisprudence as well.

Notwithstanding the information that the hon. member has received from other quarters, including staff — and those are all matters that were before me when we made the decision — I don't want to leave the impression that I was either driven into this decision by a belief in a certain set of jurisprudential facts or

that I am now hiding behind that. This was a purposeful decision. I am resting on the basis of my own belief that it is the right thing to do. If others disagree, that's fine, and we can have that discussion, but I don't want to leave the impression that I'm hiding behind jurisprudence somewhere.

**J. MacPhail:** I appreciate that clarification. Let me just proceed, then, to the fairness element. The minister is saying that proponents who may be facing penalties of \$100,000 or greater need to have a forum in which they can challenge that. It is currently the situation, given that there are now 27 pages of single-spaced administrative penalties in place and that the average penalty in the forestry context averaged \$2,500 in the year '99-2000 — the last reported period.... It does seem like it's a huge leap of faith for us to now assume that the administrative penalties are going to be so far in excess of that, given the fact that it's not a rules-based code, that there's not detailed planning and that it requires a rigorous level of compliance and enforcement to even be able to enforce administrative penalties.

[J. Weisbeck in the chair.]

It does seem to be a leap of faith that the penalties would in any way far exceed what has been the record to date, but here's another element of this. The government and the minister have said there's going to be rigorous enforcement here, and he has demonstrated that by assigning 300 full-time-equivalents to the job. But due diligence, now allowed as a defence, requires a hearing. I would suspect that the legal training that's required to properly determine whether due diligence has been met will be provided by a lawyer, so there will virtually be hearings now and legal counsel involved.

[1945]

That, to me, provides an opportunity for substantial delay. I think the provision for due diligence as a defence now on administrative proceedings completely undermines the minister's reported commitment to make sure.... I can't remember what the words were. He was going to take a very aggressive approach — a very aggressive approach — to holding people accountable through strong penalty.

**Hon. M. de Jong:** It's important that these views be canvassed, because there is a body of thought out there that shares the argument that the member has brought to the floor of the Legislature, but I couldn't disagree more strongly. I won't belabour the response, but the member spoke a few moments ago about how, in her view and in the views of others, there has been something of a negative reversal of the onus. Well, here is how that reversal of the onus or burden of proof operates under this regime with respect to administrative penalties.

When something goes wrong, the licensee is presumed to have contravened that administrative pen-

alty. There is a presumption in favour of non-compliance. The reversal of onus shifts to that licensee to demonstrate that they have done everything reasonable to avoid that outcome. I plead guilty to the assertion that I have signed off on legislation that provides as a defence, in both instances now — administrative and prosecutorial offences — the notion that someone, some company, some rancher or some logger, who can say and demonstrate that they have done everything that a reasonable rancher, logger or licensee would have done, employed all of the professionals, all of the technology, all of the advances in harvesting technology that are available.... That person, facing a \$50,000 or \$100,000 or \$150,000 penalty, should have that opportunity.

Whether it is at what we term in the act an opportunity to be heard at the district level or, I suppose, ultimately via judicial review, I take the imposition of sanction by the state seriously enough to suggest that we should be incorporating in legislation of this sort that opportunity. There are people that disagree, and that's okay — I mean, they're not wrong; they just disagree — but it is something that I actually feel very strongly about. Those views are not restricted purely to forestry legislation. They are very much something that guides me in my belief of how the relationship between the state and individuals that operate within the state should operate.

[1950]

**J. MacPhail:** It was interesting to listen to the minister, because perhaps this is why people call this an after-the-fact, results-based code. What the minister has said is.... It's true that the proponents won't have to demonstrate compliance through rigorous codification of rules through a plan approval prior to them starting up, but if they are charged with an administrative infraction, they'll then have to, after the fact, go through that rigorous defence of what sounds to me like the process of proving, through demonstration of plans, that they didn't break the law. Maybe that's why people get the concept that this is an after-the-fact, results-based code.

I appreciate the dialogue we've had, but I'm afraid I can't support the defence of due diligence.

[1955]

Section 72 approved on the following division:

YEAS — 41

L. Reid	Halsey-Brandt	Hawkins
Cheema	van Dongen	Barisoff
Roddick	Masi	Lee
Murray	Plant	de Jong
Stephens	Coleman	Penner
Jarvis	Anderson	Orr
Nuraney	Brenzinger	Long
Chutter	Johnston	Bennett

R. Stewart	Hayer	Christensen
Krueger	McMahon	Les
Locke	Nijjar	Bhullar
Wong	Bloy	K. Stewart
Brice	Hamilton	Sahota
Hawes		Manhas

NAYS — 2

MacPhail Kwan

[2000]

Sections 73 to 76 inclusive approved.

On section 77.

**J. MacPhail:** This is the section, Mr. Chair, where the minister has suggested that there will be opportunity for him to intervene prior to.... His ability to intervene would mollify concerns, he says, of people who say that this is just an after-the-fact, results-based code, so I welcome the minister's comments on section 77.

**Hon. M. de Jong:** The member has, again, accurately referred to an argument that I have heard about the fact that for some of the people who have expressed concerns about this statutory model, the potential damage that could result from some catastrophic event far outweighs the benefits. Some people would say there are no benefits, and I, of course, would disagree profoundly, but others would say it outweighs the benefits that might accrue in terms of the enhanced flexibility and the savings that result from this.

The section is designed to reserve unto the Crown.... I might say it is not a power that exists under the present Forest Practices Code, though one could make an argument that it is every bit as necessary in certain circumstances. But it does not exist. It does here, and it represents an attempt to reserve unto the Crown the power of intervention that should be exercised where — notwithstanding the filing of a forest stewardship plan which may comply with all of the requirements, set out all of the objectives that are intended to be met, be entirely consistent with the act and entirely consistent with the regulation and where there has been the preparation of the appropriate site plans and there has been the appropriate level of public consultation — it becomes clear during the course of execution that the practices being employed on the ground simply are not going to achieve those results or, worse, are going to inflict a degree of environmental degradation.

What we've said here is that we are going to reserve unto the Crown the opportunity to step in and put a stop to that activity, provide some time to do an assessment, provide some time to look at where the practices fall short and avoid that catastrophic event which forestry professionals within the Forest Service will have determined is likely to have occurred but for that intervention.

That's the rationale behind its inclusion in this act. As I say, it is a power — and some might call it an extraordinary power — that does not presently exist for the Crown under the existing code.

Sections 77 to 107 inclusive approved.

[2005]

On section 108.

**The Chair:** Minister, have you an amendment on the order paper for section 108?

**Hon. M. de Jong:** Yes.

**The Chair:** If you'd like to pass that, please.

**Hon. M. de Jong:** Thanks, hon. Chair. This is with respect to section 108. I move the amendment that is standing in my name on the orders of the day.

[SECTION 108, by deleting the proposed section 108 and substituting the following:

Government may fund extra expense or waive obligation 108 (1) The district manager must grant the relief described in subsection (3) to a person who has a prescribed obligation, other than an obligation to establish a free growing stand, under this Act, the regulations or an operational plan and who satisfies the district manager that

(a) because of an event causing damage, the obligation under the operational plan cannot be met without significant extra expense than would have been the case if the damage had not occurred, and

(b) the person

(i) did not cause or contribute to the cause of the damage,

(ii) exercised due diligence in relation to the cause of the damage, or

(iii) contributed to the cause of the damage but only as a result of an officially induced error.

(2) The district manager must grant

(a) the relief described in subsection (3), or

(b) the funding described in subsection (4)

to a person having an obligation to establish a free growing stand if the person satisfies the district manager that

(c) because of an event causing damage, the obligation to establish the free growing stand cannot be met without significant extra expense than would have been the case if the damage had not occurred, and

(d) the person

(i) did not cause or contribute to the cause of the damage,

(ii) exercised due diligence in relation to the cause of the damage, or

(iii) contributed to the cause of the damage but only as a result of an officially induced error.

(3) The relief, that must be granted under subsection (1) or that may be granted under subsection (2) (a), from an obligation by the district manager to a person is relief from

(a) the person's obligation to the extent only that the obligation cannot be met without significant extra expense related to the damage referred to in subsection (1) or (2), or

- (b) the person's obligation in full if the district manager considers that the remaining obligation, after taking paragraph (a) of this subsection into account, is inconsequential.
- (4) The funding for an obligation, that may be granted under subsection (2) (b) by the district manager to a person, is funding to the extent only that is required for the purpose of restoring the stand of trees on the area affected by the event referred to in subsection (2)
- (a) to the stage the stand had reached at the time of the damage caused by the event, or
- (b) to the stage that is consistent with the person's obligation in that regard as modified by a regulation under subsection (7).
- (5) A decision in any proceedings, that a person having an obligation referred to in subsection (1) or (2) did or did not do any of the things referred to in subsection (1) (b) or (2) (d), is binding on the district manager.
- (6) The district manager may not under this section grant relief or funding in respect of an event causing damage if the event occurred before the coming into force of this subsection.
- (7) The Lieutenant Governor in Council may make regulations
- (a) respecting the modification of an obligation referred to in subsection (2) to establish a free growing stand, and
- (b) for the purpose of subsection (6), resolving any doubts as to
- (i) what constitutes an event, or
- (ii) when an event occurred.]

On the amendment.

**J. MacPhail:** Could the minister provide an explanation for the amendment, please?

**Hon. M. de Jong:** The legal effect of the amendment is not significant. In fact, the legal effect is the same. But the purpose of the amendment and the section is to simplify the process around the funding that may be required to restore a stand of trees to the stage it was at before the damage occurred.

This is probably easier to do by way of a specific example, if the member wishes. So let's take a reforestation example, where an event intervenes. Forest fire, I think, is an appropriate example. Somewhere in the ten-year period it takes a reforested block to free-to-grow — let's say at year 5 — an intervening force beyond the control of the licensee comes along: a forest fire. This section excuses the obligation of the licensee to that point, so the Crown assumes responsibility for restoration if it chooses to exercise that obligation. But the licensee maintains the responsibility and liability for the remaining five years. That, in effect, is how this is designed to operate.

Amendment approved.

Section 108 as amended approved.

Sections 109 to 140 inclusive approved.

On section 141.

**J. MacPhail:** Part 9 is entitled "Regulations and Standards," and sections 141 right through to 170 are sections that allow the Lieutenant-Governor-in-Council to make regulations on 29 separate areas. I'm just curious. Given the fact that the Forest Practices Code remains in effect for two years, and the minister will be making a substantial amount of regulation, what's his standing with the Minister for Deregulation?

[2010]

**Hon. M. de Jong:** The process of getting to our objective is obviously tied to the full implementation of this act and the ultimate replacement of the Forest Practices Code. In the meantime, I think the member will draw her conclusions.

We are operating, as it were, two parallel systems, and the motivation behind doing that is something we've discussed previously. It is to provide for a smooth transition. It is to recognize that there are forest development plans out there now whose terms have not expired.

The obligation and the desire to meet the objectives that the government has set for itself remain. I'm trying to do it in a responsible way that does not compromise the ability of people to operate on the land base.

**J. MacPhail:** The Minister of State for Deregulation has suggested that he has a two-for-one rule. For every regulation that a minister puts in place, he or she must eliminate two others. Does the minister anticipate that at the end of the two years, when it is just the Forest and Range Practices Act and accompanying regulations in place, he will have complied with that test?

**Hon. M. de Jong:** Yes.

**J. MacPhail:** How many regulations are under the Forest Practices Code now?

**Hon. M. de Jong:** Our collective recollection is that it is in the range of 11,000, but I should verify that for the member.

**J. MacPhail:** Yes, I'd appreciate that, if he could.

The power to make regulations. Is it the minister's view that each and every one of these 29 sections will be completed as a package, or will they be staged in?

**Hon. M. de Jong:** It is expected and anticipated that at proclamation in the spring of next year, the regulatory regimes associated with each of these sections would be available and implemented.

**J. MacPhail:** I had many comments to make at second reading and then throughout the discussion at committee stage about the absolute necessity for an open and transparent process in establishing these regulations. I think the minister has understood that and has acknowledged that his goal is to get it right rather than have it done quickly for the sake of having it done quickly, so I take him at his word for that.

Can the minister describe, to the best of his knowledge, if the consultation on establishing a regulation in all of these 29 areas is occurring at the same time? He said that he would present them as a package for gazetting. But is the consultation such that everybody who gets consulted comments on all 29 sections, or is there a different way of consulting?

[2015]

**Hon. M. de Jong:** The reality, as I discovered through the initial stages of this in preparing the legislation, is that different aspects of the act and therefore different aspects of the regulation attract varying degrees of interest and attention, depending on what one's interests and activities are as a stakeholder. There are agencies out there that will have an interest in virtually every aspect of the regulatory regime. There will be others whose interest is much more focused. The woodlot owners and the cattlemen and women are ones that come to mind. They pretty much restricted their input to those sections that related specifically to them. Others will have a broad-level interest in virtually every aspect. I expect that the development of the package of regulation will follow a similar pattern.

**J. MacPhail:** The minister said earlier in the debate that he expected people would move toward the process under the Forest and Range Practices Act, that they now have a choice to either follow the procedures under the Forest Practices Code or follow the regime under this legislation that we're discussing right now. What moves the minister toward that view?

Interjection.

**J. MacPhail:** Mr. Chair, what moves the minister toward that view, given that the regulatory regime is not yet established for the Forest and Range Practices Act?

**Hon. M. de Jong:** The wide and varied submissions that we received in the lead-up to and duration of the consultation that led to the preparation of this legislative package, and the widely held belief on the part of a broad range of stakeholders that this ultimately is a preferable model and one that they wish to operate under. I hope I was candid and forthcoming about what my practical expectations are about how that transition takes place.

I think some licensees will make the move fairly quickly. I think they will perhaps also do so in a staggered or incremental way in relation to their own operation. Some of them will have forest development plans whose life they will want to see expire because the planning work has been done. I assume they would come to the conclusion that they don't want to incur the expense associated with preparing a forest stewardship plan where all of that planning has been done under the existing legislative regime. Not only do I think differing licensees will make the transition at different rates, but individual licensees in their own

operations, some of which cover the expanse of the province, will do so internally at a different rate. We've constructed the transitional period with that in mind.

Some operators will discover that in order to take advantage of the flexibility and other features of this act, they are assuming greater responsibility. That comes with an obligation to utilize the professionals who have a greater role under this legislative framework. For some of them, that will be new. For some of them, that will involve drawing upon resources initially that they may not have had to draw upon. That will influence the timing.

To get back to the essence of the member's question, my belief in the ultimate desire on the part of licensees, woodlot owners and cattlemen to make the transition is founded in nothing more complicated than what they have told me leading up to and at the time this legislation was introduced.

Sections 141 to 176 inclusive approved.

Title approved.

**Hon. M. de Jong:** Hon. Chair, I move the committee rise and report the bill complete with amendment.

Motion approved.

The committee rose at 8:20 p.m.

The House resumed; Mr. Speaker in the chair.

### Reporting of Bills

Bill 74, Forest and Range Practices Act, reported complete with amendments, to be considered at the next sitting of the House after today.

**Hon. M. de Jong:** I wonder, Mr. Speaker, if we might recess for just five minutes.

**Mr. Speaker:** The House will recess now for five minutes.

The House recessed from 8:22 p.m. to 8:25 p.m.

**Hon. M. de Jong:** I call second reading of Bill 76.

### Second Reading of Bills

#### COLLEGE OF APPLIED BIOLOGY ACT

**Hon. M. de Jong:** Well, in moving — and I do move — second reading, members will know that in the recently introduced and recently debated Forest and Range Practices Act, the government has followed through on its commitment to establish a results-based forest practices code and to reduce the regulatory burden facing stakeholders and operators on the land base without compromising environmental standards. One

of the keys, in my mind, to achieving that stated objective and meeting our commitment is to ensure that the government, the natural resource industries and the people of British Columbia can rely upon skilled, highly trained, dedicated, accountable professionals to make sound resource management decisions.

The new College of Applied Biology Act builds on that foundation of professionalism and dedication on the part of those resource professionals by creating and establishing applied biology as a self-regulating profession that operates on the same footing as forestry, agronomy, engineering and geoscience.

The act establishes a college of applied biology which is charged with upholding and protecting the public interest. It does that a couple of ways. It does that by preserving and protecting the scientific methods and principles that are the foundation of the applied biological sciences. It does it by upholding the highest principles of stewardship. Perhaps most importantly of all, the college protects the public interest by ensuring the integrity, objectivity and expertise of its members.

The act and the bill we are debating this evening allow the college to govern its members in accordance with the act itself and rules established by the college. The college will have three categories of fully qualified practising members: professional biologists, registered biology technologists and applied biology technicians. The inclusion of technical specialists recognizes the important role played by those technologists and technicians and ensures that technical aspects of applied biology are bound by the same high standards that apply to the professional aspects of applied biology. There will also, I'm happy to say, be three categories of student members or trainees corresponding to each of the three categories of practising members.

[2030]

The governing body of the college will be the council. The council will be empowered to, amongst other things, set the admission and enrolment standards for practising members and establish a rigorous education program for its student members and a continuing education program for its practising members. It will also be empowered to set strict standards of competence and conduct, including a code of ethics for all members of the college. Further, the council will be empowered to establish restricted areas of practice and specialized areas of practice within applied biology and to limit practice within these areas to those members of the college who have the requisite qualifications. Finally, it will be empowered — the council for the college, that is — to assess the performance of members of the college through audits and practice reviews.

The act significantly allows the public to lodge complaints against members of the college, but further, the college itself may also initiate disciplinary actions as a result of a complaint by a member of the public, by another member of the college or on its own initiative.

The disciplinary process established under the act is both rigorous and comprehensive. If a member of the

college is found guilty of misconduct, including breaching any of the college's rules or practising applied biology incompetently, the college has the power to do any of the following. It may impose penalties of up to \$10,000 in the case of a practising member and \$2,000 in the case of a student member, it may impose conditions on a member's registration in the college, it may suspend or rescind a member's registration in the college, and/or it may require a member to undergo a remedial program of education and satisfy the board's examiners that a level of competence has been re-achieved. Significantly again, members of the college cannot escape disciplinary action by resigning from the college.

Those are some of the technical aspects of the legislation that is before us, but I should and would like to conclude my remarks by pointing back to the fact that the biologists in the province and the biologists association have been seeking this degree of professional recognition now for many years. They have demonstrated a degree of patience and diligence in looking towards this day and the introduction of this legislation in the House and, I suppose, have fallen victim to the fact that in the life of this place, there always seemed to be other priorities and other political agendas that needed to be met.

This achievement by the biologists of this statutory recognition, however, should not merely be seen to reflect our desire to reward that agency for their perseverance. It is much more than that. It is a reflection of the degree to which the new Forest and Range Practices Act, the results-based code, is tied very much to the principle that we have professionals in this province who not only can be relied upon to provide the kind of expert technical and professional advice that people operating on the land base require, but they should be relied upon. In fact, there is an obligation upon those who would operate on the land base to take advantage of those professional qualifications that exist within the realm of the practice of biology.

A number of purposes and objectives are met in this legislation. The recognition of a professional group that has established its credentials on an operational basis is perhaps most important of all. I conclude my remarks with respect to second reading.

**Mr. Speaker:** Debate continues on Bill 76. The Leader of the Opposition.

[2035]

**J. MacPhail:** I rise in support of Bill 76, the College of Applied Biology Act. The minister has given a technical overview of the bill and has pointed out that this has been a long time in coming. That is absolutely true. I accept the statement that there is often, in a government's regime, an agenda crowded with priorities that somehow excludes a very important piece of legislation like this. It nevertheless doesn't seem to prevail because of its rather.... "Innocuous" is not the right word. It's rather that, well, everybody agrees to it, and therefore it doesn't become a priority. I congratulate the mem-

bers of the profession who have pursued this long and hard, and the opposition will certainly be supporting the legislation.

In the time I've had to consider this bill, I've done a tiny, tiny bit of research on it to the extent of what exists in other jurisdictions. There isn't much. The same lack of time that existed throughout the 1990s to move this legislation forward has prevailed in other jurisdictions in the country as well, but there's also been discussion about how best to establish a college of applied biologists.

At committee stage I will be raising some of those questions merely to have the minister answer about how this government remedied or resolved those matters. This is a college that will be self-regulating, and there are always issues of assurance of protection of the public interest and protection of the individual's interests in a self-regulating college. I will pursue those matters for assurance at committee stage.

**Mr. Speaker:** The question is second reading of Bill 76.

Motion approved.

**Hon. M. de Jong:** I move that the bill be referred to a Committee of the Whole House for consideration at the next sitting of the House after today.

Bill 76, College of Applied Biology Act, read a second time and referred to a Committee of the Whole House for consideration at the next sitting of the House after today.

**Hon. M. de Jong:** I call Bill 75.

FORESTS STATUTES  
AMENDMENT ACT (No. 2), 2002

**Hon. M. de Jong:** I move that Bill 75 be read a second time now.

This bill includes a number of amendments to the existing Forest Practices Code, and though we have spent some time on another piece of legislation discussing the relationship between the two, I think it is relevant for me to put on the record, for those who may be considering the debate of this piece of legislation, to repeat that brief summary of the relationship between the two.

Bill 74, the Forest and Range Practices Act, creates a new results-based regime for the management of forest practices and range use practices in B.C. That bill is designed to come into force next spring. There is, therefore, a requirement that we maintain the Forest Practices Code between now and that date. Beyond that, the new results-based code contemplates a two-year transitional period during which time the existing Forest Practices Code will be in effect, so one of the things this legislation does is amend the Forest Practices Code to incorporate certain streamlining provisions for that two-and-a-quarter-year period of time when we will in

fact have parallel processes for which licensees can opt to be governed insofar as their operations are concerned.

[2040]

This bill does some other things, and one of them represents an amendment to the Forest Act. That amendment relates to a piece of legislation that was tabled and passed in this House earlier this year — Bill 41, the direct award of timber legislation. The amendment that is included in this act relates to a discovery that was made that because of the peculiar wording of the Forest Act, one of the things that I intended to achieve by passage of the direct award legislation was, in fact, frustrated. The objective there, of course, was to provide a mechanism by which, in certain circumstances, timber rights could be awarded directly to first nations.

Because of the wording of the Forest Act, we discovered that undercut volumes, which is the timber left over from certain tenured rights.... The direct award legislation did not provide the minister, whoever that might be, with the authority to make direct awards of that undercut. Now, given the fact that much of the renewable tenure in this province is presently assigned for many first nations at the moment, that undercut volume represents one of the sources of fibre they are looking to. Upon discovery of the fact that the legislative tool was not applicable to the direct award of undercut volumes, we have moved now, at first opportunity, to correct that oversight.

The bill contains the provisions to transfer the remaining land use planning provisions of the Forest Practices Act to the Minister of Sustainable Resource Management. We canvassed that, in part, in an earlier discussion around Bill 74. Following the enactment of these amendments, the Minister of Sustainable Resource Management will be the sole authority for land use planning in the province and within the government, and that certainly does remove some duplication of efforts that governed the decision-making process.

The bill also includes a number of streamlining amendments for the Forest Practices Code of British Columbia, which as I mentioned earlier are designed to assist with the transition from the existing Forest Practices Code to the results-based forest and range practices regime. Those streamlining amendments will have an immediate impact on the regulatory burden which licensees will have the option of availing themselves of during the two-year transition or until they opt for the legislative framework provided for by the Forest and Range Practices Act.

The requirement for stand management prescriptions for free-growing stands was removed from the code in the spring. This legislation removes the remaining obligations for stand management prescriptions. There are also a number of additional amendments that help with the transition to the results-based code. Specifically, forest development plans and range-use plans have been extended through the transition period — that is, from now until the Forest and Range Practices

Act becomes the sole governing piece of legislation in April 2005.

The bill also gives some flexibility to what must be included in a forest development plan, which makes those plans more consistent with what will be required for forest stewardship plans. We have also, in a previous debate in this House, talked about how this act deals with the reduction in the approval mechanism for site plans.

[2045]

I should point out for members of the House, as well, that the number of site-level plans that require approval for roads is also being reduced, and the administrative regime for road deactivation and maintenance is being simplified.

Similar to the Forest and Range Practices Act, we have included in this legislation a mechanism by which minor amendments can be made to operational plans without necessarily involving governmental approval in all cases. The situation we are addressing, therefore, during this transitional period is a case where a licensee.... There is actually a disincentive to formalize a preferred amendment because of the fact it requires full engagement with the state via an approval process which has, in the past, proven to be very cumbersome.

The bill clarifies and provides certainty for when a licensee has met an obligation. I think this is an interesting feature of the act and something we actually didn't discuss as it relates to the Forest and Range Practices Act. But when we come to the committee stage of this debate, I suspect we will. Under these new provisions, licensees will be able to discharge their liability for an obligation in a more timely and certain manner than is presently the case. What is, I think, achieved here is a degree of enhanced certainty not just for the licensee but also for the Crown. In the process we do take some steps that will enhance the licensee's ability to compete in the national and global marketplace. I think there are financial implications to what is being proposed here.

We just had, I thought, a refreshingly useful and informative debate around the doctrine of due diligence, and there is an application of that doctrine here on a transitional basis. Similarly, we have just had a discussion about where a licensee is relieved of repairing damage caused by intervening forces not of their making or not within their control, and those processes are duplicated in this legislation.

In general, the streamlining amendments to the Forest Practices Code are, in fact, designed to give licensees and government some immediate relief to the regulatory burden that they are facing in a way that also takes account of their overriding obligation to practise in a way that reflects the highest standards of environmental protection. They also provide the government and industry — and all stakeholders, really, including resource professionals — with the transitional time required to become more familiar with the new results-based code. I have already alerted members to the timetable for full implementation of that document and the role this amended — if this bill is

passed — Forest Practices Code will play in effecting that transition in a way that is responsible and provides all stakeholders with a realistic option to chart their own course and timetable into that results-based world.

Those are my comments with respect to second reading of Bill 75.

[2050]

**Mr. Speaker:** Second reading of Bill 75 continues with the Leader of the Opposition.

**J. MacPhail:** We have had a bit of discussion already on Bill 75 in the course of debating at committee stage the Forest and Range Practices Act. For those who are unable to watch this daily on a continuous basis, the reason for that is that the Forest and Range Practices Act is the new regime for forest practices. But as the minister has pointed out, it will come into full and singular play only after a transition period where the original Forest Practices Code is an option that can be chosen by a proponent in forest practices.

We've had some discussion about how the two processes will work. I need still more clarification on that, and I expect the clause-by-clause debate of Bill 75 will provide greater clarification of the administrative regime that will be in place with two processes available to each and every proponent, while at the same time ensuring solid and sustainable forest practices. That will be the nature of my exploration at the committee stage.

I might also say that it does bring in a substantial change to the original Forest Practices Code, which I will also be examining at committee stage, and that is the movement toward a single minister now being responsible for land use planning in British Columbia. Under the original Forest Practices Code, the minister — then called the Minister of Environment, who is now called the Minister of Water, Land and Air Protection — had an official role in permitting and plan approval to ensure environmental sustainability in our forests. I will be exploring at committee stage how that role, that oversight, that policing responsibility of the Minister of Water, Land and Air Protection is assured, given that Bill 75 now gives single sign-off authority to land use planning to the Minister of Sustainable Resource Management.

What will also be helpful for us to have an efficient debate around this will be for the ministry staff to provide me with the outstanding land use plans that have not yet been concluded or approved in the province. It will be helpful in order to move the debate along, if I could have that by the time we have committee stage.

I just want to explore one other area before I adjourn debate, because I have several other areas I want to explore, and that's the whole concept that this government has made a commitment to the forest industry that things are going to get better for the forest industry under their government. I sure hope that's true, because the industry is in a very fragile state now, perhaps facing its most difficult challenges certainly since

I've arrived in this province, which is about 22 years ago, and certainly facing its most difficult challenges since.... I think the most senior person involved in the industry that I spoke with has been involved since the mid-1960s. So the industry is facing some very real challenges, and while the government is delivering on its promise of a results-based code and a reduction in red tape or paperwork for the industry, there are many, many other concerns that perhaps might be seen as a higher priority within the British Columbia forest sector.

While this is not the forum in which to discuss those, I do want to raise some of those concerns at second reading, in ensuring that those concerns are not exacerbated by this substantial transition period and this dual process.

Noting the hour, I would adjourn debate on Bill 75, the Forests Statutes Amendment Act.

J. MacPhail moved adjournment of debate.

Motion approved.

**Hon. M. de Jong:** Noting the hour, I move that the House do now adjourn.

Hon. M. de Jong moved adjournment of the House.

Motion approved.

The House adjourned at 8:55 p.m.