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LIEUTENANT-GOVERNOR  
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**FIFTH SESSION, 38TH PARLIAMENT**

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TUESDAY, MARCH 31, 2009

The House met at 10:04 a.m.

[Mr. Speaker in the chair.]

Prayers.

### Tributes

SUSAN SEAGER AND VIRGINIA TAYLOR

**Mr. Speaker:** Hon. Members, it has been brought to my attention that Susan Seager and Virginia Taylor, information officers who have been working for the Office of the Clerk of the House for over 17 years, are both retiring this spring.

[1005]

I'm sure that the members of this House, together with the Clerks, wish to extend Susan and Virginia our sincere gratitude for their many years of courteous and expert service as invaluable members of the Clerk's department and wish them well in their retirement. The discretion and loyalty demonstrated by both of them has served the Clerk's office and this House well. On behalf of all of us, I express my sincere thanks to Susan and Virginia.

**Hon. B. Penner:** I rise to present a report.

**Mr. Speaker:** Proceed.

### Tabling Documents

**Hon. B. Penner:** I present the 2007-2008 annual report of the Environmental Appeal Board.

**Mr. Speaker:** Hon. Members, I have the honour to present the *Report of the Chief Electoral Officer on the Vancouver-Burrard and Vancouver-Fairview By-elections, October 29, 2008*.

### Orders of the Day

**Hon. M. de Jong:** I call continued second reading on Bill 9.

### Second Reading of Bills

LABOUR MOBILITY ACT  
(continued)

**Mr. Speaker:** Seeing no further speakers, Minister of Advanced Education closes debate.

**Hon. M. Coell:** I'd like to thank those who have participated in the debate.  
I move second reading.

Motion approved.

**Hon. M. Coell:** I move that the bill be referred to a Committee of the Whole House at the next sitting of the House after today.

Bill 9, Labour Mobility Act, 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. M. de Jong:** I call second reading of Bill 12, the Strata Property Amendment Act, 2009.

I wonder if we might recess for just a moment.

**Mr. Speaker:** Hon. Members, we'll take a ten-minute recess. We'll reconvene at 20 minutes after ten.

The House recessed from 10:07 a.m. to 10:22 a.m.

[Mr. Speaker in the chair.]

STRATA PROPERTY AMENDMENT ACT, 2009

**Hon. C. Hansen:** I move that Bill 12, the Strata Property Amendment Act, 2009, be read a second time.

Bill 12 contains changes to the Strata Property Act that significantly improve dispute resolution processes available to strata corporations and strata owners, enhance consumer protection and increase accountability.

The Strata Property Act provides a framework for the creation and operation of strata developments in the province and sets out guidelines under which strata corporations must operate. The act is relatively new, having only come into effect on July 1 of the year 2000. These amendments respond to concerns raised about the operation of the act and are the result of consultations with key stakeholders, including condominium associations, strata managers, developers, the Real Estate Council of British Columbia and strata property lawyers.

[H. Bloy in the chair.]

The dispute resolution processes available to strata corporations and strata owners will be improved in three ways.

First, the amendments will allow small claims court to hear many strata property disputes so that disputes may be resolved in a timely and more cost-effective way rather than requiring that they always go to the British Columbia Supreme Court.

Second, the amendments provide the authority for regulations to improve existing arbitration processes, which are a workable and inexpensive alternative to going to the courts for the resolution of strata disputes.

Third, the amendments will also provide the authority to establish new mediation processes, including the power to require that certain disputes be mediated.

Other amendments may prevent disputes from arising in the first place. For example, democracy within the strata corporation will be improved by lowering thresholds required to call a meeting or to propose a resolution. Conflict-of-interest rules will be enhanced to ensure council members act in good faith and in the best interests of the strata corporation.

Bill 12 also contributes to better strata relations by addressing requests for greater clarity, flexibility and accountability. For example, clarity will be improved by affirming the ability of strata corporations to pass age-restriction bylaws.

Flexibility will be enhanced by allowing notices and other documents to be e-mailed to strata corporations or owners who consent to that form of transmittal. This new delivery option encompasses the most current mode of giving notices and will provide an economical option for many strata corporations and owners.

[1025]

The amendments will strengthen fiscal stability and accountability in strata corporations by requiring depreciation reports and audited financial statements. The requirement for depreciation reports will help strata corporations understand the magnitude of future costs of replacing or repairing depreciated assets. These amendments will provide owners with the protection of regular reports and audited statements while giving them the flexibility to override these requirements by a supermajority where they consider it appropriate.

Finally, this bill enhances consumer protection by giving owners, former owners and potential purchasers greater rights to access additional information by ensuring that special levies are managed with the same diligence as a strata corporation's contingency reserve fund and by providing a new court remedy to approve a special levy to raise money for the maintenance and repair of common property or assets where a majority of owners vote in favour of the special levy even though it did not receive the support of three-quarters of the owners, as currently required under the act.

**D. Thorne:** It's actually a pleasure to rise today to make a few comments on this bill and to represent the many strata owners around British Columbia who have contacted me in the past couple of years around this issue, and I'm assuming that they were speaking for even more strata owners.

There is no doubt that this bill is a step in the right direction. I and many other strata owners across the province were quite pleased to see it brought forward — probably would have been more pleased to see it get passed before we abandon the House later today. However, at least we're getting to discuss it for a little while in second reading today.

I would like to make a few comments on some of the things that are not included in this bill and the disappointment that I and many people feel that we're not doing a full review of the Strata Act, as has been called for, for many years now. There has been no public review of this legislation since it was passed in 2000. So in effect, it's been more than ten years, because the reviews took place in 1998-99, and no change has occurred since then.

Since that time strata condominium ownership has grown to about 25 percent of all taxable properties across British Columbia, and there are now about 460-plus individual strata units. In several large urban areas strata homes now account for 50 percent of all taxable properties. Growth in strata home ownership is expected to continue this way, and efforts that are being made to reduce the environmental footprint of new housing certainly affect the move to multiple housing and strata ownership.

Strata title is a complex form of homeownership where some of the problems have been successfully addressed through education programs, but many serious problems remain unresolved because of deficiencies in provincial legislation.

One particular large strata homeowner group on Vancouver Island has done a major consultation with homeowner associations and strata homeowners in British Columbia and produced a report last spring which was a product of those consultations. I know that all members of the Legislature, including the Finance Minister, received copies of that report and probably, hopefully, agree that the issues and problems that are identified are certainly credible and need to be dealt with.

[1030]

This bill, which deals mainly with dispute resolution, will certainly help strata homeowners. But several of the other parts of the bill around depreciation and compulsory audits.... I think we need to look at the fact that there are so many exemptions.

I think we also need to look at.... Nowhere in this bill is there any reference to penalties for anything. It provides no penalty structure and no, if you will, offence structure, so that's a little concerning.

The six main areas that need to be looked at in a full, comprehensive review of the act are strata governance, strata management licensees, disclosure, strata development approvals, property taxation and strata fee equity. Ignoring these deficiencies and continuing with the present strata legislation and only dealing with the few items in this bill will have serious implications, each carrying a financial price for somebody who lives in these just-under-500,000 individual strata units.

The report that I referred to demonstrates the scope and magnitude of legislation deficiencies and the need to make the strata legislation more homeowner-friendly.

We need a public review not only of the Strata Act, but the REDMA and RESA acts as well, with a focus on

protecting the property rights of strata homeowners. To do this, we will have to have public input with wide consultation with strata homeowners across the province. We need this transparency and accountability in order to start a proper process.

I'm concerned with the way this act has been brought forward now in this short legislative session before an election, without being passed, because we'll only be doing second reading today. I know that strata homeowners across the province are watching to see. There has certainly been media around this, and people are aware that we have started down this road. They're unsure what this means.

Does this mean that this will die on the order paper? Does it mean that it will come back in the fall? Nobody really knows what's going to happen, actually, with the Finance Committee recommendation No. 68.

I sat on the Finance Committee, and that committee agreed in the fall that we do need a full public review. Why, since 2003 this current government has recognized that there are significant issues, and several times the Finance Minister has committed the government to full review, which has not occurred.

I would like to just read through some of the things that are not included in this bill that I have heard from different homeowners — not just the strata homeowners group on Vancouver Island, but the consumer group that's located in the Lower Mainland, the CASH Society, and several individuals who have taken it upon themselves to act as if they are a group. They've done so much work on this issue.

Many of the changes in this current act rely on regulations that are not yet developed — for instance, depreciation reports, financial audit, mediation and arbitration. The bill is a product of a behind-closed-doors process because it did not have public consultation, and it shows by the things that are not in the bill.

With over 600,000 strata owners in the province and less than 15 percent of them having any representation through an association, it means that there is even more reason for there to be an open and public consultation process before amendments like these are put up in the form of a bill. None of these groups were consulted.

[1035]

In fact, one of the strata homeowners groups was invited, I think, to consult, but they told me that they had to sign a confidentiality agreement and felt that they did not want to participate and be muzzled in that way. So they refused to be included in the consultation and, therefore, did not see what was under development until the bill was released just recently.

Another complaint that I've had from a single homeowner is that the bill focuses on strata issues as something exclusively between a corporation and owners. It seems to suggest that not all problems have internal origins. It does not address the excesses of strata property managers

and developers that cause many disputes among strata owners. Once again, this person feels that this leaves the real estate industry off the hook.

This bill provides, as I mentioned earlier, no offences or penalties for anything. Now we know that Ontario and Alberta both have significant penalties for improper conduct by various parties, and there seems to be no legal reason or legislative reason why we could not follow the example of Ontario and Alberta rather than reinventing the wheel. We could also include offences and penalties, which would be much more likely to make even this start on a proper change to the Strata Act have more possibility of being successful for strata owners.

This bill does not ensure that a strata owner is entitled to attend a strata council meeting. It doesn't place more responsibility on local government to treat strata property owners more fairly, and it does not address the need for oversight in establishing the basis for fee apportionment in new strata developments. Inequities have often occurred that were foreseeable before the strata plan was registered. More oversight could prevent this from happening in the future. These are all items that would be included were we to do a full consultation and review of this act, as has been promised by this government several times.

Another letter that I have from a woman in Richmond says that this amendment does not protect strata owners when strata corporations continuously violate the act and bylaws. The strata corporations do not fear being taken to court. Now there will still be no penalties for strata corporations, but strata corporations can always fine the strata owners. This is a huge concern for the individual strata owners, which just doesn't get covered when we let the strata corporations off the hook by having no identified offences and, certainly, no identified penalties.

She also says that this amendment still does not address strata management agents' misconduct and misleading strata council issues. The Real Estate Council of B.C. has been licensing strata management agents since January of 2006, but it has not been monitoring these licensees on the excuse that there is no Strata Property Act jurisdiction.

These are all perhaps seemingly small issues, but when you're talking about upwards of a million people living in strata units across the province, a number that's growing every day, I don't think any of these issues are small. They're magnified, of course, by the number of people that are affected by them.

The act, as I say, is a step in the right direction, and I wish that I was going to get to speak to committee stage, because I have specific things for many of those sections. I guess that's not going to happen today. I feel like this act is treating the symptom rather than the disease. That was stated to the Finance Committee during our hearings last fall, and I tend to agree with that.

[1040]

It's disappointing that when we had this opportunity... Obviously staff have been working on this. There

has been some effort by the Finance Ministry to focus on this act and to focus on changes. But the focus has solely been on dispute resolution, ignoring the many other disputes that arise.

Mr. Speaker, I think that pretty much covers what I have to say around second reading on this act. In a way, I feel I'm a bit in the dark here. I'm not sure that I haven't actually just been wasting my time, although putting forward the opinions of B.C. taxpayers and, in this instance, strata owners around their concerns is never a waste of time by the opposition.

I'm very happy to have had the chance to do that today, but I must stress again my disappointment that I won't get to speak to the individual sections during third reading — a big disappointment to the whole opposition, I assume, but especially to myself as critic.

**S. Herbert:** I don't have much more to add to my colleague from Coquitlam-Maillardville's comments, but I did want to say that I think it's important that the bill has finally got to the floor.

I know my colleague our critic for Housing has been raising the concerns of strata owners for quite some time and quite ably. I've heard from a number of strata owners in my constituency who have said: "Well, why isn't this done yet? Why has the government not acted yet?"

They've got many sittings that they could bring this bill to. They've heard from many folks for a long time now that we do need changes, and they wondered why we haven't seen results. They did get excited. They saw Bill 12, Strata Property Amendment Act, and they said: "This is great."

I'm glad we're moving forward. It doesn't have everything we want. In fact, it fails us in a number of areas, but it is at least doing something. It's starting to move us in the direction that we need to be.

They were happy that something was happening. I've contacted a few of them who have reached out to me and told them that Bill 12 will be here for second reading today, Tuesday. But the government has decided to shut down the House today, so we won't be able to actually bring it into committee stage to ask those tough questions, which they have asked me about the bill, or potentially even bring it into law.

They're kind of questioning why again the delay. Why has this not been a priority of government? Why is it not actually getting voted on in this session? They've raised that again and again, and they raised it just the other day.

I was out walking down the street, and a fellow stopped me and said: "You know, I'm not a supporter of your party, but I'm getting pretty fed up that the government does not seem to take the Strata Property Act seriously."

I did mention that this bill was coming, and he said: "Well, yeah, but it's just before an election, and they're trying to show that they're doing something when they haven't done anything." So he was concerned. I said:

"Well, you know, the bill is coming. It has potential. It could come through — got to give them the benefit of the doubt on this one."

But now I find that the House is being shut down today, and we won't be able to take this further and ask those questions that need to be asked and debate about where else we need change in terms of consumer protection and protecting strata property owners.

I look forward to continuing to raise the concerns of strata property owners in my constituency. There are many condo owners who have concerns. There are, of course, the renters and the leaseholders as well, but this is the Strata Property Amendment Act.

I think I will leave it there, just to say that I'm hoping that when this House does resume sitting in the fall, we can get on this right away. No matter which side forms government, this act needs to be brought in. I think it needs to be strengthened in terms of consumer protection, and hopefully, then, strata property owners will finally see some results for their years and years of advocacy to try and balance the system for the individual owners as well as the strata corporations to ensure fairness for everybody.

On that note, I will take my place.

[1045]

**Hon. R. Coleman:** I am pleased to rise to speak to the Strata Property Act as well. I think a little bit of a history lesson is worthwhile here as we look at this piece of legislation and its history.

This act came into this House in the year 2000 under the previous NDP regime. It was a poorly cobbled together piece of legislation at the time. It has required a number of amendments and adjustments over the last nine years. I know that because I debated the legislation in 2001 with the then Housing Minister. We had some concerns around it then and over a period of time. There were some amendments made shortly after to the act, and over the years, we've been trying to make this act more consumer-friendly and to do certain things.

What people should know is that most people don't actually understand, when they buy a strata, what the act does. They really don't know the areas that they can research with regards to how the management of the strata can take place, the rules that they can actually look at, how their strata corporation is supposed to do certain things. It covers a plethora, frankly, of issues that somebody who would move into a strata might find that they have to deal with.

From a consumer's perspective, the first thing they want to know is, basically, the fundamentals of the strata when they go to a real estate agent. "Does it have a capital reserve? What are the strata fees? What do I get for my strata fees? Does it include heat and light? Is there a boiler on the premises? How old is the boiler?" Those are the fundamentals you will get from a real estate agent when

it comes to basically looking to buy a strata in British Columbia.

Most people don't understand, though, that in addition to that, there's like a mini-corporation here and that that corporation has rules around how it can borrow money, how it can actually apply those funds that they borrow for purposes of the strata with regards to having them paid back by members of the strata over time — i.e., somewhere where there's got to be a building envelope repair or that sort of thing.

The budgets and the bylaws and rules and the common property and what that means. People, when they go into a strata, should learn what common property and limited common property and what the strata actually is, because that's where oftentimes the disputes arise within the relationship of the strata — when somebody thinks that a piece of the limited common property is theirs exclusively when, in actual fact, the maintenance of it is the responsibility of the overall strata.

As you go through that, there are different things that have to happen. There have to be elections. There have to be council members. There is a contingency reserve fund that needs to be there at a percentage that's prescribed in the act and by regulation, and that's actually to protect the people within the strata. So if the roof has to be replaced or something like that comes along under normal maintenance, the ability is there for them to deal with that.

As we've come through this act, we've come to learn certain things. There are important aspects of the communication between a strata council and its members — which are the corporation and its shareholders, for lack of a better description — in certain things like repairs, maintenance, but also in issues in and around the areas of, basically, rules within the establishment and things that are pretty critical to people that actually want to be able to occupy a strata.

Most important is to make sure there's proper insurance on the facilities so that the insurance a person has to carry on that particular unit is complementary to the insurance that the strata corporation has on the property. As we went through this period of time, there were all kinds of issues that came up over time with regards to the Strata Property Act.

There are some strata properties today that don't allow rentals. I do believe that at some point in time the whole discussion in and around rentals in a strata property, so we can have ways to find more rental properties in British Columbia, should take place. That discussion or argument or debate should take place in some sort of a public process.

As we come through this, everything with regards to the operation of a strata becomes pretty critical. Now, having said that, knowing that an act is only at about eight years old, it isn't unusual in a very complex real estate environment to have something that needs some work from time to time.

The changes that are proposed to the House today actually make a lot of sense. If you've had any dealings with strata property owners over the last number of years, you'll know that one of the biggest frustrations is how they deal with claims.

We basically have these issues that go back and forth between councils and owners and issues with regards to moneys owed and that sort of thing. It always has to end up in the courts, which is really an onerous place for some individual to go, an onerous place for a strata property group or organization to go. It's much simpler if you can find a way to do that through small claims or other areas that are cost-effective and more timely in the way they can be dealt with.

[1050]

This also provides the authority to establish and improve the arbitration process as an alternative to going to court. I think that's something that most strata property owners would probably think, "No big deal," until they're into the situation where they have a dispute. Then they say: "Man, I've got to go to court. I've got to go to the Supreme Court to file a petition and all this stuff, just to be able to deal with an issue that I should be able to deal with in arbitration or mediation across the table from the people I'm having the discussion with."

It's pretty onerous for a senior or an individual that has to deal with an issue within their strata property to have to go to court and do that onerous work. What happens is that they then feel like they're basically being closed in by the operation of the strata, closed in from the standpoint that they feel that there is an inability for them to react to the issues that they have to deal with. This is a much more effective manner, I think, as far as disputes and issues in and around strata properties are concerned.

In 2006 we made a significant change to this act where people that are managing strata properties have to be licensed realtors. They have to be qualified. That was a step that was very important.

We had people that were managing stratas that didn't understand the budgets in some cases. They were just folks that were working for a property management company without qualification, and yet they could be managing millions of dollars of money. They could be managing money in such a way as to benefit to operate the strata. They could be giving advice to strata owners without having the understanding of the act itself. So the change was very important.

Each time you deal with this particular piece of legislation, I think you have to do it in the thought of: how is it understandable to the person that I talked about at the very beginning of this discussion, who is coming in to buy a unit?

I know from my own experience, having dealt with them from both the marketing and sales side of real estate, but also with dealing with my own family — children — who

have bought stratas, and having them learn to understand what it means when you buy into a strata and the benefits, but also some of the hurdles, that come with it. Each time we deal with this act, we have to keep that in mind.

I think there's probably a necessity in the next year or two, as you look at the refresh of an act that's going to come up to close to ten years of age, to actually look at how things have changed in strata. The member for Coquitlam–Maillardville made a very valid point with regards to how many new stratas there are in the last number of years and how much bigger a piece of the entire ownership of property this has become in B.C.

I see us moving to where we're going to see more bare land stratas in British Columbia, where we'll have people owning basically a bare land lot underneath them but not necessarily owning the freehold title, simply because that is more economical for development from roads and the input charges and things like water, sewer and lighting and access points into a single-family operation. There's a lot of work that needs to be done there with regards to that.

I do believe that as we go along with that, we need to enter into the real discussion in and around bare land strata, which is to say to municipalities across British Columbia: "We want you to actually allow, without development cost charges or any charges whatsoever, any manufactured home park in your community to go to a bare land strata and strata title itself so it can sell its lots to its tenants."

It would be able to deal with the issue of the ability to sell the property for redevelopment versus selling the property to people so they could actually buy it. They could actually pay — instead of pad rental — a payment that could buy them a lot.

That's a piece that's pretty controversial when you talk to municipalities. The first thing they do when you have that conversation with them.... They say: "Oh, but we want our development cost charges, and we want them to upgrade their roads, and we want to upgrade their lighting." And they forget the point.

The point is affordable housing in the community for the people that live there — allowing them to have stability long-term. The reverse effect is that, as commercial properties become less and less and less available, somebody says: "I'm better off to sell that property and turn it into something else or rezone it and use it for another purpose." That's a step that's very critical in the Strata Property Act and strata property in British Columbia for that particular consumer.

We also have to learn how we're going to deal with co-ops in the future — how they can actually fall within an act somewhere where there are some rules and regulations that can be more flexible for them. In actual fact, co-ops have difficulty in many areas, particularly how they're structured. But as we move to more things like equity co-ops, where we'll actually identify a strata lot

that somebody has equity in, into a co-op, for building affordable housing.... This act will also need that work to be done.

[1055]

Although the ministry has started that work, it's not ready for this piece of legislation. It's not, because it needs a further public consultation. It will need an extensive amount of work between municipalities and people who are stakeholders with regards to it. As we do that, I think some of the issues that the members have brought up with regards to the Strata Property Act can also be addressed at that time, because it should be addressed in an overall vision for what this form of property ownership will look like ten years from now.

I met the gentleman once who actually did the first strata in British Columbia. Back before then they were doing some pretty interesting things to try and get forms of ownership for people to be able to buy into an apartment building. You can go to Oak Bay in Victoria, and you can buy a share in a building. There might be 15,000 shares, which would actually give you a unit in a building. That was the precursor of the strata in British Columbia.

As you went through that, then you came to the 99-year lease, which many people are familiar with — particularly the member for Vancouver–Burrard would be familiar with — because the 99-year lease was developed many, many years ago to be able to strata a building for 99 years. The interesting thing about that was that it had two purposes. Originally, a 99-year lease was set up to be what we would call today a strata, a formal ownership. It morphed, however, as strata came along, to being able to find a way to do something with a rental building without strata-titling it. Then, at one point in time, governments finally closed the loophole with regards to 99-year leases.

The unfortunate thing about those leases, though, is this. The person who held the 99-year lease actually owned all the common property, in a limited common property. In actual fact, they actually gave themselves a 99-year management contract to the building, which allowed them to decide what the strata fees were, what the maintenance costs were, as we went through this.

As they did this, people now could literally, in some of those buildings, legally be told: "No, you can't get to your unit because you're walking across private property, because the lobby is not your common property with the rest of the building." That's something that morphed into the strata property.

I do believe that the government of the day, in actually creating a separate act for this, started on the right road with regards to strata property in British Columbia, because it was necessary to put it in place where FICOM and the people over there who can manage these things could identify issues within the act over time.

I think that as we've done this, we incrementally will make the fixes that this thing needs. At some point in

time as a province we will do the next step to say: "How do we refresh an act that has now been in operation for ten years?" There's nothing wrong with that. That's actually a good thing.

Today we're talking about the issues in and around this particular amendment that the minister has proposed, and I think it's important that we tell people that we're going to streamline that process. But as we go forward, I think it's also important we recognize that there's a significant value for people in strata properties in British Columbia, for their home. We have to also be cognizant, as things have changed in the marketplace, that some of our acts will have to adjust.

Another adjustment in the future with regards to strata property will be the identification that affects someone like Columbia River–Revelstoke's riding or the member for West Vancouver–Garibaldi's riding, or even Victoria, where today we're seeing the fracture of ownership, where today a strata lot is now broken up into four strata lots or six or eight over a period of time of a year within the single title.

We haven't actually come to grips with how we would address that going forward. If somebody buys a quarter title, they've actually got basically a quarter of a vote in a strata. They actually pay their strata fees and their maintenance.

They may have a condo at Whistler, and they may rent it out, and they may not. How that affects them with regards to their homeowner grant, or not a homeowner grant, but more so, how the taxation is applied to that, has been a huge challenge to government to try and figure out — how to make those remain affordable and not have them go into some commercial concept for taxation. All of these things will need to be addressed as we look at this act in the future.

I am pleased that the minister has brought these forward to send the message that there are things that need to be adjusted in the act, particularly with regards to dispute resolution and costs for people and individuals that will deal with the legislation. But we need to recognize, as we go forward with this, that we are going to deal with the other issues with regards to strata property, and that's that relationship.

[1100]

One thing is for sure. Whenever you have a board of directors and a president and you have a group of people wanting services, there will be some forms of conflict from time to time. We'll have to figure out how we can actually not overregulate that but figure out how we can improve the training for the actual people who buy into a strata so they understand their rights and responsibilities within the operation of the building. Some are very good. Others face challenges. We can deal with this through public consultation in a project that would get us there.

I'm pleased to give remarks on second reading of this bill. I think the Strata Property Act is a piece of

legislation that has served us reasonably well in British Columbia and will continue to do so. But I also believe, as we recognize more and more people will find this as a form of ownership, that improvements, as we find out little issues and difficulties over time, always need to be addressed, and that's what this does today.

**J. Horgan:** I seek leave to make an introduction.

**Deputy Speaker:** Proceed.

### Introductions by Members

**J. Horgan:** Joining us in the House today on the opposition side are 44 students — 22 from Journey Middle School in Sooke and 22 from Natori, Japan. They're here with Sandra Salvati from Journey and also Yoko Wakayama, who is the coordinator for the exchange program with Japan. Would the House please make these students very, very welcome.

### Debate Continued

**R. Hawes:** I am pleased to stand and make a few remarks on second reading of this bill, the Strata Property Act. I want to just go back to one of the previous speakers. The member for Vancouver–Burrard mentioned that a lot of strata owners wanted this bill passed, but because the House is closing, we didn't put the bill through.

[S. Hammell in the chair.]

I just want to remind that member that we spent several days here talking about an interim supply bill that was a normal course of business in this House. We spent several days, which many of us who have been here for a little while know was a total waste of time. There was lots of time to get many of these bills through, had the opposition decided that rather than wasting time on things like talking about the interim supply bill.... Had they instead wanted to concentrate on some of this important legislation, I'm sure it would have been passed several days ago.

I don't think it's a matter that the government is shutting down and not wanting to pass legislation. As we know, the timing for much of the legislation is controlled by the opposition and how much time they want to spend talking on various issues. If they choose to spend their time talking about things of little import, then sometimes things that are of big import get passed by. So I would look no further than in the mirror, if I were the member for Vancouver–Burrard, if I wanted to know why this bill wasn't passing.

Having said that, I happen to live in a strata complex. I am a strata owner. I do get what the importance of having some amendments to the existing Strata Act are.

In fact, the Strata Act, as it was, is pretty antiquated and does not handle and did not contemplate a lot of the disputes that arise.

I'll start with the dispute resolution mechanism. The dispute resolution mechanism is cumbersome and onerous and requires Supreme Court of British Columbia resolution, which is a very expensive, time-consuming method of solving disputes.

The improvements within this bill. First, a small claims court can handle these, rather than the Supreme Court, which is a very important step. As most people know, to go to small claims court — to start with, you don't need the expense of lawyers, etc.

But it's the other parts of this.... The regulatory framework to improve arbitration processes I think is going to be very, very important. I think that anytime you can go to some kind of an arbitration to settle a dispute rather than reverting to courts, it's a very important step forward. I think it's also a way to resolve disputes between neighbours, which can often lead to pretty unbearable living conditions within a complex.

[1105]

Thirdly, a mediation process if arbitration isn't working. A mediator can be appointed, another important step to resolving these kinds of disputes. Mediators often work big miracles when you have people with differing opinions and are often able to find solutions that wouldn't otherwise have been contemplated by parties that often are far apart or think they're far apart but really aren't.

I do want to speak, too, about.... I do have some experience from serving at the local level, in municipal politics, with strata complexes that fell into disrepair. There was no money there to do the required repairs to the complexes, and of course, at that stage the complexes just begin to deteriorate more and more and more. People move out, find better places to live because they can't live with the deteriorating conditions.

Ultimately, you wind up with a slum in your city, a complex that's just not livable, because nobody has had the foresight or the ability to collect the required money to make sure that repairs are done on a timely basis.

This bill looks and forces a depreciation schedule — a, hopefully, realistic depreciation schedule — to make sure that things like roof replacement, which.... I know of a number of complexes that ran into untimely problems, I guess they'd call it, with things like roofs and no money in the bank to fix the roof. So they had to lay a levy on the owners that was absolutely unbearable. They just simply didn't have the money.

This problem can be averted by ensuring there is a proper depreciation schedule and that money is collected well in advance to make sure that these things are looked after properly.

I know, too, there are.... I'm thinking of a particular complex in Maple Ridge where the majority of the units were owned by one owner who was renting them out.

There was a fire in the complex, and part of it burned down. The part that burned down was owned by this majority owner, and he elected not to fix it. The other owners were forced to live in this complex that was partly burned down, of course vacant, and this owner was renting to unsavoury types, I guess I would call it. It was known, certainly by the police, to be one of the major drug-trading places within the city.

There was really nothing anyone could do about it. The other owners within that complex were completely frustrated because any time they wanted to go to a vote to try to get something fixed, they would get outvoted by this majority owner. It was just an absolutely unbearable situation, and I think this act will go quite some distance to addressing that kind of a problem to make sure that there are avenues to deal with it.

The other part of this is that there is going to be some regulatory framework built around it. This bill was put together with a considerable amount of consultation with strata owners, associations of strata owners, with property managers, with lawyers that deal with strata property matters. A fairly broad cross-section was consulted in putting together this bill, and I know the minister has outlined that there's going to be further consultation around the regulatory framework that will come with it.

So this isn't a bill that's being cobbled together. I think the previous speaker said that the bill put together by the previous government was just a hastily cobbled together bit of legislation that was, I guess, put together hastily before an election. This has been put together with a great deal of consultation.

[1110]

Now, I know that one of the groups that wanted to take part but didn't has expressed an interest in taking part in the regulatory consultation, which I think is a healthy thing. I think that if the cross-section of strata associations that have input into a bill like this is from all over the province, from every part of the province, we wind up with a much more comprehensive bill that deals with strata matters much more comprehensively. You wind up with a better product at the end of the day.

Having lived and now living in a strata corporation, I know how easy it is to get into situations within the strata that can lead to conflict. In the particular strata that I live in, there are parking regulations that some of us who live there feel are a little bit over the top and a little bit onerous. I understand why they were put in place. They are rigorously enforced.

For example, last Thanksgiving when many families were having dinner, my own family came over to my house for dinner. A couple of them parked illegally, and I wound up with two \$100 fines from the strata corporation, which didn't thrill me an awful lot. I was pretty upset about it. I certainly did have to pay them, but at the same time I thought seriously about....

Others in my complex were as upset as I. The thought was that maybe we should call a special meeting. This legislation actually makes it easier to call a special meeting if you want to, and I think that's an important step forward.

I know that when people live together in close proximity, disputes are very easy to arise. Once they do arise and you have conflicting sides, it's very easy to have people that were formerly very close and friendly with each other.... You can create a great deal of bitterness, and that leads to a poisoned atmosphere fairly quickly. That's one of the dangers in strata corporations, in living in strata property. I think if the regulatory framework and the bylaws are such that disputes can be settled in a very amicable, rapid fashion, a lot of that poisoning of an atmosphere is avoided.

I know where I live, there was a lot of discussion. The dispute, I guess I'd call it, around the parking regulations has actually abated and was looked after simply with the people within the complex, which I think was the right way to go. I feel pretty good about it myself.

Others who live in strata properties and own strata properties have not been as fortunate and have had disputes arise that did require significant court work, and they couldn't resolve their disputes.

Sometimes people just simply move out. Other times they're resolved through litigation or a formal process that leaves a very bad taste in everyone's mouth. When you go to the strata meeting in subsequent times, the meetings are not productive. People don't work together, and that's something that I think the steps taken in this piece of legislation will avoid.

I remember years ago when stratas were kind of a new concept in British Columbia, and that's quite a few years ago. Since then, this has really become a way of life for thousands and thousands of people in British Columbia. Given that, it is absolutely critical that the legislation that builds the relationships and formalizes the relationships between those thousands of people be updated on a regular basis to take into account the changes in the ways that people live and the ways they communicate.

The world has changed very rapidly over the last 20 or 30 years, and the legislation that governs stratas has not kept pace. The types of communication, the types of transportation, the modes of transportation — all of these things have changed so rapidly. Yet the way that people have to deal with each other within these organizations or housing complexes hasn't really evolved.

[1115]

I really must commend the minister for, in a rather thoughtful way, reaching out to those who understand what it's like to live in a complex and for taking a broad cross-section of those who deal with this on a regular basis and trying to find ways that would formalize the relationship in today's world. I think this bill goes a long way towards doing that.

The regulatory framework that will be addressed here in the next while is critically important as well. I'm very,

very pleased, as I said earlier, that there will be a broad consultation.

In terms of the amendments that are being made here, we've been very mindful to ensure that those who are developers, who invest in building these complexes, are not significantly affected. We don't want to stop investment either.

In a past life I once built some strata complexes — in fact, developed two of them. During the initial stages I was responsible, as the developer.... The company that I and some partners had was responsible for ensuring that strata fees were paid on the unsold units, etc. There was a lot of responsibility put on us. Had that responsibility been greater than it was, there's a good chance that we would have decided not to invest. I know how critical it is that we also keep track and are mindful of the needs of the development community as we move forward with these kinds of changes.

The requirement to have audited statements is an important step forward. I know there are some strata corporations, particularly smaller ones, that actually don't produce good financial records, and no one really knows or keeps track of where they are. I think there is the ability for the strata council to waive a full audit.

But if there are any questions, then audited statements would have to be brought forward. I think that's an important step forward. Clearly, when you live in a strata corporation and you have to rely on your neighbours and on the ability collectively to meet emergent situations within your complex, it's very important that whatever financial records you see are accurate. You have to know exactly where you are financially.

Disaster befalls more frequently when there is no credibility to the financial situation as it's presented by some strata corporations. This now will be addressed in this piece of legislation.

Madam Speaker, I do have to say that I'm extremely pleased that it's come forward the way it has. I'm extremely pleased that there will be some further consultation. I wish that this bill had been able to be discussed earlier in this sitting. I can think of numerous days where we sat here listening to speaker after speaker talking about interim supply, which is just a normal process. It was being depicted as something that was very unusual. So speaker after speaker got up, speaking almost mindlessly about nothing.

Here we are at the final days, and we're hearing from the opposition that it's too bad this legislation didn't go through. Well, I agree it's too bad. It should have gone through. We shouldn't have been wasting the time that we wasted for all those days earlier in this sitting, when we could have been doing some productive work here. Instead, we're talking, as I say, about things like interim supply.

Interjections.

**Deputy Speaker:** Members.

**R. Hawes:** That's a normal course of government business. There were several days wasted here, with speaker after speaker up talking about things that I think have no real....

**Deputy Speaker:** Member, relevance.

[1120]

**R. Hawes:** The relevance, Madam Speaker, is that speakers prior to me were talking about how it's a shame that this legislation was not passed prior to today, and I think it is too. The relevance is that it could have been passed earlier had the opposition just put their nose to the grindstone, as we wished them to do, and got on with the business that we've been sent here to perform on behalf of taxpayers in this province. That didn't happen.

It's a crying shame that the opposition just can't seem to understand that the people's business needs to be done. This endless speaker after speaker on repetitive, non-issue things just seems to me a waste of time, when we could be doing things that actually make a difference in the lives of British Columbians. Passing this bill would make a difference in the lives of British Columbians. Unfortunately, the opposition chose not to allow this to go forward.

After May 12 I would expect — I would hope — that this would be a piece of legislation that would be brought back and dealt with on a very timely basis and would be, again, with the full consultation of those that are affected and live in strata corporations.

With that, Madam Speaker, thank you for the opportunity to speak to this.

**M. Farnworth:** I had not intended to speak on this bill, but a comment by my colleague from down the aisle here just caught my attention, and I felt drawn like a moth to a flame. It's irresistible to make some comments about the bill and why it has come this far and why it has not come far.

I was struck by the member's comment that had the opposition put its nose to the grindstone we might have got this done. I'm somewhat puzzled about that statement, given the fact that had we followed a parliamentary calendar that's in place in this House, we would not have that issue arise here.

Had we followed the fall session, we would have had ample time to debate this piece and many others pieces of legislation. It is something that this government has had a really hard time learning over the last four years — the importance of the parliamentary calendar, which they themselves brought in as a way to make this place function.

This particular piece of legislation, the Strata Act, is an important piece of legislation, and it's a good piece

of public policy. It's one that I believe does need to be passed because there are a lot of issues out there that need to be addressed.

But as in good public policy, it also deserves the legitimate scrutiny that it should receive on a section-by-section, clause-by-clause debate and at second reading — but especially in the section-by-section committee stage debate. The types of issues you're dealing with are not just in terms of real estate itself but also in terms of relationships between people and relationships around strata councils.

I know from personal experience that in many cases a large strata is actually easier to work with or to get information on because you avoid a lot of the problems that you get in smaller stratas. Small stratas often fall prey to personality clashes and personality conflicts.

I lived in an 18-unit strata for a while that was split almost right down the middle and was getting.... There were two groups, each wanting to take a different direction, and they would pull you in different directions to try to get you to go with them. We were getting letters under the door outlining the allegations or the sins committed by the opposite group, the opposite faction in the strata, always signed by somebody else, a pseudonym. "I will be in touch further" — signed The Eagle.

[1125]

That's indicative of what happens in small stratas sometimes when they become dysfunctional. We need to have better mechanisms to make that work. A key one is around the ability to get information, the ability for members of a strata to have access to information, audited statements, all the things that make things work. Yet they are also the very things that when conflict erupts....

Sometimes those who are in the position to hold that information hold it and don't share it. That results in dysfunctional stratas, especially in smaller ones. Bigger ones usually have a critical mass of people that you're able to rise above those things when they happen.

This legislation deals with the problems and the challenges that arise, but it is also worthy of scrutiny. That's why, although we're not going to be able to deal with this bill this session, I do expect it to be back at the beginning of the first session in the next parliament.

We would welcome the opportunity to either introduce it as government or support it in opposition. Either way, it's a piece of legislation that will get done, and it needs to. It needs to be enhanced, and there are other areas....

An opportunity for consultation around this is, I think, a positive thing, particularly over the summer. Tenant groups, strata groups, builders, owners — all have the opportunity to make further comments during the time that we're not in session before the reconvening of the next parliament.

Hon. Speaker, I just felt the need to make a few points. One of the advantages of a parliamentary calendar, when it's followed as it's laid out, is that it gives you a lot more time to be able to plan and implement a legislative program more efficiently than we've seen.

Anyway, with those few comments, I take my seat and look forward to the comments of other members or the closing statements of the minister.

**Hon. C. Hansen:** Closing debate. I thank the members for their comments. I'd also particularly like to thank, first of all, the various organizations that put in their thoughts both to the Finance Committee in their sessions last fall and also in the numerous letters and e-mails that I've received over the last 12 months in terms of my role as Finance Minister since last June.

There has been lots of input, very constructive input. I would also like to thank specifically those organizations that participated in the very formal consultation process that we had engaged in. There are organizations that were willing to sign the confidentiality agreement that was necessary for us to share with them some of the draft language that you see reflected in this bill today.

[Mr. Speaker in the chair.]

There are other organizations that chose not to sign the confidentiality agreement and thereby not participate directly in the drafting and the language that went into the bill. But I think this is a time that gives everyone, including those organizations that chose not to participate, time to look at the language in the bill and give their feedback.

It was interesting, some of the differing comments from members of the opposition on this. I was a bit confused as to whether this time in the coming weeks and months for groups to look at the actual language of the bill and provide additional feedback was a good thing or a bad thing.

Some of the opposition members were commenting that we should be pushing this through, should be getting on to committee stage and should be passing this legislation. My bet is if we had done that, the opposition would have been saying that somehow we were rushing through a very complex piece of legislation without the opportunity for these various organizations around the province to give us their feedback and their thoughts on the language that's incorporated in the bill.

I think the comments just made by the Opposition House Leader are the right approach. We should go out and invite feedback from organizations rather than pushing this bill through to a conclusion in a rushed manner.

I certainly invite that feedback in the weeks and months to come. This is a bill that obviously will not complete all of its stages before this House rises. But it is certainly a piece of legislation that if we are re-elected as government, we are committed to bringing back into this House. We're committed to assessing the constructive feedback that comes from condo owners and strata property associations, property managers, the general public and anybody with regard to what's in the bill.

[1130]

If there are changes that are desirable, then we would certainly consider incorporating those changes before this bill would be reintroduced.

It is my hope that this is a bill that can be reintroduced to this Legislature at the earliest opportunity, and we will certainly take into consideration the constructive comments that have been made by members on both sides of the House this morning as we continue with our review of these very important issues.

With that, Mr. Speaker, I move second reading.

Motion approved.

**Hon. C. Hansen:** I move that this bill be placed on the orders of the day for the next sitting of the House after today.

Bill 12, Strata Property Amendment Act, 2009, 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. J. van Dongen:** I now call second reading of Bill 6, the Police (Misconduct, Complaints, Investigations, Discipline and Proceedings) Amendment Act, 2009.

POLICE (MISCONDUCT, COMPLAINTS,  
INVESTIGATIONS, DISCIPLINE AND  
PROCEEDINGS) AMENDMENT ACT, 2009

**Hon. J. van Dongen:** I move that the bill be now read a second time.

This legislation fulfils our commitment to implement the recommendations of the Wood report and to overhaul the police complaint process in order to enhance the role and powers of the Police Complaint Commissioner and to make the police fully accountable to the public that they serve and protect.

[S. Hammell in the chair.]

In 2005 concerns arose regarding a series of complaints involving members of the Vancouver police department, focusing on the apparent failure of the Vancouver police officers to cooperate with complaint investigations. Josiah Wood, then a retired B.C. Supreme Court and B.C. Court of Appeal Justice, was commissioned by our ministry to chair a review of the police complaint process for all municipal police departments.

The report was presented in February 2007 and found that about 80 percent of the complaints against the police were investigated and concluded in a manner that was both reasonable and appropriate. But about 20 percent, one in five of the complaints, were not handled or concluded as well as they could have been. A relatively high proportion

of that 20 percent dealt with the serious abuse of authority, which is, as Josiah Wood noted, unacceptable.

There were also concerns regarding the unacceptable time lines involved, with investigations taking on average 190 days and decisions by the commissioner whether or not to accept the decision or to order a public hearing taking an average of 105 days.

Judge Wood provided numerous recommendations — in fact, 91 recommendations — in drafting suggestions to assist government in fixing the problems with the complaints process. The Wood report is very comprehensive and involved extensive review of previous studies and involved consultation with a wide range of stakeholders.

Those recommendations and suggestions have now been thoroughly reviewed and considered by my ministry and the Ministry of Attorney General in order to draft provisions that implement the 91 recommendations. Throughout the drafting process, I was very clear with ministry staff that we wanted to implement the Wood report as closely as possible.

In so doing, there were a very limited number of specific elements where we had to make small modifications to reflect legal and drafting advice. The proposed amendments to the police complaint process revised part 9 of the Police Act and add a new part 11.

Part 9 of the act now is limited to dealing with issues related to the appointment of the commissioner and persons in the office of the commissioner. Part 11 deals with the filing of complaints as well as defining and investigating alleged police misconduct and appropriate disciplinary measures when misconduct is found to have taken place.

[1135]

The amendments create an enhanced role for the Police Complaint Commissioner in overseeing and contemporaneously monitoring investigations into police conduct. Where necessary, the commissioner will be able to advise and direct that further investigative steps be taken as the civilian commissioner considers necessary.

All in-custody and police-related deaths or incidents involving serious harm must be reported immediately to the Police Complaint Commissioner. The investigation will be conducted under this legislation by an external police force under the direct and contemporaneous oversight of the civilian Police Complaint Commissioner. All police officers, including those who are witnesses, must fully cooperate with investigations.

Police officers will be required to promptly attend interviews and provide written statements to the investigating officer when required. Police officers who retire or resign will be held accountable for their alleged misconduct, and any outstanding complaints files will still be investigated and completed by the Police Complaint Commissioner.

The complaint intake process is made more accessible to the public under the direction of the Police Complaint Commissioner. An expanded use of mediation and other

informal resolution of complaints will be available for appropriate cases under this legislation.

Fairness and transparency of the discipline hearing process have been significantly improved on behalf of the public through the independent civilian Police Complaint Commissioner under this act.

Any officer who has been accused of misconduct will be able to submit evidence or to call or cross-examine witnesses, but the rights of complainants and other witnesses are also provided to further ensure the process is fair to all concerned.

The commissioner will oversee the decisions of discipline authorities and will now have the option to order either review on the record or a public hearing to ensure they are correct and appropriate. Reviews on the record or public hearings will be presided over by retired judges as adjudicators.

The resulting legislative provisions are extensive and complex but will significantly enhance and improve the oversight role of the civilian Police Complaint Commissioner, making it contemporaneous to the investigation as well as improving transparency, accountability and ultimately public confidence in the police complaints process and in the police.

The Police Complaint Commissioner will have on-line contemporaneous access and be able to check the status of any investigation at any time.

I am pleased to make these second reading comments and this introduction for Bill 6, and I look forward to the further comments by other members.

**M. Farnworth:** It's my pleasure to rise and speak to Bill 6, the Police (Misconduct, Complaints, Investigations, Discipline and Proceedings) Amendment Act, 2009.

As the Solicitor General has said, this legislation flows out of events in 2005 and former Chief Justice Josiah Wood's recommendations. It's a piece of legislation that has been a long time in coming. In fact, it was announced by the government in their throne speech back in 2007, and we have been waiting a long time since then for this.

In fact, I was surprised when it was announced in the throne speech that it wasn't forthcoming that legislative session. Normally when something is showcased in the throne speech, you expect it to be part of the legislative program, and it wasn't. I'm not sure what the reasons were, but the fact is that we have it here before us at this particular point in time.

It's a comprehensive piece of legislation, and I do understand the issues around drafting. It is 98 pages, 183 sections. The Josiah Wood report had 91 recommendations. It's dealing with one of the most fundamental issues in terms of policing and public safety, and that is public confidence in our policing institutions, public confidence in the processes and the rules by which complaints against the police are investigated and how they're investigated.

[1140]

We've seen in British Columbia over the last number of years, and even before that, situations have arisen that have resulted in a number of cases in tragic deaths, many of them sometimes in police custody and sometimes during the execution of the police doing their duties. There have been, at the end of the day, investigations and then questions about the nature of the investigation, questions about what has happened and questions about fairness and the rules that are in place.

Those questions have left the public often asking: "Okay, how does the process — a complaint about the police — work? What is the system? Is it fair? Is it open? Is it transparent? Is it timely?"

Former Justice Josiah Wood's report dealt with a lot of those issues. As the Solicitor General has stated, roughly 80 percent of them were found to be handled properly, and that's great. It's that 20 percent that were not. That's actually one in five. That's not something that we should be pleased with.

In the private sector and in the public sector, you like to get your satisfaction rate up in the high 90s. A business with an 80 percent satisfaction rate leaves you wondering what's going on here. That's what Josiah Wood has looked into, particularly when that 20 percent — that one in five — too often deals with issues around authority and too often deals with some of the more serious cases involving complaints against the police.

So the recommendations that come out of the Joe Wood report deal with a lot of the questions that the public has and a lot of the questions where outside observers have been saying for a number of years that changes need to be made. The legislation deals with a lot of that, but the recommendations only deal with municipal police forces. They only deal with Vancouver, Delta, New West, Port Moody, Abbotsford and then the forces on the Island — Victoria, for example. They don't deal with the RCMP.

That's one of this side of the House's criticisms of the legislation — that we need to move. We need to have a unified police complaints process in this province. We need it for a number of reasons.

We need it because from the point of view of the police, in my mind, it doesn't make sense to have two sets of rules — one set for the independent forces and another set for the RCMP — because you have two jurisdictions right next door to each other where a complaint against an officer can be made — the same complaint in two jurisdictions, yet they're treated differently. Different rules apply with different outcomes and different processes in place. That's not good for the police, and it's not good for the public.

We strongly believe there needs to be a unified complaints process in British Columbia. I think that's one of the areas where improvement needs to be made. We need to see that the complaints process applies equally or in the same way — same rules, same role, same responsibilities — to both the RCMP and the independent police forces in British Columbia. I think that's crucial.

Changes have been made to the Police Complaint Commissioner himself. A lot of work was done by the previous commissioner, Dirk Ryneveld. We have a new commissioner now, Stan Lowe — again, someone who has an excellent reputation, is independent of this Legislature and has the ability to be directly involved contemporaneously with investigations launched against the police during the complaint process. I think that's a good thing, and that will help ensure greater public confidence in the investigation.

[1145]

What the public is looking for is to see that an investigation is done fairly — that the police are treated fairly and that the complainant is treated fairly, that the process is open and transparent. Right from the beginning to the end of the process, it's there for everyone to see.

The other issue is timeliness. One of the biggest criticisms around a complaint process is that if it's not timely and it drags on and on, then justice isn't seen to be done properly. That's one of the key findings in the Joe Wood recommendations — that issue of timeliness — and it's one that needs to be dealt with. In this report, it goes some way to dealing with that issue.

The other question that I think for many people is another of the key recommendations in this particular piece of legislation is that the issue of an investigation into a complaint doesn't end just because an officer resigns or retires from the force. For a lot of people, that left a lot of questions unanswered, and it was seen as a convenient way to not deal with a problem. A convenient way not to deal with an issue is if the individual involved resigned or retired, then that was it. It ended.

Well, now that's not the case. It follows through. It means that a complaint not only has to be taken seriously but is followed through to its logical conclusion. Again, I think that is something that can and will strengthen public confidence in the process.

By strengthening public confidence in the process, I believe that benefits our policing organizations not only in the short term but in the long term in British Columbia, because it's crucial from the point of view of both the police and the public that that confidence is there. When it's not, that's when we have problems. I think that's something that none of us wants to see.

As I said, this piece of legislation is 98 pages and 183 sections. It's very complex. Those sections go into great detail into all manner of ways in which an investigation is to be carried out, how the complainant is treated, how the process is to unfold, the types of questions, the time lines — all those things. It's worthy of full public discussion and debate, particularly at committee stage.

What we are doing here is having a brief second reading debate on this. This piece of legislation won't pass this session, but the fact that it has now been drafted means that it should come back, I think, fairly quickly in a new parliament. I would expect and hope it is a piece

of legislation that is dealt with very early on and that we can get forward in moving the recommendations, getting this piece of legislation enacted.

The challenge for us to remember is that this is an improvement over the previous legislation. It's an improvement over the previous process, but it still, in my mind, is not perfect. There's a significant amount of work that still needs to be done in some key areas, particularly, as I said a moment ago, around the area of a unified police complaints process. We need to have that in British Columbia.

[Mr. Speaker in the chair.]

I think we need to see still greater civilian oversight and civilian involvement in the police complaints process. This is not the final piece of legislation on this or the final chapter in this legislation; rather, this is something that will continue into the future. The recommendations that have come out of the recent Frank Paul inquiry, for example, are not reflected in this legislation. Some of the things are, but a number of them aren't. I have no doubt that those will be the subject of further discussion and public debate.

[1150]

At the present time, we're here with this legislation that's before us. We on this side support the recommendations out of the Joe Wood report that are in this particular bill. We think there's much in it that is positive, but as I've said, there are a number of areas where we do have concerns. There are areas where we have significant questions.

The fact is that in a future parliament, I look forward to the opportunity to have an in-depth, clause-by-clause examination of the 183 sections on the 98 pages of this particular piece of legislation.

With that, I know there are some other members in this House who have some comments to make, and I will take my seat.

**D. MacKay:** Noting the hour, I will be very brief. It's quite ironic when I think back. It's now 20 years since I retired from the RCMP, and when I look back at my service with the RCMP and the code of conduct that we were required to work under...

I was at one time the subject of an investigation because I was charged with conduct unbecoming a member of the force. I had dared send a summons down to Trinidad to a friend of mine who was holidaying down there. I used the summons through the Interpol to ask him to come back to Canada and answer the charge of using Her Majesty's mails for the illicit transportation of fermented sugar cane. I signed it "We are thirsty," because we used to go and have suds at the end of the evening.

I've been at the receiving end of the conduct unbecoming a member, and I also was responsible for investigat-

ing a number of unbecoming-conduct investigations as I advanced in my career and was in charge of several detachments before I retired. So I do understand the need for a code of conduct and the need for discipline within the force.

But I can't think of another occupation that comes under more scrutiny than a policing responsibility. Every time a member goes out, whether you're municipal or RCMP, you make decisions, sometimes in split seconds, that will be second-guessed for years to come. Case law is predicated on members acting in a moment's decision that will impact people's lives for years.

I've had a quick look at the proposed legislation that is before this House today. I understand the need, as I said, for a code of conduct — a unified code of conduct. As we move into the 2012 negotiations with the RCMP for provincial policing in this province, I suspect that the idea of a unified body that will investigate RCMP members as well as municipal police forces may in fact well be one of the cornerstones of that new legislation.

I notice there are other members that wish to speak to this, so I will take my seat now.

**J. Kwan:** I rise to speak to Bill 6, the Police (Misconduct, Complaints, Investigations, Discipline and Proceedings) Amendment Act, 2009. I rise to raise this issue because, as we know, the situation in Vancouver–Mount Pleasant really demands that we actually change the investigative procedures with the police system.

Why do I say this? Because we learned from the Frank Paul case. We have an interim inquiry that came out of that, and in it the recommendation coming forth. Recommendation No. 4 states: "I recommend that British Columbia develop a civilian-based criminal investigation model for the investigation of police-related deaths occurring in the municipalities policed by the 11 municipal police departments."

That's one recommendation amongst many others. I won't touch on the others arising out of the Frank Paul case. This is of particular significance certainly for people who are marginalized, people in our community who often have to face police force for one reason or another. Where there are issues of misconduct potentially or alleged misconduct issues related to police, I think it requires that that investigation be undertaken by an independent civilian base.

Why do I say that? Because I think it is necessary for British Columbians to have confidence in the police force — that when an investigation is undertaken, they are not investigating themselves. That provides confidence and reassurance not only for the complainant but also for all British Columbians at large.

[1155]

I would further say that it's actually good for the police themselves, because they then can come out and say: "Look, we didn't investigate ourselves. Someone else did." If they're cleared on the issue, they're completely cleared on the issue. There's no cloud hanging over them, no

suspicion hanging over them. That is the case right now, where the police themselves investigate themselves.

Certainly when it comes to a death, it is of paramount importance. I would argue that it goes further than that, even on the issue of alleged excessive force or misconduct of any kind. Those investigations ought to be undertaken by a civilian-based criminal investigation model.

Other jurisdictions have done it. British Columbia could do it. It doesn't require that much more in terms of setting up the system. We already have a Police Complaint Commissioner's office to do that, and all we need to do is give them the authority to set up the civilian-based criminal investigation model.

I say that it comes at a time when it's particularly critical, not only arising from the Frank Paul case but also from a recent incident that took place not in my riding but in my colleague's riding, the West End community, where a man was shot dead by a police officer because the man was carrying a backpack and might have been thought to be someone who might have broken into a car.

It really begs the question: what is going on with our police force when this kind of situation happens? The best thing to do to restore confidence for both the police force and the complainant and for British Columbians at large is to have a completely independent process.

With that, I'm going to take my place, noting the hour.

**Mr. Speaker:** Seeing no further speakers, the Solicitor General closes debate.

**Hon. J. van Dongen:** I thank all members for their comments, and I now move second reading of Bill 6.

Motion approved.

**Hon. J. van Dongen:** I move that the bill be referred to a Committee of the Whole House to be considered at the next sitting of the House after today.

Bill 6, Police (Misconduct, Complaints, Investigations, Discipline and Proceedings) Amendment Act, 2009, 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. T. Christensen moved adjournment of the House.

Motion approved.

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

The House adjourned at 11:58 a.m.



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