



4th Session, 37th Parliament

OFFICIAL REPORT OF

DEBATES OF THE
LEGISLATIVE ASSEMBLY

(HANSARD)

Thursday, October 30, 2003

Morning Sitting

Volume 17, Number 13

THE HONOURABLE CLAUDE RICHMOND, SPEAKER

ISSN 0709-1281

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

LIEUTENANT-GOVERNOR
Honourable Iona Campagnolo

4TH 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.leg.bc.ca

Hansard Services publishes transcripts both in print and on the Internet. Chamber debates are broadcast on television and webcast on the Internet.

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

Thursday, October 30, 2003
Morning Sitting

Routine Proceedings

	Page
Committee of the Whole House	7655
Police Complaint Commissioner Enabling and Validating Act (Bill 80)	
Hon. G. Plant	
J. Kwan	
T. Christensen	
Report and Third Reading of Bills	7659
Police Complaint Commissioner Enabling and Validating Act (Bill 80)	
Committee of the Whole House	7659
Health Professions Amendment Act (No. 2), 2003 (Bill 81)	
T. Christensen	
Hon. S. Hawkins	
Report and Third Reading of Bills	7660
Health Professions Amendment Act (No. 2), 2003 (Bill 81)	
Committee of the Whole House	7660
Pharmacy Operations and Drug Scheduling Act (Bill 82)	
Hon. S. Hawkins	
Reporting of Bills	7660
Pharmacy Operations and Drug Scheduling Act (Bill 82)	
Third Reading of Bills	7660
Pharmacy Operations and Drug Scheduling Act (Bill 82)	
Committee of the Whole House	7660
Business Corporations Amendment Act, 2003 (Bill 60)	
Hon. G. Collins	
Reporting of Bills	7661
Business Corporations Amendment Act, 2003 (Bill 60)	
Third Reading of Bills	7661
Business Corporations Amendment Act, 2003 (Bill 60)	
Committee of the Whole House	7661
Business Corporations Amendment Act (No. 2), 2003 (Bill 86)	
Hon. G. Collins	
Reporting of Bills	7661
Business Corporations Amendment Act (No. 2), 2003 (Bill 86)	
Third Reading of Bills	7662
Business Corporations Amendment Act (No. 2), 2003 (Bill 86)	
Committee of the Whole House	7662
Unclaimed Property Amendment Act (No. 2), 2003 (Bill 87)	

Report and Third Reading of Bills7662
Unclaimed Property Amendment Act (No. 2), 2003 (Bill 87)

Second Reading of Bills7662

Youth Justice Act (Bill 63) (*continued*)

- D. Jarvis
- V. Roddick
- B. Suffredine
- T. Christensen

THURSDAY, OCTOBER 30, 2003

The House met at 10:04 a.m.

Prayers.

Orders of the Day

Hon. G. Plant: I call committee stage debate, Bill 80.
[1005]

Committee of the Whole House

POLICE COMPLAINT COMMISSIONER ENABLING AND VALIDATING ACT

The House in Committee of the Whole (Section B)
on Bill 80; H. Long in the chair.

The committee met at 10:06 a.m.

On section 1.

Hon. G. Plant: I want to take the opportunity presented by the committee stage debate of this bill to speak about two issues that were raised during second reading debate by one of the members of the opposition. I think both issues deserve some clarification.

First, the opposition member, the member for Vancouver–Mount Pleasant, pointed out that she had been a member of the committee of selection, essentially, that had recommended the appointment of Mr. Ryneveld as the police complaint commissioner. She raised a question or two about the terms and conditions of remuneration and pension that are the subject matter of this bill and had been the subject matter of discussions at the time the committee recommended the appointment of Mr. Ryneveld.

I think the opposition member raised the question whether what was set out here in the bill and what had been said by me in second reading debate were in fact a correct reflection of the arrangements as they had been made at the time of the work by the committee. My understanding is that there have been some discussions with the Clerk of Committees office, with the Chair of the selection committee, and that the opposition member has herself been briefed about these matters. In fact, the net result is that things are as I indicated they were during first and second reading debate — that this bill in respect of the issue of remuneration, including the issue of pension benefits, does represent the understanding that existed at the time the committee recommended Mr. Ryneveld for appointment. What we're doing here in this bill is giving effect through legislation to the agreement and the understanding that existed at the time Mr. Ryneveld was recommended for appointment.

[1010]

The second thing I wanted to talk about also arose out of some comments that the member for Vancouver–Mount Pleasant made during second reading debate

having to do with her view about the responsibility of government in relation to the issues at stake here, including — at heart, I guess — the error that is fundamentally the reason why we're here passing this enabling and validating act.

Mr. Chair, you'll recall that the error in question was an error in the form of the actual appointment. The Police Act requires that the appointment of a police complaint commissioner be by order-in-council. The process for appointment involves a recommendation from a committee of legislators, but the actual appointment is made by OIC. In this particular case, the committee did its work, but the actual appointing document was a commission issued directly by the Lieutenant-Governor, rather than an order-in-council issued by cabinet and then signed by the Lieutenant-Governor.

Since the original appointing document did not comply with the statutory requirements for the appointment, there was a good argument about whether or not the appointment had been validly made, and that error was corrected in two ways. First, the commissioner was validly appointed by OIC a short while ago. Second, to ensure there would be no concern raised with respect to the validity of any of the actions taken by the police complaint commissioner between the date everybody thought he was appointed — which I think was in February of 2003 — and the date when the actual appointment was made by OIC, this act has been introduced to validate all of the actions of the commissioner. That's a bit of background, and it was the bit of background that informed a critical comment made with respect to that process by the member for Vancouver–Mount Pleasant.

What I wanted to do was put one or two comments on the record that I think need to be there, because in some respects the comments made by the member for Vancouver–Mount Pleasant bespeak a not completely unusual lack of understanding. By that I mean she is not the only one who has this lack of understanding about the way in which our system of government has been changed somewhat by the introduction of independent officers of the Legislature.

First, I am not the minister responsible for the Police Act, and I am not the minister responsible for the police complaint commissioner. My ministry is not responsible for the work done by the commissioner, nor am I politically accountable for the work of the police complaint commissioner. In fact, the police complaint commissioner is accountable to the members of the Legislature of British Columbia — not to me as a minister of the Crown but to all of us as legislators, including the member for Vancouver–Mount Pleasant as much as the member for any other constituency in this chamber. That's an important distinction.

When we come into this chamber and use the word "government," it's important we remember that government, in my view, in this chamber means, generally speaking, the executive council. It means cabinet led by the Premier. We are all legislators, and the Legislature is a branch of government, but it is not what people ordinarily think of as the government. The government

is cabinet, and cabinet is not, in fact, accountable for or responsible for the work of independent officers of the Legislature. It is the Legislature that is responsible for that work and to whom people like the police complaint commissioner, the ombudsman, the chief electoral officer, the information and privacy commissioner, the auditor general and the other independent officers of the Legislature are accountable.

[1015]

In this particular case, the history of this error is actually a history that indicates or is consistent with that. It's an unfortunate error, but the fact is that the error was made not by government but by the office which serves us, and that is the office of the Speaker, broadly speaking, and perhaps to some extent legislative counsel. Now, it is true that legislative counsel work in the Ministry of Attorney General, but it is also true that legislative counsel work for client ministries and others. In fact, often legislative counsel do that work in a way that does not involve any supervision by the minister or the Attorney General, and there are some cases where legislative counsel do work that is outside the purview of accountability to me.

The example that occurs to me as, I think, a reasonably good example of that is what happens when legislative counsel take instructions from the Minister of Finance about some portions of the upcoming budget that may involve the introduction of legislation, where oftentimes no one other than the critically important officials in the Ministry of Finance actually knows the direction that is proposed for government — and certainly the Attorney General doesn't — and legislative counsel take direction from that ministry in that respect. In this case, legislative counsel would be, in large measure, taking direction from either the office of the independent officer of the Legislature or the office of the Speaker.

That's all by way of saying that although this error was regrettable, it was, of course, completely innocent. It is actually part of an interesting challenge that I think we face, in a way, in making sure that we understand exactly the details of how each of these legislative officers are appointed. But in a very real and important sense, while it is necessary for there to be a minister of the Crown introducing a bill to ensure that the error is corrected, the error is not the error of government but is, in effect, the error of all of us as legislators and those who work on our behalf.

Those are the two things that I thought were important to clarify in terms of what happened and what was said in second reading, and I look forward to any questions that members may have about the particular provisions of the bill at this stage of the debate.

J. Kwan: Well, it is interesting to note — and I thank the Attorney General for his clarification — but there are a couple of points that I, too, wish to make. One is with respect to the notion around the remuneration. Yes, I sat on the committee, along with the government members, and the issues around the error that occurred and that needs to be corrected under Bill 80

on the remuneration was something that, as far as I know, was news to the Chair of that committee. The clarification which I sought with the Clerk's office about what happened in this process and why there was an error and what had happened.... That clarification was brought forth by the Clerk's office yesterday.

I believe, actually, members of the committee have no idea why there was an error and where the error came from. As I mentioned, I checked with the Chair of that committee on two occasions, and he indicated to me that he had no idea why that was there. So even as the Chair, he wasn't aware, and he advised me that he was going to have to check with the Attorney General himself to find out what the status was.

So I just want to make that point. As committee members, we weren't advised, as far as I recollect, and it appears that the Chair did not recollect either, in terms of where that error came from.

[1020]

I want to be very clear. I don't dispute the compensation package that should go to the police complaint commissioner, but I just want to raise that point in terms of where the process went wrong. In my view, it certainly was not as a result of committee members who were advised of the situation, because I for one wasn't, and it appears that the Chair wasn't either.

The second thing I want to raise is with respect to the police complaint act and the response to the Attorney General. The police complaint act, historically, is an act that falls under the Attorney General. In this new administration, there is some confusion about it actually — whether or not it falls under the Attorney General or the Solicitor General because the responsibilities, if you will, in that area have now been split into two different offices. Having said that, given that this bill is now before the House and it is being dealt with by the Attorney General, one can assume then that it's going to follow the traditional process for the police complaint act to fall under the AG's office.

The issue, of course, per the explanatory notes, that has been brought up under this bill tells you the error that is in need of correcting is that it validates the appointment of the police complaint commissioner, which was incorrectly done by royal commission rather than by order-in-council as required by the Police Act. The Police Act does, I assume, fall under the responsibility of the Attorney General. Therefore, making sure this is followed through in accordance with the act itself....

An error has been made. Fair enough. The police complaint commissioner does report to all members of the House, but it is the government — when I say government, it is the executive council of this government — that needs to make sure these procedures are done properly. At some point in time somewhere, someone has got to stand up and take responsibility. As the Attorney General well knows, in these instances it is the majority of the House that actually makes and has responsibility, and that would be the government.

The error has been made. I'm glad that the error has been recognized. It needs to be corrected, and it falls, in my view, on the responsibility of this government.

Hon. G. Plant: I appreciate the comments of the member opposite. Two or three points that I think are important in order to ensure that people who might have an occasion to read this debate are not confused.

First of all, there is no act called the police complaint act. There is only the Police Act, and I am not the minister responsible for the Police Act. The Solicitor General is the minister responsible for the Police Act.

Secondly, I think it may be helpful to draw members' attention to a note from the office of the Clerk of Committees dated February 3, 2003, addressed to the manager at the order-in-council appointments in the parliament buildings concerning the appointment of the police complaint commissioner. It includes an extract from the *Votes and Proceedings* of the Legislative Assembly of British Columbia for Thursday, November 21, 2002. One of the things that is said in this letter, which is written by the Clerk of Committees, is:

"It would be appreciated if you would see that the appropriate action is taken to expedite the Lieutenant-Governor's appointment of Mr. Ryneveld, QC. Other statutory officers receive a salary equivalent to the salary of the Chief Judge of the Provincial Court. However, part 9 of the Police Act is silent as to the salary of the police complaint commissioner. It is our view, which has been expressed to Mr. Ryneveld, that the salary afforded other statutory officers should be applicable to this position as well. I trust there is no obstacle in providing this salary."

A copy of that letter is shown as having been sent to the member for Vancouver–Mount Pleasant.

The assumption that she would have had back then is the assumption certainly — generally speaking, consistent with this act — that Mr. Ryneveld is to be paid at a salary equivalent to the Chief Judge of the Provincial Court.

[1025]

The third point, and I should have probably included this in my remarks at the beginning.... There is a protocol that's being worked on between the legislative counsel and the Clerk's office to ensure that this won't happen again. There is work being done to try to ensure that the error that happened here won't happen again.

The last point is to say this: I disagree with the member in her concept of parliamentary responsibility in relation to independent officers of the Legislature. She is right that a majority of members of this Legislature constitute or have the ability to determine on a day-to-day basis who the government will be. If it is the case that these creatures called independent officers of the Legislature are to be, in fact, independent and officers of the Legislature, then I think we can't fall into the trap of assuming that in some way or another they are officers of government. They are officers of the Legislature. They represent the interests of all of us as legislators, and they represent, frankly, an innovation that has become an important part of our system of government in British Columbia in which there are important public officials holding important public responsibilities who are not, properly speaking — in my view — members of government and not accountable to government in the way that term is usually used.

That distinction, I think, is important. If we don't maintain it — that is, if we allow ourselves to take the position, "Well, it doesn't really matter, because everybody knows that the majority of members in the chamber are government, and so these people are just somehow or other part of government...." That may be an overstatement of the position I heard expressed by the member opposite a minute ago, but I want to be careful and ensure that we don't allow that to be our characterization of the role of these people.

If it is, for example, the member opposite's view that that is the right way to go — that we don't need officers of the Legislature; we just need people to be somewhat independent but to be officers of government — then that would involve recasting the statutes that create the ombudsman, the chief electoral officer, the auditor general, the information and privacy commissioner and the police complaint commissioner. I don't think the time is right to do that. I think that, broadly speaking, the idea of independent officers of the Legislature has been a welcome innovation. There are some questions that need to be asked about this idea as we continue to develop it, but I think if we allow ourselves to fall into a trap of assuming that the police complaint commissioner is just the government, then we have certainly denied ourselves the opportunity to develop this new institution in the way it was originally intended.

In terms of the salary issue, which is really in part where this all came from, it is actually.... The challenge around the salary issue lies in the fact that the Police Act, which the member opposite recalls was introduced when she was in government, was unfortunately silent on this issue of compensation. That's why we had to deal with it in the way that it has been dealt with. It may be that at some point the Solicitor General may want to consider making a change to the Police Act to ensure that the issue of remuneration is dealt with as a general matter so that part of the problem doesn't arise again.

[1030]

J. Kwan: I want to just add a further comment to the Attorney General's comments, and that is the notion around independence for these various officers. I absolutely agree that legislative officers should be independent in every aspect. In fact, as the Chair of the Public Accounts Committee I've gone so far as to advocate for all of these officers' budgets to be decided not by government, not through the Ministry of Finance or a government committee, but rather by the assembly itself. That is not being done. Therefore, by virtue of that, in my view it does actually create, if nothing else, a perception of the officers and colours their ability to be fully independent because their work is constrained by budgetary constraints. As we know, a variety of these independent officers have gone up to the Finance Committee, which is constituted by a majority of government, saying that the budget cuts their offices are experiencing and will continue to experience will cost and damage their ability to work and fully function as

independent officers of the Legislature to fulfil their mandate and the duties required of them.

Really, if we want to address this issue in the truest sense to make sure that the various legislative officers are fully independent, then their budgets should be completely free of constraint from the Ministry of Finance, from government, and should be set through the Legislative Assembly accordingly. I don't dispute that they should be; I absolutely agree that they should be. But there are parameters within which and how we function in this parliament as it relates to the officers. If nothing else, it does colour to a certain degree the issue around independence and so on.

I don't want to belabour the point, but I think those are significant points that I want to point out. Having said that, in terms of the errors that have occurred, which are now being corrected by this bill.... I appreciate the Attorney General correcting that he is not responsible for the Police Act — and I'm sorry, I said police complaint act earlier; I meant the Police Act — and that it is the Solicitor General. That was actually something that was not even clear to the police complaint commissioner. I had a conversation with him sometime in the summer around that, because historically, as I mentioned, the police complaint commissioner and the Police Act fall under the Attorney General's bailiwick, if you will. Under this administration, the responsibilities in that area have now been split into two offices, the AG's and the Solicitor General's, and it was unclear as to exactly where that falls.

It's good to know now, in the Legislature, that the Attorney General has clarified the point that it actually falls under the Solicitor General. It would simply make sense. It really is not that important that perhaps this act should have been carried through by the Solicitor General as it relates to the police complaint commissioner, because it was also the Solicitor General who actually appointed the interim police complaint commissioner when there was a need for that.

All of this mixing-up by government of who carries what forward is in fact confusing, I think, certainly to me and I would assume to some members of the public as well.

Hon. G. Plant: I appreciate the member's suggestion with respect to the budget process and officers of the Legislature.

The process that has been followed and was followed during the ten-year term of the previous government was pretty much as the member recalls it. In fact, I think at least three of those legislative officers were created during the former administration: the chief electoral officer, the information and privacy commissioner and this office, the police complaint commissioner. As the former government created each of those offices, they left intact the traditional rules about establishing budgets so that in fact those budgets were set, ultimately, by government.

[1035]

The innovation that we have introduced, which I think goes some way to addressing that — although I

respect the member may think now, at any rate, that we need to move further than she was prepared to do when her party was in power — is that those officers now have the opportunity to present to a committee. As a result, over the past year or so we've had a better understanding as a public about budget issues in respect of those officers and, as the member herself pointed out, some pretty good and vigorous debate in that committee and in the public at large about whether or not there are adequate provisions made for those officers.

Be that as it may, this basic framework is the traditional framework we inherited as government, and I certainly look forward to the member advocating for the different approach that she's talking about. I think it's a question that is timely. It may be that government will want to examine that in the months and years to come to see if we can add that additional element or make that additional refinement to ensure that the chain of accountability, if you will, in setting budgets is a chain that respects the direct relationship between legislative officers and this chamber. I think that's a point we need to keep in mind, and I'm sure the discussion about that initiative will continue.

J. Kwan: Just final comments, then, on this issue. It certainly is the case that it was the previous administration that brought forward a number of independent officers through legislation, and the Attorney General, when in opposition, also supported these bills. The idea of a fully independent legislative officer, as I said earlier, needs to have their budget set not through the Ministry of Finance, as it is done now.

What is important to note, as well, is that in the previous administration I don't believe any of the independent officers were faced with budget constraints like they are now, to the point where news releases were sent out by independent legislative officers to say that they would not be able to perform the work required of them as a result of the budget cuts. That never happened in the previous administration. Therefore, it was never an issue, in my view, that was highlighted, because they were relatively new and it's a process of learning.

In my view, because of the budget constraints that are being imposed by this government on a number of the independent officers, they are not able to do their work. In my view, it compromises their independence and their ability to carry out their mandate. It highlights the need to actually remove the budgeting process of these independent officers from government in its entirety, which is why it has now become highlighted as a major issue that needs to be done.

I appreciate the Attorney General's comments. I take from his comment that he will be an advocate to ensure that the independent officers will have their budgeting process separate and apart from governments and from the Minister of Finance and that it will be done in a truly independent manner by all members of the House.

Sections 1 and 2 approved.

On section 3.

T. Christensen: Just a relatively simple question in respect to section 3(1) and, really, just something I want clarification on. Could the Attorney General simply confirm that the effect of section 3(1) will not be to validate an act that would not otherwise have been valid under the Police Act? So by enacting section 3(1), we don't run the danger of validating something that it was never intended a police complaint commissioner could do.

Hon. G. Plant: That is the intent of the section. The intent of the section is to ensure that that which would have been validly done, had the appointment been valid, is protected. If in some way or another unknown to me, the commissioner has exceeded his lawful authority in a way that would cause some action of his to be otherwise invalid, those arguments will not be affected by this provision.

[1040]

T. Christensen: Thank you to the Attorney General. I'm certainly not suggesting that I have any idea of the police complaint commissioner having done something inappropriate. I'm absolutely certain there is no such circumstance, but I did just want that clarification in terms of this legislation, so thank you.

Sections 3 and 4 approved.

Title approved.

Hon. G. Plant: I move that the committee rise and report the bill complete without amendment.

Motion approved.

The committee rose at 10:41 a.m.

The House resumed; J. Weisbeck in the chair.

Report and Third Reading of Bills

Bill 80, Police Complaint Commissioner Enabling and Validating Act, reported complete without amendment, read a third time and passed.

Hon. G. Plant: I call committee stage debate on Bill 81.

Committee of the Whole House

HEALTH PROFESSIONS AMENDMENT ACT (No. 2), 2003

The House in Committee of the Whole (Section B) on Bill 81; H. Long in the chair.

The committee met at 10:42 a.m.

On section 1.

T. Christensen: I don't have a series of specific questions about section 1, but I'd like it if the minister could just comment generally on.... The effect of section 1, essentially, is to replace what are parts 1 and 2 of the Pharmacists, Pharmacy Operations and Drug Scheduling Act that is currently in effect. Can the minister comment on whether there are any significant changes in this new part 2.2 of the Health Professions Act, which sort of change the playing field from how pharmacists were governed by the professional body under the current legislation?

Hon. S. Hawkins: The College of Pharmacists will have a consistent regulatory framework without any disruption from what they were doing before. They will be governed essentially the same. They're being brought under the umbrella of the Health Professions Amendment Act, and there won't be any disruption from the way they were governed before.

T. Christensen: Just a further clarification there. I take it — and I know the answer to this, I'm pretty sure, but I just would like confirmation from the minister — that in this move to bring it under the Health Professions Act, which I understand certainly is consistent with a number of things being done with health professions generally, the College of Pharmacists has been thoroughly consulted and is supportive of what will be this new part 2.2.

Hon. S. Hawkins: Absolutely. We did full consultations with the college and the association, and they are in full support of these changes.

[1045]

T. Christensen: I just have one additional question on what will become section 25.95 of part 2.2 of the Health Professions Act. It deals with exceptions. My only question there is: given the exceptions outlined in that section, where's the path of accountability for folks that may be able to perform certain actions because of the exception? To clarify: are they answerable to the College of Pharmacists, or where is that accountability?

Hon. S. Hawkins: For the member's information, these exceptions don't relieve the registrants from their obligations and standards of the professions. They are accountable to their college for their practice.

Sections 1 to 13 inclusive approved.

Title approved.

Hon. S. Hawkins: I move the committee rise and report the bill complete without amendment.

Motion approved.

The committee rose at 10:47 a.m.

The House resumed; J. Weisbeck in the chair.

**Report and
Third Reading of Bills**

Bill 81, Health Professions Amendment Act (No. 2), 2003, reported complete without amendment, read a third time and passed.

Hon. G. Collins: I call committee stage on Bill 82.

Committee of the Whole House

PHARMACY OPERATIONS
AND DRUG SCHEDULING ACT

The House in Committee of the Whole (Section B) on Bill 82; H. Long in the chair.

The committee met at 10:49 a.m.

Sections 1 to 20 inclusive approved.

[1050]

On section 21.

Hon. S. Hawkins: I move the amendment standing in my name on the order paper.

[SECTION 21, in the proposed subsection (3) by deleting "subsection (2)" and substituting "subsection (1)".]

Amendment approved.

Section 21 as amended approved.

Sections 22 to 29 inclusive approved.

On section 30.

Hon. S. Hawkins: I move the amendment standing in my name on the order paper.

[SECTION 30, in the proposed subsection (1) by deleting "section 30" and substituting "section 29".]

Amendment approved.

Section 30 as amended approved.

Sections 31 to 67 inclusive approved.

Title approved.

Hon. S. Hawkins: I move the committee rise and report the bill complete with amendments.

Motion approved.

The committee rose at 10:51 a.m.

The House resumed; J. Weisbeck in the chair.

Reporting of Bills

Bill 82, Pharmacy Operations and Drug Scheduling Act, reported complete with amendments.

Third Reading of Bills

Deputy Speaker: When shall the bill be read a third time?

Hon. S. Hawkins: By leave, now, Mr. Speaker.

Leave granted.

Bill 82, Pharmacy Operations and Drug Scheduling Act, read a third time and passed.

Hon. G. Collins: I call committee stage debate on Bill 60.

[1055]

Committee of the Whole House

BUSINESS CORPORATIONS
AMENDMENT ACT, 2003

The House in Committee of the Whole (Section B) on Bill 60; K. Stewart in the chair.

The committee met at 11 a.m.

Sections 1 to 17 inclusive approved.

On section 18.

Hon. G. Collins: Section 18. It is government's intent to remove this section, and the proper procedure, I understand, is to have the House defeat the section rather than amend it in an attempt to delete it. So government will be voting against this section.

Section 18 negatived.

Sections 19 to 23 inclusive approved.

Section 24 negatived.

Sections 25 to 28 inclusive approved.

Section 29 negatived.

Sections 30 to 36 inclusive approved.

Section 37 negatived.

Section 38 approved.

Section 39 negatived.

Sections 40 to 58 inclusive approved.

Section 59 negatived.

Sections 60 to 63 inclusive approved.

Section 64 negatived.

Sections 65 to 74 inclusive approved.

Section 75 negatived.

Sections 76 to 88 inclusive approved.

Section 89 negatived.

Sections 90 to 138 inclusive approved.

On section 139.

[1105]

Hon. G. Collins: I move the amendment to section 139 standing in my name on the order paper.

[SECTION 139, by deleting the proposed section 139 (a).]

Amendment approved.

Section 139 as amended approved.

Sections 140 to 229 inclusive approved.

Section 230 negatived.

Sections 231 to 235 inclusive approved.

Section 236 negatived.

Sections 237 to 252 inclusive approved.

Sections 253 and 254 negatived.

Sections 255 to 275 inclusive approved.

On section 276.

Hon. G. Collins: I move the amendment standing in my name on the order paper:

[SECTION 276, by deleting the proposed section 276 (b).]

Amendment approved.

Section 276 as amended approved.

Sections 277 to 318 inclusive approved.

Title approved.

Hon. G. Collins: I move the committee rise and report the bill complete with amendments.

Motion approved.

The committee rose at 11:08 a.m.

The House resumed; J. Weisbeck in the chair.

Reporting of Bills

Bill 60, Business Corporations Amendment Act, 2003, reported complete with amendments.

Third Reading of Bills

Deputy Speaker: When shall the bill be read a third time?

Hon. G. Collins: By leave, now.

Leave granted.

Bill 60, Business Corporations Amendment Act, 2003, read a third time and passed.

Hon. G. Collins: I call Committee of the Whole for consideration of Bill 86.

[1110]

Committee of the Whole House

BUSINESS CORPORATIONS AMENDMENT ACT (No. 2), 2003

The House in Committee of the Whole (Section B) on Bill 86; K. Stewart in the chair.

The committee met at 11:11 a.m.

Sections 1 to 49 inclusive approved.

On section 50.

Hon. G. Collins: I move the amendment standing in my name on the order paper.

[SECTION 50, by deleting "Section 5 (2)" and substituting "Section 5 (1)".]

Amendment approved.

Section 50 as amended approved.

Sections 51 to 63 inclusive approved.

Title approved.

Hon. G. Collins: I move the committee rise and report the bill complete with amendment.

Motion approved.

The committee rose at 11:12 a.m.

The House resumed; J. Weisbeck in the chair.

Reporting of Bills

Bill 86, Business Corporations Amendment Act (No. 2), 2003, reported complete with amendment.

Third Reading of Bills

Deputy Speaker: When shall the bill be considered as reported?

Hon. G. Collins: By leave, now.

Leave granted.

Bill 86, Business Corporations Amendment Act (No. 2), 2003, read a third time and passed.

Hon. G. Collins: I call Committee of the Whole for consideration of Bill 87.

Committee of the Whole House

UNCLAIMED PROPERTY AMENDMENT ACT (No. 2), 2003

The House in Committee of the Whole (Section B) on Bill 87; K. Stewart in the chair.

The committee met at 11:15 a.m.

Sections 1 to 6 inclusive approved.

Title approved.

Hon. G. Collins: I move the committee rise and report the bill complete without amendment.

Motion approved.

The committee rose at 11:16 a.m.

The House resumed; J. Weisbeck in the chair.

Report and Third Reading of Bills

Bill 87, Unclaimed Property Amendment Act (No. 2), 2003, reported complete without amendment, read a third time and passed.

Hon. G. Collins: I call continued debate in second reading of Bill 63.

Second Reading of Bills

YOUTH JUSTICE ACT (continued)

D. Jarvis: I want to have an opportunity to make a few comments about the Youth Justice Act, Bill 63. I appreciate that there's been a lot said before me, and I'll try not to be too repetitive. I do want to bring out the fact that I'm from Vancouver; I was born and bred in Vancouver. I'm from the Depression. I know I don't look that old, but nevertheless I was born prior to everyone in this room. Everyone in this room, when I was born, was just a gleam in their father's eyes.

We've always had crime in Vancouver, but crime has changed over these past few years. I was brought up in the lower west side of Vancouver, which actually is where the Premier's riding is today. We had gangs in those days — the Alma Dukes. You would go along Burrard, a little farther down the road, and we had the Singh gang, and we had the 1st and Main and the 33rd and Main, all of that in New Westminster, and the Hollywood Bowl gang. They had big gangs and fights and all that sort of stuff in those days. They have always had gangs in major cities. The only good thing about it was that they usually just fought with brass knuckles and caulk boots. They didn't have knives and guns, as we do today.

We had car thefts in those days in abundance.

Hon. G. Collins: Did you have cars?

D. Jarvis: We had cars in my day, yes. It was an interesting thing. Those in the mid-teens that had an interest in cars and couldn't afford to buy an old jalopy went out and stole cars. You know, a '48 or '49 Ford could be hot-wired with a girl's bobby pin. That's how easy it was. The thing was that in those days 12- and 13- and 14-year-olds didn't go out and steal cars. It was always left to the mid- or the late teens to steal cars. It wasn't like it is today, where the young kids are out there.

[1120]

There's always been stealing and crime in that sense — break and entry — but in those days you didn't have to lock your front door. There were occasional thefts here and there, but one wonders why there's such a change in these latter years. I guess it's because of the fact that there were no consequences.... There were consequences in my days. We had perhaps a little more respect for the law and the police, and especially if we tried to ignore that consequence, we always had the consequences of our parents and what they would do and say to us.

Things have changed. Why it has changed, one doesn't really know, other than perhaps it's because of the increase of population or the fact that our communications system — TV, etc. — is so great that in the larger centres like the United States, it has spilled over onto us up here in the northern part of the continent. The truth is that crime is spreading to our younger children, and that's a concern I have.

This new law, which replaces the Young Offenders Act, may have a consequence in the sense that it will give these children — the young teenagers of our time now — something to think about before they go out or react to their peer pressure. The people today, my friends and people in my riding, are concerned. The first thing you hear them say all the time is that we're not being tough enough on our youth with regard to the crimes they do.

Should we get harder on our youth? I have to remind people that we can go too far in trying to protect ourselves against crime. Look at California. Wasn't it a few years ago where they spent more money on build-

ing detention homes and prisons for the state of California than they did in their entire education budget? So we can go too far, but it is certainly time for our youth to learn that there are consequences for their actions.

Not too long ago at my constituency office in North Vancouver, for example, I had seven break-ins in the first five years in office. All of them were snatch and grab. The police said it was basically 12- and 13-year-old children in the area that were running in, smashing the doors and windows, grabbing a computer or a fax machine and going out. Why they couldn't catch them was that these kids had little radios. They would have one child about a mile up at the major intersection, and every time the police would come, they'd know they had 22 seconds before the police car would arrive. They've become very sophisticated.

At one time — and some of you may remember — when they asked me why I was putting bars on the windows of my constituency office and it was starting to look like East L.A., I suggested that perhaps we should bring back the cane. Well, that brought a few comments from the various TV stations and the reporters, but it wasn't that I was trying to be the brute that I am. It was just that I was trying to say perhaps these children should know there are consequences if they act above and beyond what the law says.

As I say, it's time for the youth to learn that there are consequences. We now treat the law very lightly, I think, or else the law itself appears to be treating them lightly. At the same time, we are incarcerating a lot more children than we ever have before. I trust we'll see that this bill, which I support and which I believe the majority of my constituency will support, is something that is going to put some teeth into the situation, so these children will know that with what they intend to do because of their peers, there's a danger behind it and the consequence will be that they could ruin their lives.

As I said, I support Bill 63, and I thank you for the opportunity for speaking.

[1125]

V. Roddick: I rise in support of this bill. Authority and responsibility have been sucked out of our society since the Second World War. Households, schools, businesses, governments, health, police — slowly but surely, the fabric of our society has been shredded. This new law hopefully will have a positive effect on our youth. They are our future.

B. Suffredine: I'm not quite as senior as the member for North Vancouver–Seymour, and I haven't been around the block nearly as many times. I certainly haven't put any bars on my window. I did spend a fair amount of time, over the last quarter century or so, in the courts, and in that time I had a number of youth cases. I have to tell this House that in many cases, I thought the sentences imposed on youth that were, by some standards, lenient were on occasion the right things to do. Judges have the difficult task of balancing

that task. On occasion, I must say, they're criticized fairly; on other occasions they're criticized unfairly.

The offences dealt with in the Youth Justice Act are limited in that the province doesn't have the jurisdiction that perhaps it would like to have in order to really deal effectively with crime. Under our federal constitution, the federal Parliament controls things like break and enter, which are some of the more serious offences, and sexual assaults.

This week I have actually been in pretty steady discussions with the town of Creston, because they've been experiencing a rash of thefts and break and enters on almost a nightly basis. I talked to the mayor of Creston this morning, and he said there were four more last night alone. People in Creston, particularly business owners, are really concerned not only with the fact that they've got a rash of crime occurring in a very small community, but they're also concerned because the prime suspects in this case are young offenders. There's real fear being expressed that they won't be dealt with appropriately, that they won't get the length of sentences it will take to deter them from committing those crimes. Community fears are being expressed there that if someone is caught who is a young offender, the courts will simply be too lenient.

While this legislation doesn't cover offences like break and enter, it does help to send a message to the courts that the community is concerned, and it helps to send that same message to prosecutors that appropriate sentences for serious offences must be sought and must be imposed. My experience, over many years in the courts, was that if the prosecutor made the pitch that this was one of those cases when a more serious disposition was appropriate, the courts listened very carefully and tried to respond in appropriate cases and deal with things in a way that actually would reach an accused person, a young person.

Perhaps somewhat unlike many people in the community, because of the many years I spent in the Provincial Court I have strong confidence in our Provincial Courts. Over 25 years I saw Provincial Court judges come and go in the Kootenays, but almost without exception they were strong, caring, highly intelligent people who used their best judgment to try to come to the right result. Sometimes I might have disagreed with them, and then, of course, I was judicially wrong. The fact is that they were doing their best to use the best judgment they could in each case to reach a result that was fair to the community. They live in their communities.

[1130]

It was very rare that I saw a sentence imposed that I disagreed with, even when I was defence counsel arguing against it. In fact, I acted in one case where the maximum sentence that can be imposed on a young offender was imposed: three years. A lot of people say three years isn't a long enough sentence, but in thinking about that, I have to get them to think back to when they were young people. Time goes much more slowly for young people than for those of us once we're older. Three years is a very long time to a young person.

The other thing about young offender sentences that no one takes account of is that if I'm an adult and I'm sentenced to three years, I get one-third off for good behaviour automatically, and I can be eligible for parole after one-third. If I'm actually a young offender, there's no time off for good behaviour. Every day of it is served. It's possible that I can get out, but there's no parole system for young offenders, so it has perhaps a more dramatic effect on young offenders.

The most common thing, in my experience, is that judges were criticized for technical rulings. In balancing the discussion on this, I do want everyone to recognize that sometimes they're bound by the law, and they have to make technical rulings that rule in favour of a young offender because the law happens to favour the case. I can say, though, that judges do read the newspaper and watch TV, just like us, and they hear and get the message. When we say things in the Legislature or when there's public outcry about the consequences of a particular case, judges carefully listen to that.

Bringing this bill before the House, I say, will have a valuable and noted effect on the courts. They'll take account of the fact that the Solicitor General is speaking out and saying that we need to view these matters seriously. They will take account of the fact that the public, in general, feels that young offenders are not being discouraged from crime and that it's not having an effect. I have confidence that the judges I know in the Kootenays will certainly take appropriate steps to make sure they take note of the message from the Legislature that in every case we want to see young offenders deterred from further crime and not be back before the courts.

T. Christensen: It's indeed a pleasure to rise in support of Bill 63. It's been interesting over the last couple of days to listen to the comments of other government caucus members and see a wide range of comments around youth justice and, in particular, this bill. It does reflect, perhaps, the broad range of views and perceptions there are out in the community about youth justice. It's a tough issue.

All justice issues, particularly in respect of youth or otherwise, are often very highly charged debates and often dominated by pretty extreme views. We tend to hear that we should lock up all offenders and throw away the key, on the one hand, or that anything an offender does is a product of their upbringing and that really society at large is to blame and we shouldn't really be punitive at all. Rarely do we have an opportunity to have a good general debate about what's appropriate in justice and youth justice in particular.

I think it's worth noting that when we're dealing with youth justice, as when we're dealing with anything to do with youth and children, it deserves good, honest, heartfelt and sincere debate about what the appropriate way to go is. At the end of the day, when we take a good look at Bill 63 and what this legislation provides, it really broadens the options available to our courts when they're dealing with youth who have

found themselves in trouble with provincial law. Really, that's the best we can ask for in terms of legislation.

[1135]

The other parts of the puzzle — the sentencing, how our courts work, how our programs work in terms of dealing with youth who have been referred to those programs — are really the bigger and, quite frankly, more critical parts in the long run to ensure that once a youth has found himself or herself in conflict with the law and has gone through the court process, we then have the supports in place to ensure that we can deal with that youth's transgression as best as possible.

Certainly, in having occasion to think a bit about justice issues in the last couple of days, it brought me back to some fond memories of when I was at law school. I never practised much in the area of criminal law, but I do recall that when I was at law school, criminal law was by far the most fascinating area of law to study because of this inherent conflict between trying to rehabilitate an offender and penalize an offender. Often those two things do not go well hand in hand. I guess, as well, when you're looking at cases from a law school perspective, you're often looking at them from the perspective of a defendant. It's interesting to delve into how the system works in terms of dealing with those folks.

As I said, youth justice in particular is often a very emotional issue. It seems that the only time the community becomes engaged in discussions about youth justice is when we've had a particularly troublesome event occur in our communities. Every member of this House can point to something that's occurred in their own community in the past, where a youth has done something that really is beyond our comprehension. The natural reaction is that we want to penalize that activity. We very quickly are able to put ourselves in the shoes of the victim or the victim's family and say, "This is wrong, and that person who has done this wrong must be penalized," not really thinking often in terms of: "What does that mean in the long term for society?" It's quite simple in the short term to say, "Let's hammer that person and incarcerate them and throw away the key," but I think all of us can recognize that that doesn't really do society much good in the long run. We're much better off if we can try to deal with some of the underlying causes of criminal activity and, particularly with respect to youth, deal with those underlying problems and find: do we have a good chance of rehabilitating this person and reintegrating them into society, and then how do we proceed with those goals?

It's worth noting — and I think this is reflected by the comments we've heard over the last couple of days in second reading — that the criminal justice system is certainly not intended solely to penalize. It's there to ensure that we convict only those who are guilty. I think we often think that, or we often fail to recognize that underlying premise of the system. I think the system is there to ensure that a process is used to gather evidence that obviously respects the Charter of Rights

and Freedoms so as to, in a general sense, ensure that we're not condoning practices that might result in somebody who is innocent actually being convicted.

That's the one part of the system in terms of getting to a point in the justice system of determining whether or not the person is guilty beyond a reasonable doubt. Trust me. That's a very high threshold to meet. As I think all of us can recognize in our communities, it's often a very difficult threshold to meet. I firmly believe it's the appropriate threshold to meet. Once we get there, then we look at sentencing. This is often where our communities express some concern and some outrage in many cases, when they read in the local newspaper about a sentence that's been handed out for a particular crime. Quite frankly, our communities don't have the benefit of having heard all the evidence that the court has heard, which is often days and weeks of evidence, nor do they have the benefit of some of the background information relevant to the particular person who has been convicted. Still, we read those things in the newspaper, and often we tend to get upset.

[1140]

Again, it's important to recognize that sentencing of an offender is intended to balance a number of goals. One of those goals is to penalize the offender. Another goal is to send a signal of deterrence, both to that individual offender but also to society as a whole, that society doesn't tolerate certain activities and that a message of deterrence needs to be sent. Certainly in sentencing there's a very strong element of the need to protect the public.

Finally — and this can't be underestimated — there's a goal in sentencing to ensure, where it is at all possible, that we're working to rehabilitate those offenders and reintegrate them into society. When we're dealing with youth justice in particular, I think there's a greater focus, and rightly so, on that need to rehabilitate and reintegrate so that in the long run society is better off by having this young person as a constructive member of society rather than sort of hammering them for a few years by way of penalty only to find when they then re-emerge in society that, quite frankly, we haven't done much to deter the activity and that in some cases it has simply sown the seed of even worse activity.

When we talk to our constituents and get their perceptions of the youth justice system, there's no question that there's a perception that it has been lenient and, really, that it has previously been focused largely on that rehabilitation part. When we're dealing with some crimes — violent crimes in particular, crimes of exploitation of other youth — I think there is, rightly so, a greater call on behalf of the public that we need to also ensure we're focusing on protection of the public. Rehabilitation is certainly a laudable goal, and it's something we need to pursue with vigour, but at the same time we must also ensure that the public is first and foremost protected from harmful activity that certain folks might be perpetrating.

As I've said a couple of times, I understand and sympathize with the public frustration that often gets

expressed. In my early days as a lawyer I did spend a little bit of time up in remand court.

B. Penner: Were you found guilty?

T. Christensen: Not found guilty. More on the federal prosecution side, actually.

In my community we're dealing with a number of issues in remand court on the same day, so you'd certainly see regular Criminal Code offence issues with adults, but we'd also see youth coming through at the same time. I certainly remember being left with the perception that a lot of youth who found themselves in that courtroom had been there before and didn't really take the whole situation that terribly seriously.

One of the most refreshing things I remember seeing in court was actually a young kid there who was 12 or 13 with his mother, as a parent is required to come and prove age. This little guy was just trembling, and his mother was crying. It was obvious this was a big deal that this little guy had gotten in trouble with the law. It was, I think, a mischief charge — some vandalism or something. To me it was just refreshing that — you know what? — the system actually does work in some circumstances where the simple fact of having to come to court and appear before a judge provides a good deal of deterrence to some folks.

The reality was that it was rarely the case and that simply filing kids in front of a judge rarely produces much result. What's important is that we empower our courts to have a broad range of options to deal with kids and that we empower our youth justice system as a whole, not just within the courts but outside the courts, to have a broad range of options to deal with youth so that in each unique circumstance — through a combination of our courts, if they're involved, or maybe it can be dealt with just at the police level or at the level of youth probation officers — we have a large basket of options to deal with the specific needs of that youth, which then allows a better long-term result.

[1145]

When we talk about a youth justice system, we should talk about: okay, what are the objectives of any youth justice system? I certainly think that one big objective is to prevent crime and to protect the public. I think our constituents would all agree that we want to ensure meaningful consequences for offences when those do occur. We do, as I've said before, want to rehabilitate and reintegrate youth into society both for the benefit of that youth but also to contribute to the long-term protection of our communities.

Other speakers have commented that society's response to youth crime is governed by both federal and provincial legislation. I think that in some of the commentary of the last couple of days, there's been a propensity to perhaps make this legislation bigger than it really is. I think it's important to recognize that the Youth Justice Act deals primarily with offences at the provincial level, and the reality is that 99 percent of youth who find themselves in conflict with the law and who appear in our courts are actually charged with

offences under the federal law. So really, the provincial government, while it can lobby the federal government in terms of certain actions, doesn't have a lot of control over that.

It is important to note that the Youth Criminal Justice Act, which is federal legislation, has signalled a shift in terms of how the federal government wants to deal with youth crime issues. That did come into force on April 1 of this year and does respond, I think, to criticism that the law didn't sufficiently address youth crime, particularly youth violent crime. That's certainly where our communities stand up and speak quite strongly. There is a very strong concern about youth violent crime.

We do need to recognize, if we look at this in a historical perspective, that the reality is that youth crime overall has been coming down in terms of the number of incidents and the statistics around that. But while it's come down overall, the percentage of the crime that is violent crime, unfortunately, actually increased quite markedly in the late eighties and the early 1990s. While more recently it has started to come down, there's still that general strong concern that violent crime is all too prevalent in youth crime statistics. The federal law, as others have indicated, does go some way to addressing that.

What Bill 63 does is complement and be consistent with the need to provide courts with that broader range of options so that they have the tools to appropriately deal with each unique offender. It provides — and this is important — for custodial sentences in certain circumstances where right now, prior to enactment of Bill 63, custody isn't an option. Custody is a last resort, but it is, I think we can all agree, a necessary and important option to have to ensure public safety and appropriate rehabilitation to ensure long-term public safety.

I think we need to also recognize that when it comes to custodial sentences, we don't just take somebody and stick them in a youth correctional facility and forget about them. The reality is that while a youth in particular is in custody, they then have access to a broad range of programs there — all of which are intended to help deal with any underlying problems that youth has, to rehabilitate that youth and to ensure that when the youth leaves the custodial facility, they have the best chance to reintegrate into society and become a productive member of society and somebody who isn't in continued conflict with the law.

If we look at Bill 63 as a whole, it's abundantly clear that it's a significant improvement in the law, and it does provide that broad framework to deal with youth accused of committing a crime. If we look at, in particular, sections 6 and 7 of the act that deal with the role of youth probation officers, it's very clear that the chance of a youth coming before a judge without having been assessed quite thoroughly by a youth probation officer is very unlikely, and that's appropriate. I think judges would certainly agree that when they find a young person before them in the court, they want to have as much information about that young person as

possible so they can respond in a way that, again, is going to protect society but is certainly going to address the current and future needs of that young person within the justice system.

[1150]

Similarly, if a youth is convicted of an offence, there's then a pre-sentence report required in most circumstances. This again is prepared by a youth probation officer, and it can canvass the needs of that youth and the potential danger that youth presents to society and assist the court to make the most appropriate order for the benefit of society concurrent with the need to rehabilitate.

What I would certainly consider to be the most substantive provisions of Bill 63 are really in section 8, which provides the broad range of sentencing options that a judge has when he or she finds a youth before them who's been found guilty of a particular crime. What's important in terms of Bill 63 and where it expands the options a judge has to include custody.... There are a few cases that it expands that option, where a judge didn't previously have the option, of a custodial sentence.

I know there's been some commentary in the media and some focus on Motor Vehicle Act offences. You know, any suggestion that every motor vehicle offence is going to result in a youth being put in custody is ridiculous. The reality is that custody needs to be there as an option for those youth who perhaps have found themselves in trouble under the Motor Vehicle Act on a series of occasions and simply are not getting the message based on all the other tools the court already has. There are those extreme circumstances. I would expect that when it comes to Motor Vehicle Act offences, the option of custody will rarely be used, but it's important to have that option so that a court, when it finds it necessary — for protection of the public, in particular — can sentence a youth to a custodial sentence and really give the state a greater opportunity to focus on how we change that youth's behaviour.

Similarly, the ones I'm particularly glad to see the government has recognized need to be addressed are situations dealing with the exploitation of children. We're adding here an option of a custodial sentence where somebody is convicted of trespassing on school grounds. Now, some might think, "Well, trespass is that terribly serious an offence," but the reality is that we unfortunately have in our society those who are predatory when it comes to our kids.

There are certainly some Criminal Code provisions which will address that, depending on what a particular person is trying to do, but often our police aren't able to gather sufficient evidence to allow a charge to proceed under the Criminal Code. What the trespass provisions of the School Act provide is another option where if we've got folks that persist in attending at school grounds and speaking with our kids, and we're not sure what they're up to, we can ask them to leave. If they refuse, then they're in contravention of the School Act as a trespass.

Obviously, you're not going to look for custody in every single situation, but what this does is provide an

option. Perhaps it's the fellow that we've seen selling drugs to kids in the school yard, but we can't gather the evidence to proceed with a narcotics offence. This maybe provides another option where the courts will be able to show their disdain for that type of activity and ensure an appropriate sentence.

The other one, and this one is critically important, is where we deal with our youth who are sexually exploited. We unfortunately have examples in our communities around the province where you may have a 14-year-old or younger girl who's being exploited by a 17-year-old boy. Often in those circumstances, the way the Criminal Code deals with it.... Certainly it's a crime to live off the avails of prostitution, but that's an extremely difficult crime to prove.

[1155]

How the provincial law deals with that, as I understand it, is that we do have an option under the Child, Family and Community Service Act where we can apply to have what is essentially a restraining order to keep that 17-year-old away from that 14-year-old. We've had that power for some time.

The problem has been that if the 17-year-old ignores the restraining order, we haven't had much option of what we can do with the 17-year-old, and I think we can all agree that 17-year-olds who are conducting that type of activity do need to be dealt with quickly. With public safety paramount in our minds, they need to be dealt with, and it is appropriate that the court have in its basket of tools to deal with the situation the opportunity to provide a custodial sentence.

That's clearly what Bill 63 adds in that respect. There are similar additions in respect of issues around trespass at youth custody centres and the bringing in of contraband substances to youth custody centres. Those, again, are important. They're certainly serious transgressions of the law, and it's important that courts have custody as an option in those circumstances.

I do want to address just very briefly some of the comments made by other members and, in particular,

the member for Vancouver–Mount Pleasant. It seems that in almost each conversation when the member for Vancouver–Mount Pleasant stands up, she's complaining that they haven't had enough time to look at a bill. The reality in the way this wonderful place works is that when Bill 63 was introduced, that's when we all saw it for the first time. Certainly, the Attorney General would have seen it before, given that he was introducing it, but the vast majority of members are in the same boat whether they're on the government side or the opposition side in terms of having an opportunity to review legislation.

As you've seen over the last day and a half, Mr. Speaker, that certainly hasn't limited the government side from speaking out passionately about youth justice issues and about the importance of these issues to our communities. When we're sitting here, it is sometimes tough to take the complaints that the opposition somehow feel they're being treated unfairly. The reality is that we're all bound by the same system of how legislation comes through this House. We deal with that, and we've dealt with it for years, quite frankly.

Noting the time, there are a few other things I'd like to add, but perhaps we could take a recess for lunch. I will start up again thereafter, so I move adjournment of debate.

T. Christensen moved adjournment of debate.

Motion approved.

Hon. G. Plant moved adjournment of the House.

Motion approved.

Deputy Speaker: The House stands adjourned until 2 o'clock this afternoon.

The House adjourned at 11:58 a.m.