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LIEUTENANT-GOVERNOR
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Fifth Session, 38th Parliament

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THURSDAY, MARCH 26, 2009

The House met at 10:02 a.m.

[Mr. Speaker in the chair.]

Prayers.

Orders of the Day

Hon. M. de Jong: I call committee stage debate on Bill 13, Forest Amendment Act, 2009.

Committee of the Whole House

FOREST AMENDMENT ACT, 2009

The House in Committee of the Whole on Bill 13; K. Whittred in the chair.

The committee met at 10:04 a.m.

On section 1.

B. Simpson: As much as we indicated yesterday that we would support the substance of this bill, there are some questions. Particularly because of the nature of the changes that are being made, they're questions that I think are worth getting on the record — having the minister talk us through what some of the changes are.

Again, this is an amendment act, so some of the language is just simply eliminating certain sections, changing certain words, etc. So it does take a bit of time to try and figure out what the implications are.

[1005]

With respect to section 1, for example, it's a repeal of the section and then adding a definition of "community forest agreement." What gets repealed is the definition, as the section note says, so that it's "consequential to the elimination of community forest pilot agreements, long-term community forest agreements and probationary community forest agreements by this Bill."

My question to the minister is just a broader sort of context question for this section on community forests. As I understand the bill, what it is really doing is saying that community forests are going to become longer-term tenures, that we now have a community forest tenure, which they will call a community forest agreement, that in its ninth anniversary will then be able to be rolled over by the minister or by the minister's designate for 25 to 99 years. We've got some clauses in here that need to be explored.

I wonder if the minister could tell us what this does, if anything, to changes on the whole process of applying for community forests. We used to have people put in notification that they were interested in a community forest. They would get an invitation to apply. They would then go into a probationary period to make sure that things were working out — the structure of the ownership, the structure of decision-making was okay and the land base work was okay — and that's why we had the probationary period, if you will, and a probationary licence.

As I understand this bill, what section 1 does is redefine community forest agreements, and later you remove the probationary period. So if the minister could let us know then: what is the application process and what does the front end, if you will, of getting a community forest look like, and what would be the substitute for a probationary period then?

Hon. P. Bell: The member, I think, reasonably accurately describes the bill, or this component of the bill. The intent of this is to remove the probationary component of a community forest. The application process for entering into a community forest agreement would remain the same.

The notion of removing this probationary component of a community forest is intended to recognize that, while there have been many community forests that have now been put in place, there has never been a circumstance under which we wouldn't have renewed that community forest after the initial probationary period.

In discussions with the association of community forests of British Columbia and the different communities that we've worked with, we felt that this was an unnecessary step, that once communities had gone through the initial vetting process of the establishment of their community forest, they would in fact have met the necessary tests to demonstrate their capability and competence to operate a community forest. Therefore, it was felt that it wasn't necessary to have the initial probationary five-year period.

B. Simpson: As I indicated yesterday in my comments with respect to this bill, community forests can pull communities together, can be very positive, can have a true community structure to them, or they can cause grief in communities because of how the board is structured, how people have input into the land decisions that are being made. We do have some examples of that around the province.

I know that we haven't pulled the licence, but we certainly.… I know the minister must have heard this as well. There are some ones where people are questioning the decisions made by the board, the structure of the board, how there's input into the board, etc.

So in the absence of a probationary period, what would be the process for actually monitoring and paying attention to the early stages of a community forest licence so that we don't lock something in that doesn't work? Is it at ministerial discretion? The district manager's discretion? How is that going to look in the

absence, now, of a probationary licence? What's going to be the vetting and oversight process?

D. Hayer: I seek leave to make an introduction.

The Chair: Proceed, Member.

Introductions by Members

D. Hayer: I have a very special guest from my constituency, Tom Sundher. He's the president of Coast Clear Wood Ltd. He was selected the business person of the year with the Surrey Board of Trade and received many export awards. He sends wood to India, and he's been doing it for a very long period of time. Would the House please make him very welcome.

[1010]

Debate Continued

Hon. P. Bell: The decisions around a probationary community forest revolve around the management regimes and the operating regimes and the standards that were brought to bear from a forest perspective on the particular tenure. They weren't intended in any way for government to interfere with local decision-making, the structure, the legal entity.

The community forests are issued, generally, to communities which have elected officials who establish the actual ownership structure. The provincial government would be very hesitant to interfere with locally elected officials in that matter.

The removal of the probationary period…. Really, what that does is it removes the ability, perhaps, of the provincial government to go in and deal with technical issues as they relate to the management of the tenure. But those, of course, fall to the Forest and Range Practices Act and allow the provincial government to make the necessary decisions. Our statutory decision-makers have the same sort of compliance and enforcement capacity to function as they need to, should the tenure not be managed appropriately and the standards be met.

The removal of the probationary period does not impact the way the provincial government would look at the ownership structure of the tenure. That would be made on a local basis, and we would not normally intervene with that sort of decision.

B. Simpson: That makes sense. Normal compliance and enforcement functions would operate, and if there were any problems, they would be addressed as a normal tenure, if I understand the minister correctly. So it would be the normal oversight of any of the other tenures that we have out there. If I understand that correctly, I guess let me ask the question: is the initial licence, then, that's offered…?

My understanding of the process and the way it works is that the community tries to figure out whether they want one or not. They get together and decide what their structure might be like. Sometimes they may actually have an area that they're interested in, for various reasons.

They make a foray to the local ministry office to see if there's a possibility. There's a letter that comes and says: "Look, we're kind of interested." Then under the current regime there's a letter that comes from the minister saying: "We'd like to engage you in a conversation about a community forest." Then there would be the probationary period.

So it is the replacement for the probationary period — is it now…? Again, there are lots of clauses in here. Do they then get a ten-year initial licence? Is that what would happen? This indicates that there would be a rollover after nine years, so is the initial licence a ten-year licence for community forests?

Hon. P. Bell: It's a 25-year licence that is issued, renewable after ten years. The way the model works is that it's a 25-year licence that's issued. After ten years the licence is replaced. So the shortest period of time that the licence would be valid for would be 15 years. That would be at the end of the initial ten years, but then it would be renewed for another 25 years at that point.

B. Simpson: There are clauses later on about 25-year minimum, 99-year maximum that we'd need to take a look at.

With respect to section 1 again, because it is repealing the definition and sets the context for the rest, my question to the minister is this. Does any of this amendment act, Bill 13, adjust the approach to community forests and shift community forests to more area-based as opposed to volume, because some are volume-based; some are area-based? Is there an intent in here that we would actually create them more like a TFL, or a tree farm licence, where there's an area designated, and what you've got is a long-term relationship with an area of the land base? Is that part of what's in here? It's not explicit in the language.

Hon. P. Bell: Currently, 100 percent of community forests are area-based licences, so similar to a small TFL or a large woodlot, kind of somewhere in between those two places. The member opposite may be thinking of a different type of tenure, perhaps a non-replaceable licence that was issued over a short term to a community.

[1015]

All community forests, and this particular amendment deals specifically with community forests, are area-based licences and create the connection that both the member opposite and I believe is so important for communities to have, where there is a defined land base, a defined operating area that they manage.

Of course, with community forests they also have the authority and responsibility for non-timber forest products, which is unusual, relative to any other form of tenure. It is the only form of tenure that does give them access to other products on the land base in their tenured area.

B. Simpson: I appreciate the minister's clarification, because the core of community forests are area-based, but lots of community forests also get volume-based licences on top of the core area base. They can get salvage licences; they can get different kinds of sales. What they use is the core community forest licence to then expand their base of operations.

My question to the minister is this. As we start rolling these over to these longer-term licences…. There's language later on, but I'm trying to explore the general sense. There's language later on about adding more to the existing licences or expanding the licences. As part of putting this amendment into place, will there be opportunities for the community forest licences to take some of their volume licences and try and make them more area-based and actually expand the area that's under licence?

Hon. P. Bell: There's nothing in this amendment that actually changes whether or not that was allowed to take place — was before, is after. What the member is asking is…. I'm thinking of McBride as an example. It has a salvage, non-replaceable forest licence that I think was originally issued for maybe 20 years or so. It's probably due in a dozen or so years, because it's been out there for a while now. Could they add that into the community forest?

Community forests by nature are strictly area-based licences, so you would have to identify the area. Of course, that has implications in terms of the allocation decisions of the cut in any given TSA.

The notion that the member opposite is suggesting, around the opportunity to expand community forests, is one that I support. I'm publicly on the record saying that. I would like to see that opportunity grow for communities. I think it creates the connection between the values that are associated with the forest and the potential income opportunities in the community in which it's located.

B. Simpson: There are other examples. Likely has huge salvage licences, and a lot of that is actually in the area of Likely that is adjacent to their community forest. I believe Burns Lake has the same situation. Often they are adjacent, so there's an opportunity. I think some of these community forests would like the opportunity, because their volume-based, non-renewable licences are often adjacent to the area where they have their community licence.

They wouldn't mind the opportunity of saying: "Can we just roll it up?" As the minister indicates, the community forest licence gives you a different freedom to manage for other values, does vest you in the long-term health of the area and so on, so it is a nice match.

Maybe what I'll do is frame it in a broader question that I have. In the minister's recent document on generating more value, there is one of these kinds of nebulous, out-there targets of work to increase the number and size of community forests and encourage communities to use the fibre to support further manufacturing.

I wanted to be clear about this bill, because some of the press release around the bill suggests that maybe that's what this is going to do. Will this bill actually increase the number of community forests, or will enacting this bill actually enlarge the community forests as they exist? Will it actually do that?

Hon. P. Bell: I should just introduce my staff before we go on any further. I'm joined by Rhonda Morris and Richard Grieve, who are both integral to the ministry and the development of policy and legislation.

[1020]

This amendment that is being made simplifies the process of acquiring a long-term tenure. It does not, by itself, allow for the tenure to get larger or for the tenure to change, but what it does is issue an initial tenure length of 25 years. That in turn, we believe, will allow for communities to have a higher degree of certainty when entering into contractual relationships with value-added producers in their region, giving them the degree of certainty that they would have with other forms of long-term tenure.

The complaint that was being made previously, and I've actually heard it from the members opposite as well, is that a short-term licence of five years during the probationary period created barriers to the attraction of investment capital for different sorts of manufacturing facilities.

So while the bill by itself does not allow for larger volumes of timber to be entered into an agreement that did pre-exist and continues to exist, by bypassing the initial five-year period, the advice that we've received from community forests is that they will be in a better position to attract capital for the investment of manufacturing facilities.

B. Simpson: So if I understand the minister correctly then, it doesn't of itself create that expansion. It is still a "work to increase," as opposed to a specific target or legislation that enables an increase in and of itself. But the second part of the phrase from the minister's vision document says: encourage communities to use the fibre to support further manufacturing.

We used to have appurtenancy clauses in licences that actually tied licences to manufacturing facilities and tied them to job creation. Does this change in any way create a new form of appurtenancy, or is the goal that's

in the vision statement just nice to do? You would like to see that happen.

Again, my question specifically is: will Bill 13 create a new form of appurtenancy and drive the change that the minister indicates he would like to see in his vision statement?

Hon. P. Bell: There is no specific component of Bill 13 that requires community forests to sell wood to local manufacturers or ties them to any specific manufacturing facility. But what we have seen, and what we believe, is that community forests, by the nature of them, tend to create those opportunities.

The member for Columbia River–Revelstoke will know that the community forest in Revelstoke is a great example of that. I often refer to it. They have built their business plan and case around supporting a variety of manufacturers, both inside the region and, I guess, to a smaller degree outside of the region.

They've done a great job creating small manufacturing entities as a result of the access to that volume, and there are other good examples of that as well. While there is not a specific regulation that requires for that fibre to stay in the region, what we found is that the nature of community forests tends to lead to that behaviour.

When we were doing the round table, one of the things that we noticed as we toured around the province…. We had a small-community leader on there, a union leader, a couple of first nations, some small manufacturers and large manufacturers. One of the things that we noticed was that there was this innate kind of conflict between the notion of requiring longer-term tenure in order to attract investment but then wanting to have volume available for more competitive opportunities.

One of the things that we believed as we came out of that round-table process was that there probably is a balance point between those two areas where it makes sense to have some longer-term tenure that people can buy, can sell, can build facilities based on the knowledge of that degree of certainty and then to have a significant volume available to the open market delivered through B.C. Timber Sales, delivered through first nations opportunities, community forests and woodlots.

The thinking as we came through that process was a very, very complicated time, because the nature of the group in the round table created a dynamic where people were pushing and kind of pulling in all directions. But in the end, everyone agreed that there is this balance point, and the balance point is probably 60-40.

So 60 percent of the fibre is in some sort of long-term tenure that provides certainty to larger manufacturers or people who are going to make big investments, and about 40 percent is delivered through either B.C. Timber Sales, community forests or woodlots, first nations community forests. That's what we're going to try and strive to achieve. I'm on the record already saying that. That's not new news in particular.

[1025]

The notion of appurtenancy is one that we looked at very closely. In the 19 communities we visited, there was not a single community where it didn't come up at some point in some form. Certainly many people made presentations. Out of the 250 presentations…. It wouldn't have been all 250, but there was a large number.

So we did a lot of work looking at the issue of appurtenancy and seeing what it did accomplish. Was it something that achieved its stated objective? What we found was that it didn't achieve its stated objective. Even though there was this link that had been arbitrated between the manufacturing facility and the tenure, in fact, under all governments — I'm not being critical of any particular government — mills closed that had the appurtenancy clause in place on that particular tenure.

We tried to get at the issue of appurtenancy by asking the question: what are people trying to accomplish by having this clause of appurtenancy? There were really two key themes that evolved from that.

The first was that communities wanted to have some control or decision-making power in the resource that surrounded them. They wanted to be able to be involved in the decisions. They wanted to be able to make sure that they could have an impact on the direction of decisions. The second thing that came out, consistently, was that they wanted to have some benefits in the local community from that resource that was around them.

So as a round table we asked ourselves the question: how can we accomplish that? What is the methodology? What could we put in place that would accomplish the achievement of those two objectives? And where the round table landed on it was this notion of growing community forest, providing first nations with more secure forms of tenure that they could count on so that they could attract their own opportunities.

In the end, at the introduction on the round-table document, I was asked by the media what I thought the right kind of percentage was. Currently, we're at about 13 percent of the annual allowable cut in the hands of communities, first nations or woodlots — although first nations tenures are often much shorter. So 13 percent today, but they are shorter forms of tenure.

I was asked what would my objective be, and I stated: "Twenty percent." To try and get to 20 percent of the volume in community forests and woodlots and first nations community forests and longer forms of tenure is something that I'm supportive of.

I've strayed way beyond where the bill is, but I know the member has time commitments that he wants to see filled, so I thought I would help him out a little bit.

B. Simpson: Just in response, and then we can close off section 1 and move on to some of the other things here.

I mean, the minister did wax eloquent on some things in the round table that I find intriguing. The whole issue of appurtenancy, I know, is a hot issue. But my sense of it…. I agree with the minister's assessment. Mill-based appurtenancy became a handcuff in many cases, as it didn't allow the flexibility as the industry changed, as manufacturing changed, as even the wood profile in the forest changed. It became a bit of a handcuff.

The difference was that before 2003 there was a requirement for some kind of consultation process prior to that mill closure. There was a requirement for the community to be involved in discussion about the disposition of the tenure — what was going to happen with the jobs that were lost, etc.

For a while there was even a job commission function that would actually look at whether or not there were other alternatives to make that mill viable. As the member for Columbia River–Revelstoke will point out, he's got a prime example of where that worked and still continues to work today.

The difference now is that without the appurtenancy there is no public debate. There's no forum for people to actually say: "What do we do with the disposition of these licences?" The licensees can close the mill down and still have the tenure, still have all of the rights, and the community may no longer get the benefits.

What I understand is going on is a debate about more of a community-based appurtenancy. How do you reconnect the community with the land base without handcuffing the investors and the industry with a particular mill configuration?

I understand the minister, you know, in a 60-40…. There's been a long debate that we might get rid of the softwood lumber agreement if we went to a 50-50 arrangement, where 50 was free and unencumbered from manufacturers, and 50 was available through licensed system manufacturers. That might actually get rid of the softwood lumber agreement.

I've had discussions with people who say: "Look. Get the manufacturers off the land base. Go to a pure market logging approach where you've got the logging contractors out on the land base. They get certainty to be able to invest in their equipment and go out and create jobs and bring that in."

[1030]

The minister talks about Revelstoke. Again, I will come back to the bill here in a minute. Revelstoke is an interesting example because Revelstoke is actually a purchase of a portion of a TFL, a tree farm licence. It's not a normative community forest.

The process of how Revelstoke got that is illustrative of the fundamental differences between how the process used to work before the changes in 2003 and after. We have — and we've canvassed this in this House — an issue with TFL 23. That was the Pope and Talbot tree farm licence that Interfor has now purchased without any community consultation whatsoever.

Back in '93 or '94, tree farm licence 23 was also involved in a bankruptcy situation. The government of the day, because of the structure of the Forest Act, went out and consulted with every community. They went and said: "What do you need as we look at Pope and Talbot buying tree farm licence 23?"

Through that community consultation process, the appurtenancy clauses were put in, and the Revelstoke community forest was actually structured. So the Revelstoke community forest came out of a public consultation process on the disposition of a bankrupt company and its tenure. That's what we have been calling for — a restoration of some kind of community appurtenancy, some kind of community input into the disposition of these licences.

Let me close with one final question with respect to section 1, and then we can move on. That is again just a clarification, because the minister has indicated that part of the round-table discussion is to grow community forests. I just want to be absolutely clear that this bill does not, by putting it into effect, grow community forests at all.

It's a bill that gives some certainty to existing community forests and, as the minister indicates, may give the ability then — when you start offering more community forests — to give more upfront certainty. But in and of itself, it will not achieve the minister's intent that immediately, as of tomorrow or in the fall, we're going to have a whole bunch of new community forests and a whole bunch of area under community forests.

Hon. P. Bell: That's correct. The bill by itself does not do that. The intent to pursue that was available to us before and will be available to us in the future.

Section 1 approved.

On section 2.

B. Simpson: On section 2. Again, it's one of these things about amendment acts that make it difficult when you don't have a lot of staff to figure out what's going on. Section 2(a) repeals subsection (1) of section 19 in the Forest Act.

In the note, it says "…repeals the definition of 'minister' to rely on the general delegation power under section 1.1 of the Act." I want to clarify this, because later on there are some specific responsibilities given to the minister. Then, of course, there's this process of delegated authority.

What is it that this does with respect to repealing subsection (1) and the definition of minister? What does it do with respect to the issuance of community forest licences? Who has the delegated authority?

Maybe if I reframe the question: does the Minister of Forests of the day have to be intimately involved in signing off on community forest licences, or does a delegated authority — a district manager or regional manager — have

the direct authority to engage communities and direct ability to issue community forest licences? Which is it?

Hon. P. Bell: My staff have adeptly pre-prepared some comments on this, knowing that this may be raised.

This was a redundant clause in the act. We had the ability previously to delegate the authority. Generally I don't do that in community forests. I like to be very familiar with what is happening with new community forests and renewals of community forests. I think I've signed all of them myself, or any that I've awarded so far.

[1035]

The authority did pre-exist. By removing this, though, it simply removes a redundancy. In 2007 there was a general delegation power added to the act under section 1.1. That allows me as minister to delegate any authority that I choose to delegate. So this was just simply a redundancy and removed a component that wasn't necessary.

B. Simpson: The minister's answer is interesting, and I guess because he's got a briefing note, I asked one of the questions that was projected to be asked.

The minister's answer is interesting because he's indicated that it is his own particular way of operating that he wants to see all of these community forest applications come forward. But if I understand him correctly, that doesn't have to be the way. If there's a Minister of Forests who isn't really that keen or wants to have his delegated authority to issue these licences, does the act then allow that to occur?

Can a different minister say: "Look, here's what I want you to do in the Quesnel TSA. I want you to get up to 6 percent in community forests. Fly at it"? Would they have the ability and the freedom then to engage the community and issue those licences without coming to the minister?

Hon. P. Bell: That is correct. I could delegate the authority, or a future Minister of Forests could delegate the authority, but that was the case before as well. This simply removes a redundancy that was in the act. It was in the act in two separate places.

Sections 2 and 3 approved.

On section 4.

B. Simpson: Section 4 is changing section 39 in the Forest Act. It just simply says it's making this section "consistent with other provisions." But part (d) of section 4 in the Amendment Act, (7.2)…. For anybody who is listening to this, they might understand my confusion when I read it out loud. The section says: "A tree farm licence that provides that a replacement for the tree farm licence must not be offered may not be replaced under subsection (2) or (3) except with a tree farm licence that also provides that a replacement for it must not be offered."

That's interesting language. I consider myself to be somewhat intelligent and literate, but I don't understand what this is doing. The note doesn't really clarify. It just says it's making it "consistent with."

If the minister could, what is this section actually intending to do? What is the mechanism at work here, and where would there be an application of this section?

Hon. P. Bell: I'm glad the member opposite pointed out that he considers himself to be reasonably intelligent. We've noted that he considers himself that way, as well, from time to time.

I did want to, though, try and explain to the member opposite what this is about. What it deals with is the opportunity to consolidate two like types of licences. If you had two non-replaceable forest licences, you could combine those two licences. Or if you had two tree farm licences, you could combine those two licences. But if you had a non-replaceable forest licence and a tree farm licence, you would not be able to consolidate those two licences, and that is the point of this section.

[1040]

B. Simpson: You know, I did say "reasonably." But anyway….

This goes back to what I was saying before about the fact that many of the community forests are area-based, with volume-based tenures. They have non-replaceable tenures in conjunction with their area-based tenures. As I try to understand what this clause might be, would it prevent the kind of negotiations with community forests about using this as an opportunity to expand the area? What would be the mechanism there?

I've got a community forest with a small area-based tenure, and I've got a larger volume-based tenure. The way they're currently constructed, one is non-renewable and one is renewable. I can't blend them together. There's a clause later on that says you can actually expand the boundaries of a community forest. What would the mechanism be to overcome this so that you could actually expand the area of a community forest?

Hon. P. Bell: We're actually going through one of these right now, so I'm a bit familiar with it. The approach we have taken is that we'd go through a discussion ahead of time with a community, understand what their desires are, identify what the available volume is and figure out how we can make that work. The actual mechanism for the consolidation or for the addition would be a surrender of the licences and then a direct award reissue of the licences back to the community.

Sections 4 to 8 inclusive approved.

On section 9.

B. Simpson: Section 9, again, is amending section 43.4 of the Forest Act. It's repealing some subsections and putting in a substitute. Section (4) of this says that unless a community forest agreement provides that a replacement for the community forest agreement must not be offered, the minister, during the six-month period following the ninth anniversary, can then offer a replacement. This is what we were talking about before in terms of the ten and 15.

What would the circumstances be, given that this is an application to existing community forests? Are there any community forests that would be in a circumstance where the minister is constrained and must not offer the extension?

Hon. P. Bell: We're not aware of any community forests where our ability to extend would be restricted.

B. Simpson: I guess that begs the question of why a clause like this would be in the act. If there is none that exists now, would we ever issue a community forest and then put a clause in there saying that you can't offer a renewal or an extension to this? Why is this clause being put in if there's not a circumstance that exists that would cause the clause to be put in place?

Hon. P. Bell: This is a standard clause for all tenures that we issue. It just simply mirrors all other tenures, whether it be woodlots or TFLs or other renewable tenures.

[1045]

B. Simpson: Interesting. I thought this was a government getting rid of red tape and cleaning up regulations. Just the fact that it's a standard clause…. If it's not going to be applied, it's still more verbiage in the act that doesn't need to be there, I guess.

Again with respect to subsection (5)(b) under this, a community forest agreement offer must be for a term of "not less than 25 years and not more than 99." I think we've already canvassed what that would look like in terms of the renewable aspect of the licence.

With respect to the not more than 99 years, is that a cap? Is that the intent, or is it that this is the duration? Is there some legal requirement that you can only go to 99 years? Why wouldn't it be perpetually renewable? Why is there an outside ceiling on this?

Hon. P. Bell: This is a renewable tenure. It doesn't necessarily end after 99 years. It's renewable every ten years, regardless of whether it is a 25-, 30-, 35-, 40-year tenure, so it's just that the length of time remaining gets extended.

The 25- to 99-year clause came from the predecessor organization to the Community Forest Association of British Columbia. In initial drafting of the community forest legislation, it was recommended by this predecessor group…. When I say it's an association, that's probably not accurate. It was the group that was at that time working with the Forest Service to develop the legislation. They recommended that they have the flexibility to have tenure ranging between 25 and 99 years.

That was accepted at that point in time, of course — it was quite a few years ago when that occurred — and it remains today. It is a renewable licence, so it's just a function of the remaining period left on the licence after the ten-year renewal period.

B. Simpson: In this section also is the clause that I referred to earlier. Subsection (5)(b) indicates that in the community forest agreement offered, you can get that change in the area. It says: "describe as a community forest agreement area the area subject to the existing community forest agreement and any change to the boundary or area made by the minister." That's the clause I referred to before.

It enables the ability for us to do that. I do hope that the minister gets the opportunity, because I think there are lots of reasons to do that. I agree wholeheartedly with the minister's intent of using this as a vehicle to reconnect communities to the land base.

Later on here in subsection (6) and then down below in subsection (c), it refers to the person to whom a community forest agreement is offered. Later on it redefines probationary and long-term community forests to community forests and refers to the holder. It's an interesting question, because again it goes back to the whole issue of what the entity is that brings the community together and what the form and structure of that is.

As a person in subsection (6), what's a legal definition? Is that a corporation? Is it an individual? What's the structure of ownership of a community forest that's seen in this clause?

Hon. P. Bell: Under section 43.2(3): "A probationary community forest agreement may be entered into only with an applicant that is (a) first nation, (b) a municipality or regional district, or (c) any of the following if prescribed requirements are met: (i) a society incorporated under the *Society Act*; (ii) an association as defined in the *Cooperative Association Act*; (iii) a corporation; (iv) a partnership." That is covered off in 43.2(3).

[1050]

B. Simpson: Again, I want it to be clear. So here the person is the legal entity. We understand under the law that a corporation, a society, etc., has a designation of a person as a legal entity. It's not an individual who can come and say: "I'd like a community forest in my neck of the woods."

One of the things — in talking to Wells, for example, and Quesnel, etc. — is: what's the formal process for them

constituting themselves into a community forest structure to apply for community forest, and who bears the resulting liabilities and responsibilities, etc.?

Just to be clear, the person here is a legally constituted entity that includes that list of all of those legal structures that the minister is referring to. Are we understanding that correctly? So not an individual — right? — can come and say: "I want a community forest licence."

Hon. P. Bell: The member is correct.

Section 9 approved.

On section 10.

B. Simpson: This section speaks about the transition for community forest pilot agreements and probationary community forest agreements and talks about the annual allowable cut. My understanding — and I just want to be clear on this — is that the annual allowable cut review is an iterative process. It gets looked at by the chief forester on a regular cycle.

For example, again in the Quesnel area, we're going through an AAC review. In that AAC review, annual allowable cut review, we may actually be bringing the annual allowable cut in the Quesnel area down. The minister has already indicated that there are four more years of shelf life with the mountain pine beetle. We've logged a lot of the close beetle wood. We've got other pests and diseases out there. So the AAC may come down.

How does that impact the establishment of the annual allowable cut here? This clause, if I understand it correctly, suggests that the AAC rolls over. But if we're going to enter into a new agreement, how would the annual allowable cut of these community forests be impacted by annual allowable cut reviews that are being done, which may drive the annual allowable cut down?

Hon. P. Bell: There are a couple of components here. The member opposite indicated that it's the chief forester that makes the determination on a community forest. Actually included in this group are also woodlots and TFLs. It's actually the regional manager or his or her designate, not the chief forester, which I know is a bit different than the rest of the TSA.

The other thing that's important for the member opposite to know is that each of these is considered their own planning unit or their own mini-TSA. They're not considered part of the overall TSA calculation.

As the member points out, the chief forester's office is looking at the annual allowable cuts in a number of areas. Quesnel is one; Prince George is another right now. They do that every five years. But each of the individual area-based tenures is excluded from that determination, and they have their own calculation done.

Now, I will just add to that as well. While the chief forester's office does the majority of work on the remainder of the TSA, in the individual area-based tenures, typically whoever the tenure holder is will contribute significantly to the AAC determination. The final calculation would be done by the regional manager or his or her designate. But the input information that goes into that process is normally provided by both the Forest Service and the individual owner of that particular area-based tenure.

[1055]

B. Simpson: I appreciate the minister's clarification. I knew that the TFLs were outside the timber supply area and the AAC determination. I didn't realize that community forests were similarly handled.

So with respect to this section, this is the section of the actual transition. What will the mechanics of this be? What will this look like for community forests? Many of these community forests operate on very limited resources, and many of the forest districts are also under resource constraints and will continue to be under resource constraints as we head into deficit budgets and so on.

What will this look like in terms of transitioning the community forest from where they are just now to where this bill allows them to be? What's the time frame for that as well?

D. Routley: I seek leave to make an introduction.

The Chair: Proceed, Member.

Introductions by Members

D. Routley: It's always a great honour to introduce young people of British Columbia who visit the Legislature. So it's my pleasure to introduce two grade 5 classes from North Cedar Intermediate. There are 54 students with their parent chaperones and their two teachers Rod Huneault and Michael Moynihan and their educational assistant Nina Cavezza.

They should be reminded that the beauty of this place is set there for them. I can inform them that the importance of this discussion affects the future of their communities, as we're talking about community forests. So please help me welcome the future of British Columbia to the Legislature.

Debate Continued

Hon. P. Bell: A couple of pieces with regards to this. First of all, there would not necessarily at this point be any recalculation of an AAC in the tenure unless there was a specific reason to do that — if it was believed that the information was incorrect or incomplete, if there

were forest health issues, fire or something like that. Then it would be a normal recalculation, but it wouldn't be recalculated for any other reason.

We are working with the B.C. Community Forest Association to develop a template, a document that can be used for all of these transitions, which will be simple and will require the tenure holder simply to come into the district office, and we'll work through those forms. We're cognizant of the time and effort it takes for these community forests and the resources they have available, so we want to make it a simple transition system for them.

B. Simpson: I welcome the students that are here. For context for those students, we're in the process of debating a piece of legislation. Legislation is how we form laws in the province. The Minister of Forests is the person who is responsible for making this legislation come into existence, and he's joined by staff members who help him to answer my questions.

I'm the opposition member. My responsibility to the public of British Columbia is to try and ask appropriate questions to make sure the minister has done his job — or the staff, make sure that they inform him so that we actually make good laws. That's what we do in here. We make laws that govern the province. Today we're dealing with the Ministry of Forests and Forest Act changes that, as the member indicated, may impact your community if your community has a community forest.

With respect to the minister's answers, I was asking just about a time line. I understand the minister is indicating that we want to streamline it for the community forests. But what would the time line be of transitioning these community forests over to this longer-term licence with more certainty?

Hon. P. Bell: We anticipate that we would make these transitions over the next number of months.

B. Simpson: The minister talked about the resources on the community forest side, but what about the resources on the Ministry of Forests side? Will there be some additional resources to facilitate making this happen?

[1100]

Hon. P. Bell: We have 22 community forests that are in the five-year probationary period at this point. Some of them are….

[S. Hammell in the chair.]

The assessment is not due yet, but we do want to move those through the process quickly. We do have 188 staff in the tenures branch of the ministry, and there aren't a lot of new tenures going out, so we are confident that we can work through this in the next three or four months.

B. Simpson: What about the local ministry office burden on this? They're the ones who would be involved in actually looking at what's going on in the AAC negotiations with community forests. Will they just have to pick it up under normal staff complement?

Hon. P. Bell: I used the term "tenures branch." I should have used the term "tenures division." These staff are located throughout the 29 forest districts, as well as a few in the regional and head offices.

Sections 10 and 11 approved.

On section 12.

B. Simpson: On section 12, again it's repealing something in the Forest Act, substituting it with another statement.

The statement says: "After a community forest agreement has been entered into under subsection (1) with a first nation or its representative, the regional manager or district manager may, if it furthers the objective set out in subsection (1) (a) and with the consent of the holder of the community forest agreement, increase the area covered by the community forest agreement."

I'm just curious why this one explicitly brings out the first nations component. I recall, because I've done lots of these amendment acts, that we actually made an amendment — I think it was last spring — where we linked first nations with the community forest tenures and made it an explicit ability of a district manager to issue a community forest licence to a first nation or their representative.

If the minister could explain why the first nations are particularly singled out for this area expansion possibility.

[1105]

Hon. P. Bell: This one's a bit complicated. Under the forest and range opportunity agreements and other forms of agreements that we sign with first nations, oftentimes there's an acknowledgment that this is a partial form of accommodation and oftentimes is included towards a treaty-related measure at some point.

They will have, perhaps, a volume-based tenure that has the clause associated with it that says that this is a partial form of accommodation, or accommodation towards an eventual agreement with that first nation.

We want to be able to include that into the first nations community forest. So if we consolidate those two tenures together, bring them together, we want that clause of accommodation brought over to the first nations community forest agreement. That's why this is laid out specific to first nations versus other tenures, which do have the mechanism that we would use to bring those tenures together.

So the distinction, the reason why this is first nations–specific versus not directed towards other forms of tenures, is because of the clause in the first nations forest and range opportunity agreements that acknowledges that this is a partial form of accommodation, or accommodation towards an eventual treaty agreement.

B. Simpson: The minister's answer actually confuses me somewhat, because there's already language here that allows for the expansion of an area. If we go back again, we just passed section 9(5)(b) that says that in constructing this new community forest licence, the delegated authority or the minister can actually change the boundary already so that it can expand. That's an omnibus statement that would include all forms of the person that would hold this licence.

If we go back to the clause that I admitted my ignorance about, where it says that you cannot take a non-renewable licence and a renewable licence and blend them together…. Yet as the minister well knows, FRAs are non-renewable licences. So would this clause actually allow you to take a non-renewable forest and range agreement and blend it in with a renewable community forest agreement and supersede a clause that we already passed, which said that you can't do that?

I'm a bit confused here, because this seems to either be not needed, because the authority's already there, or be in contravention to a clause we passed that said that you cannot take a non-renewable licence and a renewable licence and blend them together. So I need more clarification from the minister.

Hon. P. Bell: I can appreciate the member's confusion. This one is a bit complex. The section that we were debating earlier was an amendment to section 39(7.2). That is specific to tree farm licences and not community forests.

As we were discussing that, I perhaps should have made that clear. I don't know that I did, but section 39(7.2) is specific to tree farm licences. This section is specific to community forest agreements and first nations community forest agreements.

What makes this different, again, is the accommodation element of this, which wouldn't come to bear in any other forms of non–first nations licences, because they would be the only ones that would qualify for accommodation.

So I apologize. I perhaps didn't make it clear as we were discussing section 39(7.2) that that was TFL-specific and not applicable to this section.

[1110]

B. Simpson: It does state "tree farm licence." Again, one of the problems of amendment acts is that you've got stuff in there.

So that I'm clear then, in the section 9 that we did pass, when we talk about changing the boundary…. I'd asked the minister. If you've got volume-based salvage licences or whatever — like Likely does, like Burns Lake and other places do — then it is possible.

I asked specifically about community forest licences. The minister's answer said that you'd have to rescind the volume-based licences and roll them over. Would you able to do this with other community forest licence holders who want to expand the area and the volume that they're operating with, who already have a history of operating with a greater volume in the area that they're operating in? Could you then expand the area of those community forest licences as you roll over into these longer-term licences?

Hon. P. Bell: We do have the ability already to add area to an existing community forest agreement without having to have them surrender that licence and reissue that licence. The surrender and reissue is only applicable to a TFL. One that we're actually going through right now is a TFL that's being surrendered to be reissued in the form of a community forest agreement. That was where my comments stemmed from.

B. Simpson: With respect to section 12, if I understand the minister correctly, the ability already exists to expand the area. The statement for first nations explicitly has to do with accommodation, yet I don't see the words "accommodation agreements" or anything in this addition.

Where does it explicitly reference that the reason for doing this or the reason that you need an explicit clause about first nations has to do with FRAs, forest range agreements, being accommodation agreements?

Hon. P. Bell: You actually have to go to two places in order to get that answer. The member will note that 43.51 under subsection (2.1) states: "After a community forest agreement has been entered into under subsection (1) with a first nation or its representative, the regional manager or district manager may, if it furthers the objectives set out in subsection (1)(a)…."

It directs you back up to subsection (1)(a), which says that "the community forest agreement provides that it is entered into with a first nation or its representative to implement or further an agreement between the first nation and the government respecting treaty-related measures, interim measures or economic measures."

You have to go back to subsection (1)(a) to fully appreciate the context, and that's where it is stated.

B. Simpson: Thank you to the minister for that clarification. Again, I ask for his indulgence. We just don't have the ability on our side to go to every clause and check it all out, so I do appreciate the minister's patience.

With respect to this, then — the minister is fully aware of this — that forest range agreements…. Many of them are coming up for renewal. There were problems. We've

raised those problems in the House. The first nations leadership has raised the problems with forest range agreements, the short duration of those agreements and the volume involved in those agreements. Many of them are coming up for renewal.

Is it the intent that a number of those FRAs will roll over into community forests? Is that something the ministry is contemplating?

[1115]

Hon. P. Bell: We are working collaboratively at two levels right now with first nations. One is with the First Nations Forestry Council, looking at the existing community forest tenure to see if that meets the needs and objectives that have been articulated by the First Nations Leadership Council and forestry council.

Don't have any specific update on that for the member opposite. I do know there was interest on the part of the First Nations Forestry Council to have a stand-alone piece of legislation or separate form of tenure. I've asked them to at least review the community forest model to see if it meets the needs or not.

The second level of discussion that we're having is with the individual communities whose FRAs are currently expiring. There are a significant number of them, as the member points out. I think in the neighbourhood of 30 or so this year. We've indicated to those first nations that we, at a minimum, will extend the short-term agreements and enter into discussions with them about the establishment of an area-based tenure as a replacement to the forest and range agreements.

I've also indicated to them that that will be easier in some areas than others. There are some areas where the land base is extremely constrained right now, and it's very challenging to find any area to put an area-based licence on. There are other parts of the province where we are far less constrained, and it's easier for us to find those tenures.

But we'll work through that process. I think at this point we need to give our district managers some time to determine the viability of a quicker conversion to community forests for first nations, but certainly that is the policy direction that we're pursuing.

Section 12 approved.

On section 13.

B. Simpson: We now move off from community forests — although there's some other language later on about community forests — and into the section on woodlot licences. Again, as the minister indicated, and as I understand, this really is only applying to an individual who has two woodlot licences, who can bring them together under one licence and therefore streamline their obligations to the government for filing reports and putting plans together.

So just to start off, a few questions on this. Is that really all this applies to? Is it just that ability to take two woodlot licences, bring them together, and then have one relationship with the government, if you will, with one licence?

Hon. P. Bell: That's correct.

B. Simpson: Again, going from the PR, the press releases, about what this is going to do versus the reality, this will not change the nature of the reporting, the obligations for planning, the obligations that an individual woodlot holder had. It doesn't streamline any regulations related to individuals who hold a single woodlot. Is that correct?

Hon. P. Bell: That's correct. What it does is allow for…. Currently if a woodlot owner owns two woodlots, they have to submit two separate plans — two separate sets of documents, two separate statements — around their individual woodlots. Under this new model or this amendment, it would require a single reporting instead of two separate reporting entities. But on existing woodlots, there would be no change.

B. Simpson: For the public record, the reason I raised that is…. As the minister well knows, there's a lot of work that needs to be done with the woodlot association. They have put in significant effort to try to figure out how to streamline their reporting.

I'm sure the minister is seeing exactly what I've seen, where under a previous regime, they would only have to do minimum filing. They had minimum administration. Under a government that promised to deregulate and streamline, the woodlot federation and the individual owners have complained that now they are burdened with regulation in the extreme.

One example that someone indicated to me is that for their previous history, up until 2002-2003, they've got a couple of file folders. From 2002-2003 on, they have filing cabinets full of the reports. Also, the requirement to have a registered professional forester report and the requirement for electronic filing has added not only regulatory burden, bureaucratic cost, but also costs. So this doesn't address that issue, except in the case of streamlining somebody who has two.

[1120]

The other question I have just specifically on this. The minister, again, is very well aware of this, and I know he's working on the file. Just for clarification, this also does not address the stumpage issue for woodlots. The stumpage issue for woodlots is one of their big burdens that they're trying to figure out how to address, and, in this case, this doesn't address stumpage for them at all. Is that correct?

Hon. P. Bell: I'm not sure whether the member perhaps missed the announcement that we made late last year

or at the woodlot federation dinner. We announced that we would be formally moving the woodlots to the tabular rate system that parallels community forests. That was implemented on December 1, 2008.

The woodlot federation is very happy with the model. I've had several letters come indicating that they're very supportive of the new tabular model. That also alleviates some of the burden that the member talked about in terms of administration. All of the pricing and appraisal information is no longer necessary, so it did provide for relief in the area of eliminating a lot of the burden.

I'm not sure. Perhaps the member opposite wasn't aware of that change. But it was one that the woodlot association had been pushing for, for a long time, and it was implemented on December 1.

B. Simpson: Just for clarification, my understanding of what happened there was that there was a difference still between the Interior and the coast. What I've heard is that some folks on the coast still say that they've got some issues that need to be resolved. So maybe I'm misunderstanding what went on, but I think the coast still has some unresolved issues. Is that correct?

Hon. P. Bell: The model that we have implemented was recommended by the woodlot federation. It is the tabular rate system that is currently also implemented for community forests throughout British Columbia. It recognizes the different value of timber depending on where you're located. It's 15 percent of the average rate in the Interior and 30 percent of the average rate on the coast.

So while I know that of the 800-and-some woodlot members there will undoubtedly be the odd one that would like to see further improvements, the woodlot federation has endorsed this model. We're pleased with it, and we're seeing, I think, one that will be sustainable.

The most important thing about this, too, is it provides long-term certainty for the woodlots. They were operating in an environment perhaps that didn't provide the degree of certainty they were looking for. We think this has been a successful implementation and one that they're happy with.

Sections 13 to 15 inclusive approved.

On section 16.

B. Simpson: What I'd like to do, for your reference, is discuss briefly section 16 and section 20. It's the third component of this. The rest in here is tidying up some of the other things about woodlots, etc.

On section 16. This is the third component of this amendment act which changes the minister's ability to deal with cutting permits. Instead of specifying that a cutting permit may be delayed for forest management reasons, it just simply states that the minister has the freedom to change cutting permits with respect to regulations.

If the minister could…. What's the reason for giving this freedom or flexibility to the minister?

Hon. P. Bell: The intent of this is to allow us to more effectively direct the harvest at specific volumes that we think, for forest management reasons, will allow us to better accomplish our objectives.

[1125]

The member opposite knows of my passion for trying to maximize the shelf life of mountain pine beetle volumes. I know that's important to both his riding and my riding. We want to see our mills operate for as long as they possibly can. So expanding this tool allows us to make management decisions in a way that targets the harvest and doesn't penalize the licensee for work done previously.

If the licensee went to a bunch of work to establish a permit and they were coming up to their expiry, and for a variety of reasons we believed it was in the interest of the shelf life to direct them to go into a different area, under the existing regulation, their permit would expire. They'd lose the value of what it cost them to establish that permit and bring that permit into place. We don't think that would be fair to penalize them for having done that work because we want them to harvest in a different area.

It creates more flexibility for us to direct that harvest and make sure that we do the best job we can of ensuring that the mills in both the member opposite's riding and the mills in my riding are able to function over the longer term and that we maximize value from the forests.

B. Simpson: Well, all of the reasons the minister just gave are all forest management reasons, which is what's stipulated in the act just now. So what this act is doing would enable the minister to do everything he's already articulated. You wouldn't need to change the act based on his answer to my question.

What this amendment act does is remove the constraint of having a forest management reason and gives the minister the ability to use other reasons, and that's my question. What are the other reasons that would not be forest management reasons? Could it be that the company is cash-strapped and can't afford to go in? Could it be that they just don't like the area any more, the economics of the area, and they want to go to another area that's more economically feasible?

What are non–forest management reasons that are perceived to be legitimate reasons and that are why we're removing forest management as the constraint on delaying cutting permits?

Hon. P. Bell: There are a variety of reasons that could come to bear. They may be social reasons. The community

is interested in having an area left unharvested, and there's currently a cutting permit in that area. We want to delay the process and allow for further negotiation and discussions between the local community and the operating licensee in the area. There could be cultural reasons for first nations engagement decisions around treaty-related measures, those sorts of things.

But more importantly, it's just creating the flexibility to make sure that we protect the long-term interests of the harvesting land base and that we manage it in a way that provides for the longevity of the mills that operate throughout the province.

I'm very concerned about the mid-term timber supply. It's an area that I have put a lot of time and effort into over the last nine months or so that I've been in this portfolio. I do think we are making good headway, but I also think we need to have the tools.

The objective of this amendment is simply not to penalize the licensee for work that they've already done. It just gives us the flexibility to make sure that that licensee…. The investment that they've made in that particular site remains, and if we have directed them to move into a different location for some reason, we can extend that licence agreement.

B. Simpson: Just sort of final questions here. Again, the minister defaulted back to forest management reasons, but I get some of the other reasons as he's indicated — social, etc.

One of the criticisms of the Forest and Range Practices Act is that once a licensee is operating under a forest stewardship plan, there isn't the requirement for consultation at a cutting permit level, unless you've given notice to the company that a certain area is of interest to you and you want notification if they're going to go into that area.

Now you've got the situation where the cutting permit…. They may actually do some of the work, as the minister has indicated, but the cutting permit is delayed or postponed for some reason, and they move into another area. Is there any consultation or any requirement for consultation around this ability for the minister or his designated authority to actually then change what's happening on the ground?

[1130]

Are there any additional consultation requirements here so that the community is apprised of what's going on, what the reasons are and gets an opportunity to find out if the reasons are legitimate or not legitimate?

Hon. P. Bell: We've not been consulting on postponement decisions in the past. But I would never want to rule that out, because the current state of play of the case law, of course, is changing each and every day, and you never know when that might be required. But we've not typically been consulting on postponement decisions to this point.

Sections 16 to 21 inclusive approved.

Title approved.

Hon. P. Bell: I ask that the committee rise, report the bill complete without amendments.

Motion approved.

The committee rose at 11:31 a.m.

The House resumed; Mr. Speaker in the chair.

Report and Third Reading of Bills

FOREST AMENDMENT ACT, 2009

Bill 13, Forest Amendment Act, 2009, reported complete without amendment, read a third time and passed.

Hon. I. Chong: I now call committee stage of Bill 7, the Police (Police Complaint Commissioner) Amendment Act.

Committee of the Whole House

POLICE (POLICE COMPLAINT COMMISSIONER) AMENDMENT ACT, 2009

The House in Committee of the Whole on Bill 7; S. Hammell in the chair.

The committee met at 11:34 a.m.

On section 1.

R. Fleming: I wanted to, just on this section, ask the Solicitor General a couple of questions under the definition of "committee." He'll have to help me here. I'm not familiar whether the Police Act defines committee or whether we are referring to the standing orders that guide this assembly. If the Solicitor General could perhaps give a fuller definition than this brief amendment offers on how that committee is described in the act.

[1135]

Hon. J. van Dongen: I just want to introduce the staff that I have with me, for the member opposite — Ann Preyde, the director of policy and legislation for the Ministry of Public Safety, and Gordon McPherson, on my left, senior policy adviser on legislation.

The member asks a very good question. In fact, in this section, section 1, when we're talking about "committee," we're talking about the committee of the Legislative Assembly. That use of the term "committee" is defined here for the purposes under part 9 of the act, which is

what we're talking about here, strictly for sections 47 to 49, as set out in this section of this bill.

I think what the member rightfully is questioning about is that there is also a definition of "committee" in the Police Act in all other sections. It is set out in part 6 of the act that refers to where the term "committee" is used to mean a local police committee established under section 31.

It was a drafting consideration that staff made. We are talking here about part 9 of the act only, and we're talking only about sections 47 to 49 of the Police Act. In that context the use of the term "committee" refers strictly to the committee of the Legislative Assembly that is appointed for this purpose — a special committee of the Legislative Assembly that is appointed by the Legislative Assembly for the selection of a new police complaints commissioner or an acting one or whatever is in these sections.

R. Fleming: I thank the Solicitor General for the explanation. So in other words, if you can just confirm this, then, it will be the Legislative Assembly itself that determines all the major questions about that committee — what its size will be, how many members, what the balance of members representing political parties will be, all of those things around the composition and frequency of its meetings. Those kinds of things will be determined at each session of the Legislative Assembly. Is that correct?

Hon. J. van Dongen: Yes, I can confirm to the member that all of the operations of that committee, the rules, the selection process for the composition of that committee, both from the government side and the opposition — all of those — would be governed by the rules of this Legislature.

[1140]

What this bill does is set out certain amendments to those specific sections of the Police Act that set out in law the expectations of that committee in terms of the act itself. Everything else — anything that is not specifically included in the act, including the amendments proposed in this bill, any other procedures or rules — would come from this Legislature.

R. Fleming: So in other words, as the Solicitor General has confirmed, the rules of the House will govern the major questions of this committee. In the final analysis, will it come down to agreement by the major parties' House Leaders as to the size and the composition of the committee and the formula used to distribute how many representatives each party is entitled to?

Hon. J. van Dongen: Yes, I can confirm for the member that his understanding is correct, that that is governed by the rules of the House. This bill is not proposing any changes that could impact the selection of the composition of that committee, the balance of the committee, the size of the committee — all of those things. None of that is changing as a result of this bill.

Section 1 approved.

On section 2.

R. Fleming: I wanted to ask the Solicitor General a couple of questions on the terms for this position — the length of them specifically — that are spelled out in section 47 here. The proposal is for up to two terms of five years. That is a new reform that we talked about at second reading. Previously, this position was only for one term of up to six years. I think that's pretty critically important.

I wonder if the Solicitor General could confirm if this suggestion in the legislation for the length of terms one and two — the possible second term — is advised by other legislation for other independent officers of the Legislative Assembly or whether this duration for the appointment was arrived at through other discussions.

Hon. J. van Dongen: We did consider a variety of sources of information, including a special committee of the Legislature that looked at these issues. They had recommended…. I believe it was four and four. There was also a review done by the previous Police Complaint Commissioner that made a certain recommendation, and there are some offices of the Legislature that are six and six.

We were guided in the decision to finalize this issue in this bill by the legislation establishing the Representative for Children and Youth. We were guided by that act. Plus, as I said, we looked at the other advice that we were given.

[1145]

But that act was the latest piece of legislation passed by this House establishing an officer of the Legislature. It was five and five, so we have followed that as the recommendation for this bill.

R. Fleming: I think, given that there are differences between the different independent officers and their terms, that if congruency of these terms was even a desirable goal, it's pretty difficult without other amendments. So I think you probably split the difference of the suggestions you received, and there's some sense to imitate that duration of appointment with the most recently created independent officer.

I want to move to section 48 and just ask some more questions about the special committee identified in this amendment bill. In the extraordinary occasion where a suspension of the independent….

Interjection.

R. Fleming: Sorry, we're still in section 2, as I have it. It's just that the subsection of the original act is 48, not 47.

In extraordinary cases, which have to be accommodated for but are never likely to occur, where an independent officer has failed in some way to do their duty properly to the satisfaction of the members of this House, I appreciate that there is now a mechanism to deal with such a situation in the unlikely event that it would ever arise — by the assembly.

Again, it's unclear to me — the committee's power. This section specifies how, when the Legislative Assembly isn't sitting, these matters could be dealt with if a crisis of confidence did arise in the person doing that job in that office. If the House were not sitting, there are some time lines, some guidelines given as to how a decision could be arrived at.

My concern is again with this committee. It's not certain in my mind yet that this committee meets on a regular basis. It's a special committee of the Legislature. Obviously, its most active time is when it makes the appointment, when it's making a reappointment or looking at that. Perhaps it would meet to receive annual reports before they reach the House.

I don't know exactly what the terms of reference for this special committee are, but my concern is that it will not meet regularly. Therefore, it will not perhaps be identifiable who is on that committee, should they need to take action when the House isn't sitting.

The concern is that this House doesn't sit very often. At least, in the past several years there have been very few sitting days here. So there's a high likelihood that — I think last year we only sat for 40 days or something like that — it would happen in another part of the calendar.

My question for the Solicitor General is: how would this special committee identify itself to constitute a meeting and deliberate on whatever crisis may have arisen in the person holding that office and make a decision without the full backing of the assembly, especially given the fact that the appointment, as we've just mentioned, is for five years?

That is a period of time between elections. The composition of this assembly will change. If it were to fall, for example, after the next election, there will be different people in this place.

So my question to the Solicitor General is: does he have confidence that this special committee will be identifiable and will always be struck at every session of the Legislature? I look forward to his answer.

[1150]

K. Conroy: It gives me great delight today to seek leave to make an introduction.

Leave granted.

Introductions by Members

K. Conroy: In the gallery joining us today is my granddaughter Daira Batchelor, who is here from Castlegar. With her is her grandma from Victoria, Cheryl Batchelor; her auntie Christie-Ann Lucas from Squamish; and her cousins Cassandra, Joshua and Joe.

They're all here to learn a little bit about the Legislature on their spring break. So please join me in making them all welcome.

Debate Continued

Hon. J. van Dongen: Just a little bit of background for the member. I think the member raises a valid question. But part of the change here is to remove cabinet from the process of having to make a decision in the circumstances that are described in the section.

The proposed wording in section 48 of the Police Act is again patterned after exactly the same wording in the Representative for Children and Youth Act. But it would require a decision within the rules of this House if there are any issues around the constitution of the committee.

This is the legislative committee, the special committee of the Legislature. Then the constitution of that committee would be governed by the rules of this House outside of this act, and as I said, it is absolutely parallel to the wording in the similar section in the Representative for Children and Youth Act.

R. Fleming: In the event that an acting Police Complaint Commissioner was appointed by this committee and that the committee, if it had fallen into disuse, could be re-activated at a time when the House is not sitting…. I'm satisfied, I think, that that could occur.

If the job of that committee was to make an acting Police Complaint Commissioner appointment, my question for the minister is: is the amount of sitting days that guide…? Whether that obligation falls to the committee or not, how did he arrive at "within five sitting days" as a milestone for how that committee must make a decision and, also, that the appointment's duration for this acting position cannot last longer than 20 sitting days?

[1155]

I'm curious what guided the minister in putting that into this legislation.

Hon. J. van Dongen: The intent of this section is to provide the capacity and the authority for the Legislative Assembly — first of all, if it is sitting — to suspend a Police Complaint Commissioner where there is cause or incapacity. That would be the preferable situation — that the Legislative Assembly makes that decision.

In the event that the Legislative Assembly is not sitting, which is what is contemplated under 48(3), the special committee of the Legislative Assembly would be

empowered to make a unanimous decision to suspend the Police Complaint Commissioner. It was considered that five days — in essence five business days — would be one week.

We were balancing the practicality of the situation with the preference to have the Legislative Assembly make the decision. In fact, the 20 days was considered a practical time wherein the Legislative Assembly would affirm the decision of the special committee.

Sections 2 to 7 inclusive approved.

Title approved.

Hon. J. van Dongen: I move that the committee rise and report the bill complete without amendment.

Motion approved.

The committee rose at 12 noon.

The House resumed; Mr. Speaker in the chair.

Report and Third Reading of Bills

POLICE (POLICE COMPLAINT COMMISSIONER) AMENDMENT ACT, 2009

Bill 7, Police (Police Complaint Commissioner) Amendment Act, 2009, reported complete without amendment, read a third time and passed.

Hon. I. Chong moved adjournment of the House.

Motion approved.

Mr. Speaker: This House stands adjourned until 1:30 this afternoon.

The House adjourned at 12:01 p.m.

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