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5TH SESSION, 37TH PARLIAMENT

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CONTENTS

Tuesday, May 11, 2004
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Routine Proceedings

	Page
Committee of the Whole House.....	11007
Securities Act (Bill 38)	
B. Kerr	
Hon. J. Les	
P. Wong	
R. Sultan	
Report and Third Reading of Bills	11014
Securities Act (Bill 38)	

TUESDAY, MAY 11, 2004

The House met at 10:04 a.m.

Prayers.

Orders of the Day

Hon. G. Bruce: I call committee stage, Bill 38.

[1005]

Committee of the Whole House

SECURITIES ACT

The House in Committee of the Whole (Section B) on Bill 38; W. Cobb in the chair.

The committee met at 10:07 a.m.

On section 1.

B. Kerr: I've got a question on the definitions. The question relates to the continuous disclosure record. I'm looking at it. It seems to be a circular definition. I just wonder if you could help me out in understanding this a little bit better.

The definition says it "means the information that an issuer files or is required to file under Part 4 [Offerings] and Part 5 [Continuous Disclosure]." Then we go to part 4, which is section 18. I'm doing this now. It could wait till section 18, but I'll do it now in the definitions, I guess.

Section 18(3) says: "(3) Subject to the regulations, subsection (1) does not apply to an offering of a security of a public issuer that has filed (a) all information and records referred to in sections 22 and 23...." Then I go to 22 and 23, and it talks in terms of periodic disclosure. Then in 23 it talks in terms of a continuous disclosure record, but it doesn't indicate what a continuous disclosure record is unless you go back to the definitions, which say it refers to sections 22 and 23.

My concern is the timing. If we're now giving issuers the opportunity not to file what is called a short form prospectus or a statement of material facts and people are going to be expected to rely upon actual continuous information, I don't know that this really solves the issue. I wonder if you could help me out on what really is continuous disclosure and on what's required in a continuous disclosure.

[1010]

Hon. J. Les: In response to the member's question as to the definition of continuous disclosure, I'd refer the member to section 23 where, I believe, it's clear that we are referring to the disclosure of all material information on an ongoing basis as soon as practicable.

B. Kerr: Thank you for that. Moving on to the definitions again, the "due-diligence provider." Now, this is just for my input. In the olden days we used to have

what was called a technical report whenever we had to go for new filing or original filing. I'm just wondering if this is the same thing as what was called a technical report and we have a new name for it now, or whether this is somebody — such as a sponsor — who actually reviews from in the brokerage house, who actually comes out and looks at the whole thing and makes it a speculative buy or a buy or whatever. Who does the "due-diligence provider" refer to?

[1015]

Hon. J. Les: The term "due-diligence provider" as it's used in the definitions section allows other professionals, other than underwriters, to participate in making these representations. But these people, whether they're accountants or lawyers, do have to be approved by the commission before they can undertake these activities.

B. Kerr: Still staying with the definitions, we've got "marketplace." Of course, (a) is quite understandable, but it's (b) I'm concerned about. It says: "(b) a person described in an order made under section 152 (2)." I'm not entirely sure what the order under section 152(2) is and how that ties in with a marketplace.

Hon. J. Les: The member's question, I think, has to do with how we're trying to make this legislation as forward-looking as possible and to make sure it's relative, going forward, to a constantly changing environment in the securities industry, particularly in an on-line environment. The commission wants to be sure to be able to designate these entities that will be behaving, in some cases, as single-person entities. It is simply an attempt to be as comprehensive as possible in terms of the definition of what constitutes a marketplace.

B. Kerr: I guess I was thinking in terms of on line. I'll use an example. I go onto an on-line thing called StockHouse, which lists out all the stocks. It gives you tech analysis on every stock you want to get at, and then it says: "Do you want to make a trade?" It says, you know, brokerage. Would something like that be considered a marketplace because it lists out all the stocks and the ability to trade?

[1020]

Hon. J. Les: Again to the member, there is always going to be some need here for evaluation in that the commission will have to determine what activities exactly are being undertaken by the entity or by the person. If the activity that's undertaken is simply to supply information and perhaps opinions, they would not be captured under the definition of marketplace. However, if there is clearly the matching of buy and sell orders going on, then obviously the definition of marketplace would apply.

As the member is probably aware, in today's evolutionary environment there are many different iterations of entities and people out there in the marketplace doing different things, and so it will be a constantly

evaluative exercise to determine what is a marketplace pursuant to the definitions that are set out in this section.

P. Wong: In section 1 the definition of adviser says: "'Adviser' means a person engaging in, or holding himself, herself...out as engaging in, the business of...advising another person in relation to investing in or trading in securities." Does the definition of advising include phone solicitation or through the Internet in or outside the province?

[1025]

Hon. J. Les: The member, of course, raises an interesting and pertinent question in that there are many activities, services and advisory services provided today via the Internet, for example, that many people access. I guess on the one hand some of these people simply provide some pretty blatant information or advice without too many consequences. Others, however, purport to be advisers of some kind. What's necessary, though, to keep in mind is that this legislation applies first and foremost provincially. This is provincial legislation. It seeks to protect people within the province to the extent that we are able to do that.

There are many services today, particularly on line, that originate well beyond the borders of British Columbia — in some cases, in some very poorly regulated jurisdictions. There are many other instruments of law available to government to attempt to regulate those activities to the extent that's possible. But as I'm sure all members realize, it is not always possible to filter out the overtly fraudulent. That is a modern reality today with the communication tools that are available.

I think it's important to underline again that this is provincial legislation. It regulates the activities of securities issuers within the province. Both this proposed act and many other laws of the province — and of the federal government, frankly — regulate the activities of those beyond our borders to the greatest extent possible.

R. Hawes: I seek leave to make an introduction.

Leave granted.

Introductions by Members

R. Hawes: Today in the gallery we have 28 grade 11 students from Meadowridge School along with their teacher, Mr. Cleland. Meadowridge School in Maple Ridge is arguably the premier independent school in this province, and both my colleague from Maple Ridge-Pitt Meadows and myself are very proud to have that school in our community. Could we please make all of those students welcome.

K. Stewart: I'm also privileged today to announce another visit by a school from school district 42, and this is Westview Secondary School. We have 26 students from grade 10 and their teacher, Mr. Draper. Ac-

companying them are a number of adults. They are a great example of a public school doing a wonderful job for the citizens and students in the Maple Ridge-Pitt Meadows area. I wish the House to now make them welcome.

Debate Continued

P. Wong: In this definition of misrepresentation, if an issuer makes an announcement in good faith despite the real fact that it's not close to the truth, would that issuer be making a misrepresentation in this case?

[1030]

Hon. J. Les: In response to the question from the member for Vancouver-Kensington, a misrepresentation, regardless of how innocently provided, is still a misrepresentation at common law. It is, however, at least some partial defence for the defendant to be able to indicate that they relied on a reasonable system of information-gathering that provided that information for them. It's also a mitigating factor to say that they undertook due diligence in order to assemble the information that they subsequently disseminated. But as I said earlier, regardless of how innocently provided, misrepresentation is still misrepresentation at common law.

P. Wong: In respect of the definition of "subsidiary," it says it "means an issuer that is controlled by another issuer." Does it mean effective control or beneficial control, or does it require the mind and management residing in British Columbia?

Hon. J. Les: Again, in response to the member's question, the definition of subsidiary, as he points out, is very brief. It means an issuer that is controlled by another issuer. If the member wants to perhaps consult the definition under "Control of security," it means "a person controls a security if (a) the person, directly or indirectly, directs the trading or voting of the security, (b) the security is owned by an issuer that the person controls, or (c) the security is owned by an affiliate of the person or of an issuer that the person controls." In the act, as well, "a person controls an issuer if a person owns or controls a sufficient number of the issuer's securities to elect a majority of the directors of the issuer."

[1035]

Sections 1 to 28 inclusive approved.

On section 29.

B. Kerr: I'm very concerned about this section, because it is totally open-ended in the definition of what an unfair practice is. Clearly, subsection (2)(b) I don't think is a problem. Subsection (2)(a) could become problematical, but subsection (2)(c) could be very problematical, because it's imposing terms and conditions that make a transaction inequitable. Whenever there could be a winner or a loser, someone will always claim it was inequitable.

I'm thinking in terms of if you're a small, under-capitalized venture company on the TSX-V and you're going to a house that's going to sponsor you and issue it through for you. The terms and conditions they impose on you always appear to be inequitable. I'm just wondering if we're going to assume that jurisprudence is going to take us to determine what this will be down the road or whether this is going to be defined a little more narrowly in the future, through regulation.

Hon. J. Les: In response to the member, I'm advised that this particular provision is, in fact, in the current legislation and the current regulations and is not a change of any kind. It's important to remember, as well, that if there was a difficulty in this area, it would lead not to the courts but to the Securities Commission for them to undertake an investigation to determine whether, in fact, there had been a breach of any of the regulations.

B. Kerr: Those are all the questions I have.

Sections 29 and 30 approved.

On section 31.

R. Sultan: Section 31 refers to frontrunning. In the spirit of the Olympics, perhaps the minister could explain what frontrunning is all about.

[1040]

Hon. J. Les: A frontrunner is someone acting as a dealer who comes into possession of an order to buy or sell securities which that person anticipates may well create some momentum in the market, either upwards or downwards, and with that knowledge in mind then executes a trade of their own to take advantage of that anticipated momentum. Clearly, that is taking advantage of knowledge that is generally not available to other dealers in the marketplace.

R. Sultan: This whole section on market participant conduct is, of course, key to this legislation in the sense that it is my impression that market participant conduct has an even brighter searchlight cast upon it in the proposed Bill 38. I would think it might be helpful if the minister could give us his judgment as to whether the market participant conduct defined in a sense casts a wider net in defining certain transgressions and improprieties than had existed heretofore.

[1045]

Hon. J. Les: The member is quite correct that this section of the act is in fact broadened in scope from what was previously the case, and therefore this is a very important part of the new act. For example, the corporations that will be captured under this act will be broadened in that they are not necessarily only those registered in the province but also those registered outside of the province.

In the case of insider trading, those insiders who simply recommend trades without providing any fur-

ther justification for those recommendations will be captured as well. Previously, and I think quite interestingly, if a person were simply providing recommendations based on insider information, they might not have been captured and might not have been held to the bright light of day simply for having provided a recommendation — the nudge, nudge, wink, wink approach.

This legislation, however, does capture those situations, I think, quite appropriately. Recommendations made on insider information clearly are still inappropriate and always have been, and we more clearly capture those now. Frontrunners are more broadly exposed in this legislation, as well, in that they will include a much more broad category of trading than previously.

The net result of all of that is the public is better protected and the potentially nefarious activities of those who would seek to gain advantage unfairly at the expense of others will be more curtailed than previously.

R. Sultan: I think this is a very encouraging response for those who have, perhaps with some justification, a degree of cynicism about the purity of market transactions. I hear the minister saying that tipsters, if we could refer to people by that name — whether they might be a bartender, cab driver, your sister-in-law, a lawyer who happened to overhear something or anybody else.... Perhaps it could be a messenger who just happened to be walking through the trading floor, and he picked up some information. People who pass on information which in fact turns out to be useful would be caught in the web of this act.

I'm reminded of an anecdote told me as recently as yesterday of a literary person, shall I say, who seems to have come into unexplained wealth. It is suggested that perhaps his friends in the high echelons of the corporate and financial world passed along certain information that he profited from. I suppose the people who passed along information of that sort — regardless of their station in life, whether it is the company president or the messenger boy — would be caught by this proposed legislation.

[1050]

Hon. J. Les: If the member refers to section 30, it gives some fairly broad definition in fact to what is a connected person. In the context of providing tips, as the member referred to it, anybody who would qualify as a connected person certainly would be captured under the provisions of insider trading. However, we need to be careful that we don't inadvertently capture people who are totally unconnected in any way as an insider and are simply passing on a rumour.

I'm sure many of us in the past have sat around at a coffee klatch in a coffee shop and have swapped lies and other rumours and have gone off and phoned our broker and executed a trade as a result. People who would provide those kinds of rumours, whether true or false, would not be captured as those people providing

tips that would be envisioned or would be caught up in the definition of insider trading.

Section 31 approved.

On section 32.

R. Sultan: Section 32, "Belief that other party knows information." "A person does not contravene section 30 (2) or 31 (2) (a) or (b) if, at the time the person trades the security, the person reasonably believes that the purchaser or seller of the security knows the inside information or material order information."

I find this a very interesting section, and it would be helpful, I think, to me and perhaps others if the minister could expand a little bit about the philosophy that underlies this particular part of the proposed act. It sounds to me like if I'm going to sell some securities because I think the company is about to issue some very bad news — perhaps a new pharmaceutical has been rejected by the Food and Drug Administration or something of that order — and if I know or I reasonably believe that the person I'm going to sell the securities to has the same information, then I'm not in contravention. Am I understanding this correctly? And might one even say there is a little bit of a loophole here?

[1055]

Hon. J. Les: With respect to section 32, it says: "...the person reasonably believes that the purchaser or seller of the security knows the inside information or material order information." In that case, someone who is challenged pursuant to this would need to be able to prove that they had grounds to reasonably believe that the party with whom they had undertaken a transaction would be in possession of all the relevant information. That would be sort of the test: were there reasonable grounds to believe that the other party to the transaction should have been — could have been, would have been — in possession of all the relevant information?

R. Sultan: I would like to ask questions on section 41.

Sections 32 to 37 inclusive approved.

On section 38.

P. Wong: I would like to ask the minister about the declaration as to short position. In the market, I don't personally don't encourage short shares, but we have to face the fact that a lot of people are making money by shorting shares.

[J. Weisbeck in the chair.]

Section 38(1) says: "A person that places an order...must, at the time of placing the order to sell, notify the dealer if (a) the person does not own, or control

the delivery of, the security." I would like to ask the minister whether the notification can be done orally or whether there is any requirement to be in writing.

Hon. J. Les: In this section, in response to the member's question, notification means exactly that — notification. It can be either oral or written. Oral notification would be sufficient, but we suspect that one of the parties to the transaction may want to insist on written notification, and of course they're free to do so.

[1100]

B. Kerr: I'm not sure exactly where this fits into the new act. I'm just wondering about the normal issuer bids. If a person is disclosing that he's taking over a company, I wonder if that.... I don't find it anywhere in the new act. I'm just wondering if that was left out intentionally or whether I'm just missing it.

Hon. J. Les: In response to the member's inquiry, the disclosure requirements for issuer bids and takeover bids have been taken out of the act itself. They've been moved into the rules section, but I can reassure the member that they will be similar in content to the current provisions.

Sections 38 and 39 approved.

On section 40.

P. Wong: In respect of a misleading statement of any person who makes a statement and provides a record to the commission, it also says if a person "omits to state a fact that is necessary to be stated so that the statement or record is not false or misleading...." In this case, would a bystanders test be sufficient to prove that he has made the statement that is not false or misleading? Is there a bystanders test? Would that be an adequate defence in this case?

[1105]

Hon. J. Les: I'm having some difficulty in trying to understand what the member's question is. I wonder if he could elaborate somewhat and help me come up with an answer to his concern.

P. Wong: For clarity purposes, if a person makes a statement based on a technical report or on his or her understanding that a fact is true or correct, would that be a good defence for this person so that this person won't be penalized under this section?

Hon. J. Les: When making statements, a person must always be able to demonstrate that they had taken every reasonable precaution and care to ensure that the information was in fact correct. So long as a person is able to clearly demonstrate that, I think it's fair to say they would meet the standard of proof required that they had in fact exercised due diligence.

Section 40 approved.

On section 41.

R. Sultan: Section 41 is titled "Obstruction of justice." It says in paragraph 1: "A person must not destroy, conceal or withhold any information, record or thing reasonably required for a hearing, review or investigation under this Act." Under paragraph 2: "A person contravenes subsection (1) if the person knows or reasonably should know that a hearing, review or investigation is to be conducted and the person takes any action referred to in subsection (1) before the hearing, review or investigation."

I think, again, the many thousands of users who will come into British Columbia now to take advantage of the visionary aspects of Bill 38 will be very interested in the minister and the ministry's interpretation of this particular clause in the proposed act. At one extreme one could say that, well, almost anything under the sun could be investigated, I suppose, conceptually. Therefore, all records must be kept forever.

At the other extreme one could take the attitude of a gentleman I once worked for — or at least I worked for his estate. He was a rather wealthy, powerful man who had the attitude that he probably contravened so many rules that he destroyed all the records almost immediately, which seemed to work for him because he was never really charged with any offence. When he died, of course, there wasn't much of a record of what he owned, and all sorts of shenanigans arose from that. So destroying all records is not necessarily the best policy either.

I suppose the question is: where would the minister view that fine line as to what routinely should be maintained in terms of records — anticipating, I suppose, that one may be accused of all sorts of things, whether one is guilty or not, and should be prepared?

[1110]

Hon. J. Les: As the member points out, section 41 is under the heading of "Obstruction of justice." Obstruction of justice is a serious criminal matter. According to the provisions of this act, that is one of the things that is ultimately punishable by up to three years imprisonment or the levying of a \$3 million fine. The section says quite clearly: "A person must not destroy, conceal or withhold any information, record or thing reasonably required for a hearing, review or investigation under this Act." That is not new. That was a provision in the previous act as well.

What is new is section 2. It says that a person contravenes subsection (1) if the person knows or reasonably should know that a hearing, review or investigation is to be conducted. That is new. It certainly makes it much more clear that obstructing justice in that matter is an offence and will be dealt with harshly. Of course, there are other provisions that have to do with record-keeping in the normal course of conducting a business, which are not necessarily captured by this particular section. This has to do directly with overt destruction of documents where a person ought to know that they will be required in a hearing that the person ought to know is about to be held.

P. Wong: In respect of the obstruction of justice, I understand the penalty is fairly severe. I would like to know: what kind of recordkeeping is required? What is the limitation period for such information? For instance, a trader taking a phone message — how long should this trader keep the phone message that says to sell the shares for a certain company? What is the limitation period, and what is the obligation of this trader to keep all these records?

[1115]

Hon. J. Les: Mr. Chairman, I want to point out that — if the member's question is related to section 41 — this does not refer to the normal recordkeeping provisions that apply to business generally. Section 41 pertains to a situation where a person knows of a hearing that is about to be held or will be held some time in the future and the need to retain important information with respect to those hearings.

Sections 41 to 44 inclusive approved.

On section 45.

P. Wong: This section talks about how the commission may reprimand a person for contravention of this act or regulation. I would like to ask the minister about whether the commission may impose a monetary fine, or what kind of reprimand the commission can impose.

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

Leave granted.

Introductions by Members

B. Locke: It is my pleasure today to welcome into the House 47 students, grades 4 and 5, from L'École Gabrielle-Roy. They are here today with their teachers, Ms. Julia Dumont, Mr. Mario Cyr and Mr. Richard Drouin. These students have just been invited into their new school in Surrey, and we're very pleased to have them here in the chamber today. Would the House please make them welcome.

Debate Continued

Hon. J. Les: Section 45 contemplates a very low-level hearing. It isn't a full formal hearing with cross-examination, etc. It is simply an opportunity for explanation by a person for a purported contravention of the act or the regulations. A reprimand is just that. It is basically a warning by the commission that the activity was inappropriate and ought not to happen again. It is the lowest level of sanction that is available to the commission to issue to an offender.

[1120]

Sections 45 to 49 inclusive approved.

On section 50.

P. Wong: Both sections 50 and 51 are related. I would like to ask the minister about "...to compel evidence." If the commission compelled a witness to give evidence, would there be any compensation for the witness in respect of the time lost and the legal fees or the costs to compile the information? Section 51 only allows the counsel to represent a witness to give evidence under section 50. Would there be any monetary compensation for the witness?

Hon. J. Les: If I can, perhaps, just clarify a matter first with respect to section 51. The member will realize, on a careful reading of that section, that the retention of counsel is voluntary. It is not required by any witness who might be compelled to appear before the commission. Staff inform me that there is some low level of compensation available for those who are requested to be witnesses, but it certainly does not contemplate the compensation of counsel that might be retained by those witnesses.

Sections 50 to 52 inclusive approved.

On section 53.

R. Sultan: Section 53 is titled "Uncooperative witness liable for contempt." On application, witness summoned may be liable to be committed for contempt by refusing to attend, give evidence or produce a record. What would be the penalties or sanctions if one were found to be in contempt under this section?

Hon. J. Les: As we all know, contempt of court is a serious matter. As section 53 points out, if there is a problem with contempt, that matter would be referred to the Supreme Court and would be dealt with as the courts normally deal with contempt of court — which, as I said, is a very serious matter and will be deliberated by the courts as they normally deliberate these things in the normal course of events.

R. Sultan: My next question is perhaps somewhat out of sequence. As we are discussing sanctions and penalties, I know a key feature of the bill introduced by the minister referred to disgorgement. Because this is a rather long bill.... Have we reached that section yet?

Hon. J. Les: That would be found in section 61.

The Chair: Member, can we carry on from 53 to 60, then? Anybody have any questions?

Sections 53 to 55 inclusive approved.

On section 56.

P. Wong: The question is regarding the evidence. It says: "56 (1) Without the consent of the commission, a person must not disclose any information or evidence obtained or sought to be obtained...."

[1125]

Under section 2, a person may disclose information obtained to the person's counsel. If a person is under the impression that he is in a situation where he is supposed to collect and compile evidence to be produced to the commission, and this person cannot communicate to any person other than the counsel — not even his accountant, his staff — then how can this person compile information? The commission is not supposed to give or compensate any cost for collecting this information. This piece of legislation is exceptionally obligatory to the witnesses.

Hon. J. Les: I'd refer the member to the first part of that sentence. It says: "(1) Without the consent of the commission...." In other words, what that anticipates is that if there is a need to engage other professional assistance to obtain information, application can be made to the commission for their consent to engage those other professionals such as, perhaps, chartered accountants — which may be of interest to the member.

The reason that the parameters around these provisions in this section are drawn fairly tightly is to eliminate the potential for collusion amongst a number of participants in a proceeding, which I think is an entirely appropriate intent in this case. There is provision there for a broadening of that information-gathering process, if it's necessary. But without that consent, it's very tightly held so that there aren't other nefarious activities that emanate from an investigation.

Sections 56 to 59 inclusive approved.

On section 60.

B. Kerr: I'm not sure, but I think this is the section it comes under.

In the U.S. they have what I call a rather draconian piece of legislation called short-swing profits. If you incur any short-swing profits and you're a director of the company, you're required within a prescribed period of time to pay that back to the company. That has brought up a whole industry of ambulance chasers that write letters to the directors, saying: "You've made a profit. You're required to pay that back to the company."

Then the directors have to make the decision: "Do I take the money, my own profits, and pay it back to the company? But on the other side of the coin, I have to do what's best for the company." I'm not suggesting we go that far, but I'm looking at the removal of benefits that a director, an insider, may have incurred as a result of contraventions of certain sections of this act. They have to be paid to the commission.

I wonder if any thought has been given as to whether they should be paid back to the company to benefit the shareholders who may have suffered damage as a result of the contravention. If it's paid back to the company, that would make the shareholders, as an entire class, whole.

The Chair: Hon. member, you were referring to section 61 as well.

B. Kerr: Oh, I'm sorry. Yes. Sections 61 and 60.

The Chair: Okay. Fine. Thank you.

[1130-1135]

Hon. J. Les: I will deal with sections 60 and 61.

The administrative penalties that are levied pursuant to section 60 go into an education fund and are retained by the commission. I should say generally, as well, that there are no provisions in the act regulating short-swing profits. Those are acceptable. However, as always, complete and full disclosure is required so that anyone active in the marketplace knows exactly what's going on.

Under section 61, "Removal of benefits." When that occurs, those benefits accrue to the commission as well, although it will be an option available to those who have been harmed by the activity that they will be able to apply to the commission for compensation.

I should reference, perhaps, section 105 here as well, which talks about disgorgement of insider-trading profits. Those, of course, will be made available to those who have been harmed by that insider trading as well.

Section 60 approved.

On section 61.

R. Sultan: Chair, this will be my final question. As explained, section 61, "Removal of benefits," could have as aptly been entitled "disgorgement," which I think would certainly capture in more colourful and perhaps even threatening language the intent of this act and its enforcement.

I think it would be helpful to future students of this pioneering B.C. Securities Act as they sit in the law libraries in future decades to understand the philosophy and the rationale behind the disgorgement provision. If the minister could just give us a little bit of the perhaps anecdotal background of why disgorgement seems appropriate and necessary and perhaps even innovative.

Hon. J. Les: I appreciate the member raising this issue, because this is one of the key features of this new legislation. It is very important. As the member knows and I'm sure all members of the House know, a lot of money can be made in the markets, particularly when one engages in illegal or inappropriate activity. Notwithstanding the provisions for substantial penalties as high as \$3 million, it is not that unusual that vast sums of money are made well in excess of those kinds of numbers — the \$3 million, for example.

Section 61 basically rests on the principle that no one should ever benefit from ill-gotten gains, and where those gains do accrue, they are forcibly taken from the participant in the marketplace who has engaged in illegal activity. In addition to that, of course,

they face further sanctions after those ill-gotten gains are removed.

It is a complete disincentive. It removes the incentive that sometimes obtains where people say: "I may well have to pay a fine of, let's say, \$3 million, but if I've gained \$10 million in the meantime, I'm still up \$7 million." Under this new legislation, hopefully that kind of incentive will be removed.

[1140]

R. Sultan: If I may be permitted just some concluding observations. I believe we are perhaps running out of questions on this side of the Legislature. Let me just compliment the minister on a truly pioneering, creative and, I think, landmark-setting piece of securities legislation for Canada. It offers huge gains on efficiency alone. The B.C. Securities Commission, for example, has estimated that it might, on certain transactions, reduce costs by 80 percent for the transaction costs and 53 percent in terms of time. Even if this is only on a selected number of transactions, across the board I'm sure the efficiency and productivity gains are going to be notable.

Secondly, by introducing and emphasizing, as the minister has just pointed out on the issue of disgorgement, for example, but in many other ways introducing the philosophy that what counts in regulation is results and not rules.... We all know people who get very skilful at working up to but not beyond the rules. Under this legislation, what matters is the end product, not whether or not the rule has been approached but not encroached.

Thirdly, there's no question — as, again, the minister has just pointed out — that this is a much tougher enforcement regime to remove the monetary incentive which has too often existed in the securities market. British Columbia — unfairly, in my opinion — has been portrayed in the past as a marketplace which tolerated people who played fast and loose with other people's money. Certainly, under this new B.C. Securities Act, that description would have no justification whatsoever. It is going to liberate our securities market in a major way. I think this will be very good for business in British Columbia, which of course is the motif of this government.

It is showing the way for securities regulation in the rest of Canada at a time of great debate and many schemes being floated, which I think are now going to have to pause and do some soul-searching in terms of the direction in which other jurisdictions wish to proceed given the establishment of a new regime here in British Columbia. I think Bill 38 is truly wise legislation, and I use that adjective deliberately, because it is going to further contribute to the creation of the new era in British Columbia.

Sections 61 to 203 inclusive approved.

Title approved.

Hon. J. Les: Mr. Chair, I move that the committee rise and report the bill complete without amendment.

Motion approved.

The committee rose at 11:44 a.m.

The House resumed; Mr. Speaker in the chair.

**Report and
Third Reading of Bills**

Bill 38, Securities Act, reported complete without amendment, read a third time and passed.

[1145]

Hon. G. Bruce: Noting the closeness to the noon hour, I move that we do now adjourn.

Hon. G. Bruce moved adjournment of the House.

Motion approved.

Mr. Speaker: The House is adjourned until 2 o'clock this afternoon.

The House adjourned at 11:46 a.m.