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(Entered Confederation July 20, 1871)

LIEUTENANT-GOVERNOR  
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**3RD SESSION, 37TH PARLIAMENT**

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Afternoon Sitting

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TUESDAY, OCTOBER 22, 2002

The House met at 2:03 p.m.

### Introductions by Members

**Hon. S. Hagen:** In the buildings with us today is a class of 40 grade 10 students from Mark R. Isfeld Senior Secondary School in Courtenay in the beautiful Comox Valley, one of the greatest places in British Columbia to live. They're accompanied by their teacher, Mr. Fussell. Would the House please make them welcome.

**Hon. M. Coell:** I hope the House will please make Jeff Paleczny, from the Sierra Club and a member of my Saanich North and the Islands constituency, welcome today.

**B. Kerr:** I'd like to introduce a guest that's well known to the province. She's a conservation chair of the Sierra Club. She's also a recipient of the Order of Canada and the Order of British Columbia. Would the House please make Vicky Husband welcome.

[1405]

**S. Orr:** Today in the precinct we have a group of wonderful students from my riding from the Montessori School. We also have one of our hard-working UVic Young Liberals, Trisha Girard. Also, she is a member of the executive of the B.C. Young Liberals. Would the House please make her welcome.

**B. Bennett:** I'd like to introduce one of my housemates, one of my roommates from Victoria, and den mother. Would the House please help me make welcome Lonie Belsey.

**Hon. G. Bruce:** Fourteen years ago a tradition was started in this House that has come to exemplify the greatness of those that sit here in this House. We do battle with the press at a tennis tournament in the spring on an annual basis. It's been 14 years, and the MLAs have won that tournament all but one year. That was the year that none of us showed up. This year, of course, the press, in all their splendour — and they're there today.... It's good that that member of the press is here, because I think he was the vice-captain of the team. The other captain was Les Leyne.

You know, you would think that in sporting events it would be the young, the vigorous, the muscular and those that are in full shape and condition in their youth who would be able to look after a group such as us, the MLAs of this province, but I have to say that after 72 games.... The wind and the sun were burning. It was, I think, a clear 95 degrees that day. Seventy-two games, and the MLAs again proved that the press are able from time to time to bring forward stories, but they're never able to get it right, and they didn't get it right again.

It would be appropriate to acknowledge the fact that the MLAs have a cunning.... They are a team that

has a coach who is extremely, extremely beneficial in how he can put his team together. Of course, that would be the Clerk of the House, who's done such an admirable job over these 14 years. So, Mr. Speaker, as much as I would love to go on at great length, and I would love to bring forward your trophy, I think it's only appropriate that we give ourselves a wondrous, thunderous applause for once again putting the press where they ought to be — in second place.

**Mr. Speaker:** I might add that it's the Speaker's tournament, and they won't let me play.

### Tributes

LOUISE ANNE MARCOUX STEWART

**R. Stewart:** I rise today to mark the passing of a person who influenced me greatly, a person who never stopped encouraging me and supporting me, her other two children and, more recently, her nine grandchildren. I rise today to honour this woman in a way she would have wanted — with few words. She would have been here telling me: "Keep it short, Richard. Nobody wants to hear a long speech." I rise today, on her birthday, to honour my mother, Louise Anne Marcoux Stewart, who passed away on October 12. I ask the House to recognize her life.

### Statements

(Standing Order 25b)

VICTORIA'S ASSETS

**J. Bray:** Two weeks ago I stood in this House and relayed some exciting news about the Victoria economy — about the lowest unemployment rate in British Columbia and one of the lowest in Canada; that housing starts were up; that housing sales were up, retail sales were robust and tourism was rebounding well from 9/11.

[1410]

I also talked about the incredible assets we have here in Victoria. First and foremost is the tremendous sense of community we enjoy in the capital. I pointed out that we have three world-class post-secondary institutions graduating world-class students. We have excellent infrastructure in travel, telecommunications, commercial and residential development. I also made a slightly provocative statement that Victoria needs to maintain its sense of community and develop a Calgary sense of attitude.

I am glad that people here in the capital took notice and have been asking me why I made that statement. Well, many in my community are also looking for B.C. to diversify its economy, to become less reliant on the natural resource sector. That's an aim I support, but it is my firm belief that it is we here in Victoria who must lead the change and lead the province toward that diversification.

We have all the assets here in Victoria, and we want clean, green and sustainable economic growth for our region. The new knowledge economy is what will allow Victoria to grow economically without changing our number one asset, our sense of community, but unlike competing with other jurisdictions in the natural resource sector, where we compete only against other areas that have lumber and minerals, we must compete in the new knowledge economy against every city in every province, in every state, in every country in the world.

All we lack to be the economic leader for the province and help lead the diversification is that outward pride. We need to tell the world of our assets. It's not a sell job, just a willingness to go off and show our region's pride — pride in our community, pride in our people, pride in our economy, pride in our young people and our graduates, pride in our teachers and our professors, pride in our small and medium businesses, pride in ourselves. Victoria should be a leader, and I believe we're ready to be.

#### SMALL BUSINESS IN B.C.

**K. Johnston:** October 20 to 26 is Small Business Week in Canada. It's a week dedicated to recognizing the hard-working men and women who are small business. Small business is considered any operation having fewer than 50 employees, and in British Columbia that's 98 percent of all business. Small business people are the folks with the ideas and the vision to create the jobs, the jobs that support our economy.

These are the people who put their assets on the line to finance their dreams. These are the folks that must battle the banks, the competition and the local and global economies at every turn. These are the entrepreneurs that usually work more than 50 hours a week, often without any possibility of holidays and certainly no gold-plated benefit plans. Small business people are the ones that drag themselves out of bed in the middle of the night to answer an alarm or go and help get an employee out of a jam. Small business people in almost all cases are good employers — in fact, treating their employees like a second family and sharing in their successes.

This government understands the challenges faced by small business and, over the past 17 months, has supported small business through strong action, action that includes tax relief, flexibility in employment standards, reduction in red tape and an extensive consultation process throughout the province with the Premier's small business round table. Small Business Week is recognition of the entrepreneurial spirit alive and well in over 400,000 British Columbia small business operators. On behalf of all members of this House, I'm sure, I say to those entrepreneurs: thank you for your spirit.

#### SEVEN OAKS PSYCHIATRIC FACILITY

**S. Brice:** Over the years, the stigma of mental illness has driven many sufferers to try to hide their condition.

Now people suffering with a mental illness are finally getting the respect and support they deserve in this province. The Minister of State for Mental Health is a fierce champion for ensuring the implementation of the mental health plan and for raising public awareness of the need to deal with this illness in the same direct and open way in which other health issues are treated.

The official opening last week of Seven Oaks in my riding of Saanich South was a positive reminder of just how far we have come in support of the mentally ill. Nestled in the beautiful Blenkinsop Valley, the cottages clustered in a peaceful rural setting are the new homes for 38 people with highly complex care needs. Previously, these folks would have been transferred to Riverview Hospital on the lower mainland. In that type of situation, maintaining contact and loving support from their families and friends was very difficult.

[1415]

Now these people who have a mental illness can maintain a close bond with their support network, as they are living closer to the homes they have known. Roy, a young man I had the pleasure of meeting at the opening of Seven Oaks, now lives in comfort and dignity while he receives help in learning to manage his illness. The professionals who work at Seven Oaks provide excellent care and compassionate support to him and the other residents. It was with immense pride that Roy showed me his new home and talked about the activities at Seven Oaks. It's comforting to know that this wonderful new facility is available to meet the needs of my constituents in Saanich South and other families living on Vancouver Island.

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

#### Oral Questions

#### MINISTER'S DINNER MEETING WITH LIBERAL PARTY CONTRIBUTORS

**J. MacPhail:** In July the Minister of Sustainable Resource Management was caught shaking down business leaders for minimum \$2,000 donations to join him for a private drink and dinner. In a letter on his behalf, well-known Liberal fundraiser Lyall Knott wrote that the dinner would be limited to 20 people to ensure a good discussion and an exchange of ideas. When the minister was accused of selling access, he said the dinner was cancelled. Would the minister now confirm that he did, indeed, have a dinner on the advertised night with Mr. Knott and some very generous Liberal Party benefactors?

**Hon. S. Hagen:** You know, it's really great to be able to say that we have a lot of dinners with a lot of people throughout the year. One of the things we do, because we're proud of the political party we belong to, is actually participate in raising money so that political party can continue to do the things it needs to do. I am pleased to say, also, that I and other members of our caucus will continue to do fundraising dinners for the

party, because it's important that we do the things that need to be done and so that we can bring this great province of ours back to the positive position it once was in.

I recall that back in 1991, when I was in government, we were number one in Canada in economic growth. In five short years under the previous government we slid to last place. That's not good enough for the people of British Columbia. I give my commitment to you, Mr. Speaker, and to the people of this province that I'll continue to work for the people of this province to make sure our province comes back to the top place, where it should be.

**Mr. Speaker:** The Leader of the Opposition has a supplementary question.

**J. MacPhail:** The people that are hurting now are seniors, pensioners, loggers and people on social assistance, single moms who require day care. The difference, though, between what the minister tried to do to divert is that when he was confronted with this fundraising dinner of \$2,000, he said it had been cancelled. The opposition has learned through FOI that despite the minister's denial, he did have a private fundraising dinner. He just had it with fewer people at a smaller, more intimate location.

Again to the minister: can he tell the House who attended the dinner he said never happened, how much they paid and what was promised?

**Hon. S. Hagen:** The one point the member opposite and I can agree on is that there are people in this province hurting. The reason there are people in this province hurting and unemployed is that the government she was a member of drove those people out of their jobs. They drove the economy into the ground. Not to repeat myself, but I give my commitment to the people of this province, as do the other members of this House except those two, that we will work hard to rebuild the economy of this province so those people she talked about can in fact get their jobs back and have the lives they're entitled to.

**Mr. Speaker:** The Leader of the Opposition has a further supplementary.

**J. MacPhail:** I'm sure those words are reassuring to Howe Street. What the minister said at the time was that the dinner was cancelled. Perhaps he should have been a little more upfront, because the fact of the matter is that we don't have a lobbyists registration act yet. We can only rely on the word of ministers such as this. But let's say today, again, that he's flatly denying that he did anything wrong.

Interjections.

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

[1420]

**J. MacPhail:** The minister's schedule for July 24, the night of the advertised dinner, shows that the minister

had a private dinner with Lyall Knott and at least two big Liberal contributors from the development and drug industries, Randy Zien and Hassen Khosrowshahi, and they went to a Vancouver restaurant. Now, these aren't just your average Liberal supporters. Combined, they and the companies they own gave close to \$300,000 to the B.C. Liberal election machines, so these guys don't just do dinners with ministers for a good time.

Interjections.

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

Would the member please put her question now.

**J. MacPhail:** Why did the minister not tell the truth last summer, and will he now use this opportunity to finally come clean and tell us who else was there, how much they paid and what was promised?

#### KYOTO ACCORD

**B. Lekstrom:** Mr. Speaker, my question is to the Minister of Energy and Mines. Yesterday the Minister of Water, Land and Air Protection made it clear that British Columbia has serious concerns about the Kyoto protocol. However, British Columbians also recognize that action must be taken on climate change. Can the Minister of Energy and Mines tell us what factors the government believes must be incorporated into any national strategy on climate change?

**Hon. R. Neufeld:** First, let me...

Interjections.

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

**Hon. R. Neufeld:** ...be clear. The British Columbia government is serious about climate change. Climate change and Kyoto are two different things, something that a lot of people don't understand. Our government is concerned about climate change and has taken some action in British Columbia.

In answer to the member's question, there are a number of points. B.C. must retain the benefits of its forest carbon sinks, something that the federal government wants to take away and apply nationally. We think the forests are in British Columbia, we manage the forests, and they should be our sinks. We must receive credit for our clean energy exports, that being our natural gas that we export to the U.S. every year and also our hydroelectricity that's exported to the U.S. every year and has been for many years. We should get credit for those two points. Those are two of the most salient points that we're asking for.

**Mr. Speaker:** The member for Peace River South has a supplementary question.

**B. Lekstrom:** Clearly, this is a major issue to British Columbians. Can the Minister of Energy and Mines

elaborate on any further points that he may take up with the federal government on the Kyoto protocol for me, please?

**Hon. R. Neufeld:** You know, our industry in British Columbia has taken some early steps around climate change. They have responded to the challenge that's out there about climate change, and we're saying in British Columbia those industries should be recognized for that action. We also must get credit for climate change priorities that B.C. has already identified to the federal government by a letter from the Premier. B.C. must receive co-funding for measures that we take as part of our own climate change plan that we are developing as we speak, which the Minister of Water, Land and Air Protection and my ministry are working on.

The Premier has just written a letter to the Prime Minister laying out those five points. I'm going to read verbatim from the letter what he has said: "B.C. will not support an implementation plan that does not fully and adequately address these concerns. That support is only possible if the federal government produces an implementation plan that includes a comprehensive assessment of potential impacts and is subject to adequate consultation with provincial and territorial governments as well as the public."

[1425]

#### MINISTER'S DINNER MEETING WITH LIBERAL PARTY CONTRIBUTORS

**J. Kwan:** British Columbians want public policies developed in the open, not at secret dinners where Liberal insiders pay thousands of dollars to wine and dine with cabinet ministers.

These shouldn't be difficult questions for the minister. Why did the Minister of Sustainable Resource Management say the dinner with Lyall Knott was cancelled when his own schedule says otherwise? What did he promise the people who attended that meeting, and how much did they pay to get a seat next to the minister to have dinner with him?

Interjections.

**Mr. Speaker:** Order, please. Order, please, hon. members. Order, please. As the clock in question period ticks on, we will wait for silence.

The minister.

**Hon. S. Hagen:** I actually do have a confession to make to the House, and that is that back in 1990, I did have dinner with the member for Vancouver-Hastings.

Interjections.

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

**Hon. S. Hagen:** I realize now that....

Interjections.

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

**Hon. S. Hagen:** I realize now, Mr. Speaker, that....

Interjections.

**Mr. Speaker:** Order, please, members, so that we may hear the answer.

**Hon. S. Hagen:** I am pleased to inform both members opposite that at the dinner I attended, which was referred to, the guests who were there paid no money to attend that dinner.

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

Interjections.

**J. Kwan:** When the minister was first confronted about it in the summer....

Interjections.

**Mr. Speaker:** Order, please. Order, please. Hon. members, let us hear the question.

**J. Kwan:** When the minister was first confronted with this in the summer, he accused a reporter of "falling off a turnip truck" for daring to say it was unethical. Mr. Speaker, the minister may believe that British Columbians don't care about these kinds of ethical lapses, but he's wrong. He's dead wrong. Show some respect for British Columbians. When he says that there was no money promised during the dinner or exchanged during the dinner, could the minister...?

Interjections.

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

Interjections.

**J. Kwan:** Could the minister please advise what came after the dinner — because you know what...?

Interjections.

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

**An Hon. Member:** Stand up and testify.

[1430]

**J. Kwan:** The government can laugh all they want, but the facts are before us. Donations were made to the Liberal government. Donations were made after dinners were had — private, secret dinners which the minister himself denied actually happened. Donations of \$300,000 were contributed to the Liberal campaign coffers. Now the minister says: "Oh no..."

Interjections.

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

**J. Kwan:** ...there were no commitments whatsoever." You know what? When the minister was caught red-handed, he has to come clean now.

Interjections.

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

**J. Kwan:** He has to come clean and admit that those private dinners yield private donations for the Liberal campaign machine.

Interjections.

**Mr. Speaker:** Order, please. Order, please, hon. members. Let us hear the answer.

**Hon. S. Hagen:** Thank you very much, Mr. Speaker. I'm....

Interjections.

**Mr. Speaker:** Order, please. Order, please. Let us hear the answer. Hon. members, you may not be anxious to hear the answer, but I am.

**Hon. S. Hagen:** I know the press gallery is just glued to this debate today. I'm tempted to say that what came after the dinner was cheesecake, but I'm not going to do that. What I am pleased to say, though, to clarify any sort of misunderstandings that the two members opposite have, is that (a) it was not a fund-raising dinner, and (b) there was no money raised.

[End of question period.]

### Orders of the Day

**Hon. G. Collins:** I call committee stage of Bill 62.

### Committee of the Whole House

#### MISCELLANEOUS STATUTES AMENDMENT ACT (No. 3), 2002 (continued)

The House in Committee of the Whole (Section B) on Bill 62; J. Weisbeck in the chair.

The committee met at 2:35 p.m.

On section 5 (continued).

**J. Kwan:** We begin debate on section 5, Bill 62. Section 5, of course, deals with the Employment and Assistance for Persons with Disabilities Act.

This section makes substantive changes. It is now bringing forward a 60-day limitation, as well, to apply to people with disabilities who have either been dismissed from work for just cause, voluntarily left employment without just cause or failed to accept suitable employment. If any of those things were applicable 60 days prior to that, the individual would not qualify for income assistance.

I want to ask the minister, first of all, this question. People with disabilities who were on what was formerly known as DB-2 are now under the Employment and Assistance for Persons with Disabilities Act, Bill 27. They are people that the ministry acknowledges are unable to work for the most part, mostly because of health reasons. Why would the minister bring forward a punitive act that tells people (a) you've got to go out and look for work; (b) if you fail to accept suitable employment, you'll not qualify for income assistance; and (c) if you get fired as a result of your disabilities...? It may well be for just cause. If your disability impacts you in such a way that you might not be able to complete your tasks appropriately or show up for work on time, for a variety of reasons, you may well get fired for cause. Why would the minister subject individuals with disabilities to this process and with penalties that threaten their livelihood and their ability to survive?

**Hon. M. Coell:** We had a very, I think, exhaustive discussion of section 12 and a debate in the spring with regard to this issue.

**J. Kwan:** Actually, no, we didn't — to remind the minister's memory. The government brought in closure on both Bill 26 and Bill 27. There was not an exhaustive debate. There were a lot of questions still to be answered.

Now before us there's an amendment — an amendment that brings out these retroactive penalties for people with disabilities, who will now not be able to get income assistance when they need it the most.

I want an answer from the minister. British Columbians want an answer from the minister. Even just today, as I was going through my mail, I've got correspondence from people who want answers from the minister. I would expect the minister to answer that question in this House.

**Hon. M. Coell:** The discussion today is the discussion of the Miscellaneous Statutes Amendment Act (No. 3), 2002. The reason for the change in section 5 is that the use of the present tense is ambiguous to the legislation. The amendment changes it to the past tense for clarity and limits the time period to 60 days.

**V. Anderson:** It seems to me, and I would like clarification, that there were two acts. One was the employable act, and one was for the disabilities. They were based on different premises. The options in the one for general employment were on the assumption that people were qualified to work, and to work on a full-time basis, in order to become independent.

[1440]

It was my understanding, and perhaps I'm wrong, that the Employment and Assistance for Persons with Disabilities Act had a different basis and assumption. The assumption was that many persons with disabilities would be able to and would desire to work part-time or perhaps full-time, if they had the proper resources and opportunities to get the additional skills they needed and the additional help to find employment, which would otherwise be difficult for them to understand.

It was my understanding that this was an option that was available to people but not required of people in the same fashion as the other act. I'd like to clarify that, because it makes a difference. Therefore, I'm surprised that the two consequences in these acts are not different to reflect that difference, rather than being the same. It would seem to me that the consequences in this act, whatever they might be, would be different from the consequences in the other act by the very nature of the different clientele, the very nature of the different expectations and resources. They would encourage the people with disabilities to begin to work as much as possible, but not with the feeling that they were required to work by somebody outside's requirement and suggestion. I need some clarity on whether that distinction is valid or not.

**Hon. M. Coell:** Yes, if a person is designated as a person with a disability and they cannot look for employment, they would not be expected to look for work. Section 12 of the act does not apply to people with a broad range of circumstances, and we expect there will be relatively few persons with disabilities for whom this section applies.

The fact is that persons with disabilities do want to work within the parameters of their disability. That goes a long way with other comments I've made that there is a 50 percent unemployment rate for people with disabilities. There are also, as the member knows, some people whose disability does not interfere with their ability to work, and they would be expected to complete an employment plan and participate to the extent they're able to.

**V. Anderson:** I understand the reasons and the validity of inviting them to have an employment plan so that they can be supported in moving ahead. But I have difficulty with the question of why, when they are moving ahead and having difficulties, this same pressure would be on them as is on other people, knowing full well their difficulties. Whatever their disability is, if they've been accepted as a person with a disability, it means they do have a severe disability that makes it more difficult for them to maintain and get to work. They put out extra resources in order to get there in the first place. It would seem to me that there would be a different requirement that would be somewhat different from the previous one. I'm just surprised that there is not a distinction of some kind.

**Hon. M. Coell:** Again, we're debating an amendment to an act that has already had debate in this House, and regulations have been put in place.

In a brief answer, this would only apply to individuals who are not having difficulties due to their disability. In the latter case, the individual would be exempted.

**V. Anderson:** I have to express concern that there is a suggestion that it is not the whole act which has been placed before us. It's not just the amendment but the context of the amendment which makes relevance for the amendment itself. Even though the previous act, in its previous form, was on the floor and was discussed — or not discussed, as the case may be — but was passed.... Once that act is put here on the floor, it's my understanding that the whole context of what is being put here is on the floor as well. I just wanted to stress that.

[1445]

I still want to stress that I think it's important that there be a distinction between the regulations that apply in the one act and the regulations that apply in the disabilities act. I'm disappointed if they continue to be the same.

**J. Kwan:** It's unacceptable for the minister just to sit there and not provide answers. For the minister to suggest, to say: "You know what? This is a minor amendment...." The minister would like to pretend it's a minor amendment, when in reality it isn't. He is bringing back retroactive penalties for people who are qualified for disability under the income assistance act, who qualify for disability for whatever reason. If they've been dismissed from employment for just cause or if they voluntarily left employment without just cause or failed to accept suitable employment, they will then not be qualified for income assistance within the parameter of 60 days prior to that application. That's what is being put before us.

The rationale of why those people would not be qualified should be a subject of debate. The 60-day parameter, which also adds to the three-week waiting-training period, will bring you to a three-month wait for these individuals. The question is right to the heart of the issue, and the minister must answer this question. Why are people on disability subject to this requirement to begin with? Even if the minister says that they're subject to this requirement because we want to give all kinds of opportunities for people to look for work — if that was the case — why would you have penalties associated with it when you do recognize that they have either physical or mental disabilities, or both, with their condition? That's why they qualify for disability in the first place.

For the minister to say: "Hey, you know what? That's somehow irrelevant...." The minister has completely missed the point of what qualifies a person for disability, and it's not acceptable for the minister to pretend that he doesn't get it. It's not acceptable. He is the minister responsible — through you, Mr. Chair, to

the minister — and he must get up and answer these questions for British Columbians and for his own caucus colleagues.

**Hon. M. Coell:** I wanted to reinforce this. The amendment limits the time to 60 days that the ministry can go back into an employment record. It basically limits that from being limitless, to going back six months or a year or two years. We've said that 60 days is as far as the ministry will have the ability to go back into a person's employment record.

**V. Anderson:** Perhaps I would like to get a clarification. It seemed to me one of the important points of the passage of the persons with disabilities act and one of the things of supporting them in going back to work is that if for any reason — as I understood it previously, and I think that's out in the community — they were not able to continue that work, then they would automatically go back without qualification and receive the full disability benefits. If that's the case, then it seems to me this runs in contravention to that.

I'd like clarity as to how those two positions go together. For many people with disabilities, to put out the effort to go to work in the first place was a threat in the past, because they would lose their disability benefits and have to have a waiting period to get back on. Their encouragement to move in this direction was that they would automatically go back on to full disability benefits when the work ceased, and then they could prepare themselves again. I need a clarification between that understanding and what's brought forward here.

**Hon. M. Coell:** A clarification for the member. If someone leaves employment because of their disability, this section doesn't apply.

[1450]

**J. Kwan:** I just want to go back to the previous answer from the minister when he said that the 60-day limit is better than before, where it was limitless, so that the person can go back to whatever in the future. The difference is this: a person on disabilities before was never required to look for work. If they happened to find work, that's excellent. That's fantastic. They were never threatened with penalties before. If a person came to apply and if they lost their employment a year before, six months before or whatever the case may be, that was never held against them as long as they qualified under the conditions to be a person with disabilities under the Income Assistance Act. That was the difference.

Now what the minister is saying is that even if you qualify, if you got fired from your job, you quit your work beforehand or you voluntarily left your job, you're now not qualified to receive income assistance.

People with disabilities are faced with multiple challenges — no doubt about it. Some of them are able to work — no doubt about it. Some of them are not able to work; there's no doubt. Some people might be able

to sustain work for a period of time, but they may not be able to carry on for a period of time for whatever is going on. For the minister to say that some people can work, so they're expected to work, and that when they don't or if they get fired from their job, they're now dismissed and cut off of income assistance is simply wrong.

Don't just take my word for it, Mr. Chair. I know the minister is sitting there thinking the opposition will just say whatever they want to say. Don't take my word for it, as I say. This afternoon during the lunch hour I had a bit of time to go back and look quickly at my correspondence that came in. This mail just came into my in-box. I want to read this to the minister, and I want the minister to answer the questions from this correspondence. It's addressed to the minister, actually. It mentions the minister by name.

It reads as follows:

"Dear minister,"

"This letter addresses comments you made in a letter to the Victoria News Group printed Friday, October 11, 2002, and the process by which many people with disabilities are being assessed.

"In the letter you say that your ministry has confirmed 43,000 clients and has asked others 'to provide more information so the Ministry of Human Resources can assess their circumstances and ensure consistency in program delivery.' In conversations with workers from the health services branch, I've learned that the booklet received by some recipients was sent because they had not accessed anything through that branch.

"While I understand that the ministry needs a way to assess people with disabilities, there is an inconsistency in your attempt to provide 'consistent programs.' Had the minister sent the booklet to all people with disability classification regardless of their status with health services, then action would have been consistent. In this case, we have spoken with several members who have received the booklet and yet have tremendous health challenges and others who were classified disabled who are very functional.

"A doctor I spoke with, having received the booklet, stated flatly that he would not be interested at all in completing the last section for his patients and finds the entire process punitive.

"What this process has accomplished is to petrify many people who are now fearful of losing their only source of income and who will be asked to seek employment with the repercussion of penalties if they do not comply with the terms of the employment plans."

Let me just pause here for one moment. Just relating back to the act before us right now, a part of the conditions for penalties is that if a person fails to accept suitable employment from the ministry's point of view — if that should happen — this person would then not be eligible to continue to receive income assistance. If that was the case before they applied within the 60-day period, that person would also not be eligible to receive income assistance. That's where the relevancy comes in, particularly in relation to the amendment.

Going back to the letter:

"For people with HIV there are not only concerns about maintaining physical health, there are also concerns about disclosure of HIV status to potential employers and co-workers. While there are laws in place

to protect people from discrimination on the job, we know that discrimination still exists and that people are let go from work when their status is revealed.

[1455]

"Further, while there will be adjudicators to review the information provided, it is not clear that clients will have the opportunity to present their case to the adjudicators or if the adjudicators will have the chance to ask questions of the clients. There is a difference between the ability to climb a set of stairs and to climb a set of stairs with energy. There is a difference between being able to cook a meal and to cook a meal where you are not exhausted afterward. Yet the booklet does not distinguish these things, and the meaning of daily living activities as prescribed in the regulations does not distinguish these either.

"The ministry worker will be able to make arbitrary decisions about the physical ability of the client, and personal subjectivity, morality and opinions about people with disabilities will rule their decisions."

Again, the relevancy here is this: it's not just about being able to accept work. Even if you do accept work and if you face discrimination in the workplace — and sometimes it's not so blatant and obvious as some might think — if you are let go as a result of that, you are not able to show just cause. Here, once again, the penalty is being applied against you if you're not able to show you were fired without just cause. Sorry, I said "just cause" earlier. It should be "without just cause."

Continuing on with the letter:

"And for many people with a disability, the test this booklet and the regulations poses to them is a test they will fail miserably. If cleaning your small, inadequate apartment and cooking a meagre meal, going to a bank or getting along with others is the criteria for employability, it is clear that the vast majority of people living with a disability — and, in our agency's case, HIV — would be considered by the ministry as fully functioning and good job-market candidates. Employability is not a case of being able to sit, walk a few blocks or climb a few stairs. It is a complex situation that involves the physical, mental and emotional capacity of people to be involved in work that is meaningful and that offers a reward that makes the work at least bearable.

"Simply shovelling people into the workforce may reduce the ministry's welfare rolls but it will not create an environment where people are accepted, acknowledged, appreciated and rewarded for their contribution to a workplace. Adding insult to injury by imposing fines on those disabled people who do not comply with their employment plans" — and this is what this is: adding penalties, fines, if you will, for people who do not comply with their plan, and that's exactly the section we're talking about — "is not only mean-spirited, it is cruel and lays unreasonable expectations on the person.

"Is not living with the disability difficult enough? If the ministry seeks to be truly equitable and consistent in how it assesses people with disabilities, it must either ask all recipients to complete the 23-page booklet or ask none of them. If the ministry is dedicated to assisting people with disabilities to become employable and independent, then it must consider not only the fiscal reality of the business of the government, it must make increasing efforts to create a society where all people, disabled and not, are valued for being and not for their net worth as a disposable commodity in the labour force. This task, I

fear, is one for which the ministry and the government as a whole will not accept responsibility.

"Sincerely,

"Michael Yoder, Executive Director"

Of course, the agency that sent this letter is the Victoria AIDS Resource and Community Service Society. It's copied to a number of Victoria MLAs, as well, not just to myself.

Again, a question to the minister: why would he put forward penalties to penalize people who do have disabilities if they fail to meet the requirements of the work plan?

**Hon. M. Coell:** If a person with disabilities quits work because of their disability, there would be no sanctions. Nearly all people with disabilities will be exempt from section 12 by regulation. The regulation, for the member's interest, is section 25(4). For a small percentage, their disability may not affect their employment, and section 12 would apply. It would also apply to spouses who are persons without disabilities.

**J. Kwan:** I want to ask the minister. The minister keeps saying there's only a small percentage to which the penalties will apply. What is that percentage? Who qualifies for that, when he says only a small percentage will be required to work? My understanding is that people who have disabilities.... The only reason why they qualify for disability to begin with is that they actually meet the criteria of being classified as disabled under the act. The very nature of that classification means the person is not able to work on a continuous basis. If that definition and that logic apply, then none of the people who qualify for disability should be subject to this penalty at all.

[1500]

**Hon. M. Coell:** I think, to clarify — the member may know this — persons with a disability are not required to show they cannot work to be eligible. That's the difference.

**V. Anderson:** The minister has indicated that not many people would necessarily be affected by this part of the act. In one sense in which he expresses it, he's probably right, in that not many people would be penalized because of this as far as getting back on the support of human resources. But the penalty that will face all of them, whoever they are — at least 95 percent of them — is the penalty of the tension of losing the job in the first place, for whatever reason, and "being regarded as a failure" in overcoming the handicap or the difficulty as you were there and then going out and having to say to somebody else: "I failed. I wasn't able to do it. I'm sorry; I apologize." The pain and the emotional stress of that within themselves.... Even if they don't have that feeling themselves, there is the concern that other people will regard them in that fashion — that they're not able to succeed because of their difficulties, because of their disability.

The very thing we've been trying to do with this act is convince them that they can rise above their difficulty. If there's a fallback, you can come back and go over it again. You don't have to be put down by it again and again. It's that attitude which is important, and it affects every person. Even persons without disabilities have that problem if they lose their job, either for their cause or somebody else's cause. Even if they're simply laid off because a business has gone bankrupt, there's still that emotional struggle. That emotional struggle is intensified with people who have disabilities and with people whose income is on the margin every day of the week, and a month or two months is years in their lifespan.

I'm just trying to ask again why this particular bill, this section of this bill, is the same as the other bill. I think there should have been and still must be a distinction.

**Hon. M. Coell:** I think the answer to that is that the "persons with a disability" designation is a functional definition. Persons are not required to show that they cannot work to be eligible for the designation. If their disability in any way interferes with work, the individual would be exempted. It will be assessed on a case-by-case basis, and if there's any indication that their disability affects their ability to work, they would be exempt from seeking work.

[1505]

**V. Anderson:** Almost by definition, if you have a disability, you are prevented from doing some kinds of work because the disability is such that you may not be able to climb stairs and go into a building that doesn't have an elevator. If you're in a wheelchair, the limitation of the kind of work you're able to do is there because of your disability in most cases. If you have a sickness disability, a physical disability that limits your stamina, then you're limited in the kind of work you can do. If you have a disability of sight or hearing, you need special skills and special training and special opportunities to go ahead and do that. This section treats you as if you were completely healthy and had no disabilities or no disadvantages that you have to overcome. Overcoming those difficulties is a major hurdle in itself without the kind of limitation this seems to put forward.

**Hon. M. Coell:** To answer the member, I think you have to realize that many people in British Columbia with disabilities are employed. Tens of thousands of people with disabilities are employed in British Columbia, and what they want is the ability to have a level playing field so that they don't have a 50 percent higher unemployment rate than people without disabilities. That's the direction we're moving in. If a person with disabilities quits work because of their disability, there would not be any sanctions to that person.

**J. Kwan:** Let me try this another way. I know the minister would like to say: "Well, they won't be sanc-

tioned. There won't be penalties that apply to the individual if they are fired from their job because of their disability or if they were unable to accept a job because of their disability." I know the minister would like to say that. But the original premise is this, which I think is the point I'm trying desperately to make with the minister and which the member for Vancouver-Langara is also trying to bring to the minister's attention, and he fails to either accept this logic or understand this logic.... So let me try this another way.

If you're a person with disabilities and you have a job.... Many people with disabilities do have a job. Some would argue that here I am doing a job, with a variety of different disabilities. The people who have a job are not applying for income assistance. They're not at the office. They have a job. They don't need income assistance. The people who have a disability and for whatever reason don't have a job.... It could be because of their disability. Perhaps a small part of it may be because of their disabilities. It could be other reasons too. Whatever their reasons are, they don't have a job, and so they go to the last resort, which is income assistance support, and they're able to show that they qualify under the disabilities definition. It's one that I disagree with, but they're able to show that they qualify.

Once they qualify for it, they are then, in the minister's estimation, supposed to go and look for work. Now, the disability may not be 100 percent why the person wasn't able to get work, but it may be a portion of the reason that that person is not able to find work. If the person gets offered work, maybe it's 25 percent of the reasons why they were not able to sustain that job and not 100 percent. Even then, for the very fact that unless the person can show that it is because of the disability that they were unable to accept that job or that it is because of the disability that they've been fired, would they be able to receive income assistance? Would they then be able to not be penalized under this piece of legislation that we're now debating before us?

[1510]

The issue here is this. If you qualify for income assistance under the disabilities act, isn't it assumed knowledge that sometimes the person may well lose their job, and part of that may well be attributable to that disability even though it's not 100 percent? Why should the person be penalized for trying? It is not for lack of trying. The person is trying, and if the person should fail at some point in time for whatever reason, why should they be penalized? It's not just about their eligibility that you're hurting the person on. As the member for Vancouver-Langara also says, it's for a variety of other reasons. Even the very fact that the person might have lost their job already is traumatizing for the individual. Yet the government is now going to come and say: "Well, that's not the only penalty. Now we're not going to be there to support you. You're not qualified for income assistance under this act."

**Hon. M. Coell:** I'll try to answer the best I can for the member. The hypothetical person that she describes would not be penalized. In fact, they would

have the ability.... If they lost their job because of their disability and had been on income assistance, they would be rapidly reinstated back on income assistance so that the security is coming back quickly if the loss of job is because someone is having problems with the disability that they have.

**J. Kwan:** If the minister is saying, "Don't worry," which I know the minister is fond of saying, the reality, though, I can tell you, is different. I've already cited cases during second reading debate where people were cut off the disability benefits, and they were forced to look for work under regular Bill 26. These are people suffering from HIV/AIDS and someone who has actually also lost his eyesight in conjunction with a variety of other health issues, but that person is expected to go and look for work. I expect that the person, if that person even was offered employment, would have a very difficult time sustaining that employment. And in that case, I expect that the person would be not eligible for income assistance.

What about this scenario? The minister talked about if the person was already on income assistance and if they were able to find work and if they lost that job, they would be able to get rapid reinstatement. What about the person in the 60-day period who lost work before that and then went to apply for income assistance? By the very fact that they were fired for cause — and it may have a component of it to deal with the disability that the person was suffering from — would that person be qualified? What would the person need to do to show the ministry that they were fired even with cause? They were fired with a cause, but it was related to their disability. How would one show that to establish that, so they would not be subject to the penalty this government is now imposing — that this minister is now imposing?

**Hon. M. Coell:** I think I understand the question, and I'll do my best to answer it. The person, if they lost their job and it was due to their disability and they applied for income assistance, would not have the sanction of the 60 days if it was because of the disability that they lost their job.

**V. Anderson:** I think it's important that we try to understand so that there's not misunderstanding in the community. I'm quite aware that the minister, in his comments, is positive on what he's trying to accomplish. I'm responding to his comment that persons with disabilities want a level playing field. They want to be respected in their own right for who they are, and that the same expectations would be made of them as they would of anybody else of the things they can accomplish and undertake. I agree wholeheartedly with that approach and with what the minister is putting forward in that position.

[1515]

Except that I have to ask: then how do we discover what is a level playing field? The University of B.C. wanted a level playing field so that those in wheel-

chairs would have the same opportunity for education. So they built in wheelchair paths for the university in order that these people could get around, which previously they were not able to. People who are blind or deaf have a level playing field now, because they have computers which are available for them to be able to work in a natural workplace, which they would not have been able to do before. The level playing field, in order to be level, of equal opportunity.... To have equity as well as equality, the field has to be different. What I'm trying to suggest is that there needs to be a difference here to recognize that the same field is not a level playing field for those in both acts.

**Hon. M. Coell:** Well, with regard to comments, employment strategy for persons with disabilities does a number of things. It supports persons with a disability. We have enhanced medical and dental, we have the \$300 earning exemption, we have the rapid reinstatement, and we now have a job strategy that will include a round table of businesses that we want to encourage to employ people with disabilities to level that playing field.

I don't think there's any secret to the fact that people with disabilities have had a much higher rate of unemployment for decades. It's not something that's new. It's something that we're working on. It's something that I think will take time to bring that disparity down, but it's something worth our doing.

Actually, the funding envelope has been increased this year. It's now \$19.2 million in funding, so there are a number of programs in motion here that should start to help that disparity between people without disabilities and people with disabilities getting employment. At the same time, you know, we want to make sure that we're treating people with disabilities fairly and people without disabilities fairly as well.

**J. Kwan:** I want to go back to this. Could the minister please explain how he would establish that a dismissal, for example, was related to a disability?

**Hon. M. Coell:** There could be a number of ways. You could have documentation from an employer, or you could have a number of comments and validators from the individual who is applying. As well, the caseworker would evaluate those bits of information that are usually brought forward at the time of an application.

**J. Kwan:** If you've been fired by your employer, it's highly unlikely that the employer's going to give you a piece of documentation that says, "You know, I fired you because of your disability," because that would be in violation of the Charter on discrimination. I doubt that any employer would actually go out and do that, so that puts the person in a very difficult situation in terms of being able to prove or show documentation to validate that. What's the minister's answer to that?

[1520]

**Hon. M. Coell:** Simply, the intention is to assist. I guess there are two issues that the member brings for-

ward. One, is that person exempt from the section 12? And if not, was the firing for just cause? If the firing was not for just cause, then we would possibly see a process that's been initiated through labour standards. As I mentioned in the previous question, there are a number of other processes that caseworkers do look for in dealing with an applicant — whether there is documentation from an employer as well.

**J. Kwan:** I know the minister is fond of pointing to other branches and offices available to investigate these kinds of cases, but the reality is that those offices are not available to assist. In case the minister himself hadn't noticed, his own government brought in changes to completely strip the employment standards branch from providing support for people who are faced with discrimination or complaints around the workplace. They're given a self-help kit to go and handle it themselves. They're not registered as cases when there's a complaint. The issue is that there is no branch that a person could go to. If you're a person who is suffering disabilities and who is trying to manage all of these kinds of things, one would have thought earlier that you could go to legal aid and ask for help with these administrative justice kind of cases. There is no legal aid branch that can offer that kind of assistance.

I don't know what the minister is talking about. I don't know what world he is living in. The reality is that those things don't exist for the people to access. This letter that I just read into the record.... Maybe the minister wasn't listening. Maybe he'll go back and look at his own letter, because it was addressed to him. The person says that a person with HIV/AIDS would have concerns not only on maintaining their physical health but also about disclosure of HIV status to potential employers and to co-workers. If you don't want that information to get out, and the minister says you're expected to go and look for work because you're qualified....

The minister is shaking his head, but I know a case of a person diagnosed with HIV/AIDS who has been told that they've got to go out and look for work. If that person is unable to find work or if that person is offered work and subsequent to that.... If the person doesn't want to disclose that this individual is HIV/AIDS positive and gets dismissed from work, how do you make the link that it is your disability that cost you the job at the end of the day, and it's not because the person is somehow unable or somehow has decided that they just simply don't want to work?

**Hon. M. Coell:** I just want to reiterate, and I think I've covered it in the past, that this ministry and government are committed to persons with disabilities. This is, I think, evident in the legislation, the policy, the funding of programs under the employment strategy for people with disabilities.

We're committed to safety and security, and again I would say to the member that we're looking at section 5 here, which is.... Basically, the use of the present tense is ambiguous. We're debating a section that the

amendment changes to past tense for clarity and limits a time period to 60 days. That could have been longer, and we want to make sure there's a definite time on that amendment to 60 days.

**J. MacPhail:** Mr. Chair, I'm going to take a tiny bit of a different tack with the minister. It was provoked by a telephone call that I had in a talk show. It's lucky I go on talk shows. It can fill the whole day. I talked about one call earlier this morning. This call was questioning the combination between the disability 2 and CPP.

What happens when you cut people off welfare? Sorry, Mr. Chair — through you to the minister. When the minister cuts people off disability 2 who have another disability income source, what happens?

**Hon. M. Coell:** The comments of the member would probably be better served in estimates or the questions, but they certainly don't have any relevance to section 5.

[1525]

**J. MacPhail:** In fact, they do. They have complete relevance. We're talking about a penalty. Maybe I'm wrong. My colleague has been doing all of the heavy lifting on this, and she's getting quite a lot of feedback from the public about what a wonderful job she's doing. I'm a little bit surprised that the minister dismisses my comments so completely, because I believe the section is about cutting people off — is it not? — through a penalty. We're talking about denying people benefits for 60 days. Am I correct or not?

**Hon. M. Coell:** I guess the answer the member is looking for clarification on would be that this only applies.... We're looking for eligibility, and the eligibility is that if someone is leaving employment and it's not related to their disability.

**J. MacPhail:** So the answer is yes. This is about cutting people off. Not being eligible is another way of saying we're cutting you off access to this benefit.

When income assistance was the place of last resort for support, the government of the day required that there be a full accounting and, I think, a deduction of any other sources of income including Canada Pension Plan disability. Is that correct? Well, actually, I know it's correct; I don't need to ask the minister that.

That was based on the premise that social assistance is the last resort for coverage, and so everybody.... It's a hard-hearted policy, I agree, but in order to allow the government to make sure everybody, as a last resort, was eligible for income assistance and to explain that to the public and to not put any barriers in the way of income assistance being the last resort, we asked people to declare their income from other sources, including CPP, and that would be calculated in how much income assistance they're getting.

The government, with this piece of legislation right here, has changed that principle. They're not providing

income as a last resort. In fact, they're saying to people: "We don't care whether you've got any income. If you've broken some little rule we've put in place here, we're going to penalize you 60 days." So I would argue you've completely done away with the principle of providing income as a last resort — you don't care — and that the person shouldn't be penalized in any way for sources of income from any other place. Can the minister comment?

**Hon. M. Coell:** I'd just remind the member, who I think was a minister in another government, that her government also had penalties, and — whether they be 60 days or 30 days — they had ranges of penalties and sanctions that have....

**J. MacPhail:** Not with people with disabilities.

**Hon. M. Coell:** Disposing of an asset would have been an example. Fraud would have been an example.

**J. Kwan:** You know what? I want....

**J. MacPhail:** You just make it up, don't you?

Interjection.

**J. MacPhail:** Not people with disabilities.

**The Chair:** Order, member.

**J. Kwan:** I would just point out a couple of things, Mr. Chair. The minister liked to use this continuously, even though he knows very well that it is he, his government, who has brought forward these very punitive changes in income assistance.

[1530]

I want to just touch for one minute on Bill 26, for people who are on regular income assistance. Yesterday we debated that in the Miscellaneous Statutes Amendment Act — section 3, I think it was. The minister liked to say: "Hey, there's not really that much change, guys. Everything is the same as it was." But when I asked the minister the question for a family — a single mom, for example, with children.... If they need support and are out on the street without food, would they qualify for income assistance in spite of this penalty that is now being imposed? The minister then said for people with children, they will get some assistance.

The minister then said that people with children will get some assistance, but reduced assistance, and I want to be clear on this point. Under the previous act, when a person was in that scenario they were always able to get assistance, and the penalties did not apply. That is a distinct difference. Single individuals who needed support — who were on the street without food, without shelter, who went up to the office and even if they quit their job for whatever reason — at the minimum were able to get hardship. They were not turned away to hear: "Sorry. You do not qualify. End of

story." That was not the policy of the former government.

In the case of people with a disability — and I want to be very clear about that — the previous government never made people with disabilities go out and develop a workplan, look for work and, if they didn't find work, subject them to a penalty. The only issue was: were they qualified for disability? We loved it, when we were in government, if a person was able to get work, but never were penalties attached to it if they lost that job.

Let us be very clear about the distinctions here around what was before and what is now. Please stop hiding behind that. You're paid a salary to be a minister, to answer for your policies that your government has brought forward. You can no longer hide behind the previous government, and even if the previous government made some mistakes on some of these issues, your job now is to move forward in a progressive way and not backwards in a punitive way.

I will be the first to accept that the previous government made mistakes, but do not hide behind that and say that these policies are the result of the previous government, because it simply is not true. The minister has time and again been misleading this House and misleading British Columbians, and that is simply unacceptable. Please do your job, minister.

Let me ask you this question. For people on disabilities — and this is a real, live case that impacts on three different constituencies.... This is a person who was my former constituent, who has moved to another area and was a constituent of the Speaker's for a period of time, who wants to actually move back to Kamloops and who now resides in the area of Vancouver-Langara. This is a person with disabilities. This is a person with disabilities who is able to secure employment in Kamloops if the person can get the transportation costs to go up there to secure that job, if the person is able to get the government to provide assistance for him to get the equipment for him to do that work so that he would then be awarded the licence to do so.

He has, to date, not been successful in dealing with the ministry. He has now come back to me to ask for assistance. I have written letters to his MLA. The two respective MLAs who are now involved in this issue in asking for assistance have also written to the Attorney General asking for assistance from the Attorney General, because he also has a case before the courts right now. He's got a court date pending.

If this person is unable to receive the support he's supposed to get from the government — and the former government, by the way, always supported people if they had jobs offered to them.... It supported them to get there, to get the equipment to get there and to get the clothing or whatever it was they needed in order to secure that employment. That is now changed according to this government. Yet people are expected to find work.

In this case, when the job offer dies because the person can't get up to Kamloops, when the job offer dies when the person can't get their licence renewed

because they were unable to get the money to purchase the equipment from the government, from this minister, will this person then be penalized? You'll say: "Guess what. You turned down a job. You will now be subject to this penalty." As I read the act, that's what it looks like to me. I'd like the minister's response to that.

[1535]

**Hon. M. Coell:** Just a clarification for the member. Under B.C. Benefits, families with children would have received a hardship which was totally repayable. What we're doing is not turning away families with children. They have a reduction that is not repayable.

**J. Kwan:** That's not the case, and I can tell the minister that. I dealt with cases for people thrown on the streets because they didn't have the money, they were being evicted, and so on and so forth. They always received the assistance.

For the minister to say, "Hey, you know what? Now we're providing some sort of assistance but at a reduced rate," as if somehow that justifies what the government is doing.... Some sort of penalty just to kick you a little bit further when you're out on the street is somehow okay with this government. It isn't. It isn't okay for the people who are suffering. It isn't okay for the children who need food, and a reduced amount of money may only get them the shelter but not the food they need, as an example. It is not okay for the minister to get up and justify that and somehow say that it is okay.

For the minister to suggest that somehow this is not really all that different.... I pointed to the case of the individual who was a single person. You know, is it any wonder, when we look in my own riding and actually in Victoria now, that people are living in empty buildings, setting up tents, because they cannot access government support? For the government to brag about.... It was just in this week's newspaper, on Monday. For the minister to brag about how great the welfare roll was because the numbers have gone down.... Miraculously, they're not eligible. They're not eligible, not because they don't need it but because the government won't let them have access to it.

That's why people are sleeping on the streets. I have never in my ten years as an elected official, municipally and provincially, seen this many people sleeping on streets. I used to be a housing advocate. I used to go out and look for people who were sleeping on the streets just so I'd get a better sense of what was going on out there and what needed to be done to provide assistance to people. Now I don't even have to look. I just walk down the streets, and people are lying right there in front of you.

How dare the minister sit there and say that somehow this is okay. His job is to provide assistance to the people who are in greatest need, the people who are most marginalized, and not create penalties for people so they can't get access to it. Furthermore, for the government and for the minister to bring forward policies that say to the people, "By the way, I expect you to go

out and look for work, and guess what. I'm not giving you any bus passes to look for work; I'm not giving you any support so you can go out and find work. But if you don't find a job, I'm going to cut you off anyway...." How dare he say that.

Now for the people who are faced with disabilities, for the government to say, "I will now impose a penalty on you within a 60-day period if you should be fired from your work.... If you should refuse to accept work, if you feel that there's discrimination going on in your workplace and you feel compelled to leave, you have to prove that you're being discriminated against." That's essentially what the minister is saying. It's been mentioned time and time again that sometimes it's not easy to establish discrimination. It is subject to the discretion of the worker to decide. But you know what? That discretion does not always translate to justice for people. What that sometimes translates to is non-access for people.

That is the problem here. That's why the government needs to change its legislation. That's why the government needs to change the policy, so that subjective decision is taken out of the equation, so that application of fair policies is being applied and so that assistance is provided to the people who need it the most.

I want the minister to answer the question in the case of this individual that I just mentioned, which involved three different constituencies. What will happen to him if he's not able to get the money to get up to Kamloops to buy the equipment in order for his licence to be renewed so he could get off of income assistance on the disability side?

**Hon. M. Coell:** The member brings up a myriad of suggestions, but I would suggest that she maybe go back to the BC Benefits Act from her government and read section 5. It might just help her and her colleague understand what sanctions were in place for persons with disabilities in the prior government.

[1540]

**J. Kwan:** Maybe I can suggest for the minister to read his own act that he just brought in this last spring and the penalties he's bringing forward. My God, I asked the minister a simple question. Let me just break down the number of questions that I asked the minister, because he's not been able to answer one question to date. God knows why he has this position. He's not able to answer any questions — not from the opposition; not from the member of his own caucus, Vancouver-Langara; not from British Columbians; not from letters that have been directed to the minister for answers. He's not been able to provide one answer on any of these questions.

Let me ask that question once again, because it's happening right now. It's not my constituent I'm dealing with in this case. What happens to that individual who has been offered a job, unable to secure money from the ministry to get up there to take that job and to get the equipment he needs to get in order to secure that employment? What happens to that individual?

Will that person be cut off income assistance under this act, this piece of legislation, this change, this penalty that this government, this minister, has brought before us?

**Hon. M. Coell:** I've actually answered that question a number of times. The answer would be no.

**J. Kwan:** Then why doesn't the minister provide the individual with the dollars to get up there to take that job and the moneys to buy the equipment so that he could have his licence renewed? Why not?

**Hon. M. Coell:** I think the member.... I've tried to answer her questions the best I can. We're dealing with section 5 here. I would be willing to answer any questions regarding section 5.

**V. Anderson:** Just in the spirit of being accurate, the person that is being discussed did get the money to go to Kamloops to have the job.

**J. Kwan:** The person was just in my office two days ago, and if that money came through just yesterday, I would be very surprised to learn that. The person was just in my office two days ago and was not able to secure that.

But, you know, I just want to make this point. The minister wanted to say that's not relevant to section 5. It is especially relevant to section 5, because what section 5 talks about is that a person would be imposed with penalties if they failed to accept employment, if they voluntarily left employment without just cause or were dismissed from employment for just cause. That case scenario fits right in there. If the government and the minister fail to see that, then I don't know what the minister, quite frankly, is doing in that chair. I really do not. There is absolutely a direct link.

The case I just highlighted is just one case in point. The issue I want to bring up is that it is not a case-by-case individual issue but rather an across-the-board policy issue. If the person indeed — as the member for Vancouver-Langara said and as I said, I spoke with the individual only two days ago — came through with the dollars and managed to secure that employment, I'm delighted. But it should not take three MLAs to advocate for that. It should simply be a clear direction of policy from the government to make sure that's in place. It's as simple as that. Not every individual has three MLAs working for them, trying to pursue a case on their behalf. Nor should they expect that to be the case.

What about those individuals who now are expected to look for work, with a disability or otherwise, and who do not get transportation support, as an example, to look for work? How are they expected to secure employment? Maybe the minister thinks it's funny, along with the deputy minister — that this is all very funny, that they don't need to pay attention to it and can laugh and chuckle about it in their own little corner. But you know what? It isn't funny. It means

real lives for real people, impacting them right now. Where is the training money that will provide the people the opportunity to secure the employment and live up to the work plan the ministry says they are expected to? If not, penalties would be imposed.

[1545]

The minister can sit in his chair and laugh and chuckle, make jokes and belittle questions that are being asked. You know, Mr. Chair....

**The Chair:** Member, will you please be seated for a second.

**J. MacPhail:** You guys used to do that all the time.

**The Chair:** Order, please. Order. I don't think it's appropriate to comment on what people are doing in the House.

Member, you have the floor. Carry on. Proceed.

**J. Kwan:** Mr. Chair, I want to say it's unacceptable for anyone in this House, especially the individual who has the authority and the power to bring forward changes that impact people's lives, to belittle or to minimize the importance of this debate by not answering questions. It's unacceptable.

If the Minister of State for Women's Equality wants to rise up and defend the single moms who are being penalized by this legislation, she could do that instead of sitting there quietly in her chair without any advocacy from her, without rising up to say: "This penalizes single moms and children, and I, as the minister of state, will not accept that."

Instead, she sits silent and defends the government on these issues. Instead, she goes about shutting down women's centres across the province, throwing women out on the street. Then, if you happen to be an individual who needs income assistance, who's not able to access it and who may be faced with penalties, the minister of state sits silent. Shame.

**Hon. L. Stephens:** How many people are working?

**J. MacPhail:** You don't know. You don't have a clue. They've left the province.

**The Chair:** Order, please.

Member, we are dealing with section 5. Please keep your comments to section 5.

**J. MacPhail:** Yeah, and each of them probably has to have four or five jobs. Did you hear that at UBCM? I'm glad. My son has five of them, when people talk about the 88,000.

**The Chair:** Order, please.

**J. MacPhail:** That's what the public is saying.

**J. Kwan:** I want to ask the minister a question, Mr. Chair.

Interjection.

**J. MacPhail:** Actually, it is. The overall payroll is down.

**The Chair:** Member, let's keep the debate on section 5 between the member standing and the minister.

Proceed, member.

**J. Kwan:** I want to ask the minister this question. The minister says he's expecting people to go and look for work and that if they fail to accept suitable employment, penalty would apply — in this case, for people with disabilities. I want to know from the minister: what support is the ministry providing to these individuals, especially on the issue around transportation? I'm not looking for an answer where the minister gets up and says: "We're spending so many million dollars." I want to know, specifically: if an individual needs transportation, would the person be able to get bus passes, as an example, in order to go and look for work to fulfil that work plan?

**Hon. M. Coell:** To the member, I have respectfully answered all of her questions to the best of my ability. This is an amendment to legislation that we debated last spring, and the regulations have been now put in force. This is an amendment that clarifies a prescribed form, and it clarifies a length of time. I have, to the best of my ability, tried to answer her questions that have been relevant to this section, and I will continue to do that.

**J. Kwan:** Then where's the answer to my question?

In case the minister has forgotten the question already — because he provided no answer — I asked the question: where is the money to support the people with transportation when they need it to fulfil their employment plan? It's subject to the employment plan that they could actually lose or be penalized. Where's the money? If a person needs a bus pass in order to fulfil that employment plan, does the ministry pay for that bus pass?

[1550]

**Hon. M. Coell:** As I said, with respect, I will do the best I can to answer questions that are relevant to section 5. As I said earlier, the amendment changes to the past tense for clarity and limits the time period to 60 days.

**J. Kwan:** Let me just read, then, into the record what we're debating right now. The section we're debating right now says this. It's section 5, by the way, not 6.

"(1) Subject to the conditions of an employment plan, the family unit of an applicant or a recipient is subject to the consequence described in subsection (2) for a family unit matching the applicant's or recipient's family unit if  
(a) at any time while a recipient in the family unit is receiving disability assistance or hardship assistance or within 60 days before an applicant in the family unit

applies for disability assistance, the applicant or recipient has

- (i) failed to accept suitable employment,
- (ii) voluntarily left employment without just cause, or
- (iii) been dismissed from employment for just cause, or
- (b) at any time while a recipient in the family unit is receiving disability assistance or hardship assistance, the recipient fails to demonstrate reasonable efforts to search for employment."

This section is what we're debating right now, Mr. Chair, and I asked a question directly related to this section that we're now debating.

To the minister: when a person is expected to fulfil this employment plan and part of the fulfilment requires transportation support, will the person get financial support from government for transportation needs so that the person can fulfil that employment plan requirement? If they do not, the person could be penalized.

That is the section we're now debating in this House, and I expect an answer from the minister.

**Hon. M. Coell:** With respect to the member, we're discussing an amendment that changes the present tense of the relevant section.

**J. Kwan:** You know, the minister likes to hide. He doesn't want to answer questions, and he's just saying that it's a tense issue. It isn't.

You're imposing retroactively a penalty for people — that is what the minister is doing — if they don't meet the conditions. To avoid the penalty, a person would need things in order to meet that condition. One of those things would be transportation expenses, which a lot of people don't have access to, particularly persons with disabilities. If they don't have that transportation, how, then, would a person be expected to be able to meet that employment plan? If they can't meet that employment plan, then the penalty triggers, and the person is cut off and is deemed to be ineligible.

I don't know how else to explain this to the minister. He's simply choosing not to understand so that he doesn't have to know the reality of the pain and suffering that this government, this minister, is subjecting the most vulnerable British Columbians to.

**Hon. M. Coell:** To answer the member, this is not retroactive. It specifies a time period of 60 days so that it is clear and not ambiguous and is not open-ended.

[1555]

**J. MacPhail:** I admire with all of my heart the passion with which my colleague the MLA for Vancouver-Mount Pleasant brings forward these issues. She's doing it with a great deal of passion, but she's also doing it with a great deal of substance. She's bringing forward real cases of people who have been affected by these draconian changes that this government has brought into support for people as a last resort.

I think the frustration arises because the minister sits there and somehow intimates that they're house-keeping changes and then tries to throw it back in the opposition's collective faces that perhaps we should examine our own record.

Well, I was the minister who brought in the BC Benefits Act, and people on disabilities were never, ever subject to the rules that the minister now imposes every day on people — every day. I challenge the minister to find one single case before his government took over and destroyed the social safety net for people with disabilities. Find one single case that comes close to matching the actions of his government. He won't be able to do it.

I'll tell you what the evidence is, Mr. Chair. The evidence is that there are tens of thousands of people with disabilities who now have a pension and who are living in fear of being kicked off. That fear wasn't because we're fearmongering, my colleague and me. It wasn't because my colleague rises every hour with a passion on behalf of these people. It's because there are real, live examples of people who are being threatened with that. I'm not even talking about the 29-page report that has to be filled out at the cost of hundreds of thousands of dollars to our health care system, by the way. Hundreds of thousands of dollars to fill out these forms because the government thinks it's fine to impose red tape on people with disabilities and cost the health care system hundreds of thousands of dollars to implement that red tape because of doctors' costs. That's fine.

When this government introduces an amendment that penalizes people double what they were penalized before, people live in fear. They want to know what the rules are about that penalty. Why is the government making it more difficult? What else is going to change? Already the vigour with which this government applies its rules to kick people off income assistance is unmatched. There have been tens of thousands of people who are no longer collecting income assistance. The government tried to fly by that it was all good news, and their own attempt at misleading came back to fly right in their own faces. They have no idea what's going on — no idea.

The real examples come to our offices every day. It's not just my office or my colleague's from Vancouver-Mount Pleasant. It's every single one of our offices here that is getting these requests. It is only the bravery and courage of — not even me — the member for Vancouver-Mount Pleasant, who raises this with the vigour that it does deserve in defence of people with disabilities. Every time the minister stands up and says, "It's simply a change in tense," it's like a verbal assault on people with disabilities.

[1600-1605]

Section 5 approved on the following division:

YEAS — 48

Coell                      Hogg                      Hawkins

Whittred	Cheema	Hansen
J. Reid	Santori	Barisoff
Nettleton	Roddick	Hagen
Murray	Plant	Collins
Clark	Bond	Nebbeling
Stephens	Abbott	Neufeld
Chong	Penner	Harris
Brenzinger	Belsey	Bell
Chutter	Mayencourt	Trumper
Johnston	R. Stewart	Hayer
Krueger	Bray	Les
Locke	Nijjar	Bhullar
Wong	Bloy	Suffredine
Cobb	K. Stewart	Lekstrom
Hamilton	Sahota	Hunter

NAYS — 3

Anderson	MacPhail	Kwan
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[1610]

Sections 6 to 8 inclusive approved.

On section 9.

**J. Kwan:** I have a number of amendments to make. I'd like to table those, please, relating to section 9. Here's the signed copy. For the information of the House, I've shared a copy of my amendments with the minister. Sorry. The minister says he hasn't got a copy. But I just passed a copy over to the minister.

**The Chair:** We have three copies at this point, but that's all we have.

**J. Kwan:** There are three separate amendments. Perhaps while we wait for copies to be made... I thought there were enough copies, but we're short one, so copies are being made. Perhaps I can ask the minister this question to start off the debate, then. Could the minister please advise: why not restate section 12(1) of the act regarding the substance of deliberations? The act just talks about the deliberations, but not the substance of the deliberations.

**Hon. G. Plant:** Are we debating the member's amendment? I thought she had tabled and moved an amendment.

**The Chair:** No. She's tabled but not moved them. We're still just talking in general terms.

**Hon. S. Santori:** I move the amendment to section 9 that is standing in my name on the order paper.

[SECTION 9, by deleting the proposed section 12 (5) and (6) of the Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165, and substituting the following:

(5) The Lieutenant Governor in Council by regulation may designate a committee for the purposes of this section.

(6) A committee may be designated under subsection (5) only if

(a) the Lieutenant Governor in Council considers that

(i) the deliberations of the committee relate to the deliberations of the Executive Council, and

(ii) the committee exercises functions of the Executive Council, and

(b) at least  $\frac{1}{3}$  of the members of the committee are members of the Executive Council.]

On the amendment.

**J. Kwan:** The question still applies. Why not restate section 12(1) of the act regarding the issue around deliberations to include the substance of deliberation?

**Hon. S. Santori:** We are not changing the substance of deliberations that are included in section 12.

**J. Kwan:** That is the question. Why not?

**Hon. S. Santori:** The provision has been there all along. This is not an issue of deliberations, and that is not why we are bringing this amendment forward.

**J. Kwan:** Thank you, Mr. Chair, but the issue is this. The provisions that the government has now brought forward are to exclude access to freedom of information. The exclusion that the minister's now brought forward is to say that government committees, where they include cabinet members as one third of the members, per the amendment, would exclude for that information to be provided through the FOI process.

Formerly that was not required because it was clear that those exclusions would only apply with committees that are doing the business of the executive council. But now the government has created new structures where it is in relation to caucus committees, where there might be some cabinet ministers present, and those would be excluded. It's substantively different. How do we know that the deliberations that now take place are actually the business of the executive council, that they're actually doing the business of the executive council? If it's just a general broad term, "deliberation," to be used, then I believe that's not prescriptive enough to clarify, to indicate that you have to be doing the business of executive council for it to be excluded.

[1615]

**Hon. S. Santori:** The test has not changed in what we are bringing forward. The deliberations of the committee relate to the deliberations of the executive council. The question here is the inclusion of those committees who carry out the deliberations as a function of cabinet.

**J. Kwan:** But it isn't clear, according to the amendment. Certainly, in the first round that the government

brought forward this section under the miscellaneous bill, that was not clear at all. In fact, the office of the information and privacy commissioner had written to the government particularly on this issue to bring further clarification to it and requested the government to make various changes.

Now government has made some changes, but still, in my mind, it's not clear. It's still not clear, so let me ask the minister this question, because the commissioner had to actually write a letter to complain to the minister about how the amendment was brought about, how the changes were brought about under the Miscellaneous Statutes Amendment Act (No. 3), 2002. Why was the commissioner not consulted before the rushed amendment was put in the miscellaneous bill?

**Hon. S. Santori:** The commissioner was, in fact, consulted prior to the amendment. At the time when the amendment came forward, there was no outright objection by the commissioner in terms of the amendment that came forward. There was a letter, yes, back to myself, to my office, whereby the commissioner did bring to my attention that the context of the amendment was somewhat broad, and he had some difficulty with that.

Government is very receptive to productive suggestions, and we respect what the commissioner brought forward to us. It was not our intent to try to be secretive on any activities that take place in these committees of cabinet, which play an integral part in the decision-making process.

On receipt of the letter, I did instruct my staff to communicate with the commissioner, which they did. They sat down with the commissioner, in fact, and reworded the amendment so that it would satisfy the concerns that the commissioner had brought forward. As a matter of fact, the commissioner was part and parcel of the amendment and the wording of the amendment that I just introduced.

**J. Kwan:** Well, isn't that interesting, because the amendments came after the letter was issued, not before. Of course, my question was around the consultation with the commissioner prior to the amendment being brought to the House. The minister would like to say, "Well, gee, consultation was done." But you know, it's interesting. When you read the letter, there were a lot of issues that I could glean from the letter from the privacy commissioner in terms of the concerns with the proposed changes that were brought forward under Bill 62, the Miscellaneous Statutes Amendment Act (No. 3), 2002.

Just to put some of the issues on the table here, the letter actually says: "I therefore do not agree with you that the proposed amendment 'simply confirms' that government caucus committees are cabinet committees. The proposed amendment does not name government caucus committees or otherwise apply only to them. It could be used to cover a much broader variety of committees."

It goes on to talk about how this application should be used very sparingly. The amendment's language is not, as I believe it could be, specific to government caucus committees and committees such as the agenda and priorities committee, and so on.

Lots of concerns have been raised. It was only after the fact that those amendments are now before us. I'd like to ask the minister this question: will the amendment capture the government caucus committee?

**Hon. S. Santori:** First of all, I just want to clarify something with the member opposite. As I said earlier, there was consultation with the freedom-of-information commissioner on the first amendment, at which time he did not oppose the intent of what government was trying to do. That was the first consultation with the freedom-of-information commissioner.

We then received the letter from the commissioner with respect to the concerns of the broadness of the wording of the amendment that came forward. We then further consulted with the commissioner, and as a result, with his input and his suggestions, we have now brought forth this amendment to clarify the concerns that the commissioner had from the original amendment.

[1620]

**J. Kwan:** I'm sorry. I didn't hear the answer from the minister as to whether or not the amendment captures government caucus committees.

**Hon. S. Santori:** As the amendment states, the committees will be identified by regulation, and yes, the government caucus committees will be part of that.

**J. Kwan:** Then on the basis of the amendments, too, the composition of the government caucus committees will also change. The amendment now requires that there be one-third of the members of the committees who are members of the executive council.

**Hon. S. Santori:** Once again, with respect to the amount of representation by cabinet members on the government caucus committees, the FOI commissioner did bring to our attention what he would have felt comfortable with. I'm not sure, but if my memory serves me correctly, the number of one-third was within the context of his letters. In actual fact, the government caucus committees already do meet the requirement that is brought forth in this amendment.

**J. Kwan:** Could the minister please advise how many cabinet ministers now sit on the government caucus committees? Which ones would change, and how would the changes take place if they are required to change in order to meet this requirement?

**Hon. S. Santori:** With respect to the question by the member opposite, I'm not totally sure of the exact numbers of each caucus committee, but I believe they're 15 and 16 and some, 14. I can provide you with

the number of cabinet ministers, but I feel quite confident in saying that each of them is composed currently of one-third cabinet members.

**J. Kwan:** I don't know if it's difficult for the minister to get this information. I would suspect the minister would readily have the information now, and I would like to receive it as we're debating this in the House. I expect that perhaps your staff could run the information to you now, as they are watching the debate.

**Hon. S. Santori:** I would be more than pleased to provide this information to you later. I don't think it's relevant to the debate at this time.

**J. Kwan:** It may not be relevant to the minister, but it is relevant for the opposition caucus. The fact of the matter is that there are going to be changes. I would like to know, because of the legislation that's being debated right now, if the amendment being debated right now is going to cause changes, which government caucus committees it's going to change and how it is going to change them. I think the information is very relevant, because it is the amendment the minister has brought forward that would result in those changes.

**Hon. S. Santori:** The names of the committees, as I said earlier, will be named by regulation, and we will meet the conditions as set out by the amendment. Further to the question the member brought forward, I can give her assurance that the government caucus committees that exist now are.... I would say all but maybe one — and I'm not even sure of that one — do have one-third cabinet ministers sitting on those committees. If we do not in fact meet the requirement on that one, we will meet the requirement.

**J. Kwan:** The minister seems to me to know the answer. He says there may be one that may not meet the requirement. Which one is it?

**Hon. S. Santori:** I did not memorize each of the committees that may be listed by regulation of OIC. For that, I apologize, but I can reassure the member that those committees will be composed of one-third cabinet ministers. I think that's the issue before us.

**J. Kwan:** The minister just said he thinks there may be one. Which one does he think does not meet the requirement? It's a simple question. There's no trick to it.

[1625]

**Hon. S. Santori:** And there's no trick to a simple answer. What the amendment said was that the committee....

Interjection.

**Hon. S. Santori:** I think it's irrelevant which one it is at this time. The fact of the matter is that one-third will be composed of cabinet ministers for all those committees that are named by regulation in the OIC.

**J. Kwan:** So much for an open and accountable government. They are taking away access to freedom of information. The minister says: "Well, gee, there's nothing hidden about this answer." I don't know why the minister doesn't just say it. Why doesn't he just say it and then provide information for British Columbians to know?

Interjection.

**J. Kwan:** The minister responsible for the community charter says: "Well, gee. Go do your homework." I suppose that is the reality with this government. They expect every British Columbian to go and read through *Hansard*, to go and look for OICs to find out what information the government is trying to hide from the public. That is the expectation from this government. That is their new-era agenda, which is to prevent information from getting out to the public no matter what.

Maybe that's the intent. Maybe that's why we're debating this amendment, this bill, this miscellaneous statutes amendment act to begin with — a bill that really is supposed to be dealing with miscellaneous things. Lo and behold, what do we find? Government is trying to prevent access to freedom of information. That's what we find. That's what we're debating right now in this bill.

I want to go back to the issue around the substance of deliberations. I have the Freedom of Information and Protection of Privacy Act before me. Subsection 12(1) says: "The head of a public body must refuse to disclose to an applicant information that would reveal the substance of deliberations of the executive council or of any of its committees including any advice, recommendations, policy considerations or draft legislation or regulations submitted or prepared for submission to the executive council or any of its committees."

I want to go back to ask a question around the substance of deliberation, because that is central to the point here. The amendment does not address the issue around the need for the substance of deliberation. It just talks about the deliberations. In essence, deliberations could be anything. It could be about a variety of things. It may not necessarily even be the business of the executive council. Why has the government excluded that?

**Hon. S. Santori:** The test is still the same for withholding information. We are talking about the deliberations and the functions of those committees and the relationship they have with cabinet. We have made it very clear from the start, and I will refer to the government caucus committees. It should be well known by the member opposite that we made it very clear prior to the election that government caucus commit-

tees were going to play an integral part in the decision-making process of this government. In fact, we have carried out that commitment.

The duties and the responsibilities of government caucus are an integral function and a direct link to what cabinet does in terms of cabinet submissions, in terms of making recommendations, providing advice and taking part in the development of policy.

**J. Kwan:** Actually, quite the contrary. There is nothing clear and open and accountable with respect to the government caucus committees. The reality is this: the government says — you know what? — it will make things transparent. They will provide the information to the public. The reality is that when the government caucus committees were set up, they were secret committees. They were not open to the public, and now, of course, the process of FOI would not be accessible for these cabinet caucus committees. That's what the government has brought in to further shut down the ability to get that information.

The government has actually done a variety of reviews from these so-called cabinet caucus committees that are supposed to be open and public but that are secretive in reality. We have not seen any of the reports that came out from the government caucus committees. The report on leaky condos — where is it? It's been some time now. Why isn't it out in public? The report on smoking is out. Government even brought in legislation to take away workers' rights around the WCB smoking issue. No report. The report on oil and gas — where is that? Huge ramifications both on the economic side as well as on the environmental side. Where are these reports?

[1630]

To pretend that this is an open and accountable government is simply not true. To pretend that what this government is doing is transparent is simply not true, because to date everything has been done in the back rooms secretly and behind closed doors. Now this minister, this government, has brought forward legislation that will further prevent information from being accessible and made public to the general population and to British Columbians.

The minister committed that he would provide a list of the government caucus committees and their membership. We're not going to get it at this time, but I expect that the minister will send that information to our office at a later date.

I would also like to ask the minister if he could advise whether there is some time frame that would apply to the government caucus committees if they are not complying with the provisions under this amendment. What is the time frame for the government to bring that about?

**Hon. S. Santori:** First of all, some of the reports, if not the majority, that the member opposite was referring to were not part of the caucus committees.

**Hon. G. Plant:** Government caucus committees.

**Hon. S. Santori:** Sorry — of the government caucus committees. Secondly, none of these committees will be designated until such time as they actually comply with the requirements that are brought forth in the amendment.

I'm quite shocked at the member opposite. On one hand, she says that the government is not open, that we're not transparent. I beg to differ. We brought out an amendment to be open and transparent and to further clarify the intent of section 12 of the Freedom of Information and Protection of Privacy Act.

She understands that this came forth with good intentions, and I will sit up here very proudly with good intentions. We did listen to the suggestions of the information and privacy commissioner. We respect his suggestions. We brought the commissioner to the table with staff to be able to sit down and reword the amendment to satisfy the commissioner. Surely, the commissioner, I feel, is quite confident with the amendments and the intent that this government is trying to accomplish with respect to those committees and the functions and roles they play in connection with cabinet.

I feel very confident that we have been very open, very transparent and very accountable and that we have worked together with the commissioner to come up with the appropriate amendment that will both serve the needs of the people of this province with respect to access and freedom of information and the protection that cabinet and its committees rightfully deserve during the deliberations.

**J. Kwan:** Unfortunately, the opposition and, I would venture to say, a lot of British Columbians do not agree with this government. The government would like to believe and pretend that they are open and accountable, but the reality is they're not. Let's just face it. Let's just call a spade a spade. This is not an open, accountable, transparent government. You can say it so many times to yourself in front of the mirror. It doesn't change the reality. It's different. People see it differently, and that is the reality. The minister should know that and just simply admit it.

Will the designation of a committee be done on a case-by-case basis, or will it be done as once designated, always designated?

**Hon. S. Santori:** As I had indicated earlier, these committees will be designated by regulation. I don't know what more I can add to the member and the question that she's brought forward.

**J. Kwan:** It's quite simple. Would it be done on a case-by-case basis? Will there be new committees added to it over time? Or is it just what is existing now, and then once those are designated, that's it?

[1635]

**Hon. S. Santori:** I can't predict what committees may be required in the future. If there are new designations to take place in the future, they will have to meet

the test that was set out in section 12 with respect to the substance of what takes place within those committees. The test will always be there.

**J. Kwan:** Is it the intent to only use this for government caucus committees, or would it be used to designate other committees that the government may conjure up?

**Hon. S. Santori:** This will apply to all cabinet committees or committees of cabinet.

**J. Kwan:** Cabinet committees, caucus, government caucus committees.... Any other categories, then?

**Hon. S. Santori:** At this point — and I will try by memory to relay this to the member opposite — it would include the five government caucus committees: Treasury Board, agenda and priorities, legislative review committee, the cabinet committee on the economy.... And I believe there's one more. Those are the existing ones.

**J. Kwan:** I'll ask the minister, then, to also provide a list of those committees and their membership to the opposition — that would be in addition to the government caucus committees — if the minister could do that at a later date.

The one-third designation — why one-third?

**Hon. G. Plant:** While the minister is dealing with that question — the answer to which I think I know, because it was in the letter she read from earlier — I just wanted to take this opportunity to express my appreciation to the minister for the way in which he has moved forward on this issue. I had some responsibilities in respect of the FOI legislation when I was an opposition member. I think I participated in two or three standing committees of the House that looked at information and privacy legislation and also recommended the appointment of the current commissioner. I also want to, as a colleague of the Minister of Management Services, express my appreciation to the information and privacy commissioner for his contribution to this discussion.

This is one of those issues where some of the public commentary, I think, has missed the point. Unfortunately, even some of the advocacy commentary has missed the point. Section 12 of the FOIPPA has been there from the beginning of this legislation, which, as you know, Mr. Chair, was introduced by the NDP when they were in office in the 1990s. I have said before, and I'll say again that it may represent their single finest hour in a decade of government.

Section 12 says today and will say tomorrow and has always said that there are circumstances in which the executive council or any of its committees ought not to be required to disclose to the public information. In fact, section 12(1) is unusual. In many cases, the question of whether or not documents should be provided to an applicant who seeks them is left to the head

of a public body as a matter of discretion. That is, the public body head may or may not disclose.

In this case, the former government that the member was a member of thought that cabinet deliberations were, by their nature, unique. They are, by their nature, unique in our constitutional framework. Accordingly, it's, I think, quite legitimate that section 12(1) of the FOI act read as follows: "The head of a public body must refuse to disclose to an applicant information that would reveal the substance of deliberations of the executive council or any of its committees, including any advice, recommendations, policy considerations or draft legislation or regulations submitted or prepared for submission to the executive council or any of its committees."

[1640]

Now, one of the aspects of the public discussion of this that has concerned me — because I am always interested in ensuring that the public understand what is being proposed and what the law actually is — is that it is not every document that is a document of the executive council that is non-disclosable here. This is actually a pretty clear test, and it's a good test, because it means that only the things that relate to the heart of what the executive council does are in fact exempt from disclosure. In fact, they're not exempt from disclosure, but the author of the act has said they must not be disclosed.

That public policy distinction actually is given further life in subsection 12(2), which I have not seen any reference to in the public discussion around this issue over the past few weeks. Subsection (1) makes it clear that this protection from disclosure does not apply to information in a record that has been in existence for 15 or more years. It does not apply to information in the record of a decision made by the executive council or any of its committees on an appeal under an act. It does not apply to information in a record the purpose of which is to present background explanations or analysis to the executive council or any of its committees for its consideration in making a decision if the decision has been made public or implemented or if five or more years have passed since it was made or considered. In all of those cases, that restriction which the author of this act put in place does not apply.

Now, let's be clear about what the author of the act said. It said that this protection was available to and in fact was required for the protection of the executive council, but not just the executive council. What subsection (1) says, twice, is "the executive council or any of its committees." For as long as this act has been in place, the same rules that restrict and prevent disclosure of cabinet deliberations are there also for the benefit of the committees of the executive council.

That's not new. That has been there from the moment that the members opposite and their party brought this bill onto the floor of the Legislature to be supported, as I believe it was, by all members of this Legislature who were in the chamber in those days.

What has happened? What has happened recently is this. When we took office, we created a new set of

committees of the executive council. We called those committees government caucus committees, but they have been, from the outset, committees of the executive council. They are not committees of caucus. They are not committees of this Legislature. They are committees of cabinet. That is how they were created. That is how they have been staffed. That is how they are administered, and that is how they operate. Nothing has changed since June 5, 2001, with respect to that.

What happened was that an issue was raised for the consideration of the information and privacy committee as to whether the government caucus committees, properly speaking, were in fact committees of the executive council. That question was before the commissioner, who expressed an opinion on it which I respect and which we as government are bound to respect but which, with respect, I disagree with. The commissioner failed to see that the GCCs are committees of cabinet.

[1645]

In order to ensure that the protection of this statute, which its authors always intended would be there for the executive council or "any of its committees," is there as it was intended to be from the outset, we have brought forward in this bill amendments which do nothing more than provide a framework of clear and concise and certain principles that in fact will allow the public to see which committees are in fact the committees of the executive council for the purpose of applying the test for disclosure in subsection (1).

Now, we wrote the provision that's in Bill 62 in a manner that gave cabinet a fairly wide degree of discretion about which committees from time to time would be included within the umbrella of the mandatory obligation that the author of the act placed in section 12(1), which the author of the act placed there for the benefit of the committees of the executive council. As I have heard the minister say, his officials spoke with the commissioner to discuss this issue as they worked to prepare the amendment that was introduced in the bill that was originally tabled. I get that there was some discussion after the fact, in the public domain and elsewhere, around whether the amendment as proposed in the bill was apt to achieve the purposes for which it was intended, and only those purposes.

I congratulate the minister for going back to the drawing board and telling his officials to sit down with the commissioner again and say, "I want to make sure I get your intent right"; to read the letter that the commissioner wrote — a thoughtful and helpful letter; to point out and to identify that the commissioner thought there should be a three-pronged test; and to bring forward an amendment here today that gives life exactly to that three-pronged test. That's how you make good legislation. That's how an open, accountable and transparent government makes good legislation for the benefit of all the people of British Columbia, and I think the minister deserves congratulations for that.

I thank you, Mr. Chair, for the opportunity to participate in this important discussion.

**J. Kwan:** I guess we're back to second reading debate, so let me go into some of the issues that the Attorney General raised.

Let me tell you, you cannot have it both ways. You cannot argue on the one hand that this is a cabinet committee doing the work of the executive council and therefore should be exempt — and that it was always the original intent for it to be exempted — from FOI provisions, when the reality is that the funding that backs the government caucus committee does not come from the source that funds executive council work. Which is it? You cannot have it both ways, and that's what the Attorney General is trying to pretend is the case.

You know what? The government got caught red-handed trying to close the doors for access to information. The government caucus committees were never meant to be doing executive council's work, and the government caucus committee....

As such, the argument was from the government side why the funding for those caucus committees did not come from ministers but rather from another source, the Legislature — funding that was supposed to provide for all members of the Legislature on committee work. That's how it's being funded. On that basis, the funding source in and of itself tells you that it is not an executive council committee.

You cannot have it both ways. You say now, "Well, the funding source did come from the larger Legislature's budget," and then on the other hand: "It's really doing government caucus committee work." Which is it? You cannot have it both ways. That's what the Attorney General would have you believe, would have the public believe.

[1650]

You know, the FOI commissioner said that section 12 of the act could not be used to protect government caucus committees or other committees that are not a functional part of the executive council. The original amendment contained in the bill allowed the cabinet to designate any committee as a committee of cabinet. Following introduction and then criticisms from the media and from the FOI office — people who advocate for openness and accountability — the government made a change, and the commissioner wrote a letter calling the government on it. Then the minister said the original amendment was simply to clarify that government caucus committees were in fact cabinet committees, thereby extending what is a cabinet committee, and that their deliberations would have the same protection as cabinet deliberations.

The amendment on the order paper which we are now debating, submitted by the minister, corrects some of the original faults of the changes the government brought in under this bill, but it doesn't actually change all of the faults of the amendments. There is the issue around the amendment which deals with the substance-of-deliberations issue — if the threshold for a cabinet committee was a committee made up of a majority of cabinet ministers or only of cabinet ministers.

The Attorney General can revisit history all he wants, but they have to make up their mind. The government has to make up its mind. Which is it? Is it a cabinet committee, or is it not? They want it both ways, and they're going to use their majority to ram it through, to have it both ways — for the funding source to not come from cabinet ministers' offices and to have the freedom-of-information protection.

Why apply the freedom-of-information protection for nothing else than to prevent public access to information on what is really going on with this government? That is the reality, so let's just call a spade a spade. Let's just face reality as we know it and not re-create history, as the Attorney General likes to do.

I want to go back to the minister on the question. I asked a question around one-third. Why one-third? The Attorney General jumped up and answered the question. I guess the House Leader was not in the House to answer all the questions for all the ministers, so he felt compelled that he must. He says: "Well, the letter from the information and privacy commissioner says it should be one-third."

No, it doesn't say that. Here's what it says. Let me read this into the record: "A committee should be eligible for designation only if at least a substantial minority of its members and, in any case, not less than one-third of its members are cabinet members." So a committee with only one cabinet member should not be eligible for designation. It says "at least"; it doesn't say "one-third." Why not half? Why not a majority? If truly the committee.... Why not more than one-third? Why not say half?

Interjection.

**J. Kwan:** Actually, no, I don't agree with just one-third. I agree with more — at least a majority — to be designated.

Interjection.

**J. Kwan:** Then the member for Burquitlam, I think, is asking why we didn't do it. We never created cabinet caucus committees to preclude public access to information. We never did that when we were in government. It was either clearly a cabinet caucus committee or not. There were no ifs, ands or buts on where the funding sources came from. It was always clear. That's why that question never came up when we were in government. Let's just be clear about that.

Why not more? Previously, cabinet caucus committees.... Actually, I shouldn't even say cabinet caucus committees. Committees, where the application of FOI provisions applied in this section, always included the majority of cabinet members — always. The funding source never came from the larger Legislative Assembly — never. That is the reality. Why not more than one-third? Why not the majority?

**Hon. S. Santori:** The member opposite refers to "let's call a spade a spade." Well, okay. Let's deal with

the ace of spades right now, and let me tell you what the ace of spades says, as my hon. colleague the Attorney General stated earlier. Let me read it to you again very, very slowly: "The head of a public body must refuse to disclose to an applicant information that would reveal the substance of deliberations of the executive council or any of its committees, including any advice, recommendations, policy considerations or draft legislation or regulations submitted or prepared for submission to the executive council or any of its committees."

The member opposite has known for well over a year what function government caucus committees do. It's "including advice." The act tells us not to disclose that information.

[1655]

Interjection.

**Hon. S. Santori:** The grandstanding from the member opposite is astonishing, hon. Chair.

**J. Kwan:** Just complete nonsense. None of the work from the so-called cabinet caucus committees was ever made public. They were all secret behind closed doors. None of it was accessible. It was not open to the public. Oppositions weren't invited to sit on them. You know what? Legislative committees always included members of the opposition — always, actually, included the public. Yet it's funded from the Legislative Assembly, and then they say it's not a legislative committee. They say it's a cabinet caucus committee, and now, by extension, it is doing the business of executive council. Therefore, FOI provisions do not apply. You cannot get access to the information, but somehow that is open and accountable government.

My gosh, what planet do these new-era Liberal MLAs come from? Certainly not the planet of truth, integrity and open transparency — certainly not from that realm, I can tell you that. They're from outer Mars, way out there where everything is done in darkness and secrecy. That is the reality of it, and they try to fudge it however they want to fit their agenda, to fit their requirements, to fit their conditions just so they can get out and pretend that there is democracy and openness when, in reality, there isn't.

The opposition does not agree with the amendments. We think that they don't go far enough. We think that in the minimum, a majority if not all of the members of these so-called government caucus committees should be cabinet members. If they are cabinet members, then they should be funded accordingly and resourced accordingly. The funding should not come from the larger Legislative Assembly. You can't have it both ways.

I have my own set of amendments. After these amendments are tabled, I'm going to table.... Actually, I have tabled my own amendments. Mr. Chair, I need some clarification. I first tabled them, and I was going to save time by proceeding to ask questions, and then the minister got up and tabled his amendments. I'd like

clarification in terms of whose amendments are being tabled first per the recording of the House for the minutes that were provided during this debate.

**The Chair:** We'll be dealing with the minister's amendment first, and after that point we will deal with the amendments that you've tabled.

Amendment approved on division.

On section 9 as amended.

**J. Kwan:** Yes. On section 9 as amended I have given copies of my amendments to you and to the minister, so I'd like to talk about these amendments.

**The Chair:** Just for the Chair's clarification, are you going to deal with all of these amendments as one or separately?

**J. Kwan:** I think we should deal with them separately, if that's all right.

**The Chair:** How are they numbered, then? What's the distinction between the three amendments? Are they numbered?

**J. Kwan:** We can number them as we go along. I'll read the amendment into the record where the relevant part is, so then we'll know which amendment we're dealing with.

**The Chair:** That's fine. Thank you.

**J. Kwan:** The first amendment I would like to bring forward, of course, deals with the issues around the substance of the deliberation. The amendment to section 9 is as follows. I'll just read the whole thing onto the record.

[SECTION 9, by deleting the proposed section 12 (5) and (6) of the Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165, and substituting the following:

(5) The Lieutenant Governor in Council by regulation may designate a committee for the purposes of this section.

(6) A committee may be designated under subsection (5) only if

(a) the Lieutenant Governor in Council considers that (i) the substance of deliberations of the committee relate to the substance of deliberations of the Executive Council, and

(ii) the committee exercises functions of the Executive Council, and

(b) at least 1/3 of the members of the committee are members of the Executive Council.]

That's the first amendment that I would like to put forward. There are two other amendments that I have.

**The Chair:** Member, do you want to speak to amendment No. 1, then?

**J. Kwan:** Yes.

**The Chair:** Could you move the amendment?

On the first amendment.

[1700]

**J. Kwan:** Yes. I move the amendment and am speaking to the amendment.

We talked a little bit earlier about the issue around substance. If truly this is a cabinet caucus committee, then the applications and provisions should apply. I think that the key words here are around the issue of the substance of the deliberation, and they need to be inserted into the amendment. That's my first amendment for this section of the act.

First amendment negated on division.

**J. Kwan:** I'd like to move a second amendment to section 9. The second amendment speaks to the numbers of the committee. I spoke about this a little bit earlier, that one-third constituting a cabinet committee is insufficient. I think it should be at least half of the members for it to constitute a committee. The amendment reads as follows:

[SECTION 9, by deleting the proposed section 12 (5) and (6) of the Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165, and substituting the following:

(5) The Lieutenant Governor in Council by regulation may designate a committee for the purposes of this section.

(6) A committee may be designated under subsection (5) only if

(a) the Lieutenant Governor in Council considers that

(i) the deliberations of the committee relate to the deliberations of the Executive Council, and

(ii) the committee exercises functions of the Executive Council, and

(b) at least  $\frac{1}{2}$  of the members of the committee are members of the Executive Council.]

I move the amendment.

On the second amendment.

**J. Kwan:** Speaking to the amendment. The government would like to suggest that the proposed one-third is the right approach to go and that the one-third number is what the office of the information and privacy commissioner suggests.

The trouble with that is, as I read into the record earlier, that the information and privacy commissioner says that there should be at least one-third and that at least a substantial minority of its members should be involved in the caucus committee. From my perspective, I don't think it should be a minority of the membership that should be from cabinet. I think it should be a majority, at least half in this instance, to be involved for it to be truly a cabinet committee, for it truly to be dealing with executive council business, for it to be truly exempted from the FOI process.

Quite frankly, you can't trust anything that this government has put forward. You cannot trust the information that they've put forward to date. They say that they are open and accountable, but in reality they're not. They hide everything. Everything is done behind closed doors in secret. Nobody knows about it. Committee reports that are supposed to be released, supposed to be public, never see the light of day. That's the reality of it.

For the minister and the government to say, "Well, gee, you know, if there are some cabinet members walking around in the room, that will exempt any information being provided and not subject to the FOI process," is simply wrong. I think the composition of the committees makes a difference, and I would suggest that at least one-half of the committee members need to be cabinet ministers for these so-called government caucus committees.

**Hon. S. Santori:** The member opposite talks about honesty and integrity. I would suggest that she practise that herself in terms of not trying to mislead the people of this province, to suggest for one minute that the passing of one or two cabinet ministers determines what in fact is a committee.

**The Chair:** The member for Vancouver–Mount Pleasant on a point of order.

**J. Kwan:** I did not try to mislead the House. What I put forward is the information that I received, and it is factual on that basis. For the minister to suggest that I am trying to mislead the House is simply erroneous, and I would expect that he would withdraw that comment.

**The Chair:** Member, that is not a point of order. Just for your clarification, a dispute between members is not a point of order.

[1705]

**J. Kwan:** Do you know what? I would like to just....

**The Chair:** Are you speaking to the amendment?

**J. Kwan:** No, I would just like to clarify the point of order.

**The Chair:** It is not a point of order.

**J. Kwan:** I would like to raise another point of order, then.

**The Chair:** What point of order is that, please?

**J. Kwan:** I think it is unparliamentary for the minister to suggest that I'm misleading the House.

**The Chair:** The Minister of Management Services on the amendment.

**Hon. S. Santori:** The point I was making was that the member opposite was suggesting that cabinet ministers, by passing through a room in itself, would....

Interjection.

**Hon. S. Santori:** I would just like to say that in terms of honesty and integrity, I'm very proud of the way we handled this situation. Obviously, the member opposite has some difficulty with the FOI commissioner, who was an integral part in coming up with responding to the concerns that he brought forward to myself and my staff. We have done exactly that, and that in itself will show our commitment to openness and transparency and accountability.

**J. Kwan:** Just to remind the minister, it was the NDP who brought in the Freedom of Information Act.

**The Chair:** On the amendment, please. Member, we are speaking now to the amendment labelled No. 2, speaking about the composition. Would you please speak to the amendment.

**J. Kwan:** Yes, I am and in the context of the composition. I want to talk about a little bit of the history of where the FOI Act came from, in case anybody has....

**The Chair:** Member, that is not appropriate for this. The amendment you have brought forward is very specific, and you should speak to the amendment.

**J. Kwan:** Sorry, Mr. Chair, because earlier the Attorney General went into second reading debate. I was confused, because I thought we were doing second reading debate from time to time.

The fact of the matter is that the FOI bill was brought forward by the NDP. The composition of the numbers of what committees consisted of always involved at least a majority of cabinet ministers who were truly doing executive council business, for them to have the FOI exemptions to apply. In this instance, what the government has done is created the so-called cabinet-caucus committees. Then in the guise of that, they want to pretend they're doing executive council business when in reality, those committees are not funded by cabinet. Or the sources that are being funded for those so-called government caucus committees are funded by the Legislature.

It's distinctively different in terms of that, and the composition of that makes a difference, as well, because if it truly was a cabinet caucus meeting, then it would actually have a different composition. That's my view.

You know, for the minister to suggest that somehow the commissioner from the freedom of informa-

tion and privacy office is to be blamed for this is outrageous. It's the government — the government — that brought this change under the Miscellaneous Statutes Amendment Act and that first said any committee could be designated — any committee could be designated. Then it caused the commissioner to criticize the government.

Now the government says: "Well, we listen." But on the question around the composition, as I say, those are some of the parameters that have been laid out by the commissioner. The government could go broader than that. They could actually check themselves on the issue around accountability and make sure that not only do they meet what might be deemed to be a minimum threshold but go beyond that. Do you think they'll do that? Absolutely not — not on your life, Mr. Chair — and that is what this Liberal government is all about.

Second amendment negated on division.

[1710]

**J. Kwan:** Then let me try this: maybe half is not enough. Maybe the government thinks it should be more. I want to move a last amendment to change the composition of the committee to where all members of the committee are members of the executive council. So the amendment under section 9 would read as follows:

[SECTION 9, by deleting the proposed section 12 (5) and (6) of the Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165, and substituting the following:

(5) The Lieutenant Governor in Council by regulation may designate a committee for the purposes of this section.

(6) A committee may be designated under subsection (5) only if

(a) the Lieutenant Governor in Council considers that  
(i) the deliberations of the committee relate to the deliberations of the executive council, and  
(ii) the committee exercises functions of the executive council, and

(b) ~~at least 1/3~~ all of the members of the committee are members of the executive council.]

I move this amendment.

On the third amendment.

**The Chair:** The member for Vancouver–Mount Pleasant, speaking to the amendment.

**J. Kwan:** Speaking to the amendment, Mr. Chair, I thought I would go a little bit further to see whether or not this government would actually look towards strengthening the composition of the committee to truly make sure that it is indeed doing executive council business. Obviously, I can tell there's no interest from this Liberal government at all — none whatsoever — for them to actually abide by the rules, for them to actually come clean with respect to the provisions of the FOI applications and for them to actually acknowledge that they were wrong in coming forward with not

just this amendment but this entire section of the bill to begin with. All the government is trying to do is simply prevent access to information under the guise of the so-called government caucus committees and to pretend that they are somehow doing the work of the executive council.

Third amendment negated on division.

[1715]

Section 9 as amended approved on the following division:

YEAS — 29

Coell	Hogg	Hawkins
Whittred	Cheema	J. Reid
Santori	Nettleton	Hagen
Murray	Plant	Collins
Clark	Nebbeling	Abbott
Neufeld	Penner	Harris
Belsey	Bell	Mayencourt
Hayer	McMahon	Les
Locke	Nijjar	Bloy
Lekstrom		Sahota

NAYS — 1

Kwan

**The Chair:** We will take a five-minute recess until we begin the next section, section 10.

The committee recessed from 5:19 p.m. to 5:29 p.m.

[J. Weisbeck in the chair.]

On section 10.

**J. Kwan:** Relating to section 10, I wonder if the minister could provide answers to some of my questions. My first question is: what arterial highways does the minister contemplate privatizing?

[1730]

**Hon. J. Reid:** This amendment is a very straightforward amendment to clarify an existing practice that is already taking place with arterial highways. Partnerships exist right now with municipalities and with the federal government on municipal highways. As well, as is clear from my service plan and the introduction of Bill 67, we do believe that there is a place for private investment in future highway infrastructure. In order to be consistent with that enabling legislation, we then have to amend the Highway Act. That is the purpose of this amendment.

**J. Kwan:** Are there arterial highways now which the minister's contemplating privatizing, and if so, what are they?

**Hon. J. Reid:** We are looking at a transportation plan for the province in building infrastructure that is to be developed, has not been developed, has not been brought forward to government. What we are looking at here is the broader picture of how we enable government to take advantage of getting roads in the province sooner rather than later. In cases where there can be partnerships.... An example of a partnership that exists right now is in Revelstoke. Victoria Road intersection is a partnership with the federal government. For clarification, with that partnership, this amendment to the act is quite in order.

**J. Kwan:** Is the minister saying, then, that there are no roads, arterial highways, which the minister is contemplating privatizing right now?

**Hon. J. Reid:** No.

**J. Kwan:** The minister just confirmed that there are no arterial highways or roads which the minister is contemplating privatizing. That was her answer.

Let me ask the minister this question. Given that the amendment is discretionary which says "...may, but need not, be borne by the ministry," what criteria are to be used to make this decision?

**Hon. J. Reid:** There has been a longstanding policy with the ministry and with municipalities for cost-sharing on arterial highways. This is a circular, and this is the name of the circular: G23/87. It outlines the practices that have been in effect with the province and municipalities, and it talks about infrastructure, maintenance, curb and gutter work. That continues. There are no changes in that policy.

Under that policy, when a municipality wants to cost-share in a certain project, that is certainly still applicable, as I said, with the federal government. There are projects. As they make certain funds available, then we apply for those funds. Where they're applicable to an arterial highway, then we enter into a partnership with the federal government. As we move forward and develop our transportation plan, there is the possibility of developing private investors, public-private partnerships and highway infrastructure. At that time there would be that discussion, but that is very much in the future.

**J. Kwan:** What consultation has gone on with local governments about this?

[1735]

**Hon. J. Reid:** This doesn't change at all the policy with local governments. The policy that has been in effect with local governments in cost-sharing is exactly in place as it has been in place.

The larger question about public-private partnerships and transportation infrastructure has been centred around Bill 67 and around the policy that was released with the introduction of that bill.

**J. Kwan:** Well, this amendment appears to mirror provisions in the Transportation Investment Act, Bill 67, and was probably meant as a consequential amendment to the Highways Act in light of the eventual passage of Bill 67. As such, one would have assumed that normally such amendments would follow Bill 67, not precede it. Given that it has preceded Bill 67, I can't help but wonder why. Why would that be if it's really meant to be consequential? And because it's related to the context of Bill 67, these questions are now being brought forward for the House. Maybe the minister can clarify that issue.

**Hon. J. Reid:** I think the answer to the question is one of process. This actual amendment has been proposed by ministry staff for quite some time to reflect the practice that has taken place with partnerships, with municipalities. Bringing it forward under miscellaneous statutes as an amendment, or bringing it forward under Bill 67, does not change the intent of this.

**J. Kwan:** What we have to do with this Miscellaneous Statutes Amendment Act is put it in the context of the environment which is now being put forward by the government — that is, of course, the privatization of roads, highways and bridges. Now we're talking about enabling legislation to allow for the privatization of arterial roads as well. In that context, it actually brings, I think, a little bit more substance to what then would be a normal consequential amendment to a bill. If it was brought after Bill 67, then it's perhaps different, but because it's in the context of the environment which we're now talking about, then I think that the questions I want to ask the minister are relevant and, more to the point, needing more substantive answers from the minister around that.

I just want to then ask the question in terms of the consultation. The minister says that nothing's really changed; we're just sort of proceeding as usual. But prior to this bill and prior to this session of the House there was an exposure bill, Bill 57, the Transportation Investment Act, which was brought to the House in the spring. In that act it talks about privatization, tolls, and so on and so forth. The UBCM blasted the government on those fronts. They thought it was an ill-conceived plan to sell off public assets to the private sector and also to pass the cost of the bill — if you will, offload costs — to local communities.

In that light, we're now talking about arterial highways that may potentially fall within that fate. The minister says, "Well, we're not considering arterial highways to be privatized at this moment," and she doesn't have a list. I can't help but think that the minister is looking at that down the road. She may not have a list at the moment, or maybe she's not prepared to provide that list at the moment, but clearly, that is the

direction the minister is going — there's no doubt about that — in the context of Bill 57 and now in the context of Bill 67.

[1740]

Again, I would like to know from the minister in terms of consultation: what kind of consultation took place with the local governments? What do local governments think about the possibility of tolls for roads within their boundaries, as an example?

**Hon. J. Reid:** I just want to begin by replying to the initial comments about why this is here and why not just at the end of Bill 67. There is a greater content to this because of the existing agreements with municipalities, the existing agreements with the federal government. It is not just to refer to private investment and being able to develop that. There is another context here. That is, as I said, the existing policy, the existing agreements and the existing partnerships — just to clarify that point.

There has been discussion by TransLink about what they call the gateway concession. There is discussion about how to provide better service in areas of the lower mainland where there would be a benefit to the public because of a road that can be done sooner than later. I'm sure the member is aware of those kinds of discussions that are taking place and that, certainly, we're encouraging as a government, because it is very critical infrastructure from Delta all the way through — the congestion that is there. There is a background of discussion that is taking place. This is, as I say, to clarify the existing situation with partnerships, to be able to also look at private investment. And as I said, there is the discussion that has been around, in particular, tolling, toll policy and concession agreements with a private investor. That larger discussion around that has taken place around what was originally Bill 57 and is now Bill 67.

**J. Kwan:** What do local governments think about applying tolls on roads and bridges and so on? If the minister says that consultation did take place, and the minister acknowledges that this amendment is in the context of partnerships that do now exist with the local governments and the federal government.... But it can also be applied in the context of Bill 67, and that is the privatization of roads, the application of tolls on roads and bridges and now, of course, arterial highways as well. What is the information the minister received from the consultation process on that?

**Hon. J. Reid:** As people grapple with the transportation infrastructure challenges, there is a wide variety of opinion. If we refer to the lower mainland, on the part of local government there has been a high acceptance of looking for a private investor who can accomplish this work sooner rather than later. That has been one where there has been ongoing discussion. Again, it's been in the public realm. There have been discussions with TransLink as part of their proposed plans in looking at solutions for the future. As I say, there has

been discussion, interest, comments. That's why Bill 57 was amended to Bill 67, in taking into account that kind of discussion. This enables us, as I say, to clarify the position — the partnerships that already exist.

That discussion around tolling, toll policy and concession roads — working with a private investor — would probably be more appropriate for the discussion around Bill 67, where we can look, then, at it section by section and go into the information and discussion in great detail with whatever questions the member might have.

**J. Kwan:** Well, yes, we'll certainly get into debate on Bill 67. There's no doubt about it. However, because this is put forward before 67 and because it does relate to 67, this has to be debated in the context of 67 as well. The minister, as I said, acknowledged that already, as it were. The big difference, of course, is that in this amendment the minister is adding arterial roads for potential privatization, the application of tolls, and so on and so forth. That really does open it up, you know, in terms of that.

[1745]

In terms of the consultation — let's just get back to the consultation for a minute — the minister says that generally, in the lower mainland there's acceptance. Could the minister please advise which municipalities or cities, if you will, are in acceptance or in agreement with a privatization scheme or toll scheme for either roads or bridges?

**Hon. J. Reid:** TransLink has been the lead agency in those discussions. I've been working with TransLink in looking at what their plans are and how they want to resolve those problems, but they have been the lead agency in those discussions. They're the ones who have been having those discussions with the different municipalities.

I have had discussions with TransLink. I receive the information from TransLink about their plans, about their public processes and about their public discussions. I don't have that information with me today. Certainly, it's all available. TransLink has it all available — the discussions they enter in to and how that's taken place. It's all available to the member.

**J. Kwan:** I have the information from TransLink, because I think they do send updates to all MLAs. Certainly, I get them as regular updates in terms of what they're doing. What I don't get, of course, is what the minister is doing on the other side. Perhaps the minister can commit to making that information available in terms of what information and what agreements, if there are any agreements, have been made with respect to TransLink.

What is it that you're negotiating? What roads are we talking about that might be subject to tolls? What bridges are we talking about that might be subject to tolls? What roads are we talking about that might be subject to privatization? I think the public has the right to know that, and the information from TransLink does

not make that available. I think the minister is in a position to make that information public to all British Columbians.

**Hon. J. Reid:** The relationship between the ministry and TransLink is certainly one of a broad partnership in discussion. There haven't been agreements. There haven't been decisions. I am aware of what TransLink is doing in looking at the problem. There is discussion on the technical side of where congestion is in different areas, being able to identify the congestion so that they can lay out plans. I believe that they are conducting a study on this, but again, that is TransLink. I'm afraid I don't have that information on what they're doing.

We don't have any formal agreements. We have discussion. We share technical information, and we have identified that there is a problem with congestion in the lower mainland that needs to be resolved. We want to work together. There is an interest in looking at private sector investment and an interest in looking at a solution sooner rather than later, but again, this is in the early stages of discussion.

When I travelled this summer to different communities in the lower mainland, mayors, members of council, members of chambers of commerce and just members of the communities at large expressed to me their concern about congestion and their desire to see it relieved. In an informal way I did always ask what their opinion was on being able to use tolls as a way of seeing the problem addressed sooner rather than later. In all the discussions I personally had in an informal way, I received a very positive response, believing that it would be a solution that government and TransLink should look at.

It is, again, very, very early in the process. This is looking at putting in the legislative framework so that we can go ahead in that process, but all of those discussions are very early. As I say, TransLink has been taking the lead on those discussions with municipalities.

**J. Kwan:** Were there specific roads or bridges that were proposed for privatization or for tolls in these discussions?

[1750]

**Hon. J. Reid:** The concern centres around a new crossing of the Fraser River. Where that would go, what would be the best route or how it would best connect up with the north and south perimeter roads are all what is being discussed. That is a huge amount of information to put together. Anytime you look at affecting one road, it causes many other effects on different roads around. It is a very large discussion. Again, it's just in its early stages of information gathering, but it is looking at another crossing of the Fraser River and how to relieve the broader congestion in that corridor.

**J. Kwan:** Is that the only crossing, the only road bridge that's proposed for privatization or toll application?

**Hon. J. Reid:** The discussion in the lower mainland is around the existing network and what needs to be added to the existing network in order to create a system that's going to function more efficiently. That's not just a matter of adding one new bridge. You have to look at the approaches. You have to look at the capacity of the existing roads. It has to be identified what existing roads need to be upgraded, what that larger system would look like and then how best to finance it once you've developed the larger picture.

In that discussion, the whole system has to be looked at. This is what I was trying to explain earlier. You don't just put a bridge in and say it fixes the problem. You have to look at traffic flows and changes in traffic flow. You have to look at the types of usage. The discussion is around the road network in the lower mainland and points of congestion, at being able to improve that and making it so vehicles aren't sitting and causing greater pollution than necessary and negatively affecting the economy in the lower mainland.

The discussion involves the whole network. We realize we need an additional crossing, but the discussion is broader than just any one crossing. How that will work out, the technical aspects of it, is not the information that has been formulated. That's the discussion that's going on.

**J. Kwan:** What I can glean from this is that it's not just on the Fraser River crossing that the minister has engaged in discussions with, at least, TransLink around potential privatization options or toll applications, but rather on the roads related to it and the network, as the minister suggests, associated with it.

Aside from that crossing, could the minister please advise: are there other crossings that have come up for discussion, for potential contemplation for privatization and toll application?

**Hon. J. Reid:** Because the discussion is in its early stages, that's the obvious one we can say. Most anybody could say that in the lower mainland, there needs to be another crossing of the Fraser River. As far as what else has to be put together to connect to that, again, it just has not been defined yet.

**J. Kwan:** That would apply to new crossings. The minister mentioned existing crossings, as well, so let me propose another possibility. Let's say the Lions Gate Bridge, as an example, is a very busy crossing with congestion, and so on and so forth. All the issues the minister suggested apply as well. Would there be contemplation of application of tolls, as an example, for existing structures? I'm just using the Lions Gate Bridge as one example. There are a million other examples one could use, but I'm just using that. If so, what existing structures, roads, bridges have come up for discussion for toll application or privatization?

**Hon. J. Reid:** There was a tolling policy paper that came out with the bill originally entitled 57 and now 67. In that policy, we're looking at new improvements.

We're looking at significant improvements that would provide a significant benefit to the user. What also needs to be considered here is that there is limited application when you're looking at private investment, because there has to be a business case that goes along with it.

[1755]

In developing business cases, there has been interest in northern parts of the province of looking at private investment industry roads, but a business case just can't be made for that. Unfortunately, though different members have been asking the questions of how it could be applied and if it could be applied, one of the fundamentals is that there has to be a business case. The area where there's most likely to be a business case is where there are high traffic volumes. If we're looking at significant new structures with a significant benefit to people, then we can very clearly say another crossing of the Fraser River, relieving that congestion in the lower mainland, would fit within that criterion.

There has been no discussion. Consistent with the policy paper we have introduced for discussion, for exposure, we are looking at significant new benefits. Certainly, I believe what's being called a Gateway project would fit within that discussion.

**J. Kwan:** I gather from the minister that there are no specific existing structures that have been highlighted for the possibility of toll application or privatization, at least in the lower mainland. Correct me if I'm wrong on my understanding of what she just said.

If that's the case, then I would want to ask the minister: what about outside of the lower mainland? Take as an example the Coquihalla Highway. There has been talk and noise about the privatization of that and so on. Maybe the minister can enlighten the House on that question.

**Hon. J. Reid:** I just have to remind the member that that has nothing to do with this legislation that's being presented at all.

The discussion, as I tried to explain, in the lower mainland.... The question was: are you considering existing structures? As I tried to express, as we're looking at improving the system in the lower mainland, it will have to encompass some existing structures, because there is a road network. As we make improvements, it will be a whole system. We need to make improvements. It's not just putting in a bridge and saying: "There. It solved the problem." There's a lot of work that has to be done there to make it work properly, to feed into it and to move the traffic.

In that instance, to answer the member's question, I would have to say that is part of a discussion, because it is part of that larger network that already exists. How do you improve a network that already exists? Well, obviously, you're going to have to make improvements to some of those existing structures.

In looking at developing the needs around the province — what people have outlined around the province as having the needs — as I said, there's a difficulty in

making a business case. The Coquihalla is already a toll highway, as the member knows, so we're looking at enabling legislation. We do have challenges in being able to deliver on the needs of the highway infrastructure around this province. We believe there is a role for private investment to play. Projects that will be considered will be looked at.

We are preparing information that will be taken to government around the need that exists. I've broadly outlined the need in the province as being \$10 billion worth of infrastructure over the next ten years. That's very broad. We're working to put together particulars. As we work through that, it will be presented. Certainly, how we're going to meet the needs in the communities will be part of a discussion we have with communities.

**J. Kwan:** I just want to make one quick comment, and then noting the time, I will move the motion.

The Coquihalla Highway. Yes, a toll is being applied right now, but it's not privatized. The minister says it's not relevant to this section of the bill. Of course

it is, because it's related to Bill 67, and that's the context in which we are talking about it. We've only just touched on some of the issues, but there are a lot more issues I want to ask about and canvass with the minister on this section of the bill.

Noting the time, I move the committee rise, report progress and ask leave to sit again.

Motion approved.

The committee rose at 6 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. G. Abbott moved adjournment of the House.

Motion approved.

The House adjourned at 6:01 p.m.