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(Entered Confederation July 20, 1871)

LIEUTENANT-GOVERNOR
Her Honour the Honourable Iona V. Campagnolo, CM, OBC

5TH SESSION, 37TH PARLIAMENT

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Afternoon Sitting

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TUESDAY, OCTOBER 19, 2004

The House met at 2:04 p.m.

Introductions by Members

J. Bray: It is my pleasure to introduce a number of gentlemen in the gallery today. We have Michael Cormier, who is the CEO of the Greater Victoria Harbour Authority. We have Lorne Whyte, who is the CEO of Tourism Victoria. We have John Sanderson, who was one of the originators of our Greater Victoria Harbour Authority. We have Bruce Carter from the Greater Victoria Chamber of Commerce, and we have Steven Seltzer from the Greater Victoria Chamber of Commerce. These are individuals who work very hard in Victoria to make us one of the strongest economies in the country as well as one of the great tourism draws for the province. I'd ask the House to please make them all very welcome.

[1405]

G. Hogg: On this most auspicious day, we have three special guests from Surrey-White Rock in the gallery: Clark Shewfelt, who is a renowned shuffleboard player, a volunteer and an affectionado of *Casey at the Bat*; Nancy Shewfelt, who is a renowned golfer, community worker and today a birthday celebrant; and Mark Shewfelt, who is a renowned student and this past summer played for Team Canada at the Cal Ripkin World Series in Maryland, representing our province and country extremely well. Would the House please make these three distinguished British Columbians most welcome.

Hon. G. Plant: It has taken only eight and a half years, but at long last I have the pleasure of saying that we are joined in the legislative gallery today by my neighbours and very good friends, Craig and Lynn Jones, who have brought along as their escort my partner in life and my most valuable supporter, my wife Janet. I hope the House will make these people welcome.

Hon. R. Thorpe: I'd like to introduce executives from the Automotive Retailers Association of British Columbia, in Victoria today to meet with members and ministers, and wish them well in their meetings. I'd like to introduce the president, Michael Bailey; the vice-president, Randy Sorley; the secretary-treasurer, Dave Cant; and the division chair, Paul McFarlane. Would the House please make them welcome.

Mr. Speaker: There's more.

Hon. R. Thorpe: I've got some more, Mr. Speaker.

In the gallery today visiting us from Summerland are 30 students from Summerland Secondary School, obviously located in the great riding of Okanagan-Westside. They're here with their teachers today. Would the House please make them welcome to Victoria.

**Introduction and
First Reading of Bills**MISCELLANEOUS STATUTES
AMENDMENT ACT (No. 3), 2004

Hon. G. Plant presented a message from Her Honour the Lieutenant-Governor: a bill intituled Miscellaneous Statutes Amendment Act (No. 3), 2004.

Hon. G. Plant: I move that the bill be introduced and read a first time now.

Motion approved.

Hon. G. Plant: I'm pleased to introduce Bill 74, Miscellaneous Statutes Amendment Act (No. 3), 2004.

Bill 74 amends various statutes to clarify provisions, correct inadvertent errors and make a number of minor housekeeping amendments. Thank goodness for that, Mr. Speaker.

Specifically, Bill 74 amends the following statutes: Community Charter; Community Charter Transitional Provisions, Consequential Amendments and Other Amendments Act, 2003 — always one of my favourite statutes; Court Rules Act; Environmental Management Act; Gaming Control Act; Medicare Protection Act; Miscellaneous Statutes Amendment Act, 2004; Motor Vehicle Act — I thought we already did that one; Municipalities Enabling and Validating Act (No. 3); Personal Information Protection Act; Police Act; Protected Areas of British Columbia Act; Securities Act, 2004; Strata Property Act; and Vancouver Charter.

There was a minor provision that is untitled, which has to do with the status of the official opposition, but I didn't think it was worth referring to at this point.

Interjection.

Hon. G. Plant: It was a House amendment.

I will elaborate on these amendments during second reading and committee stage debate. For now, I move that the bill be placed on the orders of the day for consideration at the next sitting of the House after today.

Bill 74 introduced, read a first time and ordered to be placed on orders of the day for second reading at the next sitting of the House after today.

**Statements
(Standing Order 25B)**

VICTORIA HARBOUR TERMINAL PROJECT

J. Bray: Mr. Speaker, as you know, the Legislature is framed by one of the world's most beautiful harbours — the Victoria harbour. This is a harbour with history. It is where the colony of Vancouver Island first rose up with Fort Victoria's legacy only a few blocks from here.

With the creation of the Greater Victoria Harbour Authority a few years ago, this working harbour is now locally and democratically controlled for the benefit of the region. It is also one of the key points of entry for tourists to Vancouver Island.

This year Victoria saw a record 143 cruise ships visit. With the Legislature, the world-famous Empress Hotel and the Royal B.C. Museum, along with kayak operations and the little harbour ferries, Victoria's harbour is becoming a world-class tourism draw. The last need identified by the city and the Greater Victoria Harbour Authority is an upgrade to the Belleville Street terminal.

[1410]

This ferry terminal is the Island's gateway to the U.S. It is in fact our border, but the facilities, which include a very old dock and portables that act as check-in buildings and customs and clearance centres, are obsolete.

This facility acts as our U.S. visitors' first and last sights of Victoria and British Columbia. With our government's commitment to double Tourism B.C.'s marketing budget, more U.S. visitors will pick B.C. and Victoria as their destination. After all, *Condé Nast* magazine recently picked Victoria as the best city in the Americas and Vancouver Island as the best island in the Americas. This world-class reputation demands world-class facilities, and the final piece in Victoria's arsenal is the Belleville Street terminal. This \$16 million project has the broad endorsement of the Greater Victoria Harbour Authority, the city, the chamber of commerce and Tourism Victoria.

For Victoria to be a full partner in doubling tourism by 2015, this strategic infrastructure investment is needed. Completion of the Belleville Street terminal will ensure that Victoria is an economic driver in the province for a generation to come. I urge the provincial government to work with the federal government and local government to ensure that this significant project goes forward.

QUALITY OF LIFE IN B.C.

R. Nijjar: We have the best in almost everything right here in British Columbia. We are not only ranked as the most livable place on Earth, but we are also beginning to believe in our dreams once again.

Union executives would have you believe that our post-secondary education system and the 25,000 new spaces for students aren't a good thing. They would have you believe that a post-secondary education system independently ranked as one of the most accessible for people of lower socioeconomic backgrounds has not been a good thing.

Our universities and colleges rank at the top across the country, leading North America in research that spins off into commercial companies employing thousands of British Columbians. We are the best place in the world to further one's education, and we are going to be the most literate place on Earth by 2010. Why do we do this? Because a strong education system is the

backbone of a sustainable and healthy economy that offers a good living for everyone right here in B.C.

Today British Columbians are more optimistic about their future than in any place in Canada, including Alberta. More people are coming back to B.C. than in years. If this isn't a telling story, then nothing is. Forget what politicians say from either side of the Legislature. In 1997 people were leaving B.C. for the first time ever. Now they are coming back by the thousands.

Doctors across Canada rank B.C. and Alberta as the provinces in which they'd most like to practise, because of the healthy relationship with government. We have the best cancer outcomes in the country and throughout the world. Nine of 13 wait-lists have come down, this at a time of an aging population.

But it doesn't stop here. MSP costs remain the lowest across the country and are astoundingly affordable compared to other countries. Our Pharmacare program is considered the most generous in the country and is the envy of the world.

Wages are increasing at a faster rate than the national average. Disposable income is increasing faster than the national average. More people are working for more than \$16 an hour than anywhere in Canada. And of course, jobs, jobs and jobs — more than any other province — created right here in British Columbia.

RURAL B.C. ECONOMY

B. Bennett: Carole James was recently in the Kootenays saying that there are two economies in British Columbia. It seems that the NDP leader thinks that our economy in rural B.C. is inferior to the lower mainland's. If she knew anything about rural B.C., she would know that our economy in the East Kootenay — where I'm from — is generating the same good-news stories we've been hearing from the lower mainland.

Take real estate. The hyperactive B.C. real estate industry has moved \$2 billion worth of properties in each of the last nine consecutive months. In all four of my communities in the East Kootenay — Elkford, Sparwood, Fernie and Cranbrook — houses are selling fast, and they're selling for more.

That 32 percent increase over last year in the exports of wood products from B.C. — East Kootenay loggers, millworkers and their families are all sharing in that good news as well.

The East Kootenay coal industry is booming as well. The Elk Valley mines have regained their confidence in British Columbia and are reinvesting and hiring new workers. Mining exploration will triple in the East Kootenay this year, thanks to the work of the government and the Minister of State for Mining.

Interjections.

B. Bennett: He must have known that was coming.

The tourism industry. Ski and golf resort investors from around the world are literally bumping into each other looking for development opportunities. Greg

Norman is developing a course in Fernie called Blackstone that will rival any course in the province.

[1415]

Try to hire a tradesperson in Cranbrook. You can't. They're all too busy. Auto sales — up. Non-residential building construction — B.C. has the second-strongest rate in the country. Look at the new stores in Cranbrook: Winners, Wal-Mart, Real Canadian Superstore, Staples — a huge home-building supplies expansion. These corporations would not invest millions in our region unless they saw a bright future.

Yesterday the *National Post* confirmed what my constituents already know, even if Carole James does not: "Canada's western-most province seems finally to have recovered from the mismanagement that plagued it during the 1990s.... While no government ever deserves all the credit for good economic news, Mr. Campbell's Liberals should take pride in having brought the province so far in such a relatively short time."

Mr. Speaker: That concludes members' statements.

Oral Questions

PROBLEM GAMBLING AND ROLE OF MINISTER OF STATE FOR MENTAL HEALTH AND ADDICTION SERVICES

J. MacPhail: Yesterday the minister of addictions refused to answer questions about problem gamblers. She said it wasn't her issue. That's despite the fact that problem gambling is one of the most significant addiction issues facing British Columbia. But later the Solicitor General was more generous toward his colleague. He said the minister of addictions would get involved in this issue as she got up to speed in her portfolio, and if she needed more resources to deal with it, he expected her to come and ask for those resources. That was outside the chamber.

My question is to the minister of addictions: what is she doing to get up to speed on the issue of gambling addiction, and does she believe more resources are needed to cope with it as a result of the Premier's massive expansion of gambling?

Hon. R. Coleman: The program for problem gambling was established in 1997. The budget is \$4 million this year. That's double what it was in 2001. There is a 24-hour toll-free help line for people that have a difficulty.

Interjection.

Mr. Speaker: Please.

Hon. R. Coleman: There's a total of 31 professionals who are contracted with the program across B.C. Professional clinical counsellors provide provincewide counselling service at no cost to the client. Counsellors meet with clients during evenings and weekends as

required and will travel to meet the clients in their community. Prevention workers work with health organizations, schools, first nations, communities, seniors and youth groups, and the gaming industry to provide information on gambling and addiction and related issues.

On top of that, the corporation itself invests money in self-exclusion programs for those wanting to stay out of casinos and bingo halls. Problem gambling program resource materials are posted in all gambling venues as well as on any ticket printed by the corporation. Referral to counselling service is offered by the problem gambling program. There's an awareness program and appropriate response training for all gaming workers to identify clients experiencing distress in a gaming facility.

In addition to that, we tracked this. Over the last number of years there have been three trackings in three different things — the last one being in 2003 — and there has been no increase in gambling addiction in the province.

J. MacPhail: Oh, that's good. The fox in charge of the henhouse is saying there is no increase in gambling addiction. It was this government that put the responsibility for gambling addiction right in the portfolio of the minister who is responsible for the doubling of gambling.

The minister of addictions makes an extra \$25,000 a year to do her job, and British Columbians have a right to know what they're getting in return. The minister tried to wash her hands of gaming addiction, but she can't wash her hands of substance abuse and alcoholism. Can the minister of addictions tell us if problem gamblers suffer from alcoholism more than the general public?

Hon. B. Locke: I am responsible for over a billion dollars of mental health and addiction services delivered through the Ministry of Health Services and the health authorities. Also, my role is to advocate for mental health across government to fulfil our commitment to making mental health a priority.

Here are some of those highlights. We have integrated mental health and addiction services across the province to improve care, we are implementing Canada's very first child and youth mental health plan, and we are spending \$138 million to build new mental health facilities throughout our province.

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

[1420]

J. MacPhail: How dare the minister responsible for substance abuse give that answer.

According to Stats Canada, problem gamblers are afflicted with alcohol dependence at a rate seven times greater than those without a gambling addiction problem. The minister of addictions is charged with reducing alcoholism in British Columbia. There is a direct,

irrefutable correlation between substance abuse, addiction to alcohol and gambling. So what is she doing to ensure that her government's massive expansion of gambling doesn't lead to more substance abuse and alcohol addiction?

Hon. B. Locke: We recognized that the health care system needed to respond more effectively to the needs of people with addictions. That is why, for the very first time in B.C., we have brought addiction services directly into the regional health care delivery system. That is why we funded \$3.2 million for the first supervised injection site in North America. That is why we are partnering with stakeholders to provide education, and that is why we have integrated mental health and addiction services across this province.

We have done more to strengthen addiction services than the NDP ever could have dreamed of doing in their ten years.

FACILITY FOR FORMER ADDICTS AND MENTALLY ILL IN VANCOUVER

J. Kwan: The minister of addictions did not answer the question from my colleague. Let me ask her another question.

To the minister: the government of British Columbia is funding a 35-unit complex in Vancouver for former addicts and the mentally ill. This project was agreed to through the Vancouver agreement and has the full support of the city and the federal government. But the minister of multiculturalism is fighting the project in his community. What is the Minister for Mental Health and Addiction Services doing to ensure that this critical project for people with addictions is not halted by the actions of her colleague the minister of state for multiculturalism?

Hon. B. Locke: I am responsible for over a billion dollars of mental health and addiction services delivered through the Ministry of Health Services and through the health authorities. Also, my role is to advocate for mental health across government to fulfil our commitment to making mental health a priority.

This project in Vancouver is a partnership between Vancouver coastal health, B.C. Housing, Triage Services and the city of Vancouver. When it's completed, it will provide the most up-to-date care for people with mental illness and addictions. The city of Vancouver is considering the approvals at this time.

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

J. Kwan: Well, according to news reports and Vancouver city councillors, the minister of state for multiculturalism is fanning the flames of fear about this project, actively organizing an effort to kill it. If the minister of multiculturalism succeeds, the director of the Coast Mental Health Foundation says that the people

of Vancouver will have lost an opportunity to stem the tide of homelessness and addiction.

Will the minister of mental health and addictions stand up for the people that she's supposed to represent, that she's supposed to advocate for, and tell her colleague in this House to stop the fanning the flames of fear?

Interjection.

Mr. Speaker: Order, please.

Interjections.

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

Hon. B. Locke: You know, Mr. Speaker, if the member was so interested in mental health, why didn't she fund the mental health plan in the beginning?

Why did she ignore depression and anxiety disorders...

Interjections.

Mr. Speaker: Order, please.

[1425]

Hon. B. Locke: ...when they are the two most common mental illnesses? Why did she let the dedicated workers in the addictions field languish for ten years without any support or direction from her government? Why did she fail to address the needs of children with mental illness? We've corrected her failures, and we will continue to give mental health and addiction services the priority they should have been given under the previous government.

Interjections.

Mr. Speaker: Order, please.

LEGAL AID FUNDING

P. Nettleton: The Attorney General has indicated through the media that he will push for a restoration of legal aid funding. Those are his words. This, of course, follows some 24 courthouse closures; the cuts to, I think, 53 of 60 legal services offices; and other cuts associated with the administration of justice to services associated with legal aid.

My question would be to the Attorney General. Is he now acknowledging his role in denying justice to thousands of British Columbians? Beyond that, is he prepared to provide this House today with details with respect to the restoration of funding for legal services?

Hon. G. Plant: I was glad to have the support of the member for the budget that we introduced in early 2002, which gave effect to the beginning of a three-year plan to restore the province's fiscal health. In doing so, we have made some great changes in the justice sys-

tem. Over 99 percent of British Columbians live within an hour of a courthouse. I think that's accessible justice.

We've changed the way courthouses operate to open up the use of things like facsimile filing. We're going to introduce electronic filing in the court system. We've transformed the idea of legal aid to include a range of services from information to advice to representation. We've moved away from adversarial models of legal aid funding towards models that encourage accommodation and agreement in settlement and negotiation, which I think builds stronger settlements. There's lots more work that we need to do, and I am going to continue to be an advocate for an accessible justice system because I know all members want our justice system to be as accessible and as good as it possibly can be.

ADDICTION SERVICES IN SURREY

D. Hayer: My question is to the Minister for Mental Health and Addiction Services. Drug addictions are a major concern for youth and their families, particularly in Surrey. Sadly, these problems can put youth at risk. The recent increase in use of crystal meth by youth at risk is extremely troubling.

To the Minister of State for Mental Health and Addiction Services: what is she doing to ensure that youth in Surrey have a place to go and receive timely treatment for their addiction problems?

Interjection.

Mr. Speaker: Order, please.

Hon. B. Locke: I would like to thank the member for his question and his caring about this issue. He is quite correct that the youth addictions issue is a major concern for Surrey residents. I am pleased to inform the member that the Fraser health authority is partnering with the Surrey Memorial Hospital Foundation to develop a centre of specialized addiction services for youth, for adults and for seniors. New funding has enabled this facility to increase detox beds capacity to 30, including 24 adult beds and six youth beds, further establishing B.C.'s lead in providing youth detox services.

It is also being proposed for this new facility to increase services through a daytox program and home withdrawal support services. We are looking forward to this groundbreaking new facility this winter.

FACILITY FOR FORMER ADDICTS AND MENTALLY ILL IN VANCOUVER

J. Kwan: I have a simple question for the minister of addictions. Has she told her colleague the minister of state for multiculturalism to stop advocating against the project?

Hon. B. Locke: I wonder if the member for Vancouver-Mount Pleasant has spoken to her leader. I'll just read what it says here. A reporter asked....

Interjections.

Mr. Speaker: Order, please.

[1430]

Hon. B. Locke: Carole James was asked about the transition home for the mentally ill in East Vancouver, and Ms. James' comment was: "I haven't talked with the community about that yet."

Interjections.

Mr. Speaker: Order, please.

Interjections.

Mr. Speaker: Order, please. Hon. members, if we can have some order, we will continue with question period. Will the Leader of the Opposition please come to order. The member for Nanaimo has the floor.

Interjections.

Mr. Speaker: Order, please. Order, hon. members. Government House Leader, please come to order. The member for Nanaimo has the floor.

AUTO THEFT AND BAIT CAR PROGRAM

M. Hunter: Thanks to the economic policies of this government, my community in Nanaimo is seeing unprecedented, exciting growth, but as we grow, we are starting to see some of the less desirable aspects of urban behaviour. In particular, auto thefts are becoming a problem in the mid-Island.

I'm pleased to say that the member for Nanaimo-Parksville and I have been working with the Insurance Corporation of British Columbia to try to address this issue, but I am being asked whether or not ICBC is prepared to introduce the bait car program into my region. Can the Solicitor General advise me whether or not that is going to happen, and if so, when?

Hon. R. Coleman: This has actually been a very good program of ICBC in cooperation with law enforcement. We've seen, year over year — from April, May and June in 2003 to April, May and June in 2004 — a 13 percent decrease in auto theft on the lower mainland since we put the bait car program into place.

That's good for everybody, because it helps keep rates down, helps lowers crime and helps law enforcement do their job. We should point out that that is in addition to whatever budgets the municipalities are paying for law enforcement, because this is being paid for separate from that.

We said all along that the bait car program would be first expanded to the lower mainland of British Columbia and that we would then start to target other communities in the province. The impact group will be assessing that, looking at Nanaimo and other communities in the near future, to decide whether we can put

bait cars in those communities. If it makes sense, they will do it.

[End of question period.]

Orders of the Day

Hon. G. Collins: I call second reading on Bill 66.

Second Reading of Bills

MOTOR VEHICLE AMENDMENT ACT, 2004

Hon. R. Coleman: I'm pleased to rise and speak with regard to Bill 66 in the Legislature this afternoon.

I'd like to go back, first of all, and give a little bit of the history of this initiative for the House. In June 2003 a discussion paper that was developed in consultation with communities was put on the Internet for communities and individuals to comment on with regard to what they thought might be initiatives they could put in place to improve the stats on impaired driving and reduce the incidence of impaired driving on our streets.

[1435]

Impaired driving takes a devastating toll on the families in British Columbia. In 2001, there were 118 people who died in alcohol-related road crashes, and last year, 101. There has been considerable improvement over the last 25 years in those statistics on road crashes and injury accidents related to alcohol over a period of time. In 2000, some 30 percent of passenger car fatalities included drivers whose blood alcohol content exceeded the legal limit. This represents a dramatic improvement over the peak year of 1981, when 65 percent of fatalities involved drunk drivers.

Unfortunately, these gains have levelled off over the last few years. The drinking and driving initiative was based on discussions leading to that approval. We have fine-tuned this initiative and spent some time really thinking about what is best for and what could work best for communities when it comes to impaired driving.

One of the challenges we face when we try and develop legislation and law like this is the fact that some people will always want us to go further, and other people will always think somebody went too far. There are groups that are so emotionally attached to the issue that they are never quite satisfied with the progress that is made.

I recognize that. I recognize the compelling pain that people feel when they've lost a loved one to an impaired driver. I recognize and have personally seen the damage done by an impaired driver on a family, on people in my community and even in the times when I was a law enforcement officer.

I also recognized as a minister, when I reviewed the entire impaired driving package, that we had to do something to try to raise the level of understanding within the community — educate that anybody that has a drink should never get behind the wheel of a car — but also to recognize that we had to have some pen-

alties in place that would refocus the minds of people when it came to making this decision.

There are two aspects of impaired driving. There are the Criminal Code provisions that are federal, which the federal government deals with in regard to their laws. Those provisions are in place. Those legal limits are established, and they are in place today in Canada, along with the penalties. We as a province, however, have some abilities on administrative penalties and suspensions and other areas where we think we can improve the entire aspect of how impaired driving is dealt with in our province.

As we started this process, a couple of things concerned me. About 7,000 people in British Columbia were charged on an annual basis with impaired driving. When I compared that statistic to the year before of the number of people that had actually received 24-hour suspensions — 44,000 of the 24-hour suspensions were issued and 7,000 charges — I had a concern.

The first concern I had with the Attorney General is: how much time is it taking to process a criminal charge of impaired driving through the charge approval process? Is it making it so that the police are doing a 24-hour suspension rather than moving down to the aspect of the criminal charge? If it isn't that, then what can we do to enhance the value of the 24-hour prohibition for drivers to recognize that we don't want them driving with any alcohol on their breath in the province?

A year ago, through regulation and change, I allowed the superintendent of motor vehicles to actually suspend a driver's licence for people that had two or more 24-hour suspensions in a two-year period. We did that because we thought, administratively, that it might start focusing the mind a little bit for some people. In addition to that, we felt it was important to move forward and say: how else can we improve the 24-hour prohibition, and what else do we need to do with regard to impaired driving?

[1440]

Over this extensive consultation period, with a document that was on the Internet for people to respond to.... We received a great deal of response to this particular paper. We came up with B.C.'s drinking-driving initiative. There are a number of pieces to this: user-pay rehabilitation, user-pay ignition interlock, enhanced 24-hour prohibition, enhanced driving while prohibited penalties, coordinated cooperative public education and awareness, and an improved justice system response.

The objective of all of this is to reduce the incidence of people getting behind the wheel of a car after consuming alcohol. The objective, in so doing, is to reduce the number of fatalities and injury-accidents caused by impaired drivers in British Columbia. The objective is to reduce the \$880 million that this costs our society on an annual basis, in vehicle accidents alone, in injuries and deaths.

The objective is to make people aware that we're dead serious about impaired driving in this province. But the most significant thing is to make sure that our communities are safer, that our communities are better

policed from the standpoint of impaired driving and that we give police the tools to do the job. This is what we're doing in this legislation.

A 24-hour prohibition now.... When somebody is stopped by the roadside and given a roadside test, or if a police officer decides to give a 24-hour suspension, the police officer will now be able to also seize the car for 24 hours. That'll send the message to the driver who has consumed alcohol and to anybody associated with that vehicle that we're dead serious that we want that car and driver off the road.

If a person that gets a 24-hour suspension gets another one within a period of time, the superintendent of motor vehicles will suspend their driver's licence, taking into account their driving record. If they get three within a certain period of time, they will find themselves also having to go in for some mandatory rehabilitation, and they will see their driver's licence removed.

The other aspect is this: when we make that move, we also have to take into account that there are a number of people in our province who get their licences suspended or prohibited and who think they can just get behind the car's wheel, ignore the law and drive anyway. When you enhance enforcement with regard to the 24-hour suspension, you also need to enhance the ability to enforce with regard to prohibited and suspended driving.

As we went through this exercise, we found a couple of things that were of interest to us. The first one is that we found that bail conditions, as set by the courts, where a judge actually says to someone that one of their bail conditions is that they can't drive.... We had no vehicle in legislation that allowed the superintendent to take the driver's licence. We will, in this legislation, be able to take it as a part of the bail condition.

More important is this: if somebody decides, when their licence is suspended or prohibited, to get behind the wheel of a car.... Understand this on your first offence: it's a minimum of a \$500 fine when this legislation comes into force, and we can take your car for up to 60 days.

We don't believe that people who are serving a sentence that has to do with the prohibition of a driver's licence should be getting behind the wheel of a car during that period, and we believe that penalties have to be there to actually deter that level of behaviour. This legislation includes that in it as an enhancement to the 24-hour suspension, to our ability to prohibit driving and the issues in and around that.

We also have in this legislation a user-pay rehabilitation program. People that are repeat offenders under the Criminal Code, people that are first-time offenders under the Criminal Code and people that have habitual difficulties with 24-hour suspensions will find themselves taking mandatory treatment for alcohol. That treatment can vary, but every single person will be basically assessed and given a plan of treatment that they'll have to go into, and all will pay.

In addition to that, we are going to put in place a user-pay ignition interlock system on the cars of repeat offenders in British Columbia. Some of you may have

seen the news last night. Basically, what we're talking about is a device that is attached to the ignition of a car. You have to blow in it before you can actually turn your vehicle on. If you have alcohol on your breath, you won't be able to start your car.

This is for people that have, obviously, a problem we need to address. It also provides a monthly print-out, so it tells us if anybody has tampered with the device, if anybody has tried to disconnect it or if any incidences occurred where someone actually tried to start the vehicle on the interlock device when they had alcohol on their breath.

[1445]

These are good initiatives. As we move through the entire aspect of discussions in committee stage of this debate, we're going to find that we've done some groundbreaking things with regard to impaired driving in B.C.

We're also funding this program. Although we have a user-pay program within this, the Minister of Public Safety and Solicitor General will receive an addition to the vote to be able to take care of the shortfall of cash in the transition into full user-pay with rehabilitation, interlock and other aspects of this program.

Let's take a look at what we've done with regard to impaired driving in British Columbia in the last two years. In the summer of last year, we made it possible for the superintendent of motor vehicles to seize a vehicle for 24-hour suspensions that were repetitive, taking into account the driving record of the individual.

In the fall of 2003, we did an enhancement to the graduated licensing program in the province, making it so that a learner will now take a year to get a learner's licence and two years under novice. We put in place the restrictions on passengers to take away the peer pressure that our young people are experiencing in the vehicles, knowing full well that that one change of going to one passenger under novice will save us 15,000 accidents and numerous injuries every year.

Through that three-year period, of course, there is zero tolerance for the driver of a vehicle to have alcohol on their breath. Zero tolerance means that anybody in any of those stages of driving would find themselves going back to the start of day one of their driver's licence should they have alcohol on their breath.

In addition to those two initiatives, we brought through what we're doing today. We worked it through a process, taking into account the issues around the Charter, issues around what we could and couldn't do and what we felt could be accomplished on behalf of all British Columbians with regard to impaired driving.

It is a big step to go out there today and say to people: "If you're going to drive and get a 24-hour suspension, you could lose your licence." I want people to understand that. That's why we will get the education out there, as we move forward with ICBC and our other cooperating agencies and partners, in addition to all the changes we make to let people know the scourge that alcohol is on our society with regard to deaths and injuries on our highways and roads.

More importantly, you'd better be aware of the fact that the rules have changed, folks. We do not have the patience for you to go out and drive when you're prohibited. We do not have the patience to accept that you think you can continue to drive and get 24-hour suspensions without a result on your driver's licence. All of these changes allow us to move down a road to where we can actually make our roads safer in British Columbia.

While we do that, Mr. Speaker, we're doing some other things. As you know, in this House I've discussed and talked about the fact that we want an integrated traffic unit up and running in B.C. We had \$13.5 million going out in overtime from ICBC to police forces to pay for CounterAttack, rather than actually putting police officers on our streets.

I was talking to somebody the other day, and they said: "Man, I've really noticed that there's an increase in road stops for impaired driving, for IMPACT and those types of things lately." That's because we're starting to ramp up the integrated traffic units, and they're starting to have an effect. Not only will the visibility of policing be increased, but when they have it out there with the visibility of policing, they will have additional tools like those I've described and what was included in this legislation.

The whole aspect of this is education, visible enforcement and results that mean something to communities, on the penalties people will have when they want to break the law. If you can combine all those and make it work on behalf of communities, you've got to have success in reducing accidents and fatalities related to impaired driving. That's what we're trying to do here.

[1450]

There will be naysayers. I noticed that the Leader of the Opposition yesterday said we didn't go far enough. That strikes me as ironic, given the fact that they did nothing in ten years. It's about sitting down with law enforcement in an integrated relationship in regards to enforcement, about having a policing plan that worked for British Columbia, about having integrated units related to traffic — or actually having the guts to address the issues in and around impaired driving in our society.

This was a very extensive process on behalf of members of the government caucus, on behalf of the public, of British Columbians. I want to say that I'm proud of the fact that not only did we initiate the process, not only did we have the temerity to put out there options that were controversial and not only were we prepared to have those discussions, but we were prepared to work towards the solutions and find, at the end of the day, the additional tools for communities and police to reduce the scourge of impaired driving.

That's what we've done here. We've had the ability to sit down and look at our communities, listen to the people of British Columbia, listen to the interest groups, including law enforcement, and to come up with some things they tell us are going to work.

There's another little thing in this legislation. It is a little thing, but it's also important. As we deal with the

issues in and around alcohol and driving, we also recognize where the activity takes place and when the activity takes place.

Our police, in the past, have had the ability to write a ticket for someone who is drinking in a bar, pub or restaurant and is under-age. They've had the ability to write a ticket to a person working in a bar who serves people that are intoxicated. They've actually had the right to write a ticket for somebody who's intoxicated in that public place.

The problem is that those tickets have added up to about \$4.7 million owed to government today. About \$600,000 in liquor tickets are written in the province every year, and 80 percent of those tickets aren't collected. They became a useless tool from the standpoint of actually having a result at the end that meant something with regards to the ticket you got when you made the offence.

Now, 94 percent of the tickets for traffic offences in British Columbia get collected. If you're speeding, if you run a stop sign, if you run a red light, if you fail to yield, if you pass on a double solid line, you'll get a ticket. There's a fine, and 94 percent of those tickets get collected. What's the difference? The traffic ticket is tied to your driver's licence. When you go to renew your insurance or you go to get your driver's licence, if you don't pay your fines, you don't get the licence.

This legislation, for the first time, takes another provincial offence — that being liquor tickets — and ties it to the driver's licence in British Columbia. It makes the tool meaningful to police in B.C. as an enforcement tool they can now use and know the end result is that the penalty will stand and that people will have to start to recognize those behaviours will no longer be something that are going to be brushed aside or ignored.

Law enforcement asked for this tool two years ago. As we've done our work through the drinking-driving initiative, we felt it was important to give it to them. They tell me that in the city of Vancouver, if they had this tool, they could reduce a lot of the difficulties they're experiencing in their bar scene downtown. We're giving them the tool.

As we give them that tool, I hope it'll also, frankly, focus people's minds on the fact that — you know what? — there are penalties for bad behaviour, whether it be drinking and driving, drinking in a public place and getting so intoxicated that you can't handle it anymore, serving somebody who's intoxicated or thinking you can get into a bar when you're under-age and have no penalty whatsoever for your action.

[1455]

Whether you have a 24-hour suspension, whether you have a criminal record now for impaired driving or whatever the case may be, there will be penalties and results and things we want to accomplish as a result. People have to take responsibility for their actions in and around alcohol.

Our expectation is that they will, but our expectation is also that we will give the police and communities the tool to make sure they understand where our

expectation is for them to have that behaviour modification, and our expectation is that we will have success in reducing impaired driving in British Columbia.

As I have walked through this exercise for the last two years and met with families and people that have been affected by alcohol-related incidents in their lives, I have known we're on the right course to achieve something. I knew it even more so yesterday after I introduced the legislation and returned two phone calls last night — two phone calls to people that I know lost somebody to an impaired driver.

Those were two phone calls from people who said: "Thank you. You have done the right thing. We know we can't go all the way sometimes with these things, but at least you have done the job to get people off the road so that I will not see another family, or as many other families, affected by the scourge of alcohol and an impaired driver."

When the families see that you have actually decided it is time to put the penalties, the rehabilitation, the community education, the driving-while-prohibited penalties and the issuing and changing so that people can't avoid the law under bail conditions — which has been one of their bailiwicks for a long, long time — they know you listened.

They know you listened, and they think you have made a big step. They will also tell you that they would love to see that there would be nobody who would ever get behind the wheel of a car again. Some would tell you they would like to see all people that are impaired drivers incarcerated. They also know the reality that you need the tools in your law enforcement community with significant-enough penalties to change behaviour.

I had a lengthy conversation with one of the individuals last night. He got quite emotional at one point and said to me: "You know, Rich, this is the right direction. After explaining the legislation and what we're doing, I now understand what you are doing. I understand that you've got it in your mind and figured out that you are not going to accept people thinking they have an excuse by getting a 24-hour suspension or have an excuse by ignoring the law and driving while prohibited. You are going to actually change behaviour, because you're going to penalize them on the one side and take the car away on the other. You're going to have some impact."

The individual was also very supportive of ignition interlock and is of the mind that all manufacturers should start putting them in their cars, like Saab is evidently doing in Sweden. That may come down the road. The one thing we have accomplished here is a piece of legislation that has come together through a group of people working together: law enforcement, community, people that are special interest groups with regards to impaired driving.

Mr. Speaker, I am proud of this legislation. I'm proud of it because we actually had the guts, frankly, to break the mould a little bit. We had the guts to say that we're not putting up with some of this stuff anymore and that we're going to give tools to our commu-

nities and law enforcement to push back. We give them those tools, and we're going to tie it into an educational program to get the message out to everybody.

This is a good piece of legislation. This is something that is good for communities. It is something that is going to change lives for those it saves and for those that don't get maimed by an impaired driver. We will be continuing, as we move through this process, to be ever-vigilant to see if there are any other tools we can find that would assist us in reducing impaired driving in the province.

This legislation should be supported by all members of this House. This legislation does go far enough, considering the realities of what we're allowed to work within, within the law. This legislation gives us an opportunity to change behaviour and to measure that change as we go forward and see how the statistics related to impaired driving improve in British Columbia. If they improve and if we are successful, it is a proud day for everyone in this House.

[1500]

Hon. G. Plant: I am delighted to be able to rise and follow my friend and colleague the Solicitor General, and to express my support for the initiative that is before us here this afternoon and on which I have worked with the Solicitor General for the last couple of years and more.

[J. Weisbeck in the chair.]

I don't want to spend time talking about the range of issues that are dealt with in the legislation. I only wanted to spend a minute to speak about one particular issue. As long ago as about 1997, I think, I stood in the House as an opposition member of the Legislature, an opposition justice critic, and introduced a private member's bill that was called something like the substance abuse assessment and rehabilitation act.

The gist of that legislation was to try to introduce into the law of British Columbia for the first time some recognition that there are people who get behind the wheel and drive while they are drunk because they are irresponsible and also people who get behind the wheel of a car and drive while they are drunk because they are suffering from a drug addiction or alcohol addiction — and that if we could introduce into the regulation of motor vehicles and licensing in British Columbia some recognition of that reality and actually give the superintendent of motor vehicles or the appropriate official the tools to require the repeat offender who has this problem to be assessed for it and then to take counselling or therapy for it, we would fix the health problem that lies at the root of the criminal behaviour.

That's not for a minute to diminish the fact that driving while impaired is a crime. It should be regarded as a crime and dealt with seriously. But we can, in this House, ensure that the laws of British Columbia also have the tools to strike at the heart of the causes of criminal behaviour. In this case, one of those causes is

the fact that there are people who are alcoholics or who are drug addicts and who just can't help themselves because of their addiction. They get behind the wheel, and they cause all of the havoc and the anguish and the loss that the Solicitor General has referred to in his second reading remarks.

It was a bit of a mystery to me. I stood up and I tabled the bill, and my sense of the Legislature that day was that all sides — all parties — supported the initiative. But it has never come to be until now. A year or so after that initiative, or sometime shortly thereafter, the NDP did introduce a provision into their traffic legislation that went some distance down the road that I was arguing in favour of. But having introduced that provision and having passed it, I don't think they ever brought it into force. That's unfortunate.

When the Solicitor General and I, a couple of years ago, sat down and realized that it was time to take some forward progressive steps in the area of impaired driving, we both put this issue on the table at the outset, this issue of what we can do to ensure that in the appropriate case — and the appropriate case is most typically going to be the case of the repeat impaired driving offender who just has this problem — legislators have given regulators the tools to ensure that the driver doesn't get behind the wheel without addressing the problem which lies at the root of the criminal behaviour.

So we have in this bill the requirement — the option — for substance abuse assessment, rehabilitation and treatment. Really, at long last, I think we are finally going to see out there on the streets of British Columbia an idea which we should have had in our law and in our administration of this law years and years ago. It may be late, but it's a good time and as good a time as any to finally get it done and get it done right.

[1505]

As the Solicitor General was speaking, I noted he made the point, which I think is important to emphasize, that both the rehabilitation initiative and the ignition-interlock initiative are user-pay. I think that's an appropriate allocation of responsibility in terms of these issues. The person who wants the right to be back on the road someday should have the responsibility of paying for the treatment that may help make that a reality.

So it's been a long time waiting, for me anyway. But I'm absolutely delighted to be part of a government which, these years down the line, is finally moving forward to implement something that I was privileged enough to introduce to this Legislature back when I was first elected as an MLA. For that and for all of the reasons that the Solicitor General talked about in his remarks and all of the other initiatives that are in this bill, I am delighted to have a chance to stand and speak in support of this bill.

K. Krueger: I'd like to join the Attorney General and the Solicitor General in supporting Bill 66. I also am proud of a government that is moving forward on these important initiatives.

I've worked over 20 years in the investigation of motor vehicle crashes. I pretty much have stopped calling them accidents, because most of them aren't. They're the result of negligence. They're the result of poor decisions, irresponsible decisions and carelessness. Very few of them are actual accidents, but they wreak terrible havoc in people's lives, and the consequences are an awful thing to see.

One of my tasks as an accident investigator was often to try and determine the truth about who was sitting where in the vehicle and who was driving. Very often crashes that result in quadriplegia, paraplegia, brain damage or the death of occupants involve a number of factors. Irresponsible behaviour like excessive speeding, very often along with failure to use seatbelts and the protective equipment of the vehicle, and almost inevitably driving while impaired are factors in many of these very severe injury-causing crashes.

Working for ICBC and having to go and look at these vehicles, often after having spoken to a bereaved family, grieving parents or mangled young people in hospital, I was often horrified by what I saw. You would look at the smashed windshield, and there would be pieces of human scalp embedded in the broken glass with hair hanging down. There would be fragments of people in some of these vehicles. I saw a beautiful young woman whose face was so scarred up and had required so many stitches that it looked like a jigsaw puzzle. I doubt that she ever looked beautiful again.

I met a young woman who was sitting in the front seat of a pickup truck between two good old boys who had been boozing it up. They hit an immovable object. She was thrown forward so hard that all the bones in her foot broke, and they protruded through the skin. I saw terrible things — things that made me sick to my stomach. Very often these were the factors that led to those crashes. A crash that occurs because the driver was impaired is absolutely not an accident.

Many of these things happen because people regard driving as a right and something that they're just entitled to do. Of course they aren't. Driving is a privilege. Our highways and our law enforcement system are paid for by the taxpayer, and the taxpayer deserves the right to enjoy those highways in safety and without having to be fearful of encountering a drunk in the middle of the night. When my children head home to Salmon Arm — some have moved to Salmon Arm; I still live in Kamloops — I am fearful if they do it at night on the Trans-Canada Highway because of the high incidence of impaired drivers on that road.

For many years at ICBC, we experienced the frustration of people thumbing their noses at the law. They would lose their driver's licence; they would keep right on driving. Eventually we got the ability to remove their ability to insure a vehicle again if they were behaving in that way. They started insuring the vehicle in their mother's name, their girlfriend's name or some buddy's name. I've been very thankful, as these changes come on over the years, that government can

and does seize the vehicles, impound them and make life difficult for that sort of irresponsible person.

[1510]

I applaud the Solicitor General for beefing up British Columbia's ability to respond to such people significantly with this legislation. I've seen some of the criticism — people who think the bill doesn't go far enough. We work with realities, of course, in this Legislature — the reality of people's rights, their Charter rights as Canadians under the constitution. We can't just lock people up and throw away the key because they've committed an offence of driving while impaired, but we can be intelligent about how we respond. This is intelligent legislation that I believe will go a long way toward decreasing the number of crashes related to driving while impaired and the number of terrible incidents such as those that I've been describing — the grief in families, the heartache for the victims themselves.

Often people are victims of themselves. I have a young constituent whose family I have been working with for months now. Although he was a brilliant young man — very motivated, very hard-working — he made a terrible mistake and got behind the wheel of a car when he shouldn't have, when he had been drinking. He is such a bright young guy. He'd graduated when he just turned 17. He was only 19 years old when he had this car crash, and he already had two full years of carpenter's apprenticeship under his belt. He was heading for a very good career — a responsible young man — until that night. He crashed into a neighbour's basement with his vehicle. When they extracted him from the vehicle, he was a quadriplegic. His whole life has been changed, and his family's life as well.

ICBC reached the point in the seventies, while I was working for them, when they began to face up to the fact that there are some drivers amongst us who will never change their attitudes about some issues — like wearing seatbelts, drinking and driving, irresponsible driving behaviour — and decided to respond in a two-pronged counterattack. One of the prongs was to increase the tools that the government and the insurance corporation have to deal with people who behave in these ways through things such as this legislation sets out — increased prohibitions, seizing of vehicles, 24-hour suspensions — and all sorts of things designed to deal with people who are perpetrators of this offensive behaviour. The other prong was education, particularly of young people starting at the elementary school level, recognizing that children will accept messages like the messages of traffic safety. They'll take them to heart, and they'll grow up remembering those and actually being committed to them.

I had some dramatic illustrations of that in my own family. I consider myself a good driver and try to be a responsible driver. My children were picking up on these messages. If they sensed that I was going to accelerate to get through an amber light, they'd shout, "Fools rush in, Dad," because that was one of the slogans being taught to them in elementary school.

One day when I was going to drop my children off at my mother's place five doors down the road from where we lived, my oldest one, who was six at the time, shouted: "Dad, you haven't done up our seatbelts." They all had infant car restraints. I said: "Well, that's okay. We're just going five doors down to grandma's house." There was a shocked silence in the vehicle, and then his little voice: "Dad, does God say it's okay to break the law if you're just going five doors down to grandma's house?" They took it very seriously, and they still take it very seriously. They all wear their seatbelts as a matter of course. They had the traffic messages drummed into them at school early on.

ICBC actually paid teachers to come and work for the traffic safety division and write curriculum and go and teach other teachers how to include it in the education of these youngsters. It was a very good thing. Sadly, in 1992 a new vice-president at ICBC discontinued that program. We've had a lot of drivers turn 16 and begin driving, who haven't had the traffic safety message as a result and who don't have those things built in.

I've been talking with the Solicitor General and encouraging him to encourage ICBC to resume those elementary school programs. I have a colleague, Mavis Johnson, who worked with me in traffic safety at ICBC. She travels the world incorporating other countries' successes in traffic safety programs and bringing them home for organizations here in British Columbia. Again, she has met with the Minister of Community, Aboriginal and Women's Services. I hope that the communities of this province, as they receive the funding from traffic violation fines, will use a lot of that in traffic safety programs in their communities and will use the expertise of people like Mavis Johnson as they do so.

[1515]

In Prince George in the late seventies, people horrified by the dozens of young people who were being killed and maimed in crashes — often involving those same factors of driving while impaired, speeding, failure to use protective equipment, seatbelts — formed a group that they called the carnage committee. Their slogan was: "We're going to take the car out of carnage." They went after that very seriously with billboards about the carnage, with car wrecks that they would put alongside the highways to slow people down and illustrate the consequences of those behaviours. That worked very well. The number of fatalities, the number of serious injuries and the number of crashes involving driving while impaired were reduced dramatically.

It's something we should all focus on in our communities and certainly in government. I'm proud of the Solicitor General, who has gone so far out of his way to do that. I think this is a key piece of legislation that I trust everyone in this House is going to support.

I like a whole lot of things about this legislation. I like the way it focuses on changing the attitudes of drivers. It will require drivers to undertake training where, reluctantly or otherwise, they're obliged to open

their eyes to the risks they're taking themselves and the risks they're making other people subject to if they make that terrible decision to get behind the wheel when they're impaired.

The focus on 24-hour suspensions, again, will oblige people to think very seriously about the second or third drink in a restaurant, about how they're getting home, about planning a safe ride home. Lots of times people never intended to get themselves in a situation where they were driving a vehicle while impaired. They just don't think about it in advance, and people have to be trained to think about it in advance. They have to be trained to realize that driving is a privilege, that it's not something they're entitled to and that it's a privilege that will be taken away if they misbehave in these ways.

I like the increased ability to impound vehicles and the extension of the length of time that a vehicle can be impounded for from 30 to 60 days. It's a good thing to get that weapon out of people's hands if they're falling into the habit of driving while impaired, because a vehicle does become a weapon in those circumstances. People often have no realization of the deadly force that the momentum any vehicle has when it's being operated at pretty much any speed, but certainly at significant highway speeds.

I'm tremendously pleased with the government for bringing forward this legislation. I certainly support it, and I hope that everyone in the Legislature will. I commend the Solicitor General for having introduced it.

J. Bray: I join with my colleagues in rising in support of this bill. Certainly, I know that in my community, issues around drinking and driving are always at the forefront when we talk about concerns we have for the safety of our families, for our children and indeed for ourselves.

I want to spend a few minutes talking about one of the key reasons why I believe this is such a strong piece of legislation and such a good piece of public policy. There are lots of issues that revolve around drinking and driving, and there are lots of groups out there that have opinions and express concerns all around that issue. It's not easy to venture forth with a comprehensive plan with consultation — to actually ask for feedback from those groups specifically as well as from the population at large. Yet the Solicitor General did that, and what we've come up with is the result of meaningful, real consultation.

One of the groups that the Solicitor General spent a lot of time talking to was, in fact, our front-line police officers — the women and men who actually have to enforce the rules and are trying to work to make our roads safer. Some of the criticism I've heard from pundits and others that I find really shocking is the suggestion that this legislation gives police officers too much control, too much discretion, too much power.

[1520]

At the same time, many of those pundits complain about the fact that we don't seem to be doing a lot about drinking and driving. Yet they argue that giving

front-line police officers some tools to actually deal with it at the roadside, based on their own professional experience, is somehow problematic. I find that quite dismaying.

We have the best law enforcement forces in the world here in British Columbia. Of course there are incidents that make it into the media, but day in, day out, day shift, night shift, long weekends, Christmas, Thanksgiving, our police officers are out on the streets doing their best to make sure that our streets are safe. We take it for granted.

When the police officers meet with our Solicitor General and say, "Solicitor General, here are some tools that can make our job more effective, that get people — especially problem drinkers — actually off the road and make it physically impossible for them to get back in their cars to drive again, that keep us on the street catching other offenders and that drive home the message that drinking and driving will not be tolerated in British Columbia," I think that's something to celebrate.

I know that when the opposition was in power, with the exception of a few dozen criminal investigations, they never bothered to talk to the police in this province. They completely ignored professional law enforcement. We've actually engaged them. The Solicitor General actually made it a point when he was first appointed in 2001 to engage professional law enforcement. Guess what. They've got some really good ideas. Greater powers are not what we're talking about here. It's actually giving them the tools to enhance the service they already provide. If that gets one drinking driver off the road who otherwise might have plowed into a family or killed themselves or injured someone else or themselves, I don't see how anyone could have a criticism about that.

What we're also doing with this legislation is sending a clear signal to those who do engage in drinking and driving that this is a serious offence in British Columbia. Some of these changes, to me, are actually good, solid, commonsense changes. If you get a 24-hour roadside suspension, you can't say, "Thanks, Officer Smith," walk away and come back an hour later, when the officer's moved to another location, get back in your car and drive again, because we can impound that car, actually get it off the road for 24 hours and make it a real suspension.

The part I am particularly pleased about is the recognition.... Again, by combining mental health services, addiction services and health services together, we recognize that alcoholism is a health issue. There are criminal aspects to it, no question, and drinking and driving is a criminal act, period. But the underlying cause of that may, in fact, be the disease of alcoholism.

At the end of the day, the goal is to make our roads safer. I think one of the great programs is, in fact, directing repeat offenders to treatment in order to get their driver's licence back and to make sure they're getting the treatment they need. It's actually a user-pay system. I think that is one of the big deterrents. It's going to cost you to get your licence back as a repeat user.

Now, you might not receive the same treatment, based on an assessment that you'll receive. You may only get an educational program, or you might get intensive alcohol treatment. The cost is spread out among all so that it doesn't become overly cost-prohibitive for those that might need more intensive treatment, because those are the people we want to make sure actually receive treatment for their alcoholism.

We're also saying, and this was always the one.... I know I talked to constituents who often shook their head at this, that somebody would receive a driver's licence suspension and would constantly get pulled over driving again. People felt frustrated by the lack of the ability to deal with that, and no more so, I think, than front-line police officers who got tired of seeing the same person driving. The ability to impound the vehicle and actually put some pressure on that individual to get the car back or to make sure that they're upfront with family members and that family members are upfront with them.... They don't want to lose their vehicle because someone who has a driver's licence suspension gets in the car and drives anyway. We're really saying that that's a serious offence as well.

[1525]

We've got an appeal provision there to make sure that in cases of, say, a commercial operator, where the employee doesn't tell them they're under suspension, they have the opportunity to get their vehicle back within a day or two, or in situations of potential hardship for a family who says: "We didn't know so-and-so was going to drive, and we have to get our children to day care." There are appeal provisions.

We're saying in this province that it's a crime to drink and drive. You're going to pay severe penalties, and it's going to start right on the roadside. If you continue to do things like driving without a driver's licence, it's going to cost you.

Another issue I am really pleased with is recognizing not only that treatment is important but that we actually want to make sure you can re-establish that you can now drive without consuming alcohol. The interlock system to me is a great innovation. It's done in other jurisdictions — very successful. I think it's brilliant that we've brought this here to British Columbia so that repeat users actually, once they finish treatment, are going to have an interlock installed in their car, and they are going to be required to blow to start the vehicle but also periodically to ensure they're not drinking once they're driving.

Again, there's a financial implication to that. The actual person is going to be paying the cost of the installation and the removal of the unit, as well as the calibration. It needs to be calibrated on a regular basis. We are putting real physical impediments to the penalties, but we're also putting some financial impediments — real financial impediments — that hopefully will make people think twice about whether or not they'll have a couple and get in the car and take a chance. It's that type of behaviour that we need to curb, and it's those with alcohol problems that we need to actually

get to and get them so that they're not drinking and driving. Preferably, it's because they're not drinking.

It's important that we support our front-line police officers as they go about their daily business of trying to keep our streets safe. When they come to government and say, "We have some suggestions that allow us to achieve the goals everybody wants," then I think we need to rally behind our law enforcement officers.

We need to reduce the incidence of drinking and driving. We need to reduce the incidence of accidents and of death. I think that this legislation is an excellent step in that direction. I commend the Solicitor General for tackling this issue, for consulting widely with the public. I am very pleased to support this bill.

J. MacPhail: I will begin my comments by saying that the New Democrat opposition will be voting in favour of this legislation. So, anybody who likes to allege otherwise: stop.

I do want, though, to put on the record some of the discussion about what more needs to be done. I think it's fair to turn to the organization Mothers Against Drunk Driving — to put on record what their views and what their proposals are. Of course, over the last two years they have sometimes been forced into commenting on activities or events in this province in a way that they would have preferred not to, and yet they have been drawn into the discussion by the government and by others. So I think it's fair that they be highlighted as a model organization of a group who tackles as their only agenda getting rid of drunk drivers.

My colleague from Vancouver–Mount Pleasant and I met with the senior officials of Mothers Against Drunk Driving within the last few months. I'm pretty sure it was the summer. I don't think it was much before that, but my memory is.... In fact, it was this summer.

Interjection.

J. MacPhail: Yes, my memory is slipping. Yes, I confess. Never deny the obvious, is what I say. A lesson for all of us.

Anyway, Mothers Against Drunk Driving has some interesting comments on this legislation. But first let me just read what my view is of what the legislation does. I had a nice little analysis here that Bill 66, the legislation we're debating.... This is what the bill provides. Drivers who receive 24-hour roadside suspensions may also have their vehicles impounded for 24 hours — they may. Chronic offenders with serious drinking problems may face mandatory rehabilitation.

[1530]

Drivers with three or more alcohol-related Criminal Code offences may be forced to use an ignition-interlock device that requires a driver to submit an alcohol-free breath sample before the vehicle will start. Costs associated with the unit are to be paid for by the driver. The Solicitor General has estimated that about 230 drivers are expected to enter the user-pay program each year.

People who get caught driving while prohibited from driving will face increased fines. The fine is increased from \$300 to \$500, and there's an option of an extended vehicle impoundment, up from 30 days to 60 days for a first offence.

A driver's licence may not be renewed or obtained without outstanding fines for liquor offences such as underage possession of liquor being paid. If a driver disputes the 24-hour prohibition, police can use the roadside screening device as an approved breath test, rather than having to conduct the test at a police station.

Well, I think it won't come as any thunderbolt from anyone that British Columbia has been the focus of intense scrutiny around drunk driving. Many lives have been affected by that in the course of the last two years. Lives have been unalterably affected by the scrutiny of the last two years, and I wish nothing but the best for those who have had to face that intense scrutiny.

It's also important that we learn lessons when people look upon us in a way that is less than favourable on the basis of our actions. Mothers Against Drunk Driving has done exactly that, to see what lessons have been learned by this government, by the leader of this government, by the province as a whole.

Now, what has MADD, the Mothers Against Drunk Driving organization, said about British Columbia's record on tackling drunk driving over the course of the last years? Well, in the year 2000, Mothers Against Drunk Driving gave British Columbia the second-highest rating in all of Canada for the provincial efforts to stop drunk driving. In 2002 that rating slipped to a much lower rate. By 2003, Mothers Against Drunk Driving gave British Columbia a D-plus rating for progress in tackling drunk driving.

This year, in June, British Columbia got the lowest rating available by Mothers Against Drunk Driving for the province's efforts to tackle drunk driving. The rating was called "needs improvement." The other ratings are "setting a good example," "promising" or "needs improvement," and British Columbia got the lowest rating. There are other provinces that got the lowest rating too, but I know this government likes to be either the lowest or the highest. Well, in this case they're the lowest in the rating.

Here's the opportunity for this government, the Liberal government, to change that. I'm sad to say that the countrywide experts, Mothers Against Drunk Driving, have described the changes listed in Bill 66 as neither innovative nor unique and falling short of laws in provinces such as Manitoba and Ontario. "It's very disappointing," said Andrew Murie, chief executive officer of MADD. "There's nothing progressively new in this. There's no leadership. All they've done is replicate what other provinces have done. If they wanted to be mediocre, they've achieved that."

Bob Rorison, interim president of the greater Vancouver chapter of Mothers Against Drunk Driving, said the new law is not strong enough. "We're disappointed," he said. "We expected a lot more from Mr.

Coleman. All we're doing is playing catch-up with other provinces."

[1535]

What are we doing in the way of catch-up? Remember, this government had the second-highest positive rating by Mothers Against Drunk Driving in the year before this government took over, so there won't be any opportunity for any Liberal government caucus member to stand up and say: "Yeah, but what did the previous administration do?" There is just no opportunity, and the proof is in the ratings by Mothers Against Drunk Driving and how the rating has inexorably slipped under this administration.

In June 2002, Mothers Against Drunk Driving called for substantial reform of British Columbia's legislation, including a call for an interlock program and authorization for police to use passive alcohol sensors and demand breath samples from drivers involved in crashes that result in bodily harm.

In January 2003, Mothers Against Drunk Driving issues a news release that states that the Liberal government's legislative agenda is "a recipe for increased drinking and driving and an inevitable increase in impaired driving." Among the Liberal British Columbia government policies to which Mothers Against Drunk Driving objected in January 2003 were these: allowing for the extension of bar hours to 4 a.m., privatizing liquor sales without adequately addressing regulation and enforcement, making liquor available at more outlets, and possibly allowing alcohol to be sold on B.C. ferries. I might just note that three of these four policy initiatives speculated upon by the government are realities and are all still in place.

Anyway, the events of January 2003 in this province unfolded, and Mothers Against Drunk Driving praised the Premier for his meeting with Mothers Against Drunk Driving and making commitments to change in the province. Well, after that meeting, the report card by Mothers Against Drunk Driving showed that B.C. had slipped from second to eighth out of ten provinces in dealing with impaired driving. The day after that report card was released by Mothers Against Drunk Driving, the Campbell government announced some limited proposals and said that they would consult with the public until August 31, 2003.

The proposals under the new proposals highlighted in this discussion document listed that a driver given two 24-hour roadside suspensions in a two-year period would lose his licence for 90 days and that there would be a mandatory user-pay rehabilitation program for serious offenders. Now, I'll be questioning the Solicitor General on whether this legislation is even as tough as that proposal on their initial discussion document, because there is some question that this legislation isn't even as tough as their original proposals.

What did Mothers Against Drunk Driving say about those proposals? Well, they stated that they weren't impressed by the Liberal government's proposals that came six months after the Premier's personal incident. "They're not strict enough at all, and their proposals are no real solution," said Bob Rorison

of MADD's greater Vancouver chapter. "The user-pay rehabilitation sounds nice on paper, but they don't tell us what rehab is, and they don't tell us what is a serious offender. If a drunk driver has killed somebody, then rehab is too late."

[1540]

On August 31, 2003, the public consultation process ended. On March 12, 2004, there was an interesting report released by a physician, I think it was, and the report shows that almost 90 percent of hospitalized drunk drivers escape criminal convictions. "That report proves that B.C. police need greater powers," said Mothers Against Drunk Driving. That report showed that only 11 percent of hospitalized drivers whose blood showed they were legally impaired were later convicted of drunk driving offences. Of a total of 1,697 drivers who were hospitalized, 619 were impaired, with an average blood alcohol level more than twice the legal limit.

In that news report in March of this year, the RCMP said that a new training program is being launched to teach B.C. officers how to obtain reasonable grounds to demand a blood sample for injured drivers. While he welcomed the move, Bob Rorison, the head of the Vancouver chapter of Mothers Against Drunk Driving, said that police need stricter legislation and more tools to get drunk driving convictions.

I'll be exploring at committee stage what exactly the RCMP program is around improving their ability to get reasonable grounds to demand a blood sample from injured drivers. The legislation we're debating today does not address that issue at all.

On June 19 of this year Mothers Against Drunk Driving released their 2004 report, which I've already stated was the lowest rating, "needs improvement." Mothers Against Drunk Driving Canada's national president, Louise Knox, accused the Liberal government of "dragging its feet" on new legislation aimed at reducing drinking and driving. "Since our last report card in 2003, the province of B.C. hasn't done anything to address impaired driving other than some of the changes made to the graduated licensing program," Knox said.

She also noted that other provinces had taken action and were given the highest rating of setting a good example. Those provinces were Manitoba, Newfoundland and Labrador, and the Northwest Territories. "It surprises me in any province, because impaired driving is our country's number one criminal cause of death," Knox said. "Four Canadians are killed every day, and under 200 are injured, so it's a huge problem in every province."

The Solicitor General's response to Mothers Against Drunk Driving of Canada's comments about the Premier's misadventure was that he was disappointed with MADD Canada's comments, and he was puzzled about MADD's criticism, especially considering that B.C. had introduced a tougher graduated licensing program in the summer of 2003 and had cracked down on drivers who have two roadside suspensions in a 24-hour period.

That's the history of this.... Oh, I'm sorry. There's been one other incident since then. In September of this year, 2004, Mothers Against Drunk Driving expressed outrage at a proposal to sell wine at a new mall at the Tsawwassen ferry terminal. "The provincial government should see it as a highly risky idea and not allow it to take place," Bob Rorison, interim president of MADD's Greater Vancouver chapter, said yesterday. Rorison promised his organization would fight the idea by writing letters to MLAs and personally lobbying them to take action."

Then now, this week, we have the legislation introduced. I must tell the Solicitor General that I'll be trying to extract a very firm commitment from him that that liquor outlet at the Tsawwassen ferry terminal will not be proceeding.

[1545]

I will also be questioning the Solicitor General at length about the expansion of private liquor outlets throughout this province — particularly in my own home city, Vancouver — and about how many municipalities simply are saying to the government that this issue of zoning for private liquor outlets has been downloaded onto the municipalities. They have neither the time nor the resources available to properly deal with this issue, yet the Solicitor General is going full speed ahead without listening to the concerns of either neighbourhoods or the municipalities.

I'll also be quizzing the Solicitor General very closely about how, indeed, he is enforcing his own rules about private liquor stores having to be so many feet or kilometres away from public institutions such as day care centres and schools. We have evidence to the contrary that if those rules do exist, they aren't being enforced.

Why is that important? I know that this government doesn't like to admit there are already good ways of handling addictions, but there is evidence — solidly based, academic evidence — that improperly controlled distribution of alcohol increases addiction. Why? Because people who are not allowed to drink may have access to alcohol. Increased access to alcohol increases addiction. Yes, this is a legal substance, but it is.... Well, until this government came in, anyway, it was a controlled substance.

Those are all the questions I'll be asking the Solicitor General about perhaps what are mixed messages this government is saying about their real intent in dealing with drunk driving.

D. Jarvis: It's always a pleasure to follow the Leader of the Opposition. I'm really pleased that she has now said their party is going to support this bill, although her speech sounded as though she came to bury Caesar, not to praise him. There are a few things she has said that have bothered me.

I wanted to say that I am here today to support the Minister of Public Safety and Solicitor General. He holds down the two positions. I am really quite proud of the fact that he has brought forward this bill. Later on I'll explain a situation that has happened to me.

This bill certainly is a rather interesting bill and brings some new aspects to the drinking-driving situation in this province. I am one of those people that is probably a little stronger than what the minister has put forward with regard to penalties. We all know that the really strong end of the penalty aspect of it has to come through the federal government, with changes to their Criminal Code.

The mothers of MADD have suggested that the penalties should be stricter, but I'm afraid that aspect is covered under the Criminal Code. We in this province are left with the point that we have to put legislation through on the margins of the legislation — the licensing aspect and perhaps the rehabilitation. We cannot put in the heavier penalties with regard to the Criminal Code, and that somewhat restricts us.

This bill adds some new aspects to strengthen British Columbia's aim to reduce the perils caused by drinking and driving. This bill imposes the toughest measures available as yet, without having challenges come from the Charter, which also curtails the measures in which we should put forward the penalties for the offences of drinking and driving. As I said, it is a federal matter.

[1550]

Impairment is no longer an acceptable challenge in this world, in this province especially. I'm encouraged that this government has given a strong emphasis to enforcement measures aimed solely at deterring, if not stopping, impaired and drunk driving in this province. It's an offensive behaviour. I come from a generation that actually grew up.... I know people, probably myself included, thought that maybe impairment, when we were young, was a badge of courage, if you could drive home safely. Those things are changing. The next generation behind me, my son and my daughter, for example.... I know for a fact that if they intend to drink, they do not drive. They take a cab. I know now that children in the high schools, in the majority of cases, are looking at the situation — that it's very repugnant to be caught drinking and driving.

Things are getting better, and it's measures like this bill here that will only emphasize the fact of how unacceptable it is to drink and drive. As I said, some say we haven't gone far enough. I tend to agree with that to a certain degree, but how far do we go without having problems with our legislation here? If we do what the opposition felt that we should do or the Mothers Against Drunk Driving have felt that we should do, it would probably result in challenges to our legislation. The federal government is the one that has to change the Criminal Code so as to allow the province of British Columbia to make tougher laws that cannot be challenged. As I said, this is probably the best that we can do at this time.

My dear cousin, some time ago, was leaving a party, a family affair on the North Shore, and she was hit by a drunk driver who had crossed the centre line at Marine Drive in the lower part of Vancouver. She was killed instantly. This was a driver that happened to have been on suspension at that time for drunk driv-

ing. In this same accident he killed her husband, her son and one of her two daughters. He was obviously sick. The fact is that while he was awaiting trial, for example, he went out and got drunk again and was involved in another serious accident in which a passenger was injured. Obviously, he was a troubled young man and needed help.

This is something that this bill will help in a lot of cases in the future. You know, it won't be the answer to everything. We always have our non-conformists out there that will do something regardless of what the law is. If they get stopped for suspensions or if they have too many charges against them under the lesser charge of drunk driving, if the police pull them over through roadblocks and all the rest of it, then they'll end up in a position where their licence will be taken away, and they will be forced to go through rehabilitation. That is a good thing.

As I said, there is certainly no place in our society today for drunk driving. In many instances, it's a mistake in judgment. In most of the instances, the alcohol or the addiction that they're involved with has taken over. It's unfortunate for that individual if he or she ends up in jail, but we also have to consider — and this is what this bill is going to help, I think — the people and the families that are helped afterwards because of losing someone in that situation.

I want to again commend the Solicitor General for this bill. It's going to be a good bill. As I said, it's a start to something better. Nothing is ever perfect in our society. Drinking and driving is something that cannot be tolerated, and that is why I intend to support Bill 66.

[1555]

B. Penner: I, too, rise in support of Bill 66, which I think is a progressive piece of legislation that adds to the toolkit for the law enforcement community in British Columbia to deal with the scourge of drinking and driving. I was startled by the statistic I heard yesterday from the Solicitor General, the minister responsible for this bill, that apparently 101 people died last year as a result of drinking and driving just in British Columbia. That's a completely needless kind of carnage that we simply can't tolerate. I'm pleased to see this government taking action in terms of creating more tools for law enforcement to utilize, when we certainly saw the previous government fail to do so.

I remember being a member of this Legislature sitting on the opposition side challenging the previous government to move forward with the interlock system. They refused. It's the height of hypocrisy for the Leader of the Opposition to stand here today and be critical of our government when we're taking steps to give law enforcement greater tools to crack down on drinking and driving. When she was in government for ten years, they failed to do so. She had plenty of opportunity, and she was completely a failure in that regard, as her government and she were on so many matters.

The interlock-ignition system, for those people who are not familiar with it, has been around for a number of years, and it was presented to the previous govern-

ment as a partial solution to drinking and driving. I was befuddled then and I'm still curious now why the previous government was reluctant to consider it.

The way it's worked in other provinces and the way it will work here is that when it's required as a term of getting a person's driver's licence back after serving whatever their sentence is or paying whatever the fine is after a conviction for impaired driving, the individual will be responsible, at their own expense, to install this piece of equipment in their vehicle. It will require the would-be driver to provide a sample of his or her breath prior to the vehicle actually starting. If there's even a trace of alcohol detected in the person's breath, the ignition system will fail to start. This will prevent the chronic drinking drivers — the type that we just heard my colleague, the member for North Vancouver-Seymour, talk about — from actually getting a car to work.

I think it's very progressive legislation. It's long overdue. I'm pleased that we're able to move it forward in the Legislature this week. I was listening to the tragic tale that my colleague just recounted. It brought to my mind an incident perhaps I wanted to forget but haven't quite.

When I was just beginning my law career in Chilliwack — a very short law career, almost as short as the member for Prince George-Omineca — there was an incident in court where a fellow was before Judge Hoy, I believe. This fellow had been picked up for impaired driving. He had already been suspended previously, so he was not supposed to be driving, and he was before the court again on impaired driving. The judge granted him bail on the condition that he not operate a motor vehicle, not consume liquor, comply with a curfew, and report as and when directed to a probation officer.

What happened that night is that individual got out of the court system, out of the cellblock, went and got himself drunk, got in his pickup truck and went barreling along the streets of Chilliwack in a residential area — just north of the courthouse, ironically, about three blocks from there. I think it was on Cook Street. He collided at a speed of about 100 miles per hour — that's the estimate by the police investigators — with a small Chevy Sprint car that was going across the intersection.

That car contained two teenage girls who were on their way to a wedding shower for a friend of theirs. One of the two girls in the car I happened to know. I got to know her when I was a park ranger working at Chilliwack Lake Provincial Park. She was a native girl, and she was raised by her grandparents. They were always very gracious and hospitable to me when I was on patrol and would often share with me some fresh-caught Dolly Varden trout from Chilliwack Lake and bannock, which was something they enjoyed eating. Certainly I did. It prevented the necessity of me bringing my own lunch to work sometimes when I knew that they were in the campground. I got to know their granddaughter Jeanette through that summer. Much to my shock and horror, she was one of the two girls who were in that small Chevy Sprint when it was impacted by the speeding pickup truck. Both girls died instantly, at the age of 19.

[1600]

This guy was picked up at the scene. As so often seems to be the case, he was virtually uninjured, had a few scrapes and bruises, was completely unapologetic and was belligerent to the police officers that dealt with him. I had a chance to speak to the police officers later that were at the scene. They brought him back to the court. There he was the next day, making his first appearance on two counts of impaired driving causing death, and he had a smirk on his face. He was smirking to the world — couldn't care less. He'd just taken the lives of two innocent and beautiful teenage girls.

Clearly, some people aren't getting the message despite repeated encounters with the justice system. They're not learning despite going through the court process, getting penalties imposed and getting restrictions imposed. They're still not getting the message that we need them to hear.

As an anecdote, I think this guy ended up being sentenced to five years in jail for two counts of impaired driving causing death. He was out, I believe, in three years or so and was released in the general area of the eastern Fraser Valley. One night the Chilliwack RCMP received a report of a dangerous driver weaving and careening down Vedder Road on the south side of Chilliwack. Police attended. At that point the individual was in a gas station parking lot, and I believe he may have robbed the store or run out with some stuff without paying. The police officer got out of her car and tried to approach the guy to stop him — gave him a hand signal to stop. He got in his car and made a run for her, tried to run over the police officer who was attending. She was just barely able to get out of the way and save her life as he smashed into the side of her car. Then he careened off down the road, and the chase was on.

Eventually a helicopter unit was dispatched and a number of other cars were involved in the chase. I believe he deliberately smashed into one more vehicle as they had pinned him in at the end of a dead-end road in Yarrow. He still wasn't done. He got out of his car and made a run for it. Subsequently, he was cornered by an RCMP tracking dog.

This is obviously a bad example of the kind of person who is just not getting the message. If we can do things like require interlock.... People who have shown a reckless disregard for learning a lesson, who are unable to learn a lesson, just might have to have this interlock system installed in their vehicle at their own expense. This will make sure that the car will not operate if they have even the faintest sign of alcohol on their breath.

It's for that particular reason, if for no other reason than the memory of Jeanette and out of respect for her grandparents, that I stand here today and express my willingness to support Bill 66.

K. Johnston: I want to add my voice to those who support — and I think that's everybody, from what I'm hearing — this proposed legislation.

I am moved by the stories of, certainly, my colleague from North Vancouver–Seymour. The sad reality is that probably everybody in British Columbia knows somebody or has been directly affected by the misfortune of an impaired driver hitting, killing or maiming somebody.

I certainly take the personal view myself that if this legislation, Bill 66, was to even save one person, one individual, one life, then it is a worthy endeavour. The naysayers could say it's not enough; it doesn't go far enough; it doesn't do this; it doesn't do that. Tell that to the families of the person down the road whose family member has been saved by the fact that this has been brought forward by this government.

[1605]

I think the Solicitor General showed a lot of courage in his consultations and dealings with the police and the professionals in these matters in bringing this forward. There are a few areas that I quickly wanted to touch on that I think are extremely important. I believe impounding a vehicle on a 24-hour suspension is a very, very progressive step. I am moved by the fact that the police, according to statistics I see, have 40,000 of these suspensions a year in British Columbia. I don't think people are getting the message. They're thinking out there: "Oh well, maybe I'll just get a roadside suspension, and I can go on my merry way." The fact that now there is a hammer of the potential for the vehicle being seized, taken and impounded is going to make them think twice, I believe. You know, for someone whose vehicle has been impounded, it might be a little bit difficult explaining to the people in their family: "I don't have my vehicle because it was impounded." I think this will have a tremendous impact in cutting the 40,000 number down; I really do.

I get the sense when I read the articles about impaired driving and the terrible tragic stories — and maybe this is just my perception — that a lot of these incidents seem to be caused by repeat offenders — people that are on suspension, people who have had their licences already dragged away from them. I think that having the ability to double the impoundment time for those particular individuals also sends a very, very strong message.

Recently, about a month ago, a good, longtime friend of mine was sitting at a stop sign near the Burrard Street Bridge, and some character came flying through the air at about 120 kilometres an hour. Luckily my friend, after some time in the brain trauma unit at Vancouver General, is doing fine. He was very lucky. The other fellow that was driving and flying through the air was, in fact, impaired and went to see him in the hospital. He had minor injuries, as seems to be the case, and said: "I'm really sorry." He actually admitted to it and said: "I need some help." I think the mandatory rehabilitation provisions of this bill are extremely important, too, because people are out there looking for help as well, in a lot of cases.

I think this is a progressive step. I'm happy to support it. I wanted to be on record as saying a few words about it. As I say, to me, saving one life with this bill —

one family not having to live with despair for the rest of their lives because one of their relatives has been taken out by one of these irresponsible impaired drivers — is the sole reason for support. I'm happy to hear the Leader of the Opposition indicate her support for it too, because it is a progressive move by the Solicitor General to bring this forward at this time.

Deputy Speaker: Closing second reading debate on Bill 66, the Solicitor General.

Hon. R. Coleman: I want to thank my colleagues and the Leader of the Opposition for comments with regards to this legislation. I always find it interesting how the opposition thinks they're going to turn a debate about impaired driving and the issues around impaired driving into a debate, evidently, about liquor stores and other aspects which are not part of this legislation. I think that's just a veiled way of maybe finding a way to say you're against something that's good for the province because you can't possibly say it's all good.

At the same time, I know there are groups who think we should go further. There always will be, because there is always going to be another step we might find as a tool. I want to correct a couple of things. The Leader of the Opposition talked about alcohol on B.C. ferries. Just so everybody knows in this House, there has never been an application, never been a consideration and never been a thought given to putting alcohol on B.C. ferries. This government has never, ever discussed it with anybody, thought about doing it or had any intention of doing it.

With regard to what may happen at a terminal, there is no application before government, no approval. No approval has been thought about because we don't have anything applied for. Again, we see that come out as some kind of a discussion with regard to this.

The fact of the matter is that before us today is the balance that needed to be struck. In some cases, people say: "Well, you're actually just catching up to Ontario and Manitoba." Maybe that's because Ontario and Manitoba went through their process and found out the same thing we did: there's a place you can go with regard to law that will stay within the ability to be challenged under the Charter and can work for communities, and if you go beyond certain levels, it won't have success because the law won't stand up.

[1610]

We've done a lot of work on this. We did a lot of work on it, and frankly, there are things in this that don't exist in other jurisdictions, that are tougher than other jurisdictions in Canada. There are other areas. This is a great tool for communities. This is what it's all about: listening to a community, finding the tools. Put the tools in place, let law enforcement do their job, let the education aspect do their job, and together let's reduce impaired driving in British Columbia.

We will accomplish that because we work together for long-term solutions, and we're going to do it with

this legislation. I am, as I said earlier, very proud of this legislation because of the work that went into it and how people had to work through the issues to get to where we are today. As we move forward, and as justice ministers across the country at a national level dealing with future amendments and discussions in and around the level of blood alcohol content for a criminal conviction in this country that are related to the Criminal Code and looking at the federal government to give us additional tools that can enhance what we're doing, we'll continue to do the job that we've been asked to do.

We're going to continue to work with communities and law enforcement to find any additional tool they think will help us reduce impaired driving in British Columbia. We will continue to enhance education and enforcement to a level where the visible policing in our province and the education come together to reduce the incidence of impaired driving in our province. We're going to do it together because we can work together to accomplish a goal as a society. We're going to give ourselves the ability to do that and have the deterrent in the system to make that happen.

Having said that, I move second reading of Bill 66.

Motion approved.

Hon. R. Coleman: I move that the bill be referred to a Committee of the Whole House for the next sitting of the House after today.

Bill 66, Motor Vehicle Amendment Act, 2004, read a second time and referred to a Committee of the Whole House for consideration at the next sitting of the House after today.

Hon. G. Abbott: I call committee stage debate on Bill 68.

Committee of the Whole House

LAND TITLE AND SURVEY AUTHORITY ACT

The House in Committee of the Whole (Section B) on Bill 68; H. Long in the chair.

The committee met at 4:13 p.m.

Sections 1 to 39 inclusive approved.

On section 40.

Hon. G. Abbott: I move the amendment to section 40 standing in my name on the order paper.

[SECTION 40, by deleting the proposed section 40 (1) (d).]

Amendment approved.

Section 40 as amended approved.

Sections 41 to 141 inclusive approved.

On section 141.1.

Hon. G. Abbott: I move the amendment to add section 141.1, which is in the hands of the Clerk.

[Section 141.1, by adding the following section:

141.1 The Schedule is amended by adding the following immediately after the title:

In this Schedule:

"fee" means the amount payable for each transaction described unless otherwise specified;

"pending" means the time after an application is received under section 153 and before the application is registered under section 36;

"government office" means an office belonging to the government from which a title search can be made by electronic means.]

Sections 141.1 to 146 inclusive approved.

On section 146.1.

Hon. G. Abbott: I move the amendment to add section 146.1, which is in the hands of the Clerk.

[Section 146.1, by adding the following section:

146.1 The Schedule is amended by adding the following items:

Item	Column 1 Matter	Column 2 Fee
6	<u>Cancellation of Lease on Breach of Covenant</u> To file an application to cancel, to hold a hearing under section 247 and to register any order of the registrar	\$48.30
7	<u>Plans</u> To file or deposit	
	(a) a reference, explanatory, subdivision or strata plan (including the Schedules of Unit Entitlement and Voting Rights and the Strata Corporation Mailing Address)	\$37.26
	(b) any other plan not otherwise provided for in this Schedule	\$37.26
	(c) a bylaw plan	\$13.80
8	<u>Cancellation of Plans</u> To	
	(a) file a petition under section 123, serve a petition under section 125, and prepare and register a registrar's order under section 134	\$69
	(b) hear an application under section 129	\$69

9	<u>Cancellation of Interior Lot Lines</u>			(a) at a government office by a person who is not for that purpose a government employee	\$5.52
	For all matters in connection with cancellation of interior lot lines under section 137, including the registration of any indefeasible title in consequence of the cancellation	\$69		(b) at a government office by a person who is for that purpose a government employee	\$6.21
10	<u>Withdrawal of a Pending Application</u>			(c) electronically from the computer system and delivered to the customer's personal computer	\$7.13
	To withdraw a pending application	Lesser of the fee for the pending application or \$20.70	15	<u>Title Search and Copy Computer Assisted</u>	
				For a search, copy or both if the matter is requested, performed, made or obtained	
11	<u>Refusal of Registration</u>			(a) by electronic means from a location outside a government office	\$4.02
	For each			(b) at a government office by a person who is not, for that purpose, a government employee	\$5.71
	(a) refusal notice provided under section 308 (1)	Lesser of the fee for the pending application or \$20.70		(c) at a government office by a person who is, for that purpose, a government employee	\$6.56
	(b) cancellation of an application, under section 308 (3), consequent upon the expiration of the 21 day period under section 308 (2)	Lesser of the fee for the pending application net of the amount paid under paragraph (a) or \$20.70	16	<u>Title Search and Copy Non-Computer Assisted</u>	
				For a search, copy or both if the matter is requested, performed, made or obtained at a government office	
12	<u>Certificates</u>			(a) by a person who is not, for that purpose, a government employee	\$3.45
	To make, provide or issue			(b) by a person who is, for that purpose, a government employee	\$6.90 including a copy of the title searched; and if the person attending at the land title office is an owner of the land described in the title, a copy of each document referred to in the title searched
	(a) a Duplicate Indefeasible Title under section 176, or a Provisional Indefeasible Title under section 193	\$34.50			
	(b) a state of title certificate requested electronically from a location outside a government office	\$5.75			
	(c) a state of title certificate requested over the counter at a government office	\$8.63			
	(d) any other certificate not otherwise provided for in this Schedule	\$8.63			
13	<u>Certification</u>				
	To certify a copy of the register or other record, instrument, cancelled title, plan, abstract of a title, power of attorney or any copy that satisfies section 38 (4), (5) or (6)	\$7.50 plus the applicable search and copy fees payable under this Act	17	<u>Imaged Records</u>	
				To make, view, obtain or copy all or part of an imaged instrument or document other than a plan	
				(a) by electronic means by a non-government employee	\$7.13
14	<u>Plan Copies</u>			(b) at a government office by a person who is, for that purpose, a government employee	\$8.97
	To make, provide, receive or copy a plan, including an imaged or microfilmed plan, if the matter is requested, performed, made or obtained			(c) electronically from the computer	\$7.59

	system and printed at the customer's fax machine or delivered to the customer's personal computer	
18	<u>Index Search and Copy</u> For each search, copy or both copy of an index for a Strata Plan, Power of Attorney, General Filing, Standard Mortgage Terms or Standard Charge Terms requested	
	(a) electronically from a location outside a government office	\$0.92
	(b) over the counter at a government office	\$2.76
19	<u>Name Search</u> For each name requested	
	(a) electronically from a location outside a government office	\$0.92
	(b) over the counter at a government office	\$2.76
20	<u>Paper Records</u> To make, provide or copy an instrument or document not stored electronically or not otherwise provided for in this Schedule	\$0.69 per page
21	<u>Documents requested through Canada Post</u> To make, provide or copy, at a government office by a person who is for that purpose a government employee, each instrument or document that has been requested by regular mail through Canada Post	\$6.90
22	<u>Approval of Subdivision Plans</u> For examination and approval by an approving officer of a subdivision plan tendered under section 83	\$50 plus, if the subdivision plan covers land in unorganized territory, \$100 for each parcel within the subdivision
23	<u>Block Outline Survey</u> For an application for a block outline posting under section 69 (3)	\$18.12 per lot to a maximum of \$181.20
24	<u>Plans Bordering Crown Land or Water</u> For application for endorsement of a certificate under	
	(a) section 94 (1) (c)	\$345

(b) section 94 (1) (d) \$172.50

(c) section 118 (1) \$172.50

25 E&N Railway Company Grant

For approval of an explanatory plan of block or lot under section 70 (3)] \$172.50

[1615]

Section 146.1 approved.

The Chair: Members, going back to section 40, it was a deletion of section 40, not a passing of section 40. Therefore I will call section 40 again.

Interjection.

The Chair: Members, I have been advised that on section 40, it was section 40(1)(d) only that was deleted.

Sections 147 to 171 inclusive approved.

Title approved.

Hon. G. Abbott: I move the committee rise and report the bill complete with amendments.

Motion approved.

The committee rose at 4:18 p.m.

The House resumed; Mr. Speaker in the chair.

Reporting of Bills

Bill 68, Land Title and Survey Authority Act, reported complete with amendments.

Third Reading of Bills

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

Hon. G. Abbott: With leave of the House, now, Mr. Speaker.

Leave granted.

Bill 68, Land Title and Survey Authority Act, read a third time and passed.

Hon. G. Plant: I call committee stage for Bill 67.

Committee of the Whole House

EXPROPRIATION AMENDMENT ACT, 2004

The House in Committee of the Whole (Section B) on Bill 67; H. Long in the chair.

The committee met at 4:19 p.m.

Sections 1 to 43 inclusive approved.

Title approved.

Hon. G. Plant: I move that the committee rise and report the bill complete without amendment.

Motion approved.

The committee rose at 4:20 p.m.

The House resumed; Mr. Speaker in the chair.
[1620]

Report and Third Reading of Bills

Bill 67, Expropriation Amendment Act, 2004, reported complete without amendment, read a third time and passed.

Hon. G. Plant: I call committee stage debate for Bill 72.

Committee of the Whole House

TRESPASS AMENDMENT ACT, 2004

The House in Committee of the Whole (Section B) on Bill 72; H. Long in the chair.

The committee met at 4:21 p.m.

On section 1.

J. Kwan: Bill 72, the Trespass Amendment Act, 2004 — under section 1, the definitions section. It expands the definition of an owner to make it apply to urban property, it enacts the definition of "occupier and authorized person" with relation to property owned, and it enacts a definition of "premises" that extends the definition beyond real property to include buildings, ships, railway cars and trailers. My first question to the Attorney General is: would the definition of authorized person refer to, for example, a store manager or a shift supervisor, perhaps? Who exactly does that definition refer to?

Hon. G. Plant: The definition that is proposed is as follows: "authorized person" means a person authorized by an occupier of premises to exercise a power or perform a duty of the occupier under this Act." We contemplate that those words would cover people like the property manager of a shopping mall, maybe a security guard. It might be that in some circumstances, if a shift supervisor were in charge of a premises for a period of time, the shift supervisor might have that duty.

J. Kwan: So in essence, pretty well anybody could be designated under this act, as long as it is designated by, I guess, the owner of the property. Am I correct in understanding that?

Hon. G. Plant: Anybody who has the authority of someone who is an occupier of a premises, as provided for in the definition, would be an authorized person. It's not limited to any specific class of people. It is a definition that, I suppose, is more functional than anything else.

J. Kwan: Okay, thank you. I'm just trying to establish that the definition allows for a very broad sort of application under this act.

Hon. G. Plant: Conceivably, yes.

J. Kwan: In the same vein, would premises here refer to, for example, malls?

Hon. G. Plant: Yes. Premises is defined to mean land and some other things. A shopping mall is on property, and a shopping mall is land, so premises would include a shopping mall. Premises could include both the building, which is the mall building, and all of the property around it, as long as it is all one contiguous piece of property.

[1625]

J. Kwan: What about doorways of a store, for example, or the sidewalk outside of the store or outside of the business? Would that apply?

Hon. G. Plant: There would be a boundary to the property. Everything inside the boundary would be land owned or occupied and therefore within the reach of this act. If on the other side of the boundary is a public right-of-way, then that would be outside the premises for the purposes of this act. Just to make the point in more concrete terms, a doorway may be right on the property line, so what's happening inside the shop or the building may be land within the meaning of this act, but if the outside is a public street, then that will be beyond the reach of the trespass provisions in this bill.

J. Kwan: Okay. So it's strictly the legal description of the boundaries of the property that would apply, then. From the way the — I keep wanting to call you the auditor general; I'm thinking about Public Accounts Committee tomorrow morning — Attorney General.... So in that instance, then, the boundaries outside of the legal description, even if it's just right outside, such as a doorway.... When you step through the threshold of a doorway to the other side on the outside, that would not fall under the definition of this act. I want to be 100 percent clear about that.

Hon. G. Plant: I think the member has got it right. If you take a typical street-front store on a typical street in a typical town in British Columbia, you open the door and you step out of the store onto a public street. You're no longer on private property; you're on public property. It may be, though, that somebody lives in a neighbourhood where their house is set back from the property line, so you step out of the front door of that

house, and you're still on somebody's private property. You walk down the pathway to the sidewalk or the street, and you are still on somebody's private property. Then you step off onto the public street or onto the public sidewalk, and you're off private property and on public property again. Once you've done that, you're outside the reach of the Trespass Act. It depends on the circumstances.

Maybe just to give a third illustration, because I think it's not always understood by folks. The main aisle of a shopping mall may look like a public thoroughfare, but every shopping mall I can think of is entirely on private property. So you may step outside the store, the coffee shop, into the heart of the shopping mall, but you are still on the property of the property company that owns or manages the shopping mall. You are not yet on a public street.

In a sense, those are three examples that illustrate the point that the member's question started with, which is: it turns on the legal description of whether the land is privately owned or if it's a public right-of-way or a street.

J. Kwan: In terms of the application of that — because as we know, legal descriptions of a particular property are not readily identifiable — one doesn't necessarily always know if this is private property or public property.

Then later on in the sections of the act that refer to signage and so on — and we will get to those sections when we get there In terms of marking private property and for the purposes of this act and indicating to the public how this act or whether or not this act would apply, is there any...? Well, I guess the question is: how will the public know whether or not they're on private property other than, I guess, taking somebody's word for it? Especially at the time when the application of the act is being applied, how would one know if you were actually committing an offence or not?

[1630]

Hon. G. Plant: I think that in most urban situations it won't be difficult. The front door of the store is the place where someone leaves a public place — namely, a street — and enters a private place — namely, somebody's store. If you leave a sidewalk and walk up to the main door of an apartment building or a residence, it should be pretty obvious most of the time that you are no longer on public property. If you're in a city park, those are usually pretty clearly defined. So I think that in the vast majority of cases, people will know whether they're on private property or not. That's not likely to give rise to an issue very often, at least in an urban setting.

It is a little more challenging in rural settings. But that is why there are provisions here that deal with notice and the old requirement of enclosed land and things like that — to try to accommodate that reality. These things are probably not often going to be a matter of much precision. But if they had to be, then I suppose there would have to be some argument about

where the property line is, and the matter would be disposed of on that basis.

J. Kwan: I would actually beg to differ with the Attorney General's point of view on that. I can certainly think of some instances where it would be difficult to clearly distinguish whether or not one is on private property versus public property. Oftentimes doorways.... I understand the point of view that if you are inside the property — that is, if you enter a door into a structure — then chances are you are in private property, but if you are on the other side of the door, chances are you are on public property. But in some cases I think there could be some grey areas.

Let me ask the Attorney General this question, for example, on the application of the act as it is defined under "premises" in the definitions section here. If a person were sleeping in the doorway outside of a particular premises — let's say a homeless person — and it's not readily clear whether or not the person is actually on private or public property.... In those kinds of disputes — and I suspect that some of the applications of the act would apply in those kinds of instances — what is a person to do in those cases? Presumably, the person would be told to move on. If the person refuses, etc., and I suppose an altercation.... Then perhaps the authorities would be called, and the application of the act would be triggered.

For the person who is in those circumstances, it's tough to know whether or not you are committing an offence. That's what I'm saying — when a person who refuses ought not to refuse. For the public's clarity on that, I'm just wondering: how will one know? Would the section of the act that deals with signage actually require property owners to clearly mark their properties accordingly?

Hon. G. Plant: The whole idea of trespass invites a distinction between private and public land. The legislation before us respects that basic distinction. I'm not sure that it's possible to improve on the definition or the distinction. As a general matter, land is either going to be owned privately, or it's going to be public land. I think in most cases it's not going to be hard to know the difference. There may be some cases where it is hard to tell the difference.

[1635]

If a property owner is concerned about whether some part of their property may not appear obviously to be private property, they might want to post a notice and to make that clear. They're not, I don't think, obliged to do that. Of course, in specific cases the mechanism of the act says that the owner or the occupier can go and say to somebody: "You're on my property. Get off, please." That is a first step in the operation of the bill.

This bill doesn't speak to what happens on public streets or on public sidewalks, but it speaks to what happens on private land. I don't know that you could improve much on the definition we've got here. Its application on a case-by-case basis will be determined as we move forward, I guess.

J. Kwan: Let me pose a similar question to the Attorney General about premises. What about a bus bench on the sidewalk? Is that public property?

Hon. G. Plant: Well, I don't really know who owns bus stops. I suspect that for the most part, they are public property.

J. Kwan: Okay. That's interesting, because the Attorney General just said that on one hand, it would be easy to know in most instances what's private property and what's public. Then the Attorney General just now got on the record and said he didn't know whether or not bus benches are private or public.

Right off the top we sort of run into some problems here, if you see what I mean, Mr. Chair. We're not quite clear on what is public and private under the definitions of this act. For clarity purposes, I think the public needs to know so that they know whether or not they are committing an offence under this act. That's what I'm trying to drive at. We don't know whether or not bus benches are necessarily public or private. It might be public; it might be private.

There are specific references to ships and railcars and trailers in this act. Is there a specific problem that the minister is aware of, and therefore the references to ships, railcars and trailers are now included in the act? If so, what problems is the minister aware of, and could he give us some examples?

Hon. G. Plant: Our desire was to update trespass legislation and, in doing that, to take into account the private member's bill introduced by the member for Vancouver-Burrard, which represented an initiative that received the overwhelming support of municipal mayors and councillors at the Union of B.C. Municipalities convention in Kelowna in September.

We tried to incorporate as much of the private member's initiative as we thought was consistent with good public policy. So here we're giving effect to that, and we're also giving effect to what I have heard from a number of organizations over the past two or three years, which is a general concern that the state of British Columbia's trespass legislation did not give property owners and occupiers flexible enough tools to remove from their property people who were causing a problem. So we expanded this here to include ships and vessels and trains and railway cars except while in operation, because we want to reach as far as we can within the limits of provincial legislative authority to make sure that the bill is as effective in as many cases as it can be.

J. Kwan: In other words, the Attorney General is not aware of any specific problems. He just thought that we may as well include these things — ships, railcars and trailers. But there are no specific problems that the Attorney General is aware of.

[1640]

Hon. G. Plant: The specific problem I'm aware of is that people across British Columbia have expressed to

me directly and to their mayors and councillors and to members of the Legislature, including the member for Vancouver-Burrard, a desire to modernize and expand the reach of trespass legislation. In doing so, they have brought to all of us a range of concerns that are now addressed to the best extent possible in a bill that is as comprehensive as it can be. I know there are people out there who have had problems maintaining control over their own property because the existing legislative tools have not been adequate to help them do that. I'm hopeful that this bill will provide them with the tools that will help address that problem.

J. Kwan: The Attorney General didn't actually answer my question. I thought my question was very clear and very specific — that is, the specific references to ships and railcars and trailers, and whether or not the Attorney General knows of specific problems that relate to these references so that he thought it was important to incorporate them into the bill. That was my specific question, not this sort of general point of view.

If you want to engage in second reading debate about this bill, we could do that. We already did that yesterday, and that's not what I'm interested in. I'm interested in specific questions to the minister and, therefore, specific answers from the minister relating to the sections of the bill.

Hon. G. Plant: I don't know that the member is going to like my answer. She clearly doesn't, but I have given it. There is a large and pressing public problem, and this bill is an attempt to address it. It does reach into a number of different kinds of property and places to make sure that we can extend the protection of this bill to people who use or occupy ships, vessels, trains or railway cars.

That seems to me to be a legitimate purpose of legislation, and that's why this provision is here. It's not here because I got a specific complaint about a specific issue. It's here because I have received a wide-ranging expression of concerns on a number of fronts, and this is our attempt to respond to those concerns.

J. Kwan: Let me just say this. Our view of why this bill and the Safe Streets Act are here is completely different from the Attorney General's point of view. We think these bills are here for political reasons.

We think there are certainly critical issues around crime and safety and safe streets and so on that need to be addressed in our community, but the government, of course, has chosen to ignore a lot of the key and critical and pressing issues in our community. Whether it's organized crime issues or grow ops or missing women in the downtown east side and so on, the government refuses to take action on those fronts.

But here we are. We have these bills, particularly the Safe Streets Act, trying to deal with targeting, I think, some of the folks who are very vulnerable in our communities.

Having said that, we are dealing with a bill...I'm trying to get a sense from the minister with.... We're

expanding the definitions section of the Trespass Act. What gave rise to the specific definition expansion? That's what I'm trying to get at. The minister has not answered my questions.

[1645]

I'll just simply say I expect that even if I continue to ask the Attorney General, he will continue to give me the same non-answer, and that's not productive nor constructive for the purposes of debate. Let me just say this. I am concerned about the expansion of the definitions. In particular, we're not even able to establish in this House where and really how this would be applied. It is not clear to me — and by the Attorney General's own admission — whether or not, for example, bus benches would be private or public property. So it is hard for the public to know in those circumstances whether or not they are committing an offence. If you don't know if you are committing an offence, but yet there is a possibility that you might be, in my mind it raises serious questions in terms of this act and what this act is trying to do.

Having said that, Mr. Chair, I'm ready to move on to section 2. I have a lot of questions for the minister about the trespass component of this bill, but I just want to flag these concerns about section 1 of the bill.

Section 1 approved.

On section 2.

J. Kwan: Section 2 repeals section 4 of the existing Trespass Act, which refers only to a more rural notion of enclosed land. I won't put on the record the original bill of what is being repealed, but rather, I'll just ask questions under this new section of the act. This section of the act applies the Trespass Act to urban as well as to rural properties. Is the purpose of this to address issues such as urban camping or squats, for example?

Hon. G. Plant: The purpose is to protect private property owners and the ownership of their property. As the section says, to deal with the first part of the section:

"...a person commits an offence if a person does any of the following: (a) enters premises that are enclosed land; (b) enters premises after the person has had notice from an occupier of the premises or an authorized person that the entry is prohibited; (c) engages in activity on or in premises after the person has had notice from an occupier of the premises or an authorized person that the activity is prohibited."

To take the member's example of a bus stop, which of course could be any kind of bus stop anywhere in British Columbia.... It could be a B.C. Transit bus stop. It could be a TransLink bus stop. It could be a bus stop at the airport in Vancouver. It could be a bus stop on a private bus service. The member's previous question did not distinguish among those different kinds of bus stops. Some bus stops are partly enclosed; some are not. That's an interesting question. But if you take the average bench sitting on a sidewalk, even if that were

private property — and I highly doubt it would be — there would be no offence committed unless the person who was the owner or occupier of the bus stop said, "Please leave," or there was a notice saying that you are not allowed to sit here or you are not allowed to skateboard on this bus bench.

That's what triggers the offence. It is that you do something on somebody else's property that you have been asked not to do or have had notice that you are not permitted to do or that you are doing something on property that has been enclosed, so it is pretty obvious that you should only be there with permission.

J. Kwan: That's the problem with this act insofar as its vagueness. Let's just take the conversation and the debate further down the road. The Attorney General says, and he read off subsections (a), (b) and (c) of section 4 of this amendment act.... Mr. Chair, I can read those sections for myself. The problem is that the act in and of itself does not define, for example, the activity that is to be prohibited. It doesn't say in the definitions section or any other part of the bill what activity is prohibited.

[1650]

We have a situation where we don't necessarily know what "premises" means, insofar as one needing clarity on the ground when you are out there on the streets, and where the legal description lies in terms of private versus public property. That's not readily available if you're walking down the street and trying to figure that out.

Then here you have another section of the bill that does not define "activity." If an authorized person says that an activity is prohibited and you refuse to cease and desist in that activity, you are then deemed to be committing an offence. We don't know exactly what those activities might be. How will one know whether or not they are committing an offence, other than to say that the person who has the authority to say so, that somehow that activity is prohibited...?

Let me ask the minister this question. There is no definition of activity for section 4(3) in this bill. What activities are business owners able to ban under this section of the act and under this act?

Hon. G. Plant: I think the fact is that a property owner can prohibit someone from coming on his property to do anything that he or she who is the owner does not want done on his or her property. Obviously, human rights legislation applies to ensure that someone who operates a facility, like a store, that provides a service or a facility that's customarily available to the public can't discriminate. Within those important limits, the word "activity" there is pretty open-ended, because the concept is intended to be pretty open-ended.

If you come onto my land and I decide I don't want you there at all, I can ask you to leave. I can say I don't want you skateboarding in my front yard or I don't want you playing music in my store. I can say I don't want you jumping up and down and throwing rocks at the windows in my store. Those are all activities.

The intent of this — which, if I may say, Mr. Chair, does draw to some extent on the common law — is to keep this pretty general and, I think, very easily understood and applied in operation.

J. Kwan: What the minister just said is that pretty well anything a business owner, a person who's authorized to make that determination.... That individual can determine anything that he or she doesn't want taking place on his or her private property. She could deem it to be a prohibited activity. Therefore, this law would apply just because they say so. That's pretty well where we're at. That's the answer the Attorney General gave.

Now, he did give a caveat and said that a person can't discriminate. I must say, based on these kinds of broad, sweeping powers given to a person, I could envision.... Although I hope not, I can certainly see the possibility of abuse of power using this act and this section of the act.

[1655]

Why is there no definition of "prohibited activities"? I could understand, for example, if someone comes onto a private property, let's say, smoking a cigar or a cigarette.... Given the current laws that exist, one would ask the individual to put out their smoke or to leave the premises to go and smoke elsewhere. I can fully understand that, because there are current laws, WCB laws and so on, that apply, etc. I could fully understand that if a person comes in and shoplifts and steals your products, or attempts to, you would be inclined to ask the person to leave and so on. I can fully understand that.

The examples that the Attorney General gave are so broad and sweeping that, for example, I could be walking into a mall, and if I was whistling.... He said music, you know, and I'm not musically inclined. Okay, I could be singing. Now, I'm not particularly musically inclined, and maybe I would even understand people wanting to kick me out for that, but set that aside for a moment. If I was whistling or singing or humming and the security guard or somebody came up and said, "Will you kindly leave? That activity that you are engaging in right now is prohibited, just because I have the authority to say so,".... Is this what the Attorney General is saying is now allowed under this act, under this section of the act?

Hon. G. Plant: Yes.

J. Kwan: Wow. Without hesitation — and this government endorsed that. He thinks somehow that's okay. Then to what extent would I be able to distinguish that I'm not being discriminated against?

In theory, that person could say, "That person doesn't like it when I sing and when I whistle," but that's not to say that that person is required to say that all people who sing and whistle in the mall are committing a prohibited activity. Isn't that the case?

Hon. G. Plant: Although the member may or may not be a wonderful singer, if she comes into my house

and I tell her I don't want her singing in my house and ask her to leave unless she stops singing, then she will be required to leave my house if she continues to sing. That is really part of what is contemplated by this legislation.

Now, I think it would be an insanely stupid business practice for someone operating a large and complex and comprehensive shopping centre to routinely exclude people just because they whistle while they shop, but if they want to do that, that is their right. It is actually now their right at common law. There's no surprise in that.

The problem is that at common law, the enforcement mechanism is much more onerous. If I don't want you whistling on my property, I can get you off my property now, but I have to go and get an injunction, and I have to go apply to court and file affidavits. This bill would simplify that.

The member is right. Subject to the requirements of the law that says we must not discriminate on the basis of prohibited categories of discrimination in the Human Rights Code, whistling, singing, skateboarding, smoking cigars, carrying around boomboxes at 110 decibels, driving cars down the main aisle of a shopping centre indoors.... There is a range of activities that are conceivably caught by this bill, and it will be up to property owners to decide what it is they wish to permit and not permit as activities on the property they own and control.

[1700]

J. Kwan: You know, Mr. Chair, the problem with this bill and this section of the bill is precisely the subjectiveness of it. Anyone can sort of decide whether or not someone is committing an offence — just because. To be frank, the application of this section of the act could be as simple as the way you look.

I, as a property owner of this shopping mall complex called ABC, could say to Anna — I don't know; I'm just picking this name off the top of my head — who just walked down the aisle of the mall.... I decided that I don't like the way this person looks. I am going to decide that that person is now committing a prohibited offence. It could be as simple as the fact that the person is just walking or standing still in this mall complex, and then they deem that the person is committing an offence.

To bring it further, it could be as simple as someone who is trying to enter into the mall complex and has been turned away by security guards because the security guards don't like the way those individuals look. It could be that the person is white; it could be that the person is Chinese; it could be that the person is aboriginal. It could be that the person is female. It could be that the person is poor. It could be that the person is an ethnic minority of our community. It could be any reason, but the person doesn't necessarily have to say that's the reason. The person simply has to say: "I don't like that activity you're engaging in." Whatever the activity is, is anybody's guess. It's entirely up to the property owner to decide.

I see problems with the application of the law in that regard. I see constitutional issues arising from that.

Does the minister see potential constitutional issues arising from that?

Hon. G. Plant: Mr. Chair, you are one of the finer-looking persons to discharge the responsibilities that devolve upon a person holding your office, but I'll say this. If I saw you sitting in my living room, and I didn't want you there anymore and asked you to leave, I think it's actually a reasonable expectation that you should be required to leave. I don't think I should even be required to give you a reason why I want you to leave. It's my living room. I want you off my property. Get off my property. That's what this is about. Gasp. It's not much more complicated than that.

Now, there is a difference between my living room in my house and a shopping mall. The difference is that a shopping mall is a place that the public routinely goes to. Because of that, the people who operate shopping malls and stores have to be thoughtful and careful that they don't discriminate, that they don't violate the Human Rights Code. Nothing in this bill gives anybody any excuse to discriminate.

What the member seems to be arguing for is that if, as a property owner, I came into my house and I saw her sitting in my living room and I didn't want her there, I wouldn't be able to do anything about it, or I'd have to have a really good reason to ask her to leave, like: "Please stop skateboarding on my living room sofa." No, in fact, it's my living room. If I want you out of my living room, get out. That's what this is about.

J. Bray: I'm following this debate, and in fact I've been wanting to get in for a while. Of course, having a large section of downtown — with most of the commercial enterprises in the downtown — in my riding, this has been a very important issue that I've heard for a number of years. It is the ability for property owners, store managers, security guards and others to have control over their premises and the ability to deal with some of the activities that go on.

We have the Bay Centre as a prime example. I've met with the general manager.... Actually, two different general managers expressed their frustration about their inability to engage law enforcement because of the onerous restrictions the Attorney General mentioned in dealing with the fact that there were people engaged in skateboarding and other activities which not only did the property manager not want but, more importantly, other citizens were interrupted by.

[1705]

My question to the Attorney General is.... Based on the sort of premise that the member of the opposition was going on about, it seems to me very clear. I ask the Attorney General to make this clear for me. It's not simply the activity that states the offence. Under section 4.1, it becomes clear: notice must be given before any other action can take place. It's not simply: "I'm advising you that I don't like whistling; therefore, you have to leave." It is a request for that activity...

The Chair: Does the member have a question?

J. Bray: ...to stop. Then, if the person refuses that notice, that person is then asked to leave by the person who's authorized to do so. But in fact, notice must be given before a request for somebody to leave takes place under this act. I'm wondering if the Attorney General can clarify that.

Hon. G. Plant: Unless the property is enclosed land, which is caught by what will become section 4(1)(a), then yes, notice is required.

J. Kwan: What nonsense, to be honest with you. I'll get to that notice issue in a minute. We all know the member for Victoria-Beacon Hill is desperate to do anything to be supporting the government in any way, shape or form. You know, there's one thing that he should know for sure; that is, he's going to lose his seat next time unless he starts to stand up to advocate for his community.

Having said that, Mr. Chair, what the Attorney General just tried to do by using the example of the living room is completely, in my view, trying to disguise what the real issue here is. If some person is sitting in my living room and I sit there and I go, "Who is this man, and why is he sitting in my living room?" you know what? I will be calling the authorities. There is such a thing as breaking and entering. That person should not be there. The person doesn't have a reason to be there, sitting in my living room. The minister should know, and he tried to make a distinction between a person's living room versus the mall.

Here's what I'm trying to get at. In a shopping centre, by the Attorney General's own admission, if I happen to be walking down in the mall complex whistling or singing or humming or whatever it is that I'm doing and the security person or some person who has the authority to do so under the definitions of this act decides that I'm committing a prohibited activity and that person gives me notice by saying, "Hey, you over there. I don't like the way you're singing. Get out," then I will be committing an offence if I don't leave immediately. That's the kind of notice that would be required, that could be given and that would be deemed to be acceptable. But we'll get to that section of the act momentarily.

That does not negate the real issue here at hand. The real issue here is: how does one distinguish when a person is being discriminated against in a quasi-public private property such as a shopping centre, where the public is welcome, generally speaking? How does one distinguish when a person is actually violating our basic human rights?

When a person is given the authority to tell me to get out and when, at the time, it may well be obvious that there is perhaps no reason for the person to tell me to get out and to claim that I am committing an offence under this section of the act other than the fact that I'm Chinese, for example, how does one distinguish that under this section of the act?

Hon. G. Plant: Looking, for example, at section 4(3), of course, the person who is the occupier or the

owner of the property, who has the authority of the occupier to exercise a power or perform a duty under this act, could say, "Please stop whistling," and if that whistling stopped, that could well be an end to the matter. It doesn't necessarily mean, you know, that someone has to say: "Leave." Someone could say: "Please don't whistle," or "Please don't skateboard," or "Please don't drive your motorcycle in my store." Those are activities.

[1710]

One of the ways the act has been drafted — which is an expansion on the existing statutory regime and, I think, an improvement on it — is that it moves beyond merely presence on the land. It extends to activities so that property owners have the ability to say: "No, you can be on my property. Just don't be on my property doing this activity." That activity might, you know, be something that is quite offensive to other users of the property. The owner may not be at all concerned that the individual is on the premises but just doesn't want the individual to be skateboarding or playing loud music.

It would only be if someone was asked to stop riding their skateboard or playing music or whatever the activity is and then did not stop but, rather, carried on that the rest of the provisions in the act would be engaged.

J. Kwan: The Attorney General did not answer my question.

The government and the Attorney General may want to make light of this. But you know what? There are people who are being discriminated against in our communities. I know that in my own community there is a shopping complex called the International Village where they subjectively banned people regularly from entering that mall or engaging in what one would consider to be normal activities that others engage in within the shopping mall complex. They would be banned from doing those kinds of activities — very subjective calls, I might add.

It just so happens that the folks who have complained to my office about this issue have been aboriginal folks, people who are from the neighbourhood and very low-income individuals, by chance. In fact, people oftentimes get told that they can't enter.

Now, the Attorney General says: "Well, existing civil laws already apply. People can already ban people from entering malls or engaging in various activities." Then, of course, that begs the question: why do we have this bill before us? It further begs this question, which is perhaps key here. How does one distinguish when a person is being discriminated against because of their gender, their heritage, the colour of their skin or any of the critical issues that would be fundamental to our basic human rights? I fail to see in this piece of legislation where it actually says and lays it out clearly that a person would not be able to use this act in an abusive manner to discriminate against people. I fail to see that.

Now, the Attorney General might get up and say: "Oh, any reasonable business person wouldn't do that."

Maybe that's the case. I certainly hope that is the case, but I can tell you that I already have people, before this law comes into place, complaining to me on the issue of discrimination. As we know, issues of discrimination are very difficult to prove unless someone has the gumption to get up and say: "I don't like you because you're an aboriginal person, so therefore I'm going to ban you from using this theatre in this mall complex."

[1715]

Very few people would go down that road, but implicitly, we know that people experience that, and I know people in my community experience that. They've complained to me. We've tried to deal with some of these issues, but it's very, very difficult — notwithstanding that this government, of course, eliminated the B.C. Human Rights Commission. They made the process even more challenging on human rights issues.

On that basis, based on the minister's answer to date, I fail to understand how one would be able to distinguish when a person is being discriminated against. If the application of this section of the act is such that the Attorney General says it's entirely up to the person to decide what is a prohibited activity under this section of the act, then I would say the subjective nature of this section allows for and opens up the door even greater for further discrimination.

I'm going to use the mall complex example for the purpose of my question. Isn't it the case that a business person could say to two individuals...? Let's just say one person is an aboriginal person and one person is of European descent, and both of them are doing exactly the same activities. The business person, the security person or the authorized person under this section of the act could actually say to the aboriginal person that he or she is engaging in a prohibited activity and ask the person to cease and desist in that activity. If that person didn't, the person would be committing an offence under this bill.

Hon. G. Plant: The law of British Columbia prohibits discrimination. The law which does that is the Human Rights Code. That statute is not before us in this debate. We are here dealing with section 2, which will make changes to section 4 of the existing Trespass Act. I might say that much of what this bill does actually is already the law in respect to enclosed lands. The concepts around when you can say to somebody, "Please do not be on my private property," are well recognized in the law. This does not make revolutionary new law in that respect. It certainly says nothing about, and does not in the slightest degree derogate from, the very important obligations that we all have as British Columbians to respect the requirement found in the Human Rights Code that we not discriminate.

J. Kwan: Let's ask the Attorney General this question. He admits there are other laws that already exist that deal with these issues. Then, of course, that begs the question: why are we debating this bill if there are already existing laws? But let me ask the Attorney

General this question: what other laws exist that deal with these issues already?

[J. Weisbeck in the chair.]

Hon. G. Plant: That's not exactly what I said. As the member knows, there is a Trespass Act in British Columbia. What we are doing in this bill is amending it, and the member may also know that there is common law of trespass. The member, of course, also has personal experience with the criminal law of trespass to property.

There are other areas in which the law deals with trespass. It does not, however, do so in the way that is contemplated by this legislation, which is intended to, as we say colloquially, modernize our existing provincial legislation and provide what I hope will be a more efficient and expedient enforcement mechanism for property owners who are faced with circumstances where people either are on their property when they don't want them to be or are doing something on their property that they don't want done.

J. Kwan: By the Attorney General's own admission, there are existing laws that deal with these issues, which is what the opposition has been saying all along with relation to this bill and with the Safe Streets Act — that there are already existing laws. But the government thought: "Oh, we better bring in some laws." Why? Because the government wanted to capitalize on the issue politically by creating fear in the minds of the public.

[1720]

Having said that, the government is just very keen to push along anyway, but here we are debating the section of the bill that exposes, I think, some flaws within the bill. What this bill does is allow for an ease of access for potential abuse, in my view, of the application of this law. I have seen it prior to this law, with the existing laws, where that abuse is already taking place in my own community.

I have seen that. I have people who complained about it, and as I said, people are often very clever about how they deal with it. They won't come out to make it clear and distinguishable that somehow you're being discriminatory. However, the undertone of discrimination is there.

The Attorney General admits that it could well be that you have an aboriginal person committing exactly the same activity as a European-descent individual, and the aboriginal person could be asked to stop the activity. If the person doesn't, that person could be committing an offence under this section of the act.

I would say that there is huge potential for abuse with this act. Isn't it possible that a street person might be banned from a mall not for any activity but for reasons of bias and discrimination? Does the Attorney General concede to that possibility?

Hon. G. Plant: I find the member's questions remarkable given the fact that my examination of the

records of the *Votes and Proceedings* shows that this bill passed with the support of the House without opposition in second reading. I take it from that that the member opposite supports the principle of the bill. This section is pretty close to the heart of the principle of the bill.

I must admit that I am having a hard time understanding why someone who so enthusiastically supported the bill in second reading is now finding so much difficulty with it in committee stage. I've answered all of the questions that need to be answered, because frankly, none of them are relevant. If the member wants to debate the Human Rights Code, we should do that some other time and in some other place. This is the Trespass Act. Anybody who violates the Human Rights Code of British Columbia is doing something which I heartily disapprove of and which I am sure all members of this Legislature would heartily disapprove of, and they will certainly not have any ability to do that by reason of any of the provisions in this bill.

What I would be interested in doing, rather than debating the Human Rights Code, the application and the operation, the principles of discrimination — which are all good issues but just not relevant — is continuing a debate on section 2 of the bill that we have before us.

J. Kwan: The Attorney General, I'm sorry, is mistaken when he says that the opposition happily supports this bill. There are some sections of this bill that we actually were not opposed to, but there are sections of this bill that we will oppose. Section 2 is one of them, which speaks to the heart of the issue — the issues I'm raising that the Attorney General does not want to answer. He likes to pretend that somehow that's just a Human Rights Code issue. No, Mr. Chair, it isn't a Human Rights Code issue alone. It is the application of this law, how it could be applied and whether or not it could infringe on our basic human rights.

I cited some examples where there's a possibility where that could happen. By the Attorney General's own admission, those possibilities exist. They exist, and I cited examples of how it already is taking place in my own community, although it is hard to prove. What this bill does is further enable that kind of discrimination, the possibility of that kind of discrimination and the possibility of that kind of abuse.

The Attorney General says: "Yeah, but I'm not interested in talking about our Human Rights Code."

Hon. G. Plant: It's not relevant.

[1725]

J. Kwan: He says it's not relevant. Well, maybe in the Attorney General's own realm he thinks that it is not relevant. But you know what? This bill does allow for our basic infringement of our human rights. I am flagging it for the Attorney General, and he doesn't care. He doesn't care. That's what we have here today. To try to pretend that somehow the opposition supports this.... We'll vote on it, Mr. Chair. You bet I will,

and you bet I will call a vote on this section of the bill, where it is fraught with pitfalls.

It goes to show you that this piece of legislation is something that the government had dreamt up to try to win political points without giving real thought to what the ramifications might be for people. Then I suspect there might be members in this House who will get up and say: "Well, it isn't just about your special interest groups. We're trying to protect the rights of private property owners." They will try to make it sound as though somehow the opposition does not support the rights of private property owners. We know that's just a fabrication in the government benches' heads, because that's simply untrue. That is simply untrue.

The Attorney General just used the example of a living room situation. He knows that he can't go anywhere with that. There are laws that already exist that say if someone's sitting in your living room and you don't want that person there, you don't know who that person is or why that person is there, of course you can call the authorities. Not just this act — there are other authorities which you can rely upon to deal with situations like that. But I'm talking about quasi-public-private properties where I think the grey areas actually do apply, and the Attorney General just doesn't care.

Well, let me ask this question. The section of the act also sets out a presumption of guilt, not innocence. The Criminal Code, of course, is based on the presumption of innocence, but this bill and this section of the act has the reverse here. Why is that?

Hon. G. Plant: What provision of section 2 of the bill is the member referring to when she makes the claim that there is a reverse onus in it?

J. Kwan: Well, under section 4.1, it deals with trespass prohibited, and it deals with where a person commits an offence if any of the following is actually being done by the person. It doesn't, as I said, list what the activities are, but the person is asked right then and there to leave the premises or to stop engaging in that activity. So right here, implicit in this law, in this bill, is that the person is committing an offence. Therefore, that person has to stop engaging in that particular activity. There is a presumption of guilt in advance of the matter going to court. Then it's only afterwards — under 4.1, which states: "A person may not be convicted of an offence under section 4 in relation to premises if the person's action or inaction, as applicable to the offence, was with (a) the consent of an occupier of the premises or an authorized person, (b) other lawful authority, or (c) colour of right."

Hon. G. Plant: I will try again. I want to ask the member to refer me only to the language of the section that she says constitutes the reversal of onus. That's her argument. Don't read the whole section. What part of it is the moment at which there is — because I want to

help the member — a reversal of onus that is of concern to her?

J. Kwan: I would say under this entire section — section 4 and section 4.1.

Hon. G. Plant: Then I do not accept her characterization of the section.

[1730]

J. Kwan: I know what the Attorney General's trying to get at. He's a lawyer. He knows the law inside and out, and he knows the issue around presumption of innocence and so on and what the specific language has got to be. I'm a layperson; I'm not a lawyer. I'll admit that right off the top, but I'll tell you that as a layperson who actually reads the bill, that's what I see and that's what I feel. I've read legislation for close to ten years now, and that's my interpretation of it. Take a person who doesn't do this for a living and what they might think about this bill and what it tries to insinuate.

The fact is that the bill says if you engage "in an activity on or in premises after the person has had notice from an occupier of the premises or an authorized person that the activity is prohibited," then the person is required to either "(a) leave the premises, or (b) stop engaging in an activity on or in the premises." Then that person is committing an offence if that person "(c) does not leave the premises or stop the activity, as applicable, as soon as practicable after receiving the direction, or (d) re-enters the premises or resumes the activity on or in the premises." That section of the bill, in my view, reverses the onus and sets out the presumption of guilt and not innocence.

Then it's only in section 4(1), where it states: "A person may not be convicted of an offence under section 4 in relation to the premises if the person's action or inaction, as applicable to the offence, was with (a) the consent of the occupier of the premises or an authorized person, or (b) other lawful authority, (c) colour of right."

When you take these sections together, it is clear that this bill actually reverses the onus.

Hon. G. Plant: Well, I'm trying hard to see a reversal of onus. What this says, among other things, is that if I ask you to leave, you're required to leave. If I ask you to not do something on my property, you're required to stop doing it. If you don't do what I say as a private property owner, then you've committed an offence. There's nothing about that that reverses the onus. It states what constitutes the offence.

It then goes on to say that, in fact, there are some defences to that form of trespass. To say that someone has a defence is not to reverse onus in the sense that people ordinarily understand that term to mean. I think it's good that there are some defences, and it's written in a way that's pretty clear.

The cumulative effect of what's there is that if you're actually there with the consent of the occupier of

the premises, then you haven't committed trespass. If you're there because of some other lawful authority that allows you to be on property, like you're a gas meter reader or something like that, then you haven't committed trespass. That's not a reversal of onus.

There is, in the section, a presumption — and that's in 4(2) — that says that somebody who is "found on or in premises that are enclosed land is presumed not to have the consent of an occupier or an authorized person to be there." If we find you on enclosed land, the presumption is that you don't have consent.

My recollection is that that is very similar to the existing Trespass Act. Section 4(1) of the existing Trespass Act says: "A person found inside enclosed land without the consent of its owner, lessee or occupier is deemed to be a trespasser." That gets some distance down the road. Then (2) says: "If it is established in a prosecution under this Act that the defendant was found inside enclosed land, the defendant is presumed to have been inside the enclosed land without the consent of the owner, lessee or occupier of the land."

Those two provisions in the existing legislation, which are being replaced by the bill and the section that we have in front of us, do have that element about them already.

[1735]

J. Kwan: So then I guess, according to the Attorney General, that justifies it. According to the Attorney General, everything is fine with this section of the act. Never mind that there are issues, in my view, that deal with potential abuse of one's power under the authority of this act. Never mind that it could actually discriminate against individuals under this act because of the subjective nature of this bill and what's enabled in this bill.

We now also have the issue around the presumption of innocence and guilt. Under this bill it sets out the presumption of guilt first rather than the presumption of innocence, which I thought that, as the top law enforcer of this province, one would be concerned about. But apparently not, not for this Attorney General.

Now, section 4.1 lays out a number of potential defences for this act. It lists the consent of the occupier of the premises or authorized person, other lawful authority or colour of right. Let me ask the question about "other lawful authority." If you were in a mall complex and you were canvassing, let's say, for a federal election — it could be municipal or provincial; it doesn't matter — and the security person came and told you to get out of the mall.... "I don't want you canvassing here." Now, we know that there are other laws that authorize a person to canvass, but in that instance, is the person committing an offence?

Hon. G. Plant: I don't think there is anything in the Election Act of British Columbia that gives a canvasser the right to be in a shopping mall canvassing. Of course, the way that this bill operates and the way the law generally operates is you can go on the shopping

mall property and do something until you're asked not to. But I don't think that there's anything in provincial election law that allows somebody to go into a shopping mall and canvass for votes without getting the permission of the mall owner ahead of time. I have to say I don't know about the Canada Elections Act and what rules apply to it, and I don't have with me an answer to what municipal election legislation might say about that. That may not be caught by 4.1(b). It may not represent an example of a lawful authority.

J. Kwan: What are some of the examples of "other lawful authority" under this section of the act?

Hon. G. Plant: Well, I gave an example earlier, which would be a gas meter reader or someone doing a similar activity.

J. Kwan: Well, does the minister know? Does he have a list of other lawful authorities available to him that would apply under this section of the act?

Hon. G. Plant: No. The concept is pretty clear. If you're there with lawful authority, then that's a defence to an action in trespass. The question of what constitutes lawful authority is going to be determined on a case-by-case basis. It's not unusual for a law like this. I've given an example of what I think would be a pretty good example of lawful authority.

[1740]

Another example is a land surveyor, which in fact is something that's dealt with later in the act. There are probably some other examples, but I think those two examples are pretty clear in terms of indicating the kind of thing that will probably be caught by this part of the provision.

J. Kwan: What is "colour of right"?

Hon. G. Plant: A mistake as to whether or not you're entitled to do something. You think you have the right, but it turns out that you don't. One example of the application of colour of right in trespass cases occurs where there is a sound basis for actually arguing about where the boundary line is. In some cases, that may turn out to be the issue that gets resolved.

Another example of colour of right may be the situation of emergency rescue people who are trying to save a child who's threatened by a fire on the third floor of a building and who don't actually have the opportunity to get permission to go onto the property, so they just go on the property, save the life and point out that in the circumstances their duties pretty much required them to be there. That may constitute an example of lawful authority, depending on the extent of the common law or other authority of the people doing the rescuing, or it may in some cases be an example of colour of right.

Those are both sort of general concepts in the law. We thought they were important to include here as defences to trespass.

J. Kwan: Could it be the case that I as a person of colour enter into a mall and think I have the right to be there and be whistling along while I shop, and the authority tells me that I don't, and I refuse to leave, and then charges are laid and it's deemed that I've committed an offence and so on and so forth, and then I go to fight the issue and use as part of my defence that I actually think I have the colour of right? I'm going to exercise section 4.1(c), because I think I should have that right and I saw just last week some other person of colour doing exactly what I was doing and nobody threw that person out. Can I use that as my defence?

Hon. G. Plant: I have always had a challenge answering hypothetical questions, because I think the application of the law is something that will ultimately be left to courts, and lawyers will make arguments. The member's example, I think, probably would not work as an example of colour of right. She is claiming the right to do something which is expressly prohibited by the operation of the act. I don't know how you could stand up in court and say: "I thought I had the right to do that which this statute expressly prohibited me from doing."

The act is very clear. If you're on somebody else's property — and I want to emphasize that again; you're not out in the middle of a public street in this act — and you're doing something that the owner of that property asks you to stop doing, then you're right in the territory of this act.

I don't know of any common-law right to be on somebody else's property for the purpose of whistling or singing. There may be arguments that could be made in some cases about the nature of the activity on somebody else's private property. I suspect there aren't very many of them, but I wouldn't want to foreclose the possibility that in some circumstances someone could be doing something that, while it is prohibited notionally by the decision of an occupier of premises, is nonetheless something that would be caught by the defence of colour of right.

[1745]

J. Kwan: Perhaps a better example, then, of colour of right would be.... I made a mistake when I used the example to say that a week ago another woman of colour was doing exactly the same thing. Perhaps a better example would be to say that a woman of European origin was doing exactly the same thing. Perhaps that would be a better example to illustrate my point.

Let me use another example here. This is what I'm trying to drive at. That is to say, for example, that yes, the owner or the occupier of the premise or the authorized person can deem that express activity, whatever the activity might be, to be prohibited. That's entirely up to that individual to decide. Now, in a scenario where perhaps tens or hundreds of others were engaging in exactly the same activity but I was singled out by the authorities that somehow I was engaging in a prohibited activity, could I, in that instance, use section 4.1(c) as a defence?

Hon. G. Plant: Well, the member's hypothetical example sounded to me more like the basis for a human rights complaint than anything else.

J. Kwan: Well, I would beg to differ. Earlier, the Attorney General actually hinted at my conflict with the law, my incident with the Criminal Code. I suspect what he was referring to were the activities that I participated in where there was a rally in the downtown east side with the old Woodward's building. People from the community were gathered and engaged in using water soluble paint and chalk to paint things and write messages on the sidewalk and on the hoarding of the building. I also participated by painting a daisy on the hoarding.

Actually, I was investigated for that activity. Ultimately, the special Crown prosecutor decided not to pursue the case, because I wasn't the only person who engaged in that activity. In fact, there were others also engaged, but I was singled out. For whatever reason, I was singled out, and I was investigated. In fact, the footage by the media showed not me engaging in that activity but others, but none of the others were actually questioned or even investigated about their participation. On that basis, the special Crown prosecutor decided that it would not be just to actually lay charges against me. Ultimately, the case was dropped, and it never proceeded.

I would suspect, though — and this is full speculation; I admit that — that if the matter did come to a head and the matter went to the courts, one would have to question why I was singled out. In the same vein here, in terms of the hypothetical question that I put to the Attorney General, one person could be singled out amongst tens or hundreds of others to be engaged in a prohibited activity. On that basis, wouldn't a person be able to use the colour of right as their defence?

Hon. G. Plant: The one point I will make that I haven't already made is that the test for the defence of colour of right is objective, not subjective. That is, it's not what you think you were entitled to do. It's what a reasonable person knowing all the circumstances might think somebody could perhaps mistakenly have thought they were entitled to do. That means that the inquiry is not necessarily into what the potential offender was thinking about at the time, but what the objective circumstances were. That may be of some further help in elucidating the intention of the provision.

J. Kwan: Well, let me just say this, then. I suspect this bill is going to be subject to court challenge. I suspect that this bill will be subject to human rights challenge. I hope that that's not the case. I hope that business owners and private property owners would not discriminate, but as I said, I know of situations where people have been discriminated against even without this bill. Perhaps this bill will actually highlight some of those challenges already existing in our communi-

ties. Perhaps the matters will be brought to the court, and there will be judgments found around these issues.

[1750]

Let me ask the minister this question. The bill says that a person may not be convicted of an offence under section 4 in relation to premises if the person's action or inaction, as applicable to the offence, was with the consent of an occupier of the premises or an authorized person, other lawful authority or colour of right."

What exactly is the process envisioned here? Let's say the police are sent in to arrest a street person who may be sleeping in the doorway of a business that happens to be inside the legal description of the private property, and the homeless person is faced with an offence being charged under this section of the act. The homeless person, presumably, will need a lawyer to go and have this issue reversed, if the person deems that they have a valid defence under section 4.1 or a valid defence in their own minds.

But given, of course, the cuts to legal aid, what chance does a street person actually have with respect to mounting a defence and actually getting a lawyer to defend himself or herself? And if the defence fails or is never mounted, what exactly is the penalty? The bill does not say what the penalties are for committing this offence.

Hon. G. Plant: The member made a number of points and asked a couple of questions, a number of which are completely irrelevant for the purposes of the legislation. The mechanism of enforcement is an issue that I welcome input on. There is a default under section 4 of the Offence Act. If there is no other arrangement made, then there is provision for a fine. I think it's up to a maximum of \$2,000 or up to six months of imprisonment or both. That's a default mechanism or the default provision.

I am interested in talking to law enforcement officials, the UBCM, the Safe Streets Coalition. If others have a view on the question of how to make enforcement effective, then I certainly would welcome them.

What we're doing here, of course, is setting up a substantive framework of principles and requirements. Actually, I expect that establishing the law fairly clearly will have the necessary deterrent effect; that is, there will be people who — I know it may come as a surprise to the member opposite — will actually obey the law, and that will, by itself, result in some improvement or amelioration of the conditions that have led government to want to make this change.

I also want to say this for the benefit of people who may be following this debate, as though, in some way, what we're doing here is unusual: the advice I have received is that the provisions we are introducing here really just bring British Columbia into line with most other provinces. We're actually playing catch-up here. We're not taking a bold new step forward.

There are a couple of other jurisdictions that may not have exactly similar provisions or even similar provisions, but I think most other provinces in Canada have provisions that are very similar to this. In fact,

that's why I've said from time to time that, really, government has been asked for a decade and more to do something about the Trespass Act. What we're doing is, frankly, pretty conventional. It's not all that shocking or surprising.

[1755]

That's why I thought that the opposition had supported the bill by voting for it or by not contesting it and certainly not even speaking against it in second reading. I thought we were dealing with something that was relatively free of controversy. I have to say, frankly, with great respect to the member opposite, she has excited most of the controversy by focusing her attention on issues that are not dealt with in the bill, and that's a good and respectable opposition strategy. When you're faced with something that's actually pretty straightforward, pretty commonsense, but for some reason the people yanking your chain don't like it, then you look for arguments to make that don't have anything to do with the legislation in order to see if you can stir the pot up a little bit.

I want to say this: I am completely proud of the fact that I think that in our society private property matters. I think that in our society private property is an important ingredient in building safe, strong, secure communities; in building a healthy social fabric; in actually encouraging economic prosperity. Private property is pretty important to achieving all of that. If I look around the world, it's not hard to find places where governments have disrespected private property, and the result has been despair, lack of social harmony, discord. I look at jurisdictions where there has been some respect for private property, and I see much more of the things that we all want to see for ourselves, for our families, our neighbourhoods, our communities.

All this bill really does is make sure that in an urban setting in particular, people who own property have some more accessible tools to deal with people who are on their property doing something they don't like or who they don't want on there in the first place.

The law, in its application, must be scrupulously neutral as to status. Because the opposition cannot complain about the activities that are the focus of this bill, they make a status argument. But this law is not about status. This law doesn't care who you are. This law doesn't care whether you're tall, short, fat, thin, red, white, blue-eyed or brown-eyed. It says if you're on somebody else's property doing something that they don't want, then the property owner has the right to say: "Please stop doing that. If you don't stop doing that, then you should leave my property." It's pretty simple.

Why it has excited all of the emotional energy that has come from the opposition this afternoon is a mystery to me. I am sure the mystery will continue to unfold, Mr. Chair. But for now, noting the hour, I move that the committee rise, report progress and ask leave to sit again.

Motion approved.

The committee rose at 5:58 p.m.

The House resumed; Mr. Speaker in the chair.

Motion approved.

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

Mr. Speaker: The House is adjourned until 2 p.m. tomorrow.

Hon. G. Plant moved adjournment of the House.

The House adjourned at 6 p.m.