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THE HONOURABLE BILL BARISOFF, SPEAKER

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LIEUTENANT-GOVERNOR
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SECOND SESSION, 39TH PARLIAMENT

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TUESDAY, JUNE 1, 2010

The House met at 10:04 a.m.

[Mr. Speaker in the chair.]

Prayers.

Orders of the Day

Hon. M. de Jong: Good morning, Mr. Speaker. In Committee A, I call Committee of Supply — for the information of members, the estimates of the Office of the Premier — and, in this chamber, committee stage debate on Bill 20.

[1005]

Committee of the Whole House

BILL 20 — MISCELLANEOUS STATUTES AMENDMENT ACT (No. 3), 2010

The House in Committee of the Whole (Section B) on Bill 20; C. Trevena in the chair.

The committee met at 10:07 a.m.

On section 1.

L. Krog: Hon. Chair, through you to the minister, I'm sure that in a minute he'll want to introduce his staff to us and give an opportunity to the House to become acquainted with this portion of Bill 20. I wonder if the minister can explain the effect of section 1 and the purpose.

Hon. G. Abbott: This is what we would affectionately refer to as a housekeeping amendment. It ensures that adopted Nisga'a children can only be contacted by representatives of the Nisga'a Lisims Government.

L. Krog: I just wonder if the minister can explain this a little further. What we're saying, then, is that wherever a child is not a treaty child who has been registered, entitled, etc., it has to go through the Nisga'a government. That contact can't be from any other agency, person or body.

Hon. G. Abbott: For clarity, these are housekeeping amendments that ensure that where an amendment was made to provincial law resulting from a provision of a treaty First Nation final agreement and where the Nisga'a final agreement contains a similar provision, provincial law is amended to properly reference the Nisga'a final agreement.

L. Krog: I appreciate that the minister says it's a housekeeping amendment, and I certainly appreciate

him reading out the explanation to the House. But if he can just explain how this works in the process. In other words, Nisga'a law with respect to adoptions will now parallel provincial law. How does this section impact on...?

It talks in the explanatory note about ensuring that adopted Nisga'a children can only be contacted by representatives of the Nisga'a Lisims Government. Does that mean that a representative of the provincial government involved in adoption couldn't contact that child? How does it work in the adoption process?

[1010]

Hon. G. Abbott: This is my best understanding of this, and the member can probe a little deeper if that's necessary. The child in question would be a Nisga'a child, and where there were inquiries or contact proposed to the child and to the child's adopted parents, the routing of that contact would first be through a designated representative of the Nisga'a Lisims Government, which is likely to be their director of child welfare. The contact would be made only after, first, approval of the director and approval of the adopted parents of the child.

L. Krog: Just so I understand it, the adoption has already occurred, based on what the minister has said. So we have a child who has been adopted. I'm just wondering under what circumstance it would be contemplated that anyone would have to contact the child. The purpose of the adoption is to place the child in a new home, separated from its past life, so to speak. So what's contemplated by this section in terms of that contact?

Hon. G. Abbott: There may be any number of reasons why there would be a request for contact. The aim of this provision is to ensure that appropriately and consistently, and consistent with treaty provisions around governance, the contact is made first through contact with the designated official, likely the director of child welfare of the Nisga'a Lisims Government, and then through approval of the parents as well as the director. It is to ensure that the governance responsibility of the Nisga'a Lisims Government in this area is respected.

L. Krog: Just so I'm very clear in my understanding, then, the provincial government would have no authority under any circumstance to have contact with an adopted Nisga'a child. It would have to be through the Nisga'a government or representative.

Hon. G. Abbott: Yes.

Section 1 approved.

On section 2.

L. Krog: Again, if the minister could explain the effect and the need for this section.

Hon. G. Abbott: The purpose of this section is to provide an opportunity for adoptees under Nisga'a law to have the same access to adoption information as other adoptees in the province.

L. Krog: I would have thought that would have been an obvious thing. I wonder if the minister can explain to the House: was this an omission from the treaty process? Is this something that has been discovered and only recently recognized?

[1015]

Are we correcting a practice that has been in place that doesn't have legal authority? Can the minister perhaps add to his answer a little?

Hon. G. Abbott: I think the best answer to this is that this is some fine-tuning in terms of the application of adoption law to Nisga'a Lisims Government.

L. Krog: I'm going to assume, and the minister can confirm.... Was this a request from the Nisga'a government itself, or was this an issue that arose within the provincial government?

Hon. G. Abbott: It is a product of extensive consultation with the Nisga'a in respect of their child adoption policy and laws.

Section 2 approved.

On section 3.

L. Krog: Again, if the minister could explain the effect of this section and its purpose and also, perhaps, just whether or not this represents a request from the Nisga'a government. Or is this a provincial issue?

Hon. G. Abbott: The answer in this case is exactly the same as the one I provided initially to the member on section 2, and that is, again, to provide an opportunity for birth parents of adoptees under Nisga'a law to have the same access to adoption information as other birth parents in the province.

Section 3 approved.

On section 4.

L. Krog: If the minister could explain the effect of this section. It makes reference to the provincial director, I presume, and that is the B.C. provincial director. If he could explain what assistance we would be talking about and what assistance the government does provide.

Hon. G. Abbott: This section ensures that the same search and reunion services are available to adoptees and their birth parents and relatives under Nisga'a law as are available in relation to adoptions occurring under provincial law and treaty First Nation law.

L. Krog: Appreciating that this is a bit of issue, in terms of seeking out your adoptive parents, is there, in fact, a budget provided for this process, both provincially and to the Nisga'a government? Can the minister confirm whether or not such searches have been undertaken? If they have been, have they been refused to date because this section isn't passed?

Hon. G. Abbott: Under the provisions of the Nisga'a agreement, there is within child and family services a budget of about \$2.2 million. Exactly what portion of that would be utilized for reunion and other services....

We don't have that information here, but we would work through our colleague, Ministry of Children and Family Development, to attempt to get the member a closer breakdown if that is his wish.

[1020]

L. Krog: With reference to section 4 and referring to section 71(1)(b), it talks about the authorization that in the event of the death of a parent or adult who was adopted, another adult child or parent may apply for such assistance. I'm just wondering: what sort of assistance, again, are we talking about?

Hon. G. Abbott: I'm advised that sub (b) relates to the search and reunion services that are discussed in sub (a). The addition of Nisga'a Lisims Government is just to ensure that clarity around its application to the Nisga'a Lisims Government.

Section 4 approved.

On section 5.

L. Krog: This involves changes to the Evidence Act, and I'm just wondering if the minister can explain the effect of this section and what consequence it would have with respect to evidence presented in any level of court in British Columbia.

Hon. G. Abbott: The aim of this amendment — and again, it's characterized as a housekeeping amendment — is to ensure that judicial notice must be taken of the laws of Nisga'a village governments and the Nisga'a Lisims Government.

L. Krog: I'm just wondering if the minister could explain in a broader sense, then, what that means in terms of taking judicial notice. I mean, what is the impact of

that in terms of court process and procedure and the admissibility of evidence?

Hon. G. Abbott: Further to the member's question, hon. Chair, it is to ensure that the laws of both the Nisga'a village governments and the Nisga'a Lisims Government can be relied on in Provincial Court without further establishing their legal authority.

L. Krog: Just so I understand what the minister is saying. Essentially, then, if the Nisga'a passed a law, it has to be automatically recognized by any court in British Columbia and is presumed to be constitutional in accordance with the law of the province and compliant.

[1025]

Hon. G. Abbott: Yes. Provided that it is consistent with both the treaty and the constitution of Canada, it would have that standing.

L. Krog: Just so I understand it, then, if it's passed and it hasn't been challenged in a court, then it is presumed to be constitutional. This amendment basically says the court has to take judicial notice of it unless it has otherwise been challenged. Is that correct?

Hon. G. Abbott: Yes.

Section 5 approved.

On section 6.

L. Krog: This section appears to amend the description of the — I'm not even going to attempt to pronounce it — Checleset Bay Ecological Reserve to remove the foreshore area. I'm just wondering why we're amending it to remove the foreshore area.

Hon. G. Abbott: I'll note for the edification of the member that we have moved with breathtaking speed from the Nisga'a agreement to the Maa-nulth agreement, and that may be part of the understanding here.

The final agreement provides for foreshore agreements in relation to certain areas immediately adjacent to what will become treaty lands. That's June 1, 2011. These foreshore agreements provide for certain law-making authorities in relation to those foreshore areas. Small portions of those foreshore areas are currently within the boundaries of Checleset Bay Ecological Reserve, Big Bunsby Marine Park and Brooks Peninsula Park.

As the Maa-nulth will have some law-making authority over these foreshore areas, it's necessary to remove those portions of the foreshore from the ecological reserve and parks to ensure that the Maa-nulth First Nations can exercise their law-making authority.

L. Krog: I appreciate the minister's pointing out that we've moved to another section. That was very good of him, but I think the opposition, in fairness, had actually picked up on that point.

Notwithstanding that, I think what I've heard the minister say, in reading out the explanation, is that what is now an ecological reserve, with respect to the foreshore area of it, can in fact be removed and, potentially, developed for purposes other than park or ecological reserve. Is that what the minister is saying?

[1030]

Hon. G. Abbott: I think I have the answer here for the member. The adviser on my right is Stephen Dunn, and on my left, Lloyd Roberts. They are attempting to provide me with all the important answers to the important questions that are being raised by the member. And I misspoke. April 1, 2011, is the effective date for the Maa-nulth treaty, not June 1.

To the member's question. While these would be deletions from park, they will remain Crown lands. What decision-making authority or management authority is vested in the treaty to the Maa-nulth after this change includes the regulation of nuisances; the regulation of buildings and structures; the regulation of business and land use planning, zoning and development, though one would not expect dramatic changes to occur. These remain Crown lands.

L. Krog: The section the minister has read out is the one that I thought might be there and gives me some discomfort. The way I understand it is that this will give authority to the Maa-nulth to regulate these lands in terms of development and housing, etc., which by implication means that they will be subject to and possibly developed, whereas presently, now, they are part of an ecological reserve and presumably, therefore, protected for the benefit of not just the Maa-nulth but all British Columbians and tourists and other visitors.

Again, is the effect of this section such that these lands will now be available for potentially commercial or residential or other developments? If I'm wrong, can the minister tell me why I'm wrong?

The minister has explained that this remains Crown land. It will not become Maa-nulth land, as I understand his remarks. But nevertheless, the ownership of the land becomes quite immaterial if in fact the power to allow development or to proceed on the land is vested in the Maa-nulth. So is the effect of this section, essentially, to take out of ecological reserve lands which are now protected for public use and place them in a situation where they can be developed for commercial use?

Hon. G. Abbott: I believe I can provide the member with the comfort that he so clearly desires. First of all, it's foreshore. This is not uplands; it's foreshore only. And

it is foreshore that immediately abuts treaty settlement lands under the treaty. Further, anything that occurred on that foreshore would have to be consistent with provincial law. Hence, the possibility of developments that are inconsistent with those laws would not be possible.

L. Krog: I appreciate the minister's comments. I represent one of the great port cities of the west coast, Nanaimo, and I can assure the minister that the rights to foreshore are indeed a very valuable commodity on which a great deal of development takes place. If the minister has taken the time — and I'm sure he has.... He's probably visited one of our restaurants in Nanaimo that's actually sitting up on piles right out there in the middle of the harbour. So in fact, when the minister assures me that it will be consistent with the development on the land, this isn't a great deal of comfort.

I would like the minister to acknowledge that if you're giving up the right to develop the foreshore and placing that under the regulation of the Maa-nulth and taking it out of ecological reserve, it's going to be subject to development. I can assure the minister. For instance, at Newcastle Island there's a dock, and everyone's happy to have a dock in the foreshore. It's adjacent to a provincial park that's administered ably by the Snuneymuxw.

I simply want the minister to acknowledge what's happening here. I'm not being critical, but I just want us to be very clear. That's the point of committee stage of a bill. In fact, what this section does is take out of provincial control lands that would now not be subject to development and allow the foreshore potentially to be developed.

Hon. G. Abbott: Well, with all due respect to the member, the concern of the Maa-nulth is that the foreshore immediately outside or immediately abutting their treaty settlement lands will not be developed as, perhaps, some areas of Nanaimo. Nanaimo is a remarkable, beautiful city — I would remind the member that I've visited it many times — and, by and large, has made very good use of its foreshore.

[1035]

In fact, quite rightly, the Maa-nulth want to have the opportunity to ensure that the foreshore is managed consistent with their treaty lands which abut it. I think that's appropriate, and that's what this provision gives expression to.

L. Krog: I very much appreciate the minister's answer. But it's really kind of a yes-or-no situation, it seems to me. I think the question is very straightforward. I don't discourage the Maa-nulth from developing their properties to ensure some livelihood and to sustain them after over 200 years of oppression, frankly.

The point of this section is that it is taking out of what is essentially a public ecological preserve and giving that control to the Maa-nulth so that in fact it could be

developed for commercial purposes. That is permissible as a result of this change. If the minister says yes, then we can move on to the next question.

Hon. G. Abbott: I appreciate the member's question as well. But to the member's point, I think what this legislation is attempting to do is to strike that fine balance where the Maa-nulth have the opportunity to regulate the area that is immediately in front of their treaty settlement area.

I would note that as part of that fine balance, the area remains Crown land. There is a very small piece that comes out of park, but it remains Crown land, and provincial law remains applicable to it. It is not a completely unimpaired control which will be enjoyed by the Maa-nulth, but it will certainly give them the opportunity to ensure that the activities that occur there are consistent with what they want to see developed in the area, consistent with their treaty settlement lands immediately beside it.

L. Krog: I appreciate the minister's remarks. Looking at the math contained in this section, we are decreasing the hectares of foreshore from 33,081 to 32,902, which I read to be 173 hectares of property. In fact, if the minister can just basically say in one word, yes or no, that what I've said is correct....

This allows and gives control to the Maa-nulth so that they can — and, indeed, maybe quite hopefully — develop these lands, develop tourism, develop wharves — whatever is necessary to develop their economy. This takes lands out of the ecological reserve and gives control of it to them so they indeed could proceed with development if they desire to do so. Yes or no?

Hon. G. Abbott: The member is a member of the bar, a well-established member of the legal profession. He knows there are questions that can't be answered with a simple yes or no, and this is one of those. The answer is yes, but it is not an unimpaired transfer of authority. The area remains Crown land, and it remains subject to provincial law.

L. Krog: I appreciate that, but the minister read out the section of the agreement that provides that the Maa-nulth will have control over the development, etc. I can't remember all the sections. It's in the record now, so we can refer back to it. I appreciate that the minister may not believe you have to answer yes or no in court on occasion, but in fact, you do.

[1040]

My understanding is that this will allow them to do that. The minister says it remains Crown land, and I appreciate that. But if I lease — I don't know — a railway property for a period of 90 or 70 years and allow renewable leases for up to 999 years, I've essentially retained ownership, yes, but I've given up control.

There's nothing wrong with that, and there's nothing wrong with doing this for the Maa-nulth. But I just want the minister to acknowledge that when he says it's subject to provincial law, does that mean — what?

Does it mean it's subject to environmental review? Does it mean it's subject to the approval of a regional district? Does it mean it's subject to whatever?

What exactly does it mean when he says it's Crown land and remains under Crown jurisdiction, even though all of the things which are important for the use of the land are enumerated in the treaty the minister's just read out and allow the Maa-nulth to develop it?

Hon. G. Abbott: Again, I'm not sure where this relentless hunt by the critic is leading us, but it's fascinating.

The aim, again, of this provision is to attempt to ensure that the processes, the activities that occur on the foreshore immediately abutting the treaty settlement lands in this agreement are managed in a way that is consistent with what the Maa-nulth believe should be the appropriate management of those areas.

The member, in his earlier question, mentioned the relative size of the park deletion in relation to the overall foreshore, and I believe that's correct. The majority of the foreshore is not in park. The piece that is being deleted from the park will obviously be part of that overall foreshore, and it is the concern of the Maa-nulth that they are able to manage that entire area consistent with what they believe is appropriate to the area.

Obviously, they want to ensure that for the foreshore area outside of the park, they have an opportunity to manage that area rather than see, potentially, a tenure application by others in that area.

Again, the overall management of the foreshore is going to have to be consistent with provincial law and the management of Crown lands in the area.

Section 6 approved.

On section 7.

[1045]

L. Krog: The land referenced in this section, of course, is natural marine park. Again, this allows strictly for the removal of foreshore area and appears to be — and I don't know the size of this park, so the minister may be able to help me — a relatively small area of land. It reduces the foreshore from 355 to 352. So we're talking about three hectares. It reduces the hectarage on the upland by, again, a very small.... It seems to be a very specific item.

So my question to the minister is: is this land, which is presently park and which will be deleted from park status, to be turned over in a fee simple way, so to speak, to the Maa-nulth, or is a specific development proposed? Is it the subject of a larger application? If the minister

can just explain what particular piece of land this is and why it is such a specific section in terms of size. It strikes me.... It looks like a development to me.

Hon. G. Abbott: Hopefully, this is helpful for the member. As in the previous section, all of the area that we are discussing here is foreshore. There are no upland removals. The upland area remains exactly the same pre- and post-adjustment here, and the foreshore is being changed by three hectares from park to foreshore.

L. Krog: I appreciate the minister's response. I'm just curious. Why three little hectares of all the lands involved in this park? What's the purpose of that, of the three hectares? Is there some specific proposal for a development or a wharf or whatever on the foreshore?

Hon. G. Abbott: Again, I think the answer to the question is the immediate adjacency to treaty settlement lands. That's the reason why this comes into question.

L. Krog: I wonder if the minister can just explain. Are these treaty settlement lands, then, on the edge of the park, in the middle of the park? Where do they fit in a geographic sense?

Hon. G. Abbott: The areas are immediately adjacent to the park.

Section 7 approved.

On section 8.

L. Krog: This amends the description of the Brooks Peninsula Park and removes, as I read it, approximately eight hectares of foreshore land. I could be wrong. Yes, eight hectares of foreshore and no reduction in the amount of upland area of the park.

Again, can the minister describe where this land is? Is there, again, a specific proposal for this? Is this immediately adjacent to lands that belong to the Maa-nulth or some other aboriginal group?

[1050]

Hon. G. Abbott: The area in this case, Brooks Peninsula Park.... Again, we're talking exclusively foreshore. There's no adjustment to be made in terms of the upland, but again, this area becomes engaged because of its immediate adjacency to treaty settlement land.

Section 8 approved.

On section 9.

L. Krog: Again, if the minister can simply explain the purpose of this section and what impact it will have. It

authorizes a utility to carry on, on lands "in relation to its work and equipment in Nisga'a lands on the conditions between" the Nisga'a and Nisga'a village.... But does this give, consistent with the treaty, the Nisga'a exclusive right to this, or are there some rights still reserved to the province and the province can interfere in this?

Hon. G. Abbott: This provision already exists in treaty, and the legislation is being amended to clarify and give certainty that the existing provisions in the final agreement.... It's that a gas utility may not conduct work on Nisga'a lands unless conditions are agreed to by the Nisga'a Nation or a Nisga'a village and the gas utility.

L. Krog: Just so I'm clear, what this does is protect the Nisga'a from the provincial government in any way imposing its will — for instance, with respect to construction of any pipeline or related works. In other words, the Nisga'a quite rightly will have the final say on any such proposal.

Hon. G. Abbott: The Crown still has the right to access to Nisga'a lands for certain purposes, and those are laid out in the treaties, but in respect to gas utilities, yes, the Nisga'a will have the ability to control the access and purposes of the operations of a gas utility on their territories.

L. Krog: As I understand it, then, this really is a much narrower provision than it might appear on the face. In other words, this would govern the installation of the supply of gas to houses, but it would not give the Nisga'a any ability to stop, for instance, a provincial pipeline from coming through their lands.

Hon. G. Abbott: The member, I know, always finds answers objectionable that begin with "It depends." However, the detail around when and where and how the application of Nisga'a law relates to provincial law is defined in great detail in the treaty.

Suffice it to say that something like a pipeline would engage environmental processes and would engage dialogue, consultation, accommodation with the Nisga'a First Nation, and those things are contemplated in the treaty and laid out in detail in the treaty.

[1055]

L. Krog: Just to wrap up, hopefully, on this section, essentially all we're really doing here, then, is saying to the Nisga'a: "You get to decide where the gas line goes in town to the house, but that's it."

Hon. G. Abbott: We disagree with the characterization that the member has applied to it. I think there is far more control of management of their traditional territories or their treaty areas than is characterized in the member's statement.

Section 9 approved.

On section 10.

L. Krog: Again, if the minister can explain the effect of section 10, the purpose of it. Is it request from what group, and why?

Hon. G. Abbott: We're back now again to Maa-nulth, as opposed to Nisga'a. Section 7 of the Land Act is amended to add a new subsection, (4.1), requiring the surveyor general to file survey plans of the treaty land in the Crown land registry where required by a final agreement. The Maa-nulth First Nations final agreement includes such a requirement.

This will result in a publicly accessible record of treaty lands and will ensure there is authority for the surveyor general to file plans of former federal Crown lands that have become part of the treaty lands. Until now it had been customary only for survey plans of provincial Crown land to be filed in the Crown land registry.

L. Krog: Just so I'm clear, we're talking about lands that were formerly federal in this specific provision or about lands that have always been under provincial jurisdiction? How will this impact, I guess, on the land registry system for practical purposes?

In other words, it's all of the land outside of the registry system in the sense that it's not subdivided now. Is that what we're talking about? I think the minister's staff understand where I'm going with this.

Hon. G. Abbott: In answer to the member's question, it should have no impact on the Land Title and Survey Authority. This involves the Crown land registry as opposed to the LTSA.

L. Krog: Essentially, then, what we're really doing is just ensuring that if the average person goes to the Crown land registry, it will be readily apparent to them what lands are covered by treaty and what lands in fact remain strictly within the jurisdiction of the Crown and are not subject to the treaty, much like the existing land title system has a notation on title that says it's subject to provisions of the agricultural land reserve.

Hon. G. Abbott: Yes, that's correct.

Section 10 approved.

On section 11.

L. Krog: This is a fairly long section. The explanatory note says it "enables a member of a band council to execute land title documents for a treaty First Nation before

the final agreement recognizing the treaty First Nation comes into effect in the circumstances described."

What's the impact of this section, and what's the purpose of it? Is it following from existing treaty obligations? We have the Nisga'a, Maa-nulth, or whoever. Or is it done in anticipation of further treaties? If the minister can provide a fulsome explanation, I'd appreciate it.

[1100]

Hon. G. Abbott: The member may wish to pursue this a little bit more. My understanding is that this section, section 11, is an attempt to avoid the challenges that are entailed in obtaining a large number of signatures between midnight on a treaty's effective date and when the land title offices open in the morning.

Apparently, there were several hundred, if not over a thousand, documents that had to be signed in relation to the Tsawwassen. This allows the documents to be signed and put in escrow, rather than attempting to get everyone to sign immediately on treaty implementation.

L. Krog: If I understand this correctly, if the government of British Columbia is transferring land that is covered by the Land Title Act and covered by the land registry system.... It might normally require signatures of numerous individuals, for instance.

[L. Reid in the chair.]

I assume it's going from the band council.... This is where I'm having a tiny bit of difficulty. If the band is transferring land as a result, is this to ease the necessity of the number of signatures for the band, so to speak, or is it to ease the number of signatures for the Crown, or is it for both?

S. Cadieux: I would seek leave to make an introduction.

Leave granted.

Introductions by Members

S. Cadieux: I'd like to welcome to the House a group of elementary school students from my riding, Chantrell Creek Elementary. They're accompanied by their teacher Mrs. Donna Metz and a number of parents. I met with them earlier.

I understand, as well, the students have written a number of letters to the Premier on a number of issues, and I'd like to let them know that they can expect responses in the very near future. I know I speak on behalf of everyone, including the Premier, when I say we're happy to hear from the public, especially our students. Would the House please join me in making them welcome.

Debate Continued

Hon. G. Abbott: One learns the most fascinating details in the course of these debates. The land transfer requires signatures by members of the treaty First Nation in order for those treaty settlement lands to be registered in the land titles office.

I understand that in the case of the Tsawwassen it involved the mass signing of documents at the period after midnight when the implementation date was commenced, and those signatures were completed before the land titles office opened in the morning.

[1105]

The effect of this provision will be to allow those signatures to be gathered, to be held in escrow, and then put into effect on the treaty implementation date.

Section 11 approved.

On section 12.

L. Krog: The explanatory note says this "applies the provincial building code and associated regulations on Nisga'a Lands as provided for in the...final agreement, but includes provision for regulations disapplying all or part of the provincial building code from Nisga'a Lands." I guess I just want to understand. On one hand, we're saying it applies, but on the other hand, we're saying it doesn't apply. If the minister could explain this section, I'd appreciate it.

Hon. G. Abbott: The purpose of the amendment is to establish that the B.C. building code has the same force and effect as a valid Nisga'a law, thereby enabling the Nisga'a to enforce the B.C. building code. The subsequent section of the Local Government Act is being amended so that the minister may disapply all or part of the code or regulations under it to account for certain circumstances where it may be unworkable on Nisga'a lands.

L. Krog: Just so I understand it, this is a very specific section relating to the Nisga'a agreement. If the Nisga'a go to the minister and say, "Look, it's just impossible for us to apply the code here" — for whatever good reason, and I would appreciate the minister perhaps giving me an example of that — then, in fact, the minister will be in a position to exempt them from the code.

It is an important question, because of course, anyone in British Columbia purchasing land with improvements on it is entitled to a certain presumption that the quality of the structure there meets certain standards, including safety, fire and related issues. I'm trying to understand what is contemplated by this section. What particular example would constitute a situation where you'd want to exempt anyone's lands, Nisga'a or otherwise, from the provisions of the building code?

Hon. G. Abbott: The member got a fair bit of that correct in his analysis. I would note, though, that this provision exists for other local governments.

I shouldn't say "other local governments." The Nisga'a are not a local government. This provision exists for local government already. It exists for regional districts. It exists for municipalities.

An example in the Nisga'a case might be a traditional building — perhaps a longhouse — that, for whatever reasons, had some difficulty applying to the code. That might be an example of why the Nisga'a might wish it for themselves.

Section 12 approved.

On section 13.

L. Krog: Again, if the minister can just explain the effect of this section.

Hon. G. Abbott: The issue that is being considered in this section is shellfish harvesting. Section 12 of the final agreement defines the harvest agreement as the version substantively in the form tabled at first reading of the final agreement act.

[1110]

That document has changed since first reading and has yet to be signed. The revisions to the agreement address operational issues regarding the relinquishment and issuance of federal fishing licences; clarify the process by which Maa-nulth First Nations could terminate the agreement; and set out the process by which a Maa-nulth First Nation can reselect a management area for a fish species, where permitted.

This amendment will define the harvest agreement as that version published in the *Gazette*. Once published in the *Gazette*, then the minister responsible for the Fisheries Act may sign the agreement.

L. Krog: If I can try and summarize this from what I heard from the minister, essentially what this is ensuring is that the agreement the Maa-nulth have entered into, which finally gives them some level of control, in fact will be implemented.

Hon. G. Abbott: Yes.

Section 13 approved.

On section 14.

L. Krog: I read this section to extinguish forest tenures on Maa-nulth First Nation treaty lands. In other words, where an existing right to harvest has been granted to, perhaps, a private corporation or individuals in British Columbia, the effect of this section is simply to extinguish that — I presume in accordance with the treaty.

Hon. G. Abbott: That's correct.

Section 14 approved.

On section 15.

L. Krog: This excludes Nisga'a lands from the definition of "rural area" for the purposes of the act. I'm just wondering: what's the impact of that?

Hon. G. Abbott: I understand that the Motor Vehicle Act makes reference to rural areas for the management of law-making in those areas. The purpose of this amendment is that Nisga'a lands should not be considered part of a rural area for the purposes of the act, since under the Nisga'a final agreement, the Nisga'a village governments and Lisims Government have law-making authority relating to traffic and transportation.

L. Krog: Just so I'm clear, essentially this is ensuring that the Nisga'a get the rights that they've bargained for to regulate motor vehicles on Nisga'a lands so that there's no conflict between the provincial jurisdiction over rural lands, generally Nisga'a treaty lands. Is that essentially what it's saying?

Hon. G. Abbott: The member is correct. It is to give effect to that provision in the treaty.

L. Krog: The explanatory note for section 16 says it "makes the owner of a motor vehicle vicariously liable for offences against the traffic laws of a Nisga'a government." Just to confirm, that's in accordance with existing provincial law that applies to all British Columbians, I take it. If my motor vehicle is involved in an infraction, I'm going to be liable because I'm the owner, even though I may not be the driver.

Section 15 approved.

On section 16.

Hon. G. Abbott: On section 16 the member is correct.

Section 16 approved.

On section 17.

L. Krog: Again, with respect to section 17, this is essentially giving powers to the Nisga'a to have the same ability to enforce the general law, if you will, as well as Nisga'a law that exists now with the provincial government with respect to all citizens.

[1115]

Hon. G. Abbott: This is not an addition of a power. This is a power which the Nisga'a Lisims Government

has now through treaty. This ensures that provincial law is consistent with that power which already exists.

L. Krog: As I understand it, what this section is really saying is that if I go on Nisga'a lands and breach Nisga'a regulations involving motor vehicles, regardless of the fact that I'm not a citizen of the Nisga'a Nation, then I will be responsible to provide the same information I would in another part of British Columbia if I sped through the Shuswap.

Hon. G. Abbott: The member is correct, even in the Shuswap.

[Interruption.]

The Chair: Does the member wish to offer an apology?

G. Hogg: My apologies to all who are watching and listening and participating today. I shall never do it again. I repent.

Section 17 approved.

On section 18.

L. Krog: I read this section to simply clarify that the Nisga'a again have authority to place or erect traffic control devices. Is that essentially it?

Hon. G. Abbott: Yes.

Section 18 approved.

On section 19.

L. Krog: As I read this section, it provides that you can't allow devices that "resemble or interfere with a traffic control device of a Nisga'a Government being erected or maintained on or in view of a highway unless authorized by the Nisga'a Government."

If the minister could perhaps explain a situation that might clarify it by way of example. If there's a provincial highway running through Nisga'a lands, you're not allowed to place anything there that might interfere with a Nisga'a traffic control device. Is that right? Could the minister explain why this is legislatively necessary? I thought this kind of thing would have been covered by agreement or regulation.

Hon. G. Abbott: I think the member anticipated this. This provision already exists in provincial law, and this is just to ensure that it would have similar application should the Nisga'a wish to enact a law in relation to this area.

Section 19 approved.

On section 20.

L. Krog: As I read this section, we're simply establishing speed limits inside Nisga'a villages and outside Nisga'a villages at 50 and 80, which is consistent with the province. I'm just wondering again: is this section going to have to be repeated hereafter for all separate treaty processes we enter into, or is the government going to cover this off in some other way?

Hon. G. Abbott: The answer is that it will be covered off for future treaty settlements.

L. Krog: Just so I'm absolutely clear, we won't have to keep coming back every time we enter into a treaty with another First Nation in the province to do what appear to be fairly straightforward, practical changes to ensure that speed limits apply inside First Nations as they do outside First Nations. That's the effect of this section. So I won't be seeing the minister next spring with a provision for the Maa-nulth or, hopefully, some other aboriginal group in the province who has been strenuously trying to get a treaty settlement.

Hon. G. Abbott: I'm happy to assure the member that I will not be darkening his door with an amendment like this again.

[1120]

Sections 20 to 22 inclusive approved.

On section 23.

L. Krog: This section talks about authorizing "a peace officer to move or to require to be moved a vehicle if it is interfering with snow removal in Nisga'a lands." I take it, from the wording of this section, that means.... Does "peace officer" in this circumstance include a peace officer working for the Nisga'a government, or is it limited to peace officers working for the provincial government? And if it doesn't authorize someone from the Nisga'a government, why doesn't it?

Hon. G. Abbott: It would authorize a peace officer that was in the employ of the Nisga'a Lisims Government.

Section 23 approved.

On section 24.

L. Krog: If I can just anticipate sections 24 to 28, and if the minister could offer some general comment that might assist me and speed the process up. I take it that all of these sections, essentially, are ensuring that the Nisga'a have the authority to do on their lands what a peace officer in British Columbia outside Nisga'a treaty lands, for instance, has the authority to do now.

Hon. G. Abbott: The member's characterization is correct.

Sections 24 to 28 inclusive approved.

On section 29.

L. Krog: This talks about "qualified individual," and I'm just wondering: what's the effect of this, as it appears to exclude the president of the Nisga'a Lisims Government and the chief councillor of a Nisga'a village. What's the reason for it? Was it a request from the Nisga'a themselves?

H. Bains: I seek leave to make an introduction.

Leave granted.

Introductions by Members

H. Bains: I am really glad to see a group of grade 5 students from Cougar Creek Elementary. They are here with their teachers Theresa McCuaig and Katherine Begg, and a number of parents and adults are with them. I had the opportunity to meet with them in their school last Friday and answered many questions from them. Very smart group of people here. So please help me welcome them all so that they can watch exactly what's going on in this House.

Debate Continued

Hon. G. Abbott: This amendment ensures consistent treatment between the Nisga'a and treaty First Nations since the act was amended in 2007 to reflect policy restricting membership in the trust to those who are not heads of treaty First Nations.

Section 29 approved.

On section 30.

L. Krog: If the minister can just explain the effect of this section.

[1125]

Hon. G. Abbott: This amendment is to authorize school boards to enter into agreements with the Nisga'a Nation respecting the education of non-Nisga'a citizens. This is consistent with how agreements are made between school boards and the council of an Indian band and treaty First Nations.

Also, note that the Nisga'a have developed some of their own educational programs and so on. I just note for the record that serving both Nisga'a and non-Nisga'a students, the Nisga'a House of Wisdom partners with

a number of public institutions for the delivery of programs. It offers vocational and technical training, grade 12 achievement, university and college preparation and a bachelor of arts degree in First Nations studies. It has enjoyed tremendous success during its short life, with over 2,500 course completions to date.

L. Krog: I thank the minister for that information. It's very encouraging news.

I just want to confirm that essentially what this allows is someone who is not a Nisga'a citizen to be educated on Nisga'a lands. But does it flow the other way? Does it authorize the Nisga'a to enter into agreements with other school boards around the province — for instance, where a Nisga'a citizen is living off Nisga'a lands and being educated there?

Hon. G. Abbott: Yes.

Section 30 approved.

On section 31.

L. Krog: I'm not familiar with that particular section of the Trespass Act. What this says is that the owners of Nisga'a lands are not required to maintain fences. I'm just wondering — I'm sure the minister's advisers can assist him in this: is there some requirement to maintain fences now for the average British Columbian, so to speak?

Hon. G. Abbott: I thank the member for his question. The Trespass Act, provincial, provides that unless otherwise agreed, the owners of adjoining land in a rural area must make, keep up and repair the lawful fence and any natural boundary between their respective land. The amendment here clarifies that this section does not apply on treaty lands or Nisga'a lands as defined in the Nisga'a final agreement.

Sections 31 to 33 inclusive approved.

On section 34.

L. Krog: Just so I'm clear, the section's explanatory note says that it provides for birth certificates in accordance with the new birth registration for adopted children under Nisga'a law. Essentially, what it's saying is that if a child is adopted into the Nisga'a Nation, then they will be in a position to issue a new registration for that child. Is that correct?

Hon. G. Abbott: Yes, they can, and it ensures that the same information that would be contained on a certificate elsewhere would be contained in this case.

Sections 34 and 35 approved.

Section 36 negatived.

On section 37.

L. Krog: I suspect that the minister may wish to get his staff in.

[1130]

There are an extensive number of sections relating to changes to the Municipalities Enabling and Validating Act with respect to Point Grey, the university lands, etc.

I'm just wondering if the minister, before we get into the specific sections, could just outline, for my benefit and the benefit of those listening: what is the source, if you will, of these amendments? Was it a request from the university? Was it a request from greater Vancouver regional district? Was it a request from the city of Vancouver? In other words, how do we get here today?

Hon. B. Bennett: Well, there's been an interesting relationship between UBC and Metro Vancouver for a number of years. The member is probably aware that the area in question at UBC is actually an electoral area. It's part of the regional district, and that area is represented by a single electoral area. I think it's electoral area A in the GVRD.

In answer to the member's question, yes, members of Metro staff and elected folks and members of the UBC administration have over the last few years come to the ministry and said: "This is difficult. We need some help with land use decision-making. What can you do to help?"

We came up with the option for them to consider essentially leaving most of the governance issues with Metro but transferring the land use planning elements of governance to UBC, at least on an interim basis for the next two or three years, to allow UBC to achieve its ultimate vision for being a sustainable university at an international level.

The only other thing I would say, just by way of helping the member — and myself, for that matter — kind of frame up these amendments and what we're doing, is that UBC is, I think, the only university that is not located within a municipality, which does create some different circumstances with respect to governance and land use planning.

L. Krog: So if I can just understand what the minister has said, right now this area, which is referred to as electoral area A, elects a representative to the greater Vancouver regional district in the same way that someone in area F in the regional district of Nanaimo elects a representative, again, by simply being a resident of adult age in the area.

I take it that what's being transferred here, so to speak, is the planning control to the University of British Columbia, which would otherwise fall strictly to the greater Vancouver regional district now.

[1135]

Hon. B. Bennett: I think the answer is yes to the member.

L. Krog: The granting of planning and development authority to an entity other than an elected government is, obviously, somewhat problematic, I would suggest to the minister. As I understand it, then, I believe the board of governors, in this case, will take over the same authority now that would otherwise fall legally and properly speaking to the elected members of the greater Vancouver regional district board.

Hon. B. Bennett: I apologize to the member. We were intently analyzing the first part of this question and didn't catch the tail end. Could you just, please, repeat it?

L. Krog: As I understand it, the planning, if you will, the authority that is being transferred, now vests, legally speaking, in the board of the greater Vancouver regional district, which is comprised entirely of elected representatives. By "elected representatives," I mean those who, for instance, in this particular case, are elected in electoral area A by popular vote or are elected politicians, being councillors of the various municipalities comprising the GVRD, who again do face election. They're appointed by their respective mayors or councils.

That's my understanding of how it works now. This authority is now being given to the board of governors. Is that correct?

Hon. B. Bennett: No, I think there's an important distinction between what the member has described and what's actually proposed through the amendments. The planning authority is actually transferred to the minister in this situation.

As we go through the legislation, the member will see that there are a number of parameters or guidelines around how that authority is exercised. For example, any land use bylaws are supposed to be consistent, to the extent possible, with the regional growth strategy. There are a number of things, actually, that the university wouldn't be able to deal with that Metro would still be responsible for. So I think the answer is no to the member.

I would also just, by way of context for the member... Currently in the province, other than with the GVRD, the minister already basically signs off on bylaws that come from regional districts. This would be a unique situation. There isn't anything quite like this.

It's already unique in the sense that the minister in my portfolio currently does not sign off on bylaws having to do with electoral area A, but it's going to remain unique in the sense that the planning function or role goes to the board, with all of the attendant requirements for public consultation and public meetings and so forth. But the ultimate authority rests with the minister.

S. Fraser: Hello to the minister and his staff. Thanks for going through this.

This is a very surprising turn of events. I see this as a change in the democratic process, and my colleague has already touched on that. Essentially, you're looking back to a medieval model. It's close to a fiefdom. I mean that, to some extent, tongue in cheek.

[1140]

Really, you've got some 10,000 residents in the UBC catchment area and 40,000 or 50,000 others living there — students, faculty, workers. Everywhere else in the province of British Columbia there is an accountability process through an elected representative or representatives at the local level. This one region of UBC is losing that with this bill.

So I just wonder if the residents of the region that previously had recourse through area A, Metro.... If they do not believe they are being represented appropriately, what's their recourse in the democratic process?

Hon. B. Bennett: Well, I'm surprised that the member's surprised, because we have a file full of clippings from the past couple of years where members of local government in the GVRD — including, frankly, the mayor of Burnaby, who the member may be familiar with — have said over and over and over in the media that they want out of this. They want the province to step in and help with this.

So I appreciate that the member's surprised, but he really shouldn't be surprised. I think that to refer to the good folks at UBC as the sort of folks that would deliver a medieval fiefdom is a bit of a low blow to some pretty well-intentioned people as well.

The process for the UBC board to arrive at a land use bylaw would be very, very similar, if not identical, to the process that's undergone in any regional district. There would have to be at least a public meeting. There would have to be public consultations, and the bylaw would have to be consistent with a number of different restrictions that are laid out in the legislation. As we go through the legislation, we can talk about some of those restrictions. So if the member's concerned about this, it isn't at all a situation where UBC can essentially do anything they want. They can't.

S. Fraser: I certainly believe I've been misrepresented by the minister. I never meant any disrespect. No low blow was intended for the board. If there's a low blow, it will be towards the minister for.... He's the only elected person that has any accountability here.

However, the people that live in the region around UBC have no ability.... Well, maybe they do. Is the minister putting into effect some means for the people, the residents of UBC, to be able to cast a vote in his constituency? Is there something that I've missed here?

The Chair: Member, allow me to caution you. It is possible to oppose without individualizing your commentary.

Hon. B. Bennett: Well, if the member's suggesting that there will be less discussion and fewer people involved in land use planning, I think that's incorrect, really, because the electoral area director will still be there and will still have her role, and there will also be the board of governors, of course, which will also be involved in this.

Again, I'm repeating myself, but I think it's important that there will be the requisite public process involved with the development of land use bylaws here, just as there is with every local government.

S. Fraser: I'm not disputing what the minister is saying, but there is no.... We have a local government system throughout the province. It involves local elections. If people are unhappy with development plans or the direction that a local government or regional district or whatever elected governing body is in place, there's recourse, and there's a responsibility. It's a checks and balances kind of system in our democracy. That is being denied here.

[1145]

A board of directors — again, no disrespect — to my understanding, are not elected. And when it comes to planning processes, there is no.... If the direction is not to the liking of the people of the region, what is their...? They're losing their option. They can't cast a vote to register opposition. Essentially, this one model that the minister is taking....

I understand Mayor Corrigan and some of the positions that have been taken through Metro. They were not happy with the situation either, but nobody, no one was suggesting that they do away with the electoral process there when it comes to land use and development. There's still a right of the people of UBC to have the opportunity to cast a vote for or against an elected body or individual when it comes to development.

Now, how long is the minister planning on doing this experiment? It has been done before, as I point out. You can go back to medieval times. There were similar models where there was no accountability. There was no election involved. There was an appointment, if you will, sort of an autocracy. Is the minister considering shifting to a democratic process at some point, or is that right off the table now?

The Chair: The member for Vancouver-Hastings seeks leave to make an introduction.

Leave granted.

Introductions by Members

S. Simpson: I'm really pleased today to have my niece Sophie Jones here in the audience, along with her

mother, Michelle Jones. They're resident here in Victoria. Sophie's a grade 5 student here.

I know she's said that in their student parliament she's been the health minister, and I understand that she's been very much frustrated and complaining about a finance minister who won't give her enough money to pay for health care. Maybe she has some advice for some of us here. Would the House please make Michelle and Sophie welcome.

Debate Continued

Hon. B. Bennett: I want to take this opportunity to introduce the three staff persons who are here with us. Nicola Marotz is over here on my right. Nicola is with our ministry, the Ministry of Community and Rural Development. Gary Paget just received a Premier's Award for legacy service. I don't know how many years, but quite a few. Deb Hull, who is not with Community and Rural Development but with Advanced Education, is here on my right as well.

Hon. Chair, I take the member's point, and I can understand, I think, where he's coming from, but I don't agree with his characterization of what's actually happening here. We're not destroying democracy on the UBC lands. We're taking one function of governance, the land use planning function, and we're moving that land use planning function over to the minister, with the actual planning to be done by the board. The elected representative will remain in place. The electoral area director is still there, as per usual.

In fact, I think you could argue that there is actually more democracy, because the UBC board consists of... For example, a student is elected by the student society. There is no student elected by the student society on the Metro board.

Let's face it. Most of the people, the vast majority of people — everybody but one — on the Metro board, is elected by people who don't live at UBC. There are two students who study at UBC Vancouver who are also elected by the student society. They sit on the board. There's an employee from UBC Okanagan elected by the employees and an employee at UBC Vancouver elected by the employees. They're not faculty. They sit on the board. You've got 21 members on the board, all sitting there with their different perspectives, who will be able to add value to the land use planning process.

[1150]

Again, we're responding to a request by both parties to get involved and try and help. We're trying to fix a problem. Yes, it's an interim solution. I think we do need to give UBC and Metro probably at least a year, maybe two years, to work through a new land use plan, to create a new land use plan in accordance with the new legislation.

We don't have a formal process in place for moving beyond that, but we certainly recognize that UBC wants

to move beyond that. The GVRD wants to see UBC move beyond that. So ultimately — after, let's say, a year or two or a little more — we'll be there to work with Metro and UBC to move them, probably, to a broader form of governance than simply land use planning.

S. Chandra Herbert: I find it an interesting characterization that this is more democracy, not less. I guess for residents at UBC in the area, electoral area A, unless they're a student — and there are a lot of residents out there who aren't students, are not employed by the university, are not faculty members — they get absolutely zero vote on deciding what members are there determining the future of land use planning for their community.

There has been a range of concerns — the minister is correct about that — coming out of Metro Vancouver about what's going on at UBC — related to the beaches of Wreck Beach and Acadia Beach, a number of those issues; to Pacific Spirit Park and encroaching on that; and related to the UBC farm. All are issues which residents of that area want to have a say on.

I don't understand how it could be called more democracy when, for a large number of the residents out there, they will not have the chance to vote on who actually represents them in these discussions. In fact, they'll just have a board of directors, of which 11 of the members are handpicked by the B.C. Liberal government.

It's not more democratic basically to say, "You are in charge," and residents can say whatever they like, but they can't vote you in, and they can't vote you out. The only way they'd really be able to have a direct electoral impact would be to move to Kootenay East — or whatever the home of the minister would be — and vote in those elections, because that's who, in the end, is in charge here.

I guess the question, really, that comes out of here is: why did the minister feel it was not appropriate to work with Metro Vancouver on their plan to engage with UBC — to engage with UBC faculty, to engage with that wider community — and come up with a plan, as they suggested? Instead, we're seeing a kind of a pulling away from democracy and putting it in the hands of an appointed few.

The Chair: Member for Surrey-Newton seeks leave to make an introduction.

Leave granted.

Introductions by Members

H. Bains: I'm once again pleased to introduce a second group of grade 5 students from my constituency, Surrey-Newton, from Cougar Creek Elementary. They are here with their teacher, Jesse Sandhu, and a number of their parents are here. I met with them, like I said in

the first introduction, on Friday — a very smart group of people here. Please help me welcome them to this beautiful hall and let them watch what's going on and what we do here.

The Chair: Minister of Community and Rural Development, noting the hour.

Debate Continued

Hon. B. Bennett: Hon. Chair, could I answer the current question?

It almost sounds to me like the members would prefer to maintain the current gridlock between Metro and UBC than to have government respond to a request from Metro and from UBC to try and help with that gridlock.

What we've done is taken an incremental approach. We recognize that Metro has said that, ultimately, they would like to get to some form of self-government or independent governance by UBC, and government is definitely not opposed to that. We'd like to get there as well, but it will take some time. It's not something that can happen, nor should it happen, quickly, so we are taking it one step at a time.

The first step is to transfer land use planning over to UBC. The electoral area director will stay. The board will be involved. They will be required by legislation to have public meetings. The minister in this ministry will have the opportunity to assess the extent to which UBC has done public consultation. UBC will be required, actually, to report out on the type of consultation that's taken place.

[1155]

I would suggest to the members that I think the concerns they raised about representation of the people who live there are legitimate, but I do believe that this legislation will enable UBC, Metro and the minister to make sure that people's interests on the UBC lands are looked after.

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

Motion approved.

The committee rose at 11:56 a.m.

The House resumed; Mr. Speaker in the chair.

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

Committee of Supply (Section A), having reported progress, was granted leave to sit again.

Hon. M. de Jong moved adjournment of the House.

Motion approved.

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

The House adjourned at 11:57 a.m.

PROCEEDINGS IN THE DOUGLAS FIR ROOM

Committee of Supply

ESTIMATES: OFFICE OF THE PREMIER
(continued)

The House in Committee of Supply (Section A); H. Bloy in the chair.

The committee met at 10:09 a.m.

On Vote 10: Office of the Premier, \$9,711,000 (continued).

The Chair: Good morning and welcome to the Douglas Fir Room. We're doing the budget estimates of the Premier of the province of British Columbia.

Hon. G. Campbell: Hon. Chair, with your permission, I'm pleased to introduce these estimates in the Office of the Premier for 2010-11. I'm also pleased to introduce the public service representatives who are with me today. Allan Seckel is the Deputy Minister to the Premier and the cabinet secretary; Lorne Brownsey, deputy minister, corporate initiatives and intergovernmental relations; Michelle Leamy, director of executive operations; and Debbie Fayad, assistant deputy minister and our executive financial officer with the Ministry of Finance.

[1010]

If I could just make a brief statement. British Columbia is, I think, on the verge of embarking on a truly exceptional phase of its history. We're coming off an incredibly successful Olympic Games, which exceeded everyone's expectations. It was actually defined by the people of British Columbia and Canada in ways that I think even sometimes surprised themselves. Some 3.5 billion people from around the world actually saw the Olympic Games and were introduced to British Columbia. In many cases Canadians were introduced to British Columbia.

It's really important, I think, that we build on that success as we move into the 21st century. It's hard to believe, but we're actually moving into the second decade of the 21st century even as we stand here today.

I think that in terms of our expectations, we look forward to exceeding our expectations and opening up the opportunities of the Asia-Pacific gateway in making sure that British Columbians have the type of quality health

care that they deserve today, but equally that we provide for health care for our children and our grandchildren in the future — that we provide for sustainable health care services that meet people's needs. That requires a number of initiatives to be undertaken by all of us.

One of the really important lessons of partnerships from the Olympics is that all of us have got to be involved. It's not just government at the provincial level. It's governments at all levels and the people of our province working to be sure that our children have the kind of future they deserve, be that economically or socially, in terms of sustaining health care or improving education.

Improving the quality of life for everybody in British Columbia is going to be critically important as we look to the future. Changing a number of the initiatives, or a number of the things that we've grown used to in the province over the last generations....

I think the world has changed. We've seen dramatic changes in the world in the last two to three years. We know that we have an aging population. We know that we have new opportunities in front of us, and I think the challenge for all of us in government and outside of government is to try to take full advantage of those opportunities for those we serve.

I want to say that I appreciate the work that we've had from our partners and the time and effort they've put in to help British Columbians meet their needs, be it the federal government, local governments, other provincial governments, First Nations or people that are investing in our province — people that are actually driving the wealth creation, job creation in our province. All of those partners are what make British Columbia a truly exceptional place for all of us to live.

I'm looking forward to these estimates, and I'm happy to answer any questions with regard to the Office of the Premier.

C. James: Mr. Chair, I want to thank the Premier for being here for the estimates, to welcome his staff who are here today and to thank you for your public service as well.

This is the second budget and the second estimates we've had in the last eight months. It's been an incredibly busy time, and as I think everyone in this room knows and as everyone in the province knows, we've really seen the public agenda over the last while dominated by the provincewide revolt against the HST.

So we're going to be taking a look at the HST and canvassing this issue in this year's estimates debate, as we did last year and again this year, because certainly the HST really goes to the credibility of this Premier and this government. I'm looking forward to having a conversation around the HST and, hopefully, getting some answers from the Premier.

In addition to the HST — which really, as I said, has dominated the agenda over the last number of months —

we have also seen some very serious issues related to this government related to the resignation, reappointment and then the resignation again of a senior member of the Premier's cabinet. We intend to fully canvass this issue during estimates as well, because it, too, raises very serious questions about the credibility of this government and the credibility of its actions.

So does the government's attitude towards freedom-of-information laws, its relationship with the children's commissioner, its approach to spending, and we'll be looking at all of those issues as we go through estimates as well.

If we take a look at all of those issues — the HST, the resignation, the issue of spending, the lack of priorities we've seen under this government — it really does put on display a Premier and a government that have lost their way in this province and, certainly, who have lost touch with the citizens of this province. I think that nothing could be clearer, when we take a look at the agenda of this government, than that they have completely lost a connection with the citizens.

British Columbians believe that this government has also broken the trust with the people of this province, and I think we see that every single day in our province.

[1015]

These estimates are an opportunity for the Premier to be upfront, an opportunity to have an open and honest dialogue, and to get answers to the questions that British Columbians want answered by their government.

I'm coming into these estimates with the hope that that's the kind of conversation we'll be having. I'll be asking questions on behalf of the public that, as I said, have been raised with myself, with the opposition, and I'm certain have been raised with government MLAs and the Premier as well.

I want to start off today with a question around a recent decision of the Premier's. The member for Fraserview, the former Solicitor General, as we know has been under investigation since January of this year for very serious election violations that are alleged to have taken place in his election campaign. On May 3 we saw a special prosecutor, Terrence Robertson, conclude his investigation, and he recommended charges against the member for Fraserview's top campaign staff but not the member himself.

The very next day, within 24 hours, we saw the Premier make a decision to reinstate the member as Solicitor General based on that special prosecutor's report. Now we understand that a new special prosecutor has been appointed, and we'll not be asking any questions about that — won't be asking any questions about the special prosecutor.

We also know as a result of this case that the government has launched a review of the special prosecutor system, and again, I'm not going to focus on that today. I'm simply going to focus on the Premier's decision-making, which is the purview of the Premier's office and the Premier.

The first question I want to ask the Premier is: why did he feel the need on that day, Tuesday, May 4, to make a decision to reinstate the Solicitor General so quickly? What prevented the Premier from waiting a few days until he was back in the country to make that decision?

Hon. G. Campbell: As the member opposite has identified, there was a special prosecutor that was put in place. The former Solicitor General had stepped aside while that took place. I said at the time that the special prosecutor was appointed that I would wait for the results of the special prosecutor's report. The special prosecutor's report that I was made aware of was unequivocal in its comments that the former Solicitor General had been exonerated.

I felt it was important for someone with the former Solicitor General's, the member for Vancouver-Fraserview's, experience that it was valuable to have him back in government and that in view of the report from the special prosecutor — which said that he had been exonerated completely — it was appropriate to re-appoint him to cabinet.

C. James: A question to the Premier: did the Premier give any consideration to waiting until he was back in the country, to taking a little bit of time before he made that decision?

Hon. G. Campbell: I think it's fair to say that when I received the report of the special prosecutor, I felt that it was an unequivocal exoneration. I felt that it was important to have someone of the former Solicitor General's capacity in that post, and therefore I appointed him.

C. James: Back in April when the investigation became public and the Solicitor General had to resign for the first time, the Premier made some comments about the charges and was actually quite dismissive. He stated: "I don't know what the charges will be. I don't know if they'll be serious, if they'll be lengthy, if they'll be trivial."

My question to the Premier is: wouldn't the Premier agree that charges that are laid under the Election Act are always serious?

Hon. G. Campbell: Yes. In fact, I was reporting back on what one of the reporters had said to me. He had said at the time that often these are trivial matters. I know that every breach of the Election Act is not trivial, and in fact, that's why they're submitted to the Chief Electoral Officer. The Chief Electoral Officer often acts with regard to those concerns. If there is a breach, then people are normally directed to correct them.

[1020]

I believe that the Election Act is a very important act. I believe that breaches in the Election Act are important

and significant. I was reporting back that members of the media actually, who were calling and talking to me about this, had said that this is often trivial.

The Chair: I'd just like to remind the leader that there are charges laid and that it is being reviewed.

C. James: Yes. Thank you, hon. Chair. I will be referring to the Premier's decisions here. I understand that investigations are still going on.

The Premier agrees that these are very serious charges, that charges under the Election Act are serious charges. But there's another additional piece when it comes to the position. The member for Vancouver-Fraserview's role was a particularly sensitive one as Solicitor General — the head of policing, the top cop.

My question to the Premier... He says that any allegations under the Election Act are serious. Recognizing this was also a very critical role within cabinet as the top cop, doesn't the Premier believe that it's particularly important for the Solicitor General to be free of any kind of conflict where a police investigation is concerned?

Hon. G. Campbell: I think it is very important, and I think, in fact, that the Solicitor General showed how important he felt that was when he stepped aside the first time. He was clear that he felt, out of protecting the integrity of the process, that it was important for him to step aside. At the time he stepped aside, I said that I thought he had offered valuable service but that he done the right thing. I believe he did do the right thing.

When the report came back from the special prosecutor that said he was unequivocally exonerated, I felt it was appropriate, for someone with his lengthy career of public service in law enforcement, to put him back into the position of Solicitor General.

I think that we should now await the report of the second special prosecutor. That all took place outside of any purview of the former Solicitor General or myself. I think it is important to allow that to run its course.

Having said that, the first special prosecutor said that he was exonerated. I felt that was an appropriate act. He stood aside appropriately. But I do believe that if someone is exonerated and there is an opportunity for them to serve the public, we should take full advantage of those opportunities.

C. James: So the Premier agrees that the Solicitor General's position should be free of any conflict. It is a critical position, being the top cop. I accept what the Premier says about the report coming forward. But even when that report came forward, when Mr. Robertson made his first report with no charges to the member for Vancouver-Fraserview and before we knew the report was compromised — and we'll get to that as we go

through there — it was known even then that the police investigation was ongoing. The RCMP had stated that.

[1025]

So wasn't the Premier at all concerned about his decision to reappoint the member for Vancouver-Fraserview while the police investigation into the campaign that actually got the member elected was still ongoing?

Hon. G. Campbell: As I mentioned to the member, I received the report. The public received the report. As I read the report, the Solicitor General was exonerated, and exonerated in a fashion that meant — at least in my reading — that he was not likely to be subject to further investigation.

There is an investigation taking place now. There is a special prosecutor that is in place now to review the work of the previous special prosecutor. I don't really think it's appropriate to go beyond that. But the way that I read the special prosecutor's report at the time that I reappointed the member for Vancouver-Fraserview as the Solicitor General, he had been not just exonerated, but it had been unequivocal in terms of the exoneration.

C. James: I think it is important to note for the Premier, coming back again to the importance of the role of the Solicitor General, that the police investigation was ongoing into the election that elected the member. That investigation was ongoing, so I do believe there is an issue there, but obviously the Premier doesn't want to recognize that.

I want to move on to what I believe was the most contentious decision by the Premier in this entire resignation-reappointment-resignation issue. That was the decision to continue with the reinstatement of the member even after the Premier had been advised by his Attorney General that the special prosecutor had had to resign over a conflict of interest.

What we understand from the media and from comments made by the Attorney General is that at about four o'clock in the afternoon on May 4, the Premier made the decision to reinstate the Solicitor General, and the process for the reappointment was then set in motion. So I just want to confirm that with the Premier. Is that correct? What time was it when he was in Brussels?

Hon. G. Campbell: I believe I first heard in Brussels at about 2:30 in the morning — 2:30 a.m. I believe that the report was made, and it was around four o'clock in Vancouver time.

[1030]

I was in transit at that time. I think I received a call at about 2:30. I said at that time, "Let's discover what was taking place," and I think that at that point the special prosecutor had said that he had had a conflict and had withdrawn. I'm not sure if that's exactly what his words were, but that's what the impacts were.

At that point I did not have a chance to talk with the Solicitor General. I believe that it was underway for the Solicitor General to be actually sworn in at that time.

The first opportunity I had to speak with the Solicitor General was the next day. I can't remember the time in Brussels at that time. I think it was first thing in the morning here on.... I think it was a Wednesday. I'm not sure if it was a Tuesday or a Wednesday. At that time, in light of the information that had been made available by the previous special prosecutor, the MLA for Vancouver-Fraserview and the Solicitor General felt that it was appropriate for him to step aside again, and I agreed with that.

C. James: I just want to back the Premier up a little bit so we can make sure we have the timelines and the details right. So it was about four o'clock when the Premier made the decision — after receiving the first report, the report from the special prosecutor — to reinstate the Solicitor General. Is that correct?

Hon. G. Campbell: I think that the member opposite is correct. It was approximately four o'clock in British Columbia time, or one o'clock in the time in Europe, when the announcement was made that the former Solicitor General would be reappointed. It was at about 5:30 Vancouver time when the criminal justice branch announced that the special prosecutor would be resigning.

By that time the process was underway. I think the OIC was signed by Minister Bond, I understand, some time around six o'clock. I heard from the Attorney General at about 2:30 my time or about 3:30, the time in Brussels, that the OIC had been signed.

I talked with the Solicitor General earlier the next morning. The Solicitor General felt, in view of the information that he had received from the former special prosecutor, the previous special prosecutor, that it would be appropriate for him to step aside once again as a new special prosecutor reviewed the file.

C. James: Just to take the Premier back to his decision-making then. The Premier made the decision, based on the special prosecutor's report, that the Solicitor General would be reinstated. Then, roughly about an hour later, the special prosecutor resigned over a conflict of interest, stating the fact that his law firm had donated directly to the member for Vancouver-Fraserview's election campaign.

Sometime shortly after that, the Attorney General then phoned the Premier to inform him of this latest development and, we would guess, to offer some advice and to talk through that. So could the Premier tell us what the Attorney General discussed with him in that second call?

[1035]

Hon. G. Campbell: I don't normally discuss conversations with the Attorney General, and I won't discuss specific conversations. But what I can tell you is that in this highly unusual situation there were rapidly changing circumstances. I did discuss the issue with the Attorney General. The former minister actually that evening discussed this matter with his family. When I first connected with the Solicitor General, he felt that it was important that he stand aside, once again, in view of the information that had been received from the special prosecutor and the former special prosecutor's resignation.

I also think it's important to recognize that the former special prosecutor had said, frankly: "There is nothing to show that Kash Heed had any personal knowledge that the election financing report was false." He was very clear in his exoneration of the Solicitor General.

I felt, in review.... With the nine-hour difference, the first chance I had to chat with the Solicitor General was early in the morning, in British Columbia time. He said at that time: "I believe that the appropriate thing for me to do is stand aside." I totally agreed with him, and I accepted his resignation.

C. James: I find it interesting that the Premier uses the words "rapidly changing circumstances." I couldn't agree more. In fact, I would expect that for the Premier that would mean even more cautiousness in moving ahead with all of these circumstances changing so quickly, with a prosecutor who puts a report out and then a half an hour later resigns because of a conflict of interest. I would expect, for most people, that that would signal that perhaps some caution should be taken in making a final decision.

The Premier mentions that he won't talk about any advice that the Attorney General gave him. Could the Premier tell me: was anyone else on that call with himself and the Attorney General when they phoned to notify the Premier that the special prosecutor had resigned?

Hon. G. Campbell: My discussion with the Attorney General that I recall was, again, roughly in the middle of the night — my night; the middle of your afternoon or evening. The Attorney General pointed out that the OIC had been signed — that it was underway. I think I said that it was necessary.... I wanted to talk to Minister Heed. I did talk to Minister Heed the next morning. It was the first chance I had to talk with him. I'm not even sure I said that I wanted to do that, to be honest.

I think that the issue for me at that point was that the announcement had been made. It had been made on the basis that the Solicitor General had been exonerated. There was no reason for me to expect that there was going to be another announcement following that. I did hear at 6:30 from the Attorney General with regard to that. I'm just trying to recollect. I may have had a call from my chief of staff prior to that to tell me to call

the Attorney General, which I did. The next thing I did was I talked first thing in the morning with the former Solicitor General and Minister of Public Safety.

C. James: Just so I have this clear. The special prosecutor had resigned. The chief of staff notified the Premier that he should phone the Attorney General — obviously, meaning something major had occurred. The Premier talks to the Attorney General.

I just ask the Premier: did the Attorney General make it very clear to the Premier that the special prosecutor was resigning over a conflict of interest?

[1040]

Hon. G. Campbell: I'm just looking at the letter that was received from the special prosecutor. It's dated May 4. It doesn't say the time of the receipt. The letter actually says:

"Given that charges were not approved against Kash Heed and upon further reflection, I have concluded that my continuing as special prosecutor on this matter may well provoke comment from the public and media as to whether I am sufficiently independent to act as special prosecutor in this matter. Although I have complete confidence that my decision was made objectively and on the basis of the application of the appropriate test to the evidence presented to me, I feel that it would be inappropriate for me to continue, as I do not wish this possible perception to impair the orderly progress of a prosecution in this matter."

I think that, again, one of the things that is important about this from the outset is when the former Solicitor General was made aware of the fact that there was a special prosecutor, he stood aside to protect the integrity of the process.

The process was carried out and, again, to quote from the special prosecutor's report: "On the evidence presented to the special prosecutor, there is no evidence that Mr. Heed was either involved in the production of the pamphlets or had direct knowledge of the pamphlets or the allegedly fraudulent advertising...form." Then: "On the evidence presented to the special prosecutor, there is nothing to show that Kash Heed had any personal knowledge that the election financing report was false." So that was the report that we had from the special prosecutor.

The decision was made to reappoint the member for Vancouver-Fraserview as the Solicitor General. That was done. It was announced at four o'clock. There was a notification made in a news release from the criminal justice branch, I believe, at 5:30. About 6:45, the Attorney General spoke to the media about the latest developments. The member for Vancouver-Fraserview was sworn in at eight.

The first chance I got to speak to the member for Vancouver-Fraserview, after discussions with his family, was approximately 8:15 in the morning on May 5. At that time he said that he felt that it was important to protect the integrity of the process and that he felt it was important that he step aside. I agreed with that. It was the first time I'd had a chance to talk directly with him.

I had had one communication, that I'm aware of or that I can recall, with the Attorney General. The Attorney General had commented that the special prosecutor had sent in this letter. That effectively, I think, was the result of the conversation. I believe I was informed by my chief of staff minutes before I talked directly to the Attorney General that I should be talking to the Attorney General about this matter.

[1045]

C. James: While I appreciate the Premier putting the decision-making process of the former Solicitor General out in these estimates, these are actually questions about the Premier's decision-making, not about the former Solicitor General. They're actually questions about the Premier's decision-making.

The Premier was informed by his chief of staff to phone the Attorney General, to have a discussion about this issue. The Premier said that he talked to the Attorney General. The Attorney General made it clear that the special prosecutor was resigning. The Premier was informed of the press release in the letter, I'm guessing, from the special prosecutor? Just to confirm that.

Hon. G. Campbell: I don't believe I had a copy of the.... Well, I know I didn't have a copy of the letter from the special prosecutor at the time. The comments that were made were that the special prosecutor had felt it was important for him to withdraw.

C. James: The Premier didn't see the comments. He heard the comments, then? Just to be clear again, the Attorney General did go through the fact that the special prosecutor was resigning and the reasons for his resignation with the Premier?

Hon. G. Campbell: I want to be as open about this as possible. I don't recall the specifics of the conversation, and as I've mentioned, I don't think it's appropriate for me to discuss the specifics of the conversation, at any rate.

I do think that it's important to note that it was literally the middle of the night for me. I was obviously concerned about the disclosure from the special prosecutor. I don't believe I had the letter from the special prosecutor. Certainly, I didn't have it at that time.

I felt it was important that we get a handle on it. The process was already well underway in British Columbia, as I understood it. The OIC had been signed. I think that the signing in of the Solicitor General was at about eight o'clock.

The first chance I had to talk directly with the person involved, the Solicitor General, was at eight o'clock the next morning. I talked with him. He felt it was important for the integrity of the process that he step aside. I totally agreed with that decision, and that decision was then made.

C. James: I understand that the Premier doesn't want to talk about a conversation he had with his Attorney General, but this is a large issue for the public, a large issue for the public's judgment of this Premier and this government in decision-making. I believe it's important for the public to know: was there any discussion — without giving specifics, if the Premier refuses to do that — at that point with the Attorney General of halting the OIC process, of looking at other options now that the special prosecutor had resigned?

[1050]

Hon. G. Campbell: I appreciate the question from the member. Again to go back, I was in receipt of a report that had exonerated the Solicitor General. I reappointed him. An OIC was put in place. Following that process being launched, there was information that came forward from a special prosecutor. I was informed of that. I felt that it was important that I talk with the Solicitor General directly. I thought it was important that I have the facts. I thought it was important that I was awake. All of those things, to me, were critical as I made the decision.

As soon as I heard the full briefing from Minister Heed, or former Minister Heed, as soon as he'd had a chance to chat with his family — and I talked with him directly — the former minister said that it was appropriate for him to resign. I agreed with that, and that was the decision that was made.

C. James: I would agree with the Premier that I think it's important that he had all the facts. I would agree with the Premier that I think it's important that he was awake. This is a major decision for the top cop of British Columbia, a major decision on an ongoing police investigation, a major decision on an appointment and a reappointment of a member of cabinet.

My question to the Premier again would be, then: why didn't the Premier — when he admits that he wanted to wait until he was awake, admits that he wanted to wait until he had all the facts — just instruct his Attorney General to pull back on the OIC?

Hon. G. Campbell: Again, at the time the decision was made, I can assure the member, I was awake. I was also aware of the fact that a report had been given that had exonerated the Solicitor General. The OIC was then launched.

I did have an opportunity to hear from the Attorney General with regard to what had taken place. I had an opportunity first thing the next morning to hear directly from Minister Heed about what he believed was in the best interests of the public and the integrity of the process. I totally agreed with that, and at that time I accepted the former Solicitor General's resignation. And we, obviously, await the report of the special prosecutor.

C. James: Just to come back to the question around the order-in-council. I'm certain that we've seen orders-in-council revoked. I'm certain we've seen them pulled back. So my question would be to the Premier. Is the Premier saying that it wasn't possible for him to pull back on an OIC?

Hon. G. Campbell: The OIC was done. There was a conversation between myself and the Attorney General. The first opportunity I had to talk with Minister Heed was first thing the next morning. At that time he said that in light of the information that had come forward to him, he felt it was appropriate for him to step aside. I believe it was about 8:15 in the morning for former Minister Heed, and it was about six o'clock for me. Yeah, six-ish for me — five to six for me.

C. James: To come back to the Premier's decision-making, not the former Solicitor General's decision-making, was the Premier given advice from anyone? He mentioned that he talked to his chief of staff briefly. He talked to the Attorney General. Was he given advice, or did he ask any questions, about revoking the OIC at that point when he received news that the special prosecutor had resigned?

[1055]

Hon. G. Campbell: From my perspective at the time, the OIC had been done, and it was being carried out. I felt that it was important to talk directly with the minister of the day, in light of the new information. I did that first thing the next morning. I think it was 8:15 the next morning. As a result of that, I once again accepted his recommendation as Solicitor General that it was important for him to step aside to protect the integrity of the process.

The OIC was done. It was done on the basis that the former Solicitor General had been completely exonerated by the special prosecutor. There were then changes in circumstances that took place. I was informed of those. Again, the OIC had been done. I wanted to and I did speak directly with the Solicitor General, who said that he felt it was appropriate for him to stand aside, and I felt that that was the right thing for him to do. That was all done within a matter of hours.

C. James: The Premier keeps coming back to the fact that he felt the need to talk to the former Solicitor General the next morning. My question will be, then: did the Premier ask any questions, or did the Premier give any consideration to revoking the OIC until he talked to the former Solicitor General the next morning?

Hon. G. Campbell: I'm trying to answer this question in a way that is clear. The decision on the OIC to reappoint the member for Vancouver-Fraserview, was done in the afternoon of May 4, not just with the OIC

signed; it was ready to go. I then had a conversation with the Attorney General.

I did say at the time that I thought it was important that I be aware of what was taking place. The first time that we could actually connect, to be fully aware of what was taking place from the people that were directly involved, was first thing the next morning. I was in touch with them first thing the next morning, and the Solicitor General at that time felt that it was important to protect the honour and integrity of that process, and he felt that it was important for him to step aside again. I agreed with that, and he stepped aside again.

You know, I don't know what else to say other than that. I mean, clearly, it was going to be important that we communicate, and we did within hours of it taking place. First thing the next morning, when I was available and they were available, we did connect. The former Solicitor General said that he thought it was appropriate for him to step aside, and I accepted that decision.

[1100]

C. James: I have to say that the more I ask questions about this issue, the more concerned I get about the decision-making of the Premier and the lack of regard for the public in this issue.

The Premier certainly seems to be very concerned with the former Solicitor General but seems to have no concern for the public for what this issue does to the public's belief in this government and decision-making.

The Premier basically said, and I just want to confirm with the Premier again, that he did not feel he had a full enough briefing after the special prosecutor had stepped down. He did not feel he had all the facts and all the information to make a decision. He wanted to wait until the next morning to talk to the former Solicitor General. And yet, he moved ahead with reappointing the former Solicitor General when he didn't have the facts and when he didn't have all the information. Is that correct?

Hon. G. Campbell: Let me go back, because I think that it is important to get this information correct.

There was a special prosecutor appointed. Special prosecutors are appointed to protect the public as well as those who are in elected office. The Solicitor General of the day said that he felt that it was important that he step aside while that was taking place. That was an appropriate step to take, and he stepped aside.

I said at the time that should, in fact, he be exonerated, he would be someone that I thought would be a worthwhile addition to cabinet. We got a report from the special prosecutor. The special prosecutor fully exonerated the former Solicitor General. At that point I made the decision — I think it was about 24 hours after the report — that we should be reappointing the former Solicitor General back to cabinet, in light of not just his

experience but the work that he'd done on behalf of the people of British Columbia.

The OIC was done. I heard that the special prosecutor had stepped aside. I also heard that the special prosecutor had said that, in fact, Minister Heed had done virtually nothing that he could see that was worthy of further comment other than that he had been exonerated.

I heard from the Attorney General at about 6:30 in the evening in British Columbia — I think about 3:30 in the time where I was. I said to the Attorney General at that time that it was important that we get this all straightened away. I did want to talk with the former Solicitor General, who had been reappointed.

He had a chance that evening to speak with his family. I called him the first time that I was going to be up and he was going to be up. It was 8:15 in the morning. We talked explicitly about it. He said that he felt it was important for him to stand aside. I agreed with that, and he stood aside, once again, to protect the integrity of the process.

That was appropriate in my mind. Yes, and it did take some hours for those decisions to unfold, as I've laid them out. I've tried to lay them out as fully as possible in this series of questions with the Leader of the Opposition.

C. James: Could the Premier tell me: has he or anyone in government ever revoked an OIC?

[1105]

Hon. G. Campbell: I was having a discussion about the difference between rescinding and revoking. If someone retires, you know, often an OIC is rescinded, and someone else is put in their place. I cannot recall a time when this has happened, where an OIC has passed and is rescinded within hours.

This is a time where that did take place. It took place under the timelines that I mentioned to you.

I did feel it was appropriate to talk directly with the Solicitor General. I did talk directly with the Solicitor General within hours of this taking place, and the Solicitor General felt it was important from his perspective and from the perspective of protecting the public interest that he stand aside once again, in spite of the fact that he had been fully exonerated by the previous special prosecutor. I accepted that as a decision.

There are appointments to boards and commissions and all sorts of things that are done through OIC. Over a period of time and over a period of years, it is not unusual for an appointment either to expire or to be rescinded and another appointment to be made in its place.

C. James: So the Premier had new information on this issue from the fact that the special prosecutor had resigned from the case. We now know the Premier had

the ability to rescind or revoke, whichever we want to use, to stop the OIC and to stop the process, and yet the Premier didn't change course. The Premier says he didn't have a discussion with his deputy about this issue. He only talked to the Attorney General, was informed by the Attorney General and then decided to leave the issue until the morning and not make a decision.

You know, the Premier himself says that he supported the former Solicitor General's decision to step down. I would ask the Premier: if the Premier supported the Solicitor General's decision to step down, why didn't the Premier make a decision to halt the process, when he had all of the same information that the former Solicitor General did?

Hon. G. Campbell: I think that I've covered this off. I felt the process was complete. The public was informed. The OIC had been signed. I received information with regard to the special prosecutor, following a special prosecutor's report that had said that the Solicitor General had been fully exonerated. So as far as I was concerned, the process was underway and was effectively done.

I think it was important for us, in terms of that, to give the Solicitor General, who had been just appointed by an OIC, the opportunity to talk directly with me. He had not had that opportunity. I talked with him at the first time that he was available and I was available. At that time he had had a chance to talk with his family. He felt it was important that he step aside to protect the integrity of the public process, and the decision was made that we would carry on with that.

C. James: I guess I have to say once again that the public will continue after this exchange to have huge concerns about this Premier's decision-making, huge concerns about the fact that the Premier had information showing that the special prosecutor had resigned, had information showing that there was now a conflict of interest and that something else was going to happen, another special prosecutor appointed.

[1110]

Yet the Premier continued on with the OIC even though he had the chance to pull back, had the chance to make a decision then, to say: "Perhaps we should sleep on this. Perhaps we should look at this in the morning. Perhaps I should talk to the former Solicitor General."

The Premier refused. He passed on all of those decision-making points and decided to move ahead, very clearly thinking it was more important to look at the interests of getting the Solicitor General back in cabinet than it was to look at the public interest, of protecting the public interest in the office of the Solicitor General, and how important that was.

I have to say that the Premier also seems incapable of recognizing that the process that had recommended no charges was now compromised. The entire process

was compromised. That was evident continuing the next day, following the second resignation of the Solicitor General, when the Premier continued to talk about the special prosecutor's report as though it was a valid report, as though its apparent clearing of the Solicitor General wasn't compromised.

I want to just take a moment to look at what the Premier said to the media the next day. The Premier was asked this question by Global's Keith Baldrey: "Given there's a police investigation going on, according to the RCMP, shouldn't the member remain out of cabinet until the investigation is completed?"

The Premier responded: "Well, you know, Keith, I have to go back to what the special prosecutor said. The special prosecutor said the member knew nothing about this. He was basically fully exonerated. That's the only report I have now."

The Premier's statement — "That's the only report I have now" — is pretty striking because the Premier has a report, but it's a tainted report, and the Premier knows this. He had a call from his Attorney General telling him that, telling him that the special prosecutor was resigning because of a conflict of interest.

Everyone else knew that the special prosecutor's report was no longer valid. My question would be to the Premier: why did he continue to ignore that fact?

Hon. G. Campbell: I do think it's important that we have the timelines straight, so I'd like to know when that comment was made. I don't recall when the comment was made, although I did call back and chat with our media representatives here in Victoria.

I do know this: the first special prosecutor's report was very clear that the Solicitor General had been exonerated. In fact, even as you look through both the media statements of the special prosecutor when he commented on what took place on May 3, as well as when he announced that he was stepping aside, he is relatively clear that he feels that the former Solicitor General was not involved in this.

On the basis of that special prosecutor's report, which I had no way of knowing was in any way tainted, the reappointment of the member for Vancouver-Fraserview was made as Solicitor General. That reappointment was underway when I heard the second set of information with regard to the special prosecutor.

[1115]

I felt it was important that I have an opportunity to talk directly with the Solicitor General. I did talk directly with the Solicitor General, and literally within hours the Solicitor General had once again done what was appropriate in terms of the public's interest. He had stood aside, stepped aside. So I think that it is important that the special prosecutor gets to....

You know, we expect the reports, as we said. I read the report. I felt there was complete exoneration. An

announcement was made. An OIC was signed. Subsequent to that, there was further information that was made available.

The first chance I had to talk directly with the Solicitor General was after he had had a chance to chat with his family and had been sworn in, and at that time, he said he felt it was in the public's interest for him to step aside, literally within hours of the second set of announcements from the special prosecutor. I agreed with that. He did step aside to protect the public interest.

There is a special prosecutor in place. I and, I'm sure, the members of the public await the report of that special prosecutor. I think that the issues that are before the special prosecutor will speak for themselves. The report will speak for itself, and at that time, I'll have an opportunity to act again should the matter come before us.

C. James: For the Premier's information, those comments were made on Global on the *Noon News* on May 5, so the day after the Premier would have had the second report. He would have had the update on the fact that the special prosecutor had now resigned.

The former Solicitor General seemed to get it the next morning when he said he felt he had to step aside because the process was now null and void. There was going to be a new special prosecutor put in place. So he seemed to understand that issue. It's the Premier who didn't seem to get it, who didn't seem to understand it.

One of the other comments that the Premier made in that interview was: "So I think one of the things that a lot of people would like is to rush to judgment. I'm not trying to rush to judgment here." This is after the Premier has had an update from his Attorney General about the report.

I have to say that that's exactly what the Premier did do — was rush to judgment in reappointing and reinstating the Solicitor General within 24 hours of getting a report, then compounding the mistake by sticking to his decision regardless.

The Premier concluded that interview with Global by: "I've been following what I think has been pretty well established. You wait for the special prosecutor's report, and you act on it. That's what I'd do again." So that's the Premier's explanation. That's what he'd do again, except this time the Premier had been told that the special prosecutor had resigned.

The Attorney General had informed the Premier that the special prosecutor's report had been tainted, that they were going to look at another special prosecutor, yet the Premier continued to move ahead. So given all of that criticism, given all of the concerns that the public has had about this process and about the Premier's decision, about the reappointment fiasco.... I don't know any other way to describe it — to have the Solicitor General, the top cop, in and out and in and out, not giving the public any kind of belief that things were being looked after orderly in that office.

Would the Premier really do it the same again? Does the Premier have any second thoughts about not revoking the OIC and continuing on with this process?

Hon. G. Campbell: Once again, by the time that that interview was taking place, the former Solicitor General had actually suggested it was appropriate for him to step aside, and I had agreed with that. As I mentioned, I heard at... I had a conversation at roughly 3:30 my time, where I was — 6:30 p.m. here. The OIC had been both announced and signed at that time.

[1120]

I did feel it was appropriate that I talk with the Solicitor General. I did talk with the Solicitor General prior to May 5. You know, should someone go through the situation where a special prosecutor is appointed and they stand aside, I think it's appropriate, if they are exonerated, that they are in a position where they can be reconsidered for a reappointment. Those are exactly the steps that I took. In the future, should there be a complete exoneration, once again I would fully consider the opportunity for a reappointment.

C. James: I think this speaks volumes about the ethics and morals of this government. The Premier is conveniently leaving out the fact that he also was notified that the special prosecutor had resigned. He'd actually resigned. The former Solicitor General knew that he had to resign the next day. The Premier seems to completely ignore that fact and wants to ignore that fact. As I said, I think that speaks volumes about the lack of morals and ethics.

I want to touch just for a moment on comments that the Premier has made. He's made some comments around the member for Fraserview being an innocent party. The Premier has also stated on many occasions that the former Solicitor General and himself had been let down and are victims of this process. Again, I have concerns about the Premier being more concerned about his issues than the public's issues in all of this.

I'd like to give the Premier an opportunity to correct the record and to state here today that the real victims in all of this are the voters in Vancouver-Fraserview who had their election hijacked in all of this. I'd like to ask the Premier today if he'll stand up and apologize to the people of Vancouver-Fraserview, who are really the victims in all of this process.

The Chair: I would like to remind all members that we're dealing with Vote 10 and the administrative responsibilities relating to that vote.

Hon. G. Campbell: I think everyone that is elected to this House — in fact, everyone that is elected to public office — expects those elections to be carried out within the legislative frameworks that are established, whether

it's municipally, provincially or federally. That's certainly what my expectation is, and I understand that that is the public's expectation.

I also think it is important for us to allow processes to run their full course. When investigations in criminal proceedings are completed, then it would be an appropriate time to comment on this. I just want the Leader of the Opposition to be under no illusions that both she and I — and I am sure the leaders of the other political parties in British Columbia — expect all of our elections to be carried out within the framework of the Election Act.

C. James: Just to conclude this section, then, what we now see is that the Premier received information around a special prosecutor's report. He reinstated the former Solicitor General and then received information that told him that the special prosecutor was resigning — that, in fact, the report was now null and void — and yet the Premier still moved ahead with reappointing the Solicitor General.

It took the former Solicitor General himself the next morning to actually resign, instead of the Premier, who you would think would be the one who would make the right decision on behalf of the public and ensure that that office was protected. I think, as I said, it speaks volumes about this government's morals and ethics.

I now want to move on to another decision of the Premier and the Premier's office. This decision is related to the Representative for Children and Youth and a decision around the cabinet office, which is part of the Premier's purview.

[1125]

In March of this year the Representative for Children and Youth, Mary Ellen Turpel-Lafond, asked the Ministry for Children and Families, MCFD, for information on changes the government was making to Child in the Home of a Relative. MCFD, the ministry, provided some information but not all, and so Ms. Turpel-Lafond then made her request directly to cabinet operations.

When that request was made, she was told that she'd have to sign an agreement or a protocol that, according to the representative, would have, in fact, given the government veto power on what she reported out on.

Now, as the Premier knows well, the representative ended up having to go to court on this issue, and she was awarded the documents in question. I think all of us would agree that it was incredibly disappointing that this dispute had to go so far and that it took away much-needed resources and time and energy from where they should have gone, which is to protect the most vulnerable children in our province.

Now we're all very pleased, thanks to an intervention by Judge Hughes, that a successful mediation was reached, and Ms. Turpel-Lafond will now be able to focus all of her considerable energies where she should: on her work on behalf of those vulnerable children.

There are a few issues that I want to confirm with the Premier. As I mentioned, cabinet operations is under the purview of the Premier's office. It's the responsibility of the Premier. So I'd like to ask the Premier: did the new instructions about cabinet documents and the child and youth rep access come directly from the Premier himself?

Hon. G. Campbell: The leader is correct. The cabinet operations are in the Office of the Premier. The Deputy Premier is responsible for cabinet operations and is also responsible for the release or lack thereof of cabinet documents.

First of all, let me say that we recognize that independent officers of the Legislature may often require and request cabinet-related materials. In every case the cabinet works with those independent officers so that we can provide information through a protocol agreement. Some of the other arrangements are based on an understanding that the information provided will be used for the purpose intended and on the basis of confidentiality. Those are reasonable requests, I believe.

The member is not correct to suggest that this is a new approach. It is the approach that has been taken with regard to independent officers across the board, as far as I know.

Government did explore the opportunity of a protocol agreement with the representative. She declined that. That is why the government felt it was necessary to introduce an amendment so that all independent officers would be treated equally.

However, now that there has been an agreement, which Mr. Hughes has facilitated, we're pleased — as are, I'm sure, the members of the opposition — that that agreement has been put in place. It does reflect a protocol agreement that will allow for the sharing of information. I think that's an important initiative, and I'm pleased that we have been able to resolve the matter.

C. James: Just so I'm clear, the instructions around cabinet documents and the child and youth representative, when she went directly to cabinet operations, came from the Deputy Premier?

[1130]

Hon. G. Campbell: If I said Deputy Premier, I meant Deputy Minister to the Premier.

C. James: I just want to take us back for a couple of minutes to take a look at the child and youth representative and the reinstatement of that office, because I think that it's important in the sequence of events and the decisions that were made in cabinet operations and by the government to take a look at that history.

We'll remember that back in 2001, and I'm sure that the Premier will remember as well, there was a commitment to end the bureaucratic restructuring in the Ministry of

Children and Family Development — that was a quote from the Premier — to better focus resources.

However, as we all know, and as the public knows, the record between 2001 and 2006, in fact, was a betrayal of that commitment. Many times Judge Hughes has had to come in and fix things. It took Mr. Hughes to come in and get government back on track. The result of that was a very comprehensive report which, once again, created an independent officer, then called the Representative for Children and Youth.

In 2006, when Mr. Hughes brought forward that report, the Premier said that he was fully supportive of all the recommendations that Mr. Hughes had made. So my question is to the Premier, as we get back to the decision-making. Could the Premier confirm: is he still in support of those 62 recommendations that came forward in the Hughes report?

Hon. G. Campbell: As the member opposite has identified, we were obviously concerned about the situation in the ministry of children and youth in 2006.

Mr. Hughes prepared, I think, a thorough and very good report which recognized the ways that we could move ahead to ensure that we were focusing resources and efforts around the Representative for Children and Youth as an independent officer of the Legislature and that we were in a position where we — I think, to use his words — depoliticized the way we were serving children so that we could ensure we were focusing on what every member of the Legislature wants, which is a strong and healthy life for all of the children that are born into British Columbia.

I did certainly accept that report, and the government continues to pursue the recommendations in that report. There is a Children and Youth Committee of the Legislature, an all-party committee of the Legislature, which reviews that on an ongoing basis with the representative.

I know that the representative and the ministry are often working to share information and to examine opportunities to improve services in the province of British Columbia to children, and that will remain our focus as we go ahead.

C. James: Would the Premier agree, then, that the representative's legislation flowed directly from one of the recommendations of the Hughes report?

The Chair: Legislation is not the topic for Vote 10.

C. James: Thank you very much, hon. Chair. I understand that, and I'm not asking specific questions around the legislation. This is related to the Premier and cabinet operations, decision-making on legislation for the Representative for Children and Youth — existing legislation.

So just a question, then, for the Premier on the representative's act itself. When the act was brought in, I believe that it was actually the current Deputy Minister

to the Premier, Allan Seckel, who would have shepherded that legislation as it came in, in 2006, in his previous position as Deputy Attorney General. It was then the Attorney General, Wally Oppal, who brought forward that legislation. Here's what was said when that came forward on May 17, 2006.

[1135]

"The representative has a right to any information held by any public body or bodies that is necessary to carry out the office's roles, functions and duties, as Mr. Hughes advocated in recommendation 54."

I would imagine that the Premier and his cabinet were well aware of the scope of the representative's act, which is the decision that was made here. So could the Premier explain what changed between bringing in the act in 2006 and the events that we saw in this last month?

The Chair: I would like to quote from *Parliamentary Practice* for the committee: "Only the administrative action of a department is open to debate. The necessity for legislation and matters involving legislation cannot be discussed in Committee of Supply."

C. James: Thank you very much, hon. Chair. I appreciate the ruling and support the ruling of the Chair. I am not speaking about the need for an act. I'm speaking about existing structures for the child and youth representative and the decisions made by the Premier's office and cabinet offices, which are part of the Premier's purview.

Could the Premier help me understand what had changed between bringing in the act in 2006 and the decisions that were made by the Premier, or the deputy to the Premier, when it came to the representative accessing information?

Hon. G. Campbell: I think it is important to note that, actually, things didn't change. What happened was that we were.... The question was: would access be provided? The answer was yes, access would be provided, but in providing that access cabinet confidentiality would have to be protected. That was the issue that was before us. That is the issue that has been resolved.

The process by which either the representative or cabinet operations would deal with those issues was outlined to the satisfaction of the Representative for Children and Youth and to the satisfaction of cabinet operations, the deputy minister and the cabinet. I think those are two important principles. This was the first time it had come up. At that time it was not possible, evidently, to reach a protocol agreement that would satisfy both parties.

[1140]

That has now become possible, and so we have a resolution that allows for the access to information, which was always available, subject to cabinet confidentiality. That has now been completed, and should there be any disagreements in the future, there's a process for dealing with that.

C. James: I just would remind the Premier that the representative actually took this issue to court and won on this issue — to say that she did have the right under her act to actually have access. So I find it interesting that the Premier says nothing had changed. Obviously, something had changed if the representative was required to take this issue to court and won a judgment on this issue in court.

There's now a protocol in place. The government has a protocol with the representative. Could the Premier confirm, then, under this protocol that the representative will still be able to see cabinet documents and that she'll be able to refer to them in her reports?

The Chair: Noting the hour.

Hon. G. Campbell: What we have arranged with the Representative for Children and Youth, through the auspices of the hon. Ted Hughes, is that the Representative for Children and Youth will have access to cabinet documents that she feels are necessary to carry out her function as Representative for Children and Youth.

She will not use those cabinet documents in a public comment unless they are required to add credibility or substance to the public report that she is preparing. She will submit that to cabinet operations. The officials will have an opportunity to look at whether they agree with the Representative for Children and Youth's position that this is required in terms of her report.

If there is agreement, it will be part of the report. If there is disagreement, there is a process that has been put in place that will ensure, first, a look for facilitation. Then there's an opportunity for mediation. If that is not the case....

Interjection.

Hon. G. Campbell: Oh, facilitation and mediation, I'm informed, are the same thing in this case. So facilitation and mediation, and should there be a disagreement at that point, then it will be submitted to the courts for their perusal and their decision.

That was an agreement that was acceptable to the Representative for Children and Youth. It was certainly acceptable to us in terms of providing cabinet with protection in terms of confidentiality. It is an agreement that has the endorsement of Mr. Hughes, the representative and the cabinet. I think it accomplishes the goals that we initially set, which was in no way to limit access, but it was to protect confidentiality of cabinet documents.

That's a brief answer to the question.

Hon. Chair, heeding your direction, I move that the committee rise, report progress and ask leave to sit again.

Motion approved.

The committee rose at 11:45 a.m.

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