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6TH SESSION, 37TH PARLIAMENT

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Morning Sitting

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THURSDAY, FEBRUARY 17, 2005

The House met at 10:04 a.m.

Prayers.

[1005]

Introductions by Members

D. Jarvis: On behalf of the Minister of Human Resources, the member for Saanich South, I want to introduce some people from her riding: the teacher, Mr. Tim Lampard; 27 grade 5 students; and five parents from Lochside Elementary School in Saanich. Will everyone make them welcome.

Orders of the Day

Hon. G. Bruce: I call second reading on Bill 2.

Second Reading of Bills

THOMPSON RIVERS UNIVERSITY ACT

Hon. I. Chong: I move that Bill 2, Thompson Rivers University Act, now be read for a second time.

This act establishes Thompson Rivers University. The legislation will bring together the University College of the Cariboo with the British Columbia Open University-Open College, currently part of the Open Learning Agency, to form Thompson Rivers University, a new special-purpose teaching university in the central interior of this province. This new university will fulfil government's commitment to increase student spaces in the central interior and expand access to post-secondary education and training in the region.

The Thompson Rivers University Act sets out the purposes of this university and its governance structure. It incorporates many of the provisions of the University Act and also includes provisions unique to this university, including establishing a university council and a planning council for open learning.

The act describes Thompson Rivers University as a special-purpose university with a comprehensive mandate that includes a commitment to offer a broad range of programs. TRU, as it will be known, will also have a specific mandate for teaching excellence and will undertake research and scholarly activities that support its predominantly undergraduate courses and programs.

UCC had a strong mandate to meet the post-secondary education and training needs of the region it serves, and it also developed close linkages to many communities in the central interior. TRU will continue to build on this tradition. In addition, the new university will have a provincial mandate for the delivery and promotion of open learning education.

In terms of its programming, the new university will offer a diverse range of academic, educational and training programs. These include undergraduate and masters degree programs; trades, apprenticeship and

vocational training; developmental programs such as adult basic education; career and technical programs; continuing education; open learning courses; and programs previously offered through the B.C. Open University-Open College.

I would now like to speak specifically about the governance structure and framework that we have developed to oversee the university operations and its academic structure. The act provides for a governance model that incorporates elements that will enable the university to meet its comprehensive mandate while remaining responsive to the post-secondary education and training needs of the communities it serves. The governance structure of TRU will include a chancellor, a board of governors, a president, a university council and a planning council for open learning.

The chancellor of TRU, who will be appointed by the board on joint nomination by the university council in consultation with the alumni association, is the non-resident head of the university and will confer degrees.

The president of TRU will be the university's chief executive officer. The president will have the same powers and duties as the presidents at the other universities.

The board will be responsible for the overall management and administration of the university. The composition and powers of the board will be the same as that of the other universities, and the board will include representation from regional communities as well as those from the university community.

[1010]

The university council will be responsible for setting academic standards at the university and ensuring the quality of its educational programs. It will have balanced representation of faculty members from every faculty at the university. The composition and powers of the university council draw from both the senate model of the universities and the education council model of colleges and institutes.

The planning council for open learning will oversee the open learning division of the university. It will ensure that the openness principles that were critical to the success of the B.C. Open University-Open College are maintained. These principles include flexible admissions policies, residency requirements, prerequisites and the ability for students to accumulate transfer credits for formal courses and programs taken at other post-secondary institutions for recognition toward a degree program in the open learning division of TRU.

In addition, the planning council for open learning will ensure that TRU acts as a system partner in the ongoing development and expansion of on-line and distance learning in British Columbia. Therefore, in addition to members from the faculty, administration and students of TRU and teaching staff from the open learning division, the planning council will have representation from other provincial post-secondary institutions, and this council will work to ensure that British Columbia residents across the province will continue to have open access to quality programs and services in a variety of learning formats.

In introducing this act, I also want to briefly touch on the history of the development of the university that brings us to this present day. UCC has enjoyed a long history of successes, first as Cariboo College, a community college, and then as the University College of the Cariboo when it was bestowed with degree-granting authority in the mid-1990s. Throughout its history the institution offered a comprehensive array of education and training courses and programs and fulfilled its commitment to a strong regional mandate in meeting the needs of interior communities. We are now combining the institution with the open- and distance-learning mandate of B.C. Open University-Open College to create Thompson Rivers University in order to capitalize and build on the past successes of both institutions with this new university.

Passage of this bill will bring about the creation of Thompson Rivers University and the expansion of opportunities for post-secondary education and training in many communities of the central interior and British Columbia.

I will close with those remarks, and I now look forward with anticipation to our second reading debate.

K. Krueger: This is a great day for you, a great day for me and a great day for the members for Cariboo North and Cariboo South and for everybody that we represent in those constituencies of Kamloops, Kamloops-North Thompson and the Cariboo. It's a day we long looked for, and we're so happy that it has arrived.

The day the decision was announced in Kamloops that the University College of the Cariboo would become a full-fledged university, a special-purpose teaching university with the mandate and responsibilities for distance learning and the continued regional emphasis that UCC has had, was a day you and I will always remember, Mr. Speaker, because of the electricity that was in the air and the joy that was evident throughout our communities. It was a wonderful day.

As the minister said, the University College of the Cariboo has a long and proud history — decades of success, decades of service. We in Kamloops and the regions around Kamloops are tremendously proud of that record, not only of the tremendous academic success of UCC, with its very unique degrees — such as the bachelor of science in natural resource management, the journalism degree that people acquire there and its wonderful school of nursing — but also of the parallel emphasis on trades and technical training, which has never taken a back seat in Kamloops, and the phenomenal success of those programs and how heavily subscribed they are.

Recently the institution had to add a midnight shift to its trades training because the classes are so full. We're cranking out those employees that the skills shortage, which we long anticipated and which has struck us full force in British Columbia, requires our government to respond to, and I'm very proud of how the government and the institution have been responding.

[1015]

UCC has also had a unique capacity to develop tailored programs on very short notice for employers' needs in the area — a real success there. As opportunities arise, UCC has been tremendous at taking advantage of those opportunities. For example, the brand-new water treatment facility — which you and I, Mr. Speaker, will open on Friday, tomorrow — with its unique membrane technology, has spun off a program with UCC for teaching people about those state-of-the-art water treatment technologies.

Of course, there's the wonderful facility we have in Kamloops, the B.C. Wildlife Park, with its programs for injured animal rehabilitation and the phenomenal success they've had with captive breeding programs for burrowing owls, and they are now considering other endangered species, which again links to UCC and the animal health technology programs there. In all these and many other ways, this has been an amazing institution in the way it has met the needs of our population, spotted opportunities and developed programs and really made us proud.

When my wife and I and family moved to Kamloops in 1988, we found that the city was sadly still in the 1981 recession. Somehow it just hadn't been able to get back on its feet as the rest of the province began to flourish.

Well, in 1989 there were two wonderful announcements for Kamloops. One was the 1993 Canada Games designation, but the other was that UCC would get its degree-granting status. Those two things started Kamloops on a really good economic roll, which helped us to survive the sorry decade of the nineties when most of the province sadly went backwards. Kamloops didn't flourish and the region didn't flourish the way they could have in the nineties, and should have, as the rest of the continent was booming. But UCC and the Canada Games started us on tens of millions of dollars' worth of construction and lots of activity that carried us well into the nineties.

Of course, since the great event of May 16, 2001, when this government came to power, Kamloops was poised to take off and has been doing tremendously well. A huge part of that all along has been the University College of the Cariboo. It's probably hard to find a person in Kamloops who isn't directly impacted by UCC and what it's been doing over the years, and whose family hasn't benefited in various ways.

I have an uncle who is retired now, but Lloyd Howard was and still is a master tradesman in auto mechanics. He taught at UCC in the trades and technical program in the last decades of his working life. It was a tremendous employer for him, as it is for hundreds and hundreds of people in Kamloops and the surrounding area.

My wife went back to university at UCC as what people call a mature student. She's not very fond of that term. We had raised a family, and they were all well established in school. She had long since identified her unique skills for teaching little children. She went back and got a bachelor of education degree, and she

loved the education she got. Like many people who attend UCC, she is very definite — having attended UBC as well — that the quality of education at UCC is second to none. The personal attention that professors are able to give the students and the learning experience is a wonderful thing.

We have also really valued, and my constituents up the two Thompson valleys extremely value, the regional access centres and the way UCC reaches out to small communities. That's something that those communities — Barriere, Clearwater, Chase, various communities up in the Cariboo — prize very highly. They've always been a little nervous that something might happen to take them away.

Throughout the nineties, there was a growing desire expressed in Kamloops particularly to achieve full university status. That desire fell on deaf ears with the government of the nineties, the NDP government. One of the reasons that people at UCC and throughout our area so desperately wanted to be a full-fledged university was the burgeoning success of the international student programs which — as you know, Mr. Speaker, because you and I attend there frequently, many different functions at UCC — have up to 900 international students in Kamloops at any given time.

[1020]

They fill up the motels and hotels and apartment buildings. They drink coffee in the Starbucks; they visit the restaurants; they buy brand-new vehicles; their parents visit them. On average they each bring \$35,000 per year to our local economy, and that's a wonderful thing.

International people looking at sending their children to British Columbia weren't sure what a university college was. It was a very successful model for us while we used it. But they thought that might be something less than a university, and it was always a sales job to persuade them what we really had at UCC. That was one of the reasons that people very much wanted to be called a university at UCC.

The institution experienced a fresh start with the election of our government in 2001 and saw the opportunity — a Premier who was willing to consider bold and new initiatives, a government that was willing to do new things, a government genuinely interested in listening to the communities.

I recall, Mr. Speaker, you and I bringing delegations down here to meet with the Minister of Advanced Education, now the Minister of Health Services. At first it required some arm-twisting. Our government was in the process of having to find ways to spend less money in this province, of course, and it was hard to imagine how we were ever going to come up with the money to make changes like the one we wanted. But, Mr. Speaker, you and I persisted, and the people of Kamloops and region helped us tremendously.

There was a huge community drive launched by some men of leadership: Al McNair, Anthony Muzillo, Bob Ryan. They founded what is known as the Friends of UCC University Society. It was known as that, but it won't need to be anymore. Thousands of people in our

area — in Kamloops, especially — paid money for membership, put money into the pot to assist with a community drive to make sure the government would one day proceed with establishing a full-fledged university.

We have some great people on the board: the chair, Mr. Ron Olynyk; the vice-chair, Mr. Todd Stone; Frank Quinn; Mona Murray; and many others. I probably shouldn't have started naming people, because now I ought to name them all and don't have the time allotment — great people who are on the board of UCC, wonderful people who teach there: the president, Dr. Roger Barnsley; vice president, Dr. Neil Russell. Tremendous people. We're very proud of their achievements and the quality way that that institution is run.

A lot of innovative things are done. The international student building — which you and I are about to do the ribbon-cutting for in the near future, Mr. Speaker — has been built entirely on the revenue derived from international students themselves and yet it will also be an asset for British Columbians and other Canadians who attend UCC.

It was so gratifying to see the evidence that the Premier and the minister and the government were listening. I'll never forget the phone call I got one day from the Premier. I was about to get on a plane. The decision had been made to proceed with establishing a full-fledged university in Kamloops. It wasn't just to be another university; it was to be a special-purpose teaching university.

The Premier and the minister had come up with so much more than we'd ever asked for or imagined that we would get. The new university was to have the ability to provide distance learning for people from anywhere in the world who want to acquire distance learning via the excellence established here in British Columbia.

We got the tremendous news that the Open Learning Agency would be moving to Kamloops, which would involve well over 100 jobs. Potentially much more than that, as the institution, building on its network and tremendous inroads internationally and its long-established credibility, now has this right and responsibility to deliver distance education to any of those people from around the world who want to start their education in British Columbia that way.

Already UCC had some innovative programs where university students could take the first two years at home, in classrooms in their home country, taught by UCC instructors. Now those will be Thompson Rivers University instructors, and people can actually start learning from their homes, internationally, through Thompson Rivers University at Kamloops.

[1025]

Again, for you and me, Mr. Speaker, it was a banner day when the name Thompson Rivers University was chosen. The celebration around our community and the tremendous affection for that name.... As the minister said earlier in first reading, 171 choices from the community, and I wondered how in the world we

would pick one that most of the people will like. But that's what happened. There were practically no people who expressed a dislike for the name, and many of us love that name because of the nature of our community and the way the South and North Thompson rivers come together, then flow off as the Thompson to head down to the mighty Fraser.

It reminds many people of the rivers of learning that occur at what is now Thompson Rivers University and that have occurred at UCC over the years — whether it's the trades and technical, the academics or any of the many special programs that are tailored to the student population which comes to our community to take advantage of that tremendous education.

It's an opportunity, of course, for our own children to acquire an education right where they live, without the huge expense of going off somewhere else and having to pay room and board and the disruption that occurs with that. I remember how it felt to me as a 17-year-old, just after my seventeenth birthday, moving from Dawson Creek to UBC — from a place where practically everybody knew me to being just a tiny fish in a very big pond. The disruption in your life when you're in your middle or late teens and you move from a place of a certain size to, in that case, an institution that had more students than my hometown had population is quite a shock. It's more than a culture shock that you go through.

If our children and future generations of graduates in Kamloops wish to, they'll be able to acquire their education right there at home. It's a fabulous thing for all of us.

Mr. Speaker, you'll remember those days — the day that you and I first heard, after all of our efforts and the efforts of the constituents we represent, that we would acquire this right to call ourselves a university in Kamloops, the day that we announced it with the Premier in Kamloops, and then the day that the name was chosen and we got to announce that. What a privilege it has been.

The fact that we're going to have 3,000 more spaces at Thompson Rivers University than we've had at UCC; the fact that \$12 million is being spent on the campus at Williams Lake and \$20 million more to enhance the campus at Kamloops at Thompson Rivers University.... It's all tremendous good news for our communities and for our local economy, as will be the building projects that inevitably will flow coming down the years.

As you're well aware, we have a beautiful site there with fabulous views out over the magnificent Thompson valleys. It's a place that we have every reason to feel so very proud of. I can tell the House that the people of Chase, Clearwater, Barriere and the Cariboo communities were absolutely delighted that the Premier put it front and centre in his public announcements, including a billboard backdrop behind him at the announcement, that those access centres in those communities were to remain as an integral part of the responsibility of the new university.

I was sorry to hear the criticism of the leader of the NDP, Carole James, when the announcement was made, suggesting that the government was making a mistake in channelling assets in the direction of establishing a new university at Kamloops. I warn her not to take these knee-jerk positions against things that are tremendously important to people in the heartlands, in the interior, people where you and I live and where we've always lived. We want our children to be able to be educated close to home, and we like a government that responds so willingly to the desires that are expressed by our constituents. It would serve Carole James much better if she made sure of what she was talking about before she took positions which, presumably, any government she might ever lead would feel bound to carry out.

I really wonder what her intentions would be with regard to Thompson Rivers University in the unlikely event that she ever was elected Premier. I want to serve notice to her that this is a good thing that has happened, a wonderful thing that has happened, in the creation of Thompson Rivers University. It's following a long, proud and wonderful tradition that is tremendously supported by the people of our area in attendance, in involvement, with their wallets and in every way. The UCC foundation is tremendously successful in raising funds to assist students who need the economic assistance. It always has great people leading it up. We love our university in Kamloops, in the Thompson valleys and in the whole region.

[1030]

Regrettably, the members for Cariboo North and Cariboo South are not going to be able to speak at second reading, because the Premier is presently in their constituencies, and they're with him. I know they share your feelings and mine, which are tremendous pleasure and a real joy that this great thing has happened for our area. We want to express our gratitude to the minister, to her predecessor, certainly to the Premier and to the government. This is one of the best things that we could ever imagine happening to us, and we're bringing it to reality today.

Motion approved.

Hon. I. Chong: Mr. Speaker, I do want to thank the member for Kamloops-North Thompson for his very positive remarks on this legislation. I know that he's very excited, as are you and other members, about this new, special-purpose university coming into your area.

I move that the bill be referred to a Committee of the Whole House to be considered at the next sitting of the House after today.

Bill 2, Thompson Rivers University Act, read a second time and referred to a Committee of the Whole House for consideration at the next sitting of the House after today.

Hon. G. Plant: I call committee stage debate of Bill 4.

Committee of the Whole House

ATTORNEY GENERAL STATUTES AMENDMENT ACT, 2005

The House in committee on Bill 4; J. Weisbeck in the chair.

The committee met at 10:33 a.m.

On section 1.

J. Kwan: We understand that the purpose of these changes is to provide a child support service that can recalculate the amounts payable for child support automatically when the income of the payer changes. I want to put on the record very clearly that the NDP opposition supports the stated intent of these changes. However, we do have some questions on how this child support service would be established and how it would be run.

First of all, let me ask the minister this question: how did these changes come about? What prompted it?

Hon. G. Plant: Well, there were changes made to the Divorce Act of Canada that permitted the making of or entering into agreements that support the process we're talking about in these amendments. In addition to that, I have to say that in the years I've had experiences, first as justice critic and then as Attorney General, I've certainly heard lots of concerns over the years about the inflexibility of a system that says and requires that in every case where you need, for perfectly good reasons, to change or vary the amount of child support, you have to go to court and get a court order — concerns about the inflexibility of that process, concerns about cost. It's actually, I think, a good opportunity that we've been given by these changes in the Divorce Act to do something that will, I hope, make this process work more efficiently and less burdensomely.

[1035]

J. Kwan: When did the changes come about from the federal government?

Hon. G. Plant: In 1997, I'm informed.

J. Kwan: In the process of engaging in discussions... And, yes, I've had individuals come forward as well, who find the process of trying to adjust child maintenance support difficult. In that process of bringing forward this amendment, could the Attorney General tell the House who the ministry consulted with to ensure that this will actually be effective and will work in practice?

Hon. G. Plant: Well, we have had some discussions with other provinces that have put similar arrangements in place, and as I said earlier, we have heard over the years from people who have concerns with the existing legal regime here. So these changes respond to

those concerns. But so far as I know, we did not undertake a formal public consultation process with stakeholder groups or community groups or others with respect to these proposals.

J. Kwan: What other jurisdictions have similar legislation in place?

Hon. G. Plant: Well, some come to mind quickly. Apparently, Newfoundland and Prince Edward Island have the framework in place and are using it. Manitoba has apparently passed the legislation but not yet implemented it. There may be one or two other provinces or territories that are working toward this.

J. Kwan: I wonder if the Attorney General can walk me through how this would actually work in terms of the process.

Hon. G. Plant: I am told the plan is that once the child support order has been made by a court, the order will be sent to the child support service, which is the subject of these amendments. On an annual basis, the child support service would communicate with the payer and make sure that the income level which was the basis for the original order hasn't changed. If there's been a change in the income and the change translates into a change in support levels because of the application of the child support guidelines, then that change would be implemented. But both the payer and the recipient would have an opportunity to object if necessary or, if they want to, to go to court.

J. Kwan: So the child support service prescribed in this legislation will do the checking annually with the payer to find out what the payer's income is and then will establish whether or not an adjustment needs to be made.

Hon. G. Plant: Yes. The inquiry into whether or not an adjustment is required will be based on the child support guidelines.

J. Kwan: Will there be a verification process in terms of what the payer says his or her income might be? How will we be able to verify that? Or are we just going to take the word of the payer?

[1040]

Hon. G. Plant: I'm told that payers will be required to provide their income tax notice of assessment, so there will be something more than just simply the word of the payer used as the basis for the recalculation.

J. Kwan: Would this be done annually in anticipation of potential changes throughout the course of the year, or would it be just annually based on last year? In the case that the payer's income changes midstream,

will the child support service kick in midstream? How would it kick in midstream?

Hon. G. Plant: Well, at this point the plan is to try and get it up and running in a way that makes the annual inquiry. If somebody who is a payer has a change of income halfway through that annual cycle, then that will have to be dealt with pretty much as it is now. That is, the payer and the recipient might be able to agree to adjust the amounts owing and to get a variation consent order entered. If there is a disagreement, then presumably the matter could be litigated, which is the undesirable outcome, but that's also the fail-safe mechanism for when the parties can't sort things out.

This is a step forward by creating at least the annual opportunity for review. It may be that at some point we can take the next step forward and do something on a more frequent basis than that, but I think the point here is to try to get this first step up and running efficiently.

As the member will recall, I think that the intention here is to try this out as a pilot project, probably in one or two registries at first, before taking it out province-wide. We need the legislative framework in place to do that, but it's not going to go provincewide all at once.

J. Kwan: I think I heard the Attorney General say that it wouldn't be provincewide all at once. If that's the case, where will this pilot project be initiated first?

Hon. G. Plant: We're still working on the selection of the possible locations for the pilot project. No decisions have been made about that.

J. Kwan: What's the anticipated time frame for this legislation to kick into force?

Hon. G. Plant: We're hoping to have something in place by the end of the calendar year.

J. Kwan: Am I right in assuming that the location, which the government is still deciding on where to start this pilot project, would be determined on the basis of historical pattern in terms of variation of income from the payer — maybe a place that would actually see this change coming into effect most effectively and most often perhaps? Is that the kind of analysis in trying to decide what location...? What is the government considering to determine what location would be most appropriate for this pilot project?

Hon. G. Plant: I suspect it's more likely that we'll be looking at locations where we already have a good network of existing child support and family justice services in place. We'll be adding this to the range and menu of services that are already available in those communities, although I think the member's question is a good one.

[1045]

I'm not sure if data exists that would tell us in any meaningful way whether some parts of the province

are places where income varies more dramatically more often than others. I think it's worth bearing that in mind as we look for pilot project locations. I think the more likely criterion will be: where do we already have pretty well-established family justice counsellors and parenting-after-separation programs in place? We can just add this to that existing complement of services.

J. Kwan: I will have some questions around the administrative part of it and the costs associated with it, but I want to follow the line of questioning that I've been putting to the minister at this time.

On the question around the application of this service.... We're looking for a location to pilot it. We're not sure how often it will be used or about data in terms of the changes with the payers for maintenance purposes. Do we know, from other jurisdictions where they have put this kind of legislation in place, how often this kind of legislation is actually triggered? Do we have a sense of how it is going in the other jurisdictions? I mean, I absolutely agree with the concept; it's a good one. I think it can be effective and very practical. In practice, how is it working in the other jurisdictions? Do we have any sense?

Hon. G. Plant: We don't have numbers on how many instances there are of the application of these processes in Newfoundland or Prince Edward Island. Those are obviously much smaller jurisdictions than British Columbia.

I think that obviously, as you roll out something like this, you're going to have to have a developed sense of what the demand for the service is and what the corresponding costs are. One of the reasons you might take a proposal like this and roll it out as a pilot project, as we propose to do, is to get a bit of a sense of those numbers before you implement the thing across the whole province.

I can't give the member a very precise answer about what's happened in other jurisdictions. I don't want to put words in the member's mouth, but I think that the principle of the framework is the right principle. The mechanism that is being proposed here is a good idea, and we should try to make it work in an affordable and effective way.

The alternative, which is the status quo, is some number of circumstances — I don't know how many; I suspect at least hundreds and maybe thousands — where income changes, but the existing framework to get that change made manifest in a varied court order is so cumbersome. What happens is that people sometimes just don't get around to it for awhile, if they get around to it at all. By the time they get around to it, there are substantial arrears built up, and then the family maintenance enforcement program is faced with the obligation of trying to enforce those arrears. The result is unfairness and stress placed on what are quite often pretty stressed situations already.

We are being driven by principle and policy here, but I think it's right to be concerned down the road to

make sure we're doing something that is also affordable and efficient.

J. Kwan: Is it the case that if there's a dispute from either side with this automatic process, it then automatically reverts to the old process? Is that the process that would be followed here?

Hon. G. Plant: Once the recalculation is done and sent out to the parties, either party would have the option of disputing it, and they could go to court to have the matter resolved.

[1050]

J. Kwan: Sorry. Maybe I didn't understand the Attorney General earlier. Just so that I can sort of wrap my brain around the process here.... The child support service will kick in annually at a particular date, presumably after the income tax period so you have the new taxation information to go with it.

Then if it shows that the payer's income has changed — varied either upward or downward — that triggers automatically a recalculation of the maintenance support. Then information is sent out to both parties, at which time they will have a period of time to determine whether or not they agree with that. If they don't agree with it, is it that they will contact the child support service agency and say, "We don't agree with it," or is it that they automatically go and launch court proceedings?

Hon. G. Plant: The intention is that the parties will get the notice of recalculation or the reassessment. They'll have 30 days to decide whether or not to accept it. If they do nothing and the 30 days expire, then the reassessment or the recalculation will take effect automatically. But within that 30-day period, they can initiate an application to court if they disagree with the reassessment.

J. Kwan: Do they have to notify the child support service that they do not agree with the reassessment, or do they just automatically go to court? I'm just wondering whether or not there's an intermediate step here if — I don't know — for whatever reason that might be very easy or simple to rectify with the recalculation if something has gone wrong. Is there an opportunity for them to go to the family support service to have that dealt with instead of automatically launching a court proceeding?

Hon. G. Plant: Well, for example, if there was a clerical error made by the child support service, or perhaps somebody had submitted their tax return and then realized that there was an error and they had made an application for a reassessment, which was still in the works at the time that the child support service was doing its work.... Those are a couple of situations where it would seem desirable to find a way for the child support service to readjust its direction without automatically requiring somebody to go to court. Those are good questions.

I think the answer would be that we may not be quite at the stage of refinement of the process where I can give a definitive answer to those questions, but I think that as we develop the fine details of how the thing will work step by step by step, the member's question raises some things and concerns that we better try to figure out how to implement.

What we don't want to do is do something in the name of efficiency, fairness and affordability, which tries to make something that's now quite formal a little bit less formal, and then unintentionally or accidentally actually create a whole lot more litigation. That's not the intent here. Hopefully, as we get down to the fine details of the planning, of the implementation of this, we'll find a way to make sure that it doesn't happen.

J. Kwan: That's precisely the point that I do want to make — also, to really maximize the efficiencies, if you will, of this process and this program to allow for some room for perhaps minor and simple discrepancies to be dealt with through this service so that it doesn't automatically trigger court proceedings.

[1055]

I can think of another scenario, and I'm sure there are tons of other ones as well. Another one could be that because the income tax return is based on your last year's income.... It could well be that by the time the information arrives for the reassessment, things have changed. That could be easily rectified in terms of that kind of situation — in terms of the payer perhaps saying: "Well, no. Actually, my situation has changed." Maybe the payer could have been laid off, for example, or is on UI.

Conversely, the payer could have landed a new job which the ex-spouse is aware of, but which might not have been reflected in the income tax return from the previous year. That might, between the two parties, be easily identified. In notifying the child support service in an amicable fashion, one might be able to deal with this more effectively.

That's what I was hoping I would hear — that we would look into addressing these kinds of concerns or matters in the process of developing this child support service. I think I heard from the Attorney that that is going to be taken into consideration.

Hon. G. Plant: The hon. member is asking questions that are important in this context. There are a couple of things that I think need to be said to flesh out the context. First is that the parties to child support can always agree to vary by consent, so that is not going to be affected by this.

Secondly, while it is true that some ways of measuring income change may be not as flexible to current reality as other ways, we're trying to set in place an administrative process that makes decisions based on objectively verifiable criteria and does so on the basis of criteria that are as simple to administer as possible. In that respect it's a little bit like the child support guidelines themselves, which do a pretty good job in most cases. They do such a good job in most cases that

I think the public good is well served, even though there are always some exceptional cases where the application of the guidelines doesn't necessarily produce the right result.

Here the idea of using tax returns has the virtue of being a document where you know that somebody has essentially committed themselves on oath to that statement of their income. They are subject to being prosecuted criminally if they lie about their income. The notice of reassessment or the notice of assessment from Revenue Canada is a pretty reliable procedure, and it gives us a good, hard number without having to spend a whole lot of time worrying about whether or not somebody is telling the truth about their change of income.

It is a little bit inflexible in the way that the member has talked about in terms of reflecting up-to-date income levels, but these things involve a trade-off, and we'll continue to bear these things in mind. We're looking to find the best balance of the competing interests at play. It may not be the most perfectly flexible, sensitive procedure, but hopefully it will be generally less expensive and more reliable for that.

J. Kwan: Well, we'll see, once the system gets set up, how it would be applied. Hopefully, it would be applied with as broad an approach as feasible for it to be efficient and to meet the intended goal here.

Now, the minister says that the likely location where the pilot project will be situated is a place where there's some infrastructure in place to get this program up and running. Is there a budget associated with this? Are there some estimates in terms of how much administrative cost this initiative may require?

[1100]

Hon. G. Plant: We don't have that information here with us. I expect that whatever budget number may be notionally assigned to this, it's not a very big one. For the fiscal year coming up we're going to get only to the very, very early stages of implementation. As we get to the point where we have a budget, I'm sure that we can find some way to get the numbers.

I'm told there is federal funding that will support this, so we're putting in place something that is not going to cost the provincial government anything to create or implement. At some point, if we have an idea of what the dollars are that are being spent, I'm sure that we can make those available.

D. Jarvis: Permission to make an introduction.

Leave granted.

Introductions by Members

D. Jarvis: On behalf of the Minister of Human Resources, the member for South Saanich, I would like to make an introduction of some 49 grade 5 students, five of their parents and their teacher, Ms. Morris, who are from Beaver Lake Elementary School in Saanich. Would everyone please make them welcome.

Debate Continued

V. Anderson: I want to commend the minister for this particular bill.

One of the things I was wondering about is the effect on both the payer and the payee, depending on which way the decision goes — the transition period. Think, for instance, of the payer who has been given, by necessity, the need to cut down the amount of money paid for child support to a family. Suddenly, the family that has been relying on that money finds itself in very desperate straits. On the other hand, the payer who has an increase could have the same problem. They suddenly find they're in desperate straits.

Is there a discussion of transition, of how this takes place, or does it happen on Monday that you discover that at the end of the month you're going to be losing \$5,000 or \$6,000 in payment? How do families adjust?

Hon. G. Plant: Those are important concerns, but I think it is equally important to explain what we're trying to do here. All we're trying to do is design an administrative mechanism for the implementation of what would automatically flow as a matter of law in any event. We're not trying to change the way the law would work in this regard. We're trying to make the implementation or application of the law more effective.

The reality is that if you are the subject of an order for the payment of support where the amount that you are paying is based on the child support guidelines, then my understanding of the operation of the guidelines is that it's a fairly straightforward equation between the amount of income you earn and the amount of money you pay to support your children.

As income rises or falls the application of the tables and the child support guidelines means that the amount of child support rises or falls. If that increase or decrease is a little steeper or a little faster than people can cope with, then that exists now in the law. There really isn't, I don't think, any way we can ameliorate that with this administrative process.

[1105]

In cases where the change is so rapid and so serious that there might really need to be some kind of transition, I don't think we can do that through this mechanism. The parties will have to go to court and have a discussion about how big a change is happening and is there a way we can get there a little less painfully than right away.

The member raises fair concerns, but we are still in a world where — really, for constitutional reasons — there is a limit to what we can do administratively to vary the substantive rights of the parties. What we're trying to do here is make sure that those rights can be enforced and implemented as efficiently and effectively as possible. We're not trying to change the substantive law.

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

Leave granted.

Introductions by Members

J. MacPhail: I note with great interest that my cousin Drusilla Godin is in the chamber today. I would ask the House to please make her welcome, and I'd ask her to meet me at the bottom of the stairs so I can actually give her a hug.

Debate Continued

V. Anderson: Two scenarios that ask how this works out. If the payer is in another province rather than in British Columbia, can that payer be assessed with that change equally as if they were in B.C.? Is it effective Canada-wide? The other question at the same time is: if the payer decides to go on welfare just to avoid payment, is there any way that this can be followed up?

Hon. G. Plant: What we're hoping is that we can get this up and running in a way that works for situations where payers and payees are inside the province. I think it's too soon to say what it might look like to take a mechanism like this and make it work across provincial borders. At the very least, I think you'd probably have to wait until you had two provinces that had similar systems and then figure out how to mesh their different processes for applying for support, and so on.

The second question, again, has an answer a little bit like the last question of a minute ago. That is a problem that will have to be dealt with by the substantive law of entitlement, as opposed to this administrative mechanism.

J. Kwan: The minister mentioned that this will be funded — perhaps in part or maybe in its entirety — by the federal government. I wonder if I could get some details around that. How much money has the federal government committed to this initiative? When will that money kick in? Which ministry does it come from on the federal government side?

Hon. G. Plant: We don't have that dollar number here. The federal government has supported a number of family law initiatives over the last number of years, and I think this is incorporated within that. I'll be happy to get the best numbers I can for the member.

J. Kwan: Yes, I would appreciate that information from the Attorney General.

Also, am I assuming correctly that the money is in the provincial coffers already, or are we expecting to get that money at a later time?

Hon. G. Plant: I don't think we have the money. In fact, I'm fairly certain we don't have the money now.

J. Kwan: On negotiations with the federal government in funding this family law area are there negotiations going on right now, or have negotiations con-

cluded and we're just expecting the federal government to come in with the dollars at some point?

Hon. G. Plant: Something called the child-centred family justice fund, which is federal, has funded some initiatives over the last couple of years or so in British Columbia. We have a commitment from the federal government that they will fund this initiative from those funds.

[1110]

J. Kwan: I think that answers the question, really, why we have the legislation now — because it's actually going to be funded by the federal government. It is a good initiative, no doubt.

If the Attorney General could provide the information about when the money will kick in and how much, that would be great. I'm not quite sure where things will be at with the election looming. If it is the case that during this period of time the information about how that pilot project will work and what sorts of administrative issues have been ironed out, what location has been identified.... If the Attorney General could also provide that information to the opposition, that would be appreciated. Like I said, I don't know what the timing of things is going to be.

This is a good initiative, one we do support. As things progress we would appreciate it if we could be kept up to date. As well, we might also have suggestions, as things are evolving, for the Attorney General's consideration.

I want to ask perhaps a last question, depending on what the answer is to this question. Am I assuming correctly that this service would actually be done in-house by staff somewhere, depending on where the pilot is going to be located? Am I assuming correctly that it's not going to be contracted out?

Hon. G. Plant: As a pilot project at least, it is our intention to do it with in-house staff.

J. Kwan: We will see when the pilot project would expand, and we'll talk then.

Is it correct for me to assume that if the pilot project extends beyond its pilot location, the legislation will be brought back, or can that be dealt with without legislation?

Hon. G. Plant: I am advised that if this passes, we will have the power to expand or extend the number of locations by regulation. There would not need to be any further statutory changes.

J. Kwan: That prompts another question in terms of this. First of all, let me ask this question: how long is the pilot for? Is it for a year, two years? Do we have any sense...?

Hon. G. Plant: I think the member is asking all of the right questions, but I think she thinks we're further along than we are. What we're trying to do here is

make sure the Legislature will approve a framework that we can then use to continue the design work with respect to what this thing will look like.

I doubt very much there is an answer to the question of how long a pilot project would operate. In a sense, I'm just guessing here, but I think we are probably six to nine months away from being able to even get something started. I am certain that whatever government is in office then will want the public to be aware of the implementation of an initiative like that, so there would be some attempt made to draw public attention to it. At that point we will have much more in the way of details to put out and a good opportunity to explore questions like how long will the pilot project be and how is it going — things like that.

[1115]

J. Kwan: I guess maybe that is the problem. Yes, I am assuming that we have legislation before us and that it lays out what the intention of this new section is. It has all the definitions and all the pieces associated with it. I thought, actually, that we were further along, at least insofar as, even while we haven't got the initiative all ready to go, we actually have some planning in place in terms of what that initiative might look like; i.e., with a pilot project we will know where the location is, how long we're going to pilot it for. I can appreciate some of the issues around the detailed administrative side, how the program might work or not work, that some of those things still may need to be ironed out. I'm a little bit astounded, to be honest, that we actually don't have some of this very basic information in terms of how long the pilot will be.

Given that we have federal government funding — the federal government is going to support this project financially — is there any information from the federal government side on what the expectations are on this initiative, other than just to say yeah, okay, they support this initiative generally?

[H. Long in the chair.]

Hon. G. Plant: There may be information, and we'll go look. The member can be as astounded as she likes.

What we're actually trying to do is really create a framework-in-principle. Those are good administrative questions, but they're not legislative questions. The budget questions are good budget questions but they're not fundamentally legislated questions, and I think they all will need to be answered in the fullness of time. I note that we actually haven't even started looking at the details of the legislation, so we've been having a pretty general discussion. The fundamental question is whether this framework should work.

Federal funding or no federal funding.... I don't deny that those are legitimate questions at some point, but we're not going to get any funding for a project if we don't have the legislative framework that enables it. We can go and look and see. I suspect that the answer to the question about the federal funding is on some federal government Department of Justice website

somewhere. It is part of the day-to-day business of interprovincial relations, where we talk about possible uses for funding and look for the best way to take advantage of the opportunity the federal government makes available to the provinces to develop and test-drive particular policy initiatives. I don't have any more information about the federal funding here with me today.

J. Kwan: I would disagree with the Attorney General on these points, with his comments. The government has brought in legislation that says they will actually establish a child support service, and the purpose of that service is outlined in legislation. It is completely legitimate during this debate that I ask the questions around how this service will work. For the Attorney General somehow to say that it is not a debate that fits into this piece of legislation around setting up the framework to allow for it to work is absurd.

Government brings in legislation, and it is the government's responsibility to answer the questions of how the application of that piece of legislation will be applied on the ground. The minister says: "I don't have any of those answers, and I have no idea how much it costs. But trust us, because it's a good initiative and the intention is good." That's what he is arguing.

I would agree that the intention is good, and I have stated at the outset that we do support this. I would also expect this Attorney General to take on some responsibility in providing answers. Instead of answering questions, he deflects it by saying: "You could ask those questions elsewhere." Really.

[1120]

I can't wait for us to go into line-by-line estimates debate for each and every ministry before May 17. This government has already said that they are going to shut down debate, which would not allow for line-by-line discussion around the ministries' spending, so I would ask the Attorney General to please take pause and not be so arrogant in his approach to questions from the opposition. These questions are completely legitimate during this debate. One would have thought that a government that claims they actually can manage better than anybody else — that is competent and accountable — would actually have some of these answers in place. The fact is they don't. I do find that shocking.

How does one go around planning their budget if they don't know how much this initiative is going to cost? How is one going to plan a service plan to say what services will be delivered if they don't even know how the service would be delivered or where it would be delivered? That is the level of competence from this government, no less from the Attorney General.

I would like to ask the minister this question. He says this is a pilot. When I asked if the services for this pilot project would be provided in-house, he said that for the pilot project it would be provided in-house. Of course, there is the eventuality that this will actually not just be a pilot but that it will be fully implemented across the province. I then asked the Attorney General

whether or not, when it does become a full-blown initiative across the province, there would be legislation brought back to this House for debate. He said no, just by regulations. Regulations could be brought into place, and then extending the locations elsewhere in the province for this initiative could be put in place.

The reason I asked the question around whether or not it will be in-house or contracted out is this: there are issues and concerns around privacy issues here. Of course, we know that in other situations where the government has decided to privatize and contract out health services to the United States there are issues around privacy. I would like to ask the question: how can we be certain, when this project becomes more than a pilot project, that the privacy concerns would actually, absolutely be protected?

Hon. G. Plant: One of the things we are going to do is test-drive this through what I described as a pilot project. One of the reasons you do that is you want to see if the idea that is embodied in the legislation actually works. You do that knowing there is a possibility you might discover it doesn't work, in which case you don't carry on. Alternatively, you learn something about how it works, and then you decide to fine-tune the project or the way the process works.

At this stage we're just trying to get the legislative framework in place that allows us to carry on, to get the project up and running. I can assure the member that we will be alive to privacy issues as we continue to do this work. There is nothing in this framework that in any way supersedes the information and privacy act and its application to family justice or family law matters, so that framework remains intact.

[1125]

As we carry on down the road in the months and years to come we'll continue to make sure that we ask the important questions about privacy that need to be asked, and we will respect the law with respect to those issues, as we do in other areas of government.

J. Kwan: Will the Attorney General assure us that the freedom-of-information officer provides their input into the implementation of this, to ensure privacy issues are protected?

Hon. G. Plant: If it becomes necessary to seek the advice and assistance of the information and privacy commissioner with respect to this service, we will certainly do that.

Sections 1 to 4 inclusive approved.

On section 5.

J. Kwan: Section 5 deals with the Legal Services Society Act. We understand that the purpose of the changes under section 5 is to allow the Legal Services Society to take into account a budget surplus from the previous year when making its budget. Of course, section 6 deals with removing the date by which the Legal

Services Society must provide a budget to the Attorney General.

First, on section 5 I'm wondering, given that the Legal Services Society has suffered a significant cut from this government in terms of its budget over the last three and a half years to the tune of some \$36.4 million.... They've had to reduce services in a whole array of areas — family practice, certainly; administrative law; what is normally referred to as poverty law, in the areas around tenants rights, in terms of welfare rights, UIC rights, WCB rights; and so on. Those kinds of services are no longer in place.

We know that a lot of people are now disqualified for legal aid. I'm just wondering what prompted this piece of legislation, which says that the Legal Services Society could actually keep their surplus from previous years. Is it the case that the Legal Services Society actually had a surplus from last year in spite of the cuts?

Hon. G. Plant: For at least the last two years the Legal Services Society has had a surplus at the end of the year.

J. Kwan: How much is that surplus?

Hon. G. Plant: Based on the information I've got here, we think the answer for last year is \$2.1 million.

J. Kwan: Isn't that interesting; they actually had a \$2.1 million surplus, given the cuts they have sustained. Has the minister looked into why it is they have a surplus?

Hon. G. Plant: One of the reasons why LSS has a surplus is because there was such a massive misinformation campaign by people like the members of the opposition over the course of the time that we were transforming legal aid that people thought legal aid had come to an end in British Columbia. In fact it had not.

In fact, we made no changes to the extent to which criminal legal aid was funded, but because of that tremendously massive misinformation campaign by the shrieking fearmongers of the Left — none of whom are in the room today, of course.... Actually, what happened is quite interesting. People stopped applying for legal aid. There was a period of time during the transition when there was less demand for legal aid services than there were services available to be provided.

[1130]

The LSS people, to their credit, spent a fair amount of time trying to get the news out to the legal community that in fact there was still a full tariff in criminal legal aid matters, that there was still \$5 million a year available for legal aid and family cases where there was a threat of violence, and that there was still legal aid available in refugee cases. There was still, in fact, legal aid available in a range of family law services.

One of the reasons why this surplus exists is the very simple and straightforward reason that there was less demand for the services than there were services

available. What we're trying to do here now is change the rules a little bit because the conventional rules of public accounting, as I understand them, would deny LSS access to that money even though it was originally provided to them for the purpose of ensuring that they could provide services.

If we pass this amendment, then we give the LSS the opportunity to spend that money to expand services a little bit. Admittedly, it is not in the tens of millions of dollars. It is a handful, a couple of million dollars, but a couple of million dollars is actually a pretty significant amount in the context of some of the services that are now being provided by LSS.

The other part of the context here is that by statute, by the revisions to the Legal Services Society Act that we made two or three years ago, we have expanded the ability of the society to raise and receive funds from other sources. We want to be sure that as they do that — and we want to encourage that to happen — they will have access to all of those funds for the purpose of supporting the work that they do.

J. Kwan: I'm so glad that we have *Hansard* and that we actually have the comments of the Attorney General on record. First of all, the Attorney General says that it is the opposition who is fearmongering about the cuts in legal aid.

Well, let me just put this quote back to the Attorney General. "This government proposes cutting legal aid funding down to \$54 million and closing one-third of the courthouses in B.C. The net result is a gross inequity in access to justice and up to \$46 million per year in diverted dollars, money this Attorney General told the last government should be put into legal aid."

J. MacPhail: Who said that?

J. Kwan: Who said that? I wonder. Oh, it happens to be the Attorney General himself.

Who's fearmongering? That's a direct quote from the Attorney General. I wonder who is fearmongering. Could it be the former chair of the society who actually wrote to the Attorney General first thing in the morning, sent the letter to the Attorney General when she'd learned that the cuts were to be made for legal aid?

Here's what she said in her letter: "With the funding and service constraints it imposed on the society, the ministry has put Legal Services Society in the position of being unable to provide continued and effective delivery of legal aid." She added that under these circumstances, no one can meet the ministry's stated new-era objective of providing "equal access to legal representation and justice for all British Columbians."

Oh. Would that be Ms. Tremblay who is actually fearmongering, or is there something else going on? And what about the judges that came forward, who actually criticized this Attorney General's action in the cuts in legal aid?

What about the lawyers, the people from the Attorney General's own profession, who censured for the first time in the history of British Columbia this very

Attorney General for his actions on legal aid? Were all those lawyers who voted to censure this Attorney General in his own profession...? Were they all fearmongering as well? I think not.

[1135]

You know, I have to wonder: why is there a surplus, given the cuts? Let me just go through the cuts in legal aid as a result of the budget cuts. Then we can identify perhaps more clearly where the surplus actually came from — not because of lack of demand, I will tell you. Let me just go through the list here. Beginning April 1, the Legal Services Society will start to phase out legal representation for all family cases where violence is not involved. That's approximately 8,000 cases. Jane Morley actually reported out that if you can't show a bruise, you are not qualified for legal aid. She actually made that statement.

All poverty law matters are now eliminated in terms of representation — 6,000 cases. By April 1, 2002, the current holdback system will remove.... And all tariffs will be reduced by 10 percent. You know what the net result of that is, Mr. Chair? A lot of people could not have their cases completed with representation because of that reduction in tariffs. People could not get full representation to the completion of their cases, because the lawyers said: "Our funding has run out."

As of April 1, 2002, the society will begin to phase out all summary advice services — 25,000 cases. As of April 1, 2002, public legal education information will be cut back. PLE grants to local organizations for community development and public legal education projects and grants and other support to public libraries will be eliminated. A number of programs will be restructured or eliminated over the next six months. Details, of course, will be forthcoming, it says.

On custody issues. Out of custody duty counsel, approximately 19,000 cases would not get representation. Referrals for some 5,000 family cases will no longer be covered by tariffs. Administration on behalf of the Attorney General's office of the tariffs for human rights cases, material witnesses to crimes and victim assistance in criminal proceedings — gone.

This is just some of that information in terms of where the cuts have been. Could it be that there is a surplus not because there's a lack of demand or any false information, but rather because people could no longer qualify under these new rules that this government and this Attorney General brought forward, and that legal aid is not accessible for the people who actually need it? Is that the real reason why there is a surplus?

Hon. G. Plant: That sounds like NDP math. The service is there, and in many respects the eligibility requirements did not change. The member makes some points that she has made year after year over the last two or three years as we have implemented the service plans that were necessary in order to ensure that we could balance the budget and re-create the economic and fiscal conditions for prosperity in British Columbia.

The surplus results, strictly speaking — at least in part, so far as I understand it — from the fact that there has been less demand for some of the services of LSS. There were funds available to support those services.

In addition to the province's transfer to the Legal Services Society, the Legal Services Society receives financial support from the Law Foundation — a very significant grant from the Law Foundation — and I think has received \$1.6 million in funding from the federal government, maybe under their innovations agenda. So the LSS is receiving funds from a range of sources. They are supplying the services that they supply, and for a number of reasons they've reached the end of the fiscal year, and they haven't spent all the dollars they have available.

[1140]

What we're proposing to do in these amendments is put in place accounting rules that will, in effect, allow them to have access to that surplus to provide service rather than to lose access to that surplus.

Really, that's the basic question of principle here. Do we want to give LSS access to that relatively modest surplus so that they can continue to meet the demands? That's the choice we'll have when we vote on the section. Do we want to give LSS access to this surplus so that they can provide services, or do we want to deny them access to this relatively modest amount of money, with the consequences that would have for their ability to deliver services?

J. Kwan: The minister speaks with such conviction that the demand for legal services has actually gone down. Well, I would like to ask the Attorney General this question: does he have the statistics to back up his claim? How many people actually applied for legal aid, and how many people were actually turned down? Use that comparison with the change in policy of who qualifies for legal aid to previous times when that change was not narrowed in the way in which this government has done, as a result of budget cuts.

Hon. G. Plant: Part of the answer that I gave is based on information I have received from LSS over the last two or three years that, in fact, the impact of the changes was such that there was a reduced demand for some services, particularly in the area of criminal law.

J. MacPhail: Yeah. They didn't qualify.

Hon. G. Plant: No, actually, I don't think the eligibility rules in criminal cases changed. It's....

Interjection.

Hon. G. Plant: I don't know why the members of the opposition are so opposed to giving LSS access to this modest surplus. I mean, I understand that they have concerns about funding for legal aid. I haven't heard anything new from the members opposite. We've had these debates in estimates debates over the last two or three years. I know the members and I dis-

agree about these issues, and there's certainly a vigorous public debate about these things.

The simple question here is.... There is an accumulated surplus of a couple of million dollars. What should we do with it? We can take it away from LSS so that they won't be able to use it, or we can give it to them.

Interjection.

Hon. G. Plant: No, actually. The member opposite has questions about how LSS spends its money. She should direct those questions to LSS, and she'd get answers, because LSS reports all these facts publicly.

I don't have the financial statements of the Legal Services Society here in the chamber with me. Frankly, I thought the members of the opposition would be delighted to provide this extra funding to the LSS. Instead they appear to be quite reluctant about it. That's fine. It's their decision whether or not they want, at the end of the day, to support this.

We, the LSS and government, made a very significant change in legal aid in British Columbia. That change was a transformation. A completely different service provision model was put in place. There used to be community law offices around the province. There are not those offices; there are only seven or so of those offices. Very significant changes in the level of service provided in areas of family law where there's no violence, in areas of poverty law.... We of course maintain a full human rights clinic in human rights case, but that's a different issue. We also have maintained immigration and refugee legal aid funding in a reduced way but nonetheless, I think, a very real way.

I have some concerns about why British Columbia is doing that, but we have made some choices about that. Those are all good issues to have, but my understanding is that notwithstanding the changes made, there are areas of the services provided by LSS where there has been less demand for the services than there were services available to be provided. That's not the only reason why there is an accumulated surplus. There are also funds that come to LSS from other sources.

[1145]

We want to make sure.... Well, speaking for myself, I think the government wants to make sure that LSS has access to those funds so they can continue to serve the legal needs of economically disadvantaged people. Again, I must say, just to keep the debate where I think it ultimately will come out, that is the specific issue before us in section 5.

J. Kwan: I'll just remind the Attorney General how the questions came about. This is about the surplus — absolutely. The government is proposing to let legal aid keep its surplus. I asked the question: where did the surplus come from, given that the government has cut some \$36.4 million of legal aid funding over the last three and a half years? We have virtually everyone — excepting, I suppose, the government bench, especially the Attorney General saying that those cuts were good

cuts, that people actually didn't need that money for legal aid services....

I do beg to differ. This Attorney General asserts that the opposition were somehow fearmongering, and I put on the record the people who actually voiced exactly the same concerns as the opposition around the legal aid funding cuts.

I actually have a memo. I didn't make this up. This is factual information that the Attorney General ought to know. It's a bulletin that was sent out when the funding was cut by this government. This is a memo from the chief executive officer and executive director then, in February 2002. The memo says: "I would like to say that I have some good news to convey in this bulletin, but the reality is that government cuts left the society with very few options."

Then it goes on to say:

"In developing a draft service plan and possible budgets for the board over the past while, the executive management committee was unable to find a way to maintain programs beyond the limited parameters outlined in the government's hierarchy of services."

Then it goes on to say:

"To function with just under \$54 million from the government by 2004-05, the Legal Services Society must make deep service cuts beginning as early as April 1, 2002. These will leave as many as 40,000 people without legal representation or summary advice and countless others without legal information and education services. Legal representation will be pared back to little more than where it is required by the Charter of Rights and Freedoms or the courts: adult criminal matters where conviction is likely to result in imprisonment; Young Offenders Act matters; mental health reviews; child protection matters; and immigration-refugee cases."

That is the reality. Maybe the Attorney General would actually like to wake up from this fog that he's been in for the last three and a half years and understand what it is that he and this government have done to legal aid and access to justice.

Now they say there is a surplus of some \$2 million, and in its generosity — this new-found generosity that this government has found — they want to, out of the goodness of their hearts, give back to legal aid. He wants to paint this picture that somehow the opposition is opposed to it. Nothing could be further from the truth. The opposition had called on this government to reinstate the cuts — and, in fact, to not move forward with the cuts — from day one. That is on the public record everywhere.

The Attorney General can make it up as he wants. But you know what? British Columbians know better. They know better. The \$2 million surplus.... The Attorney General is not able to provide statistics so as to have a real comparison on where the surplus really came from, the number of people who went to legal aid, and how many people were actually turned away. He has no information to back up his claim that somehow demand for legal aid went down.

[1150]

My assertion is this: because of the changes from this government, people did not qualify for legal aid.

Because of the cut in the tariff, the rate for lawyers, a lot of people could not have their cases represented to completion. I know that for a fact, because I talked with people who actually ran into those problems. I even wrote to the Attorney General on occasion, appealing to the Attorney General to make some provision to provide for legal assistance for various individuals, and the Attorney General ignored all of those requests. None of the people that I brought to the Attorney General's attention actually got legal aid support. That is the reality of what has happened.

I'd like to know. Of the \$2 million surplus.... Most recently, the government announced a \$4 million increase, so somehow.... Wow, that is a huge increase for legal aid after some \$36 million worth of cuts. I would like to know whether or not that \$4 million includes this \$2 million surplus.

Hon. G. Plant: The budget that was introduced earlier this week makes provision for an additional \$5 million every year for family law and justice initiatives. Of that \$5 million, \$4.6 million will be an increase in the transfer the government makes to the Legal Services Society. That's on a going-forward basis starting in the next fiscal year — if the budget is approved, of course.

The legislation we have before us deals with something quite different. The facts are that through prudent financial management in its transition period, in addition to slightly lower-than-expected demand for criminal legal aid, the Legal Services Society accumulated a surplus in the 2002-03 fiscal year. Additionally, in the 2003-04 fiscal year the LSS received \$1.6 million from the federal investment fund that applies to the prior year. Consequently, at the end of the 2003-04 fiscal year the LSS shows an accumulated surplus of \$4.393 million, of which \$2.2 million is available.

The goal of the exercise here is to determine whether the Legislature will support a change to the accounting rules that allow the LSS to have access to the surplus, and that will be the issue we will decide when we come to a vote on this provision.

J. Kwan: The Attorney General didn't answer my question. My question was: the funding increase, the measly funding increase the government has provided to legal aid after \$36.6 million worth of cuts — does that include the \$2 million surplus the Attorney General is now talking about?

Hon. G. Plant: I did answer the question. I said the two were different.

J. Kwan: So this is an additional increase, and we'll look for that. We'll look for that in the legal....

J. MacPhail: We can't. There are no estimates this session.

J. Kwan: Oh, that's right. There is no estimates process before May 17. I forgot. The government that

claims it's democratic, that claims it wants to be accountable, that claims it's open and transparent is actually going to shut down estimates debate before the election, so we won't get a chance to verify if what he is saying is actually true.

Here is another interesting thing in that document that the Attorney General read from. He says there is a little over \$4 million in terms of actual surplus. Then why is it the case that we are only talking about \$2 million worth of surplus returning to legal aid?

Hon. G. Plant: The balance is restricted through their internal bookkeeping, so we're only going to be able to get \$2.2 million free here if we implement this legislation.

J. Kwan: What is internal bookkeeping? What does that mean? Where does the money go? Does it go in a drawer somewhere and just sit there?

[1155]

Hon. G. Plant: I don't profess to be an expert about these things — and I'll yield to the member opposite's expertise — but I'm told that one example of the kind of bookkeeping things we're talking about has to do with the way in which rates of amortization are applied to different aspects of their capital assets and that at a particular moment in time — namely, the end of the fiscal year — there may be on the books something that has to be, for auditing or accounting purposes, characterized as a surplus. But when you try to match

up the real costs and the way in which the application of amortization, depreciation and other principles will work out over time, it's not going to be a real surplus.

Of the \$4.393 million, our view and understanding is that some \$2.2 million of it can be fairly described as real money that's left over at the end of the last fiscal year, which we could, through this legislation, make available to be spent. But it cannot be spent unless we make this change to the legislation.

J. Kwan: I have more questions for the minister. Noting the time, I move that the committee rise, report progress and ask leave to sit again.

Motion approved.

The committee rose at 11:57 a.m.

The House resumed; Mr. Speaker in the chair.

The committee, having reported progress, was granted leave to sit again.

Hon. S. Hagen moved adjournment of the House.

Motion approved.

Mr. Speaker: The House stands adjourned until 2 o'clock this afternoon.

The House adjourned at 11:58 a.m.