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4TH SESSION, 37TH PARLIAMENT

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Morning Sitting

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THURSDAY, NOVEMBER 6, 2003

The House met at 10:03 a.m.

Prayers.

Petitions

Hon. M. Coell: I wish to table a petition from the Active Manufactured Home Owners Association, with 1,363 names, regarding Bill 72 and regulations affecting manufactured home owners.

[1005]

Orders of the Day

Hon. G. Plant: I call committee stage debate of Bill 88.

Committee of the Whole House

PRIVATE MANAGED FOREST LAND ACT

The House in Committee of the Whole (Section B) on Bill 88; J. Weisbeck in the chair.

The committee met at 10:07 a.m.

On section 1.

W. Cobb: My questions are fairly general and not on sections. I have four questions, so I'll start off to the minister, then. As we know, there's a huge amount of outside pressure for the forest harvesting operators to be certified. I'm wondering why we feel it's necessary to control activities when the outside forces are basically doing that for us.

Hon. S. Hagen: There's a greater public good issue here. British Columbians really do care about the environment. The government feels it is necessary to have this bill, which actually takes over the responsibilities that were once under the Forest Land Reserve Act. There are things like streamside protection and those sorts of things that the public really does care about.

W. Cobb: I understand this is a voluntary thing. So if the owners choose not to register and it's actually non-managed forest land, will we have any control or any way of regulating their activities?

Hon. S. Hagen: Yes, the other acts do apply — the Fisheries Act and other acts administered by Water, Land and Air Protection.

W. Cobb: In the act, it also says that we have the ability to penalize or levy penalties against it. If it's voluntary, how are we going to administer it? If it's a voluntary process, how can we in fact enact penalties?

Hon. S. Hagen: When a company voluntarily agrees to enter the program, they also agree to abide by the regulations.

[1010]

W. Cobb: But also in here it suggests that they can opt out. As an individual, if I had a penalty levied against me, I guess I would just fill out the forms and opt out of the process. So would that not preclude...?

Hon. S. Hagen: If they were to opt out, the penalty would still apply. So they'd have to pay the penalty before they opt out.

W. Cobb: Yes, I understand that. I guess the penalty could be far worse than the tax. I mean, you'd have to pay the taxes on it, as I understand it. Then you could opt out, and there's a fee for opting out. Are you saying that the penalty would still be there plus the taxation and the fee to opt out?

Hon. S. Hagen: That's correct.

D. MacKay: Looking at the definition of "exit fee" in the interpretation, I wonder if I could have some clarification at this time. Or should I wait until we get more into the act? I am confused about the exit fee because I understand that the majority of the people.... If the approximately 170 different landowners that now have privately managed forest classification wish to exit the program, the process to exit the program.... What is the exit fee? How do you determine what the exit fee is for those that choose to leave now? And will the fee change if they decide to leave the program a year from now? Will the structure still be the same for those that wish to leave now and those that wish to leave a year from now?

Hon. S. Hagen: If they choose to opt out in the first year of the program, then they won't pay the penalty to opt out.

D. MacKay: So there's no fee attached to leaving within the first year. How do they determine what the exit fee will be should they decide to leave a year from now or after the passage of this bill?

Hon. S. Hagen: There will be a formula devised as part of the regulations, which are not yet done but will be done, I think, by June of '04.

B. Suffredine: When I spoke to this bill at second reading, I raised an issue that had happened near Nelson, where logging had occurred on some private lands just outside the community and there was really no ability under statute to require the rehabilitation of that property. Apart from the concerns about fisheries and whether they polluted streams, there really wasn't any ability to go and make them reforest or guide them in any way. If they're not, under this statute, is there any way to control them? Or does this statute have a way of

dealing with private owners who behave that way in the future?

Hon. S. Hagen: The other statutes will still apply, the statutes administered mainly by Water, Land and Air Protection.

B. Suffredine: I take it that's a way of saying that if the Forest Act didn't apply before, it still doesn't apply now.

Hon. S. Hagen: The Forest Act does not apply now, but the other statutes do apply.

[1015]

B. Suffredine: With respect to things like woodlots, when the ministry now issues a tenure for a woodlot, there is a term. If a private land owner comes to government and says, "I'd like to be governed by this act, and I've filed a management plan," is there an expiring term under which they're released unless they renew?

Hon. S. Hagen: The answer is no. They're in until they decide to withdraw.

I want to take this opportunity. I neglected to introduce the staff I have with me. I apologize for that.

I also want to say that I'm pleased to see the Leader of the Opposition back and in one piece, and I hope that you're okay.

To my left, I have Brett Hudson, acting manager with the policy, legislation and assessment branch of the Ministry of Sustainable Resource Management. To my right is Gary Hall, who is a policy analyst with the Agricultural Land Commission.

Section 1 approved.

On section 2.

J. MacPhail: Thank you for those kind words from the minister.

I have a few technical questions about section 2. Section 2(1) of Bill 88, the Private Managed Forest Land Act, says: "Nothing in this Act restricts a person from carrying out fire suppression activities in accordance with the Forest Practices Code of British Columbia Act and the regulations under that Act." What happens to this legislation when the Forest Practices Code is replaced — I think it's just about five short months from now — in April of 2004 by the Forest and Range Practices Act?

Hon. S. Hagen: There's a consequential amendment at the back of this act which is called the wildfire act, and that will take over the responsibilities that were once under the Forest Practices Code.

J. MacPhail: I'm sorry, I'm missing it. Can the minister please...? Is it section 60 of this bill to which he refers?

Hon. S. Hagen: It is section 60.

J. MacPhail: Well, okay. These are technical questions. I note that there are several references to the old Forest Practices Code in Bill 88 — for instance, in sections 48, 52 and 60. This was interesting. I was going to wait and ask it when I got to section 60. This is an amendment, a consequential amendment, amending the legislation that's before us right now. Perhaps the minister could explain to us why part of this act is amending another part of this act. And what will happen when the Forest and Range Practices Act comes in on April 1? How does that work technically in transition?

Hon. S. Hagen: The amendment will be done by regulation so that there's a seamless transition and so that the wildfire act will come into place sequentially after that.

[1020]

J. MacPhail: Perhaps the minister can just describe for me briefly the Wildfire act — how long it's been in existence and its purpose.

Hon. S. Hagen: The wildfire act has not yet been brought in by the Minister of Forests. It is under development and will be brought in by the Minister of Forests to replace the fire suppression act.

J. MacPhail: I wondered, because I'd never heard of the wildfire act, but that doesn't mean that it didn't exist. But I guess it doesn't exist.

I have struggled with this issue in terms of the amount of legislation that's been brought in by this government that affects forestry, land use, the Forest Practices Code. It's like the old Abbott and Costello: "Who's on first? What's on second?" It's very difficult to follow. But how is it that we now have an amendment...? Section 60 is an amendment to the act in which it is contained, and it amends this act and refers to legislation that is not yet passed — is not even introduced. How does that work? Who's in charge? How do we know what happens if there's a forest fire?

Hon. S. Hagen: This allows us to pass this amendment even though the wildfire act hasn't been introduced. Bill 88 will not be brought into force until the summer of '04, and the regulations will be developed between now and then.

J. MacPhail: As we prepare for the next forest fire season, which will be the spring-summer of '04, how does one know how to manage fire suppression on either private land or public land, given the fact that we actually don't know what legislation applies?

Hon. S. Hagen: If the wildfire act has not been passed by that time, the code will still apply.

J. MacPhail: And how would we know that from this legislation?

Hon. S. Hagen: Because the legislation in section 2 refers to the Forest Practices Code.

J. MacPhail: Yes, I was trying to note the commencement proceedings under section 63, where there's no designation of an orderly transition of how this act comes into force by regulation. Is it that we will be notified by regulation from the cabinet?

Hon. S. Hagen: That's correct.

J. MacPhail: I'm wondering whether the minister could tell me if this procedure for fire suppression activities — either under the current Forest Practices Code, the Forest and Range Practices Act or this new, as yet unheard-of Wildfire act — is subject to review by Gary Filmon, the commissioner reviewing the forest fires of this past summer.

Hon. S. Hagen: To my knowledge, Mr. Filmon is reviewing what happened in the past. I don't know what recommendations he will bring forward.

Section 2 approved.

On section 3.

[1025]

D. MacKay: Looking at section 3, it indicates that exempt from this act are tree farm licences, a woodlot licence area or community forests. I wonder if the minister could explain to me why.... My understanding of a woodlot licence is that there is private land as well as Crown land tied to a woodlot licence. Why does this act not apply to that portion of the woodlot licence that is Crown land?

Hon. S. Hagen: Because that particular forested land would be governed under the Forest Practices Code.

D. MacKay: Okay. Following on that, does that mean the current woodlots are presently classified under the Assessment Act as managed forest land? Do they get that break on the designation under the assessment?

Hon. S. Hagen: I am informed that they will get the tax break they're entitled to, depending on what their classification is.

D. MacKay: I take it that they are not classified as managed forest land currently.

Hon. S. Hagen: It's actually not a tax break, but it would be a lower property valuation.

D. MacKay: Just reading section 3, it says that it does not apply to woodlot licences. However, could a woodlot licence owner apply for membership under this piece of legislation if he chooses to do so?

Hon. S. Hagen: They couldn't be both. They would have to exit the woodlot licence program if they were to enter this program.

T. Christensen: I've just got a few general questions. It seemed appropriate to ask them in respect of the application of the act. Just as an overview, could the minister explain why the government is regulating private forest land?

Hon. S. Hagen: The reason government needs to have this legislation is actually to protect the public values that are associated with that private forest land, which revolve around the environmental concerns that are outlined in the act.

T. Christensen: It's my understanding that previously there was some regulation of private forest land through the Forest Land Reserve Act. Can the minister explain how this differs from how land was being regulated under that legislation?

[1030]

Hon. S. Hagen: This is basically the same as what was required under the Forest Land Reserve Act, except for the council. The nuance here is that the council is a combination of two people from industry, two people from government and an agreed-to chair. The vast majority of the costs of this council, of the administration, are paid for by the industry.

T. Christensen: Will non-managed forested private lands be subject to this legislation at all or be regulated otherwise?

Hon. S. Hagen: The answer is no, but the other acts will still apply.

D. MacKay: Just to follow up on that woodlot licence. The minister indicated that the woodlot licence owner could exit from the woodlot licence program should he choose to be under this new legislation. This may not be a fair question to ask the Minister of Sustainable Resource Management, but would that mean he would have to give up that portion of Crown land that is part of his existing woodlot licence in order to do that?

Hon. S. Hagen: That question should be directed to the Minister of Forests.

T. Christensen: Given that it's only managed forest lands that are subject to this act, not all private forest lands, what incentives are there that would incent me — as a private land owner with forest on it — to want to manage those lands? And what obligations would a private forest landowner take on in falling under this legislation?

Hon. S. Hagen: Probably the biggest benefit is the lower value of the assessment, and also a 50 percent reduction in school taxes.

T. Christensen: For that benefit, what are the corresponding obligations on the landowner then?

Hon. S. Hagen: They're required to abide by the regulations that will be set by the council as far as environmental protection is concerned, and they will also be compelled to reforest.

T. Christensen: To give me some idea of what kind of land base we are talking about here, can the minister give some idea of how big the managed forest class is currently?

Hon. S. Hagen: The size of the combined managed forest is roughly 900,000 hectares in the province.

T. Christensen: How many landowners does that include? Are we talking about two or three big landowners, or is this a large number of small landowners or a combination?

Hon. S. Hagen: There are about 170 landowners now, and it's a mix of large and small pieces of property.

T. Christensen: In terms of some of the consultation around this proposed legislation, is it the minister's expectation that we should see growth in the number of owners or the amount of land that is actively managed private forest land as a result of this bill?

Hon. S. Hagen: I'm advised that it is unlikely for there to be any significant increase, because the companies that were involved under the Forest Land Reserve Act are now being shifted under this act.

[1035]

G. Trumper: I have in my riding a large area of private lands. In one particular area they were looking at trying to become a district municipality. There's a huge amount of private land involved in that. I wonder if you could tell me what sort of impact this act will have on municipalities.

Hon. S. Hagen: I am advised there is little impact. The tax revenues will not be impacted because they were in place under the forest land reserve. This is just a different model of delivering what was delivered under the Forest Land Reserve Act.

G. Trumper: I asked the question.... It was certainly raised by one of the companies situated there as this discussion is taking place about becoming a district municipality. They are most concerned, if the municipality process moves forward, about just what impact it might have on them. So that's the reason I ask the question.

The other general question, if I could ask, Mr. Chair, is.... You talk about the two members of the council. What level of government representative are we looking at? Is this deputy ministers or ADMs, or who would it be?

Hon. S. Hagen: Good question. The Minister of Sustainable Resource Management will make those

two appointments, and it's expected they will come from senior management in the ministry.

R. Hawes: Two quick questions that follow on the line the previous two members were questioning. You mentioned, minister, that the benefit would be a 50 percent reduction in school taxes. Do you know what impact this is going to have — how much in total we would see reduced in school tax collection?

Hon. S. Hagen: That will not change. There would be no impact from this act as far as revenues to municipalities.

R. Hawes: I realize that, but I'm talking about the school tax portion, which is really not a revenue to a municipality. It's collected by municipalities, I guess. Maybe I'm missing something. If they're paying 50 percent less school tax, how can there not be a change in the revenue that's collected?

Hon. S. Hagen: That is already in place; that's not changing. There is no impact.

R. Hawes: I must have misunderstood the previous member's question, then. I thought he asked what the incentive is for someone to sign on and to have managed forest lands. I thought that part of the incentive was a 50 percent reduction in school tax. Did I get that wrong?

Hon. S. Hagen: The roughly 170 companies that are already in the program, because they're now under the Forest Land Reserve Act, are going to move in a seamless transition over to this act. If there are new companies that come in under this act, then there will be an impact because there will be an addition. My advice is that the companies that want to participate are already participating.

[1040]

R. Hawes: Further to the regulatory regime they'll follow under this act — and you mentioned that a big part of this is that we want to get some environmental protection behind this — those lands that are not covered under this act are already subject to a regulatory regime to protect the environment. Is there a difference between those lands and those covered under the act as far as environmental regulation?

Hon. S. Hagen: If the member is talking about private forest lands, then they are regulated under the Fisheries Act and other acts administered by the Ministry of Water, Land and Air Protection.

R. Hawes: Would the lands that are covered under other regulation than this act...? I mean, we're looking to improve the environmental control — I think that's how it's worded here, or something like that — with those that are in the managed forests. Correct? If that's so, what's the difference from an environmental per-

spective between those lands covered under this act and those private lands not covered under this act?

Hon. S. Hagen: For those companies that voluntarily come under Bill 88, the regulations will cover water quality, fish habitat, critical wildlife and soil conservation developed under the regulations of this act. All of those regulations come under this act. Under the other lands, you're looking at the Water Act, the Fisheries Act — several different acts. What this does is consolidate the requirements for environmental purposes.

R. Hawes: That then goes to the heart of what my question is. Would the regulation developed under this act be more stringent, less stringent or the same as the regulation that would apply to non-managed forest land?

Hon. S. Hagen: They would be more stringent.

R. Harris: I've joined this a little late. I apologize if my question has already been asked.

There's already a significant amount of evidence that shows that private forest lands.... There's a tremendous incentive already for owners to take care of it. In fact, the evidence is pretty clear that we actually sometimes get better silviculture results. We actually get second growth that comes in at volumes that are significantly better than the first rotation. I guess the basic question I have is: why are we getting into the business of regulating private lands?

Hon. S. Hagen: It's because there actually are public values out there that the public cares about. What happens on private land often determines what happens on Crown land. There is a public good that's being achieved here under Bill 88 with regard to what the public cares about as far as environmental issues.

R. Harris: That being said, then I would assume that one of the purposes of getting into this is to support the harvesting of fibre off private lands as one of the objectives. In that vein, are landowners going to be required to harvest trees in order to retain that managed forest class?

Hon. S. Hagen: No, they're not.

Section 3 approved.

On section 4.

[1045]

B. Bennett: I have a question around section 4. I'm curious as to exactly what this council will be as a legal entity. It's referred to in this section as a corporation. I understand that it's being created through this legislation. It indicates that there are going to be members appointed under section 6. Not to get ahead of ourselves, but that will be the two plus two plus one, so you'll have five members in this council, this corporation. I'd just like an explanation of how this is going to

be structured. Will the regulations determine how the entity works, how council members come and go and that sort of thing?

Hon. S. Hagen: Just like any other corporation, there will be bylaws developed that will determine the role and the time limits the council members will serve.

B. Bennett: Does the legislation manage the situation where, in the best interests of private forest landowners, a rogue council has to be replaced — you know, in a situation you run into sometimes with private companies where it's necessary to take drastic steps with the directors of a corporation? Does the legislation deal with that? Will there be regulations dealing with that? How does that situation get managed?

Hon. S. Hagen: I have the ability as the minister to audit how these folks are doing their jobs, and there would be a lot of public pressure created if they weren't doing their job well. I also appoint two of the members, and if they can't agree on their members, I can appoint the other members as well.

B. Suffredine: My question is also on the council. Can the minister explain what the impetus was that resulted in the creation of this as a concept? I know that in other sectors there has been a move to self-governance of, say, professionals. Does this concept of coming to a "self-governance almost" model come from industry, come from these 180 companies that are doing managed forests? What's the driving force that results in the minister wanting to do it in this fashion?

Hon. S. Hagen: This is a result of core review, which was done about two or two and a half years ago. As I said before, this is an alternative method of delivering what we were delivering under the Forest Land Reserve Act. Industry is fully supportive of what we're intending to do here, and also, of course, there are the cost savings that go along with that.

Section 4 approved.

On section 5.

B. Bennett: I understand that the Private Forest Landowners Association had indicated at some point during the long period of consultation that they would like in the objects of the act — I guess that would perhaps have been in section 5, "Object of council" — a reference to promoting economic conditions that would be favourable to the private forest land industry. I'm just wondering where that request went, if it was a formal request from that association, and why we didn't include that kind of objective in the legislation.

[1050]

Hon. S. Hagen: The reason that wasn't done is that it would have greatly expanded the scope way past what core review had determined we should be doing.

T. Christensen: I recognize the act provides a broad range of objectives that the council will oversee. Will landowners that fall under this scheme be required to actually harvest trees in order to maintain their managed forest-class status?

Hon. S. Hagen: No. We're not imposing that on them.

J. Wilson: I see that the minister will appoint two of the council members. Will the remuneration for those two members that will sit on this council come from government sources, or will it be paid for through the assessment or the levy?

Hon. S. Hagen: The government will pay for whatever costs there are associated with the two government appointees.

Section 5 approved.

On section 6.

J. MacPhail: I have a series of questions on the makeup of the council — just to pursue it a little bit further from the member for Alberni-Qualicum asking questions on that as well.

The structure of the council is outlined in section 6, but my questions are about the makeup. Will there actually be members designated, appointed, to the council that will represent community groups, local government or the general public? I know they have to have expertise in matters relating to those, but will the appointments actually come from those groups?

Hon. S. Hagen: In answer to the Leader of the Opposition's question, government — the minister — appoints two members, and those members are there to represent the public good. They may not be civil servants. They may be from the public. The two members that are appointed, whose names come from the Private Forest Landowners Association, will be chosen by that association to represent them at the council, and the chair will be mutually agreed to.

J. MacPhail: The minister earlier referred that there may be assistant deputy ministers or higher-level government public servants appointed. Would they be appointed in addition to the public interest members, or would they possibly be the public interest members?

Hon. S. Hagen: There will only be two appointed by the minister, and they will be there to represent the public good — whether they are appointed from the senior civil service or whether they are appointed from elsewhere.

J. MacPhail: Will there be any requirement through regulation or policy from the minister that the council consult public and local governments on decisions it takes?

Hon. S. Hagen: As far as the requirements of the council, the answer is no. But what I've found in my experience in dealing with private forest landowners, particularly more recently, is that they do their own consulting with the local municipality if there's going to be an impact on the local municipality.

J. MacPhail: Will this Private Managed Forest Land Council be subject to freedom-of-information laws?

Hon. S. Hagen: The answer is yes.

[1055]

J. MacPhail: Thank you. I appreciate that.

Under the Forest Land Reserve Act, there were requirements, as I recall, to consult local governments when applications to remove the private land from the reserve were being considered. I think I remember that correctly. So are there any requirements for local government participation in the new method by which development of management plans and their approval by council are carried out?

Hon. S. Hagen: If land is being removed from the private managed forest land, it will then no longer qualify under this act and would be subject to the zoning bylaws of either the local regional district or the municipality.

J. MacPhail: Okay. So just to clarify, when it's removed, it will be up to the local government to then impose requirements through their local bylaws or zoning regulations, to impose public oversight?

Hon. S. Hagen: That's correct. Of course, part of that process is public hearings and that sort of thing.

J. MacPhail: My last question in this section also refers to changes, inquiring of the minister on changes from what used to govern private land, which was the Forest Land Reserve Act, to this new legislation. Under the legislation, the Forest Land Reserve Act, the commission — the Agricultural Land Commission, as it's now called — also had the authority to provide notice to the public and to hold public meetings on the issues around the reserve. I'm curious now about the front end of decisions, before the land is removed. Is there any role in the new process at the front end for the public to be involved?

Hon. S. Hagen: The public consultation or involvement will only take place if the land is being removed.

B. Belsey: I have a couple of questions on the makeup of the council members, the two appointed council members for the ministry and the two appointed council members from the owners. Is there an anticipated term length for these appointments?

Hon. S. Hagen: That will be determined by the bylaws that are structured around the council.

B. Belsey: My second question: does the ministry have the opportunity to, or can they, veto an appointment by the owners if they are not satisfied or assess that appointment?

Hon. S. Hagen: In the normal course of events, no. We would not interfere with their appointments. Only if the council becomes what I would call dysfunctional would the minister get involved.

[1100]

B. Bennett: With respect to the two council members who would be appointed by the minister, there doesn't seem to be anything in the legislation — unless I've missed it — that requires the minister to canvass private forest landowners in any way or consult with private forest landowners on those two appointments. I can see that there might be some concerns that the minister might appoint perhaps a couple of council members inadvertently who might not be representative of the private forest landowners in the province. I wondered: will the bylaws to this council or the regulations to the act include any requirement that the minister consult with private forest landowners on the appointment of the minister's two members?

Hon. S. Hagen: Industry gets to appoint two members that they choose. The minister gets to appoint two members that the minister chooses.

R. Harris: On the same section, dealing with the appointees by the minister, subsection (4)(a) talks about knowledge in matters relating to forest management practices. Is there going to be a limitation in who you appoint? What I want to know is: is this going to be restricted to people who are professionals — registered professional foresters or technicians? When we talk about knowledge, are you actually expanding that to be non-professionals? In other words, what do you mean by that?

I come from this perspective. I know a lot of people in the industry that are significantly knowledgeable about the harvesting and reforestation of timber, who are not professionals, and I'm wondering what the intent is in terms of how you select the people you'll appoint to the board.

Hon. S. Hagen: This part of the act does not restrict me to appointing professionals, but it does require that I appoint people who are knowledgeable about the industry.

Section 6 approved.

On section 7.

D. MacKay: In dealing with the staff of the council, I notice: "The council may appoint employees necessary for its purposes and may determine their duties and remuneration." Given the fact the minister is going to be appointing two of the four, and between the four

they will be determining who the chair is.... If government is going to appoint two, it's my understanding you're going to pay for any salaries associated with the minister's appointments. Does that go down to the council support staff as well? As an example, if somebody on staff that has been appointed by the government determines they want to have a biologist on staff, is the government going to cost-share in that cost to the council?

Hon. S. Hagen: The only costs that are applicable to government are the costs of the two people that are appointed. The rest of the administration costs are borne by the council and, therefore, borne by industry.

D. MacKay: I'm assuming the consultation process was agreed to. What concerns me is government appointees telling the council that they have to make sure the water crossing the private managed land is going to be protected or the wildlife is going to be protected, and it requires a biologist or somebody else that's an expert in the field that the government appointees may feel necessary. I want to ensure the council agrees with that and is willing to pay those costs, without government contributing their share to have those people on staff.

[1105]

Hon. S. Hagen: I think the member has it right. Any of those costs would happen only if they were agreed to by the council — okay? A government member on the council could suggest something, but if the council decided not to support that, then it wouldn't happen. In the case of the example of hiring a biologist, if the council agreed that was necessary, then they would agree to do that, and the costs would be borne by industry.

Section 7 approved.

On section 8.

D. MacKay: I'm just a bit confused when I look at section 8(4), and it talks about the passing of resolutions and bylaws by the council. When I get down to subsection (4), it says: "The council must not refer the making of a resolution, bylaw or regulation to a panel of the council." I wonder if the minister could explain that to me. I would have thought that if a resolution or bylaw had been passed by council, they would in fact run it by a panel of the council to make sure everybody is in agreement with it. I'm confused as to why. It's pretty specific, because it does say: "The council must not...." That part is confusing to me.

Hon. S. Hagen: The panel would be made up of council members — a smaller number — and it wouldn't be appropriate for a group of the council or a panel of the council to be making those sort of decisions without bringing it back to the council.

D. MacKay: I apologize. I missed that. The panel is part of the council? So why would the council not vet

any regulation through the group to make sure that we're in agreement? I don't understand that. I'm sorry. I may have missed your answer, and I just want to get some clarification to that.

Hon. S. Hagen: If you go to section 8(2), it says: "Subject to subsection (4), the council may refer a matter that is before the council to a panel established by the council consisting of one or more council members as determined by the council." I'm not exactly clear on what you're asking, but the panel is made up of the council.

D. MacKay: Well, that's where the confusion.... I'm having a bit of a problem understanding that, because it says: "Subject to subsection (4), the council may refer a matter that is before the council to a panel...." That's what subsection (2) says. Then subsection (4) says the council must not refer the making of a resolution back to the panel. Those two seem to contradict one another. Maybe it's just my misunderstanding and not being able to grasp what is being said there, but it is confusing.

Hon. S. Hagen: I'm hoping I can clear this up for the member. The panels would be dealing with minor day-to-day responsibilities. The council would be dealing with bylaws or that sort of thing. So I'm not sure how else to attempt to clarify it for you. I don't think there's any contradiction there at all.

Section 8 approved.

On section 9.

J. Wilson: Remuneration for the council — is it based on a per diem and the days worked, or is it a salaried position?

Hon. S. Hagen: That has yet to be determined, and it will be determined by the bylaws.

[1110]

J. Wilson: The remuneration, I would assume, paid to the members appointed by the minister would be taken care of. Is the remuneration that is paid to the other three appointed members, paid for by the funding that would come through the percentage of the assessment rate, decided by those three members of council as to what they would get for pay?

Hon. S. Hagen: The money that pays those expenses comes from the fees that are charged to the membership.

J. Wilson: Yes, I understand where the money comes from, but who sets the amount of remuneration that will go to the other three council members? I understand that the two the minister appoints will be taken care of, but do the other three have the ability to

set their own salary or remuneration out of the money that's collected to run the organization?

Hon. S. Hagen: The answer is yes. They are accountable to the membership for those costs.

J. Wilson: I see in (4)(b) that should they run short, they have the ability to collect more money from the members at any given time. They must work on a percentage of the assessed value, I see, as to what they collect for the money that goes to running this council, and they can have a staff hired as well. Other than the general membership, and I assume there would be an annual general meeting, are there any restrictions put on the amount of money that could be assessed to the membership to run this organization?

Hon. S. Hagen: There are no restrictions on how much can be charged, but I'd like to remind the member that the council and certainly the members appointed by the member organizations are responsible to those members.

Section 9 approved.

On section 10.

D. MacKay: Just one quick question dealing with subsection (3) of section 10. This is the annual reporting. It says: "The council must submit the report under subsection (2) to the minister and publish it." Nowhere in here does it indicate that the report is to be distributed to the members of the association. I'm just wondering: is it assumed that that's going to be done? It's specific that it must be delivered to the minister, but nowhere in there does it mention that it should be distributed to the members who are paying for the administrative fees.

Hon. S. Hagen: The effect of the publication of the annual report means that it's available to the members and to anyone else who's interested in it.

M. Hunter: Can the minister point out or indicate where there is an obligation placed on the council to hold an annual general meeting? Corporate governance normally requires that, but I don't see it in the bill. [1115]

Hon. S. Hagen: That will be worked out through the policies that will come out from the council.

Section 10 approved

On section 11.

D. MacKay: I'm just looking at the provisions under which a minister may order an audit of the council's performance, and I have a couple of questions relating to that. First of all, it says: "The minister may order an independent audit by the board...." It doesn't

say he must; it says he may. I wonder if the minister could explain to me under what conditions the minister would order an audit of the performance of the council.

Hon. S. Hagen: If it came to my attention, either through an inquiry by the public or through the media or through a member organization, that the council wasn't doing its job or functioning, then I may require an audit.

D. MacKay: Following up on that, if the minister orders an audit on the council, who pays for the audit that the minister is going to order? Does the council pay for that, or does the minister responsible pay for the audit?

Hon. S. Hagen: That would come out of the minister's budget.

Section 11 approved

On section 12.

J. MacPhail: Section 12 switches to a different theme under this bill. It begins to talk about management objectives. I've got some questions under section 12, but they also really relate to sections 13, 14, 15 and 16, which all describe the management objectives on private managed forest land.

I referred to these sections in my second reading, and I must say I'm pleased about the language in here, because they do include some fairly specific prescriptions for objectives on critical values of land management — values like fish habitat and soil conservation, just to mention a couple. I also note that these values are not new, and they did exist under the old regime.

What I am curious about is how this relates to the Forest and Range Practices Act. Again, this minister is the minister responsible for land use in this province. Of course, the Forest and Range Practices Act will replace the old Forest Practices Code, and it will be actually a new results-based forest code. So here we have what I consider to be a very prescriptive or a substantially prescriptive approach to land values, critical values, when it's on private land. But when we look at the Forest and Range Practices Act, which applies to the values to be upheld on public land, the government moves to a results-based or outcomes approach. Why is the Minister of Sustainable Resource Management imposing a fairly prescriptive regime on the management of private lands; yet his counterpart, the Minister of Forests, refused over and over again to define any specific objectives for public land? What's the difference? Why the discrepancy?

Hon. S. Hagen: There is no discrepancy, first of all. We don't consider these to be overly prescriptive, and they are basically, from a structural point of view, the same as those requirements under the Forest and Range Practices Act.

[1120]

J. MacPhail: Well, I beg to differ with the minister. I was actually in extensive debate with the Minister of Forests when I was trying to pin him down on defining objectives. I asked him very specific questions like: does the soil conservation involve any of the issues related to minimizing the amount of area occupied by permanent roads, landings and excavated or bladed trails? I asked questions related specifically to those intrusions on land and soil conservation.

He said to me: "Oh, I'm not going to tell you. That will all be determined by regulation." Whether they will be determined by regulation — or if or how — was how he responded to me.... I must say I have to disagree vehemently with the minister that somehow these values attached to the management of private land are no more prescriptive than those attached to the public lands. There is nothing in the public or private debate to support the minister's assertion.

Another one, Mr. Chair. I link them together because my concern is also in sections 13, 14, 15 and 16. I asked specific questions about land use objectives related to drinking water, streamside trees, riparian zones — all of that. The Minister of Forests said: "Oh no. All of that will be determined by regulation, and we haven't decided what areas to regulate yet. That will be all by public consultation." Then that's certainly true of fish habitat as well.

Let me put this to the minister. In those public consultations.... Actually, he wouldn't commit to public consultations; he did say stakeholder consultations. In those stakeholder consultations related to regulation of land use objectives under the Forest and Range Practices Act, if a person comes forward and says to the minister, "I want you to replicate the objectives outlined for private land in the Private Managed Forest Land Act for publicly owned land," will the minister have to say, "Absolutely, they're included," as this minister asserts?

Hon. S. Hagen: The objectives under this act are different than the objectives under the Forests minister's act. I think that question should probably be directed to the Minister of Forests, not to me. We're talking about governance under private land here.

J. MacPhail: Actually, when I probe the minister a little more deeply, he backs off completely from his assertions that they're basically the same and then tries to punt the question to a minister who isn't part of this debate at all. The minister said to me that there is no difference between the objectives outlined for privately managed land and publicly owned land, because I'm saying they are different. These objectives, these values listed for privately managed land, are prescriptive and are the way it was under the old regime, but the old regime applied to both the privately owned lands and the publicly owned lands. But this government has changed it.

Now, for some reason, the great free enterprise government is being very prescriptive with the land

values, the objectives and critical values applying to private lands. But they refuse to even say whether they're going to have objectives — such as protection of fish habitat, protection of drinking water, soil conservation — for publicly owned lands.

What I'll do is.... Well, I won't have to do it. There will be people who will be part of the stakeholder process for determining the objectives on publicly owned land, who will take this minister at his word and say there is not a difference. Then they will be able to assert — by his own words — that the very specific critical values and objectives listed in a prescriptive fashion under this legislation should also, and will, apply to publicly owned lands.

[1125]

Hon. S. Hagen: I just want to reiterate. I don't consider these objectives to be prescriptive, because they don't lay out when and where and how. They are results-based. The objectives will be set by regulation, and the objectives, in fact, are different between private and public lands.

Sections 12 and 13 approved.

On section 14.

M. Hunter: First of all, on the fish habitat section, I think the private managed forest landowners I have become familiar with would say — and I would agree with them — that the objectives set out here are objectives they endorse and which many of them, if not all of them, achieve and surpass on an ongoing basis in their day-to-day operations and the husbandry of their private lands, so I don't have a particular difficulty with the objectives set out.

I also think the minister knows I have had a great deal of difficulty understanding and accepting some of the prescriptive measures set out by the previous government under the streamside protection regulations. I think I understand — and I'd like him to confirm — that by setting these objectives, we are not making the mistake the last government did of pretending that the writing of words actually means that kind of prescription.

I'd like the minister just to confirm that these objectives are not trying to replicate the bad management of the streamside protection regulations under the Fish Protection Act.

Hon. S. Hagen: The answer is no. These don't replicate those prescriptive regulations.

M. Hunter: Having established that and listening to the discussion between the Leader of the Opposition and the minister, I understand there will be regulations that will define the fish habitat issues, amongst others, a little more carefully. Can the minister explain to me where in the bill — or is it going to be in a regulatory structure? — these objectives are translated into part of

the commitment we are seeking and expecting from the private forest landowners under this bill?

Hon. S. Hagen: The members who participate under this will have to sign an agreement when they join under Bill 88. They will have to sign an agreement to abide by the act, which is Bill 88, and by the regulations that will be developed between now and when the act goes into force.

M. Hunter: Okay, so there will be a set of regulations and an agreement that the council members will sign on willingly. Aside from the minister's audit function, which I think has more to do with corporate governance than performance on the land, how will the council measure the performance of its members in achieving the commitments they enter into willingly?

Hon. S. Hagen: The council has the authority to enter on the lands to make sure the owners are abiding by the rules they agreed to abide by when they signed on.

M. Hunter: And does the minister foresee that when he says the council will do this, the council will hire professional foresters or biologists or whatever the discipline might be that's appropriate? Is this going to be part of the council's structure — a professional staff that will have that audit capability?

Hon. S. Hagen: My expectation or the expectation of the minister would be that the council would hire people who are professionals or have the knowledge about what they're looking for or at — the knowledge to carry out those duties.

[1130]

R. Harris: Just a comment, first of all. I do disagree quite a bit with the Leader of the Opposition's comments about this being a prescriptive framework. As a matter of fact, as someone who worked in this industry for a long time — and a lot of that under the Forest Practices Codes — I understand very clearly what prescriptive really means and especially how it translates into this industry.

These actually do reflect values and objectives and allow people the opportunity to use their expertise to actually achieve them. There was more than one occasion I can remember, working in this industry, where we followed prescriptive measures that we had a pretty good idea were not in fact going to protect the value we were trying to protect. In fact, it was going to harm it. Because of the nature of the code and the nature of the directions, we actually did things that didn't work well for riparian zones, didn't work well for fish specifically, and went through a number of regimes.

This is the way to do it. When I listen to the Leader of the Opposition, it really reconfirms that when you have people talking about this who actually don't know what it looks like on the ground, you sometimes do a lot more harm than you do good. It just sort of struck me as I was listening to the previous member

asking questions. At the end of the day for these councils, is their goal as a council around private lands to achieve certification for themselves from a marketplace perspective? Maybe you can talk a little bit about how that could work or how these councils could set some long-term visions that actually work for them.

Hon. S. Hagen: That's an excellent question. It won't be a goal of the council to do that, but it certainly, I'm sure, is the goal of the individual members — the companies that are members. I mean, we all know the importance of certification as it relates to market and being able to sell the product. The rules and the regulations that will be there will, I think, assist the companies to be able to say what they do to get that certification.

R. Harris: Maybe just a little follow-up on that. Within the private lands there are certainly some significantly large private landholders who will be pursuing that kind of tack on their own just because, from a commercial point of view, that is in fact their business.

I guess I was thinking in terms of the smaller operators — people that actually, in another world, may work in the small business program with the Forest Service. Is there a role for the council to play in assisting that collective group to achieve some kind of certification? I go to that because as government, we're appointing two appointees, and in a broader marketing campaign it probably works to our advantage to help these smaller guys reach that level of certification. Do you think there will be a role for us to play in helping to guide councils for smaller landowners who want to mix harvesting along with possibly what else they do with their land base in achieving certification?

Hon. S. Hagen: The member makes an excellent point. I think the answer is that what the council does will assist those companies to achieve what they have to, but I see the role the member is looking for to be a role of the association that they belong to more than a role of the council.

[1135]

Sections 14 and 15 approved.

On section 16.

B. Belsey: The reforestation. We've talked a little bit here about prescriptive versus what we're trying to do with results-based. In the reforestation process.... Certainly, in the past it has been very prescriptive. We've gone and had the elimination of certain types of trees and planted others, looking at local markets and looking at what kind of tree we can sell into the various markets. My concern is how much freedom the landowners will have under this legislation to plant trees of their choice, or maybe a variety of trees of their choice, on their own land.

Hon. S. Hagen: Actually, I could see that question being asked of a different government, who may or may not believe in the private ownership of land. We believe in

the private ownership of land, and the people who own those lands will be able to plant the crop they think they should be planting and that they can market.

The Chair: Member for Cariboo North on section 16.

J. Wilson: Mr. Chair, actually, section 15. I got missed there, so if I could go back....

The Chair: Proceed.

On section 15.

J. Wilson: "Critical wildlife habitat" is something we should, I think, take a pretty hard look at here, because in some instances we tend to get bogged down with this. Can the minister give us a definition of what they would mean by critical wildlife habitat?

Hon. S. Hagen: The habitat that is talked about here would be described under the Forest Practices Code or the new act. It would be for land required to maintain critical wildlife that might be endangered as described under the Ministry of Water, Land and Air Protection.

J. Wilson: Then I am led to believe that the habitat that would be necessary to preserve an existing species or population in an area is what we're looking at in this case. We would want to harvest trees in accordance with the requirements of that set population there.

Hon. S. Hagen: The member is, I think, more or less correct in his assumption. There is an opportunity, though, for the owner of the land to enter into an agreement with the minister responsible to determine how much would have to be set aside for the critical wildlife habitat.

Sections 15 and 16 approved.

On section 17.

D. Hayer: I'd like to ask the minister what impact this will have on local government. Will this affect their revenues? Another part of the same question is: will the local governments be able to put undue restrictions on these lands?

Hon. S. Hagen: The answer is no, there would be no impact on revenues in municipalities. The members who join under Bill 88 will be protected from undue restrictions placed on them by municipalities.

[1140]

B. Belsey: It's laid out in here that there is a fee for applying, with your application to fall under the act, and that there's a fee for withdrawal. Is there any fee for amendments that might be made during the time between the application, or being a member of this, and the withdrawal?

Hon. S. Hagen: The only fee is the fee charged to come under the program.

B. Belsey: Then I'm to understand that there's no withdrawal fee?

Hon. S. Hagen: I think the member is a bit ahead of himself. If he turns to sections 18 and 19, it describes the exit fee.

B. Belsey: It's not often I get ahead of myself. But thank you — through the Chair to the minister.

I wonder if the minister would share with us some of how they've consulted with local governments, landowners and the public. Are they supportive?

Hon. S. Hagen: Bill 88 was drafted in consultation with Water, Land and Air Protection; Ministry of Forests; Ministry of Community, Aboriginal and Women's Services; agencies including the Forest Practices Board, Forest Appeals Commission, Treasury Board staff, Crown agencies secretariat; the UBCM; administrative justice project; and the membership of the Private Forest Landowners Association. We have the support of those groups.

B. Belsey: My second-to-last question. I wonder if the minister would share with us how this legislation will prevent landowners from using the managed forest class as a temporary tax shelter.

Hon. S. Hagen: I'll refer the member to section 19 in particular, which describes the exit fee. One of the purposes of the exit fee is to prevent that.

B. Belsey: My last question: what penalties will apply to the landowners that contravene the act or the regulations?

Hon. S. Hagen: The council can issue stop-work orders, remediation orders and up to \$25,000 in fines.

Section 17 approved.

On section 18.

D. MacKay: I might be jumping ahead of myself here, because these questions dealing with sections 18 and 19.... I have two questions — a question on each one of those sections. I think it may be premature to ask the question, but I'm going to ask it in any event.

The first one deals with the exit time that will be determined for someone to leave the program, should they decide. Is that something that will be determined by the council itself? In other words, if somebody decides to get out of the program, I don't want to see a situation where he's going to be stuck for two years while they determine whether or not he should be allowed to leave the program.

Hon. S. Hagen: The exit fee will be calculated by the council according to regulations that are to be drafted for this act.

[1145]

D. MacKay: Okay, that's fine. Thank you, Mr. Chair.

Sections 18 to 21 inclusive approved.

On section 22.

D. MacKay: My final question in committee stage on this bill. Dealing with section 22, it says: "The council may require that an owner or a contractor, an employee or an agent of the owner submit records in that person's custody...." My question is: how will they collect those records? Will it be by a written request to the owner? Will it be by an order from the council or a mix of those two?

Hon. S. Hagen: It's probably going to be a mix of those two. Don't forget that as these companies join under this, they agree to abide by the act. That gives the council the right to require them to supply records.

Sections 22 and 23 approved.

On section 24.

B. Belsey: The right of entry by government onto the private land — will those rights be the same on the land that falls under the Private Managed Forest Land Act as on land that's not covered under this act? In other words, is there any difference in the rights...? My concern is that someone who doesn't join this — to have their private land managed under this act... Will there be any difference in who can come on their land or who can...? Somebody within the Wildlife Act... Any critical habitat concerns that might differ from one to the other?

Hon. S. Hagen: The Ministry of Water, Land and Air Protection will have the same rights to enter these lands as they have to enter other lands.

Sections 24 and 25 approved.

On section 26.

B. Belsey: Can landowners appeal decisions and penalties under the act?

Hon. S. Hagen: Yes, they can appeal to the Forest Appeals Commission.

Sections 26 to 63 inclusive approved.

Title approved.

Hon. S. Hagen: I move that we report the bill complete without amendment.

Motion approved.

The committee rose at 11:49 a.m.

The House resumed; Mr. Speaker in the chair.

**Report and
Third Reading of Bills**

Bill 88, Private Managed Forest Land Act, reported complete without amendment, read a third time and passed.

[1150]

Hon. G. Plant moved adjournment of the House.

Motion approved.

Mr. Speaker: The House is adjourned until 2 p.m. today.

The House adjourned at 11:50 a.m.