



3rd Session, 37th Parliament

OFFICIAL REPORT OF

DEBATES OF THE
LEGISLATIVE ASSEMBLY

(HANSARD)

Tuesday, November 26, 2002

Afternoon Sitting

Volume 10, Number 16

THE HONOURABLE CLAUDE RICHMOND, SPEAKER

ISSN 0709-1281

PROVINCE OF BRITISH COLUMBIA
(Entered Confederation July 20, 1871)

LIEUTENANT-GOVERNOR
Honourable Iona Campagnolo

3RD SESSION, 37TH PARLIAMENT

SPEAKER OF THE LEGISLATIVE ASSEMBLY
Honourable Claude Richmond

EXECUTIVE COUNCIL

Premier and President of the Executive Council.....	Hon. Gordon Campbell
Minister of State for Intergovernmental Relations.....	Hon. Greg Halsey-Brandt
Deputy Premier and Minister of Education	Hon. Christy Clark
Minister of Advanced Education.....	Hon. Shirley Bond
Minister of Agriculture, Food and Fisheries.....	Hon. John van Dongen
Attorney General and Minister Responsible for Treaty Negotiations.....	Hon. Geoff Plant
Minister of Children and Family Development.....	Hon. Gordon Hogg
Minister of State for Early Childhood Development.....	Hon. Linda Reid
Minister of Community, Aboriginal and Women's Services.....	Hon. George Abbott
Minister of State for Community Charter.....	Hon. Ted Neibling
Minister of State for Women's Equality	Hon. Lynn Stephens
Minister of Competition, Science and Enterprise	Hon. Rick Thorpe
Minister of State for Deregulation	Hon. Kevin Falcon
Minister of Energy and Mines.....	Hon. Richard Neufeld
Minister of Finance	Hon. Gary Collins
Minister of Forests	Hon. Michael de Jong
Minister of Health Planning.....	Hon. Sindi Hawkins
Minister of Health Services.....	Hon. Colin Hansen
Minister of State for Mental Health.....	Hon. Gulzar S. Cheema
Minister of State for Intermediate, Long Term and Home Care.....	Hon. Katherine Whittred
Minister of Human Resources.....	Hon. Murray Coell
Minister of Management Services.....	Hon. Sandy Santori
Minister of Provincial Revenue.....	Hon. Bill Barisoff
Minister of Public Safety and Solicitor General	Hon. Rich Coleman
Minister of Skills Development and Labour.....	Hon. Graham P. Bruce
Minister of Sustainable Resource Management.....	Hon. Stan Hagen
Minister of Transportation.....	Hon. Judith Reid
Minister of Water, Land and Air Protection.....	Hon. Joyce Murray

LEGISLATIVE ASSEMBLY

Deputy Speaker.....	John Weisbeck
Leader of the Opposition	Joy MacPhail
Deputy Chair, Committee of the Whole	Harold Long
Clerk of the Legislative Assembly	E. George MacMinn
Clerk Assistant	Robert Vaive
Clerk Assistant and Law Clerk	Ian D. Izard
Clerk Assistant and Clerk of Committees.....	Craig H. James
Clerk Assistant/Committee Clerk.....	Kate Ryan-Lloyd
Sergeant-at-Arms.....	A.A. Humphreys
Director, Hansard Services	Anthony Dambrauskas
Legislative Librarian.....	Joan A. Barton
Legislative Comptroller	Peter Bray

Published by British Columbia Hansard Services, and printed under the authority of the Speaker by the Queen's Printer, Victoria. Rates: single issue, \$2.85; per calendar year, mailed daily, \$298. GST extra. Agent: Crown Publications Inc., 521 Fort St., Victoria, B.C. V8W 1E7. Telephone: (250) 386-4636. Fax: 386-0221.

www.legis.gov.bc.ca/hansard

In addition to printed transcripts, Hansard Services publishes transcripts on the Internet and broadcasts Chamber debates on television.

ALPHABETICAL LIST OF MEMBERS

Abbott, Hon. George (L)	Shuswap
Anderson, Val J. (L)	Vancouver-Langara
Barisoff, Hon. Bill (L)	Penticton-Okanagan Valley
Bell, Pat (L)	Prince George North
Belsey, Bill (L)	North Coast
Bennett, Bill (L)	East Kootenay
Bhullar, Tony (Ind. L)	Surrey-Newton
Bloy, Harry (L)	Burquitlam
Bond, Hon. Shirley (L)	Prince George-Mount Robson
Bray, Jeff (L)	Victoria-Beacon Hill
Brenzinger, Elayne (L)	Surrey-Whalley
Brice, Susan (L)	Saanich South
Bruce, Hon. Graham P. (L)	Cowichan-Ladysmith
Campbell, Hon. Gordon (L)	Vancouver-Point Grey
Cheema, Hon. Gulzar S. (L)	Surrey-Panorama Ridge
Chong, Ida (L)	Oak Bay-Gordon Head
Christensen, Tom (L)	Okanagan-Vernon
Chutter, Dave (L)	Yale-Lillooet
Clark, Hon. Christy (L)	Port Moody-Westwood
Cobb, Walt (L)	Cariboo South
Coell, Hon. Murray (L)	Saanich North and the Islands
Coleman, Hon. Rich (L)	Fort Langley-Aldergrove
Collins, Hon. Gary (L)	Vancouver-Fairview
de Jong, Hon. Michael (L)	Abbotsford-Mount Lehman
Falcon, Hon. Kevin (L)	Surrey-Cloverdale
Hagen, Hon. Stan (L)	Comox Valley
Halsey-Brandt, Hon. Greg (L)	Richmond Centre
Hamilton, Arnie (L)	Esquimalt-Metchosin
Hansen, Hon. Colin (L)	Vancouver-Quilchena
Harris, Roger (L)	Skeena
Hawes, Randy (L)	Maple Ridge-Mission
Hawkins, Hon. Sindi (L)	Kelowna-Mission
Hayer, Dave S. (L)	Surrey-Tynehead
Hogg, Hon. Gordon (L)	Surrey-White Rock
Hunter, Mike (L)	Nanaimo
Jarvis, Daniel (L)	North Vancouver-Seymour
Johnston, Ken (L)	Vancouver-Fraserview
Kerr, Brian J. (L)	Malahat-Juan de Fuca
Krueger, Kevin (L)	Kamloops-North Thompson
Kwan, Jenny Wai Ching (NDP)	Vancouver-Mount Pleasant
Lee, Richard T. (L)	Burnaby North
Lekstrom, Blair (L)	Peace River South
Les, John (L)	Chilliwack-Sumas
Locke, Brenda (L)	Surrey-Green Timbers
Long, Harold (L)	Powell River-Sunshine Coast
MacKay, Dennis (L)	Bulkley Valley-Stikine
McMahon, Wendy (L)	Columbia River-Revelstoke
MacPhail, Joy (NDP)	Vancouver-Hastings
Manhas, Karn (L)	Port Coquitlam-Burke Mountain
Masi, Reni (L)	Delta North
Mayencourt, Lorne (L)	Vancouver-Burrard
Murray, Hon. Joyce (L)	New Westminster
Nebbeling, Hon. Ted (L)	West Vancouver-Garibaldi
Nettleton, Paul (Ind. L)	Prince George-Omineca
Neufeld, Hon. Richard (L)	Peace River North
Nijjar, Rob (L)	Vancouver-Kingsway
Nuraney, John (L)	Burnaby-Willingdon
Orr, Sheila (L)	Victoria-Hillside
Penner, Barry (L)	Chilliwack-Kent
Plant, Hon. Geoff (L)	Richmond-Steveston
Reid, Hon. Judith (L)	Nanaimo-Parksville
Reid, Hon. Linda (L)	Richmond East
Richmond, Hon. Claude (L)	Kamloops
Roddick, Valerie (L)	Delta South
Sahota, Patty (L)	Burnaby-Edmonds
Santori, Hon. Sandy (L)	West Kootenay-Boundary
Stephens, Hon. Lynn (L)	Langley
Stewart, Ken (L)	Maple Ridge-Pitt Meadows
Stewart, Richard (L)	Coquitlam-Maillardville
Suffredine, Blair F. (L)	Nelson-Creston
Sultan, Ralph (L)	West Vancouver-Capilano
Thorpe, Hon. Rick (L)	Okanagan-Westside
Trumper, Gillian (L)	Alberni-Qualicum
van Dongen, Hon. John (L)	Abbotsford-Clayburn
Visser, Rod (L)	North Island
Weisbeck, John (L)	Kelowna-Lake Country
Whitred, Hon. Katherine (L)	North Vancouver-Lonsdale
Wilson, John (L)	Cariboo North
Wong, Patrick (L)	Vancouver-Kensington

LIST OF MEMBERS BY RIDING

Abbotsford-Clayburn	Hon. John van Dongen
Abbotsford-Mount Lehman	Hon. Michael de Jong
Alberni-Qualicum	Gillian Trumper
Bulkley Valley-Stikine	Dennis MacKay
Burnaby North	Richard T. Lee
Burnaby-Edmonds	Patty Sahota
Burnaby-Willingdon	John Nuraney
Burquitlam	Harry Bloy
Cariboo North	John Wilson
Cariboo South	Walt Cobb
Chilliwack-Kent	Barry Penner
Chilliwack-Sumas	John Les
Columbia River-Revelstoke	Wendy McMahon
Comox Valley	Hon. Stan Hagen
Coquitlam-Maillardville	Richard Stewart
Cowichan-Ladysmith	Hon. Graham P. Bruce
Delta North	Reni Masi
Delta South	Valerie Roddick
East Kootenay	Bill Bennett
Esquimalt-Metchosin	Arnie Hamilton
Fort Langley-Aldergrove	Hon. Rich Coleman
Kamloops	Hon. Claude Richmond
Kamloops-North Thompson	Kevin Krueger
Kelowna-Lake Country	John Weisbeck
Kelowna-Mission	Hon. Sindi Hawkins
Langley	Hon. Lynn Stephens
Malahat-Juan de Fuca	Brian J. Kerr
Maple Ridge-Mission	Randy Hawes
Maple Ridge-Pitt Meadows	Ken Stewart
Nanaimo	Mike Hunter
Nanaimo-Parksville	Hon. Judith Reid
Nelson-Creston	Blair F. Suffredine
New Westminster	Hon. Joyce Murray
North Coast	Bill Belsey
North Island	Rod Visser
North Vancouver-Lonsdale	Hon. Katherine Whitred
North Vancouver-Seymour	Daniel Jarvis
Oak Bay-Gordon Head	Ida Chong
Okanagan-Vernon	Tom Christensen
Okanagan-Westside	Hon. Rick Thorpe
Peace River North	Hon. Richard Neufeld
Peace River South	Blair Lekstrom
Penticton-Okanagan Valley	Hon. Bill Barisoff
Port Coquitlam-Burke Mountain	Karn Manhas
Port Moody-Westwood	Hon. Christy Clark
Powell River-Sunshine Coast	Harold Long
Prince George North	Pat Bell
Prince George-Mount Robson	Hon. Shirley Bond
Prince George-Omineca	Paul Nettleton
Richmond Centre	Hon. Greg Halsey-Brandt
Richmond East	Hon. Linda Reid
Richmond-Steveston	Hon. Geoff Plant
Saanich North and the Islands	Hon. Murray Coell
Saanich South	Susan Brice
Shuswap	Hon. George Abbott
Skeena	Roger Harris
Surrey-Cloverdale	Hon. Kevin Falcon
Surrey-Green Timbers	Brenda Locke
Surrey-Newton	Tony Bhullar
Surrey-Panorama Ridge	Hon. Gulzar S. Cheema
Surrey-Tynehead	Dave S. Hayer
Surrey-Whalley	Elayne Brenzinger
Surrey-White Rock	Hon. Gordon Hogg
Vancouver-Burrard	Lorne Mayencourt
Vancouver-Fairview	Hon. Gary Collins
Vancouver-Fraserview	Ken Johnston
Vancouver-Hastings	Joy MacPhail
Vancouver-Kensington	Patrick Wong
Vancouver-Kingsway	Rob Nijjar
Vancouver-Langara	Val J. Anderson
Vancouver-Mount Pleasant	Jenny Wai Ching Kwan
Vancouver-Point Grey	Hon. Gordon Campbell
Vancouver-Quilchena	Hon. Colin Hansen
Victoria-Beacon Hill	Jeff Bray
Victoria-Hillside	Sheila Orr
West Kootenay-Boundary	Hon. Sandy Santori
West Vancouver-Capilano	Ralph Sultan
West Vancouver-Garibaldi	Hon. Ted Nebbeling
Yale-Lillooet	Dave Chutter

CONTENTS

Tuesday, November 26, 2002
Afternoon Sitting

Routine Proceedings

	Page
Introductions by Members.....	4673
Statements (Standing Order 25B).....	4673
Community cooperation	
P. Wong	
Public input into health care system changes	
V. Roddick	
Competitive rowing and Olympic bid	
S. Brice	
Oral Questions.....	4674
Pharmacare program	
J. MacPhail	
Hon. C. Hansen	
Partner groups funding	
B. Belsey	
Hon. C. Clark	
Dispensing of methadone by pharmacies	
E. Brenzinger	
Hon. G. Cheema	
Pharmacare program	
J. MacPhail	
Hon. C. Hansen	
Petitions.....	4677
B. Kerr	
R. Sultan	
J. MacPhail	
J. Bray	
G. Trumper	
W. McMahon	
Tabling Documents.....	4677
B.C. Rail, annual report, 2001	
British Columbia Racing Commission, annual report, 2001-02	
Committee of the Whole House.....	4678
Manufactured Home Park Tenancy Act (Bill 71) (<i>continued</i>)	
Hon. R. Coleman	
J. Kwan	
M. Hunter	
Reporting of Bills.....	4683
Manufactured Home Park Tenancy Act (Bill 71)	
Third Reading of Bills.....	4683
Manufactured Home Park Tenancy Act (Bill 71)	
Committee of the Whole House.....	4684
Forests Statutes Amendment Act (No. 2), 2002 (Bill 75)	
J. MacPhail	
Hon. M. de Jong	

Report and Third Reading of Bills	4691
Forests Statutes Amendment Act (No. 2), 2002 (Bill 75)	
Royal Assent to Bills	4691
Residential Tenancy Act (Bill 70)	
Manufactured Home Park Tenancy Act (Bill 71)	
Community Care and Assisted Living Act (Bill 73)	
Forests Statutes Amendment Act (No. 2), 2002 (Bill 75)	
The Hunting and Fishing Heritage Act (Bill M204)	

TUESDAY, NOVEMBER 26, 2002

The House met at 2:04 p.m.

Introductions by Members

Hon. G. Halsey-Brandt: Today in the members' gallery we have a very special guest from the United Kingdom. James Rawlinson is a newly appointed consul general of the United Kingdom at Vancouver. Before coming to British Columbia, he was a British consul general in Bordeaux, France. He's also served in Hamburg, Copenhagen, New Delhi and New York at the United Nations.

We look forward to working with Consul General Rawlinson in expanding trade relationships around public-private partnerships, offshore oil and gas exploration, biotechnology and other targeted sectors. Please join me in giving him a very warm welcome to British Columbia and this Legislature.

[1405]

J. MacPhail: In the gallery today is Nitya Harris. She's an activist with the Sierra Club whom many will know as a member of the faculty at Royal Roads. She's former chair of the Crown corporations environment committee, and she has spent much of her life in efforts to support and protect a healthy and sustainable environment here on Vancouver Island. Would the House please make her welcome.

R. Hawes: In the gallery today we have three senior executives from Genstar corp., a corporation whose environmental record as developers is second to none: Dave Keenan, Chuck Marr and Geoff Croll. Would the House please make them welcome.

G. Trumper: It's my pleasure today to welcome the constituency assistants who are with us on their second day in the capital. I also particularly want to mention Maryann Washington, Noreen Pelk and Marg Souther, who try to keep me out of trouble. They are my CAs. Please, will the House welcome them all.

J. Bray: This afternoon joining us in the gallery are four local Victorians who do an excellent job of advocating on behalf of people with disabilities. It's my pleasure to welcome Terry Colburn, Maurine Fauwcett, Diane Frasure and Steven Palmer, and I ask the House to please make them very welcome.

J. Nuraney: We have in the gallery today Trudy Gordon, who is a hard-working person who helps with my work. I would like the House to make her welcome.

R. Visser: It's a pleasure for me to introduce somebody who also cares deeply about the environment. We've pulled the Stanfields and the cork boots off Blake Marshall. He's a contract logger from Gold River,

and he's here visiting us today. Would the House make him welcome.

J. Weisbeck: In the gallery, from the Okanagan University College Student Association and a great advocate for full university status in the Okanagan, is Mr. Jason Ranchu.

J. MacPhail: For my second introduction, I'd like to welcome Steve Hilbert, whose daughter, Sarah Hilbert-West, is our caucus researcher. He's down from Quesnel to visit with a whole bunch of other seniors. His latest task, though, has been to elect and support the new mayor of Quesnel, Nate Bello. Would the House please make him welcome.

P. Bell: I'd like to introduce to the House today a nasty little pest that makes its home in my riding. I'm speaking of the mountain pine beetle.

Mr. Speaker: Oh.

P. Bell: I don't think he voted for me, Mr. Speaker. [Laughter.]

Just last week the Minister of Forests announced that the pest had spread to an area three-quarters the size of Sweden, containing approximately 108 million cubic metres.

In my attempt to help eradicate this little bug, I've prepared a small value-added wood product for each of the members in the House. Members will find on their desks a mountain pine beetle nametag for them to wear with pride. Now, please keep in mind that it's not damaged fibre. This is actually referred to as either denim pine or — my favourite name — Levi lumber.

I actually would ask that the House please make this little beetle very unwelcome in the province of British Columbia.

Mr. Speaker: Thank you. Are there any still inside of it? [Laughter.]

[1410]

Statements (Standing Order 25B)

COMMUNITY COOPERATION

P. Wong: The spirit of community cooperation is alive in my riding. In the past eight months I have been involved in a community-wide effort to build a shelter at Memorial Park. Working on this project has been a quiet reminder of the strength that the community can have and the impact that can be felt when we work together towards a common goal.

It's a simple idea. A group of seniors who exercise regularly at the park approached me some time ago. They needed a shelter that would protect them from the wet Vancouver weather while exercising. Now the project has already brought different groups very

closely together, although it hasn't even been built yet. There is widespread support from the community, including the Polish Friendship Society, the Filipino Multicultural Helping House Society, Khalsa School, the Malaysia Singapore Brunei Cultural Association and Victoria Drive and Fraser Street business associations. We have also approached students in my riding to solicit their involvement by contributing some artwork for the shelter. Teachers will get involved, and a local artist has volunteered to oversee the creative direction of the proposed project.

The shelter could be useful for everyone — for picnics, a forum, outdoor exhibits, performances, celebrations or community meetings. It would become a new hub in the neighbourhood and improve the safety of the surrounding community.

The benefits of a modest project like this have the ability to improve the community's health and well-being and foster relationships among groups. We still have funds to raise and organizing to do, but I'm confident that people in the community will keep up their good work. I'm pleased to be a part of this initiative and would like to sincerely thank everyone who has shown their dedication to the community.

PUBLIC INPUT INTO HEALTH CARE SYSTEM CHANGES

V. Roddick: Despite the many levels of government, we all know there is one basic taxpayer — us. When a publicly funded system such as medicare is under immense pressure, its success vital, and its consequences direct and personal, people want a voice.

The Select Standing Committee on Health report, *Patients First*, which had the largest number of submissions ever of any standing committee, noted time and time again that British Columbians want input on how health care will change in the province. It recommended that health authorities have flexibilities and incentives to tailor the health needs of their particular region.

Delta Hospital is a perfect example of community involvement. People submitted excellent, positive ideas and solutions. There have been hiccups and in some cases positively ham-fisted communication problems. But the Fraser health authority has listened and worked to ensure that the emergency room at Delta Hospital will be doctor-staffed 24-7. Plus, Delta Hospital and Richmond General Hospital are working out an innovative partnership arrangement between authorities, an idea that was totally doctor-driven.

The Fraser health authority, its mayors, MLAs, plus Ministers Hansen and Hawkins met on November 8 to discuss health plans and community input. It was a positive, enthusiastic meeting that recognized the need for all groups to improve communication and stay connected.

The changes in health care are cumbersome and complex, so it is absolutely crucial that we build on the ongoing free exchange of ideas, plans, solutions and outcome. As we prepare for the Romanow report and

the work of the select standing committee, public input at the local level will be ever more important.

COMPETITIVE ROWING AND OLYMPIC BID

S. Brice: The 2010 bid gives us the opportunity to expose our communities to the Olympic spirit. That spirit is the magic that surrounds the games in a way that no other single event in the world comes close to capturing.

[1415]

As you drive from the ferry into Victoria, you pass Elk Lake in my riding of Saanich South. When you drive by the lake and see the rowers, you should know that they are today's champions in training, and they are part of a past Olympic legacy. In the mid-eighties four young men from Victoria competed in rowing at the Los Angeles Olympics. To the amazement of us all, they came home with gold. They had the gold medals, but the whole city was covered in gold dust. Our community realized that if we invested in a high-performance facility at Elk Lake, we had the potential to produce many more podium rowers. Those of us on local councils committed funds, UVic developed a rowing squad second to none, and a dynasty of world-class rowers like Silken Laumann have thrilled us over the years.

That is the power of the Olympic spirit. It lives on in the community for years after the actual games take place. The legacy of the Olympic spirit is in those young rowers as you pass Elk Lake. They are from local high schools which have developed rowing programs that produce rowers for our Canadian teams. Teenagers who row don't hang around on the streets, they don't do drugs, and they don't drag-race on the highway. They are focused on their sport, and they're committed to their team. This is the very spirit of the 2010 games which we have the opportunity to give as a gift to all our young people in all of our communities throughout the province. Our task is to win that bid.

Oral Questions

PHARMACARE PROGRAM

J. MacPhail: Yesterday the Minister of Health Services said he will make up the budget shortfall resulting from the delay in income testing by finding savings elsewhere. He said that again today. Maybe the minister can tell us how he's going to find that extra cash. Is he going to (a) cut acute care services, (b) close a few more long-term care homes and throw more seniors out on their ear or (c) raise MSP premiums? Or (d) is he going to make up the shortfall by kicking even more seniors off Pharmacare than he originally planned?

Hon. C. Hansen: The short answer is: none of the above. Quite frankly, when this member goes around this province telling seniors they're going to get kicked off the Pharmacare program, it is the greatest injustice any politician in this province can do. That kind of fearmongering is absolutely irresponsible.

We have, through careful management of the budget with the Ministry of Health Services, found the administrative savings. We have tried to focus on the kind of changes that are not going to detrimentally affect patient care but make sure we can deliver a system as cost-effectively as possible. Through that careful stewardship of a budget — which is the first time we've ever seen careful stewardship of a budget in this province in over a decade — we are able to find the savings that are needed to allow us to take a bit more time to carefully think through the changes to the Pharmacare system and to make sure no senior is going to get kicked off the Pharmacare program, as that member continues to say, and that we have a system in place that is fair for all British Columbians.

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

J. MacPhail: I'm flattered that the Minister of Health Services is giving me so much credit, but the fact of the matter is that there were thousands of seniors out there on the lawn who have exactly the same questions as I do. They met with the Minister of Health Services, and it turns out they were even angrier after the meeting with him. The fact of the matter is that these administrative savings appeared overnight, just as thousands were arriving to protest. I actually think he's made such a mess of the file that he was just trying to buy time. For weeks we've been asking this minister to come clean...

Interjections.

Mr. Speaker: Order, please.

[1420]

J. MacPhail: ...and tell seniors how he plans to implement income testing and who would be kicked off Pharmacare. Not once did the minister ever indicate that his plans were in trouble. Not once did he ever tell worried seniors they might get a few weeks' reprieve. Then without warning — oops — it's going to take a little longer to figure out who gets to stay on and who gets kicked off. Will the minister at least answer this one question? Will he tell seniors on fixed incomes how low their incomes will have to be to keep their Pharmacare coverage?

Hon. C. Hansen: I believe that it is extremely irresponsible for this member to be deliberately misleading seniors in British Columbia. We have said quite clearly, through these last number of months, that not one British Columbian will be kicked off Pharmacare, and that will be the case.

One of the things that I discussed with the seniors delegation this morning, which was a very constructive meeting, and we actually had a good exchange of information.... One of the things that came up was the need for the federal government to bear its responsibility when it comes to health care — that today, where they are funding 14 percent of the health care costs in

British Columbia, is simply not good enough and that we have had a consistent campaign on the federal government to make sure that they restore their fair share of funding in British Columbia. We are looking forward to those initiatives from the federal government. In the meantime, it is time for this member to stop fearmongering with seniors and saying things like — as she said on the front steps today — that seniors paid \$95 million more for Pharmacare last year, which she knows is wrong. She should be truthful with the seniors in British Columbia.

Interjections.

Mr. Speaker: Order, please. The Leader of the Opposition has a further supplementary.

J. MacPhail: Well, maybe it's because I'm relying on the government's own information that I'm spreading all this fearmongering. It's the government's own information that was tabled in this House in February that said 420,000 seniors would be paying more for Pharmacare, and a mere 20,000 would be paying less. It's their own documents that show 4 percent of an average senior's income means that they will no longer have Pharmacare coverage — his own documents. One minute it's going to be income testing based on individual income and implemented January 1. Yesterday it was going to be based on family income and maybe implemented whenever.

Well, seniors — thousands of them — have to plan their budgets on a fixed income. They need to know. Stand up and tell them. Will they have less money or more money to spend? Can the Minister of Health Services just answer this? When he finally, actually, figures out what he's doing and how he can get the system in place to implement his income-testing scheme, can he tell seniors this? Can he tell seniors who made Pharmacare claims in January if they will have to repay Pharmacare once the new plan is in place?

Hon. C. Hansen: What I made quite clear yesterday is that the Pharmacare system will not change as of January 1. The same system that's been in place for over a year will be there. Just to give the member a little bit of a history lesson, it was actually during the NDP government — in the first couple of years — that they increased the deductible for seniors from \$125 a year by 60 percent in one year. We saw, during that whole period of time, the Pharmacare burden that was being borne by seniors being increased throughout the decade that the NDP were in power. We are making sure that we bring in a fair system...

Interjections.

Mr. Speaker: Order, please. Order.

Hon. C. Hansen: ...that is based on ability to pay, and we want to make sure that we will protect the most vulnerable seniors in this province to ensure that

they can get access to the medications they need based on their income.

[1425]

PARTNER GROUPS FUNDING

B. Belsey: I would like to ask a public written question submitted by the president of the Prince Rupert District Teachers Union. To the Minister of Education, regarding the minister's responsibility for school planning councils: why would all of the parent groups — including BCCPAC, BCPVPA, BCSSA and BCSTA — get the \$150,000 startup grant, but the BCTF received no grant whatsoever?

Hon. G. Collins: Because it went to the CCPA.

Mr. Speaker: Order, please.

B. Belsey: How can partner groups work together when the funding, from the beginning, creates divisiveness?

An Hon. Member: Minister responsible for acronyms.

Hon. C. Clark: I do know that if I buy a VCR, there's GST on top of my PST, and the CPPA will have to....

Interjection.

Mr. Speaker: Order, please.

Interjections.

Mr. Speaker: Order, please.

Hon. C. Clark: Thank you, Mr. Speaker. I'm delighted to be able to answer this question, because school planning councils really do present a unique opportunity for parents to get involved in the school system, to have a real say over what happens in their children's schools. We need to recognize, though, that when we put together school planning councils, which have a majority of parents and include a teacher and a principal, different groups will bring different levels of resources to that table to make sure that their members are adequately trained in what they need to do to advocate on behalf of the people that are electing them.

We know that the BCTF has lots of resources. They have \$4 million put aside in just an advertising fund to come out and be the official opposition to the government. That's fine. They're one of the wealthiest unions around.

Parents don't have those kinds of advantages. They volunteer in their schools. They do that for free. They don't get paid for it; they do it because they genuinely care. We have a responsibility as a government to make sure that those parents are supported and that their

opportunities to be involved in every school are maximized to the extent that we can.

Mr. Speaker: The member for North Coast has a supplementary question.

B. Belsey: I would like to ask my own follow-up question. The minister has stated many times that she believes parents could and should play an important role in their children's education, and I agree. The creation of school planning councils is providing parents with the opportunity to have a greater say in what their children are taught. Can the Minister of Education tell us what the government is doing to continue to support parents and school planning councils?

Hon. C. Clark: The plans that each school planning council comes up with will be the basis for the accountability contracts in every single district. The plans that they put together for their school will be reflected in the goals that we hold districts to. It will be a very meaningful process for them.

We've made sure this year that we continue to support parents in their efforts to do that. I'm delighted to be able to announce today that the parents association, B.C. Confederation of Parent Advisory Councils, will be granted a further \$150,000 as part of their funding for this coming year to make sure that they can continue to support parents in every part of this province in making sure that we keep our focus squarely on student achievement.

DISPENSING OF METHADONE BY PHARMACIES

E. Brenzinger: My question today is to the Minister of State for Mental Health. In my constituency of Surrey-Whalley there are a number of pharmacies that dispense methadone. However, there are many problems associated with the role of these pharmacies and people with addictions that use methadone. Can the Minister of State for Mental Health clarify for my constituents the role of methadone?

Hon. G. Cheema: Methadone maintenance is one program in the complex system of addiction services. It is specifically designed to address heroin addiction. Methadone is presently prescribed by a physician as a replacement for heroin. This is to help patients avoid the dangers associated with injection drug use.

Methadone provides stability to improve treatment efforts. Studies have shown that methadone can decrease HIV and hepatitis C infections. It also reduces drug-related crime and saves lives by preventing overdoses.

[1430]

Mr. Speaker: The member for Surrey-Whalley has a supplementary.

E. Brenzinger: Individuals in my community have expressed concerns about some of the regulations that

govern pharmacies dispensing methadone. Can the Minister of State for Mental Health tell my constituents what guidelines are in place to regulate pharmacies that dispense methadone?

Hon. G. Cheema: The B.C. College of Physicians and Surgeons is responsible for supervising the B.C. methadone program. The College of Pharmacists of B.C. is responsible for licensing pharmacies that dispense methadone. The federal government regulates methadone. The College of Pharmacists of B.C., under federal law, is able to license pharmacies to dispense methadone. Their role is to ensure special training and allow a greater degree of supervision. If the member has some concerns about the operations of the pharmacies that dispense methadone, I would request she address her concerns to the College of Pharmacists.

PHARMACARE PROGRAM

J. MacPhail: It takes the Liberals eight months to process a simple MSP application, and the government wants seniors to believe they can implement and manage a complex income-testing scheme without creating massive chaos in the Pharmacare system. Can the Minister of Health Services provide seniors with an assurance? Now is the opportunity for assurance. Can he promise them that after he sorts out the mess he has created, they won't have to wait months to be repaid by Pharmacare in the same way they're now waiting months for payment by MSP?

Hon. C. Hansen: Quite frankly, the issue around how MSP applications get processed in this province is something I'd raised in this House many times when I was the official opposition critic. It's unfortunate that the previous government didn't act on trying to streamline that process. We are paying a price for that inefficiency today in terms of how the system is set up, and we're in the process of trying to change it.

When it comes to the Pharmacare system, the income-based Pharmacare system will be driven in much the way that our premium assistance program is today. It ensures that we can use information that is provided off income tax returns, which has been approved by the privacy commissioner for that process. It will be a streamlined system. We're setting it up in a way that will actually be quite efficient and effective in making sure that people get enrolled as quickly as possible.

The other good news is that anyone that's currently on premium assistance, which is almost 50 percent of all seniors in the province, gets automatically enrolled in the new system. I am quite confident that administratively, it will be set up in a way that will be quite easy for seniors to make sure they get their full benefits and that none will be compromised in their benefits.

[End of question period.]

Petitions

B. Kerr: I'd like to table a petition. This petition is from the Deaf Rights Task Force with 244 signatures

regarding programs such as READ 2000. That's resources and education for the adult deaf.

R. Sultan: I herewith present a petition from 86 residents of the lower mainland, most of them my constituents, expressing grave concern about the Olympic Games.

J. MacPhail: My apologies to the previous member.

I table a petition signed by over 650 British Columbians. They respectfully request that the government reject any proposals for the culling or contraception of wolves and cougars on Vancouver Island, instead immediately implementing a change in forest policy to restore viable deer, wolf and cougar populations on Vancouver Island by protecting remaining old-growth habitats.

J. Bray: I wish to present a petition signed by 426 Victorians expressing opposition to the reassessment for people with disability benefits level 2.

G. Trumper: I would like to table a petition presented on behalf of 16 residents of the Qualicum Beach area objecting to any culling or contraception of wolves and cougars on Vancouver Island.

[1435]

W. McMahon: I rise today to table a petition on behalf of the member for East Kootenay from 4,000 constituents asking that the dangerous curve and hill on Highway 3 between Fernie and Cranbrook, known as Steamboat Hill, be permanently improved.

Tabling Documents

Hon. J. Reid: I have the honour to present the annual report from B.C. Rail for the year 2001.

Hon. R. Coleman: I have the honour to present the 2001-02 annual report from the British Columbia Racing Commission.

A. Hamilton: I seek leave to make an introduction.

Leave granted.

Introductions by Members

A. Hamilton: Visiting us today in the House, representing the Automotive Retailers Association, are Bob Clarke, David Scarrotts and Keith Bell. Would the House please join me in making them welcome.

Orders of the Day

Hon. G. Collins: I call continued committee stage debate on Bill 71.

Committee of the Whole House

MANUFACTURED HOME PARK TENANCY ACT (continued)

The House in Committee of the Whole (Section B) on Bill 71; J. Weisbeck in the chair.

The committee met at 2:38 p.m.

The Chair: We have stood down section 27. We will deal with that section first of all.

On section 27 (continued).

Hon. R. Coleman: As discussed with the Leader of the Opposition earlier, we have brought forward the amendment to Bill 71 to section 27, which adds, "Electrical systems to be dealt with, or enter the property in the case of emergency" as identified in the previous Residential Tenancy Act.

[SECTION 27 (1), by deleting the proposed paragraph (c) and substituting the following:

- (c) made for the purpose of repairing
 - (i) major leaks in pipes,
 - (ii) damaged or blocked water or sewer pipes,
 - (iii) the electrical systems, or
 - (iv) in prescribed circumstances, the manufactured home site or the manufactured home park.]

We would like to bring that section forward and move that amendment now.

Amendment approved.

Section 27 as amended approved.

On section 32.

The Chair: There's a government amendment on section 32.

Hon. R. Coleman: I move the amendment on section 32 that stands in my name with the Clerk, which basically outlines how a park committee can be established.

[SECTION 32,

- (a) in the proposed subsection (1) by deleting "a park committee may establish," and substituting "a park committee, or if there is no park committee, the landlord may establish", and
- (b) in the proposed subsection (3) by deleting "park committee." and substituting "park committee or landlord, as applicable."]

Amendment approved.

Section 32 as amended approved.

Section 33 approved.

On section 34.

[1440]

J. Kwan: Section 34 deals with rent increases under Bill 71, the Manufactured Home Park Tenancy Act.

Could the minister please advise what other type of investment allows for the investor to review the profit for the past three years and then adjust their income stream?

Hon. R. Coleman: This is a business that's actually regulated by its relationship between a landlord and tenant and certainly is outside the normal practices of what would be seen as or what might be a normal retail operation or relationship relative to increases or decreases in costs.

The anticipation here and the reason there are two acts are that this rent increase would probably not be, in regulation, perhaps as high as the Residential Tenancy Act, because we're dealing with a different form of tenancy. This is to eliminate what's been going on in this sector for some time — that is, where a landlord has attempted to get an increase, we get massive gang arbitrations that are being filed and discussions over small amounts of increase on pad rental. This establishes a formula so that it can't go over a certain level by regulation, as we've discussed in the previous discussions in and around other tenancies. It also sets sort of a standard of practice. We've had the discussion in and around that, philosophically, on the previous act, but that's what this does here.

J. Kwan: According to the minister's press release, if the rate is similar to the RTA increase, it projects a rate really for those living in manufactured home park situations that they would face something like a 20 to 30 percent rent increase a year. The minister now says that the rate would be perhaps lower. What does he project the rate would be?

Hon. R. Coleman: That's why we're going to do it in regulation in consultation with the tenants and also with the owners of parks to come up with what we think is a fair formula in regulation.

J. Kwan: Will the rent increase have to be justified? In other words, would it actually have to be an increase in costs? Or would it just be a rent increase sort of like the concept that the RTA has adopted — that is, automatic rent increases every year? Could one also accumulate that to the third year if the landlord wants to do so?

Hon. R. Coleman: It's the same concept as the Residential Tenancy Act.

J. Kwan: In other words, under this act, Bill 71, the Manufactured Home Park Tenancy Act, the rent increase.... Whatever the rate is going to be, it might be slightly different from that of the RTA. Nonetheless, it's going to be a guaranteed rent increase irrespective every year. If the landlord decides not to exercise that rent increase for a particular year, the landlord has the right to actually accumulate that over a three-year period of time.

Just for the sake of illustration, I have an example on this three-year catch-up rent increase plus the one-year increase, the annual increase that the minister is putting forward. A 100-home park at \$500 a month and, of course, times 12 months per year equals \$600,000 per year in terms of a rent increase. If you put into the margin a 5 percent increase, the profit is approximately \$30,000. This is just by way of illustrating some of the figures which we're looking at and what the ramifications might be.

[1445]

The minister says the rate might actually be lower; nonetheless, the ramifications would be huge, in my view. Of course in some scenarios, in the manufactured home park situation, part of the home for some people is actually owned by the person. Nonetheless, the person would still have to pay a rent increase because of the site on which the manufactured home is located. They might be faced with an increase even though they partially own their home.

The concept, in my view, is simply wrong. It's ill conceived, just like it was under the Residential Tenancy Act, to provide a guarantee of rent increase no matter what, irrespective of if those costs have been incurred by the landlord. Of course, people will pay and will suffer as a result of this ill-conceived plan from the government. The opposition will not be supporting section 34 under this bill, Bill 71, the Manufactured Home Park Tenancy Act.

Hon. G. Abbott: I ask leave to make an introduction.

Leave granted.

Introductions by Members

Hon. G. Abbott: I'd like to welcome two good friends of mine from the Shuswap. Holly Cowan and Roxena Goodine are here visiting. We had hoped that our mutual friend, Slim McIntyre, also from the Shuswap, was going to make it, but unfortunately he couldn't. I'd like the House to make them welcome.

Debate Continued

Section 34 approved on division.

On section 35.

J. Kwan: Section 35 deals with the timing and notice of rent increases. This section of the act provides for three months' notice of a rent increase. It does not, in my view, allow enough time for the person to sell the home since the rents are to be allowed to go up substantively, when those on fixed incomes, such as old-age pensioners or people on disability pensions, do not have a corresponding increase in income. Does the minister think a period of three months is sufficient for someone to actually try and sell their home?

Hon. R. Coleman: I think three months' notice is adequate. Whether it's a good market or a bad market to sell a home in at any particular time, I couldn't possibly judge.

J. Kwan: Well, those who actually live in that environment, in a manufactured home park, disagree. Many of them have phoned our office and conveyed their comments accordingly. Three months' time for an individual to have to sell their home if the rent increase is such that a person cannot sustain it or afford to pay causes, in my view, extreme hardship and can cause extreme hardship for individuals, particularly those who are on fixed incomes — whether they are a senior or a person on disability or whatever the situation might be.

In most instances, as an example, when a landlord wants to take back a rental space, even for family usage purposes, it allows at least six months by way of a period of time in which a person could make those arrangements. Why wouldn't the minister consider that?

Hon. R. Coleman: This is a notice of three months to advise residents of a rent increase. It will be set in regulation. The member seems to wax on about how there's going to be some punitive number here. That's why we're having a control on it. We had this discussion under the Residential Tenancy Act. The whole concept of having some kind of a control on the increase in rent probably goes against what people that own parks or tenancies in British Columbia would like to see and moves towards where tenant groups have told us they would like to be, in that they would like to know that there would be a limit — otherwise go to arbitration. This isn't about somebody having to move because of a rent increase; this is about giving proper notice. Three months is sufficient notice.

[1450]

J. Kwan: With all due respect to the Solicitor General, I disagree. To that end, I have an amendment to make. That is to amend section 35 to change the notice from three months to six months. Here's a copy for the Clerk and then a copy for the minister. The amendment is quite simple. It's to amend section 35(2), where it reads, "A landlord must give a tenant notice of a rent increase at least 3 months before the effective date of the increase" — for that to be changed to six months. I move the amendment.

[Section 35 is amended by deleting the text highlighted by strikethrough and adding the text highlighted by underline:

Timing and notice of rent increases

35 (2) A landlord must give a tenant notice of a rent increase at least ~~3~~ 6 months before the effective date of the increase.]

Amendment negated on division.

Section 35 approved on division.

Sections 36 to 39 inclusive approved.

On section 40.

J. Kwan: Section 40 deals with the landlord ending the tenancy for cause. The rationale to which I wish to speak on this section of the act is similar to the ones that I have already highlighted under the Residential Tenancy Act, which was debated yesterday.

This section is subject, in my view, to misinterpretation and potential abuse by the landlords. A reasonable requirement to prevent abuse would be that the landlord takes the homeowner to arbitration to establish whether or not the alleged breach is substantial enough to cause the homeowner to lose his home or investment. Being called before an impartial third party could be enough, in most cases, to remedy the cause and prevent an inequitable solution.

A reason for late rent payments could easily be due to a change in a person's employment pay period, and we have dealt with that issue as well when we debated the Residential Tenancy Act. Therefore, an arbitrator could take into consideration and perhaps adjust the rent due date with appropriate adjustments.

The section actually does not allow for these kinds of reasonable measures for the arbitrator to decide to take in and exercise the right to flexibility to ensure that people are not displaced unnecessarily perhaps as a result of late payment with their income, whatever their source of income might be.

Once again, hon. Chair, the opposition will not be supporting section 40. With all the questions I've asked the Solicitor General on the RTA, I anticipate we would get the same answers, so I'm not going to repeat that process again but simply register that we do not support section 40.

Section 40 approved on division.

The Chair: Member, I wasn't understanding: are you having more questions on the rest of the bill?

J. Kwan: On 44.

Sections 41 to 43 inclusive approved.

On section 44.

J. Kwan: Section 44 deals with compensation for redevelopment. The question that has been put forward for the opposition to ask the minister is: does the minister think that the 12-month period, the 12 months rent, is adequate compensation for loss of equity being suffered by the homeowner?

The point, of course, is that 12 months' rent plus all the costs of moving would be more equitable if there was a place to put the home. New parks do not want older homes. How does the minister address this question as well?

Hon. R. Coleman: On the one hand, the member is correct about moving of some homes. The answer to that is: I hope, at one point in time, the municipalities

of this province actually grow to recognize that manufactured home parks are another option of affordable housing that they should be considering in their jurisdictions.

I think the biggest frustration with that is probably on the lower mainland, particularly in the Fraser Valley of British Columbia, because there are some definite opportunities for lands that are owned by municipalities to actually have this form of housing on it. Rather than not allow it, they should probably have a look at how they're doing some of their community planning. That's a whole other, I guess, soapbox for me to get onto another day.

In the past there was an amount of up to \$10,000 for moving expenses. One of the difficulties of that was that it went to arbitration. There was some discussion all the time about what was determined to be a moving expense. This clarifies that it's 12 months' payable under the tenancy agreement, so that the homeowner knows the amount that they have available to them to relocate, if they so wish. In addition to that, if the landlord isn't taking the stated purpose, there's an additional amount of rent that is payable under the tenancy agreement to the homeowner.

[1455]

In the past this would end up in an awful lot of arbitration and discussions with regards to this, and this actually simplifies the entire formula for what is payable on notice to have a tenancy vacate for a change of use.

J. Kwan: It appears that the landlord could get a substantial return on his investment while, quite frankly, the homeowners on the site will lose their homes. Does the minister not agree that compensation should be the same as for any other expropriated property? That would be fair market value.

Hon. R. Coleman: No, the property is not being expropriated. They're being given a notice with regards to something that is movable. One of the things that tenants groups told us in the consultation of this act is that they wanted a formula that would give them the money up front so that they would actually have it for moving expenses rather than having to do the move and come back and try to arbitrate expenses or what was or was not an expense relative to the moving of a unit. That proved cumbersome; it proved ineffective. This actually sets out a fairly clear set, the money up front and rules on moving expenses for somebody that's going to vacate a tenancy.

J. Kwan: The problem here is — and I go back to the point.... If you get moving expenses and 12 months of rent to be paid for being evicted from your home, is fair compensation...? That is, if a person has a site to move their home to.

The problem here that's been identified by people in the industry and those homeowners associated with manufactured home parks is that often new parks do not want older homes, and so therefore it creates a

problem for people looking for a new site. The Solicitor General can argue that no, this is not expropriation because they don't own the land, but the fact is that the land on which their home sits is being.... They're being expropriated from it, actually. They are being evicted from it. They have to move their home away from the site on which their home is parked, and that creates a problem. In my view, there should be fair compensation value for that.

Sections 44 to 48 inclusive approved.

On section 49.

J. Kwan: Section 49 deals with the landlord's application for an order ending tenancy early. Could the landlord obtain an arbitrator's order without the homeowner being aware of the consequences?

Hon. R. Coleman: No. They are required to serve it on the individual, and they are also required to prove service before the arbitrator will deal with it.

Sections 49 to 54 inclusive approved.

On section 55.

J. Kwan: Section 55 deals with the arbitrator's authority. Under subsection (4) it reads, "An arbitrator may dismiss all or a part of an application if (a) there are no reasonable grounds for the application or the part," and in subsection (b): "the application or part does not disclose a dispute that may be arbitrated under this Act." Then in subsection (c): "the application or part is frivolous or an abuse of the arbitration process." Could the minister please advise if, under this section of the act, it is required that the rationale to dismiss a particular application be in written form?

[1500]

Hon. R. Coleman: Yes. All arbitrator decisions must be in writing and give reasons for them.

Sections 55 and 56 approved.

On section 57.

J. Kwan: Section 57 deals with "General powers and duties of arbitrators." Could the minister please advise? Under section 57(1) the language says the "...arbitrator must consider any applicable policy guidelines established by the director for the purposes of assisting arbitrators in applying this Act and encouraging consistency of decision making."

There seems to be concern about the word "any" being used, as opposed to "all relevant" policies and guidelines. Could the minister please advise if there's any difference, or is it just the drafter's language? Essentially, one would assume the word "any" includes all relevant policies and guidelines. Could the minister please clarify?

Hon. R. Coleman: "Any" includes any or all relevant policies or guidelines. The member is correct; it is drafting. Basically, there will be policy and guidelines for arbitrators to follow. They will follow the ones that are applicable to any individual arbitration or will take them into consideration in making their decision.

Section 57 approved.

On section 58.

J. Kwan: Section 58 deals with the arbitrator orders: breach of act, regulations or tenancy agreement. It is not clear what happens when the landlord owes money to the homeowner. How will this work?

Hon. R. Coleman: They can apply to the arbitration for a monetary order. If it goes unpaid, they can then take it to small claims court for enforcement.

J. Kwan: Would there be an opportunity to put forward...? I assume, then, it would be up to the arbitrator to decide whether or not a repayment schedule would be put in place — perhaps a schedule that would not bankrupt the park owner or such kinds of scenarios. Is it up to the arbitrator, then, to decide what the repayment schedule ought to look like, taking into consideration the financial situation of the individual in question?

Hon. R. Coleman: There's a number of questions couched in the same statements. If the two parties come to an agreement on how they would like to pay it, if they're going to pay it, that's one thing. If the tenant is still in the tenancy, the arbitrator can make the order which would allow the tenant to deduct the amount of the order from future rent.

Sections 58 to 65 inclusive approved.

On section 66.

M. Hunter: This section talks about arbitrators dealing with more than one dispute of a related nature. I'm talking about section 66(1). It seems to me that when we're talking about homeowners who are renting a piece of ground and services from a landlord under a tenancy agreement, the issue of related disputes might impinge on the rights of one tenant or another.

Can the Solicitor General explain why we feel it necessary to have this provision in here? Is it a matter of potential efficiencies, or is he concerned that if there is only a minor variance in disputes, we might be actually putting two quite separate issues together?

[1505]

Hon. R. Coleman: Just a clarification, Mr. Chair. I thought we'd moved to section 71, but I'm prepared to answer the question on 66. Did we stop at 66?

The Chair: Yes, we passed through 65.

Hon. R. Coleman: We did? Okay.

"If 2 or more applications for arbitration are accepted in respect of related disputes with the same landlord...." Basically, a lot of this has existed in the past. Now, because we will have certain things that are non-arbitratable, like the formula for rent increase, we'll eliminate a lot of those that we've dealt with, particularly in manufactured homes. But there are times when there are disputes with regards to more global things in parks where, rather than having an arbitrator deal with 15 or 20 or 30 arbitrations separately with regards to, let's say, a repair that needs to be done to part of the road or whatever, they could all be basically put together and dealt with by one arbitrator on one decision, rather than having the other. That is actually, for the member's information, an efficiency we're trying to achieve.

Sections 66 to 69 inclusive approved.

On section 70.

M. Hunter: I know that there is concern amongst both landlords and tenants over the timing of arbitrations, and I know this section talks about the need for a decision to be given promptly, but it doesn't say anything about whether there's an overall time limit during arbitration. I don't see anything in the bill which suggests that an arbitration has to begin in a certain amount of time. I know that some of these things are complex, and time has to be given, but there are recorded arbitrations that have taken an enormous amount of time. That kind of time delay does not suit either landlord or tenant, and I wondered if the Solicitor General had given consideration to some overall time limit for arbitration of the individual or joint cases we just discussed.

Hon. R. Coleman: This section is really geared to.... Let's say, for example, we had an arbitrator that fell sick on day 29, and the decision hadn't been made. They wouldn't lose the authority to do the arbitration. In our policy development, as we move forward to bring the act into place, we will actually deal with some directors' authority so that we can stop the ongoing situation with arbitrations if we set the policy and guidelines for arbitrators.

Sections 70 to 72 inclusive approved.

On section 73.

J. Kwan: Section 73 deals with the time limit to apply for a review. We've just passed section 71, which gives 15 days for corrections or clarifications of decisions. Now, under 73 there are different time periods that apply for different situations. As an example, section 73(a) stipulates a two-day time period "after a copy of the decision or order is received by the party, if the decision or order relates to...." Then a series of things

need to take their course. Within subsection (b) a five-day time period is being used.

The concerns that have been raised by the opposition, of course, are that these time periods — either the two or five days — are not sufficient. The suggestion is that it needs to be longer, perhaps using the 15-day time period. Could the minister comment on that, please?

[1510]

Hon. R. Coleman: Overall, you need to be applying for a review quickly so that there's a finality to a decision rather than having it drag out. Two days for the ones that connect into section 73(a), we think, is appropriate. The other ones, at five days and 15 days, are the same as they were.

J. Kwan: Yes, I understand the need for finality. There's a difference, though, with a short period of time for people to act versus giving an adequate period of time for people to act. Fifteen days does not mean there is no finality. It simply means that the people who may be faced with some difficulties in initiating action would just have some time to do that.

I'll use one example. Especially for older people and people with a disability, getting the legal and adequate information to follow up can sometimes be onerous if the time period is short — two or five days. It is noted that it is almost impossible to get through to residential tenancy branch telephone lines, because they are busy all the time. Of course, we know that some of the residential tenancy branch offices have been closed, therefore limiting access even more.

So information from branch information officers differs from one to another, and access is therefore curtailed. The request for a 15-day time period to apply does not in any way jeopardize the finality of the decision but rather simply gives an opportunity, in particular, to those who need a little more time to gather their information and therefore to take action. Comments from the minister?

Hon. R. Coleman: In cases of exceptional circumstances or difficulty, the arbitrator does have the option to extend the time.

J. Kwan: What provision of the act does that fall under?

Hon. R. Coleman: Under the general extension of time, we will get this section that would have dealt with that. I think it is actually section 59, sub (1) and (2), where the arbitrator may extend or modify time limits if exceptional circumstances exist.

Sections 73 to 86 inclusive approved.

On section 87.

J. Kwan: Section 87 deals with the offences and penalties of the act. Could the minister please advise

who designates the investigation officer and who carries out the orders of the residential tenancy branch?

The Chair: Member for Vancouver–Mount Pleasant, could you repeat that for the minister?

J. Kwan: Yes. Section 87 deals with the offences and penalties section of the act. Two questions for the minister: who designates the investigation officer, and who carries out the orders of the tenancy branch?

[1515]

Hon. R. Coleman: The consumer investigation branch of consumer services designates the investigator and conducts the investigation. Hopefully, if the investigation is successful, then we can get Crown to deal with laying a charge. I had a discussion with the Leader of the Opposition earlier with regards to seeking offences under the act. The other ones which would deal with offences and penalties can be dealt with more expeditiously through the arbitrators.

J. Kwan: Just to follow up on that, which court is referred to? Could this be done by an arbitrator, or is it by a special dispensation of the director?

Hon. R. Coleman: For offences under this act that are investigated, if evidence is there, the Crown would then, under the Offence Act, proceed to seek penalties up to \$5,000 in the sections that have been identified, for a conviction of up to \$5,000. The challenge here, as I discussed with the Leader of the Opposition earlier, is that we really need to.... If we do have somebody that is offending, we need to be able to proceed to court to actually send the message to any other landlords that think they can operate outside this act. An investigation which is underway or completed and is ready for court.... We would proceed.

We would be, frankly, encouraging Crown to proceed in cases where the evidence was applicable so that we could make sure the offence and penalties and regulations portion of this act are considered to have the teeth in them that they need to have. It's certainly been a concern in residential tenancy for many years.

The Leader of the Opposition asked me earlier: how many prosecutions? We're not sure there ever really was one in the past many years. That's why we would be paying a great deal of attention to it. We would be giving a direction to our director to ensure that if there were offences that should be prosecuted, we would be pushing as hard as possible to have those prosecuted.

Just before we move on with the debate of section 87, I would like to move the amendment that sits with the Clerk with regards to this section under section 87(1)(b).

[SECTION 87 (1), by deleting the proposed paragraph (b) and substituting the following:
(b) section 17 (2) [no security deposit];]

There's no reference in this act, as we amended it earlier, relative to a damage deposit, and there's no security deposit allowed to be taken now under this act. It would be an offence to take one under the act.

Amendment approved.

Section 87 as amended approved.

Section 88 approved.

On section 89.

Hon. R. Coleman: The last amendment is to section 89, respecting the procedure the landlord must follow to establish, change or appeal park rules. It's just a clarification of the section.

[SECTION 89, in the proposed subsection (2) by adding the following paragraph:

(1.1) respecting the procedures a landlord must follow to establish, change or repeal a park rule;]

Amendment approved.

Section 89 as amended approved.

Sections 90 to 97 inclusive approved.

Title approved.

Hon. R. Coleman: I move that the committee rise and report the bill complete with amendments.

Motion approved.

The committee rose at 3:19 p.m.

The House resumed; Mr. Speaker in the chair.

[1520]

Reporting of Bills

Bill 71, Manufactured Home Park Tenancy Act, reported complete with amendments.

Third Reading of Bills

Mr. Speaker: When shall the bill be considered as read?

Hon. R. Coleman: By leave now, Mr. Speaker.

Leave granted.

Bill 71, Manufactured Home Park Tenancy Act, read a third time and passed.

Hon. M. de Jong: I call committee stage of Bill 75.

Committee of the Whole House

FORESTS STATUTES
AMENDMENT ACT (No. 2), 2002

The House in Committee of the Whole (Section B) on Bill 75; J. Weisbeck in the chair.

The committee met at 3:21 p.m.

Sections 1 to 3 inclusive approved.

On section 4.

J. MacPhail: Section 4(a) repeals under the.... Of course, these are amendments to the Forest Practices Code. Just for the record, Mr. Chair, the Forest Practices Code will guide one of two processes available for planning and approval in the province until March 31, 2004. All of this discussion is about changes that are now being introduced to the Forest Practices Code.

The definition of "backlog" is repealed. Now the backlog refers to the lands harvested before 1987 that are not sufficiently replanted. By repealing this, does that mean that the backlog is gone?

Hon. M. de Jong: First of all, if I can introduce to members Ian Miller on my left and Richard Grieve on my right from the Forest Service.

The member correctly identifies what the definition of "backlog area" is. It relates to a period prior to 1987 when the legal obligation to replant arose essentially in its present form. I am advised that the vast majority of the backlog areas have been tended to. It would be inaccurate to say that all of them have been, but that, on balance, the remaining areas are ones for which it would not generally be economically beneficial. On balance, the cost effectiveness of replanting those areas isn't there.

J. MacPhail: Now who will be responsible for the elimination of what is remaining of the backlog?

Hon. M. de Jong: The member will know that we recently established the forest investment account as a source of funding by which backlog areas can be dealt with. The member has correctly focused in on an area that the legal parameters around which that is done are changing. The agency through which funding would flow to tend to any remaining backlog areas would be the forest investment account.

Sections 4 to 7 inclusive approved.

On section 8.

[1525]

J. MacPhail: Section 8 — let me just be clear about this — amends section 10 of the Forest Practices Code by adding the word "approximate" before "size, shape and location."

"Section 10 is amended (a) in subsection (1) (b) (i) (A) by adding 'approximate' before 'size, shape and location,' (b) by repealing subsection (1) (c) (ii) and substituting the following: (ii) measures to protect prescribed forest resources; and (c) by adding the following: (4) A forest development plan that (a) at any time before the coming into force of this subsection, was approved under section 41 or given effect under section 40, and (b) was in effect immediately before the coming into force of this subsection is conclusively deemed to have complied with subsection (1) (c) (ii) as that provision existed at the time the forest development plan was approved or was given effect."

Adding "approximate" loosens up the definition. Just how loose is the description going to be?

Hon. M. de Jong: I am advised that under the existing regime.... Again, the member is correct. This provides licensees with a greater degree of flexibility than they presently enjoy. A shift of a boundary within a cutblock of even five to ten metres presently, by law, requires the filing and approval of an amendment — a formal amending process. Under this regime, if passed, that approval would not be required for a shift of five to ten metres. Those are the parameters around which this is contemplated to apply as opposed to hundreds of metres or kilometres.

J. MacPhail: The reason I ask this question is that some have said that this amendment is related to the cuts the government has made in its mapping capability. This amendment accommodates the fact that those cuts have occurred. It seems to me that it's crucial that companies and the ministry know exactly the size of cutblocks and the location of roads. If you're butting up against a sensitive area, ten metres may be important, but certainly 50 or 100 metres would be very, very important to know about — that shift. How will the public and the government know exactly what the companies are allowed to do and, I guess more importantly in this section, where they're doing it?

Hon. M. de Jong: The distinction, I think, that I need to make is the difference between what is under this legislative regime called the forest development plan, which is somewhat more general than the more specific site plan, and I harken back to our earlier discussion. The specificity on the mapping side will continue to exist at the site-plan level. I am advised that some of the tools that are used are aerial photography and GPS mapping. That capability not only exists but will continue to be utilized at the site-plan or silviculture prescription stage.

[1530]

Sections 8 to 12 inclusive approved.

On section 13.

J. MacPhail: Section 13 adds to the Forest Practices Code the requirement that the district manager or the company prepare a site plan. It says: "A holder of a timber sale licence who submits a site plan under subsection (3) (b) is not required to prepare and submit a silviculture prescription for the area to be harvested under the licence, despite a requirement under the licence to do so."

I raised a lot of these issues with Bill 74. It seems that there's a lack of clarity as to just what will be required for the site plan. Can the minister give us some indication as to the detail that he anticipates will be required in the regulatory requirements for site plans?

Hon. J. van Dongen: I seek leave to make an introduction.

Leave granted.

Introductions by Members

Hon. J. van Dongen: I am pleased to introduce to the Legislature today 14 students and two teachers from Abbotsford Senior Secondary School. The teachers' names are Mindy Rama and Ann Reeves. Accompanying them are 30 exchange students from Beijing, China, who are sponsored by the Canada-China Society of Science and Technology. Accompanying them is Mr. Guojie Gong from Beijing, China. I ask the House to please make them all welcome.

Debate Continued

Hon. M. de Jong: The member correctly identifies the distinction between the silviculture prescription and what is provided for here, which is, as it were, a bringing forward of the site plan model that is a key feature of the Forest and Range Practices Act.

Under the regulatory requirements, the kinds of things that will be provided for in the site plan, we just have talked about mapping, the stipulation of riparian zones, subdivisions for standards and units, total area and reforestation requirements. Minimally, everything that was required in a silviculture prescription as it relates to reforestation would need to be in the site plan. The provision for roads we discussed at length. Protection for things like community watersheds would also be referred to and required pursuant to the regulations.

[1535]

J. MacPhail: Is there less that's going to be required, or more, with regard to silviculture prescriptions? Less under the previous code prior to its amendment, or more or the same...?

Hon. M. de Jong: The requirements that the licensee must comply with in terms of achieving free-to-grow status are the same under either regime.

J. MacPhail: This section creates a new section, 21.1, and subsection (4) appears to make site plans

more important than any requirements in a timber sale licence to replant. So in terms of priorities, doesn't that open up an opportunity for companies to get around their obligations to replant or limit the requirements to restock the forest? We need some reassurance that this change is not an undermining of the obligation to replant.

Hon. M. de Jong: I think people do want the assurance that the member is speaking to. The requirement set out in the silviculture prescriptions emerges today as a contractual obligation — albeit one that was created, initially, statutorily. It now presents itself as a contractual obligation set out generally in the terms of a timber sale licence. We are providing, by virtue of this legislation, for the replacement of the contractual obligation to prepare a silviculture plan and replacing it with the statutory obligation to prepare the site plan.

At the end of the day, I think what people want to know is that the obligation to reforest the land and bring it to free-to-grow status over an eight-to-15-year period remains and vests with the licensee.

J. MacPhail: So it does appear that the government's taking away what I think is the most fundamental public interest in this legislation, which is to make the resource sustainable. It seems to be that — it looks like, anyway — it's turning over the important requirements of sustainability, replanting, to the companies. One of the things that used to provoke market campaigns against British Columbia was the companies who did cut-and-run, and those were the pictures that were flashed around the world.

So what do we have here — especially in times of economic downturn, which is what the industry is facing right now — that will not allow the company to save money through not investing in silviculture?

[1540]

Hon. M. de Jong: Nothing is occurring here, hon. Chair, to diminish the obligation, but I think the member is referring to the question of risk. She will know that we regularly, as part of any number of licence offerings, require deposits or take other forms of security as a way of ensuring that the licensees perform their obligations, which linger after their activities on the land base have ceased, from a harvest point of view. Nothing here alters that regime, and the taking of that security, which is a security we take on behalf of the people of the province to ensure that this work is done, will continue.

Sections 13 and 14 approved.

On section 15.

J. MacPhail: Section 15 continues existing silviculture requirements but eliminates the requirement to replant in areas where trees were damaged or destroyed by natural causes. This appears to free companies from silviculture requirements with parts of their

harvest area, anyway. Again, I reiterate, the licence to harvest on Crown land does carry with it a public duty. What's the justification for companies being freed from the responsibility to care for the entire area in their licence?

Hon. M. de Jong: I think it's important to recognize that what we are dealing with in this section is not the general responsibility that licensees have. It is how we respond where there is a catastrophic event, a natural event that is not attributable to the actions of the licensee. In those circumstances it is true that the licensee, pursuant to this amendment, escapes or is relieved of any obligation with respect to that specific area upon which that catastrophic natural event took place. Once again, the mechanism by which the Crown can address that area of land is the forest investment account. Hopefully, that helps the member.

J. MacPhail: One of the reasons why, I'm told, there are limits on cutblock size and proximity of cutblocks is to protect freestanding areas from the effects of wind or runoff. Now we have a situation where I'm wondering who's going to determine whether or not the harvesting practices themselves contributed to the destruction of the standing trees.

[1545]

Hon. M. de Jong: I think it's a fair question. I have checked with officials. I wouldn't categorize that scenario the member has described as a natural catastrophic event, because as the member said, it is attributable to harvest-related activity. Therefore, in my view, responsibility is assignable.

J. MacPhail: Will that be part of the compliance and enforcement team — to determine that?

Hon. M. de Jong: In situations where a licensee was not abiding by its obligation, there would need to be enforcement related to that.

Sections 15 and 16 approved.

On section 17.

J. MacPhail: Section 17 repeals the requirement for existing stand management prescriptions to be continued until the district manager determines that the forest practices in the area have been completed. On that, section 24.1 of the code was only added last May. Now it's being deleted. Why?

Hon. M. de Jong: One of the important distinctions to make with respect to the stand managements is that they almost always relate to post-free growing stands, so they are self-regulatory of government as opposed to licensees. The thing that has changed since the introduction and passage of this section is the confirmation, under the terms of the forest investment account, that these activities fall exclusively under the manage-

ment responsibilities of the forest investment account, FIA. Therefore, the provision is no longer required.

J. MacPhail: Two questions flow from that. Are there still stand management prescriptions that need to be completed to the satisfaction of district managers? Secondly, do the resources to carry this out rest within resources being provided by the forest investment account?

Hon. M. de Jong: The answer to the second question is yes. In response to the first question from the member, the forest investment account has assumed responsibility by virtue of its operation. If there are stand management prescriptions that are in the midst of being completed, that information will certainly be made available, but the legal effect of this is to quash any legal effect existing stand management prescriptions have — or those that were in the process of being completed.

Sections 17 to 19 inclusive approved.

On section 20.

[1550]

J. MacPhail: Section 20 allows the district manager to exempt a person from the requirements of continuing existing silviculture requirements. Again, there's a lot of stuff here on silviculture, and it all seems that it's the government moving away from requiring that the forests be restocked. Am I wrong?

Hon. M. de Jong: Well, I disagree with the member's proposition that we are in any way relieving licensees of the obligation that they have to ensure that all of the appropriate and necessary reforestation activity takes place to take a cutblock in an area back to free to grow. Section 30 identifies circumstances in which a person is exempted from the requirement to prepare a silviculture prescription under section 22. Section 22 is being repealed; therefore, this section is no longer necessary.

Sections 20 to 23 inclusive approved.

On section 24.

J. MacPhail: Section 24 amends the ability to voluntarily amend operations plans or site plans. Now, we will be discussing this a bit under section 31 of this bill as well, but let me just start. When this section, read with the new section 42.1.... Clause 31 of this bill adds a new section 42.1 to the Forest Practices Code. With this section, read with the new 42.1 that's found in section 31 of the bill, companies are now permitted to determine when they will amend their operational plans or site plans without submitting those changes to the ministry. All they have to do is determine themselves that any changes conform to the regulations and standards set by the minister, so the ability of the ministry to determine if,

in fact, the change was done appropriately only comes after the change has been implemented.

We all know, and everybody agrees, that we need good forest practices, but we also want good results both for the environment and for the workers and the communities that depend on the forests. In that context and given the fact that this amendment substantially changes the old prescriptive, rules-based Forest Practices Code to a hybrid of an outcome-based Forest Practices Code now, can the minister give examples that he can think of or explain just what minor changes companies will be allowed to make without now having to submit those changes to the ministry?

[H. Long in the chair.]

[1555]

Hon. M. de Jong: There will be regulatory guidance, as we talked about in Bill 74, around the circumstances in which this section may be relied upon by a licensee — what constitutes the minor amendment that we're referring to. There's a number of scenarios. A licensee may decide not to harvest a cutblock — period. They wouldn't require specific approval from the ministry in that case. In carrying out their more specified mapping through satellite photography or GPS assistance, they may settle on a more specific line that had greater particularity, assuming it did not represent a gross divergence from the initial development plan. That would represent a minor amendment.

What this is not designed to do — and I will put this on the record, because I want it on the record.... This is not designed to facilitate someone on the land base saying: "Boy, if I just go another ten metres farther, there's some good-looking timber over there that is outside of my cutblock area, and I'm going to utilize this provision to gain access to it." That is not what this is designed to facilitate at all.

Sections 24 to 30 inclusive approved.

On section 31.

J. MacPhail: We've already discussed section 31 in the context of section 24. It allows for the amendment to the operational plans and site plans without prior approval by the ministry, so it's the same sort of feeling that it's kind of like a "just trust us" section. It does allow for companies to change their site and operational plans without prior approval of the ministry.

This adds a new twist. It also states that it's not necessary to send these changes out for review or comment. It becomes even more crucial that we limit the application of this section because it allows self-governing and self-regulation, first of all, but not even self-regulation to be modified by public review or comment. Can the minister provide some examples of the types of changes that would be permitted under this section?

Hon. M. de Jong: We can think of some examples additional to the ones I mentioned earlier, although

they are similar circumstances. The point I would want to emphasize is this. Under the existing regime, minor amendments were not reviewable or made available for comment. I would emphasize, as well, that under the provisions of this section and others, a licensee can't simply decide on the spur of the moment to vary their activities from what is set out in their site plan, in their development plan. They must prepare a formal amendment, and it must be available for anyone who is interested, to ensure that the activity taking place on the land base is consistent with the plan or the amended plan. That cross-check is still there, and what I want people to know is if we are confronted by a situation where a licensee is harvesting in a way that is inconsistent with the plan on file, it will not be a defence to say: "Well, we amended that in the coffee shop yesterday." There is a formal mechanism by which that must be amended.

J. MacPhail: I'm not, as I often get accused of in this chamber, fearmongering. I'm trying to limit the application of this or understand it. Let me quote.

This was at second reading debate on the Forest and Range Practices Act. The member for North Island said this.

"When they're building a road and there's something unforeseen that comes along, he can get on the radio and say: 'Jeez, engineering department? I've got a problem, Houston'— or Mr. Houston or whatever his name is. 'If I do this, this is going to be okay.' The engineer can now go out there and say, 'You're right, Joe. You can do that. I'm going to put my stamp on it because I think you're right, and my professional training says I think you're right,' and off we go. You know what? That's a great thing."

[1600]

Then he goes on to say:

"We've just empowered the people of this province, the workers in the industry and the professional support they have around them to actually get the job done and to do it in a way that makes sense. Do we, should we, can we, ought we to care that that culvert's going to be 20 metres farther down the road? God, we don't need paperwork about that, but that's what they had to do: a mountain of paperwork."

I'll finish reading. He says:

"Wanted to build a road. A company built a road two feet too wide — mountain of paperwork. Have an investigation. Have an undertaking. Got to bring everybody into the office, have a long discussion about it — three or four days' worth. Couple of ministry staff, couple of forest staff, couple of operators — big discussion.

"We don't have to do it now."

Is this the kind of thing that's going to be permitted?

Hon. M. de Jong: I think the question and the reference back to the earlier comments are helpful in attempting to provide some structure on what this difference actually means. In the case of — let's take a part of what the member referred to — the placement of a culvert, the objective there in terms of the result we are looking for is the proper irrigation, the proper drain-

age, the proper maintenance of watercourses and all that that implies for soil stability and road stability.

Within this movement to the results-based regime, we are indeed providing additional flexibility. I distinguish that from something around which I see far less flexibility, and that is the perimeter of a cutblock, which is really the right you obtain from the Crown in terms of the specific harvesting area you are entitled to conduct activity on. That, to my mind, represents something of a more absolute entitlement around which we want to maintain pretty strict control.

Within the confines of that area, does this regime provide, as the Forest and Range Practices Act ultimately does, additional flexibility of the sort the member referred to in terms of where one places a culvert? I think it does. I think it does, and the challenge for the licensees and for the Crown, via the compliance and enforcement section, is to ensure that those results are being achieved.

Sections 31 to 36 inclusive approved.

On section 37.

J. MacPhail: Section 37 is introducing the concept of due diligence as a defence into the Forest Practices Code. Now, the minister and I had a very thorough discussion around this, and we disagree. There's a couple of nuances here, again, that need to be explored, and I'll say, Mr. Chair, that I'll be voting against this section.

[1605]

Due diligence is a legal — both civil and criminal — concept, but it's being incorporated at this point in legislation which deals with a judgment call by a district manager. Why?

Hon. M. de Jong: I'll try this. If I've missed the point of the question, then I'll undoubtedly try again.

The member's right. We had the discussion and the debate around the application of the due diligence defence on the administrative side of the equation, and I think we maintained a healthy difference of opinion about the arguments in support of that. In fairness, I think the member said that her greatest concern lay in the timing of the shift and that perhaps two or three years from now she would have a greater degree of comfort — or not — but she doesn't have that comfort now.

I should say, as well, that at one point during that discussion we had a debate around some jurisprudence. Some of the staff in my ministry were concerned that they left an impression that they misconveyed an interpretation of that to the member during briefings. That was not in any way their intention. In fact, some of that jurisprudence had some specific things to say about "deemed" — the deemed availability of due diligence defences. I don't think there was any intention on anyone's part — the member's or anyone else's — to misinterpret for the House that jurisprudence, but I make that point.

I think the difference here that the member has addressed is that in this case, it's discretionary authority exercised by the district manager. That speaks to one of the basic differences from a statutory point of view of the existing Forest Practices Code and the new results-based code. In this original Forest Practices Code, the statutory decision-makers are enumerated in the act, whereas under the new act all of that power is vested in the minister and then delegated outwards to the various officials.

We haven't changed the Forest Practices Code to bring it in line with the new Forest and Range Practices Act. It remains a model in which the statutory decision-makers are set out in the act. In this case, as in virtually all cases in this act, that statutory decision-maker is the district manager.

[1610]

J. MacPhail: Let me ask this, then: for practical purposes, how is a company to establish that due diligence was exercised? Who then decides if due diligence was exercised? It can't be the district manager. Will we have a situation where one person says it was due diligence, and then if that's acknowledged, that becomes the other person's failure?

Hon. M. de Jong: Here is how this would play out in this regime. The triggering event for this would be a finding by the statutory decision-maker, the district manager, that there has been an administrative violation and a finding against the licensee. The licensee then has the opportunity — and I think the technical term is an opportunity to be heard — to come before the district manager, the same statutory decision-maker, for what is in effect a review, the onus falling to the licensee to make the case that due diligence was exercised.

In grossly simplifying what that test is, I will suggest to the House that it is a test that relates to that licensee's ability to demonstrate they conducted themselves reasonably in accordance with reasonable standards, reasonably utilizing the professional information that was available and relying on the agrologists, the biologists and the foresters. At that stage the statutory decision-maker, the district manager, will render a decision on that review as to whether or not that defence of due diligence has been made out. If the district manager finds that it has, I suppose that is likely the end of the matter. If he or she finds that it hasn't, then the licensee has a right of appeal by the Judicial Review Procedure Act to the courts or to the Forest Appeals Commission for a review of that decision.

J. MacPhail: I think this is going to be one area where it's going to be very difficult to blend that concept into the Forest Practices Code — almost impossible, if you ask me.

Another thing about section 48.1 is that the district manager cannot direct a company to take action if the

damage was the result of "an officially induced error." So what is an officially induced error?

Hon. M. de Jong: I think this is an example that might be helpful, hon. Chair. Let us suppose you are a licensee in a situation where the pine beetle is at issue. You are told to harvest in a very specific area by Forest Service officials, and it turns out that you were directed into a park or a protected area inadvertently. The evidence that you had been directed there specifically by officials would provide you with a defence.

J. MacPhail: In the same section, subsection (2) allows for the minister and cabinet to allow a company that did damage to the environment and had to repair that damage to recover all or some of their costs for doing so. Now, I'm curious. If the intent of this results-based code is to make companies responsible for logging in a manner that does not cause damage to the environment, why should the taxpayer pay for it when they're wrong on that, when there's a wrongdoing?

[1615]

Hon. M. de Jong: Are we referring now to 48.1(2)?

J. MacPhail: Yes.

Hon. M. de Jong: Thanks.

It's a good question. The circumstance that this contemplates is one in which a licensee has been found to be in violation. That violation has caused degradation or damage. The licensee is obligated to conduct remedial activity and incurs costs in that respect, but because of the unique circumstances, the repair work or the remedial activity they must undertake extends beyond the work for which they are specifically responsible so that a small portion of that work is incidental to the damage their violation has caused. This provides a mechanism by which a portion of that cost they have incurred could be remunerated to them. That's the reason it exists.

J. MacPhail: It's going to be incumbent upon the regulations to prescribe those circumstances very carefully, because the ability to prescribe beyond that is certainly given in the legislation. I want to make it clear that under this piece of legislation, the opposition does not accept due diligence as a defence. The way we're going to demonstrate that is to vote against the provision of due diligence as a defence in every single section except for, if I may — just to put you on notice — section 54, where I'll be calling division.

Section 37 approved on division.

Section 38 approved.

On section 39.

J. MacPhail: Section 39 adds the words "except in prescribed circumstances" to the current code in rela-

tion to the requirement to stop or modify a forest practice when they find a previously unidentified resource feature: "Section 51(2) is amended by striking out 'If a person carrying out a forest practice,' and substituting 'Except in prescribed circumstances, if a person carrying out a forest practice.'"

[1620]

The resource features include a cultural heritage resource and a recreational feature. These are pretty sensitive areas. Can the minister explain what the prescribed circumstances are?

Hon. M. de Jong: Let's take an example of a culturally modified tree or stand of trees. This section contemplates a situation where that is a resource that has been identified in a site plan, but under the amended provisions of this code, that operational plan has not been approved. Sorry, I've already got this backwards. No. Sorry. I think I got it correct. It has been identified in an operational plan, but that has not been approved as the development plan or later as the forest stewardship plan.

[1625]

This allows, in those circumstances with the appropriate safeguards in place, for the activity to continue. It doesn't require a cease and desist on the part of the licensee and the obtaining of a specific approval. That would not be the case, however, if the particular resource — and we're talking in this example about a culturally modified stand of trees or a tree — has not been identified in either the operational plan or the planning document. I apologize.

J. MacPhail: All right. Let me do one follow-up question. I thought the minister said at the end that we're not talking about a culturally modified tree that hasn't been identified in either the operational plan or the site plan.

Well, let me ask this then, because this is a very sensitive area in the case of cultural heritage. There have been incidents of destruction, in the past, of aboriginal heritage just because others didn't know what a culturally modified resource was. What assurances can the minister give to the House that there's an exhaustive inventory of first nations cultural sites? You would need that inventory, then, in order for the operational plan or site plan to be approved.

Hon. M. de Jong: Again, I think that's a fair question. The moment or the time when that identification and inventory need to take place is well in advance of the finalization of any site plans or operational plans. It relates to the forest development plan under this regime or, later, the forest stewardship plan. It is why the test around appropriate opportunities to comment and consult with first nations in the area becomes so important — because at the end of the day, presumably, they are in the best position of all to help establish or confirm that inventory. I think what this speaks to in part is the possibility where, following that inventory, there is a situation where something emerges that no one

was aware of or set out in that general planning document.

Sections 39 to 41 inclusive approved.

On section 42.

J. MacPhail: I need to talk about sections 42 and 43 together, because those two sections remove from the code and place in regulation the requirements for road and construction approval. Here's the forest road regulation for road construction and approval. Oh, sorry — it's only half that.

[1630]

I'm sure this is what the minister will say is cutting red tape, but let me just say that we have 26 pages of description around forest road regulation. Not all of it is to do with road construction and approval, but a substantial amount of it is. What's now gone is the requirement under the current code to approve road layout, design — approval process — and the need for construction surveys. What replaces this — those 26 pages? What assurances does the minister have that the requirements that are currently prescribed in these 26 pages will at least be upheld in the new regime?

Hon. M. de Jong: I think the distinction I want to make is that the regulations the member refers to continue to apply. The requirement to comply with those regulations continues. I acknowledge that the difference here is that there is a different regime for obtaining approvals. Approvals will be required in high-risk, I will call them, and higher risk circumstances. The regulation the member and others will be interested in is the one that defines what constitutes higher risk. Those road layout plans will continue to have to be approved, but all road layouts will have to comply with the regulations.

J. MacPhail: What we're doing here is moving the roadbuilding requirements from legislation to regulation, but the regulation stays the same.

Hon. M. de Jong: The member's statement is essentially correct, though I want to alert her and others to the fact that where we can find ways to simplify the regulatory package she held up, we will be doing that.

Sections 42 to 53 inclusive approved.

On section 54.

J. MacPhail: This is the section that imports the legal construct of due diligence into the Forest Practices Code now. I will be voting by division against this section.

I would refer everyone who's interested in this to the discussion the minister and I had around this under the Forest and Range Practices Act. We don't need to repeat it. A very short summary is that I believe the defence of due diligence is now being allowed in a

realm of administrative law, whereas the legal concept is usually reserved as a right under the more formal and more litigious court system. Where there's a prosecution involved, due diligence would be allowed as an argument for a defence, but now we're having due diligence permitted under administrative law — basically a ticketing system, penalty system. All of my concerns and my anxiety about timing, the hurried nature of allowing this as a defence, stand for this amendment to the Forest Practices Code as well.

Hon. M. de Jong: I appreciate that the member wants the record to reflect that her concerns with respect to this bill are similar to her concerns as articulated on Bill 74. Similarly, I would incorporate, for the purposes of this debate, the submissions I made and reiterate that I am very much of the view that when we are dealing with sanctions the state may impose that are of an incredibly significant nature, the doctrines of fairness I am most comfortable with would convince me that this is the appropriate regime for us to adopt and apply.

[1635]

It is, further, not at all inconsistent with instructions or directions that the courts have provided with respect to the presumption that exists, actually, for the availability of the defence, except in circumstances where this Legislature has specifically set out that the defence would not be available.

Section 54 approved on the following division:

YEAS — 67

Falcon	Coell	Halsey-Brandt
Whittred	Cheema	Hansen
J. Reid	Bruce	Santori
van Dongen	Barisoff	Roddick
Wilson	Masi	Lee
Thorpe	Hagen	Murray
Plant	Collins	Clark
Bond	de Jong	Nebbeling
Stephens	Abbott	Coleman
Chong	Penner	Jarvis
Anderson	Orr	Harris
Nuraney	Brenzinger	Belsey
Bell	Chutter	Mayencourt
Trumper	Johnston	R. Stewart
Hayer	Christensen	Krueger
McMahon	Bray	Les
Locke	Nijjar	Bhullar
Wong	Bloy	Suffredine
MacKay	Cobb	K. Stewart
Visser	Lekstrom	Brice
Sultan	Hamilton	Sahota
Hawes	Kerr	Manhas
	Hunter	

NAYS — 2

MacPhail

Kwan

Sections 55 to 71 inclusive approved.

[1640]

Title approved.

Hon. M. de Jong: Mr. Chair, I move the committee rise and report the bill complete without amendment.

Motion approved.

The committee rose at 4:43 p.m.

The House resumed; Mr. Speaker in the chair.

Report and Third Reading of Bills

Bill 75, Forests Statutes Amendment Act (No. 2), 2002, reported complete without amendment, read a third time and passed.

[1645]

Mr. Speaker: The Lieutenant-Governor, I believe, is in the precinct. I would ask all members to please remain in their seats, and she should arrive momentarily.

Hon. members, it has been brought to my attention that the Lieutenant-Governor is not in the precinct yet. She will be here in about 15 minutes. We'll take a recess, and I will ring the division bells when it's appropriate.

The House recessed from 4:49 p.m. to 5:09 p.m.

[Mr. Speaker in the chair.]

Royal Assent to Bills

Her Honour the Lieutenant-Governor entered the chamber and took her place in the chair.

Clerk of the House:

Residential Tenancy Act

Manufactured Home Park Tenancy Act

Community Care and Assisted Living Act

Forests Statutes Amendment Act (No. 2), 2002

The Hunting and Fishing Heritage Act

In Her Majesty's name, Her Honour the Lieutenant-Governor doth assent to these acts.

Hon. I. Campagnolo (Lieutenant-Governor): I realize you're all going home for the Christmas vacation, so I wish you all a very happy holiday and will look forward to seeing you in the new year.

Some Hon. Members: Merry Christmas.

[1710]

Her Honour the Lieutenant-Governor retired from the chamber.

[Mr. Speaker in the chair.]

Hon. G. Collins: I move that the House at its rising do stand adjourned until it appears to the satisfaction of the Speaker, after consultation with the government, that the public interest requires that the House shall meet or until the Speaker may be advised by the government that it is desired to prorogue the third session of the thirty-seventh parliament of the province of British Columbia. The Speaker may give notice that he is so satisfied or has been so advised, and thereupon the House shall meet at the time stated in such notice and, as the case may be, may transact its business as if it had been duly adjourned to that time and date. In the unfortunate event of the Speaker being unable to act owing to illness or other cause, the Deputy Speaker shall act in his stead for the purpose of this order.

Hon. G. Collins moved adjournment of the House.

Motion approved.

The House adjourned at 5:12 p.m.