



5th Session, 37th Parliament

OFFICIAL REPORT OF  
DEBATES OF THE  
LEGISLATIVE ASSEMBLY  
(HANSARD)

**Monday, May 17, 2004**  
**Afternoon Sitting**  
**Volume 25, Number 14**

THE HONOURABLE CLAUDE RICHMOND, SPEAKER

ISSN 0709-1281

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

LIEUTENANT-GOVERNOR  
Honourable Iona Campagnolo

**5TH SESSION, 37TH PARLIAMENT**

SPEAKER OF THE LEGISLATIVE ASSEMBLY  
Honourable Claude Richmond

**EXECUTIVE COUNCIL**

Premier and President of the Executive Council .....	Hon. Gordon Campbell
Minister of State for Intergovernmental Relations .....	Hon. Sindi Hawkins
Deputy Premier and Minister of Children and Family Development .....	Hon. Christy Clark
Minister of State for Early Childhood Development.....	Hon. Linda Reid
Minister of Advanced Education.....	Hon. Shirley Bond
Minister of Agriculture, Food and Fisheries.....	Hon. John van Dongen
Attorney General and Minister Responsible for Treaty Negotiations.....	Hon. Geoff Plant
Minister of Community, Aboriginal and Women's Services .....	Hon. Murray Coell
Minister of State for Women's and Seniors' Services.....	Hon. Ida Chong
Minister of Education .....	Hon. Tom Christensen
Minister of Energy and Mines.....	Hon. Richard Neufeld
Minister of State for Mining.....	Hon. Pat Bell
Minister of Finance.....	Hon. Gary Collins
Minister of Forests.....	Hon. Michael de Jong
Minister of State for Forestry Operations.....	Hon. Roger Harris
Minister of Health Services.....	Hon. Colin Hansen
Minister of State for Mental Health and Addiction Services .....	Hon. Susan Brice
Minister of Human Resources.....	Hon. Stan Hagen
Minister of Management Services .....	Hon. Joyce Murray
Minister of Provincial Revenue.....	Hon. Rick Thorpe
Minister of Public Safety and Solicitor General.....	Hon. Rich Coleman
Minister of Skills Development and Labour.....	Hon. Graham P. Bruce
Minister of Small Business and Economic Development .....	Hon. John Les
Minister of Sustainable Resource Management .....	Hon. George Abbott
Minister of State for Resort Development.....	Hon. Sandy Santori
Minister of Transportation.....	Hon. Kevin Falcon
Minister of Water, Land and Air Protection .....	Hon. Bill Barisoff

**LEGISLATIVE ASSEMBLY**

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

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

[www.leg.bc.ca](http://www.leg.bc.ca)

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

ALPHABETICAL LIST OF MEMBERS

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

LIST OF MEMBERS BY RIDING

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



## CONTENTS

Monday, May 17, 2004  
Afternoon Sitting

### Routine Proceedings

	<b>Page</b>
Introductions by Members .....	11139
Ministerial Statements .....	11139
Mining industry in B.C. Hon. P. Bell J. MacPhail	
Statements (Standing Order 25B) .....	11141
People moving to B.C. S. Orr High-technology industry in Kelowna J. Weisbeck Hepatitis C awareness L. Mayencourt	
Oral Questions.....	11142
Investigation of child abuse complaints and death of Kayla John J. Kwan Hon. C. Clark Child protection services in Zeballos J. MacPhail Hon. C. Clark Report on offshore oil and gas industry D. MacKay Hon. R. Neufeld	
Committee of the Whole House .....	11145
Ministerial Accountability Bases Act, 2004-2005 (Bill 49)	
Report and Third Reading of Bills .....	11145
Ministerial Accountability Bases Act, 2004-2005 (Bill 49)	
Committee of the Whole House .....	11145
International Financial Activity Act (Bill 53)	
Report and Third Reading of Bills .....	11145
International Financial Activity Act (Bill 53)	
Second Reading of Bills .....	11145
Financial Institutions Statutes Amendment Act, 2004 (Bill 39) Hon. G. Collins Teaching Profession Amendment Act, 2004 (Bill 55) Hon. T. Christensen J. Kwan M. Hunter R. Masi B. Lekstrom K. Stewart Hon. T. Christensen	

Committee of the Whole House.....	11156
Vital Statistics Amendment Act, 2004 (Bill 43)	
Hon. C. Hansen	
J. MacPhail	
S. Orr	
Report and Third Reading of Bills.....	11159
Vital Statistics Amendment Act, 2004 (Bill 43)	
Committee of the Whole House.....	11159
Wildlife Amendment Act, 2004 (Bill 51)	
J. MacPhail	
Hon. B. Barisoff	
B. Lekstrom	
D. Jarvis	
Reporting of Bills .....	11166
Wildlife Amendment Act, 2004 (Bill 51)	
Third Reading of Bills.....	11166
Wildlife Amendment Act, 2004 (Bill 51)	
Committee of the Whole House.....	11166
Parks and Protected Areas Statutes Amendment Act, 2004 (Bill 50)	
J. MacPhail	
Hon. B. Barisoff	
D. MacKay	
Report and Third Reading of Bills.....	11171
Parks and Protected Areas Statutes Amendment Act, 2004 (Bill 50)	
Committee of the Whole House.....	11171
Correction Act (Bill 44)	
D. MacKay	
Hon. R. Coleman	
J. Kwan	
Report and Third Reading of Bills .....	11181
Correction Act (Bill 44)	

MONDAY, MAY 17, 2004

The House met at 2:05 p.m.

### Introductions by Members

**J. MacPhail:** There are several members of the caravan of hope with us today. The caravan of hope represents the estimated 65,000 British Columbians infected with hepatitis C. It's a provincewide group of citizens concerned with hepatitis C. It's a non-profit organization. They banded together to ensure that there's greater access, treatment and medicine for victims of hepatitis C. The group joining us today is Joan King, Beverly Atlas, Marjorie Harris, Heather Harris, Deanna Auger, Destiny Auger, Bradley Kane and David Mazoff.

Also with the group today is Carol Romanow. She has been a strong advocate at Action Committee of People with Disabilities in Victoria. Her role is to assist people to navigate through all of the circumstances, including legislation, and particularly those with hepatitis C. Would everybody please make them welcome.

**Hon. S. Hagen:** In the precincts today are 36 grade 5 students from Tsolum Elementary School together with their teachers, Ms. Valerie Sherriff and Ms. Carol Walters, and eight dedicated parents from the school, as well, in the Comox Valley. Would the House please join me in making them welcome.

**Hon. P. Bell:** Joining us in the gallery today from the wonderful city of Kelowna is my sister, Kit Bell. I would ask that the House please make her very welcome.

**D. Hayer:** It gives me great pleasure to introduce seven students from Princess Margaret Secondary School who are touring our Legislature today. They are Denise Torok, Agata Stanielewicz, Kylie Van Eaton, Eja Ali, Al Habib, Margaret Yu and Lisa Van Zyderveld. Joining them is their teacher, Jonathan Nielson.

These seven students were participating in the Rotary Club of Surrey Adventure in Citizenship speech meet, an event that focuses on developing a greater awareness among young people of both the responsibilities and the importance of citizenship. These grade 10 and 11 students were asked to speak on what there is to celebrate in Canada. Their responses were lively and represented a refreshing image of youthful pride in being Canadian.

As an acknowledgment of their fine work, I invited these students on a trip to the British Columbia Legislature to gain a greater understanding of how our provincial government works. Would the House please make them very welcome.

**Hon. G. Abbott:** In the gallery today is a former resident of my hometown of Sicamous, Tamara Schweeder. She's the partner of my former executive

assistant, Jay Schlosar, who is also a former resident of Sicamous.

While I'm on former residents of Sicamous, I failed the other day to introduce Byron Plant, who's a former resident of Sicamous now working as a legislative intern here.

**J. MacPhail:** You see a trend there, eh?

**Hon. G. Abbott:** Yes, there are not many left at home, Mr. Speaker.

With Tamara here today is her friend Lindsey Timmermans of Victoria. I'd like the House to make them all welcome.

**Hon. K. Falcon:** Today in the galleries we're joined by the wife of my ministerial assistant, Lynne Cyr. Lynne is joined by her two daughters, Robyn and Megan. I would ask the House to please make them welcome.

**Mr. Speaker:** Member for Surrey-Tynehead has another class.

**D. Hayer:** Mr. Speaker, I have another guest. It gives me great pleasure to introduce my constituent, my friend Rob Terris. Since 1982, he has been contributing to the Surrey community as president of the Guildford Community Partners Society and as president of Tynehead Community Association, as well as a member of the Guildford Lions Club. Would the House please make him very welcome.

### Ministerial Statements

#### MINING INDUSTRY IN B.C.

**Hon. P. Bell:** I rise to make a ministerial statement. The province has proclaimed May 16 to 22, 2004, to be Mining Week in British Columbia. All British Columbians benefit from the mining undertaken in this province. Given the importance of mining to B.C.'s economy and to our individual lives, it's appropriate that we take time to recognize the importance of this industry.

[1410]

From fuel cells to medical equipment, the minerals mined in B.C. are used to manufacture a wide variety of products used in everyday life. For example, zinc is used in soap, molybdenum is used to make lightbulbs, gold for electrical wire — and I'd like to see that electrical wire, Mr. Speaker — silver in mirrors, lead for fine crystal, aluminum for aircraft parts, and copper that's used in medical equipment along with thermal coal used in many steel products. Crystalline graphite is the raw material used now to make fuel cells. These are just a few of the uses of these B.C. minerals that are put to use every day.

Our province also produces aggregate. The aggregate industry is in many ways one of the cornerstones of our economy — no pun intended. The industry itself employs about 3,000 people, but every British Colum-

bian consumes this product. In fact, on average, every person in B.C. consumes about 13 tonnes of aggregate per year. This aggregate is used in our infrastructure, to build roads and to construct our homes. Aggregate is also heavily relied on for the basic infrastructure of our society. The increased cost to the aggregate industry has had a major impact on our entire economy.

Much of British Columbia was actually built on the mining industry. In 1862, Billy Barker found gold at Williams Creek, a discovery that started a rush of fortune seekers from all over the world and brought with it a rush of construction, people and wealth. Thousands of people travelled the Cariboo wagon road between 1862 and 1870, converging on the boomtown called Barkerville. In fact, by the late 1860s, Barkerville was widely believed to be one of the largest towns west of Chicago and north of San Francisco.

These days there are 13 metal mines and coalmines in B.C. and 860 aggregate and industrial pits and quarries. Today mining directly employs about 10,000 British Columbians at an average wage of over \$89,000 per year, the highest average wage of any industry in the province. The good news is that with over 12,000 mineral occurrences in the province, coupled with soaring demands for metals, there is a vast untapped potential for responsible and sustainable development in British Columbia.

Government is committed to supporting the long tradition of mining in British Columbia and is partnering with industry for responsible and sustainable development. Mining in British Columbia is an environmentally responsible industry. In fact, mining activity affects less than one-third of 1 percent of the entire land base of the province. That's just 28,000 hectares that are currently being used by mining, an area that is about twice the size of Vancouver city proper.

When mines close, lands are reclaimed for other uses. Through reclamation, mines have successfully re-established habitat for elk, moose, deer, Rocky Mountain bighorn sheep and mountain goats. They've provided grazing lands for cattle and have successfully reforested waste rock dumps. They've established a trophy Kamloops trout fishery and a tailings pond and have created spawning habitat for bull trout in our province.

Our guidelines have been adopted around the world, including by Ontario and major multinational corporations such as Placer Dome. It's also noteworthy that mining is the safest heavy industry in this province. In fact, just a few weeks ago I was at Quinsam Coal on Vancouver Island where I was honoured to present the John T. Ryan award for safety. Quinsam is the only underground operating coalmine in the province, and they've worked in excess of two years without a single reportable accident.

There are many promising signs on the horizon that mining is making a comeback. Under our Premier, Gordon Campbell, mineral exploration has increased from just \$25 million in 2001 and is expected to reach between \$90 million and \$120 million this year. Claim-staking is also way up, but most importantly — unlike

the nineties, which saw mines close down one after another — we're once again seeing mines reopen in the province. Gibraltar and Bralorne have announced their intentions to reopen, and Pine Valley Coal has announced that it will be opening a new mine near Chetwynd prior to the end of the year.

Throughout B.C.'s history, mining has been one of the important pillars of our economy. Our goal is to make British Columbia the most attractive jurisdiction in the world for mining. Let me repeat that: the most attractive jurisdiction in the world, because mining can operate anywhere. Our government's new action agenda for mining is taking the steps to restore our competitiveness, allowing us to revitalize our mining industry and bring back the economic potential that's so important to our province.

[1415]

**J. MacPhail:** I rise, too, in response to the ministerial statement to celebrate Mining Week. It was interesting that the minister chose a historical overview, and of course there has been gold, silver, copper, molybdenum, zinc and many other metals in them there hills for time immemorial — nothing new there whatsoever.

Frankly, since people have come to live in B.C., they've sought out these metals and put them to productive use. Most of the productive use has been to export them, to trade them. They have always traded more when they could get more for them in return — basic economics. I know the minister understands that. As the minister rightfully acknowledges, the hot Asian market driven by China is driving up metal prices — all prices. When prices are high, exploration increases, as does investment, and that's excellent. That's the reality of any resource-exporting economy.

In British Columbia, though, as opposed to....

Interjections.

**Mr. Speaker:** Order, please. The Leader of the Opposition has the floor.

**J. MacPhail:** I think the minister mistook me for David Anderson.

We were, though, in the 1930s and forties, price setters, and now in British Columbia we're price takers, not price makers. There was an example from the 1990s about mining, and it proves to be very insightful in relation to the growing economy. In June of '97 the Mount Polley mine was completed. Private sector investment-built, it took over 12 months and \$115 million of investment. In September of 2001 the mine had to suspend operations because commodity prices had plummeted. Now those commodity prices are back, and hopefully this mine, which was built on time and under budget, will be put to useful production as well.

What does make me a little bit nervous — and it's only a cautionary note here — is that as we know full well the mining industry is about commodity prices. We have to be ever so cautious not to throw the baby

out with the bathwater and have a zeal for cutting red tape that may impede proper environmental and regulatory oversight, and then somehow be charged with improper activity in those areas in the world market.

Certainly, a responsible, productive mining industry is a necessity for B.C. What we must do, though, is move forward to a modern, sustainable industry and not to the past where communities were devastated.

**Statements  
(Standing Order 25B)**

PEOPLE MOVING TO B.C.

**S. Orr:** In politics we try to get our message out to the public with facts. We quite often get facts provided by Stats Canada or other public agencies. This usually starts the age-old debate of interpretation. The opposition reads it one way; we usually read it the other.

Well, I decided I wanted to find out the real facts on the net flow of people coming back to British Columbia. Is it really true, or is it just another interpretation of stats? This weekend I had the opportunity to ask a couple of people who I figure should really know — people who rent trucks. Barrie Rogers, who I've never met before, owns Budget Car and Truck Rental on Vancouver Island, in the Okanagan and in the Kootenay region. He was very clear. This is the best year he has ever had. He is deadheading more trucks back to Alberta than he has in years.

Judy Scott, who owns Budget Car and Truck Rental right here in Victoria, said the same thing. But Judy is a friend, and I wanted an unbiased opinion so she put me in touch with her distribution manager, Terry Judd, who has worked for Budget for ten years. He confirmed the same thing, but he reminded me of something. It is ordinary working folk that rent trucks. They can't afford moving companies, so they don't move for the sake of it. They move because it's worthwhile.

[1420]

I know some people don't always believe what politicians say — surprise. But I have a witness, someone who was sitting right opposite me when I asked this question — a national, provincial and local journalist, an author, a television political pundit, and someone who has been known to be a little critical of this government and quite outspoken. When I mention his name, I want to hear no groans — Norman Spector. As God is my witness — sorry, Freudian slip.... I mean as Norman is my witness, these facts did not come from politicians or spin doctors or bureaucrats but from people who really know on the ground what is going on — people who rent trucks.

HIGH-TECHNOLOGY INDUSTRY IN KELOWNA

**J. Weisbeck:** On Thursday, June 3, I will again be hosting the sixth annual Okanagan Technology Symposium. I was prompted six years ago, after listening to numerous accounts of the thriving technology centres in both Victoria and Vancouver, to host this conference.

I felt it was time to showcase the 250 technology companies that made Kelowna the centre of the Silicon Vineyard. The first conference focused on the future of e-commerce. It was an opportunity for Kelowna high-tech firms to strut their stuff and also the opportunity to invite some of the high-tech companies to Kelowna just in case they wanted to have some future expansion. Nortel, EDS and Microsoft are some of them that showed up.

A great deal has happened in six years. Kelowna is now recognized as the third-largest high-tech centre in the province and growing. Kelowna is not only a very desirable place to live — ten golf courses within the city limits...

**An Hon. Member:** If you're a golfer.

**J. Weisbeck:** If you're a golfer.

...but a great place to do business.

A recent KPMG report shows that Kelowna has been rated the most cost-competitive place to do business. Kelowna has been ranked number one in the Pacific region with significant savings over Seattle at 18 percent, San Jose at 23 percent and San Diego at 17 percent. I know with the addition of the UBC Okanagan and its research capacity, the final piece of the puzzle to make Kelowna one of the most desirable places in North America for high-tech business to grow is in place.

The title of this year's conference is "Convergence of health care delivery and life sciences research." One of the main themes will be a forum on the impact of a full research university on our area and the development of health research. I'm very pleased that we'll have our opening remarks from the Minister of Management Services. We'll have Dr. Michael Hayden, director of the Centre for Molecular Medicine and Therapeutics at UBC and the founder of Xenon Genetics, to name but a few of the speakers.

I urge everyone to check the conference website — [www.rebootconference.com](http://www.rebootconference.com) — and join us on Thursday, June 3 for a very interesting and informative day, and stick around for the weekend for a round of golf.

HEPATITIS C AWARENESS

**L. Mayencourt:** As was noted by the Leader of the Opposition, today we're being visited by the caravan of hope, which represents the over 65,000 people in British Columbia that live with hepatitis C. May is hepatitis C month in British Columbia. Of the over 250,000 people in Canada estimated to have hepatitis C, almost 30 percent live here in British Columbia with only 14 percent of the Canadian population.

While there's lots to be done to help people with hep C, we are seeing some improvement. Let me tell you a little story that happened to me. Last year we had a group of these people who were living with hepatitis C. They came to the Legislature and spoke to caucus members. We took their suggestions and implemented them as best we could. The result was the

release or listing of pegylated interferon, a new drug to help them with a cure.

Apparently, things are starting to work, because the other day I was stopped on the street by a Victoria-area bus. The driver opened the door, and he said: "Hey, do you remember me?" I did remember him, but I couldn't remember from where. He said: "Well, I was in the hep C group." He said that things are much better because of the changes that we implemented last year. He was very proud of the fact that he was on the road to recovery and that he was back at work and feeling like he was part of life again.

I'm standing in front of this bus, and it occurs to me that last year there were many people living with hep C just waiting on the curb, waiting at the curb to begin a journey. This healing journey started with some of our changes to treatment options. This journey is, today, leading them back to full productive lives, an opportunity to participate and to thrive in a better British Columbia.

[1425]

We've managed to help 650 people, like that bus driver this year, and we're committed to a course of action to reach more hepatitis C patients so that we can start them on the road to recovery. This is truly the spirit and the message of the caravan of hope.

**Mr. Speaker:** That concludes members' statements.

### Oral Questions

#### INVESTIGATION OF CHILD ABUSE COMPLAINTS AND DEATH OF KAYLA JOHN

**J. Kwan:** In his report into the death of Matthew Vaudreuil, Justice Gove recommended that all reports of child abuse or neglect should be investigated regardless of the credibility of the reporter and regardless of whether there have been previous investigations of similar incidences — recommendations that I should say the government, when in opposition, supported wholeheartedly.

The tragic death of Kayla John in Zeballos has touched us all. To date, officials at the Ministry of Children and Family Development have not said whether they undertook an investigation into complaints about potential abuse of Kayla John. All officials have said is that they take more stock in complaints from people who have direct contact with the family than in anonymous complaints. Kayla's stepfather called the Ministry of Children and Family Development 14 times in the last year to inform the ministry that Kayla was being abused. Can the Minister of Children and Family Development tell British Columbians what actions her ministry took to follow up on those warnings?

**Hon. C. Clark:** The death of Kayla John is a tragedy not just for that small community, but it's a tragedy that every single parent across British Columbia feels acutely. It's particularly true in a small community like

Zeballos, where everybody knows everyone else and where there is a strong sense of parents supporting one another. So first I'd like to offer my condolences to Kayla's family and to her extended family and the community, which included, I think, everybody who knew her. It would have included her teachers. It would have included her neighbours. It would have included everybody who had any contact with her.

Second, I'd say this. The police investigation is still ongoing, and I wouldn't want to say anything that would jeopardize the investigation. I know that everybody who loved that little girl wants to make sure justice is done in that situation, so I don't want to say anything that would in any way affect the investigation.

I can certainly say this, though, to the member. The ministry follows up all suggestions of abuse or where a child is at risk, no matter what source the complaint comes from. Our social workers on the front lines do all they can to try and make sure we don't leave any stone unturned when there is an allegation that any child in British Columbia is put at risk.

**Mr. Speaker:** The member for Vancouver–Mount Pleasant has a supplementary question.

**J. Kwan:** One death is too many. In this instance, the death of Kayla John is one that I think the members of the community will remember and the families will remember, and we hope, certainly, that the government will take the right steps in addressing the issue.

Now, before the last election, the now Minister of Children and Family Development said she supported Judge Gove's call for a substantial increase in the number of front-line workers in the ministry. The reality is that after the election, the minister and her predecessor presided over a dramatic cut — a reduction in the number of front-line workers across the province. On the Island alone we know that at least 30 front-line workers have been reduced.

In order to cut those positions, the government overhauled investigative procedures to ensure that fewer investigations were undertaken in the first place. Can the Minister of Children and Family Development tell us if the Kayla John case received a full investigation by the ministry officials, or was the matter put on the back burner because of budget reductions and staffing cuts?

**Hon. C. Clark:** The member's suggestion is just wrong. Our ministry takes all of the concerns that are brought to it incredibly seriously. Social workers on the front line of this ministry don't ignore complaints that have come forward, and we continue to investigate the complaints that come forward to this ministry. I think we talked about this extensively in estimates as well — that the way we go about judging whether or not an investigation is warranted hasn't changed.

One of the things that has changed, though, in this ministry is that the number of children who are coming into care of the government has dropped. We are the

only province in Canada that's managed to change the culture of social work so that social workers are using the range of the skills that are available to them and that they're trained for to ensure that we continue to support families where children are not at risk in those families.

[1430]

Rather than removing a child from the home as a first resort, which was certainly the culture of this ministry for many years — and I think social workers would often say it wasn't the best practice — we are changing the practice. Provinces across the country and jurisdictions across the world are looking to what we've done to see how they can also contribute to try and better support families, to build family support, to make those places safe places for children.

**Mr. Speaker:** Member for Vancouver–Mount Pleasant has a further question.

**J. Kwan:** The stepfather reported to the ministry 14 times on the issue of alleged abuse. Is the minister saying that the stepfather was wrong?

Last year the former Minister of Children and Family Development developed "a workload reduction strategy." That strategy involved farming out reports of moderate abuse or reports of likelihood of physical harm or sexual abuse away from trained investigators, handing them to community agencies instead. The former minister assured British Columbians that the government's number one priority was still to investigate and protect abused children.

The death of Kayla John raises serious questions about how the ministry handles investigations into reports of abuse and neglect. This minister admitted during estimates that they don't investigate every case.

Can the Minister of Children and Family Development assure British Columbians that she has ordered a full administrative review into Kayla John's tragic death to determine if Justice Gove's recommendations have been followed or ignored?

**Hon. C. Clark:** I can assure the member that Justice Gove's recommendations have been, as she knows, fully embraced by the ministry. We need to make sure that the lessons we learned from the tragic death of Matthew Vaudreuil are learned and honoured and always respected in our practice.

I can't tell the member if the ministry was involved with the family, because that would be a violation of their privacy rights. I can't tell her whether or not we were even able to respond to phone calls if they were made. But I can tell her, in general, this — that front-line social workers do respond to complaints where they're made and that we certainly make sure that where those complaints come from someone who has direct knowledge of the family, those complaints are acted on.

Now, one of the things that this ministry has done....

**Mr. Speaker:** Thank you.

**Hon. C. Clark:** I'm sure I'll get another opportunity to answer.

#### CHILD PROTECTION SERVICES IN ZEBALLOS

**J. MacPhail:** The minister knows very well that the Gove recommendations are not in force now under her government. There are not resources to enforce the Gove recommendations. The community of Zeballos is in crisis. It's isolated and economically depressed. The social order is breaking down — they themselves say that — in a climate of deprivation, poverty and serious dysfunction.

If the ministry had investigated the stepfather's complaints — over a dozen of them from Kayla John's family — the government would have been well aware of the situation developing in Zeballos. It would have known about the all-night drinking parties involving adults and kids as young as 13. It would have known about the kids roaming the streets when they should have been in school. There are not front-line workers investigating circumstances in Zeballos. If the government had known about the conditions in Zeballos, it could have acted. It could have put resources in place to support the community through some very wrenching transitions that it's been going through.

Zeballos is not the only community going through this. Resources to support families without any....

**Mr. Speaker:** Hon. member, thank you. It's time for the question now, please.

**J. MacPhail:** Can the Premier tell us what, if any, action his government is taking to focus more resources on protecting children in Zeballos now that we have all the details? What is his plan to help the whole community of children in Zeballos through this time of trial?

**Hon. C. Clark:** It's important to remember that it's not true that we have all the details. There is a police investigation ongoing. As long as that investigation is ongoing, they will be gathering information. It's just simply not true to say that we do have all the details and to speak about them as though the investigation is complete and all of the answers have been made public. To do anything else would be irresponsible.

[1435]

Our ministry has been working hard to engage communities in making decisions about how we protect kids. Part of the change in practice that we've worked through has meant that there has been 15 percent fewer kids coming into the care of the ministry. That's contrasted with only a 10 percent reduction in the number of social workers who are working out there. Using the workload management tool that the previous government implemented, we've actually

seen a smaller workload burden on individual social workers, on average, across the province.

What happened in Zeballos is a tragedy. We need to respect the privacy of the family. We need to honour the right of the RCMP to make sure that their investigation can be done and concluded and that...

**Mr. Speaker:** Thank you.

**Hon. C. Clark:** ...justice is done.

**J. MacPhail:** My question was about the community of Zeballos. Everyone in the community is admitting to a community in deep trouble. Kayla John is a tragedy of that community. My question was about Zeballos.

At the end of the day, it's the government's job to protect kids from abuse and neglect. This isn't about children in care; it's about children in the community being harmed. It's exactly the opposite of what the minister is claiming credit for. Unfortunately, the Premier has been far more consumed with budget-cutting, failed reorganization schemes and getting sweetheart deals for their friends than meeting their mandate. The B.C. Liberals promised more money for communities and kids, they promised administrative stability, and they promised to focus resources on clients.

Kayla John was in the community. In every case, they have not met their commitments. I ask the Premier again: given the social crisis in Zeballos, will he commit from this day forward to focus new resources on child and family protection in Zeballos? Or do the cuts to the Ministry of Children and Family Development mean that no one will have the tools to do the job?

**Hon. C. Clark:** I'll offer a couple of factual corrections for the member. First of all, that child was not a child who was in the care of the ministry. Second...

**J. MacPhail:** Exactly.

**Mr. Speaker:** Order, please.

**Hon. C. Clark:** ...the number of children who have come into care of the ministry has dropped by 15 percent. The number of social workers across the province, on average, has dropped by less than 10 percent concurrently.

Third, I would say this. In Port Hardy, which is the area that services Zeballos, there have been no reductions in the number of social workers in that community.

I know that offering these facts for the member will not dilute her urge to make this a political issue, but those are the facts. I think it's important that while the community grieves and while the RCMP operation is ongoing, we make sure that we...

Interjections.

**Mr. Speaker:** Order, please, hon. members.

**Hon. C. Clark:** ...discuss this in light of the facts that are before us.

Interjections.

**Mr. Speaker:** Order, please.

#### REPORT ON OFFSHORE OIL AND GAS INDUSTRY

**D. MacKay:** My question is to the Minister of Energy and Mines. Having just returned from Fort Nelson and Fort St. John, I saw what the booming oil and gas sector was doing up there. It's creating jobs and attracting investment in the northeast part of the province.

The constituents that I represent in the northwest portion of the province would like to know what opportunities await them on the offshore B.C. coast. However, Mr. Tom Gunton, the economic wizard for the previous NDP government whose policies literally destroyed the mining industry in the province of British Columbia, claims that the offshore oil and gas development will produce only 200 direct jobs and \$18 million for provincial revenues.

To the minister: can British Columbians place any confidence in this report that the prospect of economic development from offshore oil and gas is a myth?

**Hon. R. Neufeld:** We should look at the pedigree of Mr. Gunton and his history in British Columbia. He's served since the seventies as the chairman for the party's economic development and financial planning. He put together a study on resources, regional development and provincial policies, which said that Crown-owned forestry and mining companies should compete directly with the private sector in order to wrest control away from private firms. He served as Glen Clark's adviser through two disastrous budgets. He went on to Moe Sihota to totally put policies forward that destroyed the forest industry.

[1440]

Only a socialist by the name of Tom Gunton would come out with a report and say that \$110 billion worth of economic value only creates 200 jobs and \$18 million in provincial revenue. Only a socialist like Tom Gunton would say something like that. On top of that, I guess he is the adviser to Carole James because...

Actually, the oil and gas industry onshore provides to the government \$2 billion a year right now in royalties to pay for health care and education. That is substantial.

Interjections.

**Mr. Speaker:** Order, please. Order, please.

[End of question period.]

#### Orders of the Day

**Hon. G. Collins:** I call Committee of the Whole House for consideration of Bill 49.

**Committee of the Whole House**MINISTERIAL ACCOUNTABILITY  
BASES ACT, 2004-2005

The House in Committee of the Whole (Section B) on Bill 49; J. Weisbeck in the chair.

The committee met at 2:42 p.m.

Sections 1 and 2 approved.

Title approved.

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

Motion approved.

The committee rose at 2:43 p.m.

The House resumed; Mr. Speaker in the chair.

**Report and  
Third Reading of Bills**

Bill 49, Ministerial Accountability Bases Act, 2004-2005, reported complete without amendment, read a third time and passed.

**Hon. G. Collins:** I call Committee of the Whole for consideration of Bill 53.

**Committee of the Whole House**INTERNATIONAL FINANCIAL  
ACTIVITY ACT

The House in Committee of the Whole (Section B) on Bill 53; J. Weisbeck in the chair.

The committee met at 2:44 p.m.

Sections 1 to 75 inclusive approved.

Title approved.

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

Motion approved.

The committee rose at 2:45 p.m.

The House resumed; Mr. Speaker in the chair.

**Report and  
Third Reading of Bills**

Bill 53, International Financial Activity Act, reported complete without amendment, read a third time and passed.

**Hon. G. Collins:** I call second reading of Bill 39.

**Second Reading of Bills**FINANCIAL INSTITUTIONS STATUTES  
AMENDMENT ACT, 2004

**Hon. G. Collins:** I move that the bill be now read a second time.

The Financial Institutions Statutes Amendment Act, 2004, amends the Financial Institutions Act and the Credit Union Incorporation Act. The amendments improve the efficiency and effectiveness of the regulation of the financial services sector to enhance and maintain public confidence in the sector as well as to reduce the overall regulatory burden.

Under the amendments to the Financial Institutions Act, the regulation of extraprovincial corporations will be reformed to simplify and streamline the process for being authorized to do business in British Columbia. Duplication and overlap among regulators in various jurisdictions are reduced, and greater reliance is placed on the primary jurisdiction, especially for federally regulated institutions. Despite this reliance, the British Columbia regulator will continue to have access to the information it needs and the regulatory tools to intervene as and if required. Reducing regulatory overlap and duplication will enable the British Columbia regulator to focus on areas where the risk is greatest.

The approach to the regulation of the business and operations of provincially incorporated credit unions, trust companies and insurers is also amended to reduce unnecessarily prescriptive rules and limitations on operations. The bill enables the expansion of the business powers of these provincial financial institutions to be consistent with other Canadian jurisdictions. This maintains competitive equity.

As a reflection of current market reality, the Financial Institutions Act will no longer provide for the incorporation and authorization in British Columbia of provincial deposit-taking trust companies. Only those provincial trust companies that do business exclusively will continue to be provided for under the act. The amendments also adjust the regulatory approach to financial institutions capital and liquidity and the rules respecting self-dealing. The amendments to the self-dealing rules will streamline and simplify the internal approval process that a financial institution must undertake while continuing to provide adequate safeguards that prohibit harmful self-dealing.

The amendments will enable the market conduct rules applying to those selling products and services in the financial services sector to be modernized and updated. The goal is to ensure continued consumer confidence while enhancing competition by eliminating provisions that restrain trade without benefiting the consumer. Examples include streamlining the restriction on rebating, focusing the regulation of tied selling on coercive practices, improving the disclosure requirements and repealing the confidentiality provision

to eliminate overlap with the new private sector privacy legislation.

The roles and responsibilities of the Financial Institutions Commission and the superintendent are clarified. The commission will now clearly be the primary regulatory authority for the financial services sector in the province. The commission will assume responsibility for regulatory decisions currently made by the minister and most of the regulatory decisions currently made by the superintendent. This will make the decision-making process simpler while maintaining a high level of regulatory due diligence and accountability.

The responsibilities of the Insurance Council for the licensing and regulation of insurance agents, salespersons and adjusters are also updated. The council will have the authority to establish its own rules, subject to the approval of the minister, for the licensing and regulation of agents, salespersons and adjusters.

The bill also updates the regulatory powers available to the commission, the superintendent and the Insurance Council. Consistent with other regulatory regimes, the commission, superintendent and council are provided with the authority to order the payment of costs for an investigation or hearing and impose administrative penalties subject, of course, to due process.

The amendments to the Credit Union Incorporation Act included in this bill expand the capacity of credit unions to operate outside of British Columbia. The changes also give British Columbia credit unions the capacity to transfer out of the province and give extraprovincial credit unions the capacity to transfer into British Columbia. These changes put credit unions on an equal footing with other financial institutions.

[1450]

In reviewing the regulatory framework for the financial services sector, we consulted extensively with a wide range of parties over a two-year period, including the financial services industry, financial services intermediaries and the general public. The amendments in this bill reflect the input provided during those consultations.

The amendments made to the financial services sector legislation in this bill create a framework for smarter regulation of this sector. I move second reading.

Motion approved.

**Hon. G. Collins:** I move the bill be referred to a Committee of the Whole House for consideration at the next sitting of the House after today.

Bill 39, Financial Institutions Statutes Amendment Act, 2004, read a second time and referred to a Committee of the Whole House for consideration at the next sitting of the House after today.

**Hon. G. Collins:** I call second reading of Bill 55.

## TEACHING PROFESSION AMENDMENT ACT, 2004

**Hon. T. Christensen:** I move that Bill 55 be read for a second time now.

This act introduces a number of changes to the Teaching Profession Act to further clarify the role of the B.C. College of Teachers and to put into place changes agreed to by cabinet over the past year. In this case it is a bit instructive to look back at the history of the College of Teachers to give us some perspective as to where we've come from, where we are today and, in fact, where we are going.

The College of Teachers was established back in 1987 pursuant to the Teaching Profession Act. Unlike many professional self-governing bodies where the profession comes to government with a proposal to become a self-governing profession, asking for legislation to establish the self-governing profession, the College of Teachers was brought into place amongst a good deal of disagreement within the profession as to whether, in fact, they wanted to have a college of teachers and be a self-governing profession. Some might say in hindsight that that actually created a great deal of difficulty for the college right off the bat. At that time the BCTF, the teachers union, in particular was opposed to the establishment of the college. As I said, there was a great deal of discussion at that time about the college.

Over time that seemed to have changed. Certainly, in more recent years the BCTF has been very involved with the college, to the point of endorsing candidates and funding election campaigns for candidates for election to the council. That, in and of itself, has caused some difficulties as well.

If we look back at the Teaching Profession Act — and one of the elements of the act that has never changed and an element that is similar to other professional self-governing bodies — we need to look at the object of the act to begin with. The object is "to establish, having regard to the public interest, standards for the education, professional responsibility and competence of its members...and applicants for membership...."

The School Act provides that all teachers, principals, vice-principals, directors of instruction, superintendents of schools or assistant superintendents of schools who are employed by school boards must be members of the College of Teachers. The membership and the group that is governed by the college certainly extend much beyond teachers to include a good number of educators that are working both in our public school system and, in many cases, in our independent schools.

Until last year the college was governed by a council composed of 15 persons elected by members and five persons appointed by government. One of those five was nominated by the deans of the faculties of education in the province. About a year ago amendments were made to the Teaching Profession Act to change the composition of the council to eight elected

members and 12 appointed council members. One of those 12 would still be nominated by the deans of the faculties of education.

Those amendments came about in response to a good number of concerns that had been expressed about the College of Teachers as to whether or not it was truly acting first and foremost in the public interest, and about the independence of the College of Teachers in respect of the British Columbia Teachers Federation — the teachers union, in particular — and whether or not the union was exercising too much influence in respect of the college council. We must remember, first and foremost, in respect of any self-governing body that it is the public interest which that self-governing body is there to protect and serve in its governance of the particular profession.

[1455]

One of the things that stood out in terms of the College of Teachers in comparison to many other professions is that notwithstanding that in section 4 of the act, one of the objects of the college was to establish standards of conduct for the profession, in the 16 years that the College of Teachers had existed up until last year, it had never developed standards of conduct. It was a glaring omission in terms of the question of whether the college was serving the public interest.

It was necessary to take a look at the College of Teachers and the Teaching Profession Act a year ago and see what could be done to try and ensure that this self-governing body was living up to its intent as required by the Teaching Profession Act. That was up to a year ago. Since that time we've heard from teachers. We've heard from principals, vice-principals, superintendents, trustees and a good number of members of the public, and we've heard from parents in terms of the importance of the College of Teachers and the importance of it moving forward in a manner that does, in fact, serve the public interest.

You may have seen in the media over the weekend, Mr. Speaker, that the B.C. Confederation of Parent Advisory Councils was holding its annual general meeting over the weekend in Richmond. They passed a number of resolutions in respect of the College of Teachers, many of which emphasize a number of the points I've made. They certainly are looking to have a College of Teachers that will allow parents to take complaints about educators directly to the college and require teachers to report serious misconduct by peers. Those are goals that the public should expect from the College of Teachers and any self-governing profession in the province.

They also passed resolutions demonstrating support for the establishment of standards for education, competence and conduct for B.C. educators. Again, those are things we all should and, I think, all do take for granted that a self-governing professional body would be doing. In particular, they voted in support of an independent college free from the influence of any one voice in the education community to ensure that students, parents and the public interest are protected. Again, those are elements we would all assume should

be in place in terms of any professional body in the province.

We have listened to parents. We have listened to other education stakeholders, and we have listened to the voices of teachers over the last year who have said very clearly to government that they wish to be considered a profession. They wish, like other self-governing professions, to have a majority of the council of the college elected, and we are responding to what we have heard in now moving forward.

This legislation will ensure that the college's governing council is made up of a majority of elected teachers and that it continues to protect the public interest. In fact, combined with 12 elected members, there will be an additional three members that must be appointed from among members of the college, so three-quarters of the college's governing council will be made up of members of the college. This does deliver on government's commitment to provide an independent college governing council and a council that is fair, is balanced and serves the professionalism of B.C. educators.

The intention, certainly, is to consult — and the legislation requires that the minister consult — with principals, with superintendents and with parents in looking at who should be the appointed members to the college council. In doing that, certainly we will be listening very carefully to the suggested voices. We will be ensuring, as the legislation requires, that once the full council is in place, 15 members of the council are members of the college who are governed by the council, ensuring that there is a voice of experience at the council.

[1500]

In addition, and this is critically important... There will be, in addition to one of the deans of the faculties of education, an additional four appointed members who will be laypersons — as with other professional colleges or professional self-governing bodies — who do bring an element of interest, of the public interest and perhaps a different viewpoint to discussions at the council to ensure that those that are immersed in the profession also get that outside voice in terms of the deliberations they are having.

With Bill 55, membership and certification in the college are being merged into one concept called a certificate holder. This meets the spirit of a request from the college that all certified persons are also required to be members. As I indicated earlier, in order to be employed by a school board as a teacher, vice-principal or principal, a person must hold the teaching certificate. Annual fees must be paid to maintain certification, and all persons who have the benefits of certification are now required to contribute to the operations of the college.

That amendment merging certification and membership also does close somewhat of what has been a bit of a loophole in the legislation by ensuring that the college will now be in a position to ensure that applicants for certification are, in fact, fit to be a teacher. Previously, the issue of fitness and an assessment of

fitness to be a member of the teaching profession only applied to applicants for membership. In fact, a person could apply for and obtain a certificate of qualification based on meeting just very specific criteria rather than on an overall assessment of fitness, which is a typical consideration in most professions.

The bill makes a further amendment to the requirement for a member of the college to report on another member who they believe is guilty of professional misconduct. This amendment certainly was necessary to provide some direction around the duty to report, and it is something we heard from all our education partners on. I believe we do have a provision now that is a workable provision that will certainly provide clear direction to members of the profession but also provide a clear standard and clear protection in respect of students and the public interest. The amendment clarifies that the duty to report professional misconduct will arise in situations where it is believed there is professional misconduct that involves physical harm to a student, sexual abuse or sexual exploitation of a student or significant emotional harm to a student — all of which we would expect a report to be made to the college. These amendments certainly ensure that the college continues to protect the public interest.

To ensure the independence of the college council, all members of the council will now be required to make a declaration or to swear an oath of office. This oath will underscore the individual's role as a council member while stressing the importance of the college's independence. All council members will be required to take the oath prior to sitting on the college's council. The oath of office will ensure that all members of the council elected and appointed put the public interest first above all other interests in compliance with the spirit of the Teaching Profession Act and, I should add, with the spirit of any self-governing profession that is there first and foremost to serve the public interest.

There are a number of other relatively minor amendments that will allow the college council to operate and serve the profession and the public interest better. We've added authority to permit the statutory committee called the qualifications committee to make decisions concerning qualifications for admission and certification. Currently, the committee must make recommendations for decision to the college council, so this power may now be delegated to the committee by bylaw of the council. Again, it is an enabling provision that may allow the college council to operate more efficiently. This will certainly provide consistency and clear authority for levels of council delegation to committees and subcommittees and will reduce the time needed for processing certification. This process is consistent with the principles of administrative law, and similar changes were made for the other statutory committees — the discipline and the teacher education committees — in 2003.

[1505]

In order to provide clarity in legislation to indicate a subcommittee can be drawn from the membership at

large, authority has been added to include non-council members in statutory committees of the college. This provides an opportunity for the college council to reach beyond its members into the broader members of the profession to provide a greater degree of input on the college's work and to provide some experience for other members of the profession to see how the college works. I'm told this is very much consistent with the practice in other professions and certainly does add to a broader ability for the college to meet its mandate.

A further minor amendment is to increase the term of office for members of the council to three years from the current two. Again, in discussing the college and getting input from members of the college, this amendment will provide for greater consistency and continuity of policy and decision-making in the college. It is a more appropriate length of time, given the complexity of tasks and issues and the length of time it takes council members to become familiar with their duties.

As well, it's expected this will provide some cost savings to the college. You will note, as well, that we've allowed for the election of the members of the college to be staggered to ensure that in electing 12 members of the college, all 12 won't be replaced at the same time. Once this initial college is elected in the coming weeks, then further elections will be staggered so that four of 12 zones are elected in each year, providing for some rollover each year and an opportunity for the council to be evolving at all times.

A further amendment is that one of the statutory committees of the college called the teacher education programs committee will be amended to simply change the title of the committee to the teacher education committee, as that more accurately reflects the work of that committee.

There has been a great deal of anticipation about this legislation and government following through on its commitment to amend the makeup of the council so that a majority is democratically elected. Government is doing its part with this bill to enable the teaching profession to pursue what I believe to be the goal of the vast majority of professional teachers in this province, and that is to be an effective self-governing profession that protects the professionalism of teachers and other educators and serves the public interest in a consistent, fair and balanced manner.

Whether or not this legislation allows the college to realize that goal remains to be seen. Government has acted to ensure that a majority is democratically elected. In order for any professional self-governing body to be effective, it needs two things, in my view. It must be respected by the profession that it governs, and it must be respected by the public. If those two elements exist, then a professional college will be able to do its job well, serving the public interest and regulating the profession in a progressive manner.

In order for that to happen, the education community needs to want to have a professional college, and I believe that the vast majority of teachers in our province do want that. In order for that to function, those

professional members need to support the college by the payment of dues, just as any other profession does.

This legislation enables an effective self-governing professional body to be created, and I'm looking forward to working with teachers around the province to ensure that, in fact, that is what we get with Bill 55 and the College of Teachers.

I move that the bill now be read a second time.

**R. Masi:** I seek leave to make an introduction.

Leave granted.

[1510]

### Introductions by Members

**R. Masi:** It's my pleasure today to introduce a number of students — I think close to 100 — in the precinct from Hellings Elementary School in Delta North, accompanied by their teachers, Mr. Hirose and Ms. Locke. I've met them outside on the grounds, and it's a fine body of students representing Delta North here. Would the House please make them welcome.

### Debate Continued

**J. Kwan:** Let me first put on the record that the opposition supports Bill 55, the Teaching Profession Amendment Act, 2004.

I also have to start by saying and asking, quite frankly, the question of why we're here debating Bill 55. The answer is regrettably simple. We're here today because the Liberals are a government of conflict and confrontation. One year ago, almost to the exact date, we were here debating Bill 51, the Teaching Profession Amendment Act, 2003. One year ago the Deputy Premier, who was the Education minister at the time, forced the opposition, in the dying days of the session, to debate a bill that stripped teachers of their right to be a self-governing profession. One year ago the Liberals decided to draw a battle line with teachers, putting children and parents in the middle. One year ago the Liberals decided that the professionals who educate their children and our children were not worthy of a self-governing body. They were okay with used car dealers governing their own, but not teachers.

The government was wrong then. They were way wrong. The battle, of course, was led by the Premier and the Deputy Premier. They were arrogant in their approach. They chose a path of conflict and division. They created an atmosphere of mistrust and stress in our education system, all for a mean-spirited attack on a group of people they see as a special interest group. That is shameful.

For the most part, you have to ask the question: why did the government do this? The answer is simple. The government did it because their approach of confrontation is the only approach they know of, and for some bizarre reason it has taken them an entire year to admit their wrongdoing and to fix it.

But here we are finally, one year later, with Bill 55. It gives back to teachers one of the many things the Liberals have stripped from them with the heavy hand of legislation — their right to be a self-governing profession like doctors, nurses, realtors and used car dealers. The minister says that the teaching profession, after much consultation, is now given back their self-governing authority. You know what, Mr. Speaker? Before the government took away their self-governing authority, they had been saying to the government that that approach was the wrong approach and that they deserved to be self-governing like any other profession in the province, and the government then, a year ago, refused to listen.

Let me say congratulations to the new minister for solving this problem, but it should never have occurred in the first place. The government created this mess with its arrogance and an uncaring approach to governing. I should remind the minister and this House that he voted in favour of the last bill, Bill 51. He voted in favour of it at second reading, and he voted in favour of it during committee. The conflict, the confusion and the stress on the education system since Bill 51 was introduced and created by this government.... They only have themselves to blame.

It is time this government and this minister get their act together and get their story straight. The minister's press release claims he is being fair and balanced with Bill 55. Well, this legislation is only a part of a bigger story which is anything but fair and balanced. Just a few short weeks ago we were debating Bill 19 in this very House, the Education Services Collective Agreement Amendment Act, 2004. There was nothing in Bill 19 that was fair and balanced, nothing at all — just more conflict, more confrontation and more arrogance.

[1515]

Bill 19 erased a decision of the B.C. Supreme Court. Bill 19 said that the government did not agree with the B.C. Supreme Court, and instead of going through an appeal process like all British Columbians do when they disagree with a ruling, the Labour minister, the Minister of Education and this government decided they would just legislate the ruling irrelevant. How fair is that? How balanced is that?

Bill 19 removed from teachers' collective agreements critical negotiated protections for students and teachers related to class size, services for special needs students, and specialty services from counsellors, librarians and ESL teachers. These contractual guarantees were put in place to protect learning conditions for children.

One of the guarantees wiped out by the Liberals from the Qualicum was: "Where safety is a factor, the number of students in the laboratory, shop or other specialized class shall not exceed the number for which the facility is designed." For some reason, the Liberals thought that was just too much.

Just imagine for a moment teachers trying to ensure the safety of students, and this government thinks that is wrong. Teachers work hard at the bargaining table to

ensure services for students are available and adequate. However, this government decided to make it illegal for teachers to include the provisions that protect the education and safety of our students in the bargaining process. This minister claims to be fair and balanced. First they rip up contracts, take control of the College of Teachers, and erase contractual guarantees to ensure safety and healthy learning environments. What will the Liberals do next, Mr. Speaker? Well, we have already seen it.

Last week the minister was out in force with all of the backbenchers, vilifying the teachers for the things they might say in parent-teacher conferences. Liberal MLAs were all over the media complaining that teachers should not discuss politics at parent-teacher meetings. These MLAs didn't even do their homework. All teachers want to do is hand out cards to concerned parents that explain why their children are in danger in classes. Teachers are not expressing political viewpoints; they're handing out factual information on class sizes. It is this government that has allowed class sizes to expand. That is a fact, not a political viewpoint. Any Liberal MLA who cries foul at this is out of touch.

Class sizes are fundamentally linked to learning outcomes and student achievement. If Liberal MLAs are so worried about what teachers are saying about class sizes, maybe they should do something constructive about it and get the government to adequately fund our education system instead of spending millions of dollars on partisan advertising.

Over the last three years we have seen nothing but hostility from this government towards working people. Whether they are nurses, health care support workers or teaching assistants, this government chooses to fight them every chance they get. They have not been shy about bashing teachers around either. These are the people who are front-line educators. They are the people we entrust our children with every day, the people who guide our children through math problems, teach our children the history of this country, coach their soccer teams, sponsor their clubs, console them after they've been bullied or provide them with a caring ear. They're hard-working, undervalued, pivotal mentors to the youth of this province.

What does this government do? It wages a battle against them and their democratically elected organizations. They're labelled a special interest group, and the government refuses to work with them in a constructive and collaborative manner. It is only after intense public pressure that this government finally acts. It took one full year for the government to swallow its overly inflated sense of pride, one whole year to finally do the right thing. How is that fair?

There are many challenges in our education system. There are many areas we need to work together on to improve the outcomes. However, the Liberal government has steadily exacerbated these challenges. Since coming to power, they ensured that education funding was frozen for over two years while they gave their rich friends a massive tax cut. They called this protection.

[1520]

Instead of protecting the system, the government froze education funding and imposed a wage settlement on school districts. Then they refused to fund it; they refused to pay for it. The government refuses to pay for rising energy costs that are being imposed by B.C. Hydro. The government increased gas taxes and refused to help school districts pay for these increases in transportation costs for students. The government refuses to assist districts to cover MSP premium costs that this government had increased.

The result has been cuts to services, cuts to staff and cuts to resources. We have seen over 100 schools closed and many valuable programs cut across the province. Not only is this government failing to accept responsibility for the loss of services in our communities, but they have created a system full of tension. Last year I warned the government about the impacts of Bill 51. They refused to listen. I said it would only make the tension in the system worse, and they did it anyway. With their large majority, they voted for the bill.

It is time for the government to back off from the battle with teachers and the editorial war and do what is best for students — work with the teachers, not against them. It is time for a new vision of education in British Columbia, one that goes beyond the Minister of Education's rhetoric and removes the children from the front lines. This bill is a step, but much more is needed.

There are many things that we can do. We can listen to the voices in our communities instead of shutting them out. School boards can continue to speak on behalf of their communities and ensure that the Minister of Education is listening. Students and parents should be granted the same ability. We must also listen to the teachers, the professionals that work day in and day out to ensure that our children receive an education — the best they could offer.

One of the lessons we must learn comes from Dr. Rozanski's assessment report of Ontario's education system. On December 10, 2002, Dr. Rozanski's education task force released a lengthy report entitled *Investing in Public Education: Advancing the Goal of Continuous Improvement in Student Learning and Achievement*. The opposition has spoken about this report before, but we have yet to see the government take it to heart. Overall, the report contained 33 recommendations that in the words of Dr. Rozanski were "aimed at improving equity, fairness, certainty and stability in the funding of Ontario's students and staff."

At the heart of these recommendations was adequate flexible funding. Dr. Rozanski insisted that funding needs to reflect real current costs. In Ontario there was a funding freeze set at 1997 levels. As a result, officials were forced to make significant cuts to the education system. Rozanski then recommended that Ontario spend \$1.08 billion just to reverse the damage done by the funding freeze. Rozanski's message is clear. Forcing cuts will lead to long-term difficulties and the potential deterioration of the system — something we cannot afford.

We need to listen to Dr. Rozanski and his recommendations here in British Columbia in order to avoid the consequences seen in Ontario. We cannot impose salary increases on school boards without funding them. The costs down the road would be too high. We cannot download MSP increases to school boards without properly funding them, or we'll see the impacts in the classroom. We cannot expect school boards to pay for increasing energy costs and gas prices in the face of declining enrolment without giving them real tools to ensure fair and equitable access for all students. We cannot cut services to classrooms without putting more strain on the professionals who work in those very schools.

Teachers need the support of society and government to maintain the quality of education we cherish so deeply. We cannot afford this battle that the Liberals, this Minister of Education, have put in place and are determined to fight. We cannot afford to make the same mistakes that Ontario made. Instead, we need to support teachers, educators, parents, school boards and students.

[1525]

Dr. Rozanski also argues that we need to create an atmosphere of reciprocal accountability. If the government wants to impose standards on schools and teachers and if government wants to hold school boards accountable, government itself must be held accountable for providing schools with adequate resources to ensure that targets and accountability measures can be met. Government must be accountable to work with all of the people involved and not against them. So far it's not happening in British Columbia. The opposition, however, will continue its efforts to ensure that the voice of accountability is heard.

Bill 55 recognizes that the Liberals were way out of line last year, but this legislation is only a small step towards reciprocal accountability. The government and this minister must abandon their relentless attacks on teachers and those advocating for improved services. If the government refuses to be accountable, the tension in the system will remain, to the benefit of no one. It is time for the battle lines to be taken down. The government needs to ensure that children's interests are put first and foremost before their political interests.

**M. Hunter:** I rise to speak to Bill 55. In doing so, I want to say right off the top that there's nobody in this House to whom I would take second place in terms of the respect that I have for the dedication and professionalism of the vast majority of teachers in this province. I think it's a tough job. It's one I certainly wouldn't want to do, but I have a lot of respect for those people.

Secondly, we've just been treated to a very interesting view of the education scene by the member of the opposition. I think I should reject right now any of those allegations the member made that put in the court of government all the responsibility for whatever confrontation and tension might exist in the schools of British Columbia.

She failed to mention that most school districts are actually getting on with the job of managing the rather

significant financial resources that British Columbia allots to them. She failed to mention that school districts plan now on a three-year basis, so they can actually plan financially for the local parents and schools. She failed to mention the announcement of the Minister of Education just last week that we are putting \$10 million more into a program called Community LINK, which provides more money to school districts to do those kind of things that school boards believe need to be done in their communities for children who are perhaps less advantaged than some. Ten million dollars into that program brings it up to about \$45 million equitably distributed across the province, based on science. It's something the opposition doesn't mention, but I will.

I think that we both, however, have an interest in making sure that the teachers college is an effective self-governing body. A year ago — the member of the opposition is right — we stood here and debated Bill 51. I have to tell you, in that debate I was convinced that the new balance put into the teachers college was one with which I was comfortable. I was comfortable because it is very clear to me that the organization that has fought the changes, the B.C. Teachers Federation, always expresses its private interests. I'm not so sure that it always expresses what I take to be the public interest. The public interest in education includes me. It includes you, Mr. Speaker. It includes parents. It includes volunteers. It includes grandparents. It includes the community. It is not just the domain of teachers who happen to be members of their union, the B.C. Teachers Federation.

While I have enormous respect for teachers, I know that many teachers are very concerned about the operations of their own union. It does not always allow them the freedom of expression that an organization, in my view, should. So I am very concerned, actually, about the introduction of Bill 51. I think that a year ago, I was convinced, as I say, of the need for some changes.

[1530]

I acknowledge to the minister that this bill does make significant improvements in some aspects of the operation of the college. He mentioned in his remarks that it improves the duty to report professional misconduct in certain circumstances. It requires members to swear an oath, and I hope that will improve the conduct and the operations of the teachers college.

[H. Long in the chair.]

I have to say that I am disturbed by what I hear from the B.C. Teachers Federation. Politics in the classroom, as a result of an arbitral award last week, is something that unfortunately we have to look forward to. I am concerned that in the dispute with government, the B.C. Teachers Federation has chosen not to repay to this point over \$2 million in college dues that it is holding on behalf of its members — money that the taxpayers of British Columbia advanced to the college in light of that dispute.

I believe that the independent college that parents want, which they made clear as recently as this past weekend at a DPAC conference, and that I want is well achieved under the provisions of the former Bill 51. For that reason, I will not be supporting this bill.

**R. Masi:** I would like to make a few comments on Bill 55, the teachers college act. I certainly want to commend the minister for the restructuring of the College of Teachers. This new arrangement, this new organization, of 12 college members elected, three college members from the B.C. principals and vice-principals, the superintendents and the independent teachers.... I think it makes sure that it gives the members of the College of Teachers a definite majority. This also, of course, has the one appointment from the deans of education and four appointed by the minister from a range of the general public.

This is a fair and balanced representation of K-to-12 education in British Columbia. I think we've gone through some controversy relative to the organization and the structure of the college, but I know that the minister, after due consideration, has come up with a formula now that is in fact fair and balanced.

The objectives of the college are also clearly stated in the legislation. I know that any professional teacher should and would support the objectives, such as the establishment of standards for education — I think that's self-evident — and also to acknowledge and support professional responsibility and competence, which again is self-explanatory. A major objective is to encourage the professional interests of members, such as professional development, which in my view has deteriorated somewhat over the last few years. I think the College of Teachers is the essential location for the improvement of professional development in this province.

As I mentioned, the minister has heard the voices of teachers throughout the province. He has provided an opportunity for professional teachers to in fact establish a new professionalism in British Columbia. I think that's the essence of this legislation. This is an opportunity for professional teachers to throw off the binds of the Teachers Federation and strike out and form a new professionalism and a new attitude towards their profession in the province. The ball now — there's no question — is in the classroom teachers' court.

In my opinion, it's not appropriate for the BCTF, the teachers union, to attempt to manipulate, as they have in the past, the elections for the college council. We don't see this anywhere else. We don't see it with the College of Physicians and Surgeons. We don't see it with the professional nurses. They have their unions and other organizations that are the same, but the union does not attempt to interfere or interject their philosophy into the elections of their professional colleges. I think that's a critical point, and I would like to see the British Columbia Teachers Federation adopt a new attitude towards their involvement in the College of Teachers.

[1535]

As I mentioned, it's only the BCTF union leaders that feel they must control the college, and it is really

not the mandate of the union to control the professional college when all the members of the college are not members of the B.C. Teachers Federation. Somehow that point has just slipped by. Principals and vice-principals are not members of the BCTF. The independent teachers — by the way, independent teachers in British Columbia are 10 percent of the teaching force — and also superintendents.... These are all accredited, certified teachers who are members of the College of Teachers and who, in the past, have really not had an effective voice in the College of Teachers because the union has manipulated the election process.

It is the role of the unions generally to collectively advance the interest of their own members, and we know that. That is the role of a union. They look at wages, salaries, benefits. That is the essential position of a union, and so it should be. The unions do not necessarily represent all the interests of the public or all the participants in education, such as students, parents and taxpayers in general. Education is broad; it's widespread. The BCTF cannot be the only voice in terms of professionalism in this province.

This legislation presents an opportunity for the professional teachers to take control of their professional activities without political overtones, without interference from the B.C. Federation of Labour, the BCGEU, CUPE or any other external body. I think this is a critical point; it's an essential point. I see the changes in this new act as an opportunity for all the participants, for all voices in education, to join in to establish a true professional body dedicated to the highest standards of professional competence and responsibility.

**B. Lekstrom:** I rise today to speak on Bill 55. Listening to what others in the chamber have said is quite interesting. The issue we're dealing with is really about the College of Teachers. One of the focuses going back one year, as was pointed out, was the number of elected teachers to the college — a very serious issue and a significant one that the British Columbia Teachers Federation took issue with. Upon taking issue, they withheld dues that were payable and as a result of that, I guess, managed to bring the idea forward that the number of teachers to be elected to this board had to be increased compared to what was in Bill 51 of last year.

Through many discussions, I'm sure, with the minister and people within the B.C. Teachers Federation, a new bill is before us. Bill 55 is one that I think accommodates their requests to a degree and matches a balance to find out what has to take place to make this work.

I do have some concerns, and they're somewhat unique. Bill 55, when you read it in context, is a decent document. It's a reasonable bill when you look at it and you go through what's there. To me, the reason it is before us isn't acceptable. The B.C. Teachers Federation has withheld over \$2 million, which is really taxpayers' money. It's \$2 million that this province and this government took and paid on behalf of the teachers who did not submit their dues. That causes me grave concern.

[1540]

We talk about dropping the battle lines and taking the battle lines down. I think a lot of work has to be done yet. Just recently I have heard a couple of people talk on the arbitrator's decision to allow what I would describe as putting political rhetoric in the hands of teachers in the schools. I don't think they want that. I think we should do a better job as British Columbians of teaching our children what the political system is all about — not that this government is bad or this government is good and, you know, this or that.

It's about the system. So many of our kids coming out of school today don't realize the system we live in, in British Columbia and Canada, or how our democracy was gained and was fought for. People died for our right to cast a vote. We have to do a much better job of that, and I think it's fair to say, whether you are a teacher or you are a resident of British Columbia, that it makes some sense — but not to preach politics of one party over another in the classroom or to parents coming to visit in a teacher interview. That arbitrator's decision is nothing short of a disgrace in my eyes.

I want to go back to Bill 55 and what it holds in this document. I believe what it holds is an understanding that the government listened to the concerns brought forward by the teachers — not without a great deal of deliberations, I think, on both sides. But having said that, I have seen no willingness from the other side to put the money back that they've withheld — money they've taken out of the classrooms of the students that they're there to teach. That's \$2 million less that the government has to invest. That investment is in our classrooms. It's in our schools.

They're somewhat hypocritical in my view. They're fighting on behalf of a better education system. They want our children to learn in a great environment, and I have the utmost respect for that. But at the same time they've kept \$2 million in their pocket and told every other British Columbian: "You have to pay that on our behalf because we're mad at the government. They passed the bill that we didn't like, and we're not going to pay that money back." That's unreasonable. It just is not in the best interest of the children. I don't think it is in the best interest of our province. If that is how battle lines are supposed to come down, they're living in a different world than I am, because that just doesn't work for me.

Do we want to remove the children from the front lines? Definitely. I will go back to what I said about the arbitrator's decision. If we remove our children from the front lines of this political issue that we're in, the way to do it is not by utilizing the arbitrator's decision to allow this to take place.

I would love to hear a commitment from the BCTF upon listening to the debate in this Legislature — and I'm sure they're listening — to come forward and do what's respectful and what's right and forward the money they've kept from taxpayers of British Columbia, just as this House is living up to its agreement to change Bill 51 by presenting Bill 55 here today to give the majority of the college elected teachers. That's what

it's all about. It's politics in every sense of the word. It just is not right that we are now committed as a government to make the changes in a bill and do not have a reciprocal agreement that the other side should live up to.

The college dues and what takes place as a self-governing profession within that college. As was indicated by other colleagues here, I think most people have the utmost respect for teachers. It's not a job I would like, because it is a job that you want to love to do or have to love to do, to go into that classroom and deal with all the issues you face day after day. I'm not that old, but some of the stories my children bring home.... It's quite amazing what goes on in our classrooms today. For a teacher to be able to deal with that and educate the students at the same time, they're obviously very special. But from my view, it seems like there is a select group controlling the BCTF that seems to be forcing the hand of some of the decisions made.

We've lived up to our agreement. We've changed the makeup of the college so that teachers have the majority and can elect 12.... Although the bill is fine, it is a bill here based on, probably, principles that were negotiated by the dollar, when I think of what the BCTF has done. Until I see a reciprocal agreement where the BCTF lives up to its obligation to give the \$2 million that it's taken out of the classroom and out of taxpayers' pockets of British Columbia, I can't support this bill.

[1545]

**K. Stewart:** I would just like to have an opportunity to support this bill. One of the things in following through with the process that we've undertaken with this bill is.... I did get quite a bit of response back from teachers I know when the bill was first introduced. There seemed to be some misinformation out there with regard to the intent of this government, or what I perceive was the intent of this government, and also quite a bit of rhetoric from the more radical members of the teachers union with regards to what our intentions were. I believe it caused a lot of misinformation.

I am also concerned about the funds that are left there owing to the citizens of British Columbia that they've had to cover through other areas — because it does take funds to operate these organizations — although it's not enough of a consideration for me to oppose this bill. I believe that in the true spirit in which this is intended to help overcome some of the past difficulties and areas of misinformation that were placed out....

I would surely hope that by this bill being passed by the government today, the logical people — which I presume and from what I've seen of the teachers I know is a vast majority of teachers — would view this as something that is not only good for the students, not only good for the teachers, not only good for the administrators, not only good for the school board but good for all people in future learning in British Columbia. I would trust that shortly after the conclusion of this bill, if it is concluded in a positive way, the Teachers Federation will come forward with the funds that

they've been withholding. It's on that assumption, which I know is a dangerous thing in this business, that I will be fully supporting this bill.

**Deputy Speaker:** The Minister of Education closes debate on Bill 55.

**Hon. T. Christensen:** It's been interesting, and I appreciate the words of other members in the House and the contribution to this debate. It was interesting listening to the member for Vancouver–Mount Pleasant and her taking the opportunity of the discussion of the College of Teachers to list off her many complaints about public education in the province and, consistent with her practice, not offering any solutions. I know the member often likes to list off different numbers of what's happening in public education, but she never actually lists off what the most critical numbers are when we're looking at public education, and that's what the results are.

The results are — and this is likely why she doesn't tell the House this — that the completion rates are up for students completing high school. Aboriginal completion rates are up. Provincial scholarships — we awarded 400 more provincial scholarships last year than we had in 2002. There are many indicators showing that students are actually doing much better in school. As I travel the province, I certainly see exemplary practices going on in schools in districts right around the province.

I think it's always worth noting that we spend too much time focusing on the challenges, and we rarely spend the time we should focusing on the fact that we have and continue to have one of the pre-eminent public education systems both in Canada and, in fact, in the world. People continue to come to British Columbia to see what we're doing here, and the innovations being practised in public schools here, so they can take those ideas back to their own jurisdictions and copy them.

A number of other remarks that the member for Vancouver–Mount Pleasant made suggested that Bill 51 last year just came out of the blue — that the College of Teachers was ticking along, operating fine, and that, really, there was no need for government to act — and nothing could be further from the truth. As I indicated earlier, the College of Teachers had existed for 16 years without having developed standards of conduct for the profession. That's the most fundamental thing that any self-governing professional body can do, yet for 16 years the College of Teachers hadn't managed to do that.

[1550]

There was a general lack of public confidence in the College of Teachers and confidence by the other education stakeholders. A lack of confidence was generated by the fact that the B.C. Teachers Federation, the teachers union, chose to try and very deliberately exercise influence over the College of Teachers, resulting in a college that did not have that one thing which I mentioned earlier that a college needs, and that is the con-

fidence of the public. The college at that time didn't have a public complaint process, which is something that at a minimum we should expect from any self-governing profession moving forward.

We have worked hard on this file over the course of the last year. We have looked to develop a framework for a college of teachers that can serve the needs of the profession in a manner that protects the public interest. Moving forward, I'm confident that that is going to happen.

The transitional college has drafted standards of competence that they are now out consulting on, and I emphasize that those are draft standards of competence. The government certainly will be encouraging the newly elected college council to include the final standards in the college bylaws once that consultation is complete. It's critical that as a self-governing profession, the College of Teachers has appropriate standards of conduct.

Government, as I said, has also heard very clearly that there must be a formal public complaint process for the college but also that that process needs to respect existing processes developed by individual schools and local school districts. Government will encourage the college to finalize a public complaint process that will be included in the college bylaws. If those things are followed through on, I'm confident we will end up with a college of teachers that does have the respect of both the profession and British Columbians all around this province.

I think what the members of the opposition seem clearly not to grasp is the distinction that must be made between the College of Teachers and the British Columbia Teachers Federation. As the member for Nanaimo indicated, the British Columbia Teachers Federation serves a very legitimate and important purpose in serving its members as a union. It has a role to play in collective bargaining. It has a role to play in advancing the interests of its members as a union.

Contrast that with the purpose of any self-governing professional body. Its primary object is certainly to develop standards for the profession and to govern the profession — but in the public interest. It is a simple fact that governing in the public interest is not the same as representing the interests of the union. It is not the same role as a union, and it is critical that that distinction be drawn.

I do have reason for concern in this regard. The BCTF along with numerous professional teachers around the province said to government: "It is important that teachers be a self-governing profession." I agree with that; my colleagues agree with that. They indicated that in order to be an effective self-governing body, it was important — like other self-governing colleges and professional bodies — that a majority of the members of the governing council be elected by members of the profession. Government agrees with that. We're moving to do that with Bill 55 so that 12 out of the 20 members — clearly a majority — are elected by members of the college.

Unfortunately, since the BCTF took that original position, they have more recently indicated that they in fact wish to have 14 members. Government isn't going to provide for 14 members, because that would provide a lack of balance between elected members and other members of the council that are there to ensure the public interest is respected. My concern around the argument that the BCTF would like to see 14 members elected is that the argument is clearly made in the context of a desire to control the College of Teachers. They expressly state that they want 14 elected so that they can change bylaws. That is clearly inappropriate, and it is further evidence — and evidence that concerns me — that the British Columbia Teachers Federation does not yet see the distinction between a professional college of teachers and its mandate as the teachers union.

[1555]

Moving forward, we really are at a critical juncture. Bill 55 is enabling legislation, in my view. It enables professional teachers in this province to choose to be a self-governing profession and to serve the public interest in how their profession is governed. If we are to get to a point where the College of Teachers is fulfilling its role like any other self-governing profession, the College of Teachers is going to have to operate like other self-governing professional bodies — like the Law Society, like the College of Physicians and Surgeons, like a host of other self-governing professions we have in this province.

If the BCTF wishes teachers to have a self-governing professional body, they need to review and remove their practice of endorsing candidates for election to the college council. In some discussions with the BCTF executive, they've indicated to me they're prepared to do that and that they don't see endorsement as being a critical issue. They say to me that it is important, and they recognize the importance that there be that independence. I am hopeful the BCTF will follow through on their suggestion that they would be prepared to remove endorsement.

But the BCTF needs to go further. They need to encourage their members to pay dues to the college, dues of \$90 a year, which is less than half the dues paid by any other self-governing profession in this province. I think they're less than 10 percent of some of the self-governing professions, so those are reasonable dues that should be paid in order for the college to fulfil its mandate.

I've had the distinct pleasure over the last four months of visiting about 15 of the 60 school districts in this province and meeting with principals, vice-principals, teachers and parents. I can tell you that we are incredibly fortunate to have teachers who are dedicated, day in and day out, to being very professional in doing all they can to meet the needs of our students in the classrooms. We have innovative practices going on in classrooms from one part of this province to another, with all of that innovation driven by teachers who are continually striving to meet the needs of their students and ensure that their students get the best education possible.

Those are the teachers who are out there in our classrooms. Those are the teachers who deserve and sincerely want to be a self-governing profession. That is the professionalism that's occurring in classrooms around the province. We've had a lot of discussion in the last few days about the BCTF, the direction they're going with wanting to pursue political action in schools and the arbitrator's ruling that's now being appealed.

To be perfectly frank, all of that discussion flies in the face of the experience I'm seeing when I go to classrooms. The teachers I see in classrooms don't want to talk politics. They want to talk about what they can do to improve the outcomes of their students, what new literacy initiative and what numeracy initiative they can try, what we are doing and what they can do to promote a broader range of opportunities for students as they go through school.

That's the professionalism that is going on out there, and I commend all those teachers who work day in and day out on behalf of students right around this province. As we move forward, it's critical that that distinction be made at all levels between the interests of the BCTF and the interests of the profession. I think it would be extremely dangerous if the BCTF chooses to follow through on what it has said it intends to do in terms of using things like parent-teacher interviews to pursue their own political objections to government.

I say this based on comments I've received from parents, and I base it on my own perspective as a parent. You go to a parent-teacher interview to discuss your child's progress. You expect your child's teacher to be professional in that discussion and to talk to you about what your child is learning, the methods being used, the initiatives you could take as a parent to help your child learn better. Certainly, in my experience as a parent, the one teacher I've had to deal with in a parent-teacher interview has been extremely professional.

[1600]

To change that relationship to one that might involve any suggestion of politics completely undermines that teacher's professionalism. I would ask the BCTF to think long and hard before it chooses to go down a path that undermines the professionalism of educators around this province. I would ask that individual teachers think about that thoroughly before they go down that path.

Bill 55 provides the vehicle to have a truly professional college of teachers, to have a truly professional self-governing body here in British Columbia. It is a vehicle I am hopeful and confident that teachers around the province will embrace and that we will be able to move forward and establish ourselves as the first jurisdiction in Canada to truly have an effective self-governing body for our professional educators.

I move second reading of Bill 55.

Second reading of Bill 55 approved on division.

**Hon. T. Christensen:** I move that Bill 55 be referred to a Committee of the Whole House to be considered at the next sitting of the House after today.

Bill 55, Teaching Profession Amendment Act, 2004, read a second time and referred to a Committee of the Whole House for consideration at the next sitting of the House after today.

**Hon. C. Hansen:** I call committee stage on Bill 43.

### Committee of the Whole House

#### VITAL STATISTICS AMENDMENT ACT, 2004

The House in Committee of the Whole (Section B) on Bill 43; K. Stewart in the chair.

The committee met at 4:03 p.m.

Sections 1 to 3 inclusive approved.

On section 4.

**Hon. C. Hansen:** On this section there are some issues raised by some individuals that I wanted to take the opportunity to elaborate on a bit. Without actually having a question put to me on this section, I wanted to be proactive and put this on the record.

The issue that was raised for me was around a situation where a child would have been born as a result of a rape, for example, and what protections there would be for the mother. I wanted to make it quite clear that we are not proposing any changes to the legislation in that regard, in that it is still up to the discretion of the courts to determine whether or not the father would be named on the birth certificate. The change we are also bringing in is to give the courts the ability to also determine whether or not the father should be allowed to participate in the naming of the child.

[H. Long in the chair.]

One of the suggestions that had come forward as we were considering this legislation was whether or not it would be possible to make it explicit, in the case of an act such as rape that was found to be a criminal act by the courts, that the ability of the courts to hear those cases would be restricted. I wanted to put on the record that I'm advised that if we did that, it would perhaps fetter the courts in ways which would have unintended consequences, in that it would put limitations on the ability of the courts to look at the broad ranges of circumstances which might lead the courts to not allow the father either to be named on the birth certificate or, in fact, to participate in the naming of the child.

[1605]

I did want to raise that in response to some concerns that had been raised with me earlier, and I'd be pleased to take any other questions.

**J. MacPhail:** My colleague has my file. She's picked it up with everything. So I'll start my questions, and

then I might just have to ask for a moment — she's in the Douglas Fir Room — to get it.

It is on this very section, section 4. I just want to make sure that we clarify these changes for people who are particularly... I must tell the minister that the areas where we have had questions for me to ask the minister are from the adoption community. To begin, I just want to ask the minister this. The sections that are being changed here are to deal with the court case, as the minister has just said. I thought the court case also addressed the issue of sections 3(1)(b) and 3(6)(b) of the Vital Statistics Act in terms of amending paternity and naming rights, but this new legislation doesn't address changes to those sections.

**Hon. C. Hansen:** The court case that was decided on by the Supreme Court of Canada last June in fact started many years ago. In a miscellaneous statutes bill that came through this House in 2002, we made some amendments to section 3 around the rights of the courts to order that the father's name be reflected in the birth certificate. When the court decision came down, it was actually in the context of both issues. But the court actually acknowledged that we, as the B.C. Legislature, had in fact amended this legislation around the ability of the court to order that the father's name be added to the birth certificate.

Where the courts went further than that last June was with regard to the naming of the child, and they found that issue was also discriminatory. So in fact, what flowed from the court decision is that we had already done the side with regard to the rights of the courts to order that a father's name be reflected on the birth certificate. We then had to go the extra step to reflect the court's ruling with regard to the father's rights in the naming of the child.

**J. MacPhail:** That's very helpful. But I'm wondering whether it's that the public doesn't yet have access to some sort of record to these changes. Can I just confirm with the minister what the changes are that were made to section 3, before, to deal with this? Perhaps he could just read them into the record. What I'm discerning is he's saying that changes were made in a previous amendment to deal with the Supreme Court of Canada changes around naming the father. Could he just read into the record what the current law is around that, then?

[1610]

**Hon. C. Hansen:** This court case goes back a number of years. This had been before the courts, but not to the Supreme Court of Canada until last June. In October 2002, in a miscellaneous statutes amendment, we brought in changes that amended section 3 that the member referred to. It was by adding the following paragraph, and that was: "(d) the child's mother or father, if the application is accompanied by a copy of an order of the court declaring the child's paternity, unless the court orders that the father's particulars are not to be included on the child's registration of birth."

Then this next section actually just provides for an effective date of that — that it would only apply to court orders made after October 1, 2002, and that if it was for a court order prior to that, it would have to, in fact, go back to the court.

Those amendments from 2002 were proclaimed, I believe, in October of that year and have been in effect.

**J. MacPhail:** I see that's actually 3(6)(d) — "d" as in dog — that the minister was just reading into the record from the Vital Statistics Act.

Is it the minister's view that this change deals with the results of the Supreme Court decision of last June? If his answer is yes and he does feel that way, then I'm wondering whether he would be willing to receive letters from people with their personal circumstances, as we have received, to ensure that the law is correct. I'm not asking for changes but just to ensure that the law is correct and that if it perhaps isn't meeting all circumstances flowing from the Supreme Court decision, he would take that into account.

**Hon. C. Hansen:** The short answer to her question is yes. These changes do reflect the Supreme Court's decision of June of last year.

To her second question as to whether or not I'd be willing to receive letters and representation, the answer is yes. If I can just point out — it may be helpful; I'm not sure — that in the court's decision, the Supreme Court was reflecting the wording of the Vital Statistics Act prior to the changes that we had in place in 2002. So there may be some people who don't appreciate the fact that this has almost been a two-stage transition. We did the changes in 2002, which addressed some of the issues that were subsequently reflected in the Supreme Court decision, but the courts, of course, also went further when it came to the actual naming, and these changes now also reflect that. But the short answer is yes, I'd be pleased to receive those letters.

**J. MacPhail:** I appreciate that.

**S. Orr:** I have had several conversations with the minister over a period of time on an issue that I have concerns about. I do believe that this comes under section 4. I've gone through the bill. It's kind of hard to find out where it is in here, but I think it's under section 4(2).

My concern is over the protection of a woman who has been raped or a woman who has fled an abusive marriage or relationship. I want to find out what protection she has if the father has the right to have his name on the birth certificate. Can you assure me or can you explain to me on the record where I would feel comfortable that a woman who has been raped or a woman who is fleeing an abusive marriage or relationship has some sort of protection?

[1615]

**Hon. C. Hansen:** At the outset, I did try to address some of those issues. Just to respond to the member's

question specifically, the advice that I have is that for us to put additional restrictions on the courts in terms of circumstances under which they may or may not hear a case may in fact have the opposite result.

I'll read you this, which may help explain it: "Specific exceptions in the act would restrict the court from using its discretion to consider a broad range of circumstances such as spousal abuse, incest and stalking when considering an order to refuse registration of a father's particulars." In other words, if we were to try to carve out circumstances that would say to the courts that they could not hear a case, for example, where the father had been convicted of a rape, that may in fact impede the court's ability to reject a case where the father may be accused of rape but not convicted of a rape. So the protection to the mother is really in the power of the courts and the requirement that the courts must consider the best interests of the child, which is in the legislation. For us to further restrict the ability of the court may in fact have the opposite effect in those circumstances.

**S. Orr:** I think that answers my concerns, but I do want it on the record because when judges go to make decisions, quite often they will read the *Hansard* when they are reading the legislation. Hopefully, this will be flagged, and he or she will become very cognizant of an issue that I have raised.

Sections 4 to 10 inclusive approved.

On section 11.

**J. MacPhail:** I'm wondering whether this is just a technicality of a misprint, but I'm dealing with section 11(b), which repeals and substitutes section 36(4) of the Vital Statistics Act. It reads — 11(b)(4): "Subject to sections 63 (2) and 64 (3) of the Adoption Act...." I'm wondering, Mr. Chair, whether it should actually read subject to 63(2) and 64(2) of the Adoption Act. Those two sections are identical — 63(2) and 64(2) of the Adoption Act. Therefore, that's why I wondered whether it should be that instead. This is strictly technical, but it doesn't seem to read correctly if it refers to section 64(3) of the Adoption Act.

Interjection.

**J. MacPhail:** Yes, that's fine. I appreciate it.

[1620]

**Hon. C. Hansen:** This particular reference is the same language as was in the bill before, so we're not changing it. That's the first thing to point out.

Secondly, what section 63(2) does is restrict the.... If there is a disclosure veto on the information, then that information cannot be disclosed. Section 64(3) says that if a birth parent is applying for information, they cannot get access to the information about the adoptive parents. They can get information about the child but not the adoptive parents.

I am advised that these two references, first of all, haven't changed from the original wording — they're simply restated in this — but also that it pertains to those two provisions.

**J. MacPhail:** I'm sorry. I misunderstood the point. They haven't changed from the original wording where? The original wording....

**Hon. C. Hansen:** This particular section.... What it does is repeal.... Is it 37? It repeals 36 and then restates it, but in restating it, it incorporates much of the original language in section 36. In this particular reference, where it says, "Subject to sections 63 (2) and 64 (3) of the Adoption Act," that is exactly the same language in this section that exists prior. So we are not changing that particular reference, and it is with regard to those two issues that these references occur.

**J. MacPhail:** Okay. I'm not going to belabour this point. I hope it wasn't in the original act that the mistake was made. Believe you me, I could criticize the author of that mistake from now till doomsday. I did the Adoption Act, Mr. Chair. I was the one who did it. I just hope it's not an error from the original act, because it does seem to me that there's disclosure being talked about, first of all, to the adopted child 19 and over. Then the other section, section 64 of the Adoption Act, is disclosure to the birth parent.

How do we ensure that the provisions of "a certified copy or certified electronic extract," etc., which is now provided in this new legislation, will be provided to an adopted person...? How do we ensure that that's also provided to a birth parent?

**Hon. C. Hansen:** What this does is say that if there is information that can be provided under the Vital Statistics Act, that does not take priority over the Adoption Act. If there is a restriction on the provision of information in the Adoption Act under these two sections that the member referred to, then they have to be respected. Information that cannot be disclosed under the Adoption Act has to also not be disclosed under the Vital Statistics Act so that we have consistency between the two.

[1625]

**J. MacPhail:** Okay, fine. That's fine, Mr. Chair. I think the minister has a handle on it. I hope people who are looking at this can understand it as well, because these sections of the Adoption Act are very widely used, and British Columbia should take great pride in that.

We're discussing, generally, changes to disclosure under the Adoption Act now. That's what section 11 is about. I want to ask the minister a general question about disclosure in that area relating to vital statistics.

The minister has addressed some issues around birth fathers. I appreciate the changes he has made in that area. It's my understanding that birth fathers who aren't named on the birth certificate.... There was a

period — I think it was prior to 1962 — when birth fathers were deliberately excluded from being on the birth certificate. They are now denied access to a child's adoption records under the Adoption Act because they can't produce the birth certificate with their name on it. In the period from 1948 to 1962, I think, birth fathers were specifically prohibited from being listed on the birth certificate. They now don't have a birth certificate, pursuant to the section that we were just talking about, to produce.

It is becoming clear that it's a catch-22. Has the minister had any representations made on this? Does he have any proposals for solutions?

**The Chair:** Leader of the Opposition.

**J. MacPhail:** May I add one other fact to this, Mr. Chair? It is relevant to these sections of the Adoption Act.

There has been no disclosure veto filed in these particular situations. It's by virtue of the fact that the father doesn't have the legal piece of information that is required because of a warped law, I would say, that existed between 1948 and 1962.

[1630]

**Hon. C. Hansen:** As I understand it — actually, this is an interesting piece of B.C. history — between 1948 and 1962, if the father signed the registration, then he was automatically added to the birth certificate as the father, regardless of marriage. In 1962 it changed so that there had to be a joint statement of paternity. That was the system that was in place between 1962 and 1987. Then in 1987 it went back, in fact, to the system whereby if the father signed the registration, it resulted in his name being added to the birth certificate.

The question from the member, as I understand it, is.... At the time the registration was done in those years, if the father did not sign it, then there would be no record. The challenge for Vital Statistics is that they have no legal record of who the father was during those years. I'm not sure if the member has any particular suggestions around that. I think her specific question to me was: have I had representations on that? My answer is: not that I'm aware of, although letters may have come into the ministry in that regard. I would certainly be open to suggestions. I don't think anybody has any quick solutions as to how to deal with that, given that there is no legal paper trail with regard to who the father was in those cases.

**J. MacPhail:** I appreciate that, and I will urge people who have concerns around this to make representations to the minister. All of the tests of these laws require personal circumstances, if you ask me, to understand how to enforce them. I will urge people to do that.

This section, section 11, talks about the Adoption Act and disclosure. Part of disclosure is that people get to veto disclosure. I just wondered.... We are facing a situation now where a disclosure veto continues in

effect until two years after a person has died. We are now at a situation where the law has been in force long enough that that test has been met. However, there's nothing in the act or nothing that people can easily access when people in the adoption circle are looking for disclosure after a person has died, and they don't know when the person has died.

I know under some circumstances people may say: "Oh well, don't you know when a person dies?" Well, this is a circumstance where people have actually put in place a veto, which is the equivalent of a no-contact, and yet the law was very clear to say that records can be disclosed two years after the person dies. People are now at the stage where they're pretty much having to file a request, pursuant to section 5, almost on a daily basis to see whether the person has died.

Has the minister had any experience with this? Is there a solution to this? Is there a way at Vital Statistics, with our wonderful records — I think we've won a lot of awards for our Vital Statistics in British Columbia — where a person can check deaths on line?

**Hon. C. Hansen:** I'm trying to think of how.... The more we get into this, the more you start to appreciate the complexities of this.

The member's question, I think, is relevant not only to this section but also to the section around the release of birth certificates 100 years — or 120 years, as we're proposing — after the birth of the individual. The problem we have is that we don't have records of individuals who pass away, who may be born in B.C., who may have been put up for adoption in B.C., but who then move out of the province, or the birth parents may move out of the province. We don't have ways of tracking that.

[1635]

I guess the short answer to the member's question is that we have not come up with solutions as to how to manage that information, even with some of the new technologies that Vital Statistics is employing in the province.

**J. MacPhail:** That's fair comment.

Are deaths registered in a public way if they're B.C. born and died?

**Hon. C. Hansen:** If they pass away in B.C. or if we have proof of death of an individual, then that information is available through archives 20 years after the individual dies. I know the member is looking for an opportunity to determine whether an individual is deceased or not on a shorter time frame than that, but what is in place now is 20 years.

**J. MacPhail:** Just my final comment on this. I think British Columbians should be very proud of their vital statistics model here in British Columbia and also their adoption laws. I would hope that the minister, Vital Statistics and the Ministry of Children and Family Development could work together at some point to do a review of access to adoption records, so that we can

ensure that all three points of the triangle — whether you are a birth parent, an adoptive parent or an adoptee — are getting maximum benefit of their personal circumstances and maximum protection as well. I would urge that. The law will be ten years old soon, and perhaps a review would be appropriate.

**Hon. C. Hansen:** I appreciate the member's suggestion. I think it's very constructive. Clearly, when you look at some of the changing technologies that are available to us today, it is probably appropriate to look at how those new technologies can be used to meet the interests of individuals in the province. I very much appreciate her comments and also her recognition of the very excellent work that Vital Statistics does. The Vital Statistics Agency in this province has procedures in place and programs that are being copied by other jurisdictions across Canada, and I agree with the member that it's an organization that we can be rightfully proud of.

Sections 11 to 22 inclusive approved.

Title approved.

**Hon. C. Hansen:** I move that the committee rise and report the bill complete without amendment and ask leave to sit again.

Motion approved.

The committee rose at 4:38 p.m.

The House resumed; Mr. Speaker in the chair.

### Report and Third Reading of Bills

Bill 43, Vital Statistics Amendment Act, 2004, reported complete without amendment, read a third time and passed.

**Hon. L. Reid:** I call committee stage of Bill 51.

[1640-1645]

### Committee of the Whole House

#### WILDLIFE AMENDMENT ACT, 2004

The House in Committee of the Whole (Section B) on Bill 51; J. Weisbeck in the chair.

The committee met at 4:46 p.m.

On section 1.

**J. MacPhail:** Section 1 is the definitions. For the minister's edification, and maybe it will help him in guiding his answers in debate, we have not had species-at-risk or endangered species legislation in the province — not under any previous government. I acknowledge that

point. There is legislation at the federal level, the Species at Risk Act, and it is on that basis that some of my questions will be asked, for comparison.

To start in the definitions, I note that this government is taking an approach in definitions that would not contrast favourably with the Species at Risk Act federally in that there are very clear definitions of endangered species or threatened species or wildlife or critical habitat written right into the federal act. Yet this government has chosen to designate those definitions by regulation. Why?

**Hon. B. Barisoff:** It is parallel with the federal species-at-risk legislation. It's just done in section 6.

**J. MacPhail:** I'm sorry. No, let me be a little clearer then. This government has chosen an approach that politicians will continue to designate species and what happens to them when they become endangered. Section 6 continues that. It says: "if the Lieutenant Governor in Council considers...." That's what the definitions are like also.

Let me just read a couple of the definitions into the record. The definition of endangered species under section 1 of Bill 51, this bill, says "...a species designated by regulation under...6 (2)...." Section 6(2) again refers that it will be the government, the cabinet that will be designating it. That's an endangered species. The SARA, the Species at Risk Act federally, says an endangered species is "a wildlife species that is facing imminent extirpation or extinction." That's a scientific definition.

What made the minister go the route of continuing to have politicians decide extinction?

[1650]

**Hon. B. Barisoff:** The definition is still parallel to section 6. The federal cabinet actually determines the species that they put on the list also, so it's exactly the same as what happens in B.C. by having the provincial cabinet do it. The federal cabinet does it in section 6. The definitions are parallel.

**J. MacPhail:** Is the minister saying that the Species at Risk Act has no scientific basis to it — that someone other than scientists determine which are extinct or facing imminent extirpation?

**Hon. B. Barisoff:** The federal cabinet determines its decisions based on science, and the same applies to provincial. They'd base their decisions on science. It's exactly the same as what the federal government does. They base their decisions on the science that they get put before them, and the same thing is going to happen with the provincial government.

**J. MacPhail:** Let me read into the record what the federal government does, and then the minister can tell us that this is what he's going to do as well. Under the Species at Risk Act, a national body of scientists — they're called the Committee on the Status of Endan-

gered Wildlife in Canada, or COSEWIC — is charged with making recommendations about what species should be listed as at risk and in need of protection. Once a recommendation is made, the species are automatically added to the list of protected species, unless the federal politicians make an explicit decision to overturn the recommendation.

This explicit focus on the recommendation of scientists means that when politicians interfere, it will be obvious and clearly political. Scientists say what goes on the list, and politicians make decisions where to object and remove from that list. Is that what the provincial government is going to do as well?

**Hon. B. Barisoff:** First of all, the federal cabinet takes its advice from COSEWIC, and what will happen provincially is that we'll take that advice also. We'll also take advice from the conservation data centre, and then that advice will be given to the minister. The minister would submit that to cabinet, and a decision would be based on that advice.

[1655]

**J. MacPhail:** Oh, okay. This really is the thrust of my point here, Mr. Chair. It's that while this is an improvement — and we will be voting in favour of this legislation, so this is better than it was before — it seems to me that this legislation still continues down the road, as it has been since 1980, that it will be politicians who will decide, not scientists.

What happens at the federal level is that, first of all, there are clear definitions. Let me just read them into the record from section 1 here. Under the Species at Risk Act federally, an endangered species is "a wildlife species that is facing imminent extirpation or extinction." Bill 51, the provincial legislation, says it will be "a species designated by regulation under section 6 (2) or (4) as an endangered species."

Definition of threatened species. Under this legislation, it's "a species designated by regulation under section 6 (3) or 6 (4) as a threatened species." The federal act very specifically defines threatened species. It says: "...a wildlife species that is likely to become an endangered species if nothing is done to reverse the factors leading to its extirpation or extinction."

What's the definition of wildlife under the federal act? Here it is under the federal act. Wildlife is defined as: "...species, sub-species, variety or geographically or genetically distinct population of animal, plant or other organism, other than a bacterium or virus, that is wild by nature and (a) is native to Canada; or (b), has extended its range into Canada without human intervention and has been present in Canada for at least 50 years." That's how wildlife is defined.

Bill 51 — the bill we're debating now provincially — says: "Wildlife' (a) means raptors and game and other species of vertebrates prescribed by regulation, and (b) for the purposes of sections 3 to 5, 7, 8, 84 (6.1) to (6.4), 97.1 to 98.1 and 108 (2) (v), includes fish, but does not include species at risk."

So here's how I understand, and I've checked this relatively carefully. The federal legislation operates with clear definitions, not definitions established by order-in-council or regulation, and then it's a panel of scientists that the minister and I both agree.... The anagram is COSEWIC, but it's a panel of scientists. They put to the federal cabinet, by recommendation, a list of species that they think should be listed as extirpated or endangered, and that list stands unless cabinet decides to remove a species from the list. So it becomes very public about what the recommendations are and what cabinet has removed from the list. If the minister will stand up and say, "That's how this legislation is going to be implemented," then I will say: "Hurrah."

**Hon. B. Barisoff:** First of all, I agree with the member that we have moved a long ways with this legislation in the Wildlife Act to protect species. I know there are a number of groups that have come out and hailed what the government has done on this. Whether it's in the case of the federal government, which they also still base.... It's still a cabinet that makes the final decision. They base their decisions on the input they get from the scientists.

What will happen in the provincial government is that the input will be given to the minister, but ultimately cabinet will make the final decision on what happens. I know where the member is trying to go, but it still becomes a cabinet decision. It's the elected people that are the legislators of.... They're elected in the province of British Columbia, and then within cabinet that's who will actually make the decisions. They'll be taking information that they get from science to be able to make their decisions on.

[1700]

**J. MacPhail:** I'm not quite sure. Is the minister afraid to admit to something here? He's trying to say that his legislation is the same as the federal legislation, and it is not. The federal legislation says the recommendations of the committee of scientists are made public and the cabinet decision is made public about whether to accept or remove species. The public has full information of what the original recommendations were and what cabinet's decision is.

It may be that the federal politicians make decisions, but the decisions are disclosed in the context of the original recommendations of the scientists, and they're made public. Is the minister somehow saying...? All I asked him was: is that what he's going to do, what his government is going to do, or not? Will the minister be making public...? What scientist is the minister going to rely on? What is the group of scientists? Is it the same as the federal scientists?

**Hon. B. Barisoff:** We use the COSEWIC, the same group the federal government does. We also use the conservation data centre to make our decisions with.

**J. MacPhail:** Is the minister going to make public those two groups' recommendations to cabinet, in full?

**Hon. B. Barisoff:** COSEWIC and the conservation data centre are both.... That information is public information. They will give it to us, we will look at that as policy, and then cabinet will make its decision based on that.

**J. MacPhail:** COSEWIC is public information now, under the federal act. This isn't the federal act. Is the minister committing that the recommendations that COSEWIC makes to British Columbia will be made public, along with the conservation data centre information?

[1705]

**Hon. B. Barisoff:** The list that COSEWIC makes is public, including the species that are in British Columbia. The provincial minister will take the policy advice from that and take that to cabinet, and then cabinet will look at the policy advice we've got and make a decision, as cabinet makes decisions on all things. It is their decision to make in whichever direction they want to go.

**J. MacPhail:** COSEWIC is required to review the status of species at least every ten years under the federal act. Is there any such requirement in this act?

**Hon. B. Barisoff:** The ten-year requirement, actually, is part of COSEWIC. It's a national program, so the provincial government will always partake in that national program.

**J. MacPhail:** Perhaps the minister could outline clearly and legally what the relationship is between this legislation and the Species at Risk Act federally.

**Hon. B. Barisoff:** The federal act applies to federal land and federal species. The Wildlife Act applies to provincial land and provincial species.

**J. MacPhail:** Yes, I understand that, Mr. Chair. But the minister is just saying we are going to use COSEWIC, which is a designation by the federal government of a committee of scientists. He says: "Oh well, COSEWIC has a mandate to review species at risk every ten years." That's a federal mandate.

I'm asking him: are there any equivalent provisions in the provincial legislation other than his word that that's what they're going to do?

**Hon. B. Barisoff:** COSEWIC is a national program, so that goes right across Canada to all jurisdictions. We take COSEWIC's advice into consideration when we're looking at it provincially, but each individual jurisdiction across Canada will take their individual parts out of it and address it. COSEWIC is not part of the federal government; it is a group of scientists.

**J. MacPhail:** Yes, I'm well aware it is not part of the federal government. That's why it is such a good model. It's a group of scientists making recommendations.

Then what the minister is saying to me is that COSEWIC and the conservation data centre will continue the work that it does pursuant to the federal Species at Risk Act and apply that work to British Columbia, and that British Columbia will act on its recommendations in the same fashion that the federal government does. That's what I hear the minister saying.

[1710]

Does COSEWIC, which is...? What do you call it when you...?

**B. Suffredine:** Acronym.

**J. MacPhail:** Acronym; thank you very much. It is an acronym. Will COSEWIC and the conservation data centre cover the broad range of species that exists beyond the federal lands? Federal lands only cover 1 percent of British Columbia.

**Hon. B. Barisoff:** COSEWIC covers all species in Canada no matter where they exist.

**J. MacPhail:** Like whether they exist in water, air or land? Could the minister just confirm that?

**Hon. B. Barisoff:** Correct.

**J. MacPhail:** Thank you.

We're on definitions, section 1 — the definition of "species residence." Under Bill 51, species residence means: "in relation to a species at risk, a place or area in, or a natural feature of, the habitat of the species at risk, or a class of such a place, area or natural feature, that is (a) habitually occupied or used as a dwelling place by one or more species individuals of the species at risk, or (b) considered by the Lieutenant Governor in Council as necessary for that occupation or use, and is prescribed by the Lieutenant Governor in Council." That's the provincial definition.

The federal definition under the Species at Risk Act is: "residence" means a dwelling-place, such as a den, nest or other similar area or place, that is occupied or habitually occupied by one or more individuals during all or part of their life cycles, including breeding, rearing, staging, wintering, feeding or hibernating."

We have been approached by a prominent research scientist in the field of species at risk, and this is what that scientist says:

"The distinction is that 'residence' in both the provincial legislation and Bill C-5, which is the Species at Risk Act, pertains to individuals within species while 'critical habitat' pertains to species. Every individual dies, and therefore the habit of individuals is rarely important. What is important is the habitat required by the species for its survival. This seems to be a major weakness in the provincial legislation. The provincial legislation does not seem to be concerned with protecting the habitat that is necessary to protect the species."

Now, this person also said that another related weakness that they had found under this act is that.... In the deregulation backgrounder, there is a comment on habitat diversity. It says: "Habitat diversity is the

basis for the development of local adaptations which will provide species with the ability to adapt to new circumstances and, ultimately, to survive in the future. If we wish to prevent species from becoming extinct, we need to protect habitat diversity."

Again, what this person says is that this means we need to think of the habitat necessary for the survival of the species, not the habitat required by individuals of the species.

I think it is a pretty significant distinction this person makes because this act that we're debating, the Wildlife Act, only talks about individuals of species, not the whole aspect of species protection, which would include breeding, rearing, staging, wintering, feeding or hibernating.

**Hon. B. Barisoff:** Could you clarify what the question was there?

[1715]

**J. MacPhail:** The point this scientist is making is.... I'll read it again. Here it is right here. "The distinction is that 'residence'...pertains to individuals within the species" — that's what the Wildlife Amendment Act talks about when describing species residence — "while 'critical habitat' pertains to the overall species." His/her point — the person wants to remain anonymous, Mr. Chair — is that we all die. Every species, every individual dies. What's critical here is not what happens to individuals; that is rarely important. It is what happens to the species in its survival.

The Wildlife Amendment Act, 2004, doesn't seem to be concerned with protecting the habitat necessary to protect the species. In other words, it doesn't talk about critical habitat.

**Hon. B. Barisoff:** Our legislation still parallels the federal government's legislation in protecting residence, but I think what the member opposite has to understand is that when we are looking at habitat, we look at 12.5 percent of the province in parks and protected areas. We have land use plans that are in place. We have the identified wildlife management strategy. A lot of it is done through the Forest and Range Practices Act. We've got a number of areas that we deal with the ungulate winter range. There are a lot of areas where we actually deal with the habitat side of it, not directed right into the Wildlife Act.

**J. MacPhail:** Is land outside of a wildlife management area entitled to protection?

**Hon. B. Barisoff:** Wildlife management areas are.... As I mentioned before, we have 12 percent protected in parks. We have the land use plans. We have the identified wildlife management strategy. We've got all of those things in place. The member opposite indicated earlier that she is certainly going to support this. I think that with this Wildlife Act, we have taken the first step in moving a long ways in this particular direction that deals with these kinds of things.

I don't know where she wants to go with it, but I think we're making the steps that are protecting that.

[1720]

**J. MacPhail:** We're having a debate on the legislation — that's where we're going — and we're trying to figure out what it means. I'm not one of them, but there are those that have already argued publicly that this act doesn't advance the species protection very much and that if the provincial government had just signed on to the federal legislation, that would have been much better.

I'm trying to actually get an understanding of how this relates to the federal legislation. Is aquatic environment entitled to protection?

**Hon. B. Barisoff:** Yes.

Sections 1 and 2 approved.

On section 3.

**B. Lekstrom:** Just a question. Section 3. When I read it, I'm curious here about the ability that you may designate land in a wildlife management area, and we're talking about the issue here. Would this hold true for private land holdings as well? Could that possibly...?

**Hon. B. Barisoff:** No. It's only lands that are under the minister's administration.

**B. Lekstrom:** Just to follow through on that and for clarity for myself, then, on the bill we're dealing with here, Bill 51. Should we have a species-at-risk issue that happens on private land and it's a habitat issue on that private land, what jurisdiction does government have — or does it have any on that — to request of the owner of the land that they must maintain that habitat, for instance?

**Hon. B. Barisoff:** We can prohibit willful killing and destruction of its residence, but we don't go beyond that.

**B. Lekstrom:** Thank you for that and just for clarifying my understanding of this. Certainly, the issue of killing an animal or a species at risk is understandable. I guess I'm trying to get my mind around somebody who owns a quarter section of land. All of a sudden there is a species-at-risk issue out there, and there is nesting, for instance. The land was purchased as farmland and going to be cleared. For instance, do we have the ability or does the minister have the ability to tell that person they can't then convert the land into what they purchased it for?

**Hon. B. Barisoff:** We could prohibit, as we said earlier, the willful killing of it, but I think what we would be looking at is working in stewardship with the landowner in trying to deal with that and so that he could address the.... If it was for farming, he could

address most of it or all of it and just address the particular issue in isolation.

**B. Lekstrom:** With that then, and understanding I'm not talking about somebody willfully wanting to go out and take away habitat, for instance, but when people do purchase land and species do migrate and things change.... I mean, habitats can change. They can vary.

Am I understanding, then, that we have the ability as government to tell a private land owner that no, they can't do something if they make a decision that they want to do something on their land but it will affect a species-at-risk habitat? That's all I'm after.

[1725]

**Hon. B. Barisoff:** We're certainly not looking at the overall habitat. If there were a residence there, we would certainly look at the stewardship of a particular residence on a piece of private land and work with the landowner.

**B. Lekstrom:** Through the Chair to the minister, I thank you for your answers. Possibly I'll readdress this under section 6(2). I see we're coming up to that. This may tie in better there as well. I'll have some questions.

**D. Jarvis:** I'm not quite sure if I'm in the right section. I was concerned with the fact that in some areas of B.C. you have areas where you have a lake and have potential revenue coming out of that area, be it mining or something else. There's a lake there, and there are bull trout in it.

I understand that the scientists that you will be using and have been using, across Canada and local.... They don't always agree with each other. I've talked to a few biologists, and they have been telling me that, for example, in the Chilcotin there are areas where there are land-locked sort of lakes. There's no river running into them or anything, so they're ostensibly on their own, but they have bull trout in them. The scientists say that these are a species at risk — bull trout. I have had other biologists telling me that bull trout are very prevalent and that no matter where you go in British Columbia, you'll find bull trout.

The federal government is holding up giving approval of an area because it has a small lake that's land-locked and has bull trout in it. Am I in the right section of this to discuss this at this point?

**J. MacPhail:** No, that's section 4, the listing process.

**D. Jarvis:** I'm sorry. I didn't have my.... I just saw it, and he was talking about.... I wondered if you would care to answer that question at all as to what the provincial government's opinion is of a situation such as this.

**Hon. B. Barisoff:** This would not be covered under the provincial legislation. It would be covered under the federal legislation.

Section 3 approved.

On section 4.

**J. MacPhail:** This continues the questions that I had under definitions. Section 4 is really about the listing process of species at risk and endangered species. I want to go back to the minister's talk around how really they'll be using COSEWIC, which is the Committee on the Status of Endangered Wildlife in Canada. The acronym is COSEWIC.

Let me just, if I could, read into the record the history of how the Species at Risk Act came about, as I understand it, federally. At third reading of the federal Species at Risk Act, the federal government finally agreed to a compromise solution supported by the House Standing Committee on Environment and Sustainable Development — that's a legislative committee at the federal level — that they would use the negative-option or reverse-onus listing. Under that approach, the COSEWIC list becomes the legal list under the act unless cabinet takes contrary action within nine months. That process will ensure that no species will be ignored or indefinitely deferred through cabinet inaction.

[1730]

Again, under the listing process adopted by that committee and then incorporated into the act at third reading, COSEWIC listing assessments will be included on the legal list in schedule 1 of the act unless within nine months after receiving the assessment, federal cabinet takes contrary action. They're listed. They become part of the legislation, and it's only if the federal government takes action to remove them.

Pursuant to section 27 of the federal legislation, once the federal cabinet has received an assessment from COSEWIC, it has nine months to review that assessment, as I've already said. During that time period cabinet may, on the recommendation of the Minister of Environment, take one of three courses of action: accept the assessment and add the species to the list, decide to not add the species to the list or refer the matter back to COSEWIC for further information or consideration.

If the federal cabinet decides not to add the species to the legal list or decides to refer the matter back to COSEWIC, the Minister of Environment at the federal level, after the approval of cabinet, is required to include a statement in the public registry setting out the reasons for the decision. If cabinet takes no action within nine months after receiving an assessment, the Minister of Environment is required to amend the legal list to add the species according to COSEWIC's recommendation. That's a very, very specific rule. Scientists' rulings prevail, unless cabinet takes some very specific legal actions that are then made public.

In the provincial legislation there's no mention of the Committee on the Status of Endangered Wildlife in Canada. There's no mention of the conservation data centre whatsoever. The minister has referred to both of them.

I'm wondering: if the minister says that this is similar to the federal level, is it going to operate just as I've read into the record?

**Hon. B. Barisoff:** No, we're not using the reverse onus. Cabinet will make the decisions based on science of the individual species that come forward.

**J. MacPhail:** Okay. So this act is weaker than the federal Species at Risk Act — much weaker. Where is it in the legislation that says COSEWIC will be the science evidence that the cabinet will consider or the conservation data centre would be the evidence? Of course, the provincial conservation data centre has its red list of endangered species. Where is it in the legislation that says that will be the basis upon which the government will make its decision? There's nothing in the legislation to suggest that.

**Hon. B. Barisoff:** It is different in the fact that we will make our decisions based on the science. But what happens here is that it's policy driven. What comes forward from COSEWIC and the conservation data centre comes forward to the minister. The minister would look at that through policy, take the policy advice and make that decision to take that forward.

[1735]

**J. MacPhail:** My point is that the federal legislation specifically legitimizes the Committee on the Status of Endangered Wildlife in Canada. COSEWIC has been in existence for 20 years. It operates at arm's length from government, and it's specifically legitimized now in the federal Species at Risk Act. There's nothing in this act... Maybe the minister can point out to me in the listing procedure under section 4 where that body is referred to or the conservation data centre, which is, I think, a provincial government body. Isn't it?

**Hon. B. Barisoff:** Yes, it is a provincial government agency.

**J. MacPhail:** Yes. My question was: where are those two bodies referred to in the legislation? Indeed, where does the legislation mention scientific staff at all? Maybe the minister could point that out to me.

**Hon. B. Barisoff:** No, we don't have it mentioned here. But in fairness to government, we have the conservation data centre, which we pay for, and that's where we take our advice from.

**J. MacPhail:** Well, the conservation data centre has 134 red-listed species that are endangered or threatened in British Columbia but that have not been granted protection by cabinet. Is that the list the minister will be considering as soon as this legislation is passed?

**Hon. B. Barisoff:** That is one of the lists we would look at. We will look at the COSEWIC list. We will look

at that. The decisions will still be based on science. They'll bring that forward to the minister. The minister, in turn, would take it forward to cabinet to make decisions based on each individual species.

**J. MacPhail:** I think it is clear now after questioning that this legislation is weaker than the Species at Risk Act at the federal level, and I'm disappointed in that. It certainly enhances greatly the path that politicians will decide species at risk rather than scientists. I've asked the minister if there's any reference to scientific organizations or scientists themselves, and there's nothing in this provincial act. There's no reverse onus.

It will be entirely the word of cabinet that will decide what species are at risk. There will be no public transparency of this as there is at the federal level. Indeed, there will be no requirement for the government to explain within a public statement why they're not accepting scientific recommendations. All of these are weaknesses compared to the federal legislation, and in that I am disappointed.

The issue around listing for aquatic species. We have been told that the most significant issue affecting aquatic organisms, including fish, is insufficient water — that too many of our waterways are oversubscribed for water. In some cases, this is the result of too many water licences being issued; in other cases, it's just the lack of enforcement on maintaining water level. A third major concern is the removal of groundwater and the clear effects on streams and small lakes.

[1740]

In the listing process, which will now include aquatic species, is there any requirement for the government...? What is the ranking of the protection-of-drinking-water legislation and this legislation?

**Hon. B. Barisoff:** In the recovery planning stage, of course, water management would in that instance be something we would be looking at. As the member is well aware, when you go through these cycles of drought, water management is something we would all look at, but in these cases we would certainly look at it.

Sections 4 and 5 approved.

**B. Lekstrom:** On the compensation in relation to protection of species at risk — and I believe I'm in the right section here under 6.2 — it says that compensation is not payable....

**The Chair:** Member, that is still section 4. I'm sorry. They're numbered under section 4, so we could go back to section 4.

**B. Lekstrom:** If he could — to answer that then. I apologize.

On section 4.

**B. Lekstrom:** Thank you for your assistance, Mr. Chair. It's always helpful. Subsection 6.2, then.

I want to go back to my line of questioning that I spoke with the minister on earlier. "Compensation is not payable by the government to a person for (a) a reduction in the value or use of the person's interest in land, or (b) any other damages or losses that result to the person...." Are we talking about private land here? Could this be interpreted that way?

**Hon. B. Barisoff:** Yes.

**B. Lekstrom:** If the minister could help me understand this then, I'm going to go back to a rancher, a farmer that owns a piece of property, whether it's 100 acres or 1,000 acres. We find that there's a species-at-risk issue there. There hasn't been in the past, but now we find that there is one. Are we then saying we could devalue the person's livelihood to the extent that this piece of property couldn't be used, and a private land owner and government will make that decision?

**Hon. B. Barisoff:** We certainly work with the landowners, as I indicated before, to minimize whatever impacts it might have on the land. We're very confident that we can actually do that to minimize any impacts that take place on the land.

**B. Lekstrom:** I understand what the minister is saying, but as I read subsection 6.2, it clearly states that compensation is not payable in relation to protection. We're actually jeopardizing people that have invested, possibly, and I use a rancher or a farmer in my area, definitely, that could be impacted by such a piece of legislation. I have grave concerns with that.

[1745]

It's hard enough at the best of times that if an area is designated as habitat for a species at risk, we will work with the individual who owns that land, for instance, to find a way to offset it. But if that's not available, then I'm reading this as that no compensation is payable either. That just doesn't seem to be a good intent under this bill.

**Hon. B. Barisoff:** As we said before, we work with the landowner to provide the stewardship of it. But there is a provision in the act to provide the exemption for, with ministerial approval....

**B. Lekstrom:** I want to give an example so I can actually understand this. I won't use the spotted owl or anything. That's just not prevalent. Again, I'm going to go back to the farmer, a grain farmer. I'll use a hypothetical situation: runs 1,000 acres, discs it up, seeds it every year, gets it going. All of a sudden things have changed over the next five, ten or 20 years. This piece of legislation is there, and we'll just say that gophers — for the sake of picking an animal — become a species at risk.

Could that mean, then, that under a designation the land is not usable anymore, for whatever reason, because it may jeopardize their habitat, and we would not compensate the individual? I mean, I fear that this clause alone could jeopardize somebody's livelihood.

Whether it will or not — I'm not going to predict the future. But certainly the way it's written and the way I'm interpreting it and hearing what the minister has to say, it could lead to that.

**Hon. B. Barisoff:** We're talking about the individual species and the individual resident. We're still very confident that the impact would be very, very minimal when we're talking about just a particular residence. As I said before, the minister has that provision to work with the landowner so that we don't have that huge negative impact on it.

**B. Lekstrom:** I'll close off by saying that I have the utmost confidence in the minister. But putting in the wording "compensation is not payable" concerns me. I think that ties the hands of the minister, rather than saying there may be a flexible point should there be no alternatives for that property — alternate use, other sites. It definitely raises some concerns for me. The issue of saying we will not pay is an issue that I think the minister should have a good look at and see if there are ways to accommodate that.

Sections 4 to 9 inclusive approved.

On section 10.

**Hon. B. Barisoff:** I move the amendment to section 10 standing in my name on the orders of the day.

[SECTION 10, by deleting everything after "Section 84 (1)" and substituting "(a) (i) is amended by striking out "6.1, 7 (1), 22, 26 (1) (a), (b)," and substituting "6.1 (2), 7 (1), 22, 26 (1) (b),"."]

Amendment approved.

Section 10 as amended approved.

Sections 11 to 17 inclusive approved.

Title approved.

**Hon. B. Barisoff:** I move the bill complete with amendment.

Motion approved.

The committee rose at 5:50 p.m.

The House resumed; Mr. Speaker in the chair.

### Reporting of Bills

Bill 51, Wildlife Amendment Act, 2004, reported complete with amendment.

### Third Reading of Bills

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

**Hon. B. Barisoff:** By leave, now.

Leave granted.

Bill 51, Wildlife Amendment Act, 2004, read a third time and passed.

**Hon. R. Coleman:** I call committee on Bill 50.

### Committee of the Whole House

#### PARKS AND PROTECTED AREAS STATUTES AMENDMENT ACT, 2004

The House in Committee of the Whole (Section B) on Bill 50; J. Weisbeck in the chair.

The committee met at 5:52 p.m.

**Hon. R. Coleman:** I move the House recess till 6:45 p.m.

**The Chair:** The House stands recessed till 6:45 p.m.

The committee recessed from 5:52 p.m. to 6:46 p.m.

[H. Long in the chair.]

Section 1 approved.

On section 2.

**J. MacPhail:** This is the Parks and Protected Areas Statutes Amendment Act, 2004. It was a very interesting time during second reading debate. A number of government members made much of how much land was protected by this bill. What those members failed to mention, though, and probably didn't care to mention was that the vast majority of the land being added as park or protected areas was identified long before this government arrived.

Two points on that. Firstly, the fact is that these parcels were identified through the land and resource management process and completed prior to this B.C. Liberal government election. The only thing, in fact, that this government can claim credit for is enshrining them in legislation. All the work was done prior to this government's election.

Secondly, government members really need to keep some kind of perspective on this. This bill adds 150,000 hectares to our park and protected areas, and that's a great thing. It's good — it's great — but there are 11.9 million hectares in the system. So what this bill deals with, as important as those areas are.... It still represents just 1.2 percent of the protected area in British Columbia, and this government is not responsible for identifying any of that. This government's main claim to the LRMP process is to open up the Lillooet LRMP so that the identified South Chilcotin Park can be made smaller, and that's only being done to satisfy the mining industry.

Would the minister agree that the vast majority of the changes to our parks and protected areas are the result of a consensus-based LRMP process that had concluded before this government was elected? I'm talking about the land affected by Bill 50.

**Hon. B. Barisoff:** I think the member opposite speaks of these protected areas that we're moving into parks. That credit goes to all British Columbians, in the fact that this has been something ongoing through a number of LRMPs. But it has been a focus of the Premier to make sure that we create additional parks in the province.

[1850]

There were a lot of private land acquisitions included in this that came about in the last couple of years. With that, we've been able to add 150,000 hectares into new parks. I think credit lies with a lot of people, but instrumentally it's the Premier of the day who said that we should move towards this, and we have done that.

**J. MacPhail:** Could the minister just list one area that was designated under this government — just one and the amount?

**Hon. B. Barisoff:** There have been a number of private land acquisitions: Burgoyne Bay, 497 hectares; Cape Scott, an addition of 716 hectares; Collison Point, 23.68 hectares; Mount Geoffrey Escarpment Park, 187 hectares.... Just naming a few.

**J. MacPhail:** Were they accumulated under this government?

**Hon. B. Barisoff:** Yes.

**J. MacPhail:** Yes, and they were traded off for other pieces of land, so let's be clear about that. Yes, those private donations were wonderful, but they were traded off for other pieces of Crown land to be made available to them. My only pushback on this is the debate we had Thursday morning where the Liberal backbenchers were claiming how wonderful this government is, and I think maybe their record pales in comparison to the previous government in protected areas and making parks.

During the introduction and second reading of this bill, the minister and several government members made note of the commitment of the Premier. They always do that — "under the leadership of the Premier." It's kind of like a mantra. "Under the leadership of the Premier, we...." Whatever. You know that's what they're supposed to say. Anyway, a minister and several backbenchers said that, but they noted the commitment of the Premier at the Union of B.C. Municipalities convention last September to consult with the Union of B.C. Municipalities before designating any new parks.

Here's what the Premier said in September in Vancouver: "Currently, there are 34 protected areas that

have been designated for potential parks. Before we decide to do that, and we will do that by sometime next year, we intend to deal directly with your councils and your regional districts to see what you want." The Minister of Water, Land and Air Protection quoted the Premier, and then the Minister of Water, Land and Air Protection went on to say: "Some local governments said that adding new parks at this time would create a level of uncertainty." Then the press release that accompanied the introduction of this bill notes that the new parks and additions, for the most part, are the result of the land and resource management process that took place in the 1990s.

In fact, the vast majority of the additions are the result of the consensus reached at the LRMP table. We've got evidence of that. The minister will be aware that local government was at the LRMP table. Local governments knew three or four years ago where the new parks would be. It seems the only parks that came out of the LRMP process that have not been included in this bill are those in the South Okanagan and the Similkameen. The Minister of Water, Land and Air Protection says that the exclusion of goal 2 areas from this bill was the result of a request from the regional district of Okanagan-Similkameen.

[1855]

Here's the history of how these exclusions came to be. Following years of consultation and study, the Okanagan-Shuswap land and resource management plan is finalized in January 2001. It's approved in April 2001, and it includes the parks and protected areas that have been agreed upon. In September 2003 the Premier decides to allow councils and regional districts one more opportunity to comment on park designations.

In October of 2003 the Premier and then Prime Minister Jean Chrétien sign a memorandum of understanding for the development of a South Okanagan national park in order to protect the unique grasslands of the South Okanagan. At the time, in October of last year, the Premier said: "This memorandum of understanding is an important step in keeping our throne speech commitment to work with the federal government on establishing a new national park in the Okanagan.... Today we are building on that legacy by acting to preserve some of the world's most spectacular natural areas for the benefit of British Columbians and all Canadians."

Then, to carry on the chronology, in November of 2003 the previous Minister of Water, Land and Air Protection wrote a letter to the regional district of Okanagan-Similkameen regarding the new proposed class A parks and the transfer of existing protected areas in class A parks, in which she stated — again, I quote from her letter: "As agreed to in the land and resource management plans, all existing authorized uses such as grazing, trapping and guide-outfitting will be allowed to continue."

So far, a lot of certainty. We're moving forward with what the LRMP agreed to. But then on December 18, 2003, the regional district of the Okanagan-Similkameen passed a motion sponsored by represen-

tatives Mayer and Perry calling on the government to continue to protect those lands designated as protected areas but that these areas not be legislated. That resolution was sent to the previous minister. On January 26, 2004, the current Minister of Water, Land and Air Protection is appointed. There's the history of what's not in the legislation.

So my questions flow from that history. Given that all of the protected areas not included in this bill fall in and around the riding that the minister represents, is it just a coincidence that he is now the minister responsible for designating parks and protected areas?

**Hon. B. Barisoff:** As the member opposite has indicated and read out the chronology, I think the Premier made a commitment to the UBCM that he would take into consideration that local governments were concerned. We do have some concern — in fact, quite a bit of concern — in the South Okanagan with the new national park and how it's going to be part of it. I think in fairness to the people there, they wanted to look at how the new national park was going to impact. We haven't taken the designated protected areas out of protected areas.

It's simply a matter of sitting down with the regional district and the players that were there before, addressing the situation and seeing where we can go from here. I think that sometimes a little bit of consultation moves a long way to doing things the right way. I know that maybe in the past it was simpler just to do it and not consider what the people were thinking about, but from my perspective and I know the Premier's perspective, consultation with the general public is extremely important.

**J. MacPhail:** Well, I'm not quite sure why the minister is referring to previous times, because he's now, in this bill, legislating the process of land and resource management planning that the previous government engaged in. That's what this bill is about. He's not saying: "Oh, that was a terrible process, and we're not going to do anything about it." He's actually legislating the LRMP processes of the previous government. Clearly, his little gibe that previous governments didn't listen holds no water, because he's actually legislating those now. The only area of the LRMP process that he's not legislating is the one affecting his own riding. I'm sure it's coincidence. Who could ever accuse this government of playing politics with things?

[1900]

Let's ask the minister a second question. What local governments were consulted on not implementing the land use areas for the LRMP process of the Okanagan-Similkameen? What were the specific dates of consultation, as the minister just trumpeted? Who was talked to, and which ones amongst those that he consulted expressed concerns about adding new parks?

**Hon. B. Barisoff:** I think the member opposite knows that the dynamics in the South Okanagan have changed substantially in the fact that we are looking at

a new national park. It encompasses a substantial amount of land in the South Okanagan. I know there's been a certain amount of opposition to going down this path. Individuals that I talked to from the local wildlife associations, the cattlemen's associations, with the impact that the national park could have on them.... They just wanted to revisit this.

It's not that we have changed our direction or where we could end up in the future. It's simply a matter, I think in fairness to them, that when we brought into the scope of things a new national park, the people there.... That wasn't part of the original LRMP and what they were looking at. They're saying now: "Let's relook at this whole thing of this national park and the impact it has on the other parts of the land."

I think, in fairness, that the regional district of Okanagan-Similkameen.... They sent a letter saying they had some concerns. I'm sure it stems from the fact that we were implementing a national park. From that we're going to do some more consultation, and it's simply a matter of looking to what happens in the future.

**J. MacPhail:** This national park is at least a decade away — at least a decade away, admitted to by all of the participants in making the national park. So there will not be a national park in the Okanagan-Similkameen for at least a decade. Besides, just as was demonstrated by the Pacific marine park in the last year, it is very easy — not difficult at all — to transfer parkland from one jurisdiction to another. The Pacific marine park had been designated as a provincial park. The federal government wanted to make it a national park, so they just simply designated the provincially protected park area as national park.

The minister's argument is completely bogus — completely bogus. In fact, if he's saying that he's going to completely ignore the LRMP process because a national park is going to be made, then British Columbians are at least a decade away from having that area designated parkland. If a national park in the South Okanagan would, according to the Premier of this day, preserve some of the world's most spectacular natural terrain, why has the minister chosen not to protect those areas identified in this land and resource management plan whereas he has legislated other LRMP processes?

**Hon. B. Barisoff:** The protected areas that were designated prior to this are still protected areas, and we haven't changed that designation. We're simply looking at the impact a national park has on the entire area.

**J. MacPhail:** Again, a bogus answer, and the minister knows it. Would he tell me what local governments were consulted with and which ones expressed concerns about adding new parks?

[1905]

**Hon. B. Barisoff:** It was from the regional district of Okanagan-Similkameen. We had a letter expressing concern.

**J. MacPhail:** Out of the whole area at the LRMP, were they the only ones that were consulted? How does that work — that the regional district, which is but one local government agency sitting at the LRMP table, writes a letter, and all of a sudden that LRMP agreed-upon process gets excluded from this bill? What special standing do they have?

**Hon. B. Barisoff:** I'm sure that the member opposite isn't going to like to hear the same answer again. The dynamics in the South Okanagan have changed with the advent of the possibility of a national park. The regional district of Okanagan-Similkameen, which covers all those rural areas — in fact, the entire rural area that surrounds the national park.... They're the ones that border on all four sides of it. I think that in fairness to them, they should have some kind of consideration when they wrote a letter saying they had some concerns. We should take some time to look at this whole thing again and see where we're going with it.

The national park, the member opposite said, is ten years out. Every indication is that it wouldn't be that far out. It's not like we're throwing everything out the window. It's a matter that we're taking some time to look at. If we didn't do any parks at this sitting or the next sitting or whatever else and it happened in a year or two years from now, would the member opposite be happy with doing it then?

I think that in fairness, we wanted to move on with some of the parks that we've got in the province. On this one we're just waiting, because the Premier made a commitment to the UBCM that if there were concerns, we would look at them and address them.

**J. MacPhail:** Yes, but that's not what this government did. They didn't discuss with local governments. They discussed with one regional district, which was but one participant at the LRMP table — an LRMP table where everybody agreed, of which the regional district was one participant. It's in this minister's riding.

Let me ask this. When the regional district of Okanagan-Similkameen raised its concerns, did the minister then take those concerns to the other participants of the LRMP and say: "What are your thoughts?" When did he do that?

**Hon. B. Barisoff:** No, we haven't consulted with the other municipalities. I think that was the whole idea — the fact that we did have a letter. Now we can work through the process and consult with the other municipalities that were concerned. There have been lots of pluses and minuses for the national park with the different municipalities. Now we can sit down, look at it all together and consult with the whole group.

**J. MacPhail:** When the Premier said, "We will do that; we intend to deal directly with your councils and your regional districts to see what you want," in this particular LRMP he didn't mean that. He meant, "Oh, if

we don't want to proceed with this LRMP and one of you complains, then we're going to take that as the God-given right of us to not implement the LRMP, and the rest of you councils can bite the decision" — basically.

The Premier didn't deliver on his commitment to the UBCM. The municipal councils weren't consulted. The minister's own riding is the only area where he refuses to implement agreed-upon LRMPs by legislation. No one is consulted in this change of direction other than the regional district of Okanagan-Similkameen.

[1910]

Mr. Chair, I doth smell a rat, quite frankly. This is completely suspicious. Let me ask the minister: how can he say that my estimation that the national park won't be in effect for ten years...? What's his evidence to counter that?

**Hon. B. Barisoff:** First of all, I want to explain to the member opposite that the regional district of Okanagan-Similkameen is composed of the mayor of Osoyoos, a regional director; the mayor of Oliver and a regional director; a regional director from OK Falls; the mayor of Penticton and a couple of councilmen; regional district directors from Cawston and Keremeos; the mayor of Keremeos.

For the member opposite to indicate that a letter coming forward from the regional district doesn't cover off the entire representation of the South Okanagan is.... I don't know where she's coming from, because every mayor has a chair on the regional district and all the regional district members sit. They encompass the entire area, so to say that they weren't consulted.... The letter came from the regional district of Okanagan-Similkameen, which in essence represents the entire area.

**J. MacPhail:** Well, won't that be an interesting perspective as we move forward dealing with municipal governments.

This minister's point of view is that the LRMP process total input from local governments was through the regional district. Is that what he's saying?

**Hon. B. Barisoff:** No, that's not what I said. I told you.... You said there was no representation from the other communities that surrounded the area of the national park or the South Okanagan. What I'm telling you, through the Chair, is that there is representation, because every mayor sits on the regional district in the South Okanagan.

**J. MacPhail:** Isn't it convenient, Mr. Chair, that this government...? When they've done a complete end run around the LRMP in this minister's own riding, somehow he says the most important level of community governments — community councils — is the regional district. I guess the Premier is going to have to go back to the Union of B.C. Municipalities and explain that to municipal councils: "Oh, if the regional district says

something, councils, you're overridden." Won't that be an interesting aspect that the Premier will have to admit to at the next UBCM?

What evidence does the minister have to suggest that it will be in less than ten years that the national park will come to fruition?

**Hon. B. Barisoff:** First of all, I would hope it would be less than ten years. I think we can work that.

But I just want to add something else — that the member seems to be directing this at simply one regional district. Well, at the request of the regional district of Kitimat-Stikine, the following three areas will be established as protected areas rather than class A parks: Lundmark Bog, Swan Creek and Kitsumkalum Lake North. It's not the only area that was looked at. She seems to be dwelling on the fact that it happens to be part of my riding, but there are other areas that we looked at also, in this case, where a regional district wanted to stay as protected areas rather than class A parks.

**J. MacPhail:** Is the minister saying he changed the LRMP based on that request?

**Hon. B. Barisoff:** The LRMP was part of a protected area, as part of these protected areas are in the South Okanagan. They've stayed as protected areas. Here, in this particular instance, they're not class A parks; they're staying as protected areas.

[1915]

**J. MacPhail:** No, the regional district covering the Stikine. I'm asking him: did he change the agreed-upon LRMP from the regional district covering the Stikine?

**Hon. B. Barisoff:** I just want to reiterate. The thing is that this is just another example of how we've taken into consideration what local governments want to see happen.

**J. MacPhail:** Okay. Whenever a minister doesn't answer my question, I know it's because they don't want to answer it because it won't look good. The LRMP covering the northwest was implemented. It wasn't changed because one party asked to have it changed. The South Okanagan-Similkameen LRMP has been put on hold because one party didn't want to have the parks implemented — the one party in the minister's own riding.

That's my point. I said to the minister: "Give me some evidence that it will be less than ten years when the national park is implemented in the South Okanagan-Similkameen." The only evidence that exists — because I did research on this, a search — is that people are predicting it will be in place ten years from now. In the meantime, because of this minister's lack of fortitude in his own area, those people — his own constituency — will be without parks because he refuses to implement them — my only point.

Sections 2 to 4 inclusive approved.

On section 5.

**D. MacKay:** I'm dealing with section 5, schedule A. I just have a couple of questions dealing with...

**The Chair:** Pardon me, member. We're on section 5, not schedules. Schedules will be dealt with on their own.

Section 5 approved.

On schedule A.

**D. MacKay:** Thank you, Mr. Chair. My apologies.

After listening to the Leader of the Opposition rant at the minister for who's taking credit for creating these parks, I really have to wonder what she's doing. Governments are elected by the people to do the people's wishes, and the people's wishes through the LRMP process have, in fact, created some ecological reserves and parks. We're just following through on the commitments made by previous governments elected by the people of this province. I was a bit miffed by her comments at the minister. I should put on record that when you stop listening to the people, you suffer such a humiliating defeat as the previous government did three years ago when they lost power and were defeated by 77 seats and survived with two seats in this Legislature. That's what happens when you stop listening to the people.

I have a couple of questions for the minister dealing specifically with the Gladys Lake ecological reserve, which I am familiar with. It's contained within Spatsizi Park, and my understanding from conversations I've had is that it's in the Cold Fish Lake area contained within the Spatsizi Park. I just want to put on record — or ask the minister to confirm this — that we are not actually expanding the boundaries of the outside of the park itself. For all intents and purposes, when you look at the Spatsizi Park, Cold Fish is actually contained within the confines, the outer perimeters of that lake, so we're not actually expanding the size of the park. Is that correct?

Interjection.

[1920]

**D. MacKay:** I just want to confirm again that this Gladys Lake ecological reserve that is now being expanded within the confines of Spatsizi Park will not have any impact on guide-outfitters, will not increase hunting fees or change hunting regulations within that area — or fishing fees or trapping or public access. Now, is any of that changed because of the new expansion of the Gladys Lake ecological reserve, which takes in the Cold Fish Lake area? What impact is that expansion going to have?

**Hon. B. Barisoff:** The Gladys Lake ecological area is actually going to be reduced by a thousand hectares,

so there will be no impact. From my understanding, it is actually going to be an improvement to the guide-outfitters, because it's going to follow the contours of the land.

**D. MacKay:** He is absolutely right, and I apologize to the minister. There was a new park being created that had been purchased with private moneys several years ago, and we were just now including it in the park area, so I apologize for that question. I understand that we are making an improvement for the guide-outfitters and the hunting and fishing regulations that would be impacted.

I have one final question, dealing with the Morice River ecological reserve. That is an area that I represent, but I have never heard of this Morice River ecological reserve. I'm wondering if the staff or the minister could explain to me where in relation to the Morice Lake and where on the Morice River this ecological reserve is located.

**Hon. B. Barisoff:** We do know it is on the Morice River, but we will get back to you with a map of exactly where it is. It is actually adding 12 hectares. It would be in total 355 hectares, and it is an additional 12 hectares. We'll get a map and show you the addition that's on there.

Schedules A to D inclusive approved.

Title approved.

**Hon. B. Barisoff:** I move the committee rise and report the bill complete without amendment.

Motion approved.

The committee rose at 7:24 p.m.

The House resumed; Mr. Speaker in the chair.

### Report and Third Reading of Bills

Bill 50, Parks and Protected Areas Statutes Amendment Act, 2004, reported complete without amendment, read a third time and passed.

**Hon. G. Abbott:** I call committee stage debate on Bill 44.

### Committee of the Whole House

#### CORRECTION ACT

The House in Committee of the Whole (Section B) on Bill 44; H. Long in the chair.

The committee met at 7:25 p.m.

On section 1.

**D. MacKay:** Looking at the definitions under "correctional centre," I understand the first part, but it does mention in there "without limitation, a jail, prison, lockup, place of imprisonment," etc. Then it goes on to say it does not include, under subsection (a), lockups operated by police forces or police departments. I understand that the intent of this legislation is to make correctional facilities safe for the people who work within them and to maintain control of the inmates. I'm wondering why Bill 44 excluded police forces that have lockup facilities. Why have they been excluded from this act?

**Hon. R. Coleman:** The definition is a modernized definition that includes "jail, prison, lockup, place of imprisonment, camp or correctional institution." Then there's the exception of the Vancouver Jail, and it excludes police lockups, penitentiaries and youth custody centres. That's historically been excluded because it is covered under a different act with regard to police acts, whether it be the RCMP, who have legislation, or the Police Act for municipal forces in B.C.

**D. MacKay:** Based on that answer, the powers we are giving the correctional facility staff... Is that same process available to peace officers in their day-to-day activities locking up prisoners in their facilities?

**Hon. R. Coleman:** It doesn't apply to police lockups, because they're covered under the Police Act in a different piece of legislation.

**J. Kwan:** I was just checking with the member whether or not he had follow-up questions on that particular definition. It appears he doesn't.

"Authorized person" appears to be a new definition in this bill, and it appears to be broader. Is that the case? Could the minister please advise what it replaced?

**Hon. R. Coleman:** It is a new definition of the person in charge of a correctional centre. It's a modernization of the statute. The staff member is designated responsibility for exercising statutory authorities over individuals and inmates for search, communication, urinalysis — that sort of thing. It is a new provision to control the powers to designate somebody, basically, to put the disciplines in with regard to those things and have somebody of authority that has the additional authority to make those decisions.

**J. Kwan:** In other words, it is required because there are new sections of the act that require new duties. Therefore, the authorized person would be responsible for those new duties. Am I generally correct in understanding that?

**Hon. R. Coleman:** You're generally correct; that's correct.

[1930]

**J. Kwan:** With another definition, "staff member," this definition includes the new language "under a con-

tract with the minister." The Solicitor General is very quick to criticize the comments of the opposition for raising the possibility that this bill opens the door to contracting-out and privatization. If I was wrong in interpreting this language and this requirement in the bill, could the minister please advise, then: what else would be the purpose of this new definition — of including the language "under a contract with the minister" — if it is not meant to allow for contracting-out and privatization?

**Hon. R. Coleman:** For well over ten years there have been people that have been contracted within the correctional system. That's what this covers. It covers people involved in the food services, but we also have people come in who are health professionals, like nurses and teachers who do educational programs within the system. It is a definition that's....

The point on the Public Service Act is that contracted persons would be working in the correctional centres so that the responsibility in exercising the powers of duty under the act is there. It has nothing to do with contracting out the operation of the prison. Most of the contracted work that's done is done by our landlord, which is B.C. Buildings Corporation. We actually rent our buildings from them, and they do a number of contracted maintenance functions for us as well. We don't actually own the buildings; we're the tenant. That deals with that too.

**J. Kwan:** The language that was in the previous bill already allowed for some of those provisions and requirements. What is the purpose of this new language?

**Hon. R. Coleman:** My understanding is that it's just modern drafting provisions.

**J. Kwan:** In March the Solicitor General admitted that cleaning and building maintenance of correctional centres are being turned over to private companies. Does this change have anything to do with that change of direction?

**Hon. R. Coleman:** BCBC has always contracted out those services. About 80 percent of the services were contracted out, and they made a move to contract out the supervision of the contracts themselves, which is about another 10 percent of the business.

**J. Kwan:** The minister actually stated that the government is counting on \$40 million in annual savings through privatization, 20 percent of the full budget. Could the minister please advise, then: are there any other pieces related to correctional services that the government is considering contracting out?

**Hon. R. Coleman:** We achieved some savings in the correctional side of government in the first two to three years of the ministry, but that was achieved by actually closing institutions that were running at anywhere between 30 and 40 percent capacity. We weren't being

sent the inmates that would normally occupy those facilities, and that's how we achieved our savings.

[1935]

I don't know whether the member is referring to an overall comment made by the Minister of Management Services or some other minister. On our end, we've basically continued as normal. In actual fact, I often remind the minister and Treasury Board that we are actually BCBC's biggest tenant and that we would love for them to find us some additional rental savings for our budget, but we haven't managed to win that discussion.

**J. Kwan:** In other words, this minister is not planning on any other contracting-out of services with respect to correctional services. If I'm right in making that assumption, then I'll move on to another definition on which I have questions for the minister. I'll just wait for a quick response from the minister on that.

**Hon. R. Coleman:** That's correct. I looked at the correctional system in British Columbia when I became the minister, and I did a review of our jails and our operations. I also looked at other options that existed in other jurisdictions. I looked at our cost of operation and efficiencies of our staff in the correctional system and saw no reason whatsoever that we would privatize the operational side of our prisons. We would continue to, as the member would know, have some contracting-out because we didn't normally, in an institution, have someone like a full-time nurse on staff. Usually we have someone who comes in and does health work on contract, or a teacher would be seconded from a school district — that sort of thing — that we would deal with or some community programs that the correctional system would deal with, with other non-profits within the communities.

I have been pretty clear for the last three years that I'm very proud of the correctional officers in this province and the job they do. I'm very proud of how they operate our facilities, and I hold them in the highest of esteem and will continue to do so.

**J. Kwan:** Just in response to the minister's question as well, in terms of who made the comment about booking \$40 million in annual savings, 20 percent of the entire corrections budget, it was in the context of this minister's comments — and I took it at his word, though, too — that the contracting-out or the savings of the budget actually came from that downsizing as opposed to privatization. I'll take the minister's answer, also, just now with respect to no further contracting-out plans being in place from this government on correctional services.

Work program. This term has been redefined to remove any stipulation that work programs be designed to "assist inmates...in acquiring work skills and to encourage them to engage in work." Under this bill the minister can define a work program any way he wants to. In April the Solicitor General said he was "contemplating using prisoners to clean out chicken

barns should a manpower crunch develop in disposing of some 19 million chickens and turkeys by May 21." Is this the change in the legislation that would allow that potential action plan to take place?

[1940]

**Hon. R. Coleman:** A number of answers to the question for the member. For many, many, many years within the correctional system in British Columbia, at different times when there has been a disaster, there have been work crews from correctional centres doing things like fighting forest fires or sand-bagging — that sort of thing — in the case of floods. We had three crews trained in biosecurity at a correctional centre with regards to avian flu. Those were voluntary programs. They could decide whether they wanted to be trained to do that. They were used very minimally because we were very fortunate with that particular disaster that it had levelled off. As we were reaching the peak and we thought it might run on us, we actually got the biosecurity in place mainly due to the exceptional work of our provincial emergency program that stepped in — I guess it would have been in mid- to late April — when it was obvious that the CFIA, although it had the science, didn't have the ability to marshal the resources on the ground. So that's been done in the past.

This is, again, modern drafting standards. It was recommended that definition of work programs, treatment programs, education programs and other programs for offenders be addressed in policy rather than in legislation. That's for a number of reasons. One is the fact that we come across different types of addictions that come through our system over time and need to be able to address treatment programs for them. Sometimes the skill set that we are able to provide, depending on the location of our institution, would define what type of work programs we could give to our inmates and, of course, education programs. We would like to see more people come through our system like they do in the Nanaimo Correctional Centre and get their grade 12 equivalency, as you can see if you go to one classroom in that particular correctional centre.

There's a disproportionate number of people in our institutions that do not have a grade 12 education or in many cases lack other skills. It is a challenge in our system. We need to be able to adapt and be flexible for those types of training programs because our inmate population is, on average, not with us a length of time that really allows us in many cases to provide many skills as they come through our system. I think our average stay is between 60 and 90 days. So you are trying to develop programs by institution and by regional area so that you will be able to give them something they might find will be useful for them when they leave our custody.

**J. Kwan:** Didn't the old language allow for that already? Under "work program" in the legislation it states: "...means a program designed to assist in-

mates...in acquiring work skills and to encourage them to engage in work." I think that already encompasses the philosophy, if you will, that the minister just talked about.

**Hon. R. Coleman:** As we came through the development of the act, it was the advice from the leg. counsel with the modern drafting and the flexibility we needed and the programs that had come out. Although that was in the previous legislation, at the same time it didn't allow us to have the flexibility we needed to adapt our programs with regards to a number of aspects of people who come into our system. That was the advice we were given.

Section 1 approved.

On section 2.

**D. MacKay:** Just a quick question on the probation officers and correction staff. I noticed the minister may appoint under the Public Service Act persons, or persons within a class of persons, to be a probation officer. Then it goes on further to say: "Persons, officers and employees appointed to exercise powers and perform duties under this Act are peace officers...." Why are they given the designation of a peace officer under this classification?

[1945]

[J. Weisbeck in the chair.]

**Hon. R. Coleman:** This is just a consolidated provision for the appointment of the probation officers, correctional officers and others as peace officers while exercising their duties under the act. There's a reason for that. They've always been that. They have always been given the designation of peace officer in addition to being a probation officer or a correctional officer because they are acting on behalf of the orders of the court in carrying out the duties of the court, so they need the designation of peace officer.

Section 2 approved.

On section 3.

**D. MacKay:** Again, dealing with temporary appointments. Under subsection (2), it says: "On request by a court and with the approval of the minister, a person may exercise the powers and perform the duties of a probation officer without remuneration for the purposes and in the geographic area of British Columbia specified in the approval." Does the person getting the temporary designation as a probation officer get the peace officer status?

**Hon. R. Coleman:** For the temporary appointment of persons in the event of an emergency and/or for the appointment of persons to act as temporary probation officers in remote communities, that can go either way

depending on what they are actually doing. Whether they're acting as an officer of the court because they have been given.... For instance, an elder in a remote aboriginal community could be given some temporary authorization to carry out the terms of probation because there's no probation officer within a long distance of being able to do the supervision. So it can be either way. What we'll do is get a clarification for the member.

Section 3 approved.

On section 4.

**J. Kwan:** Section 4, probation officers. There's new language in subsection (h) in this section, which provides this language: "...has the additional prescribed powers and duties." Could the minister please advise: what, in this context, does the minister have in mind with respect to the language here?

**Hon. R. Coleman:** This serves a number of purposes. It's basically to allow for the responsibility to be assigned as required to probation officers. What we've seen in the criminal justice side in the last number of years is a number of types of sentences that will come out through either the federal system or our system on conditional sentences, supervision within the community. This section is to allow the flexibility to ensure that if the federal government, for instance, were to come up with a new or unforeseen provision or sentencing or guideline that was required, it would allow our people to continue to do those jobs as well.

[1950]

**J. Kwan:** The reason why, I presume, it's not spelled out in the legislation itself in terms of what the new powers or duties are is because we don't know what they are just yet, because we're still waiting for federal changes — if they're forthcoming. I assume that's the reason.

If that's the case then, on subsections (2) and (3), which contain new language regarding conditional sentences, what change has been made? What role did the legislation give the probation officers for conditional sentences before? How is it different?

**Hon. R. Coleman:** I'll see if I can get this right. What we're prescribing is the conditional sentence in legislation. Although our probation officers have been supervising conditional sentences, it was felt that it was important to prescribe it in legislation because it was part of those additional powers. Since conditional sentences are now different than probation — a conditional sentence is actually a sentence in the community, whereas probation is a supervisory and reporting part of a sentence — the advice was that we include conditional sentences within the section.

Section 4 approved.

On section 5.

**J. Kwan:** On section 5, the language concerning "Protection of officials in duties" is new. The language is that there are no damages unless the thing was done or omitted in bad faith, particularly. Could the minister please advise how that is determined? What is the test, and who makes that decision?

**Hon. R. Coleman:** This is new language that's consistent with what's been put in other legislation. For instance, the Ministry of Children and Family Development put this type of protection in for social workers. The old provision actually gave the officials the same protection as a Supreme Court judge. It was determined that this is more open and accountable. It's similar to fraud in that somebody has to.... The measurement is "deliberately acting in bad faith," and then it goes through either civil or criminal proceedings.

[1955]

**J. Kwan:** Who makes that determination? How is that judged, and by whom? Is there some sort of procedural protocol that would be in place to measure and to make that determination?

**Hon. R. Coleman:** There are a number of processes that exist within the correctional system. One is that by complaint, an internal review can be launched; an internal review can conduct and review it. A disciplinary action can be given out. That ultimately is appealable to the courts. The ministry's office also has an investigation section that deals with investigations relative to corrections.

There can also be an action brought in a civil nature by a party against another party, whether it be to an individual or to government. There are also the proceedings under the Crown Proceeding Act, if the actions are criminal in nature. If there were a concern about that type of criminality, we would also involve law enforcement, I would assume, in the investigation and charge approval with Crown. There are a number of processes involved with regard to this sort of aspect.

Section 5 approved.

On section 6.

**D. MacKay:** Dealing with long-service medals, not so much a question but a comment. I want to add my comments to the provision that allows, now, for the minister to issue medals for long service and how important that is to staff members who work for a period of time.

It makes me think of the time I received my long-service medal. I was stationed in Alexis Creek, and I got my long-service medal after 20 years, standing on the lawn with 12 chickens and a dog and my wife standing there watching me. It wasn't where I got it; it was what was meant by it. I take a great deal of pride wearing that thing every November 11, since I got it.

It's a nice gesture on behalf of the minister to include that in the bill.

I wonder, for this section, what is considered long service. Are we talking 20 years? Has there been a determination on the length of service?

**Hon. R. Coleman:** It is similar to the police, 20 years. When I became the minister, I had a visit with some correctional officers who came to see me, and I talked to different ones as I went through the system. It was pretty clear that in British Columbia we were different than in other jurisdictions. For instance, you can get a long-service medal in the federal correctional system, but you weren't getting them here.

We felt it was important. These folks are out there, frankly, in a pretty tough job. I mean, if you've ever had to deal with the operation of a prison — which I had the opportunity to do one time, when we had to go in and take over a correctional centre when there was a national strike of correctional officers on the federal side many, many years ago — and know the job you have to do in there and the risks they take, the stress they're under and the shift work they work, acting as peace officers on behalf of our society.... I think it's critical that we recognize them, and that's why we included it in the act.

Sections 6 to 11 inclusive approved.

On section 12.

**J. Kwan:** Section 12, "Use of force and restraining devices," is a new section to this act. It uses the language reasonable use of force involving devices. What was the previous provision regarding use of force?

[2000]

**Hon. R. Coleman:** There was no provision in the previous Correction Act with regards to use of force, so it went to the Criminal Code. The new Correction Act requires a reasonable degree of force and that restraint devices be used in accordance with regulations. We're actually narrowing it down, whereas the Criminal Code authorizes staff to use as much force as is necessary and on reasonable grounds to do anything in the administration and enforcement of the law. We think correctional officers operate in a different environment than police. Therefore, we felt, since the Criminal Code is not clear on the degree of force or restraint devices that may be applied to prevent property damage or maintain custody and control of an inmate, that similar use-of-force provisions exist in the regulation for Alberta and Ontario corrections.

The Criminal Code authorizes force within a policing context. This new Correction Act controls use of force and restraint devices for correctional officers by outlining their use and when they can be used in regulation. It is in the interest of the public, staff and offenders to have a public policy statement concerning use of force and restraint devices in correctional centres.

**J. Kwan:** Who adjudicates this? And what recourse would an inmate or an advocate have if they felt the force that was utilized was unreasonable?

**Hon. R. Coleman:** Our correctional officers receive training through the Justice Institute in the use of restraint devices and when and where they can and cannot be used. That training component is very important to the operation of any facility, and it's ongoing.

We have a number of complaint processes available for a person that would be in our custody. One would be a complaint process to the prison supervision itself. That complaint would automatically be faxed to the investigations, inspections and standards office. That is an office that is separate from and not under the supervision of the management of our correctional facilities, but which reports directly to the deputy minister. They can make a complaint to the police, of course, in those circumstances.

There are a number of routes that could be taken with regards to that, but the member should know that any incident that takes place where there is any use of those devices is automatically reported to the people in charge of corrections.

[2005]

**D. MacKay:** Just a couple of questions to the minister dealing with the types of restraint that can be used in a correctional facility. I'm assuming that we start with the physical restraint aspect of a guard trying to hold another inmate who is misbehaving. Can you tell me if Tasers, tear gas and batons are also approved devices to restrain inmates in correctional facilities in the province?

**Hon. R. Coleman:** Yes, Tasers, tear gas and batons are authorized as restraint devices in our system. If we were using tear gas, for instance, it would probably be because we brought in our emergency response team. The member should know that any use of that type of device — Tasers, pepper spray — is videotaped, and those videotapes are immediately sent to the acting deputy minister in charge of corrections.

Section 12 approved.

On section 13.

**J. Kwan:** Section 13. This is the strip-search provision. As has been widely reported, Bill 44 is the legislation that allows for strip searches of prisoners without their consent and without any individualized suspicion. In second reading the opposition served notice that we would be interested in hearing the Solicitor General explain in committee how these changes meet the requirements of the court prohibition on routine strip searches, especially given that lawyers who originally challenged the routine strip searches at the Vancouver Jail have already stated that the bill is contrary to the Charter and will be challenged.

First of all, what advice did the Solicitor General receive in drafting this section of the bill with respect to issues around potential court challenges around its constitutionality?

**Hon. R. Coleman:** I'm not sure that the people who think the Charter challenge is going to come against this act have done their homework necessarily, but the courts have indicated that provincial prisoners can be strip-searched on admission to correctional centres. The courts have directed that police prisoners cannot be strip-searched unless they present a security concern or have been detained by police pending a court appearance.

[2010]

The difference is that the Provincial Court prisoners can be strip-searched, according to the courts, on admission to the correctional centres. However, the cases that took place were with regards to police prisoners. The area where we run into this as being the unique problem between the provincial and police prisoners, which we're working through, is that the Vancouver Jail is unique because it holds both police and provincial correctional prisoners. All the other correctional centres hold only provincial or federal prisoners.

We're working through an agreement with Vancouver with regard to the Vancouver Jail to address that issue. Then from there, the police prisoners will only be.... The protocols are either in place or being put in place by law enforcement to deal with how they assess the securities concern for police prisoners.

**J. Kwan:** I'm not quite sure if I got all the nuances the minister put on record here, but maybe this will assist me to have a better understanding of where the difference is. How does the language "without individualized suspicion" differ from the notion of routine strip searches?

**Hon. R. Coleman:** I will try and clarify it for the member. Any prisoner entering a correctional centre in British Columbia can be strip-searched on entry to a correctional centre, whether it be a remand centre or a provincial jail. An authorized person under this act, which is a person in charge of the correctional centre, may order a strip search of a group of inmates suspected of possessing weapons or illicit drugs. That is usually based on observation or intelligence or information, so there's something that indicates there's a problem.

Predatory inmates may force a weaker member of the group to carry drugs or weapons on behalf of others, thus necessitating a search of the group. That's why the ability to do a search of a group or a living unit exists, but only on the authorization of the person. Intelligence information may indicate a weapon is secreted within an area housing a group of inmates. To ensure the safety of staff and other inmates, a strip search of the group of inmates may be required to locate the weapon. This is the strip search conducted

without the individualized suspicion that the act is referring to when the authorized person makes that decision.

**J. Kwan:** Let me just read into the record the language of the bill in this area. It says: "For the purpose of detecting contraband, an authorized person may without individualized suspicion conduct periodic searches of (a) an inmate and any personal possessions, including clothing, that the inmate may be carrying or wearing, and (b) the inmate's cell and its contents."

I'm a layperson, and when I read this piece of legislation in this section of the bill, it appears to me that the language is that one might be suspecting there might be contraband, but an authorized person — a person who's in charge — may without individualized suspicion conduct periodic searches in the various areas, including strip searches. Why the language "may without individualized suspicion"?

One would assume that there is suspicion and that therefore it triggers the necessity of searches. One would think that would be the case, but if that's not the case and if you're not suspecting there's any wrongdoing or suspicion relating to contraband and detecting contraband, then one would presume searches would not be allowed and one would not proceed with searches. Maybe the minister could clarify that for me.

The language "may without individualized suspicion" is what's causing my concern, and I'm wondering whether or not that equates to the language and what is routinely called the notion of routine strip searches. Is that the same thing?

[2015]

**Hon. R. Coleman:** First of all, routine searches of living units without strip searches are something I don't think anybody has any argument with. That's done in basically all correctional centres in Canada, whether they be federal or provincial.

The issue is in and around what the member is calling "without individualized suspicion." That's true. Sometimes you will have a group of people within a living unit who are involved, for instance, in contraband or weapons or drugs, which requires a larger search. Sometimes as you're doing your investigation and collecting your intelligence, you have to do a larger search in order to protect the information coming from people — it may be people within the system who are providing information to correctional officers — to not put their lives at risk.

Those decisions are made by judgment by the authorized person in charge of the centre versus how it used to be. There is a suspicion that something is going on that requires that type of intervention — not something that is as common, for instance, as the regular searches of a living unit, which is without a strip search.

**J. Kwan:** That seems to contradict the notion of routine strip searches, which the court has struck down as unconstitutional. One cannot, in correctional centres

or in jails, in the case of the RCMP.... Routine strip searches would be unconstitutional.

The whole question about this provision of the bill that would allow for strip searches without individualized suspicion begs the question of how that differs from routine strip searches. If you have no suspicion of the person being involved in activities that might be illegal — i.e., contains weapons or contraband and the like — then one would assume that there isn't a need to do a search.

Or is it that the language of the bill allows for the search, even though there's no individualized suspicion, in the event that one might find something related to illegal activities within a group of inmates, for example? It sounds to me like it's a little bit of a fishing expedition if that's the case. If you're not suspecting someone, but you thought: "Oh well, I better check it out just in case I do find something...." If that's the case, then I think there are real issues around constitutionality in terms of potential court challenges.

**Hon. R. Coleman:** I don't know that I'm actually going to be able to satisfy the member's concerns, but let me try. Let's say I have a living unit, and I have the suspicion of a couple of weapons on a living unit, and I don't know which individual may have them at a given time. I've got a guard on that living unit 24 hours a day, in there by themselves with maybe 20 or 30 prisoners, and I receive intelligence that the weapon could be on that living unit. It would be irresponsible for us not to conduct a complete search for that weapon, including a strip search, if it was going to put someone's — either an inmate's or a guard's — life at risk. If we have information that would lead us to believe that a larger group of people require it, then the person in charge can make that determination to go ahead with that search.

[2020]

It's a tool for the people within the system to protect not just inmates, who frankly sometimes need to be protected from these weapons themselves. It also protects our guards.

I think they require that tool. It is not something that has been a huge issue within correctional centres. The issues that were existing were in and around, as I mentioned, a different type of lockup, not provincial jails or correctional centres federally. It was an important aspect, as we went through this, to make sure we were going to have the tools in place so we'd be in a position to protect from life-threatening situations either inmates or guards that are working in our centres.

**J. Kwan:** Where does the language "without individualized suspicion" come from? Is that legal language? Maybe that's just common lingo in the correctional centres where they're authorizing various searches and activities. What is that lingo?

**Hon. R. Coleman:** The language is at the advice of legislative counsel.

**J. Kwan:** It's legal language then — "without individualized suspicion." Is it the case from legal counsel, or is it legal counsel's opinion, that that's different from the notion of routine strip searches?

**Hon. R. Coleman:** Under section 13(1) you've got: "On admission, entry or return of an inmate to a correctional centre." In section 13(2) you've got: "For the purpose of detecting contraband, an authorized person may without individualized suspicion conduct periodic searches of (a) an inmate and any personal possessions, including clothing, that the inmate may be carrying or wearing." Section 13(3) is: "If an authorized person believes on reasonable grounds" — reasonable grounds, which is giving a standard of measurement as we go through each one of these.

Under section 13(4) it says: "A search under subsection (1), (2) or (3) may include a strip search conducted in accordance with the regulations." Those regulations will deal with the standards of information that the authorized person will have to take into consideration when they're making the decision to conduct that portion of the activity of a search.

**J. Kwan:** If I'm understanding the minister correctly, then the conducting of searches, including strip searches, under this section of the act would be triggered only in a case where there may be suspicion of contraband, suspicion related to the inmate — in personal possessions, including within their clothing — carrying a weapon or concealing a weapon of sorts. It is only under those circumstances that inmates may be searched.

It may be that in those circumstances, the intelligence the police or the correction facility might have received is not specifically related to one particular inmate — it might be a group of inmates — for the purposes of addressing the contraband issue and the weapons issue. Under those circumstances only would searches be allowed without this notion of individualized suspicion. Am I right in understanding the minister's point of view under section 13 and how it would be applied?

[2025]

**Hon. R. Coleman:** We do routine searches within the prisons that don't include strip searches. So we will search a living unit. We'll search an area of the prison. That sometimes might lead to finding something that would lead to a suspicion of contraband or weapons. At that point, without individualized suspicion, you may move to strip searches of a group of inmates, but the member is correct that we're talking about contraband and weapons.

We're not talking about random strip searches just for the purpose of random strip searches. We're not talking about that. We're talking about them for a reason — based on either intelligence, on an individualized basis or on a group basis, or where we have intelligence and information — that would lead us to believe that the activity of a strip search has to take place

in order to complete the search to protect either the guards or the inmates. But it's not something that we would do at random in the prison.

[H. Long in the chair.]

**J. Kwan:** Then this is different from the notion of routine strip searches. It's completely different from the way I understood what the minister had said around section 13 and its application. Having said that — and further to my earlier question around lawyers or the matter that I raised about lawyers who've already said that this may well be challenged in the courts — in that context, is the minister planning to budget for Charter challenges under this section of the act?

**Hon. R. Coleman:** It has been reviewed by legal counsel, and it has been reviewed by legislative counsel. If there was a challenge, we would deal with that. We don't think that when we're not just randomly, without suspicion, doing strip searches of inmates in the prison — the courts have already indicated that provincial prisoners can be strip-searched on admission to correctional centres — we're stepping out of line with regard to anything that might be Charter-challenged. That's something that as you draft any legislation or law.... I think we've all learned that there are different laws that sometimes get challenged, and we're not in a position to make any guarantees on that obviously.

My understanding, though, having given that answer....

Interjection.

**Hon. R. Coleman:** My understanding is that we want to rise for a division with regard to something from this morning.

I'm in your hands, Mr. Chair. Do you want us to rise and report progress and seek leave to sit again? Or can we finish this?

Interjections.

**Hon. R. Coleman:** Sure. Okay. Do you want to come back after the division?

Mr. Chair, maybe we could...

**The Chair:** Rise and report progress.

**Hon. R. Coleman:** ...rise and report progress with the understanding that we're going to come back and finish the legislation after the division.

Motion approved.

The committee rose at 8:30 p.m.

The House resumed; J. Weisbeck in the chair.

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

**Deputy Speaker:** Hon. members, earlier today in the private members' motions there were two motions that had division calls, which we will do now.

The question is Motion 115: "Be it resolved that this House recognizes the benefits of a thriving mining industry and supports ongoing efforts by government to make British Columbia competitive on a global basis on this industry."

[2035]

Motion approved unanimously on a division. [See *Votes and Proceedings*.]

**Deputy Speaker:** Hon. members, by agreement, we will waive the five-minute time period, and we'll put the second motion, Motion 46: "Be it resolved that this House recognize the economic and environmental importance of the working land base and the need to adopt a balanced approach to its use."

Motion approved unanimously on a division. [See *Votes and Proceedings*.]

**Hon. G. Abbott:** I call committee stage debate on Bill 44.

### Committee of the Whole House

#### CORRECTION ACT

(continued)

The House in Committee of the Whole (Section B) on Bill 44; H. Long in the chair.

The committee met at 8:40 p.m.

Section 13 approved.

On section 14.

**J. Kwan:** A quick question for section 14, which deals with strip searches being extended to visitors. I would assume that the provision that applied under section 13 is the same here for 14 — in fact, 15 and 16 as well. I would assume that's the context in which searches would be required. The other quick question that I have if that assumption is correct would be: what happens to a visitor who objects to being searched in that circumstance? What happens?

**Hon. R. Coleman:** The distinction here is that the visitor has to consent, and if they don't consent, then they're just asked to leave.

Interjection.

**Hon. R. Coleman:** Yeah. They're just asked to leave.

Section 14 approved.

On section 15.

**J. Kwan:** Section 15 applies to.... The searches apply to staff persons, and it states that with a staff member's consent, searches may include a strip search. In this instance, what happens with the staff person if the staff person does not consent?

**Hon. R. Coleman:** It is the same thing, actually. If they don't consent, they are asked to leave. It's really aimed at more.... As much as anything it includes the contractors. We have had incidents in our prisons where people under contract have been coerced by someone within our system and our prisons to bring contraband into the prison for the use of inmates, to either buy weapons or drugs. It allows for that, but this provision also authorizes the detention of people suspected of possessing illegal items until the police can attend. That's what it does.

**J. Kwan:** For both sections 14 and 15 — and now we're talking about section 15 — the word "routine" is included in these two sections, yet it wasn't included in section 13. Could the minister please advise what the distinction is here? Why the different language?

**Hon. R. Coleman:** Maybe I'll try and liken it this way. The strip search is not routine. Routine would be that people coming to work in our prisons go through metal detectors similar to airport screening and are subject to pat searches if there is any suspicion or difficulty, or sometimes just routine to ensure there is discipline in the fact that they know they could be searched. Again, though, the strip searches with regards to those are based on suspicion and information and intelligence that would lead us to do it.

Sections 15 to 17 inclusive approved.

On section 18.

**J. Kwan:** On section 18, powers of seizure, it establishes that staff can seize objects by using the stipulation "on reasonable grounds." Is this language broader than what was previously in place?

[2045]

**Hon. R. Coleman:** This is more comprehensive. It's a strengthened provision to authorize and control the disposition of possessions — contraband, illegal items — seized from inmates. Authorized persons may seize, control and dispose of unauthorized, unsafe, unhealthy and dangerous items. It is more comprehensive so that we have the ability to dispose of the items after they're seized rather than having them kept in storage for periods of time, and that sort of thing. It's one of the reasons the provision has been enhanced. Still, the seizure and disposition is basically the same for any other illegal item as it was before.

**J. Kwan:** The question, though, was the notion of on reasonable grounds. Presumably with seizure and disposition of things seized, the application is generally

the same. Am I right in making that assumption on the notion of on reasonable grounds?

**Hon. R. Coleman:** Yes, on reasonable grounds is a reasonable test to determine the seizure.

Section 18 approved.

On section 19.

**J. Kwan:** This is entirely new language, section 19. Was there a particular basis for devising this section, or is it just to catch up with new technology that's coming into play?

**Hon. R. Coleman:** Yes, it is to do catch-up. Also, it's at the advice of counsel to have it in legislation so that while we are doing catch-up, the authorization is in the legislation.

Section 19 approved.

On section 20.

**J. Kwan:** Section 20, "Urinalysis." What were the previous provisions on testing for intoxicants, and how were the tests authorized?

**Hon. R. Coleman:** The condition of probation or release, in some cases, was there for people to blow or provide a sample, but there was no authority. This is actually a new provision to authorize and control inmate urinalysis to support drug interdiction and compliance with conditions of release, work or voluntary treatment programs. The provision deals with the fundamental rights and freedoms of individuals. Therefore, urinalysis will be conducted with approval of the person in charge of the correctional centre in accordance with the regulation or by orders of the court.

**J. Kwan:** Were there no tests done before?

**Hon. R. Coleman:** In certain circumstances there was a routine provision for temporary absences for urinalysis and that sort of thing, but there was no defined authority in legislation. That's why it is being put into legislation.

**J. Kwan:** What are the cost implications of this measure?

[2050]

**Hon. R. Coleman:** A test is about \$25 max. We think a maximum of \$10,000 a year would be absorbed within the budget, and that would be at the high end. If you'll notice, the section actually puts limitations on when we do it, and we're actually quite restrictive as to when we do it. It really is, as much as anything, for people away on temporary absence coming back into the system, who have to meet certain standards when they come back into the correctional centres.

Sections 20 to 24 inclusive approved.

On section 25.

**D. MacKay:** To the minister: looking at sections 25(1) and 25(2), I wonder if you could tell me why the wording is the same as it was in the previous bill, where it says the minister may require that any wages earned by the inmate from this employment must be applied. Why are we using the word "may" as opposed to "must"? If these prisoners are out on work programs and earning money, they should, in fact, be paying for all their time in prison.

**Hon. R. Coleman:** It is too prescriptive to say "shall." That's why it's "may." It's like garnishing wages. There has to be discretion. Otherwise, you would end up just being challenged.

Sections 25 to 27 inclusive approved.

On section 28.

**J. Kwan:** Section 28 deals with investigations. Subsection (3) indicates that the director can refuse to investigate a complaint or stop or postpone an investigation if he or she considers the complaint frivolous, vexatious, trivial or not made in good faith. What appeal process is available in this case, if that determination is made?

**Hon. R. Coleman:** There's a director of the investigation standards office. That director of the investigation standards office is independent of the jails. It is an obligation of the people operating the jails to fax the complaint to the director, who on an independent basis makes that assessment. There have been circumstances where the same inmate has made 50 requests in a two- or three-day period about frivolous complaints, and they have to make the determination that it's frivolous. But it is not made by the people that are actually operating the jails; it's made by the director in charge of the standards office. From there, there's appeal to the minister, I believe, and the deputy minister or the ombudsman.

Section 28 approved.

On section 29.

**D. MacKay:** Looking at section 29(3), it says a person who contravenes subsections (1) or (2) of section 29 commits an offence. That leads me down to section 31, where it says that section 5 of the Offence Act does not apply to this act. Without looking at section 5, could the minister tell me what penalty is imposed on someone who does violate sections 29(1) or 29(2)?

[2055]

**Hon. R. Coleman:** Under section 29 it's a maximum of six months' imprisonment. Under section 31 it's a standard drafting provision to exempt the act from having section 5 of the Offence Act apply to all duties

and requirements otherwise. It's put into legislation so the prescriptiveness of sections where there is a penalty will apply versus going immediately to the Offence Act.

Sections 29 to 32 inclusive approved.

On section 33.

**J. Kwan:** Section 33, "Power to make regulations." Subsection (2)(h) of 33 — is the language about conduct of visitors new?

**Hon. R. Coleman:** There is a bit that is new governing visits to inmates in correctional centres and the conduct of visitors while in the correctional centre. The conduct part is new.

**J. Kwan:** What kind of conduct are we talking about here that would be new?

**Hon. R. Coleman:** When people come to visit, we want them to be to a reasonable standard. Intoxication or foul language or argumentative behaviour wouldn't be acceptable. We need to give the power to our staff to be able to say: "That conduct is not acceptable, and you have to leave." That's basically what that's for.

**J. Kwan:** Subsections (2)(m), (n) and (o) contain new language regarding "an informal resolution process" and "an alleged breach of the rules." Does this point to a new process for dealing with discipline and complaints?

**Hon. R. Coleman:** Some of it's new, and some of it's amended, but basically it's so that within the correctional centre you do have the ability to conduct a hearing. People get time off for — for lack of a better description — good behaviour. If they're acting out, they could go before a hearing and have time added, when they would have normally been eligible for release sooner. Sometimes it's behaviour that leads us to believe that they need to be in segregation because they're unable to, frankly, get along with other inmates or there's a threat to another individual within a unit — threats of violence or whatever. We would have the ability to have those sanctions, and that's what this deals with.

**J. Kwan:** Subsection (2)(x) deals with specifying criteria and appears to indicate that reports will no longer be submitted. Is this correct, or did I misread the section?

**Hon. R. Coleman:** Could I ask you to repeat that? I didn't quite get the section.

[2100]

**J. Kwan:** Subsection (2)(x) deals with specifying criteria. Let me put the whole sub-subsection on the record here: "specifying criteria for crediting earned remission, failing to earn remission and forfeiting

earned remission and providing for the appointment and duties of remission awards assessors and reviews of their decisions." This sub-subsection seems to indicate that reports are no longer required. Am I reading too much into this, or are reports still required?

**Hon. R. Coleman:** Yes, reports are still required. This is to spell out how you can earn remission awards for people.

Sections 33 to 44 inclusive approved.

Title approved.

**Hon. R. Coleman:** I move that the committee rise and report the bill complete without amendment.

Motion approved.

The committee rose at 9:01 p.m.

The House resumed; J. Weisbeck in the chair.

### **Report and Third Reading of Bills**

Bill 44, Correction Act, reported complete without amendment, read a third time and passed.

Hon. G. Abbott moved adjournment of the House.

Motion approved.

**Deputy Speaker:** The House stands adjourned until 10 o'clock tomorrow morning.

The House adjourned at 9:02 p.m.