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4TH SESSION, 37TH PARLIAMENT

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TUESDAY, DECEMBER 2, 2003

The House met at 10:03 a.m.

Prayers.

Orders of the Day

Hon. G. Abbott: I call committee stage on Bill 89.
[1005]

Committee of the Whole House

BRITISH COLUMBIA RAILWAY
(REVITALIZATION) AMENDMENT ACT, 2003

The House in Committee of the Whole (Section B)
on Bill 89; H. Long in the chair.

The committee met at 10:06 a.m.

On section 1.

J. MacPhail: What happens to the British Columbia
Railway Finance Act?

Hon. J. Reid: I'd like to start this morning by intro-
ducing two of the people with me today: Chris
Trumpy, the Deputy Minister of Provincial Revenue;
and Yvette Wells, the executive director of Crown
agencies secretariat. They have put an enormous effort
into the B.C. Rail revitalization process. I'd like to ac-
knowledge them and thank them.

With regard to the member's question, absolutely
nothing happens with that act.

J. MacPhail: Why?

Hon. J. Reid: The British Columbia Railway Fi-
nance Act enabled the B.C. Railway Company to bor-
row and conduct their business. Since the B.C. Railway
Company still exists, we have not seen the need to
amend the act.

J. MacPhail: Mr. Chair, just for the Table's infor-
mation, the reason why I'm exploring this is because the
only place that talks about the actual deal is in this sec-
tion. The revitalization agreement — the definition of it
is the deal that was negotiated with CN. I'm trying to
find out what still exists in B.C. Rail that would require
the B.C. Railway Finance Act to continue. The B.C.
Railway Finance Act is about the B.C. Railway Com-
pany being able to borrow. That's what the whole act is
about. I'm trying to find out what it is in the revitaliza-
tion agreement that would necessitate the British Co-
lumbia Railway Finance Act still being in existence, a
company that would still need to borrow. Who in the
B.C. Rail Group still needs to have access to the B.C.
Railway Finance Act?

[1010]

Hon. J. Reid: In BCRC, within the B.C. Railway
Company, there are still a number of segments. It'll

take two to five years to wind up those parts. That will
include Vancouver Wharves, Captive Insurance, Finlay
Navigation and the B.C. Railway properties. Within the
B.C. Rail Company will be the land and the railway as
well as the lease. If the member is suggesting that we
repeal the finance act, we'd certainly look at that. We
don't believe it's going to be active in the ongoing job of
the B.C. Railway Company, but there still are active
components in the B.C. Rail Company and will be for a
number of years yet.

J. MacPhail: I'm just wondering. We're here debat-
ing a piece of legislation about a deal that hasn't even
been signed yet. There have been claims made by the
government. One of the claims the government made
was that taxpayers are getting rid of a whole bunch of
debt, which is not true, of course. It's not true at all.
There's absolutely no mention in Bill 89 of a repeal of
the British Columbia Railway Finance Act, which is
there simply to manage the debt — both the servicing
and borrowing of B.C. Rail.

Did the government not think about that act? Why
is it not dealt with here? If the government's claims are
as legitimate as they say, it should have been part of
this whole package. It should have been a consequen-
tial amendment to this legislation. This just struck me
in doing my research. The only reason this was even
brought to my attention is because, in doing my re-
search of reading the original act, I first of all turned to
the B.C. Railway Finance Act.

I thought: well, why aren't they repealing this?
They said the government is getting rid of all of the
debt of B.C. Railway. Clearly, in the subsidiaries the
minister just mentioned that are part of the B.C. Rail
Group of Companies, not one of them has future an-
ticipation of borrowing anything. In fact, the govern-
ment is selling them off. Those companies are not in
any way looking at borrowing money. It's curious to
me why this government is keeping that act in legisla-
tion or why it didn't occur to them that to back up their
claim of getting rid of all the debt, they should also
repeal that legislation.

What are the companies that CN is buying?

Hon. J. Reid: CN is acquiring the shares in B.C. Rail
Ltd. and the interest or units in the B.C. Rail Partner-
ship.

J. MacPhail: And they will be the sole owners of
shares in those companies. In other words, they're buy-
ing those companies. Is that correct?

Hon. J. Reid: They will be the sole shareholders.

J. MacPhail: We're going to have a really rough day
if the minister doesn't want to admit to the fact that CN
is buying B.C. Rail Ltd. and B.C. Rail Partnership. I
know the minister has been told not to mention the
word "privatization," not to mention the word "buy"
and not to mention the word "sell." But for those of us
who aren't idiots, we know that CN has bought two

companies. Everybody in the Liberal caucus may be in denial about this, and everybody in the Liberal executive council is sure not admitting to this, but CN bought outright and is now the sole owner of B.C. Rail Ltd. and B.C. Rail Partnership.

I understand why the government refuses to use those words, because then they'd have to admit that they broke a promise. They'd have to admit they sold B.C. Rail, and they'd have to admit that what they said in the election isn't what they're doing now. I'm going to be very careful with my own language, Mr. Chair. I promise you. But they would actually have to say that what they promised the voters of the north in the election not only is not reflected in this act but is a complete reversal, a contradiction of the promise they made.

[1015]

Now, Mr. Chair, in describing in his own words the revitalization agreement that is included in the definitions section, section 1, CN CEO Hunter Harrison.... I love that phrase — CN CEO Hunter Harrison. You could have a song made about that man, and he's a very successful businessman. He paid, as he said, \$750 million to buy the business. He's not afraid of admitting what he got for his shareholders. The government refuses to say what they took away from their shareholders. Privatization. Yeah, it's privatization. Selling something that was a Crown asset is privatization.

Now, the other thing is in this revitalization agreement.... We're going to get to the definition in a moment. Here's what I know about the revitalization agreement so far. The government claims it's a billion-dollar investment. Well, it's not \$1 billion. First of all, the \$250 million in terms of tax credits that CN will get is not even guaranteed, but it may happen. It may happen that the tax credits come from taxpayers.

So not only are British Columbia taxpayers getting ripped off by this deal, all Canadian taxpayers are getting ripped off to the tune of \$250 million, and they didn't even get to claim that a broken promise was made to them. British Columbians can say, "Oh, the government broke a promise," but the rest of Canada doesn't even get a say in that — the \$250 million that CN will get directly out of taxpayers' pockets in using tax credits to avoid paying taxes in this country. That's great. The government's cut a deal with the company to avoid paying taxes to the tune of 250 million bucks.

Secondly, under the definition of revitalization agreement....

Interjection.

J. MacPhail: Yeah, it might be good advice to the Minister of Community, Aboriginal and Women's Services that his cheek is completely inappropriate because, of course, what I'm putting on record is correcting the misleading statements that the government caucus members made and the misleading statements that their own cabinet made. The Attorney General made a speech yesterday, and we were sitting there

going, "What is he talking about?" — let alone the Solicitor General in his speech.

This is actually the time when facts are put on the table. The deal's down to \$750 million now. That's the maximum, maximum available. What happens? Well, \$500 million of that \$750 million comes in and out to write off B.C. Rail's debt. Now, what does that mean — writing off B.C. Rail's debt? Well, let me ask that. What does it mean?

Hon. J. Reid: Mr. Chair, in committee stage the member suggested that this could be a long day. I'm certainly willing to answer the questions on the bill before us as concisely and as exactly as I possibly can for the record. Some of the comments made are reminiscent of the second reading debate. Rather than respond to what I believe are large inaccuracies that have been proposed by the member opposite, I would like to bring my comments back to this bill and back to some of the questions that I believe pertain to the technical aspects of this bill. Since so many suggestions have already been put on the floor, I will try to deal with some of them.

[1020]

I think I'll start by concisely explaining what this bill is to achieve. There are a number of aspects to this bill, and the purpose of this is to do some very practical things. One of them is to enable the revitalization agreement to take place. Another is to be able to restructure the land within B.C. Rail to make sure that the railway properties of the right-of-way, the tracks and the railbed are preserved in perpetuity and to be able to consolidate that in an efficient manner and, as well, to be able to conclude the business arrangement with the revitalization partner.

One of the questions was around the shares, the disposition of the shares. The disposition of the shares of a company is a common business practice that allows a private sector operator to take on the whole of the railway operation side of the business, including all the assets and the liabilities. It's legally straightforward. It presents the least-cost method of taking on the railway operations business. Otherwise, each individual asset would have to be transferred. This is straightforward. This is common business practice.

It's also the mechanism to be able to allow the tax pools to be accessed, and that was set up under the arrangements that the previous NDP government did with B.C. Rail, to be able to construct it in a manner that allowed those losses that the taxpayers of B.C. were having to support to be accessible in some future way.

So this is a straightforward arrangement and, I believe, makes sense from a business point of view.

Interjection.

The Chair: Order, please. Order, please.

Hon. J. Reid: I will again, Mr. Chair, do my best to answer the questions in a very straightforward, concise manner.

J. MacPhail: Well, the minister didn't answer my questions. What she did explain was that it's common practice when you're selling a business to sell the shares. Right. The opposition agrees with the minister. She sold the business. She did it in a straightforward, common business practice way of selling a business; she sold the shares. Check. We both agree now that this government has sold B.C. Rail and the B.C. Rail Partnership. They've privatized a publicly owned asset. Why is it privatized? Because they sold the public company that will continue to operate in exactly the same fashion, maybe, for five years by a private company. The private company bought it.

Then the minister tries to say: "Oh, don't worry about those tax pools. It was the previous government that did it." How many times is this government going to try to hide and back away from its own actions? It takes every available mechanism, exercises that available mechanism — which has gone unused by every previous government — and uses it to sell a publicly owned asset. That's what the minister and her government... Actually, I think it's what the Premier has done. I don't think the minister had anything to do with this. This was operated right out of the Premier's office.

Anyway, we agree; we actually agree. It was common business practices — the methods this government used to sell B.C. Rail. Yes, this government is now using previously unused tax credits — which were never used by the previous government, because B.C. Rail was a publicly owned asset — to give to CN Rail to reduce the price they're paying for this to \$750 million.

My question, though, was: under the revitalization agreement, how will the debt be treated? Tell me what it means for taxpayers. I don't actually use B.C. Rail. I did when they had passenger service, but now they no longer have passenger service, so I don't use B.C. Rail. What does it mean — the write-off of the debt, just for taxpayers who don't use B.C. Rail?

[1025]

Hon. J. Reid: I am surprised that the member isn't aware that it's the government that borrows the money and lends it to the Crown corporations. With this transaction, when the Crown corporation receiving the proceeds pays off the debt, it pays that debt off to the government against what is owed and originally borrowed by the government.

J. MacPhail: This is called committee stage debate to actually find out what's going on here. These questions are actually to reveal details that the government has misled the public on this. Let's see. Someone, just anyone who is not a customer of B.C. Rail... How much was coming out of our pockets to service that debt?

Hon. J. Reid: I believe the member is talking about the impact on the taxpayer of B.C. Rail's debt. I'd like to remind the member that when we talk about the past

debt of B.C. Rail — the \$860 million that was written off — the term write-off only means it was taken off B.C. Rail's books. It's still on the government's books. That money is still owed. It hasn't disappeared, so the money that has been owed by B.C. Rail in the past is still owed to this day. It is still being paid by the taxpayers of B.C. The \$500 million, while that was on B.C. Rail's books.... The proceeds will pay off that \$500 million.

The exposure to taxpayers happens in a number of different ways. The exposure to taxpayers can happen because B.C. Rail, continuing to exist as it had while we were shrinking the assets and the costs of B.C. Rail... If we had wanted to invest in B.C. Rail, that is a risk to taxpayers. If we had needed money and had to borrow money, again, the government has to borrow that money and it shows up on the government's books. There are many different ways that taxpayers are exposed and many different ways that taxpayers are at a risk — never knowing the future of B.C. Rail and why the \$500 million is being actually paid off in this debt.

The future risk, as evidenced by the \$860 million from the past that taxpayers are still owing and still paying on, is there. The question of whether the taxpayers are well served by this deal, I believe, is a resounding yes.

J. MacPhail: Perhaps the minister could answer my question. I asked about the \$500 million debt that the government is claiming will save — now that CN is taking over that debt — the taxpayers money. They made a claim that the taxpayers will save \$30 million a year on that. What is the basis for that claim?

[1030]

Hon. J. Reid: As I stated, there are a number of exposures and risks for the taxpayer. If B.C. Rail was going to have an investment above what it was investing today, which was too little to service the needs of its customers, that added debt burden is ultimately an exposure for taxpayers. While B.C. Rail was at this point in time able to service the remaining \$500 million in debt, it was not able to service the \$860 million worth of debt, which taxpayers still service and still owe. The exposure goes on; the risk goes on.

Was B.C. Rail able, at this point in time, to handle its existing debt load? Yes, as long as it didn't reinvest in the railway, which was not serving anybody's purpose.

J. MacPhail: I can understand why the minister wants to avoid answering this question with gobbledygook. The \$860 million is unaffected by this deal for the taxpayer, and the government made a claim in their announcement that taxpayers would be saving \$30 million a year as a result of this sale. Is that true?

Hon. J. Reid: The problem we've had with B.C. Rail, which is evidenced by the financial history, is that ultimately B.C. Rail's risk is the province's risk. While it was able, at this point in time, to pay the cost of its debt

by using that money to pay debt, it was not able to pay investment. If we wanted more investment in B.C. Rail, it would be an added exposure to taxpayers because we would have had to borrow more money, which would have raised the cost of servicing the debt, which was not allowing B.C. Rail to be sustainable on into the future.

So while the member would like to be able to contain this down and separate it off, ultimately it is the taxpayers' risk. Again, going back to the \$860 million that was B.C. Rail's debt and that was taken from B.C. Rail's debt to become the province's debt, we still owe that today. Ultimately, it is the taxpayers' risk.

J. MacPhail: Is it true that the taxpayers are saving \$30 million a year in debt-servicing costs as a result of this deal?

Hon. J. Reid: Mr. Chair, I believe this is the last time I'll answer this question. There will be \$30 million saving in debt-servicing cost that has been serviced by B.C. Rail. That debt-servicing cost means there isn't money to reinvest. It's a refusal to keep borrowing money for B.C. Rail. It is an exposure to taxpayers. Ultimately, the taxpayer benefits by being able to pay off this debt. Mr. Chair, I believe the question has been answered, and I would suggest we move on.

J. MacPhail: Yes, I'm sure the minister would like to move on because she knows that she is not revealing the facts, and that's why she won't answer the question. There is absolutely no saving in debt interest costs to the taxpayer at all from this deal, not one single cent, and the minister knows it. She gets into some sort of: "Oh, but what about the future? What about the past?" She knows full well that the claim her government is spinning out there — that this deal means anything for the taxpayer in terms of debt servicing — is simply wrong. That's why she refuses to answer the question. She knows it.

[1035]

The people who were paying those debt-servicing costs are the shippers. They're not going to get one price break, not one single cent of price break because of the changes in the debt. The minister knows that. She talks about some future aspect. What has that got to do with anything in the claim that the minister made about this deal saving the taxpayer \$30 million? It's completely misleading. The proof of the pudding is that the debt is just being transferred to CN, and CN will continue to pass those debt-servicing costs on to the people who bore it before, who are the shippers.

There's no benefit to the taxpayer by that, because the taxpayer was not paying any costs before. The \$860 million that was written down as debt continues to have to be serviced by the taxpayer, and the government can't in any way claim that there would have been future costs of debt servicing. They made a statement — a misleading, inaccurate statement — in their announcement that there would be \$30 million saved, and the media just reported it. The media just simply

reported it as if it were true. Well, that's not actually accurate. Brian Lewis got it right. Others got it right.

Let's be clear, Mr. Chair. This may be a sensitive point for some people in this Legislature, but the vast majority of that debt was incurred by a previous government who had every good intention of opening up the economy around Tumbler Ridge — \$600 million. In fact, some of those people still sit on the government benches. Different party — well, actually it's not a different party. It's exactly the same party with a different label. That's what it was about. That previous debt has absolutely nothing to do with this deal or the misrepresentation by this government.

When will the deal be signed?

Hon. J. Reid: The closing is after the competition bureau completes its review.

J. MacPhail: When is that? What's the process for that? Can the minister explain what the competition bureau is?

Hon. J. Reid: The competition bureau is a federal agency that reviews commercial transactions to ensure that competition isn't adversely affected. This proposed transaction has been submitted to the competition bureau, and we anticipate it would be three to six months for it to complete its review.

J. MacPhail: So we're three to six months away from the deal being signed. What happens in the meantime?

Hon. J. Reid: Right now and until the competition bureau completes its review, it's business as usual for B.C. Rail. Meanwhile, there is transition planning going on with CN. As well, there is a joint RFP that's been issued for tourism rail services with BCR and CN.

[1040]

J. MacPhail: So will it be a minimum of three months before...? Well, let me ask this. Is it a finalized deal that's being submitted to the competition bureau, and has the federal competition bureau got that now?

Hon. J. Reid: The competition bureau has been presented with all the proposals of the transaction.

J. MacPhail: Is it the final deal?

Hon. J. Reid: If the competition approves it, it is the final deal. If the competition bureau suggests modifications, it can be modified.

J. MacPhail: So what rights does the federal competition bureau have over this deal? What are the possibilities?

Hon. J. Reid: The competition bureau can impose remedies to ensure that competitive market forces continue to operate. They do this by a consent order. They

also are able to provide shippers with legal remedies to enforce the remedies they might propose so that there is a greater certainty for shippers, and it makes sure that the proposed transaction does allow competitive market forces to be ongoing.

J. MacPhail: Why is it that the public can't get to see this deal? Let me ask this: do the shippers have the deal so that they can intervene in these hearings?

Hon. J. Reid: The shippers have not seen the final proposal. What the shippers do have is access to the competition bureau — to meet with them, to express their concerns, to make sure that their concerns are a matter of record and that the competition bureau is indeed taking their concerns into account.

J. MacPhail: How do they do that if the shippers don't have the deal? Do the shippers just go and hand-writing about what they think might be in the deal?

Hon. J. Reid: Actually, I can't say how the competition bureau works and how it goes about its business. It is interested in the outcome. The shippers are interested in the outcome. We're interested in the outcome. While the competition bureau has the information, what they decide to share with shippers in order to facilitate that, I cannot say. Again, it is a good process to make sure that the competitive forces are still at work. I believe it is a healthy process for British Columbia and look forward to the outcome.

[1045]

J. MacPhail: Can the minister point to their back-grounder or anywhere in their news release...? I missed it, but I've been very busy. Where in the news releases or the back-grounder does it say this has to be approved by the federal competition bureau and the steps to be taken? Then my next question on that is: why is it that the minister doesn't know about what the process is? Why is it that the competition bureau gets the information, but those who may want to intervene don't?

Hon. J. Reid: It appears in two places. One is on page 10 of the government's news release, saying that other steps in this process are reviewed by Canada's competition bureau. It also appears in CN's news release that the transaction is subject to approval by Canada's competition bureau. It does appear in both places.

Again, the competition bureau, while we certainly understand its purpose and its overarching goals, how they actually work through that... It is a federal agency. We submit to them the proposed agreement, and then they work through that. Their expertise, their understanding and also the other opportunities they've had to review such situations give them the ability to ask the proper questions, to look at whether the remedies are inherent in our proposed transaction and to be able to come up with their recommendations.

J. MacPhail: I'm sorry; I've got a news release here that has nine pages. Where is page 10?

I assume somebody's going to send it over to me. I went through the information — what I was given — with a fine-tooth comb, and believe you me, there are many people who are having to search for details beyond details of this agreement.

Surely the minister must have a legal opinion on the advisability of the actions of the competition bureau, because this creates a monopoly. Actually, by the government selling B.C. Rail to CN, there is a monopoly that exists now. Surely the minister must have included that... There must be a legal opinion.

Hon. J. Reid: For customers of B.C. Rail previously — because B.C. Rail, of course, has been a monopoly on its line — their competition is with the trucking industry. That competition continues to exist. For shippers who are going outside the province, our open gateway proposal, which will be embedded in contract, is what enables the competition to be ensured.

[1050]

We are confident, in working through this and again with transactions that have happened in the past, that the competition bureau will find the remedies we have built into the proposed transaction with the open gateway, the remedies to shippers, will indeed provide that competition — the competitive forces that are necessary.

J. MacPhail: It's lucky I'm pursuing this because the minister grows with confidence. Even though she says she doesn't understand how the competition bureau works, she grows with confidence as we ask questions. This process is extremely positive.

What other examples does the minister...? The minister just referred to other circumstances that have happened before. What are other circumstances that would be similar to this?

Hon. J. Reid: The competition bureau had a look at the ONR, the proposed railway transaction in Ontario, so they do have experience in looking at these transactions. We were able to benefit from that experience — the discussion that went on there, the remedies that were proposed to deal with competitive forces. We were able to take all that into account as we prepared this transaction.

J. MacPhail: Is the minister referring to the Ontario Northern Railway? Is that what she means by ONR?

Hon. J. Reid: It's the Ontario Northland Railway.

J. MacPhail: Is the minister using that as an example of what has occurred or may occur here in British Columbia? Just checking.

Hon. J. Reid: We were able to use that as an example of what could be proposed, what wasn't enough to be proposed. We were able to go further than that in this transaction.

J. MacPhail: Just so that people understand, in no way does the sale of B.C. Rail to CN, thereby creating a rail monopoly, match the Ontario Northland Rail — in any way match the circumstances that occurred there. CN was guaranteeing that there would be huge job loss from there, so maybe that's what the minister was looking at — the job loss situation. Certainly a monopoly was not even contemplated in that situation, as there is a rail monopoly now being created by this government.

Now, I note the government is saying that this will all be in place. I'm just trying to give people hope that they have a chance to actually get this government to live up to their promise they made during the election. That's why I'm pursuing this, Mr. Chair, about the revitalization agreement, which is defined in section 1.

If it takes three to six months, when did the competition bureau start their work?

Hon. J. Reid: Background information on B.C. Rail was provided to the competition bureau in October so that the competition bureau would be aware of the history and the forces at work in British Columbia. I believe their work with CN began yesterday.

[1055]

J. MacPhail: I'm sure the competition bureau would actually like a deal to look at. That's what their business is.

So they started the work yesterday. That's December. If they take the six months, then how is it that the government could possibly claim this will be implemented in the first quarter of 2004? I assume they mean the first quarter of the B.C. fiscal year, which would be April to June. Well, if this competition bureau just started the work, that's really stretching it — isn't it?

What takes place after the competition bureau has made its decision, assuming a best-case scenario for CN?

Hon. J. Reid: The member had asked for the range. Since we don't have an exact time, three to six months is the range. We believe it will be in the lesser amount of that. Once they come with their review, if there are any conditions that have to be taken into account, they would be taken into account in the final agreement. The final papers would be signed, and then the operations would be turned over to CN.

J. MacPhail: I'm asking for the minister to make that a chronological description — time. What's the time here?

All of a sudden the minister knows very well how the competition bureau works. She erred on the side of caution before, and then she didn't understand how it worked, but now she's estimating that it will be the lesser time. Who knows how she knows that, but she seems to. What's the time after that? Is it literally the flick of a switch — the old BCR red, white and blue is taken off and the CN is pasted on and over we go — or what?

Hon. J. Reid: The answer on the time is really very dependent on what the competition bureau says. If

they say the deal as presented is sufficient, then I would imagine to finalize the paperwork would be a matter of a couple of weeks. If the competition bureau suggests that there should be some changes or some other remedies, then obviously, in order to do that paperwork, it might take a little bit longer.

I'm not sure what the member's concern of that process is. There is a process. It's a good process; it ensures the best result for shippers. If she could help me understand what's bothering her about that, then perhaps I could help her with the answer.

J. MacPhail: I did. I said the government has made a claim that this deal will be in place in the first quarter of 2004. That's what I said. That's April to June of 2004. Well, if the competition bureau takes six months, then there ain't any possibility of that occurring. Then I'm asking for: on what basis did the government make its claim that this would be in place the first quarter of 2004?

Hon. J. Reid: We were able to make that estimation and that statement of when we believe this will close based on basically three things. One is that we were working, prior to, with the competition bureau in sharing information about B.C. Rail. The other is based on legal advice, and the third is because of our work with shippers. We have worked intensively with shippers through this whole process, right from before we set up the RFP, to identify their issues and to satisfy ourselves that their issues were being dealt with.

[1100]

So in talking with our shippers' advisers as to whether the issues that had been outlined by the shippers were being adequately dealt with, it is the shippers' advisers that believe in this proposed transaction and that, indeed, they are being dealt with. That is our confidence for making that claim.

J. MacPhail: The minister says the shippers don't have the deal, but somehow they're on board for it. When does the public actually get to see this deal? If everybody else is just as content as could possibly be.... Let's not worry about the competition bureau. Let's not worry about the shippers. But the shippers haven't seen the deal. When is the public going to see this deal?

Hon. J. Reid: The shippers have seen and commented on the gateway proposal.

J. MacPhail: Have they seen the deal that CN is getting?

Hon. J. Reid: I'm sorry, Mr. Chair. With the best of advice that I'm receiving, I'm still having a hard time understanding the question. The shippers have seen the gateway proposal. They have outlined their concerns about competition. We have had two shippers' advisers who have been working with us to talk about competitive issues. We have looked at a number of ways of addressing that. We have discussed that with shippers. The final paperwork, the legal documentation

that puts this into contract and the entire proposed contract have not been shared with shippers, but that has gone to the competition bureau.

J. MacPhail: Well, I don't know what the minister isn't understanding. Everybody wants to see the deal. Now, that's the lingo for the revitalization agreement, not the gateway proposal. That's some made-up thing by the public affairs bureau and Martyn Brown and the Premier's office. The revitalization agreement — who's seen that? Tell me who's seen it? Has the member for Prince George North seen it, for instance?

Hon. J. Reid: The elements of this transaction have been released. Those are the elements that we have made public, from the 600 new railcars on through to the RFP for the tourism services. All those elements of the deal have been made public.

With regard to the legal documentation, we've had an internal steering committee made up of a number of different MLAs, and they have had access and the opportunity to review the actual legal documents.

J. MacPhail: So backbench MLAs have seen the deal. Is that what the minister is saying?

[1105]

Hon. J. Reid: We have had a good and thorough process. We have had input on the elements of the proposals. We've worked with shippers. Backing up, before we even had the RFP go out, we worked with the mayors as to what were the important aspects they wanted to see in an eventual agreement. We have worked with many different parties. As well, we have had our oversight committee, who's had an opportunity to look at what was going to be in contract and to satisfy ourselves that, indeed, the work that was being done and put together was of the calibre that we have been stating it is.

J. MacPhail: Okay, I'm going to go real slow here, Mr. Chair — real slow. The revitalization agreement is the name of the contract between B.C. Rail, a publicly owned corporation, and CN. Am I correct on that?

Hon. J. Reid: The revitalization agreement is the lease of the land to the railway operator.

J. MacPhail: What's the minister then calling the whole deal between what CN gets and what CN gives? What's that called? Maybe we could at least share common language, because the revitalization agreement is only half of it. Maybe it's actually only less than one quarter of it. So what is the deal called?

Hon. J. Reid: Transaction agreement.

J. MacPhail: Oh, thank you. Who's seen the transaction agreement? Name names.

Hon. J. Reid: There has been a list of people who have seen the transaction agreement, including the

lawyers, certainly the negotiating team, CN, people from B.C. Rail, the steering committee and the competition bureau.

J. MacPhail: Who's on the steering committee?

Hon. J. Reid: I will have that in a moment. I want to make sure the riding names are all correct, and so I shall recite that in just a moment.

J. MacPhail: So the transaction agreement has been seen by the government caucus members that the member will release. So when the deal is made public, those MLAs will be able to say to their community, even if the community says, "Hey, this is the first time we've heard about it..." That MLA will have to say: "Well, I've known about it from X day." Is that correct?

[K. Stewart in the chair.]

B. Kerr: I seek leave to make an introduction.

[1110]

Leave granted.

Introductions by Members

B. Kerr: It gives me great pleasure to introduce 24 grade 5 students visiting from Cobble Hill Elementary School. Joining them are their teachers, Laurene Klyne, Crystal Banks and Maureen Sharpe, and parent volunteer Shelley Bordian. Would the House please make them feel very welcome.

Debate Continued

Hon. J. Reid: We have had MLAs that have been very involved in this process and very involved on behalf of their constituents. The steering committee consisted of the following people: myself, the Minister of Finance, the Minister of Advanced Education, the Minister of Energy and Mines, the MLA for Prince George North, the MLA for Skeena, the MLA for Peace River South and the mayor of Squamish. All those people had opportunity to view the contractual documents. Not all of them had the time to be able to do that. Some of them did, but they all had the opportunity to do that.

J. MacPhail: When?

Hon. J. Reid: Part of the purpose of the steering committee was to review the documents in process as we worked our way towards an agreement. They were able to view those draft documents prior to the agreement we arrived at. They were viewing them on Saturday, November 22 — the Saturday just prior to a finalized agreement.

J. MacPhail: Is that when the work in progress started or finished?

Hon. J. Reid: The steering committee has been involved right from the beginning of the RFP. Members

were added to it as we went along. They have been involved in the process the whole time. That was when the steering committee completed its work — on Saturday — and when they were able to review the draft documents and what the contracts would be and were proposed so that they could see that their concerns had been satisfied.

J. MacPhail: You see, Mr. Chair, what I'm trying to get at is a time frame here. Day after day in question period, the minister said, "No, no. The fix isn't in for CN," etc. They denied it. They said that it was a fair and open process. She turned to this halfway-completed fairness review that still isn't completed. What I'm trying to get is: what other work was getting done? When did the deal for CN start to be put to paper?

Hon. J. Reid: We have had a process that's been going on for the last two years. The process started with the core review process. It then went out to the communities. It was actually as we took action with B.C. Rail to reduce the risks and the exposures of B.C. Rail that we heard more and more from communities and from shippers who were concerned.

We set up the mayors council. We set up the shippers council. That was in response to about 23 communities that had gotten together in 2002 and presented to government a suggestion that we should be taking on an operating partner. We followed up on that suggestion. While we were looking at the best way of being able to meet the shippers' needs coming out of the core review process, we were listening to what the communities were saying. That's been part of an ongoing process.

We set up the mayors council and the shippers council and asked them what they felt was important. They felt it was important that the government make sure that it did not sell or privatize B.C. Rail and that the government maintain the ownership of the tracks, maintain the ownership of the right-of-way. They wanted to see that someone who had investment to put into B.C. Rail would eventually be the successful proponent. They were concerned about sustainability. They were concerned about communities. They were concerned about competitiveness. They were concerned about tourism trains.

[1115]

That process has been ongoing. That has been a public process in statements going out and communication back and forth. Starting in August, we were having B.C. Rail partnership updates that were public and went out to people, talking about where we were at in the process. That's when the steering committee was mentioned in one of those updates going out.

This has been an ongoing process, so the question of when we started working with CN — obviously, when we first put out our call for expressions of interest and CN, as well as others, expressed interest... We were working with all of them when we put out the request for proposals, and CN put their proposal in.

We were working with CN as well as with the others. When we went through that, we were able to narrow that down. They put in a second round of proposals. We were working with CN as well as working with Omnitrax and CP.

We continued that process all the way through and into November, as we were looking at the concerns that had been expressed, as I just mentioned. We had to meet those concerns, and each proposal had its own strengths and merits. We had to look for the very best way of being able to provide improvement to the status quo, which I believe we have done in every aspect of this agreement. We didn't have a final agreement with CN until Monday, November 24.

J. MacPhail: Thank you for the historical overview. I'm sure the minister felt very good about doing that. It was probably cathartic for her.

Hon. J. Reid: How about asking a question?

J. MacPhail: My question was: when were the documents with CN first given to the steering committee?

Hon. J. Reid: I would like to clarify the process for the member. What we have done differently about this, from projects she's perhaps familiar with in the past, is that we put out the RFP based on questions around principles. We didn't put it out on technical issues that had to be satisfied, so the process has been somewhat different here.

The process has been, as we were evaluating the different proposals that came in, that they were all evaluated against those principles. The steering committee was able to see all the proposals and see how they were evaluated against those principles. As there were concerns raised against those principles with the different proposals, we went back to the proponents. We worked with each of them through that. That has been part of the process of distilling the agreement we now have. They have been engaged; they have been active. They have been part of the entire process of being able to look at the principles of what we wanted to satisfy and how we would be able to satisfy those principles.

As I said, the documents, the draft documents... We believed that if we got the final deal with CN, we would be able to use the language around the proposals — the contractual language, for example, around the gateway proposal. So while it's a proposal, it will be in contract. It is in proposed contract. Wanting to make sure that the steering committee had opportunity to review the draft, we still didn't have a final agreement with CN until that Monday.

[1120]

J. MacPhail: When did cabinet meet?

Hon. J. Reid: The proposal was presented to cabinet Wednesday, November 19. There were still a num-

ber of unfinished segments, so cabinet gave its approval subject to satisfactory completion of a number of outstanding issues.

J. MacPhail: So cabinet didn't approve the final deal?

Hon. J. Reid: Cabinet gave the negotiating team the authority to seek a deal, subject to very clearly defined parameters.

J. MacPhail: Boy, you know, it's very interesting. They claim there was no final deal made until the Monday. They made a big deal about the fact that the fix wasn't in and that Monday was crucial. That's the way this government presented it. That Monday was crucial, and cabinet didn't even approve the final deal. You can't have it both ways. Government can't have it both ways — that no, the deal wasn't done until the Monday, and yet cabinet didn't approve the final deal.

Oh, I feel so confident as a taxpayer that cabinet didn't even approve this final deal — or else the fix was in. It's got to be one or the other. It can't be both. Cabinet didn't approve the final deal, or they certainly didn't approve it before the great hoopla. The public can't see the transaction agreement. Some backbenchers saw the transaction agreement and some cabinet ministers, but otherwise, in all those second reading speeches that these government caucus MLAs were making, they had no idea what's in the deal — no idea.

When was it approved? When was the final deal approved by cabinet?

Hon. J. Reid: I have answered the question. The process has been thorough. It has been exhaustive. It has been fair. It has been, just as I stated, that the cabinet approval came subject to a number of outstanding issues being resolved in a certain way. We were not able to get the resolution until the Monday. I believe I have thoroughly answered the questions posed.

I would request, Mr. Chair, that the member refer to whatever part of the legislation that she would like questions on as we proceed in the debate.

J. MacPhail: Oh, I'm sure the minister would like to avoid it through some technical parliamentary ramming-through that this government is getting so used to. Isn't that why we're here — to discuss the B.C. Rail deal? Isn't that why we were ragging the puck yesterday and staying here today — so that we can have this dialogue, Mr. Chair? When did cabinet approve the final deal?

An Hon. Member: She's answered the question.

J. MacPhail: No.

No, Mr. Chair, the November 19 cabinet meeting did not have the final deal, or else the minister wasn't telling the truth when she said the final deal was made November 22. Which statement is incorrect — that the cabinet looked at the deal on November 19 or that the

final deal was made November 22? Which statement is incorrect?

Interjection.

J. MacPhail: Was the final deal with CN done on November 22? No. I'm sorry. It was the Monday, so November 24. It was the Monday that the final deal... Was the final deal done with CN on November 24?

Interjection.

J. MacPhail: Oh, the minister is not going to answer the question, because here's what happened. Well, there are two scenarios. The government was misleading the public when they said the final deal was done November 24, and it was done much before then, and we'll never know when. Or cabinet hasn't approved the final deal, or they approved it after the announcement was made.

[1125]

In either case, the minister... Actually, it's not the minister. She's just the front person. The Premier misled the public on one of those two scenarios — on one of them — or perhaps cabinet still hasn't approved the final deal, which would make them in exactly the same cloud of fluffy non-information as the rest of the public. Doesn't that give great confidence.

If indeed, as the minister says, there were just a few factors to clear up, what were they after? What took place between November 19 and the final deal being made on November 24? What were the aspects that needed to be resolved?

Hon. J. Reid: I have been clear, Mr. Chair. A situation like this, where there's a lot of negotiation taking place, where the cabinet clearly outlines where the parameters of that deal must fall and they clearly give the instructions and the authority to the negotiating team to conclude that agreement based on those parameters... It took the negotiating team until that Monday to get the agreement with CN that fit those parameters.

[R. Stewart in the chair.]

I have stated, Mr. Chair, that I would like the member to refer to the legislation, because we are here to debate the legislation. The technicalities, as the member knows, are important. In looking at this and in answering general questions, I'm quite patient and quite willing to talk about the principles and explain the principles around this and provide as much clarity as I can. But if the member insists on taking one particular part that she believes is a concern — and I believe I've answered the questions — then I will come back to the legislation and continue on in trying to proceed through the legislation.

J. MacPhail: Mr. Chair, it isn't me who's concerned about this. Let me read what happened at North Vancouver city council last night. On a vote of 9 to 1, they passed a motion opposing the sale of B.C. Rail to CN,

calling on the government to release all the details contained in the deal and asking their local MLAs to vote against Bill 89.

I know it's very awkward for the minister to have to answer questions about the deal that nobody knows about. It ain't just me, though. It's North Van city council. In fact, some of those city councillors are actually very strong, active B.C. Liberals — campaign managers, as a matter of fact — who are now saying that, gee, they're going to have a little bit of a problem campaign-managing in the next election as a B.C. Liberal. Would they be joining Ron East in Prince George, a great B.C. Liberal who was a campaign manager, who wants the same details?

I know the minister would like to hide behind namby-pamby legislation that doesn't deal with anything on the deal. I know she'd like to hide behind that, but we're asking questions on behalf of North Van.

Let me ask this then. Squamish city council is going to be considering a motion identical to this tonight. The mayor of Squamish sits on the steering committee. Will he not just be able to tell his city council all of the details of the transaction agreement tonight?

Hon. J. Reid: The details of the deal are all out there in the public domain.

[1130]

J. MacPhail: So the minister is saying nothing will add to public information when the transaction agreement is revealed. Is that what she's claiming? If so, why doesn't she just release it?

Hon. J. Reid: While the information of the agreement is in the public domain, there are a lot of the technical details that will be embedded in contract. An example of that would be with the dispute resolution process, a 22-day dispute resolution process. The principle of that is in the public domain. The details of how that will work and the responsibilities and the remedies around that will be in contractual language.

That contractual language will eventually be released with what can be released. The only parts that won't be released will be anything to do with the business arrangements of CN that are seen to be sensitive, as is standard in these kinds of arrangements. So there are a lot of the smaller details around these things that certainly will be there for public inspection, but the principles are as we have stated and are in the agreement.

J. MacPhail: Well, isn't it interesting why the North Van city council and Prince George would want to say that the devil is in the details? Isn't that interesting? Yet the minister won't release the transaction agreement. Does the transaction agreement guarantee \$4 million for the Prince George Airport?

Hon. J. Reid: That's a government commitment.

J. MacPhail: So it has nothing to do with the CN deal and B.C. Rail — nothing. Why was it announced as part of the deal, then?

Hon. J. Reid: It's how government is going to be using the proceeds.

J. MacPhail: Well, that's what I'm asking. Where's the guarantee that those proceeds will go to the airport? Where's the guarantee of that? Where can we find it?

Hon. J. Reid: Government has stated it.

J. MacPhail: Government also said they weren't going to sell B.C. Rail. How much did they pay? How much did CN pay for B.C. Rail Ltd. and B.C. Rail Investment Partnership? How much did CN pay to buy those two Crown corporations?

Hon. J. Reid: CN has not paid anything yet. They will pay when the deal closes. When the deal closes, they will be paying \$1 billion for those shares and units.

J. MacPhail: That's \$1 billion for the two — for the shares of B.C. Rail and B.C. Rail Partnership?

Hon. J. Reid: Yes.

J. MacPhail: Well, then how much are they paying for lease costs?

Hon. J. Reid: That's included as an upfront lease payment.

[1135]

J. MacPhail: Okay. Did CN pay \$850 million to buy B.C. Rail Ltd. and B.C. Rail Partnership?

Hon. J. Reid: The lease will be between BCRC and B.C. Rail Ltd. The lease sits with B.C. Rail Ltd., and that lease is part of the assets of B.C. Rail Ltd. That's why it's part of the overall \$1 billion cash payment.

J. MacPhail: How much did CN pay for the shares and the shares alone?

Hon. J. Reid: One billion.

J. MacPhail: Well, I hate to do this, but... Then we received wrong information.

So the shares that CN paid for those two companies is \$1 billion, and out of that the minister is saying the lease payment will be made. To whom? I'm telling you, Mr. Chair, I need the minister to give me the very specific details on this, because it contradicts information we received.

Hon. J. Reid: As I stated, the lease agreement is between BCRC and B.C. Rail Ltd., so that is embedded as the operations and the operational side of the railway. Those operational assets are separated off from the land, and that lease is with B.C. Rail Ltd. That is all one, so that is included in the \$1 billion. In the accounting treatment of that, as we work through this — and this is worked through with the B.C. Rail accountants, it's worked through with the comptroller general, and

it's worked through eventually with the auditor general obviously taking a look at this — the accounting value could be approximately \$150 million.

[1140]

J. MacPhail: The accounting value of the lease is \$150 million — is that correct? — and therefore the accounting value of what CN is paying to buy those two companies is \$850 million. I don't know why the minister is so reluctant to reveal these details of which her government is so proud. I mean, these are eventually going to come out. Now, has the auditor general signed off on this deal?

Hon. J. Reid: The auditor general can't sign off because, for one thing, it's not the end of a fiscal year. The other thing is that the deal hasn't been completed, as we explained earlier, until it goes through the competition bureau and becomes finalized. The auditor general will take a look at it, with the government's books, at the time that is appropriate.

J. MacPhail: Would that be '04-05 that the auditor general will finally get to have a say on whether this is proper or not — or '03-04?

Hon. J. Reid: There have been ongoing discussions with the auditor general. Depending on the fiscal year that this closes, then that's when it will be included in the books for that year.

J. MacPhail: So we'll probably get to know the auditor general's opinion on this after the next election. As a matter of fact, I can pretty much guarantee that we'll get to know this. Has the government approached the auditor general to sign off on it prior to public accounts?

Hon. J. Reid: Mr. Chair, it's not appropriate to ask the auditor general to sign off on something that hasn't been completed. He has been provided information with the structure of the transaction, and certainly we have worked with his office on this.

J. MacPhail: The minister must have misunderstood my question, and that's fair enough. This deal is not going to close until fiscal '04-05. It's clear from the timeline that there's not a chance in heck it's going to close until '04-05, and the deal probably won't even close in the first quarter of '04-05, like the government is touting. When the deal is completed, what's to stop the government from asking the auditor general to look at it and sign off on it so that the public would have that information before the next election? Or what will the Premier campaign on in the next election? Will he say the auditor general approves of this? Will he be able to make that claim?

[1145]

Hon. J. Reid: We're doing everything we can to see that the transaction closes before the end of the fiscal

year, in which case the scenario the member suggested wouldn't be true. We want this transaction closed as soon as possible. If it closes before the end of the next fiscal year, then the auditor general's views will certainly be disclosed before the next election.

J. MacPhail: Even the government's own propaganda doesn't say it's going to close this fiscal year. Their own propaganda says it may close in the first quarter of next fiscal. Or am I wrong? Did the propaganda of the government, where it said...? Let me read it accurately. I'm calling it propaganda, but I'll just quote from it accurately. "It is important to note that all the new benefits and investments that will be generated are dependent on completion of the partnership. The partnership is expected to be complete and ready for implementation in the first quarter of 2004." Maybe I'm misreading that. Is that the calendar quarter or the fiscal quarter?

Hon. J. Reid: That would be calendar quarter.

J. MacPhail: How is that possible? December 1. Let's say the competition bureau takes a minimum of three months, which is the best-case scenario. That gets us to — what? Let's see: January, February, March. In the best-case scenario, then, everything else is going to be complete in the month of March 2004? Which I hope is true, Mr. Chair. I really hope it's true, because the auditor general will be able to give his opinion, and then people will have a full year to decide whether the details of this agreement are what they voted for or not.

Hon. J. Reid: The count would be December, January, February, and that's certainly what we're aiming for. As I have already answered that question thoroughly, we believe, from our prior action with the competition bureau, that we should be able to be looking at three months. I will do everything I can to see that it does close in the first quarter of the calendar year.

J. MacPhail: Who signed the deal?

Hon. J. Reid: The person who will sign the agreement is Bob Phillips, the CEO of B.C. Rail.

J. MacPhail: I thought the transaction agreement was done. Why is the minister using the future tense? I'm getting so confused, Mr. Chair.

Hon. J. Reid: The agreement is not finalized until the competition bureau reviews it. It's very simple. The proposed agreement is done; it's before the competition bureau. After that review, it becomes signed off. When it's signed off, then we receive the proceeds.

J. MacPhail: Okay. What are we calling the agreement that was sent to the competition bureau? I

thought that was the transaction agreement. Who signed the transaction agreement on both sides?

Hon. J. Reid: Bob Phillips has signed the proposed transaction agreement, and it is subject to the review of the competition bureau.

J. MacPhail: And who signed it on the other side?

Hon. J. Reid: The CN CEO, Hunter Harrison.

J. MacPhail: I'm just curious as to why Mr. Phillips isn't here today. If he's the one that signed on behalf of the entire government, why isn't he here?

[1150]

Hon. J. Reid: Mr. Chair, we are supposed to be discussing the legislation before us, and certainly we are quite willing to do that. I'm trying, as much as possible, to answer the questions around the principle, around the larger context. Again, we are here to be discussing legislation, as that member knows full well.

J. MacPhail: Well, Mr. Chair, perhaps the minister could guide me on when I do get to ask my questions about the deal. If she's unwilling to answer them now, when would I get that chance? Would it be before the deal's done or after?

Hon. J. Reid: We have been talking publicly about the principles of the deal, the aspects of the deal and the details of the deal. That has been a public discussion. Certainly, I've been on radio. I've been responding to letters. I know the member has had a briefing.

With regard to all the principles that we have embedded in contract, there is still a procedure to go through. I'm not sure why the member would be confused about this, because you have the principles. You have the elements of the proposal. That has been made public. That then gets put into contractual language, which it has been. It is subject to review by the competition bureau. After that review is done, then the deal is considered complete, and that's when the province receives payment.

I think it's pretty obvious. It's transparent. I have been speaking about this now for the last week and answering everyone's questions with regard to the details. The member has had opportunity in the House. She's had opportunity to ask questions about the details, and the member has certainly asked questions in question period.

As I say, the member has received a detailed briefing with regard to this, and the government is quite happy to answer questions about what is in the deal. What's in the deal has been published, and I'm not sure why the member seems to think that there is something missing. It's not missing; it's there. She's trying to invent something. Obviously, the elements of the deal have been publicized. They have been printed. They're there for her perusal. The information has been up on the website for the information of the people of British

Columbia. As I say, different ministers involved have been answering questions steadily for the last week.

J. MacPhail: Well, good. I'll just keep asking my questions on this, then. The minister stood up and said — I'm sure this will go down in some form of ad — that the \$4 million to the Prince George Airport will be there because the government said it would. I feel an ad coming on — I really do — and it won't be a B.C. Liberal ad.

So what else in this B.C. Rail investment partnership is not part of the CN deal — is not part of the billion dollars? Could the minister go through and list all of that?

Hon. J. Reid: I'm going to talk about what's in contract and what's in legislation and what's in federal legislation. When we look at the continued public ownership of B.C. Rail's rights-of-way, the railbed and the tracks, the continued public ownership of that is in the legislation that we're supposedly debating here today.

[1155]

The responsibility that CN will be assuming for the infrastructure and the cars — that will be in contract. The length of the lease will be in contract. The 600 new cars will be in contract. The gateway proposal and their commitments around that will be in contract. The 7 percent average rate reduction for interline shippers will be in contract. The protection for B.C. Rail customers under the Canada Transportation Act is obviously federal legislation.

The reopening of the Dawson Creek-Hythe line will be in contract. The D'Arcy-Lillooet service and the Takla shuttle will be in contract. Ensuring that there will be no application for discontinuance for a minimum of five years will be in contract. The commitment for the Tumbler Ridge lines to remain in place will be in contract. The upgrading of the Sea to Sky Highway cooperation with government for the 2010 Olympics will be in contract.

The head office for the northern development initiative will be in contract. The new B.C. north division office will be in contract. The \$1 million state-of-the-art wheel shop in Prince George will be in contract. Up to \$15 million for CN to improve the rail infrastructure going to Prince Rupert will be in contract. The request for proposals to develop the new tourist train services and the completion of that will also be in contract.

J. MacPhail: I asked what part of the announcement that the government made is not part of the deal. The minister listed what was part of the deal. Noticeably absent was the Prince George Airport. She didn't mention the \$135 million for northern communities. What's the guarantee of that? The government's commitment on the port authority — she was silent on that. The benefits for Squamish — she was silent on that. The \$15 million for the first nations benefits trust — all of which the government made as parts of this great CN deal, which of course we now know has nothing to do with the CN deal.... And there's no guarantee.

Mr. Chair, the minister can answer those questions about what guarantees the north has on any of those

expenditures after question period, if that's okay with you.

I would move that we rise, report progress and ask leave to sit again.

Motion approved.

The committee rose at 11:57 a.m.

The House resumed; Mr. Speaker in the chair.

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

Hon. G. Abbott moved adjournment of the House.

Motion approved.

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

The House adjourned at 11:58 a.m.