



3rd Session, 37th Parliament

OFFICIAL REPORT OF

DEBATES OF THE
LEGISLATIVE ASSEMBLY

(HANSARD)

Thursday, May 30, 2002

Morning Sitting

Volume 8, Number 9

THE HONOURABLE CLAUDE RICHMOND, SPEAKER

ISSN 0709-1281

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

LIEUTENANT-GOVERNOR
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3RD SESSION, 37TH PARLIAMENT

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THURSDAY, MAY 30, 2002

The House met at 10:04 a.m.

Prayers.

[1005]

Introductions by Members

I. Chong: Good morning and thank you, Mr. Speaker.

Visiting us today are about 20 or so students, up to five adults and their teacher, Ms. Paul, from Willows Elementary School. They're in grades 3 and 4. I know they've had a tour of the Legislature and are here in the gallery, or will be very shortly, to watch the proceedings. I would ask the House to please make them welcome.

Point of Privilege

J. MacPhail: Mr. Speaker, this being my first opportunity, I rise to reserve my right to bring forward a matter of privilege.

Mr. Speaker: So noted. Thank you.

Reports from Committees

J. Nuraney: I have the honour to present the first report of the Special Committee to Review the Police Complaint Process to the third session of the thirty-seventh parliament. I move that the report be taken as read and received.

Motion approved.

J. Nuraney: I ask leave of the House to suspend the rules to permit the moving of a motion to adopt the report.

Leave granted.

J. Nuraney: I move that the report be adopted.

Mr. Speaker: The Leader of the Opposition seeks the floor.

J. MacPhail: Sorry, I want to make a couple of comments before we move adoption of the report.

I received it this morning. I note the recommendations deal with the issue of compensation and severance. I think the word is severance. Yes, it is — the severance payment to the police complaint commissioner.

Mr. Speaker, you may know that there's a matter of advice I've asked from you on this. Fair enough. I appreciate that's still in the works.

I note the report suggests now how that payment of severance will be made to the police complaint commissioner. I, of course, had been advised — I'm sorry;

the days are blurring together — that the matter had already been charged against vote 1 prior to this report even being brought to the House.

I note that the report deals with this matter now. I say this almost in a context of trying to keep pace with some sort of following of the rules of parliamentary procedure — that even before this report had been brought to the House, which is right now, for the first time, the compensation matter had been determined and charged, even in a temporary way, to vote 1.

Perhaps what could happen in the future is that the matter first be brought to the Legislature, as is parliamentary practice — the report passed, adopted, whatever and then followed up on. What happened here was that negotiations occurred not in public purview but, one might say, in the back rooms. The deal was cut, and then we're doing cleanup here in the Legislature. It's not a method to which I agree, and it's not a method that serves parliament well.

Mr. Speaker: Thank you.

Further comment before I put the question? The Government House Leader.

Hon. G. Collins: Let me try to focus, if I can, for a moment on the comments by the member opposite.

First of all, the member speaks of this issue being negotiated in the back rooms and not out in the public. I don't recall the last time a personnel issue or an issue around severance, etc., was negotiated in public. They are always done in some confidence. That's how negotiations work — is my understanding.

[1010]

The issue from the member opposite of somehow there being some concern that this issue wasn't brought to the Legislature first, before the Speaker made a decision to administer this in the way that's appropriate, gives me a little bit of surprise.

Interjection.

Hon. G. Collins: No, the comment from the member gives me some surprise primarily because I do recall that when the member was a member of LAMC, when their caucus budget went over by half a million dollars, which drove vote 1 over the voted appropriation, the Speaker of the day merely sent a cheque.

I know those matters are not normally discussed on the floor of the House, but I can't let the comments made by the member opposite just fly out there as if, in some way, the officers of the House, the Speaker of the House, the Chairman of the committee or the members of the committee have done something inappropriate. They've behaved with the utmost credibility, dignity and respect in a very difficult matter.

These ridiculous comments by the member opposite, I think, do a disservice to people who've tried to deal in the most upfront way possible with a very difficult issue. I just want to put those words on the record as well.

Mr. Speaker: Hon. members, the question is the adoption of the report.

Motion approved.

Orders of the Day

Motions on Notice

POWERS OF FINANCE AND GOVERNMENT SERVICES COMMITTEE

Hon. G. Collins: I move Motion 37 standing in my name on the order paper.

[That the Select Standing Committee on Finance and Government Services be empowered:

- (1) To examine, inquire into and make recommendations with respect to the prebudget consultation report prepared by the Minister of Finance in accordance with section 2 of the Budget Transparency and Accountability Act and, in particular, to:
 - (a) Conduct public consultations across British Columbia on proposals and recommendations regarding the provincial budget and fiscal policy for the coming fiscal year by any means the committee considers appropriate, including but not limited to public meetings, telephone and electronic means;
 - (b) Prepare a report no later than November 15, 2002, on the results of those consultations; and
- (2) (a) To consider and make recommendations on the annual service plans, business plans and budgets of the following statutory officers:
 - (i) Auditor General;
 - (ii) Chief Electoral Officer;
 - (iii) Conflict of Interest Commissioner;
 - (iv) Information and Privacy Commissioner;
 - (v) Ombudsman; and
 - (vi) Police Complaint Commissioner.
- (b) To examine, inquire into and make recommendations with respect to reports or communications of the officers of the Legislative Assembly, from time to time submitted to the Committee respecting any matter within the jurisdiction of that officer.

In addition to the powers previously conferred upon the Select Standing Committee on Finance and Government Services, the committee shall be empowered:

- (a) to appoint of their number one or more subcommittees and refer to such subcommittees any of the matters referred to the committee;
- (b) to sit during a period in which the House is adjourned and during any sitting of the House;
- (c) to adjourn from place to place as may be convenient; and
- (d) to retain personnel as required to assist the committee;

and shall report to the House as soon as possible, or following any adjournment or at the next following session, as the case may be, to deposit the original of its reports with the Clerk of the Legislative Assembly during a period of adjournment and upon resumption of the sittings of the House, the Chair shall present all reports to the Legislative Assembly.]

I just to want to speak to this one for a moment because we have, in the last parliament, started something which is different. It ties in a little bit to what the member opposite was speaking about a moment ago.

In the past, budgets for officers of the House, their business plans, their service plans, etc., if they had them, were brought to Treasury Board for approval for the budgets. Treasury Board is a committee of government, and we have felt that was an inappropriate way for officers of the Legislature to report. Certainly, in my time in opposition it became clear that the officers of the House are employees of all 79 members of the Legislature — not the government, not Treasury Board. I think it's important that we try to separate that as much as we possibly can. The method of doing that, which we've chosen last session, was to provide for the officers of the Legislature to present their service plans and their budgets to a committee of the Legislature — namely, the Finance Committee, which is represented by representatives of all members. We're continuing that again this year.

In the discussions that occurred with the officers of the Legislature at the committee level, I'm informed that there was an appetite to have a more ongoing and proactive relationship with the Legislature beyond just an annual budget review. The motion that we have before us today also has a subsection (2)(b), which provides an opportunity for the officers of the House to approach the Legislature, the Finance Committee, if they have other issues surrounding that which they want to deal with other than just on an annual basis in the presentation of their budgets.

We're trying to improve this process. We'd be glad to take advice from other members on how this might work. We're obviously very glad to take advice from the officers of the House and the officers of the Legislature as to how we might improve this process. The goal is to make sure that they have some means of reporting to and giving advice to the members of the Legislature without the need to go to government. That's the intent here, and with that I move passage of Motion 37.

Mr. Speaker: Further comment? The Leader of the Opposition.

J. MacPhail: I'm not sure how we proceed on matters around motions when seeking clarification. Perhaps I'll put my thoughts on the record about Motion 37 just to say that with Motion 37, (2)(b), we have to proceed very carefully because there are committees appointed to examine actions of the various officers of the Legislature. For instance, we've just been through a process of examining the role of the police complaint commissioner.

[1015]

I want to just bring to the attention of the members of the Legislature that we must be very diligent in not overlapping committee responsibilities or duplicating or confusing committee responsibilities.

Hon. G. Collins: In closing debate on the motion, I take the comments from the member opposite to heart.

I think she makes a valid point. The intention here is not to create an all-encompassing review or oversight of those various officers and their legislation, despite what's contained in the acts that support them.

We are making this work. We're trying to have this process evolve, and certainly, if the members opposite have any advice on how we might improve the process, we'd be more than happy to try and make that happen.

Mr. Speaker: The question is adoption of Motion 37.

Motion approved.

Point of Privilege

J. MacPhail: Sorry, Mr. Speaker. Noting this is the last day we're here, I need to rise to reserve my right to perhaps bring forward a second motion of privilege.

Mr. Speaker: So noted.

Hon. G. Collins: If the member is concerned about us eating into her time, I'd be more than happy to accommodate the members opposite past 12 o'clock.

J. MacPhail: That's not the issue.

Hon. G. Collins: It's hard for us to engage in any sort of dialogue in this House when there's a constant, constant banter from the member opposite. If she has something to say, I'd prefer she stand up and say it, rather than just natter at us.

Interjections.

Mr. Speaker: Please proceed.

Motions on Notice

COMMITTEE TO APPOINT A CHIEF ELECTORAL OFFICER

Hon. G. Collins: I move Motion 38 standing in my name on the order paper.

[That a Special Committee be appointed to select and unanimously recommend to the Legislative Assembly, the appointment of a Chief Electoral Officer for the Province of British Columbia, pursuant to section 4 of the Election Act, and that the Special Committee so appointed shall have the powers of a Select Standing Committee and is also empowered:

- (a) to appoint of their number, one or more subcommittees and to refer to such subcommittees any of the matters referred to the Committee;
- (b) to sit during a period in which the House is adjourned, during the recess after prorogation until the next following Session and during any sitting of the House;
- (c) to adjourn from place to place as may be convenient;
- (d) to retain such personnel as required to assist the Committee;

and shall report to the House as soon as possible or following any adjournment or at the next following Ses-

sion, as the case may be; to deposit the original of its reports with the Clerk of the Legislative Assembly during a period of adjournment and upon resumption of the sittings of the House, the Chair shall present all reports to the Legislative Assembly.

The said Special Committee is to be composed of Messrs. Hawes (Convener), Long, Christensen, Les, Nettleton, Suffredine, Visser, and Mmes. Brice, McMahon, and Mme. MacPhail.]

Motion approved.

COMMITTEE TO APPOINT A POLICE COMPLAINT COMMISSIONER

Hon. G. Collins: I move Motion 39 standing in my name on the order paper.

[That a Special Committee be appointed to select and unanimously recommend to the Legislative Assembly, the appointment of a Police Complaint Commissioner for the Province of British Columbia, pursuant to section 47 of the Police Amendment Act, 1997, and that the Special Committee so appointed shall have the powers of a Select Standing Committee and is also empowered:

- (a) to appoint of their number, one or more subcommittees and to refer to such subcommittees any of the matters referred to the Committee;
- (b) to sit during a period in which the House is adjourned, during the recess after prorogation until the next following Session and during any sitting of the House;
- (c) to adjourn from place to place as may be convenient;
- (d) to retain such personnel as required to assist the Committee;

and shall report to the House as soon as possible or following any adjournment or at the next following Session, as the case may be; to deposit the original of its reports with the Clerk of the Legislative Assembly during a period of adjournment and upon resumption of the sittings of the House, the Chair shall present all reports to the Legislative Assembly.

The said Special Committee is to be composed of Messrs. Nuraney (Convener), MacKay, Lee, Johnston, Wong, and Mmes. Sahota, Locke, and Mme. Kwan.]

Motion approved.

REFERRAL OF AUDITOR GENERAL REPORTS TO PUBLIC ACCOUNTS COMMITTEE

Hon. G. Collins: I move Motion 40 standing in my name on the order paper.

[That the reports of the Auditor General of British Columbia deposited with the Speaker of the Legislative Assembly during the third session of the thirty-seventh parliament be deemed referred to the Select Standing Committee on Public Accounts, and in addition that the following reports of the Auditor General of British Columbia be referred to the Select Standing Committee on Public Accounts:

- *Monitoring the Government's Finances (February 2002);*

- *Management of the Information Technology Portfolio in the Ministry of Attorney General (February 2002);*
- *Information Use by the Ministry of Health in Resource Allocation Decisions for the Regional Health Care System (April 2002);* and
- *Building a Strong Work Environment in British Columbia's Public Service: A Key to Delivering Quality Service (April 2002).*

In addition to the powers previously conferred upon the Select Standing Committee on Public Accounts, the Committee be empowered:

- to appoint of their number, one or more subcommittees and to refer to such subcommittees any of the matters referred to the Committee;
- to sit during a period in which the House is adjourned, during the recess after prorogation until the next following Session and during any sitting of the House;
- to adjourn from place to place as may be convenient; and
- to retain personnel as required to assist the Committee;

and shall report to the House as soon as possible or following any adjournment or at the next following Session, as the case may be; to deposit the original of its reports with the Clerk of the Legislative Assembly during a period of adjournment and upon resumption of the sittings of the House, the Chair shall present all reports to the Legislative Assembly.]

Motion approved.

POWERS OF CROWN CORPORATIONS COMMITTEE

Hon. G. Collins: I move Motion 41 standing in my name on the order paper.

[That the Select Standing Committee on Crown Corporations be appointed to review the annual reports and performance plans of British Columbia Crown corporations.

In addition to the powers previously conferred upon the Select Standing Committee on Crown Corporations, the Committee be empowered:

- to appoint of their number, one or more subcommittees and to refer to such subcommittees any of the matters referred to the Committee;
- to sit during a period in which the House is adjourned, during the recess after prorogation until the next following Session and during any sitting of the House;
- to adjourn from place to place as may be convenient; and
- to retain personnel as required to assist the Committee;

and shall report to the House as soon as possible or following any adjournment or at the next following Session, as the case may be; to deposit the original of its reports with the Clerk of the Legislative Assembly during a period of adjournment and upon resumption of the sittings of the House, the Chair shall present all reports to the Legislative Assembly.]

Motion approved.

Hon. G. Collins: I call committee stage on Bill 48.

Committee of the Whole House

EMPLOYMENT STANDARDS AMENDMENT ACT, 2002

The House in Committee of the Whole (Section B) on Bill 48; J. Weisbeck in the chair.

The committee met at 10:19 a.m.

Hon. G. Bruce: I'd just like to introduce the staff that are with me on the floor today: my deputy minister, Lee Doney, and my director of policy, Jan Rossley. Also with us is Bob Krell, who is my industrial relations officer in Courtenay. Bob's been with the department over 19 years in the employment standards branch and will be assisting on the floor for part of today.

[1020]

On section 1.

J. MacPhail: This is the Employment Standards Amendment Act, 2002, which brings in a series of amendments to the Employment Standards Act of 1996.

Section 1, which we're debating now, changes definitions from the old act to this new act. It adds the term "settlement agreement" to the definition section. The definition that's added is "settlement agreement" means the settlement agreement under section 78". It's worth noting that nowhere in the act is it stated what constitutes a settlement agreement, and as a result of changes made to sections 78, 87, 88, 89 and 91 of the Employment Standards Act, settlement agreements now have the same status as investigated determinations. My series of questions flowing from that are: what is a settlement agreement?

Hon. G. Bruce: It's very similar to a consent order, which is now the practice of the board, which can be lodged between the parties in a dispute. This is just adding more clarity to that definition.

J. MacPhail: Well, perhaps we could put on the record, then, what is, I think the minister said, the policy or the practice. Is it something that occurs in writing? Is it after a period of investigation?

Hon. G. Bruce: An industrial relations officer would work between the parties to try to reach agreement — whatever it takes to do so — and then, whatever agreement is reached, it's put in writing, and that is what is put in as a settled agreement.

J. MacPhail: Who signs it? If it's in writing, is it witnessed? Is it signed? Is it a legal document?

Hon. G. Bruce: It's signed by the parties.

J. MacPhail: Therefore, is it binding? Is it something that becomes in the archives of the employment standards branch? Is it legally enforceable?

Hon. G. Bruce: Yes, on all those points.

J. MacPhail: How many agreements are reached to date? What is the practice of the branch in terms of how many settlement agreements that are now law...? In the past, how many settlement agreements have been done in practice as a percentage of complaints?

[1025]

Hon. G. Bruce: To our best information, Mr. Chair, it would be approximately 30 percent.

J. MacPhail: I'm sorry. That was 30 percent of complaints settled or complaints filed?

Hon. G. Bruce: Of complaints filed.

Section 1 approved.

On section 2.

The Chair: I understand there is an amendment here in section 2.

Hon. G. Bruce: I move the amendment to section 2 standing in my name on the orders of the day.

[SECTION 2, by deleting the proposed section 3 (2) and (3) and substituting the following:

- (2) If a collective agreement contains any provision respecting a matter set out in Column 1 of the following table, the Part or provision of this Act specified opposite that matter in Column 2 does not apply in respect of employees covered by the collective agreement:

Column 1 Matter	Column 2 Part or Provision
Hours of work or overtime	Part 4
Statutory holidays	Part 5
Annual vacation or vacation pay	Part 7
Seniority retention, recall, termination of employment or layoff	section 63

- (3) If a collective agreement contains no provision respecting a matter set out in Column 1 of the following table, the Part or provision of this Act specified opposite that matter in Column 2 is deemed to be incorporated in the collective agreement as part of its terms:

Column 1 Matter	Column 2 Part or Provision
Hours of work or overtime	Part 4 except section 37
Statutory holidays	Part 5
Annual vacation or vacation pay	Part 7
Seniority retention, recall, termination of employment or layoff	section 63

Amendment approved.

On section 2 as amended.

J. MacPhail: The original act.... There are four parts of the act that didn't apply to union contracts: hours of work, stat holidays, vacation and terminations. The union contracts had to meet or exceed these provisions of the act. The meet or exceed provision — I just want to make sure, Mr. Chair; how can I say this? — said in law that no matter what collective bargaining arrangement exists between an employer and the bargaining agent, nobody can sign any contract that has any legal meaning that is less than the provisions of the Employment Standards Act. The minister is free to correct me. I'm trying to give the layperson's view of this.

The intent of that, which was brought in, in 1996, was because there was a proliferation of collective agreements being signed by what we then called, from my part of town, a rat union. The reason why they were called rat unions is because unions would come in and make arrangements with employers to organize a place. They would have the comfort of employers to organize that place and then sign a collective agreement that was really to the benefit of the employer, but by virtue of signing that collective agreement, the law excluded anyone else from coming in and organizing. In fact, I think there are over 100 of those kinds of collective agreements in place.

Mark Thompson, an industrial relations expert, a neutral — literally a neutral, Mr. Chair; he's an arbitrator, a mediator, a professor at UBC — examined this issue and suggested in his report to the Legislature that the way to prevent the mere fact of rat unions being successful was to say that the employment standards are the floor below which no one can go. That was the previous law.

Bill 48, the legislation before us, changes that. This legislation now eliminates the meet or exceed requirement, so now unionized employees can negotiate contracts with provisions that are less stringent than the standards within the Employment Standards Act.

There were four parts that previously did not apply to unions. I've read those already — hours of work, stat holidays, vacation and termination — but three more sections have been added. Section 17, paydays have been added so that the meet or exceed principle no longer applies. Section 25(1) or (2), special clothing has been added as being exempt from the meet or exceed provision. Section 27, wage statements, has been ex-

empted now from the meet or exceed. And section 28, payroll records, has been exempted from the meet or exceed provision.

[1030]

The change now allows employers to go below the threshold floor level set by the Employment Standards Act. That's the background. My question is: who asked for these changes?

Hon. R. Coleman: I seek leave to make an introduction.

Leave granted.

Introductions by Members

Hon. R. Coleman: When they realigned the boundaries before the last election, I lost an area in my community called Murrayville, and I inherited another area called Willoughby, which is a great area. Great people live in the Willoughby area of my constituency.

Visiting the Legislature today are students from grade 5 at Willoughby Elementary School and their teacher Ms. Sylen, along with five adults. I'd like the House to please make them welcome.

Debate Continued

Hon. G. Bruce: These are our changes to the act, as the hon. member has brought forward. To be clear, there are still mandatory provisions. Rules and conditions surrounding the employment of children — that nothing can be negotiated below employment standards. Minimum-wage requirements are there, as they are in the act; deductions from wages are there, as they are in the act; leaves — that's like parental leave, jury duty or things like that; group terminations cannot be negotiated below the act; and rules about notice.

These other issues the member mentions. If a collective agreement touches on these issues, then the collective agreement overrides that which is in the act. If it doesn't — if the collective agreement makes no mention of any of these items — then the requirements of the employment standards, as they are to be written, would be those which would take effect.

We had some 270 submissions with respect to employment standards. A great number of different groups and organizations had put their submissions in, relative to changes they thought were necessary in dealing with employment standards. Some of those that were submitted, in fact, made mention of these issues.

J. MacPhail: Mr. Chair, can I just pause for one second?

The Chair: Yes.

J. MacPhail: I'm sure that by the year 2003, we'll have this fully on board about our role here. My apologies for that pause.

David Ages, the former director of the employment standards branch, provided an analysis of this section of the bill. I actually had the privilege of attending a meeting at which Mr. Ages was giving his expert advice, and he concluded that collective agreements could now include provisions like, "All hours of work shall be paid at straight-time rates," or another provision: "Layoffs will be at the whim of the employer." What's the minister's comment on that? What's his expert advice about whether those provisions can be contained there now?

Hon. G. Bruce: I was just going to say to the member opposite: whatever time you need to bounce back and forth, I'm quite happy. We're here today together, and I'm looking forward to this day together, so I'm quite happy with whatever you need in that respect. It's understandable. There's a lot here.

[1035]

In regard to this issue in respect of what would be negotiated or what couldn't be negotiated, there is practical application. You're using the term, relative to alternate unions, as some mentioned.... I think your term is rat union. To gain a certification in that respect, what you're going to have to do is convince, then, members of a bargaining unit or employers of a group that it's in their best interest to go ahead and negotiate a collective agreement which would put them below the minimums of employment standards. It would then be the decision of that group of people whether or not they thought it would be good for them to do that.

I doubt that there would be the likelihood of that. People in the workplace have a pretty good understanding of what they need and require relative to the job they're doing. Before they rush to sign with any union that was attempting to bring about a certification that was going to put them below employment standards, I think they'd give pause to reflect on that — as to whether it's in their best interest.

J. MacPhail: Well, as I've stated at other points in the debate in this chamber, one has to look at all the legislation this government is introducing. It's like pieces of the puzzle. Once they're in place and one fully understands or can see the picture, there are many more consequences than just the individual parts. It's the sum of the individual parts that will affect industrial relations and working people's rights forever.

The minister makes the point that it will be up to unions to convince the employees of the worth of joining that union. I expect, even though the minister didn't say that, that by implication he would say that a union who would negotiate below the floor that exists in employment standards would not receive support from union members. Well, that's a great theory. It's a theory that would work in a world where everything is fair and balanced. But the minister also introduced — and we rammed through here this week — changes to the Labour Relations Code that now allow the employer to communicate directly, in a manner that's un-

precedented in other jurisdictions in Canada, about the advisability of joining a union.

This government didn't at all, as a balance, strengthen provisions to prevent coercion or intimidation. It didn't strengthen those provisions at all. We now have a situation where... The law was applied lots of times under the previous code, and unfair labour practices were alleged and not upheld and unions were not certified, and that was even without the provision that is now in place that allows employers to communicate directly.

I expect this combination of allowing employers to communicate directly — which was the request of employers — along with the provision that allows negotiations to conclude collective agreements that will be able to be lower than even the threshold of employment standards, will be very attractive to employers.

Let me continue to use the minister's more charitable term of "alternative unions." I will use that term rather than rat unions. There are alternative unions that are flourishing, and they will flourish even more now. I'm not quite sure. I have never understood why any employer with the intent of having a fair and balanced working relationship with its employees would want to invite in a union that would go below the basic law of the land that applies to everyone, which is the Employment Standards Act, whether you be in a union or not. Yet this is exactly what's going to happen — exactly what's going to happen today. The government, through various pieces of the puzzle that are now firmly laid.... That's exactly what's going to happen.

[1040]

Well, I have been relatively unsuccessful in moving amendments in this chamber. My determination of success is getting even one amendment through, so let's say I've been completely unsuccessful in getting amendments through to bring fairness and balance to this whole package of legislation, but let me try again.

I am proposing an amendment to section 5 of....

Interjection.

J. MacPhail: Yes.

The Chair: No, she's referring to subsection (5) under section 2.

J. MacPhail: Just a second, maybe it.... No, this is....

Interjection.

J. MacPhail: Yeah.

I may have to add something in writing here, Mr. Chair. It's an amendment to section 2(5), which now reads: "If a collective agreement contains no provision respecting a matter set out...."

Sorry, I'm working from two pieces of legislation and an amendment — my apologies.

I propose an amendment to section 2, which amends 3(5) of the act. I'll table it for you.

The Chair: Do you have another copy?

J. MacPhail: Yes.

The Chair: We'll give a copy to the minister and a copy for the Table. Thank you.

J. MacPhail: So perhaps I can add that I'm amending section 2 of the amendment act to amend the act's section 3(5), which — if I may, to help the Chair — currently reads: "If a collective agreement contains no provision...."

An Hon. Member: On page 3.

[1045]

R. Stewart: I want to ask the minister: under section 2, which replaces section 3. I'm looking at section 3(5), the new (5), and it says that if a collective agreement contains no provision, the provisions contained in the requirements are substituted in for the absence of provisions. That means, then, if it contains any provisions in excess of or less than the requirements, those ones are the ones that are used, but the requirements are only put in place in the absence of any provision. Is that correct?

Hon. G. Bruce: Yes, that's correct. To be clear again, there still are mandatory provisions. The rules and conditions surrounding employment of children, minimum-wage requirements, deductions from wages, leaves — that's, as I mentioned before, jury duty and parental leave — group termination and rules about notice are all mandatory. Nothing can be negotiated below what's there in respect of employment standards.

The other issues we have here are, like, how wages are paid. If the collective agreement touches on how wages are to be paid — maybe it's every two weeks rather than once a week or something along that line — then that flexibility is allowed. As long as it's touched upon and mentioned in the collective agreement, then how it's defined in the collective agreement would be what pertains to that workplace. If it's not mentioned, then the requirements that are in employment standards would be the overriding piece of legislation that would be referred to.

We've taken the mandatory points, as I just mentioned to you, with respect to the real guts of how much to be paid, minimum wage, that sort of stuff. That's still all enshrined and protected employment standards.

J. MacPhail: For time to clarify this, I will not be able to proceed with my amendment, because it was a proposal to a section in the original legislation that isn't being amended. It's section 5 of the original bill.

But let me just address my concerns, because I was going to make an amendment to compensate for the changes that are being made now, allowing greater sections to be exempted from the meet and exceed provi-

sion of the legislation. I'll just put it on the record for the minister's consideration — for him to put in place a balance to adding even greater rights for employers and alternative unions to exempt provisions from the threshold requirements of the Employment Standards Act.

The original act states under section 5, "Promoting awareness of employment standards": "The director must develop and carry out policies to promote greater awareness of this act." What I was going to attempt to do, Mr. Chair — and I accept that I am unable to do that — was add a section to that to propose that the director must develop and carry out policies to promote greater awareness of this act, including working with industry associations and employee advocacy groups to ensure that employers and employees have access to essential information on the act and its regulations. Anyway, we can't do that, and I accept that.

[1050]

The Chair: Member, one moment, please. I understand through discussion with the Clerk that we could possibly add this under a new section — add a section 2.1, which would take care of your amendment.

We have to deal with section 2 first. So after section 2 passes, we have to deal with a new section 2.1.

Interjections.

The Chair: We'll have to deal with section 2 first.

Member, if you've completed section 2 as amended, we can move on to your amendment.

Section 2 as amended approved.

On section 2.1.

J. MacPhail: I move an amendment to section 2.1 that would read:

[Section 5 is amended by adding the text highlighted by underline and deleting the text highlighted by strike-through:

5 The director must develop and carry out policies to promote greater awareness of this act including working with industry associations and employee advocacy groups to ensure that employers and employees have access to essential information on the act and its regulations.]

Thank you for cooperation on this matter. I'm sure that my amendment will go the way of previous amendments; nevertheless, we can have a healthy debate on it.

On the amendment.

J. MacPhail: The intent of this is to balance the changes that are now being brought forward under section 2 of the amendment act, which adds to the number of provisions that could go below the floor set by the Employment Standards Act. There's a greater opportunity — let me be clear here — for employers and alternative unions to negotiate less on more mat-

ters for workers, less than the Employment Standards Act on more matters. We've just passed the ability of employers and unions to do that.

What this addition to section 2 does is require that there be a broader education, both by industry and employee advocacy groups, to inform people of their rights.

Taking the minister at his word that surely with full knowledge employees wouldn't join a union that would negotiate less than the employment standards and given that there is a move toward almost self-regulation under employment standards by industry groups and that the employment standards branch itself is having its staff reduced, what this amendment does is say that taking all of that into account, industry associations that will now be charged with monitoring this legislation and employee advocacy groups — there are lots of employee advocacy groups out there — will work with the director to almost do the work of what might in the past have been seen to be the work of the employment standards branch, if it had had its full complement of staff.

All this says is.... It's just information; it's providing knowledge. It places responsibility for ensuring and increasing public awareness of the legislation. It says that there will be an abundance of information out there so that when a worker wants to bring forward her own complaint, she has the full knowledge of what the complaints could be, and that the self-help kit, when asked for, will be asked for on the full range of issues available to the working person. It also says that the director of the employment standards branch has a responsibility for public awareness.

I know it's a given that the staff of the employment standards branch is being reduced by a third. I guess there's nothing we can do about that at this point.

All this amendment says is that the employee will have access to essential information about their rights under the act.

[1055]

I just want to say, Mr. Chair, that David Ages.... I expect that David Ages is providing some controversy within the government these days. It may be comfort or discomfort for at least raising the issues. Believe you me, I know how that feels from past experience. Nevertheless, I took the time to actually meet directly with Mr. Ages to ensure that I was fully informed of his point of view and to digest his comments. I actually found Mr. Ages without a partisan agenda. That could be to my chagrin. Nevertheless, he has no partisan agenda, but he does have a huge disagreement with the changes to this legislation.

Here we are. We have a place where the legislation is being changed, and there may not be an ability for workers to fully understand their rights and their responsibilities. All this section is doing is asking for that to take place and that it be the responsibility of the director of the employment standards branch.

Hon. G. Bruce: In fact, with the amendment that is proposed, we indeed are and have announced that we

will be working in this manner completely. I don't believe that it needs to be in legislation, but I take the comments from the Leader of the Opposition and appreciate them. It's much of what I've been saying in the speeches that I've been giving around the province in this last while to different organizations, trying to get the point across that there is an educational side to all of this. There's a responsibility side from the standpoint of making sure employees understand their rights and how it is that they interact in the workplace, but there are also the responsibilities incumbent upon employers to work and operate in a good manner.

There are 360,000 employers in the province. Of those, about 98 percent represent employee-based groups with 50 or less employees, so this act has a very large impact in the workplace. It is incumbent that employers understand their responsibilities.

Having said that, I also happen to believe philosophically that 95 percent or so of the businesses in British Columbia are good businesses. They understand the need for a good and healthy workplace. They understand the need for happy and productive employees, people that feel good about where they work and why they're working there. This is a two-way street. The educational side is not simply the educational side based on employees' rights. There's also an equally important role that must be done in ensuring that employers understand what is incumbent upon them in developing a good and healthy workplace and what the rights are of their employees. There is a philosophical change to that.

Clearly, as the member notes here in respect to this amendment, we've taken steps already. We've been dealing with a number of associations and organizations. We have met with both the farm labour contractors and producers, because we know we have a significant problem there that has to be dealt with. My deputy and the deputy of the Ministry of Agriculture met with those organizations, I believe, just last week and explained to them in no uncertain terms the changes that would be necessary and forthcoming.

In regards to other sectors, we're meeting with the restaurant association. We're attempting to develop a memorandum of understanding in that respect on how this whole system is changing and working and the rights or responsibilities incumbent upon them as employers in the workplace.

I take to heart what the Leader of the Opposition has presented today. In fact, this is very much the thrust we are taking in regard to the information that we've already put out and where we intend to go. However, in my estimation, I don't believe that I need to enshrine this in legislation. That's just the difference between the two of us. The intent and the direction that's being taken are clearly where we're going.

[1100]

J. MacPhail: Fair enough. We'll monitor the minister's actions on this, because again we have to look at what the consequences are if a worker isn't following the rules properly.

Later on we'll be dealing with adding a new section 76 to the Employment Standards Act, which really says that incorrect following of procedure is grounds for a complaint to be dismissed. One has to look at that. If we're making a greater opportunity for matters to be exempted from coverage under this act, we're adding new responsibility to a worker to help herself through this possibility through bringing a complaint. And if the government is making massive cuts to employment standards branch officers to assist complainants, that also has to be looked at in the context of the new section 76, which says that incorrect following of procedure is grounds for an employee complaint to be dismissed.

What my colleague and I are attempting to do here — and we will be voting in favour of this amendment on division — is that we are very much wanting to ensure that given all those pieces of the puzzle, there be every effort made on behalf of working people in this province that they have as much information about their rights and employer rights, their worker responsibilities and employer responsibilities, so that the new section 76 doesn't allow for complaints to be dismissed simply because people weren't aware of their rights.

Amendment negated on division.

J. Kwan: I seek leave to make an introduction.

Leave granted.

Introductions by Members

J. Kwan: Visiting the gallery today are 29 grade 7 students, five adults and their teacher, Mr. Boreham, from St. Joseph's School. They are visiting to learn about government parliamentary procedures and, of course, the history of the parliament buildings. Would the House please make them welcome.

Debate Continued

On section 3.

J. MacPhail: This amendment to the original legislation repeals section 6 of the original bill. The original legislation required an employer to "display in each workplace, in locations where it can be read by employees, a statement of the employees' rights under this act." This information had to be in the form provided by the director.

I might say that this just carries on with the discussion that we had in terms of educating employees about their rights under the Employment Standards Act. It's important. I believe it's something like two million workers.... This is their only coverage in terms of employee and employer rights and responsibilities. It was felt, certainly by those of us who lived in the nineties, that having this information in the workplace contributes to the education of employees and, frankly, allows employers to fully educate themselves. Elimi-

nating the requirement to post employment standards rules will really reduce all awareness, whether that be employee or employer, of workplace standards.

My first question is: why is this section being repealed?

Hon. G. Bruce: I truly believe in the aspect of best practices code. I don't believe that you need to have in legislation that the standards have to be posted at the worksite. As we meet and continue to work in the educational side with employers and employees, this would be something that we would encourage to be done. Also, it's posted on the website. The information is available.

[1105]

It's just a difference of whether one thinks it needs to be in the act, and I and my government don't happen to think that this is the type of thing where you have to have a poster, that that type of legislation is required for that information to be legally binding to be hung in a particular place of work.

Now, of course, it can be somewhat problematic in that there are businesses that are pretty fluid. To legally have a place where they could hang it, when you start talking about the context of that, becomes, like I say, quite problematic.

That would be the nuts and bolts of that part of it. Really, more philosophically, to me it's just not something that really needs to be enshrined in legislation. But I want to be clear. Following the amendment that the Leader of the Opposition has put forward, it is truly the thrust of this administration and this minister that the expectation of employers to act in a fair and honourable way in respect to the treatment of their employees and the need for healthy work relationships....

The hon. member was quite correct when one needs to take into account all of these pieces.... The changes we made to the Labour Code — and I'm not trying filibuster this.... She's absolutely correct. The changes to the Labour Code and, to a certain extent, the changes that were made to the WCB.... They all do fit. There is clearly a responsibility that's been placed upon employers and employees to develop a healthy and productive workplace. I don't believe this one particular aspect of enshrining in legislation the need for the act to be hung as a poster somewhere specific is actually going to get us that.

J. MacPhail: Who asked for this section to be repealed?

Hon. G. Bruce: Again, if you can allow me a little bit here. You've bounced back and forth a little bit on the sections of the act, because you need to put it all together. I'm not going to hold you to this point or that point. We'll come to this.

We've greatly increased the penalties relative to employment standards and people that would breach employment standards. We're focusing on those main and specific issues of non-payment of wages, non-

payment of stat holidays. I would, and I know the member opposite would, have no time for anybody who doesn't pay people what they've agreed to pay them and who knows full well they ought to pay them that.

Our concentration and our efforts — and we'll come to that in greater detail as we move through this — is where we're going in regard to the enforcement side of things. We just clearly don't see that this is the type of issue that requires legislation and flows in all of that aspect of enforcement. It's fine. It's two different approaches. I believe that this approach will be successful.

J. MacPhail: Let me just put a few thoughts on the repeal of this particular section.

This province is making change, top to bottom, to the relationship between working people and their employers. There are many who will say that's perfectly appropriate and the changes are good. There are others who will say that these are brand-new and have no idea what they mean.

There are others who will be completely ignorant of the changes — both employers and employees. But they'll probably be at different times. There will probably be new employers. New businesses are brought into force every day in this province, and other businesses close down every day in this province.

[1110]

A little bit of information goes a long way for an orderly application of the law. But why it's even more important.... A poster. We're talking about a poster that I think the director of employment standards makes. We're talking about something that we can run off the Gestetner, as it were — maybe there's even higher tech today than the Gestetner; I'm not sure — and that we can post at the workplace. What it does is say that here are employer rights and responsibilities, and here are employee rights and responsibilities. Given that there are other changes being put in place — a shift of greater responsibility, I would suggest, to the employee to advocate on her own behalf — it would make perfect sense to keep the Gestetner going and the posters posted. That's all.

There is absolutely nothing to be had by saying there will be greater penalties on employers if a worker doesn't even know she can bring a complaint forward. The penalties will never be imposed if complaints are never brought forward and adjudicated. It does seem to be the symbol of this government that a poster that merely advises people of their rights and responsibilities is now gone.

Hon. G. Bruce: I'm pretty sure we're not using Gestetners. I think that....

J. MacPhail: I'm still sniffing the glue; I don't know.

Hon. G. Bruce: Well, that's only because we're getting near the end of the session. I remember Gestetners, and I can remember working in the Gestetner room. In

fact, I can remember that glue smell, actually. Anyway, we'll get past that.

To the hon. member: in fact, the posters will still be available. We will produce them differently than the Gestetner. They will be available. Employers will be encouraged to hang them, to post them, where it's possible to do so. As I was mentioning, under the concept of the best practices code, these are good things to be done. This would be one of them. People, where it makes sense or it's logical and not problematic, will be very much encouraged to put those up.

I am very much in favour of making sure people are empowered. I understand clearly from my life the imbalance that can be there in the workplace, but that balance also changes. To a greater extent, I think employees today understand more and more of their rights, and I think that's a good thing. There's also an imbalance in just the numbers of people available in the workplace that is going to put considerable demand on employers. That's a good thing in that as employers are looking to attract people, to attract employees to their operation, they're going to have to work harder to make sure they have a good, fair and enjoyable place to work.

One of the greatest challenges an employer can be faced with — and coming back again to those 360,000 businesses and 98 percent of them with 50 or fewer employees which find themselves under this — is their personnel and keeping personnel. There is a term that's used: poaching of personnel. In other words, you let the company down the road do the training, and then you go off and try to encourage that person to come and work for you. There's lots of competition in that factor too.

I'm very, very much aware of the concern of imbalance that can be out there. I also see different dynamics taking place in the workplace, which is a good thing in regards to balancing up the rights and the leverage for employees. I just don't happen to believe that a poster in itself is that which really shapes that balance.

So to be clear, there will continue to be posters made available. It will be part of our best practices code. Through the employment standards posted on the website and the educational side not only of employees but of employers, we will continue to encourage that those posters be hung and that people understand the law of employment standards in British Columbia from an employer's standpoint and from an employee's standpoint.

J. MacPhail: Well, I take the minister at his word. He's made the commitment to continue to produce these posters and make the information available. Of course, for those who are not following these debates carefully, it would be advisable for the ministry to let people know how the posters and the information are available.

Section 3 approved.

On section 4.

[1115]

J. MacPhail: This amendment is to change section 9 of the original legislation, which is hiring of children under the age of 15. Under the original act, an employer required the permission of the director in order to employ a child under 15 years of age. The director would investigate applications, including confirming that the employment was supported by parents and school authorities. A director would set the conditions of employment for the child. Some of those conditions would be limiting hours of work, ensuring adult supervision and restricting the types of work allowed. Those were some of the things the director would do.

Occasionally the branch would issue blanket permits to an employer or an industry to employ a number of children, but that would only be done after a thorough investigation by the employment standards branch and the setting of strict terms. Of course, these blanket coverage permits would be monitored in an ongoing way.

What's happening? What's going to be changed? Well, Bill 48 is saying that the issue of child employment now will be governed by regulation instead of the act. The employment standards branch won't participate in the process of monitoring the employment of children under 15 years of age, and each industry will have its own set of regulations to follow.

This certainly indicates to me that the Ministry of Labour will be expanding blanket approval to more industries. Perhaps the minister could tell us, in the year 2002, why this important section has been deleted and replaced by regulation.

Hon. G. Bruce: Just before I carry on, I'd also like to introduce another one of the industrial relations officers of the employment standards branch, Mr. Marc Hale. Marc's from the lower mainland and is here to assist in the debate. He's had over 20 years with the employment standards branch and has offered much in respect of constructive criticism and advice as to how we've been revamping and building this legislation.

What we're attempting to do here is encourage employers to hire people. We have a situation where we're talking about 12 and older but under 15 — 12 to 15, in that category. Well, 12 to 14. It's under 15; I guess that would be 14 then. What we're really saying in this instance is that to employ a youth in that age group, an employer must have the signature of the parent. We believe parents should have the authority and the responsibility in that respect, and to put somebody through a whole process of having to go to the director of employment of standards, to have to involve the school....

There are summer jobs out there. There are other types of activities in that respect, after school hours and things like that, and it's a responsibility of both the employee — the youth — and the employer to make sure that in fact they have that signed piece of paper from a parent stating that it is okay for their daughter or son to work for that individual.

Keeping in mind again — in context with the increased penalty program we're putting in place, where it's mandatory, not discretionary — that situations like this.... This isn't, "Oh, I forgot to get it," from the standpoint of an employer. It is incumbent upon the employer to have that piece of paper, signed by the parent, stating that it's okay for their son or their daughter. We think that improves the efficiency aspect of things. Being able to, like I say, during summer months or after school hours.... It puts a responsibility upon people; it puts a responsibility on parents. But the protection is still there. Where there was someone that had stepped across the line, they'll feel that full force of the enforcement section we've added to the act.

[1120]

J. MacPhail: We have to be very clear here that we're now talking about the employment of children 14 and younger.

I want to just read some comments into the record about rights of the child that were brought to this House by the member for Vancouver-Langara earlier this session. They're very current. He was addressing the issue of the UN convention on the rights of the child. I quote the member for Vancouver-Langara:

"Children have a priority. As Canadians, we have an ethic that gives children a priority in care and concern. We are not alone in this principle. The national governments of the world, through the United Nations, likewise have confirmed that children have a priority. In 1943 they established the children's emergency fund which we know as UNICEF, a focus of the annual Halloween boxes of our children. In 1989 they passed the UN convention on the rights of the child, of which Canada is a signatory nation. Yet many of us, perhaps, have never read this convention, which contains some 45 articles to affirm our responsibility to our children. Thus, today you have on your desks a copy of the convention of the United Nations."

Just as an aside, I have that convention in my desk still.

To carry on with the comments from the member for Vancouver-Langara earlier this year:

"Let me summarize just some of the important parts of this convention, as we would stand up for our children and their rights and their opportunity for the fullness of life. Some of the rights listed here are the right to a name and nationality; the right to affection, love and understanding and to material security; the right to adequate nutrition, housing and medical services; the right to special care if disabled, be it physically, mentally or socially; the right to be among the first to receive protection and relief in all circumstances; the right to be protected against all forms of neglect, cruelty and exploitation; the right to full opportunity for play and recreation and equal opportunity in all of life's activities; the right to develop one's full potential in conditions of freedom and dignity."

"Hon. Speaker, I pray that we will read this and act upon these recommendations."

And then the member for Vancouver-Langara took his seat.

It was an important day, because not only did he make the statement in the House, but he then distributed the UN convention on the rights of the child. I

expect many in this chamber will carry that in their desks, as do I.

Here we are talking about children in the workforce — 12, 13, 14 years old — and that we're reducing the application of the law to those children.

Here's what the UN convention on the rights of the child has to say about that issue — and I read directly from the UN convention on the rights of the child:

"Article 32:

"1. States parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

"2. States parties shall take legislative, administrative, social and education measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, states parties shall, in particular (a) provide for a minimum age or minimum ages for admission to employment; (b) provide for appropriate regulation of the hours and conditions of employment; (c) provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article."

[1125]

The changes made to the Employment Standards Act in the mid-1990s to include by legislation the process by which children under the age of 15 can be employed followed the UN convention on the rights of the child. Today we are in a discussion about the legislative axing of that and replacement with regulation. I'm going to ask the minister a series of questions on the intent of the regulations, but I expect they're not done — or maybe they are done.

Let me put it in this context. One of the groups that immediately responded to the change around child labour in this province were farmers — a certain group of farmers, who required harvesting of their product: fruit. They said: "This is great, because we need children in our fields to harvest."

Now there's a concept about which many may stand up and say: "That makes sense." My dad told me stories about.... My dad's now 76 or 77 — and thank God he isn't here to hear me and know that I don't know his exact age — but he is of that age. He was raised on the farm. He told me that he used to be, actually, in P.E.I., where they used to close down the schools in early September during potato harvest. The schools were actually closed down so that the kids could go and work in the fields. That no longer happens, you'll be pleased to know, in P.E.I.

However, it did happen, and there are many who would say that children harvesting makes perfect sense, and there's a way to do it. That was exactly what the law said. The employment standards could work with certain sectors to make sure the use of child labour was done in a way that protected the child, protected the child's education, ensured against exploitation and made sure that it wasn't harmful to the child's health. That's exactly what the employment standards

branch did. Now that's all gone. That's why I am extremely concerned about this change.

I also note this for the benefit of British Columbians. Again, we have to put this in the context of other pieces in the puzzle that have already been laid — the Workers Compensation Act changes. Here we have statistics from the Workers Compensation Board.

I referred to the fact in that debate that the Workers Compensation Board had put a huge effort in the 1990s into ensuring that when we send our children off to work or when our children choose to enter the workforce, they are as work-proofed as they were street-proofed when they were five-year-olds and we were sending them to kindergarten. It was a huge breakthrough in British Columbia. It was a huge breakthrough for the Workers Compensation Board to recognize that young people entering the workforce needed extra education.

Here's the statistics around young people in the workforce. It's from the website of the Workers Compensation Board. It's entitled "Are Injury Rates Different by Age and Gender?" I'm reading from that:

"Of the hundreds of thousands of adolescents and young adults who work in British Columbia, thousands are injured every year. No single data source provides a comprehensive picture of the occurrence of injuries to young workers, but the following findings approximate the scope of the problem.

[1130]

"The rates and numbers of injuries are higher among young males than females.

"The injury rate for males aged 15 to 24 has historically been higher than for males aged 25 and over, more than for females of all ages, and higher than the overall injury rate.

"The number of injuries increases as youth move from adolescence, 15 to 19, to young adulthood, 20 to 24. This is consistent with the number of adolescents and young adults who are employed, which also increases as youth get older.

"During the years 1992-1996, females aged 15 to 19 and aged 20 to 24 had fewer disability claims than their same-aged male counterparts."

I will draw no conclusion about the relevant intelligence between males and females from that, but I will say that there are conclusions that can be reached about youth working in the workforce. What it says is that we have a problem in that the rate of injury is higher amongst young people. As more young people enter the workforce, the injury rate increases from this.

I just note, Mr. Chair, that I know props are not allowed, but the document that I'm reading from in terms of the injury rate has a huge blip that says the number of people being injured and the years lost has a huge increase amongst males 15 to 24. The increase is really quite substantial. It is very key that we understand that young people are prone to greater injury at work, and my questions flow from this. What role, if any, will the director take in determining the condition of employment for children under the age of 15 years?

Hon. G. Bruce: I was enjoying the comments by the Leader of the Opposition there. I just want to build

some context. Currently, on average, the branch annually signs off on about a thousand under this situation with young people that are between the ages of 12 to 15. In your wildest imagination, I don't think you would hold that there are only a thousand people in that age group that are working today in the British Columbia workforce. I think it's probably a number much greater than that.

Then we want to take a look at the aspect of protection, because that's really what this is all about. It's protection for those young people in the workplace. In the situation today under the current legislation, if an employer went about hiring a young person to come to work at their place of business and hadn't gone first of all through the rigmarole with the director of employment standards of getting a sign-off and, if it happened to be during the school year, a sign-off by the school that the young person went to and then also a sign-off by the parent....

If that particular employer was found to not have followed that process and there was a complaint laid and then a determination written by the director of employment standards, the person would be told to fix it by getting those signatures, but the penalty would be zero. There's actually no protection at all for the young person. It's really quite the false economy. But like the Leader of the Opposition, I, too, and this government want to make sure that young people are protected in the workforce.

By the requirements as we're putting this together, now it is still — it's very clear about this — the incumbency and the responsibility of the employer to make sure they have a signed letter from the parent stating that their daughter or their son may go to work at this place of business. We're talking, again, about someone between the ages of 12 and 14.

If there's a complaint laid and the employer does not have that signed piece of paper with permission from the parent, there's an automatic \$500 fine. There's actually more real protection — real protection, not paper protection — in respect to youth employment between the ages of 12 and 14.

[1135]

We're also trying to encourage young people to get into the workforce. I'll bet you that everybody sitting in this House today can remember their first job and the excitement of that first job, whatever it may have been. Maybe it was delivering papers. Maybe it was weighing up potatoes in the back of the grocery store — I don't know. I remember that. You do remember the excitement, and there's nothing wrong with that.

I know that the Leader of the Opposition, too, is not speaking in that respect of stopping young people from working, but also making sure that young people are properly protected. Every one of us wants to make sure that they are. I believe the steps that we're taking in this regard will actually encourage greater protection for young people in the workplace and also will make it more attractive for young people to find a job — a summer job or an after-school job. There was certainly less rigmarole and process in respect to going through

it that didn't really bring in the way of protection for those young people, whereas now with the mandatory penalty, I believe that protection is there.

In respect to the health and welfare, if you like, or the safety of the site — as the member has clearly noted, speaking again about WCB — that continues to be a responsibility of the Workers Compensation Board, and they continue to enhance that aspect and continue working on education in respect to youth employment and the safety aspect of the job site. No one's looking to go back in that respect at all.

We're looking at doing it, perhaps, in different processes because we think it can be more effective and more efficient, but clearly let it be known to any employer today in the province of British Columbia: if you're going to be hiring somebody from the ages of 12 to 14, you'd best have the signature of the parent, because there's a penalty that goes with it, and it's mandatory. It's not discretionary; it's not: "Oh, gee. I forgot," or "Oh, gee. I'm sorry. I didn't get that." If you're hiring a young person, you have to have that sign-off. That's more protection today under this new legislation than what is currently in the existing legislation.

G. Trumper: Mr. Chairman, I seek leave to make an introduction.

Leave granted.

Introductions by Members

G. Trumper: We have in the House with us today grade 11 students from Kwalicum Secondary School. They are here with their teachers, Kay Howard, Ellen Coates and Barb Burke. I'm sure they're probably very interested in listening to the debate that is just taking place at this time, because it certainly affects them as they enter the workforce. Please welcome them to the House.

Debate Continued

J. MacPhail: What are the conditions that regulations will address and set for employment of children under 15?

Hon. G. Bruce: Being as you got me way back to weighing up potatoes when I was five, I used to have great holidays up there in Qualicum. I thoroughly enjoyed it. Now that I'm no longer five.... But they were good years.

Anyway, those regulations are being developed as the hon. member had mentioned. They'll be developed by the branch and put forward as we move forward.

J. MacPhail: My understanding is that the branch didn't spend a lot of time doing this — enforcing this on the permit, issuing these permits or dealing with the industry, so the original.... But let me ask you this, again around the employment of children under the age of 15: will the regulations say that for any violation,

a complaint has to be brought forward by the complainant? Are the 15-, 14- or 13-year-olds subject to the same requirements?

[1140]

Hon. G. Bruce: No. A young person may be working there, but perhaps if an interested third party, concerned about what was happening at that particular workplace, made that information available to the employment standards branch, then it would be investigated. Keep in mind again that the incumbency is upon the employer to make sure that they have that signed letter. It will not be discretionary; it's mandatory.

J. MacPhail: Does this section come into force once the regulations are published?

Hon. G. Bruce: The current permitting process continues to apply until the regulations are brought in. They'll be brought in, in the near future.

J. MacPhail: The original act stated that children under 15 are protected by the Employment Standards Act. I think this statement has been omitted. Can the minister say why?

Hon. G. Bruce: The new legislation under this section "Employment of Children" reads: "A person must not employ a child under 15 years of age unless the conditions established by regulation under section 127(2)(b.1) are met." That's the new legislation.

J. MacPhail: I want to move an amendment to section 4 of the amendment act to amend section 9.

This is to amend section 4 so that section 9, which deals with the employment of children, now reads:

[Section 4 is amended by adding the text highlighted by underline and deleting the text highlighted by strike-through:

9(1) A person must not employ a child under age 15 unless

(a) conditions established by the director to ensure the safety and well-being of the child have been met;

(b) the conditions established by the director have been agreed to by the parents or guardians and school authorities.]

On the amendment.

J. MacPhail: Let me just say why we're adding this. I have a disagreement with the minister. I think Bill 48 waters down protection for workers under the age of 15 years. The intent of the amendment I'm moving is to ensure that the director of employment standards is involved in protecting the safety and well-being of children who are in the workforce.

In addition, I think this amendment affirms the role of parents, guardians and school authorities in the process of determining whether a child should be working. I also think that for children under the age of 15 years, education should be prioritized above em-

ployment. I believe that this amendment affirms education. That was the practice in the past. The director set standards for educational requirements for the child. In my view, the experience was that the education requirements for the child took precedence over the employment requirements.

[1145]

The new legislation says basically that regulation will establish that, and it's the parental approval that gives the right, first and foremost. I have the greatest respect for the parenting of almost everybody in this province. But you know what? Sometimes parents are overwhelmed by the requirements to bring money into the house, are overwhelmed perhaps with the running of their own businesses and may not see any harm in the balance between education and work for a child 14 and under. I hope the minister isn't going to get up and say that I have no respect for parents. I do, absolutely, but there are also times when the pressures in other aspects of the parent's life perhaps overwhelm the achievement of balance between education and work of children 12 and 13 years old.

The previous act required the director to set conditions, and the director set conditions for education to be a priority. That's what this amendment restores.

Hon. G. Bruce: I appreciate the member's concern. And no, I would never allege that.

The point here is that health and safety are already covered by the Workers Compensation Act. That's a piece of legislation which we dealt with just yesterday. You don't need to cover this off in both instances. There is law relative to the health and safety of all workers. With respect to youth, they're also included under that obviously. The Workers Compensation Act handles that aspect of things relative to the safety of the workplace.

I understand that the Leader of the Opposition would like to see this in here. Again, it's a philosophical difference. I happen to believe that responsibility is twofold. One is the responsibility of the parents relative to their children and to the worksite and workplace where those children may be working, but also, very clearly, it is incumbent upon the employer to make sure that the manner of employment and the aspect of having gotten the proper permission from parents is there and that they have a signed agreement to that. We disagree in this respect understandably.

I do believe that the protection of children from the ages of 12 to 14 is stronger today, under the new legislation, than it was under the past legislation. I don't believe that this amendment is necessary in that we already have health and safety covered off by the Workers Compensation Act.

The Chair: Shall the amendment to section 4 pass?

An Hon. Member: By division.

The Chair: I understand the division will be deferred to a later date. The amendment is on division.

Shall section 4 pass?

J. MacPhail: Division.

The Chair: Division is deferred.

Sections 5 to 9 inclusive approved.

On section 10.

[1150]

J. MacPhail: This section of the amendment act repeals a section under the original act. I'll read it into the record, Mr. Chair. In the original act, section 29 was entitled "Producer to receive farm labour contractor's payroll record." Section 29:

- "(1) A farm labour contractor must provide to a producer, at the time required by subsection (2), a copy of the payroll records of each employee of the farm labour contractor who does work for the producer.
- (2) The payroll records must be provided by the earlier of the following:
 - (a) on each payday;
 - (b) the day the farm labour contract with the producer is completed.
- (3) A producer must keep copies of all records provided under subsection (2) for five years after the records were required to be provided."

What section 10 does is remove all of that.

There was a reason why this legislation was in here. It's because there is a practice in farming, in harvesting, in this province. It actually exists as agriculture becomes a more modernized industry and much more intensive harvesting occurs. There would be contractors who would provide.... Well, actually, it arises out of the demise of the family farm and the increase in agribusiness. I make no comment on that; agriculture is a highly productive industry in this province. But the farmer didn't supply the labour directly from his or her own resources. He contracted that labour, so farm labour contractors now play a significant role in agriculture not only in British Columbia but across North America.

There has been a history in this province of bad employment practices by farm labour contractors. There's no question about it. No one would deny that. The record is very clear in that area. In fact, what would happen is that farmers would pay contractors for the workers, and then the contractor would leave and not pay the workers. The farmers would say: "Well, I paid the contractor. That's what I did. The money is not available, so what am I supposed to do?"

Now, I also want to say that this amendment has to be read in the context of section 11 of the bill as well. Section 10 repeals the aspect of any keeping of records. Then section 11 — and I say this because the context has to be determined jointly — basically says that the producer is off the hook if he can show that he paid the farm labour contractor for wages.

Well, what this really does, I think, is put at risk.... Once again, we're back to the bad old days where farm

labourers are going to be out wages, and farm labourers will no longer be able to make a claim for wages as long as the producer — i.e., the farmer — can show that he paid the farm labour contractor.

I don't think there's been a huge increase in the commitment to workers by farm labour contractors. There's no evidence of that. The ministry has had to work very hard to enforce these previous sections. Frankly, the enforcement, the diligence and the law had to be applied on a regular basis, and now that protection is gone.

The minister did say, at his second reading, that these changes were to protect the most vulnerable worker, but I have to suggest that deleting all of the protections for farm labourers in this Employment Standards Act, I think, puts at risk, once again, some of the most vulnerable workers in British Columbia.

[1155]

Hon. G. Bruce: I'm glad the Leader of the Opposition raised this section. It is a section that troubles me greatly — not this section specifically, because one, as she noted, must be read in context with the following section 11 — in respect to people that are employed on farms and some that are being taken advantage of. The Leader of the Opposition mentioned the farm labour contractors and the producers.

There's been an ongoing process that has involved federal agencies along with the provincial agencies in attempting to improve on this situation. Again, I come to these things, perhaps, a little bit differently. I like to get to find out what the problem is, not the symptom. What we've been doing to a fair extent in the last few years is chasing the symptom. We know that there are cases — and some have been found out to be the case — where people have not been receiving their wages, or it's been alleged that they've been given time rather than wages so that they could collect employment insurance benefits. As I've said, we've taken the attitude, very determinedly, that non-payment of wages for work done in the province of British Columbia is just not on.

We are focusing on this particular sector. As I mentioned earlier this morning, my deputy, along with the Deputy Minister of Agriculture, met with both farm labour contractors and farm producers to explain to them the new set of rules, to explain to them that we would be moving very aggressively in this field to clean up abuses as they may be and the steps — the educational side.

This is not a situation here where we're trying to make a change which will make it easier for people to be taken advantage of. In fact, with the new penalty regime that also goes to this, it will no longer be just simply a cost of doing business. That, again, was the situation in the past. One would be caught. They know that they didn't pay some people. One person may have complained. That person then, under first determination.... The employer would be ordered to pay the wages, but there'd be no penalty, whereas the other three didn't bother complaining, and off they went. That bad employer — as the member mentioned, there

are some — got away with it. Well, that's not on anymore. First of all, there will be a penalty.

Another thing to the Leader of the Opposition. If the penalties, which we're bringing in by regulation, of \$500 on the first, \$2,500 on the second and \$10,000 on the third are not severe enough to bring in compliance, then we'll increase them. To a person in this House, none of us on either side of the floor would subscribe to or support any type of action that allows an employer to get away with non-payment of wages.

This area here — this one specific sector that you've raised — greatly concerns me. Both the Minister of Agriculture and myself are working on several other initiatives to deal with both the symptom in the short term, and it truly is the symptom, and, more significantly — the bigger problem — to take away what has been utilized in the past in the abuse of unemployment insurance benefits as a way of people getting time and then not getting wages.

I personally find it repulsive. It's just something that, as far as I'm concerned, on my watch will not be tolerated. It's not something that I'm going to be waiting for to receive complaints. We will be very proactive and in fact are being active in correcting this situation.

We need farmworkers. We need people to work on the farms in the province of British Columbia. It is a concern from the standpoint of producers. We talk about the fact of jobs in the province of British Columbia. There are good, well-paying jobs in the agricultural fields today, particularly through the months of June, July, August and September. All of us in this province are having a difficult time encouraging people to work in the fields and on the farms. If there's this notion that you're going to work and then not get paid, that can clearly be a very large detriment.

[1200]

From two standpoints.... The number one issue in respect to us is protection of vulnerable workers. Many of these people who are there and working on the farms don't have English as a first language and find problems with respect to understanding rules and regulations. We're taking a strong educational side in that, both on Radio India and several of the other ethnic radio stations and in newspapers or print material, so that people understand in their language their rights and responsibilities. Likewise, we're taking very direct and firm action with farm labour contractors in making them understand that the practices some of them may have been undertaking in the past while will not be tolerated in the future.

The Chair: Shall section 10 pass?

J. MacPhail: Division.

The Chair: Division will be deferred.

J. MacPhail: Noting the hour, I move the committee rise, report progress and ask leave to sit again.

Motion approved.

The committee rose at 12:01 p.m.

The House resumed; Mr. Speaker in the chair.

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

Hon. R. Coleman moved adjournment of the House.

Motion approved.

The House adjourned at 12:02 p.m.