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LIEUTENANT-GOVERNOR

Her Honour the Honourable Janet Austin, OBC

Fourth Session, 41st Parliament

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Honourable Darryl Plecas

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Proceedings in the Douglas Fir Room

MONDAY, NOVEMBER 25, 2019

The House met at 1:36 p.m.

[Mr. Speaker in the chair.]

Routine Business

Introductions by Members

Hon. S. Robinson: I want to recognize that we have a number of members of the Canadian Home Builders Association here in the gallery with us, including Neil Moody, the CEO, Brian Charlton, the president, and Matt McCurrach, the past president. They've joined us today.

The members of the CHBA are important partners with us across the province in working to deliver the homes that people need. I want to thank them for taking the time to meet with myself, the Premier and others here in the chamber today. Their insights and participation, particularly the ones that they offered earlier this year through the development approval process review, were tremendously valuable, tremendously important. I look forward to continued work with them.

B. D'Eith: It's always wonderful when one of our citizens from Maple Ridge comes, especially when it's an elected official. I'd like to welcome Councillor Yousef, who's from the city of Maple Ridge city council, to our House. Please make him feel very welcome.

J. Thornthwaite: I, too, would like to welcome the Home Builders Association to the Legislature — in particular, my constituent Mark Cooper.

Welcome.

Hon. K. Conroy: It gives me a great deal of pleasure to welcome Doreen Olson to the gallery today. She's the coordinator for the South Okanagan–Similkameen National Park Network. I met Doreen a number of years ago now, and I've always been so impressed with her passion for the national park. I think that her dreams and her passion are finally coming to fruition. Please join me in welcoming her to the gallery.

C. Oakes: Truly, it's my delight to introduce a constituent of mine, Joe Hart, the owner of Icon Homes. He is here today with the Canadian Home Builders Association.

Joe has built possibly…. We have a net-zero home in Quesnel. I had an opportunity to visit this home. They do a fantastic job. I don't need to mention to members in this House sometimes the difficulty it is building a net-zero home in northern British Columbia, but they're doing a fantastic job. They're great citizens in our community.

Would the House please help me welcome Joe.

Hon. K. Chen: I'm sure all members in this House know we cannot do the work we do every day without the dedicated staff who support us and our work here in this Legislature. I've always been blessed with a great team of people who sometimes spend really long hours with me in this Legislature and travel with me around communities. We get to know each other so well. We sometimes become like family.

Today I'm really, really happy to welcome one of my ministerial assistants, James Infante, who is visiting us with his partner in the gallery. He has also worked for the Minister of Poverty Reduction and for Tourism, Arts and Culture.

I really want to welcome his partner, Tim Lam, who is visiting and joining question period for the first time. He's also a young professional from Vancouver. I hope that he'll become James's future husband.

Let's make them very, very welcome.

Hon. C. James: Matchmaking right here in the Legislature.

[1:40 p.m.]

Joining us in the gallery later this afternoon will be a grade 4-5 class taught by Kirsten Brookes from Strawberry Vale Elementary, a school in the member for Saanich South's riding. I'm told this is a very curious group of students, very inquisitive, some of whom are children of the Ministry of Finance staff. They're here today as part of their field trip to learn more about provincial politics. They learned about the federal system around their own mock election. So they're here today to be able to observe the provincial process in action.

I hope the House will join me in welcoming them.

Hon. G. Heyman: I have the pleasure to introduce a number of guests in the gallery today. Joining us from the Canadian Parks and Wilderness Society are Victoria Ball and Savannah Eidse. Also with them from CPAWS is Kate MacMillan. Kate is the provincial ocean and coastal coordinator for CPAWS. Along with her is colleague Georgia Lloyd-Smith from West Coast Environmental Law.

We had a very good meeting earlier today to talk about their ideas for a new coastal protection strategy, along with the Parliamentary Secretary for the Environment and a number of staff from the ministry.

Also, a very, very special guest here today is Emma Atwell. Emma is a grade 9 student at Mount Douglas Secondary School in Saanich. She's currently enrolled in their challenge program for academically advanced students. She's a member of her school's Model United Nations club and is a keen public speaker.

She also has been inspired by the attention brought to the climate crisis by Greta Thunberg. She's currently working to create strategies for a more sustainable future in this province for herself and for her generation. By attending today, Emma is hoping to learn more about how decisions are made that will impact her and people her age. Later today

we're going to spend some time together, have a meeting and talk about what she has learned and what she hopes to see.

Will the House please make all of the guests very, very welcome.

Hon. M. Farnworth: In the gallery is a constituent of mine. She's a remarkable individual. She's a psychiatric nurse. Her name is Christina Gower. She was the federal candidate for the NDP in the riding of Coquitlam–Port Coquitlam, where she did an amazing job. I would like for the House to make her most welcome for her first time to see the Legislature in action.

Hon. L. Popham: We have two special visitors in the House today. First off, the love of my life, Dr. Rob Sealey. He lives his life under the slogan: "Laughter is the best medicine."

You bring a smile to my face every day. Thank you.

And his brother. His brother is visiting from Saskatoon, Saskatchewan. Donald Sealey is here to join his brother at a concert tonight, Roger Hodgson at the Royal Theatre.

Welcome to Victoria.

A. Kang: I have some really wonderful friends here in the gallery today. Inspirational leaders of the Ismaili community. I want to take this opportunity to thank them for the work that they do in giving back. Through conversations over lunch today, I understand that their inspiration is a form of self-enlightenment and self-fulfilment.

I want to introduce a few members that are here with us today. It's the chair of the Aga Khan Health Board for B.C., Dr. Farah Valimohamed; the chair of the Aga Khan Economic Planning Board for B.C., Shaez Allidina; the chair of the Aga Khan Youth and Sports Board for B.C. and also my constituent, Samir Javer; and a member for Institutional Development Volunteers in Safety and Security, Amaan-Ali Fazal.

Would the House please make my friends feel very welcome.

J. Sims: It's my pleasure today to also welcome into this House members of the Ismaili community who sort of live the Shia values. I know for them — and this is a subject very dear to my heart, as all of you know — education and learning are what drives them. I really do appreciate the work they do to build strong communities and to build understanding across groups and also to support healthy communities.

With us today, we have the vice-chair for settlement, Anjum Dossa; member for care for the elderly, Anisha Virani; multi-generational housing, Rahim Talib; equality of life representative, Farzana Kherani; conciliation and arbitration board, Karim Fatehali Lalji.

[1:45 p.m.]

Of course, I noticed another name that I'm going to add to this list, which is Rabiya Merani, who is the administrative officer and who happens to live in my riding.

Welcome to this House.

J. Routledge: I would like to join my colleagues in welcoming the delegation from the Ismaili community and thank them for their strong commitment to community. Specifically, I'd like you to join me in welcoming convener, government relations B.C., Khaled Shariff; honorary secretary, community relations B.C., Tahira Manji; lead, government relations B.C., Imran Hemani; and convener, government relations national, Aiya Mohamed. Please join me in welcoming them.

G. Kyllo: I'm joined by three very special guests today. The first is my high school sweetheart, my lovely wife, Georgina — 31 years of marriage. Would the House please make Georgina feel very welcome.

Also, I have the pleasure of having my parents, Knut and Marianne Thomsen, from Sicamous joining us. We spent the weekend touring around the province's capital. We had an opportunity to go to Government House and Craigdarroch Castle, took in the *Great Bear Rainforest* movie. I think the highlight of my mom's trip was, certainly, having lunch last week with Keith Baldrey, who was an amazing host.

Would the House please make my parents feel very welcome.

R. Chouhan: It gives me great pleasure to continue with the introductions of our friends from the Ismaili Centre, the Ismaili Council for British Columbia. With us today are the president, Samir Manji; hon. secretary, Aleem Teja; member of community relations, Farouq Manji; and the chair of the Aga Khan Education Board of B.C., Farah Babul. Please join me and give them a very warm welcome.

Statements
(Standing Order 25B)

DAYS OF ACTIVISM AGAINST GENDER-BASED VIOLENCE

M. Dean: Everyone deserves to live a life free of the threat of violence. In B.C., there are over 1,000 physical or sexual assaults against women every week. Indigenous, racialized, transgender and LGBTQ2S+ people are even more likely to be targeted. Too many women, transgender and non-binary people are hurt or killed because of their gender. We must eliminate this preventable trauma.

Starting today, the 16 Days of Activism Against Gender-Based Violence is an annual international campaign that runs from the International Day for the Elimination of Violence Against Women to December 10, Human Rights Day. Canadians also recognize December 6 as National Day of Remembrance and Action on Violence Against Women. This date was chosen to commemorate the lives of the 14 women killed in the Montreal massacre at École Polytechnique on December 6, 1989. The massacre was an explicitly misogynistic attack, with the killer separating men and

women and screaming, "I hate feminists," as he committed his murders.

Violence is also a threat in homes. Today we announced 11 more projects to build transition housing and second-stage housing for women and their children breaking away from violence. We know it is long overdue. We heard about Patricia this morning, who had accessed the safe transition house in Duncan but had to leave and couldn't find safe housing. She killed herself. Our new projects will provide refuge for people like Patricia in the future.

We all have a responsibility, and we all need to work together to end gender-based violence. Please join me, not just for these 16 days but for every day ahead.

VIOLENCE AGAINST WOMEN AND SEXUAL ASSAULT SERVICES

J. Thornthwaite: Today I rise with women around the world to commemorate the International Day for the Elimination of Violence Against Women, an important landmark to recognize the enormous amount of work that still needs to be done to combat the tragic epidemic of physical and sexual violence occurring in British Columbia and all over the world every minute of every day.

[1:50 p.m.]

One in three women and girls will experience physical or sexual violence in their lifetime, most frequently by an intimate partner. In British Columbia, one in five women will be sexually assaulted during their time attending post-secondary, a statistic that has not changed for over 30 years.

We simply cannot stand for these statistics to continue. We live in a rape culture. We don't have enough services for victims and survivors of sexual assault. On the North Shore, if a woman arrives at Lions Gate Hospital after being raped, she is turned away and told to go to VGH at her own expense. There are no services to help her at Lions Gate Hospital. And it gets worse. Only 20 of the 100 hospitals in B.C. have trained and ready sexual assault services, just 20 provincewide.

Plus, training for every profession that comes in contact with a victim is key to ensuring that we are not revictimizing women with a second rape. All health care providers, police, lawyers and judges need training in trauma-informed care to properly support victims. I recommend that everybody in this House watch *Unbelievable* on Netflix.

Women and girls need more from us. I ask this House to stand with me for the survivors of physical and sexual assault. Each and every one of us, women and men, can help make British Columbia safer in standing up against violence against women and girls.

MULTICULTURALISM

A. Kang: Last week in the B.C. Legislature was B.C. Multiculturalism Week, which celebrates the incredible diversity we are lucky to have here in our province. It was an opportunity for us to think about how we can all contribute to the greater understanding, respect and appreciation for everyone in B.C. For me, that starts with connection — connection to the history of B.C., to our individual heritages and with each other.

I'm grateful to live and work on the territories of Indigenous peoples who have lived on these lands for thousands of years. I acknowledge and respect their diverse culture and deep connections to the land. Together with Indigenous peoples, our government continues the journey forward on reconciliation to make life better for everyone in B.C.

It is also amazing to be part of a cultural mosaic that is home to people who trace their origins to all corners of the world. As a first-generation Canadian, I realize it takes courage. It takes courage for people to leave their homeland behind and to search for new opportunities and a better life for their families.

This year, for Multiculturalism Week, I encouraged everyone in B.C. to find ways to learn about and build connections with people from cultures and backgrounds different from their own. Personally, I find it fascinating to learn about histories, traditions, perspectives and ways of life that are different from my own. As B.C.'s newly appointed Parliamentary Secretary for Multiculturalism, I'm committed to doing everything that I can to uphold and protect B.C.'s cultural diversity. When I think about the future, I am filled with hope that our children will grow up in a world where everyone feels valued and respected.

I thank all members of the House for joining me last week, celebrating Multiculturalism Week in B.C. As we stand together to create a province that is open, welcoming and inclusive, I want to thank everyone for helping to create a racism- and hate-free province.

HAMPERVILLE CHRISTMAS PROGRAM

M. Stilwell: Every holiday season I'm reminded of the immense generosity and compassion of people in my community of Parksville-Qualicum — schools, community organizations, businesses, first responders and general members of the public who help to gather food, toys and clothes for those most in need.

A wonderful example of this is Nanaimo's Hamperville Christmas program by the Salvation Army and the Nanaimo Loaves and Fishes Community Food Bank. The two organizations joined forces more than a decade ago, understanding that they could do more together to address the community's need for food over the holidays. They, along with dozens of volunteers, distribute food over the month of December to those who've registered for help. Clients can stock their hampers with turkey or a gift card for meat, non-perishable items, bread, eggs, dairy, vegetables and fruits.

[1:55 p.m.]

For several years, I've had the pleasure of volunteering with the program. It is such a heartwarming experience to see boxes upon boxes of donated food for people to choose

from — and the impact of their generosity. The experience is also a reminder that there are many reasons why people seek help from food banks and that the need isn't always visible. It could be a young family struggling to make ends meet, a person suddenly laid off from work or a senior just trying to stretch her pension.

Last year $500,000 worth of food was collected, and over 5,000 people were served. The need is anticipated to be the same this season. As of last Tuesday, 1,279 households, representing 2,892 people, had registered for a hamper. There is still time to donate non-perishable food or cash or even volunteer with the program.

I want to thank Peter Sinclair, Loaves and Fishes executive director, and his wonderful team, as well as the staff at the Nanaimo Salvation Army — including Maj. Robin Burrows, Maj. Yvonne Burrows and Leah Howroyd — for the work and dedication in making sure that families have access to food this holiday season. It's an important program and a great example of the spirit of giving.

BERNICE GEHRING

B. D'Eith: Today I stand, and also would like to represent the member for Maple Ridge–Pitt Meadows, to honour the memory of someone who dedicated her life to improving Maple Ridge. Sadly, Bernice Gehring passed away this month at the age of 82. One of our mutual friends, Coun. Craig Speirs, a past councillor, put it best: "She put history into action, a host in every sense of the word and someone who would always show up to do the work." So true.

Bernice was a trained nurse and served as vice-president of the B.C. Licensed Practical Nurses Association and a representative for the Hospital Employees Union. She also served as a Maple Ridge city councillor and was very active as a volunteer for many political campaigns, including my own.

In 1973, Bernice and her husband, Don, began an eight-year journey to transform a building that was built in 1911 into the beloved Billy Miner Pub. They lived upstairs in the suite above the pub for many years before selling the pub. The Billy has since been protected as a heritage building. In fact, it's among the last structures on River Road remaining from the pioneer era. This pub continues to be a vibrant staple of social life in Maple Ridge.

Through her tireless dedication to the community, Bernice took a potential demolition and transformed it into a vital gathering place. On a personal note, the pub also sustains two of my sons right now, who work there to pursue their careers in the music industry. For her efforts to save the Billy, Bernice was awarded the Queen's Diamond Jubilee Medal in 2012.

Now, beyond politics and the historical pub, Bernice had a true passion for giving back to Maple Ridge. Her desire to build community went far beyond the walls of the Billy Miner Pub. She was a volunteer for over 45 years, working in countless causes. She was a chair of the Haney Farmers Market. She would often give walking tours of Hammond, and everyone who had the luck to meet Bernice would tell you of her legendary hospitality and generosity.

Bernice was an inspiration, someone who always thought about the greater good. Her drive to strengthen Maple Ridge and preserve its history has left a positive mark on our community forever. She and her contributions to Maple Ridge will be sorely missed.

I wish Don and her family the best in this difficult time.

MAUREEN HAFSTEIN AND DEEP BRAIN STIMULATION SURGERY

G. Kyllo: I rise in the House today to speak about a remarkable, inspiring woman in my community, Maureen Hafstein. I knew Maureen as my daughter's teacher. For years, she taught at Eagle River Secondary in Sicamous, pouring her time and energy into being an exemplary educator and raising up the next generation.

However, 12 years ago her life was changed when she was diagnosed with Parkinson's disease. A few years ago she learned about deep brain stimulation, DBS, a medical procedure that has proven to have incredible results for Parkinson's patients. This procedure is most effective as soon after one's diagnosis as possible. The problem is, in B.C., the wait-list for this procedure could range from two to five years.

Always an advocate, Maureen came to me with this information, concerned not just for her own well-being but for all those around the province who could benefit from DBS surgery but are missing the opportunity due to long wait-list times. She took the lead, and we worked together to reach out to the Ministry of Health about this issue. Thanks to her hard work and dedication and her efforts to raise awareness, access to DBS in B.C. has been dramatically improved.

[2:00 p.m.]

This September Maureen finally had the surgery for which she's been waiting for years and this month started a series of follow-up appointments to learn how to make adjustments to help improve control of her symptoms.

I want to take this opportunity to wish Maureen well with her treatment but also to thank her for all that she has done, both in her own community as an educator and for the province as a whole through her tireless advocacy. Her work has led to increased funding for DBS surgery, providing improvements in the quality for so many individuals who live with Parkinson's disease.

Thank you, Maureen, for all of your efforts and for being such a positive and inspiring example for all of us.

Oral Questions

LABOUR DISPUTE IN TRANSIT SYSTEM

A. Wilkinson: This past weekend union bosses made no secret of the fact that they bankrolled the NDP convention through the loophole of advertising. Meanwhile, the Premier

is nowhere to be seen on the strikes that are now bedevilling British Columbia: 145 days in the forest sector, 19 days at UNBC and now an impending massive work shutdown in the Lower Mainland that will leave 1.4 million people waiting for a ride. The Premier, on all of these files, has done nothing.

Commuters are about to get dragged into the fourth week of the transit slowdown. It's about to get a whole lot worse for the more than one million people who will be left standing by the roadside wondering, "Where is the government of British Columbia?" and, more pertinently, "Why do we have a Minister of Labour?"

Will the Premier do something about the transit strike?

Hon. J. Horgan: I'm grateful that the Leader of the Opposition was spending some time contemplating the activities at our policy convention this weekend, where we passed a range of positive policies that are going to make life better for British Columbians. I'd go through that list with the member, but I know we've only got a half an hour.

What I'll do instead is….

Interjections.

Mr. Speaker: Members.

Hon. J. Horgan: With respect to the issues about transit in the Lower Mainland, I'm heartened to hear today that the parties are back at the table. Negotiations continue with respect to bus drivers in the Lower Mainland, and also, mediation is in play with respect to SkyTrain. Free collective bargaining requires people to sit at a table and get things done. That's exactly what's going on right now, this minute.

Mr. Speaker: The Leader of the Official Opposition on a supplemental.

A. Wilkinson: Well, that's cold comfort to the people who are waiting for their care to arrive when they live in their own home and require caregivers to come and visit them. We heard on the radio this morning that there are 10,000 people in that situation in the Lower Mainland.

The organizer for that in-home care said that they expect the care service to go down from daily to every third day because the caregivers just can't get there without transit. This is a very real, human aspect that is going to leave seniors lying in bed helpless because this government can't be bothered to even appoint a mediator in the transit strike. This is coming home in a big way, with real stories about real people, not some illusory idea of the bargaining table.

Premier, it's time to focus on humanity, on people, on real lives, and save people the grief of a transit strike. Why can't this government appoint a mediator?

Interjections.

Mr. Speaker: Members.

Hon. J. Horgan: Perhaps the Leader of the Opposition didn't hear my answer to his last question. There is a mediator in play with respect to the SkyTrain bargaining that's underway. The parties that….

Interjection.

Hon. J. Horgan: "Nothing's changed." I'll have to remind the member that nothing has changed on that side of the House. If you had made investments in transit in the 16 years you had to do that, we wouldn't have those challenges. But any conversion, no matter how late, to the importance of public transit is a conversion well worth waiting for.

Interjections.

Mr. Speaker: Members.

Hon. J. Horgan: As I said in my first question…. Apparently, they don't want to hear it again, but I'll repeat it.

Interjections.

Mr. Speaker: Members.

Hon. J. Horgan: The parties are back at the table. We all know that the best agreements happen through free collective bargaining. It's happening right now. Again, I appreciate that the members on that side don't understand. Labour, to them, is just ripping up contracts.

[2:05 p.m.]

J. Thornthwaite: The North Shore has been affected by this transit strike for now over three weeks, with the SeaBus. Now we are possibly going to have a full-blown strike that will actually negatively affect everybody on the North Shore. Commuters, small businesses, seniors, people with disabilities are going to be hit the hardest.

Meanwhile, we have a parliamentary secretary responsible for transit who just happens to be the member for North Vancouver–Lonsdale, and I haven't heard one word of support for her constituents during this strike.

My question is to the Premier. Can you guarantee that this strike will not happen on Wednesday?

Interjections.

Mr. Speaker: Members.

Hon. H. Bains: It always is stressful, when so many people rely on public transit, when they see there's a disruption. No one likes to see disruption in our public transportation system.

More and more people rely on public transportation.

That's why I have been encouraging both parties to get back to the bargaining table. That's where the deal will be made. That's where the problem, the issues will be solved. That's where they can negotiate and come up with solutions to the issues in dispute.

Both the company and the union know their responsibility to the people that they serve. That's why they have agreed to get back to the bargaining table. The best agreement comes when it's negotiated between the two parties rather than when it's imposed by somebody.

Mr. Speaker: The member for North Vancouver–Seymour on a supplemental.

J. Thornthwaite: A full, systemwide shutdown is pending this Wednesday, with no SeaBus, no buses, nothing. Does the parliamentary secretary for transit, as well as the minister — who thinks mediation is a stupid idea, I might add…? When are they going to make sure that the disruptions that have already occurred with the SeaBus on the North Shore will cease to exist before Wednesday's proposed shutdown?

Hon. H. Bains: You know, one thing is very clear. They have learned nothing in two and a half years sitting on that side when it comes to labour relations. We are going to take no lessons from them when it comes to collective bargaining or labour relations in this province.

Interjections.

Mr. Speaker: Members.

Hon. H. Bains: In everything that they touched in 16 years, when it comes to labour relations, they created a bigger mess than the problem itself.

We respect collective agreements. We respect free collective bargaining. That is happening right now. Both parties are at the table. That's where the agreement will be reached.

QUALIFICATIONS FOR SOCIAL WORKERS IN CHILDREN AND FAMILY DEVELOPMENT MINISTRY

S. Furstenau: On January 31 of this year, the government announced changes to the social workers working in the Ministry of Children and Family Development. No longer are social workers in MCFD required to have a social work degree.

I understand that this ministry faces a challenge in recruiting social workers. It is difficult work. Social workers in the ministry are often faced with unsustainable workload pressures, a highly emotional and draining work setting, and burnout is high. Surely, lowering standards for such vital work is not the answer. We have a doctor shortage, but I don't hear anyone advocating that the answer just lies in hiring more people with basic first-aid skills.

My question is to the Minister of Children and Family Development. Given the vital nature of the work that social workers do and the significant powers that they have, why is it appropriate to lower the professional standards for social workers working in her ministry?

[2:10 p.m.]

Hon. K. Conroy: I want to thank the member for the question. I'm always really happy to acknowledge the incredible staff that we have working for the Ministry of Children and Family.

I agree. I believe that our front-line workers have some of the toughest jobs to do in this province, and they work incredibly hard every day to support the families and the children that they protect.

I share the member's commitment to maintaining the high standards and professionalism of our ministry workers right across B.C. I believe that the member will also agree that many types of knowledge and lived experiences have value and importance, particularly when it comes to front-line work with children and families, and how important it is that ministry staff in B.C. reflect the diversity of the communities that they serve.

That's why we made the changes earlier this year to the credentials and education criteria for front-line workers — not to lower it but to ensure that the changes we have made open the door for people from a greater diversity of backgrounds to apply for front-line positions for the ministry. It also enables us to open the door to a greater diversity of candidates, which is particularly important in Indigenous communities and other areas where recruitment has been difficult.

Mr. Speaker: The House Leader of the Third Party on a supplemental.

S. Furstenau: I'd like to delve into this a little bit. I'll start with a quote from the BCGEU, which says: "Expanding the range of professionals working with children and families is one thing, but replacing highly educated and trained social workers with alternative professions is an entirely different matter."

Also, the B.C. Association of Social Workers has made it clear what their views are, requesting clear protection of title, mandatory registration of social workers with the college, statutory scope of practice and accredited social work education.

The complex nature of child protection in social work, which includes the ability to enter a home without warrant, requires highly educated and skilled professionals. The lowering of standards is arguably a step backwards to the goal of serving B.C.'s children and families.

Rather than lowering the standards, why are the minister and this government not focusing on investing in education and creating opportunities to encourage and allow more people, especially Indigenous people, to earn social work

degrees so that they can practise to the professional standard that all of us would expect when it comes to the protection of children in this province?

Hon. K. Conroy: I want to correct the member. We are not lowering standards. The assessment process remains the same. Applicants are still required to meet the same competencies and must demonstrate equivalent skills and experience before they are even hired. Once hired, employees have to take additional training that covers interviewing kids who have been either physically or sexually abused, preparing kids to go to court and other aspects that aren't covered by degree programs.

On-the-job training is under direct supervision of an experienced social worker and a supervisor, and employees also have to complete a six-month probation period that tests the classroom teaching in the real world. Our front-line social workers have a really important job to do, and they continue to be held at rigorous standards.

We've also created a working group, a social worker program officer working group, with stakeholders such as the B.C. Association of Social Workers, the B.C. College of Social Workers, the B.C. Government Employees Union and representatives from post-secondary institutions right across the province. The working group has already met a number of times. They're developing terms of reference, and they're working together to jointly explore the strategies for recruitment and retention of social program officers.

I think it's important to note that I myself and other social workers — senior social workers, people that work in the ministry — go out across the province and talk to people that are going to school, that are learning in the classrooms to become social workers, about what an incredibly important job this is — how important it is to the children and kids in this province and the families in this province who need the supports they need. We go in and talk to them about what an incredible job it is.

I'm happy to say that we are recruiting more social workers and, at the same time, making sure that the kids in the province that need these services are getting them.

[2:15 p.m.]

LABOUR DISPUTE AT UNIVERSITY OF NORTHERN B.C.

S. Bond: My community is frustrated and worried about the ongoing strike at UNBC. Every single day that it continues the risks of students losing a semester grows. This is what Madison McCann and three of her fellow first-year students wrote to the Minister of Advanced Education: "This situation has left us both frustrated and completely turned off from advanced education. Our entire semester, quite possibly even our entire year, is in jeopardy."

In the Lower Mainland, soon some students won't be able to get to their classes. In my community, our students can't get to their classes because there are none.

The Minister of Advanced Education has been completely silent. Will she stand up today and tell Madison and all of those students who have written to her exactly what she has done to ensure that these students do not lose a semester of their education?

Hon. M. Mark: I appreciate finally getting a question from the official opposition about education. It took 28 months and 19 days.

Interjections.

Mr. Speaker: Members. Members.

Hon. M. Mark: I became the minister in July 2017. As soon as I became minister, the first thing that I did was visit all 25 public post-secondary institutions in 21 days. UNBC was one of them.

From day one, I've been taking action to invest in students. I have received the emails from the parents and the students and the faculty that care deeply about UNBC. But make no mistake. The official opposition are fearmongering. They're creating this story.

Interjections.

Mr. Speaker: Members. Members, please allow the minister to answer the question.

Hon. M. Mark: They're creating a narrative that is not true. The parties were bargaining over the weekend. The parties are negotiating. That is a part of a free and collective bargaining process. I respect the fact that the member opposite wants to create this narrative that I don't care about UNBC. I've been there six times investing in students — six times — and the member opposite was there because we invited her to celebrate how important UNBC is to the north.

Interjections.

Mr. Speaker: Members. Members.

The member for Prince George–Valemount on a supplemental.

S. Bond: Well, let's be clear. This discussion is not about how the minister feels or about her reputation. This is about getting students back in their classrooms. She's been absent. We asked questions last week, and just because she doesn't get up, it doesn't mean the questions weren't asked.

Let's be clear. This government and this Labour Minister have tools that can assist in the bargaining process. He just won't get up and use them. Meanwhile, every day more and more students are writing to this minister and writing to this Premier and saying: "Do something."

Let's listen to another one. Just this morning I got

another email from a student saying she would not be able to finish her application to veterinary school. Why? It's because the transcripts won't be ready because the semester won't be finished.

The minister can stand in this House and deflect all she wants. She needs to get up, do something and help resolve this issue today. Let's hear her answer on what she's actually done.

Hon. M. Mark: I appreciate the question. There are a few layers to that.

[2:20 p.m.]

First of all, our government respects the bargaining process, and the parties were at the table this weekend. I am getting updates regularly about the negotiating process. They are going to reach an agreement. I expect the parties to set aside their differences and reach an agreement for the best interests of UNBC and for the entire community.

While I have a chance to stand up and talk about a government that actually cares about post-secondary education…. Where were they? The first thing we did when we formed government was…

Interjections.

Mr. Speaker: Members.

Hon. M. Mark: …we brought back free adult basic education. They cut it. They turned their backs.

If they want to talk about UNBC…. UNBC now has, for the first time, a civil and environmental engineering program in their backyard — for the first time. As a point of fact, the member opposite had every chance to deliver when she was in government, and she failed.

You know what? I will do everything I can to invest in UNBC. At this moment in time, let's get the parties to the table to get a good agreement, a fair agreement for UNBC.

Interjections.

Mr. Speaker: Members.

COASTAL FOREST INDUSTRY CONDITIONS AND LABOUR DISPUTE

J. Rustad: That was an incredible example of a minister who doesn't care about the future of children. That's really shameful. Students are losing their courses. That is just unacceptable.

I tell you. There's another thing going on that is unacceptable right now. Mosaic Forest Management just sent 2,000 forest workers home today, along with the strike with the USW and Western Forest Products that's gone on now for five months, with another 3,000 workers out in the cold and thousands more being impacted on the Island.

The mayor of Port McNeill says: "It's killing our communities, and it's heartbreaking to see what it's doing to the people. We are struggling and reaching the point where it is going to be very difficult to come back from."

The Premier has done nothing. The Forests Minister is doing nothing. When will this government take the coastal industry seriously and start providing some help to the struggling families and communities?

Hon. D. Donaldson: Well, Mosaic. I was disappointed to hear that they curtailed operations due to current market conditions. That was their reasoning. Our hearts go out to the contractors and employees that have worked through Mosaic for their livelihoods. We have been in touch with Mosaic to ensure that they know about the supports that are available through our retraining programs offered through the ministry and through the Advanced Education ministry for forest workers undergoing these kinds of changes.

We also know that with Western Forest Products, the collective bargaining process is underway at the bargaining table. Both sides have taken it upon themselves to engage a private negotiator, Vince Ready, to try to settle the differences between the two parties.

In the meantime, it's incumbent upon us as a government to look to the long term and to make sure that when these labour disruptions are over and when market conditions are better, there is wood available. We're driving domestic logs to domestic production on the coast and on the Island with our policies, and we're also making sure that fibre is more available coming out of the woods for more value-added.

That's the future of the industry. That's the future we want to see for rural and coastal communities when it comes to forestry.

Mr. Speaker: Nechako Lakes on a supplemental.

J. Rustad: The reality is that this government's policies are driving the coastal forest industry into the ground. There won't be anybody left to be able to log, at this pace.

I travelled up the Island, and I spoke with people being impacted, seeing the homes up for sale, vehicles being repossessed. Food banks and other service providers are stretched to the limit, not being able to keep up. Families are leaving these small communities, never to return.

[2:25 p.m.]

Jessica McLaughlin of the Port McNeill Chamber of Commerce said this: "It's not people trying to fearmonger. It's a reality of what is happening in our town right now."

Enough is enough. This coastal forest industry needs help, and the Premier needs to show some leadership. Step in, use the tools you have, and help resolve this dispute. Will you take action?

Hon. D. Donaldson: We on this side are a government that puts people and communities first, unlike the previous government, which put the people at the top first.

The member talked about realities. Well, let's talk about

some realities. Between 2003 and 2017, on the coast, log exports increased by 155 percent. Let's talk about another reality. Between 2003 and 2017, lumber production decreased on the coast by 45 percent. Let's talk about another reality. Between 2003 and 2017, jobs in the coastal forest sector decreased by 40 percent.

That was under their watch. That's not going to happen under our watch because we care about rural communities.

GOVERNMENT RESPONSE TO LABOUR DISPUTES

M. de Jong: Hundreds of thousands of commuters are wondering how they're going to get to work or school in the face of labour disruptions. University students are worried they are on the verge of losing an entire term because of strike action. As we've just heard, things just get worse and worse in the forest sector. What has the government's response been? Silence. Absolute silence.

Well, silence until this weekend, actually, when the Premier and his colleagues were thanking the who's who of the big-union bosses for their generous advertising support at the NDP convention. The BCGEU, CUPE, HEU, B.C. Building Trades were all there. They were all there supporting the NDP with their advertising dollars.

How can British Columbians have any confidence that the NDP government will fulfil their duty to protect the public interest when they are so clearly beholden to big labour and won't even appoint a mediator without the approval of the big-union bosses?

Hon. H. Bains: We watched this government when they were in action for 16 years. They hate workers. They hate the unions who represent them.

We respect workers. We value the work that they do. That's why….

Interjections.

Mr. Speaker: Members.

Hon. H. Bains: That's why one of the first actions of this government was…. Because they were beholden to their donors and their friends in high places, we got rid of the big money from politics. That was one of the first actions we did.

Interjections.

Mr. Speaker: Members.

Interjections.

Mr. Speaker: Members, we risk not having an opportunity for a supplemental by the member for Abbotsford West.

Minister.

Hon. H. Bains: There is a litany of their half-baked ideas that never worked in those 16 years when it came to labour relations.

Let's talk about teachers. They tore up….

Interjections.

Hon. H. Bains: Obviously, the truth hurts. They don't want to hear it.

Interjections.

Mr. Speaker: Members, please allow the minister to answer the question.

[2:30 p.m.]

Hon. H. Bains: They tore up their collective agreements. That was followed by 14 years of litigation, all the way to the Supreme Court of Canada. The Supreme Court of Canada had to tell them that their actions were illegal and to go fix it.

Their hate for workers is the result that…. People right now are frustrated. They're trying to make up for all the losses and the neglect and the ignorance by their side, the government when they were on this side. Now they are trying to say: "We need to get up, and we need to be respected again."

This is a government that respects those workers. We do respect free collective bargaining. We will not tear up a collective agreement that was legally negotiated between the parties.

Mr. Speaker: The member for Abbotsford West on a supplemental.

ADVERTISING BY UNIONS AT NDP CONVENTION

M. de Jong: Well, that was a remarkably incomprehensible answer, but it does actually lead to a supplemental.

How much in advertising dollars did the government, did the NDP, actually take from the union representatives that they're not supposed to be taking political donations from? The minister stands up and proclaims purity, and at the same time, we hear that these union bosses are handing over advertising dollars. Well, how much?

In the midst of negotiating their latest advertising contract, did the minister or the Premier ever get around to actually thinking about appointing a mediator so that the people that rely on buses to get to work will know that there will be buses running on Wednesday?

The Premier and his minister and his colleagues may think it's convenient to skirt the rules by re-designating donor dollars as advertising dollars, but what British Columbians expect is a government that takes their public responsibilities truly seriously and will ensure that they use the tools to make sure the buses are running and that kids are getting

to university and not losing out on an entire term because this minister and this government aren't doing their job.

Interjections.

Mr. Speaker: Members.

Hon. D. Eby: Now, the member is making some pretty serious accusations about the B.C. NDP. I can advise the member that the party says that they worked with Elections B.C. If the member has a complaint, he knows where to file it: with the independent office of Elections B.C.

[End of question period.]

Point of Order

Hon. J. Horgan: On a point of order, during question period, the member for Richmond-Steveston and the member for Vancouver-Quilchena used unparliamentary language, and I'm very confident they'll do the honourable thing and withdraw.

Petitions

N. Letnick: I rise to introduce a petition from 14,547 B.C. residents, mostly from the Rutland neighbourhood of Kelowna. The petitioners "request that the development at 130 McCurdy Road in Kelowna be ceased until public consultation occurs, perhaps looking into more suitable potential uses for the property."

M. Stilwell: I rise to present a petition asking for government to modernize the scope of practice for denturists to improve patient care, with modernization of services in the safest manner for the public.

J. Johal: I rise to present a petition signed by 6,600 British Columbians who support the use of class 5 driver's licences for people who wish to work for ride-hailing companies in British Columbia.

D. Davies: I rise today to introduce a petition of nearly 1,800 signatures for my constituents in the Red Creek subdivision, located just north of Fort St. John and areas around Fort St. John.

[2:35 p.m.]

I want to thank Jim Little, Andy Ackerman and Joyce Smith for the work they did on this.

This area is heavily used, year-round Crown land, by outdoor enthusiasts from Fort St. John and surrounding communities as well as all the local residents. Hiking, hunting, quadding, horseback riding, snowmobiling, cross-country skiing, bird watching and wildlife viewing, just to mention a few of the things that are enjoyed on the Crown lands.

The petition states that the TLE process is flawed, specifically in regards to adequate, meaningful consultation and transparency with landowners and stakeholders.

I'd also like to hand over to the minister of Indigenous Relations and Reconciliation 60 handwritten letters from residents and organizations also to talk about these issues.

J. Routledge: I rise to present a petition signed by 1,671 people who are asking for a ban of electric shock collars used on domestic pets in B.C. They feel very strongly that when humans willfully use shock collars on domestic pets, it is, for all intents and purposes, animal abuse. They believe shock collars need to be specifically named as such in the B.C. Prevention of Cruelty to Animals Act and that this would give clarity and humane direction to pet owners across British Columbia.

Reports from Committees

POLICE COMPLAINT PROCESS REVIEW COMMITTEE

R. Singh: I have the honour to present a report by the Special Committee to Review the Police Complaint Process.

I move that the report be taken as read and received.

Motion approved.

R. Singh: I ask leave of the House to move a motion to adopt the report.

Leave granted.

R. Singh: In moving adoption of the report, I would like to make some brief comments. As part of its review process, the committee engaged MNP LLP to conduct a compliance audit and a performance audit of the Office of the Police Complaint Commissioner and held a public consultation to seek input regarding improvements to the police complaint process. The input received informed the committee's 38 recommendations to increase the efficiency, effectiveness and accessibility of the process.

Continued confidence in the police complaint process is essential, and the committee's recommendations include measures to improve accountability, transparency and fairness. The report also includes a number of recommendations to streamline the police complaint process in appropriate circumstances.

On behalf of the committee members, I would like to thank the Office of the Police Complaint Commissioner and MNP LLP as well as the organizations and individuals who participated in the consultations.

I would like to thank all the committee members for their hard work and dedication throughout the process and, in particular, the Deputy Chair, the member for Prince George–Mackenzie.

Also, my sincere thank-you to Susan Sourial, Clerk of the

committee, and Lisa Hill, committee research analyst, for all their hard work in this process.

M. Morris: Again, I won't repeat the good words of the Chair here, but it was an enlightening exercise that we had. I would like to thank all the participants in making the presentations to the committee and my colleagues. The entire goal of this whole process was to make the exercise a lot more transparent than it has been. I think the members in the police community and the public will notice that that is definitely the case.

Mr. Speaker: The question is the adoption of the report.

Motion approved.

Orders of the Day

Hon. M. Farnworth: In this chamber, I call committee stage on Bill 45, the Taxation Statutes Amendment Act, 2019. In Section A, the Douglas Fir Room, I call continued committee on Bill 41, Declaration on the Rights of Indigenous Peoples Act, 2019.

[2:40 p.m.]

Committee of the Whole House

BILL 45 — TAXATION STATUTES AMENDMENT ACT, 2019

The House in Committee of the Whole (Section B) on Bill 45; R. Chouhan in the chair.

The committee met at 2:42 p.m.

On section 1.

Hon. C. James: I just want to introduce the staff who are with me, before we get into the discussion on the committee stage. I have Richard Purnell, executive director, and Keith Preston, who is strategic advisor, both from the tax policy branch.

S. Bond: I appreciate the opportunity to start working our way through this bill. I'd like to begin with some general questions. We'll ask them in section 1. They're more overarching to the policy issues, but we'll start with those. The minister has been very helpful in allowing us that in previous bills we've discussed.

This really goes to the sense of the definition of vaping devices and components. We want to be sure that the definition is broad enough to capture all of the parts. There are oils. There are accessories that go into vaping products.

Can the minister give us a sense of her comfort level, and perhaps be fairly explicit, about the components that are covered? We want to make sure it includes oils and accessories that go into vaping products. Can the minister give us a sense of her understanding of that definition?

[2:45 p.m.]

Hon. C. James: Yes, this is a critical piece. I think, as the member has pointed out, it's important, when we're looking at vaping, to make sure it's a broad-based definition. Really, we're talking about, as the member can see, through this section, all products. We're talking about all products that are related to the device as well as the products that are used in the device.

That would go as far as including chargers, for example, and cases. We have been broad-based in the approach that's here. It would include solid, liquid and gas products that are used in the vaping as well. It includes zero nicotine as well as nicotine. It includes both of those products, because I think, as the member knows and as we talked about in second reading, often those chemicals are mixed. It includes liquid cannabis, again, because cannabis is often mixed with other liquids which could cause health issues. So that's included as well. The vaping devices, for example, will include the pens, the pod systems, the vaporizers, the hookahs and the electronic cigarettes.

We've made the definitions broad enough to include, exactly as the member has pointed out, the need to make sure that we're capturing all of the vaping products.

S. Bond: Can the minister tell us, in the event that there is something that's been missed…? I mean, it sounds like a fairly comprehensive list, and we're appreciative of that — things like chargers, cases, all of those kinds of things. What remedy is there if there are other things that…? Having a broad-based definition is important. We don't want a list in legislation, because it means we have to add to it or take away from it. So in the event that the minister discovers other things that haven't been captured, how would that be rectified?

Hon. C. James: I think that this is an important point, because as was, again, discussed so well in second reading, marketers are very clever. They will look for opportunities to be able to go outside or to be able to find another product to be able to market to youth. So I think this is a really important piece. You will see in the section that there is the ability to add, in regulation, additional products that may come on the market that are similar — in other words, used for vaping. We have the ability to add those in as well.

S. Bond: Certainly, one of the things that I know…. I should point out that, obviously, we'll have a number of my colleagues involved in the debate this afternoon. So we'll try to signal where we're headed ahead of time, to which person.

That is an important piece for the minister to reflect on. How will that be monitored moving forward? I think that one of the things we're going to be looking for is effectiveness, monitoring, making sure we're on top of this. Not just

to introduce a bill. And then what? So how will there be an ongoing process to monitor, for example, to look at new products that might appear, people that are attempting to skirt? How will that be handled in the ministry? Who will be tasked with making sure they're keeping track of products or the component parts that are reflected in the definition?

[2:50 p.m.]

Hon. C. James: I think it's a good example of work across government, just as we talked about in the ten-point plan that's been put together on vaping. It's important after the legislation, if the legislation goes through, and after the plan is developed that we continue to have that close connection between ministries.

Certainly, the revenue branch and the tax policy branch will be doing monitoring. But I think just as important will be the connections that our branches will have with the Ministry of Education and the Ministry of Health. We expect that if new products start appearing, it will be probably education…. It could be schools, it could be parents reporting to schools, it could be Ministry of Health, community health nurses, etc., who may first notice those kind of things. So a very close connection between all of those ministries and all of those parties and people in communities.

There's also the opportunity for audits, as always happens and can happen as well. I expect the close connections between those ministries and between people on the ground will be the best opportunity to be able to spot if something tries to get around or is new on the market.

S. Bond: Just to pursue that a tiny bit further. Is there an ongoing working group, then, across ministries? It's easy to have joint accountability, which typically means no accountability. Is there an ongoing, focused working group that, now that the bill has been announced and is being debated here today, that those ministries…? The minister is correct. There does need to be cross-ministry work with Health and Education. They all have key components.

This definition can't simply be monitored by the people, from my perspective, in the Finance Ministry. So is there an ongoing, dedicated working group that is cross-ministry?

Hon. C. James: If the bill passes — we have to wait till the bill goes through the debate — certainly this is the beginning. I think, as the Minister of Health spoke to so well, as others did, in second reading, this is just starting. This ten-point plan is just being developed. Certainly, we'll take the member's suggestion into account. There are close contacts with the staff as well.

I think we'll be looking at all of the options to be able to get the information. It's critical for us, obviously, in the Ministry of Finance, but more importantly, it's critical to the ten-point plan. This is one piece of the plan. The other pieces have to be integrated, and it has to be done together.

S. Bond: Thank you for that. I know that throughout the course of our discussion and committee questions, we'll certainly be pressing for transparency and accountability. This is about a health issue. There are financial implications, obviously, and that's why we're here today. I thank the minister for those answers.

Let's move on to subsection (d) for a moment. When we look at subsection (d), it appears to exclude vaping devices from the products that qualify for a "small seller" designation. Can the minister confirm that or give us a better explanation?

[2:55 p.m.]

Hon. C. James: There is, within the tax rules, a small-seller rule. The small-seller rule means that if you have revenue that's not more than $10,000 and you don't have a business premises — so on line, eBay, where you're selling things — you don't have to collect the PST. This exempts vaping products from that small-seller rule. They will not be allowed to use that opportunity not to collect PST.

S. Bond: Rather than exempt or protect vaping products, this actually does the reverse? They will now be part of being held accountable for that, rather than the reverse.

Hon. C. James: Yes, that's correct. It closes a loophole, basically.

S. Bond: Thanks. That's a much more elegant way of saying it than I was coming up with.

Can the minister elaborate on how excluding…? When we look at…. Let's ask it this way. Will all sellers and resellers of vaping products pay the 20 percent tax?

Hon. C. James: Yes, they will all be required to collect it.

S. Bond: How does that work if, for example, we look at things like Craigslist or other things? I'm sure the minister has had a discussion with her ministry about that. How is that going to work? How do we manage and control behaviour that's, for example, on line and those kind of things? Let's face it. The more that we focus on what traditional sellers are doing, there are going to be all kinds of creative ways that people are going to try to avoid the 20 percent tax.

Can the minister give us some sense of what discussion has taken place around things like Craigslist, something on Craigslist?

Hon. C. James: I think the first piece that's important to note is that this issue isn't unique to vaping. The issue of online sales, the issue of collecting PST is not unique. There is experience and a group in the tax branch already, a revenue branch that looks at exactly these kinds of things. There is a team responsible already — unfortunately, sadly, needed for these kinds of things.

As we've talked about before in other bills, I won't describe all of the things that the auditors do, because that would take

away the point of having an audit and having an auditor go in. But they would be doing things like watching for ads. The team would be watching for ads on Craigslist or eBay or used-whatever, whichever community. That tracking could then give the opportunity for an audit to have to go in if they felt that there was something there. There is already a group responsible, and certainly, as I said, it's not unique to vaping. This would now be included as part of their responsibilities.

S. Bond: Does the minister anticipate any issues with capacity? When you think about now adding vaping…. I'm going to go on to talk a little bit about tobacco in a moment. But are there issues within the ministry in terms of the capacity to now monitor vaping along with all of the other things that those auditors and the audit team look at?

[3:00 p.m.]

Hon. C. James: Certainly, as we do each year, we take a look at sources. We look at staffing. We look at the need for support for every branch. We don't, at this point, foresee anything, but again, this is new. This is early. So that would certainly be a discussion that would be important each and every year. It would be to look at the revenue branch and to look at staffing.

I think the other piece that's important to note is that a lot of this work is also done through technology, and so there are, in fact, some efficiencies that happen with technology and being able to do audits and being able to do those kinds of searches. So there are opportunities there, but certainly, that's something that we take a look at each and every year.

T. Stone: I'll be weighing in here and there as we go through this committee stage. I appreciate the minister's willingness to answer questions from a number of our colleagues.

Just on this question of capacity and audits and so forth, the Minister of Health, in introducing the anti-youth-vaping action plan, indicated that one of the critical components of the plan is to require retailers to identify themselves to self-register. The Minister of Health had indicated that while no one knows for sure how many retailers there are out there, estimates suggest that there could be up to 90,000 retailers in all forms all over British Columbia currently selling vape products.

Of course, part of the action plan was to require self-reporting. There are some time frames that the minister alluded to in his remarks in terms of how much time. I believe it was three months. There was going to be a three-month phase-in period, where the retailers, by regulation, would be required to register with their local health authority. I'm not sure if those regulations have been prepared yet or if the Minister of Finance is familiar with them.

The question that relates to what we're talking about here today, I think, would be this. Whether the number is 90,000 or 50,000, it's a huge number. Granted, going forward, as part of the vape action plan, there will be a sort of differentiation between vape shops, which have a 19-year-or-older requirement for entry. They will be allowed to sell a much more reduced array of flavoured vape products — presumably after the weeding out of kid-friendly flavours has taken place. Then everybody else, your corner convenience store, would only be able to sell tobacco-flavoured. Well, no flavours or tobacco flavour would be the only flavour, I think, that's being contemplated.

Can the minister speak to what her sense is in terms of the timelines associated with the tax coming into place in January 1 and the requirement to begin paying the PST on sales, when there's a three-month clock, which I'm not sure has even started ticking yet, in terms of retailers actually having to self-disclose that they're actually selling vape products?

[3:05 p.m.]

Hon. C. James: I think, as the member points out, there are two different processes here. There's the tax process, which will happen January 1, and then there's the registration or licensing or whatever process that the Ministry of Health will end up with at the end. The Ministry of Health is working on that piece, so I won't jump into that. That's their piece that they're working on around that.

For us, on the tax system, the reason we're able to move on January 1 is that, as the member would imagine, most of the sellers will be existing sellers of items that have a PST on them. They will be required to update their systems. This will give them enough time to be able to update their systems with the new price and the new tax on vaping. But most sellers would have an existing structure in place for PST

T. Stone: I appreciate that. I suspect that the minister is probably correct for the vast majority, but again, we don't know whether we're talking about 50,000 or 90,000. I would agree that the vast majority are probably reputable operators that have systems in place, because they sell other products beyond just vaping products. But there are a tremendous number of specialty stores, specialty operators, in the vaping market that really just sell vape juice, and they sell vape devices and other paraphernalia related to vaping.

Again, I just want to understand, from a timeline perspective. The tax kicks in on January 1. I understand how the PST works in terms of remittance and so forth. This reporting requirement where we'll actually know how many — who's actually selling what and in what volumes and so forth — is likely to come into place not perfectly in tandem with January 1 but shortly thereafter.

What confidence does the minister have that there won't be a real challenge in a bunch of retailers getting caught between the two time frames, which will be potentially quite different? It might be different by a month; it might be different by a couple months. But this would require, I think, a fair bit of additional enforcement and audits and whatnot.

I'm just trying to understand what thinking might be in place to best manage this transition process. It probably would be all sorted out within about a six-month period.

But it might be a little bit bumpy in those first two or three months.

[3:10 p.m.]

Hon. C. James: I think the piece that's clearest is to, basically, look at the tax process. That's really where the Ministry of Finance is involved, which is to ensure that people are paying their correct rate of tax.

If this legislation goes through and if we move ahead with the 20 percent…. People now who are selling vaping products are collecting PST. They're already collecting the 7 percent of PST. By January 1, if it goes through, they'll have to start paying 20 percent.

We can begin our audits any time, because it's already in place. They already know they have to collect it. They already will have the new rate. They'll have notices. That information goes out, as any tax change when it happens, and people will have to collect it. Then we can begin the audits and we can begin the tracking.

Will that coordinate — I think, if I get the member's direction they're looking at — with the work that the Ministry of Health is doing around tracking to make sure that the right people are selling the right vaping products, because that will be the Ministry of Health's responsibility? We expect that, yes, there will be an opportunity for us to look at that kind of work together. But in the meantime, we begin our process, because our process is focused on the tax and the tax rate, while the Ministry of Health is developing the rest of the plan.

T. Stone: Then, if I'm to understand correctly, the expectation here — I guess, the law — would be that the tax has changed from 7 to 20 percent, with respect to the sale of vape products. So anyone who's actively engaged selling those products, whether they're selling them currently at 7 percent or not, would be required to sell them at 20 percent, irrespective of the registration requirement that the Ministry of Health will be — through regulation, presumably, in the coming weeks — imposing on the sector? Is that correct?

Hon. C. James: Yeah. I think the member has described the process well. I think the other piece that overlays that, of course, is that once regulations are passed through the Ministry of Health, then they also have the requirement, of course, to follow that law as well. So it's not simply that they get an opt out. They just get to pay their tax. They actually have to follow both laws, both the regulations that will be in place around selling and what they're allowed to sell as well as the increase in the tax.

T. Stone: Then can the minister speak to what the enforcement plan or auditing plan may look like for even just this initial period? Is there a significant ramp-up contemplated, recognizing that the vast majority of operators are not known, necessarily, to be selling vape products at the present time?

What level of enforcement does the minister have in mind in terms of this initial period, when, as the Minister of Health has suggested separately, there could be upwards of 90,000 points of sale for vape products across British Columbia? Surely the minister would recognize that there's an enforcement issue here that probably is more significant in the interim than it will be once things have smoothed out over time; once there has been this registration system put in place; and once we know who's actually selling what, where, when and in what volumes.

Certainly, there must be some contemplation to a more short-term enforcement and audit plan, recognizing just the nebulousness, if that's a word, of how many operators there actually are selling these products at the present time.

[3:15 p.m.]

Hon. C. James: I think, just going back to the issue of collecting PST and the challenge of collecting PST or ensuring people are paying the correct PST on their products, as I mentioned earlier, there is a team already responsible in the revenue branch for that work. That team will be responsible, again, for the vaping. Because of the new rate, they'll be responsible. There will be an audit team there so the team responsible can do the tracking.

As I mentioned, they already do this for other products to make sure if people are selling it on line, that there's some kind of tracking there. Will it capture everyone who might be selling vape products who haven't collected the PST or isn't doing that? I don't think there's any system that would be 100 percent foolproof, but certainly, the tax department, as I said, has this experience.

Once the registration, the system or the structure that's put in place through the Ministry of Health is in place, it gives us the opportunity then, obviously, to look at how, as I mentioned earlier, the coordination will happened between the ministries.

We think it will require Education, we think it will require Health, and we think it will require Finance together. They've had initial conversations, but as the process is developed through Health, they'll be working closely with Finance. We can look at: are there information-sharing requirements that need to be in place? Do we need to ensure that we have that ability? Will that then help us be able to get to people who aren't paying their PST that we weren't aware of, that haven't been claiming it — give us a chance to be able to do that follow-up? All that work is still to come.

T. Stone: My last question on this particular line of questioning, then, would be this.

In light of the fact that estimates suggest that there could be 90,000 points of sale out there — the minister, I think, is acknowledging that there could be a little bit of extra work in the front end of this and that not everyone is necessarily going to self-identify or be identified as selling these products and, therefore, be captured by the PST tax on the sale of those products — has the Ministry of Finance

increased the enforcement, the actual team that the minister just referred to, the men and women that work in that branch that do audits and enforcement? Has there actually been an increase in the number of positions in light of this particular file, this new tax, coming on line?

[3:20 p.m.]

If so, how many additional FTEs are we talking about that will be engaged in enforcement? If there isn't going to be an increase in the enforcement, as reflected through an increase in FTEs, then is it safe to presume that the focus of the existing team might shift from other areas of audits and enforcement, for a time being, to focus on at least the early days of what is a significant increase in the PST on vaping products?

Hon. C. James: As I mentioned, each year we go through that process within every ministry, and within the finance branch as well, to take a look at the audit team, to take a look at the workload, to take a look at what's coming in. It is possible, once this structure is in place and once we have the ten-point plan up and running — and the tax branch does this very well because they're used to doing this — that they will reallocate resources as they're needed.

I think people will remember, certainly, through the first application process for people with the speculation tax, additional staff were put in place to be able to help in that. So if additional staff and a focus are needed at the beginning, that will certainly happen. But this is also part of the budget process — taking a look at what resources will be needed.

I think that some of that, particularly for the education program…. Again, the Minister of Health will have more to say about this as he creates and develops the plan further. You know, those are going to be ever changing, I would expect. I would expect that we'll see resources going in. There will be other programs that want to be added. There'll be other school districts, perhaps, or other communities that want to be expanded.

I think this is new, as the member knows, and we'll ensure that the resources are there to make sure it's a fulsome program. We don't bring forward, and we haven't brought forward, a plan to simply put a plan in place and leave it alone on the paper. I think everybody said that in second reading on all sides of the House — how critical it was to make this work and that this is simply one step. The work actually starts after we have announced it and after it's been identified. The work then starts to really make sure that it's implemented well and moves ahead.

I know I said this, as well, in second reading, but I think the other piece that is important is that this is not a big revenue source for government. These are resources coming in to help pay for some of the additional supports that are going to be needed, some of the additional health care costs that are already being paid for, some of the additional pressures that are there when it comes to vaping — the quit products, all of those kinds of things. So the dollars that are needed will be part of that process and part of that discussion and part of the intent of making sure we implement this well.

S. Bond: We talked earlier about the exemption when it comes to small sales and dealing with that from a vaping perspective. Can the minister perhaps let us know how tobacco will be treated? Is there a change? Will it be treated in the same way that vaping is when it comes to small sellers?

Hon. C. James: There's no change in the tobacco. The small sellers doesn't apply now. They have their own piece of the act, and nothing changes with this.

S. Bond: Does the additional PST apply to tobacco-free vaping products? And if the minister can tell us why or why not that is the case.

Hon. C. James: Just to differentiate. If nicotine is in it or it's nicotine-free, all of those will be taxed as part of the vaping piece. If it's tobacco — actual tobacco, not tobacco flavouring — then it's under the Tobacco Tax Act.

[3:25 p.m.]

All vaping products, as I said, whether they're nicotine or nicotine-free, are included, and we went through the broad list included under the tax.

T. Stone: I just had a few questions with respect to the definition here of "e-substance." I understand…. I mean, it's pretty clearly laid out in terms of it being defined as meaning "a solid, liquid or gas" and then: "(a) that is designed for use in an e-vaping device, (b) that, on being heated, produces a vapour, and (c) that may or may not contain nicotine, but does not include…." There are a few more words there. I'm curious as to why the definition, considering it includes "may or may not contain nicotine," doesn't also include reference to flavours.

It has been identified by everyone — from Health Canada to the Surgeon General in the United States to jurisdiction after jurisdiction across North America — that the inherent health risk associated with vaping really boils down to two areas. One is, indeed, nicotine. This is a part of the action plan that the Minister of Health launched, which I was calling for as well. And I really think the minister got it right in terms of the intense focus on controlling nicotine concentration levels. So I understand, therefore, why "may or may not contain nicotine" is specifically teased out in this definition.

When everyone that I've just mentioned is also indicating in their next breath — no pun intended — that the flavouring that is very often contained in vape liquids is also increasingly proving to be of concern from a health perspective, why is there no contemplation of flavouring in this definition?

We know that the nicotine is what truly is addicting our youth who are getting hooked on this practice. But we know that the flavouring is often the entry point or the attractiveness — a big part of luring our youth into the practice in the first place.

Can the minister offer any thoughts as to why, again, nicotine would be contemplated here but there's not any ref-

erence whatsoever to flavouring? The minister and I canvassed this in second reading. I think we're all on the same page about the flavouring question, generally. Candy floss. I saw one yesterday — a crème brûlée flavour, which is ridiculous. But these are all intended to lure our youth into this dangerous, unhealthy practice.

[3:30 p.m.]

Hon. C. James: I think the best place to start is that the beginning point for this definition is the existing Tobacco and Vapour Products Control Act. The first place that you start in looking at an act is to look at where a previous or another definition would be. The definition is already there in the Tobacco and Vapour Products Control Act. What we certainly felt, and any of the advice we received, is that e-substance, meaning a solid, liquid or gas…. It doesn't mention flavouring. It doesn't not mention flavouring. Therefore, it will include all of it.

It doesn't define flavouring, which then someone might say they found another way of putting a flavour in. So from our perspective, we looked at the definition that was already there. It included the nicotine in the definition in the Tobacco and Vapour Products Control Act as well, which is why it's here. But we were advised, and we felt, it was broad enough to include, as the other act does, flavoured products.

[J. Isaacs in the chair.]

T. Stone: Fair enough. I do recall, however, as part of the general consensus that we all arrived at insofar as the need to build upon a foundation of regulation that was there from, I believe, 2016, which I think we unanimously passed in this House….

The minister was here. I was here. We've all since recognized that much of that good, well-intentioned foundation that was in place three years ago isn't currently meeting today's circumstances. Today's circumstances, in large part, relate to us finding ourselves in a place where we have tens of thousands of youth across the province who have been lured into this unhealthy practice, in large part because of flavouring.

Again, I hear the minister insofar as saying there was a definition that was there. I guess I just want to ask one more time here why we wouldn't be defining, or including as part of this definition of an e-substance, the flavouring.

Often the vape juice contains nicotine. Often it doesn't. Often there is a tremendous amount of vapour, by the way. I think, mark my words, we're going to get caught on this in years ahead, because increasingly, the amount of vapour that's being produced is getting less and less and less. They're suggesting that there may not actually be much vapour produced in the not-too-distant future with where the technology is going. In fact, anything that is produced would just be absorbed completely inside of your body. So would that fit the definition of e-substance here?

Maybe there are two parts to that question. Again, one more time on the flavouring: why wouldn't we have included some contemplation of flavouring here? Secondly, is the minister confident that this definition is going to stand the test of time over the next…? We know how quickly we've gone from A to Z just in the last 18 months, how dramatically the landscape has changed. Is she confident that this definition will be resilient enough to keep up with current trends in technology, particularly as related to vapour?

[3:35 p.m.]

Hon. C. James: I think it's an important discussion. Also, I think, as the member has pointed out in second reading, it was a main focus — and, certainly, a main focus of the ten-point plan as well — around how to regulate and how to get the flavouring and the ability to get flavouring limited as much as possible — or eliminated, hopefully. I think all of us would like to get to that place.

I think the key, though, with this definition is to look at how we mirror the Ministry of Health Act, because we also don't want someone to utilize those interpretations to use a loophole to find a way through. So I think because it is broad-based, talking about a solid, a liquid or a gas…. It doesn't say whether it's flavoured or not flavoured. Therefore, it's inclusive — includes all of them.

The member raised the issue of a second piece, which talks about "on being heated, produces a vapour." There's an additional piece which says: "…capable of vaporizing an e-substance for inhalation or release into the air." So that piece is, at least, taken care of. There's at least a recognition that there may be a challenge around new products, as the member points out. So that piece is actually included in there as well.

Then I think the last piece is…. I don't think anything is ever 100 percent. I think we've seen the technologies change so quickly that there's always the opportunity for people to look for ways around. We've certainly seen that with tobacco and now vaping and their opportunity to target.

We continue to have the ability, through regulation, to be able to add. So there are opportunities through the e-devices. For example, if new devices come up, if there are new ways that they try and hide some of the products that the member is talking about, there are opportunities to add those in regulation as well. It's more a matter of making sure that we don't provide a loophole for people with a different definition in the Ministry of Health Act than is in here and recognizing that the Ministry of Health definition was broad enough, so it was inclusive, not exclusive.

S. Cadieux: A PST notice went out recently from government that stated cannabis e-juice — cannabis in a liquid form designed for use in a vaping device — is a vaping substance for this act. Can the minister confirm that cannabis oils, then, are not included and taxed as e-substances under section (b)?

Hon. C. James: I think there are two pieces here. It has

to be liquid. That liquid could include oil, could have some oil. But the part 2 of that is it also has to be designed to be vaped. So those two pieces have to go together when it comes to cannabis. It's not the product that includes cannabis. It has to be liquid and has to be designed to be vaped, in whatever way to be vaped. Then it would be taxed at the higher level.

S. Cadieux: Why did government choose to tax cannabis e-juice under this section?

[3:40 p.m.]

Hon. C. James: Cannabis e-juice has the same kinds of risks as any kind of e-juice does. As has been pointed out so well by everyone who took part in this debate, no one really knows the substances found in e-juice, which are added in addition to cannabis or any other products they might be using. The glycerine — vegetable glycerine, propylene glycerine, all of those. There is more and more research that's pointing out that that may be part of the harmful product that people are vaping.

From the perspective of looking at harm and looking at young people, we felt it was important to be consistent about the vaping products and the challenges of vaping products for our youth.

S. Cadieux: Did the Minister of Health then advise that cannabis e-juices should be included in the taxation regime?

Hon. C. James: Discussions happened with all ministers across government.

S. Cadieux: The minister has previously stated the projected revenue overall for the tax measure, but how much of it is expected to come from cannabis sales?

Hon. C. James: We haven't broken it down. We expect it to be negligible, when it comes to the amount. As the member will know, there's not a lot of money coming in right now on the issue of cannabis and on PST. So we don't expect that that's going to be a huge piece of the revenue on this piece as well.

I do think it's important to note that this isn't a tax on cannabis; this is a tax on vaping. It's a tax on the juice, the liquids that are used for vaping. Some of those include cannabis. Some of them don't. So this isn't a cannabis tax. This is a tax on vaping products and all of the paraphernalia used for vaping.

S. Cadieux: Following up on that exactly, through June of 2019, B.C. only sold $19½ million worth of legal cannabis, according to Stats Canada, and that's on all the products. At a 7½ percent provincial tax rate, that would suggest that B.C. gained just around $1.5 million in revenue off those sales. Can the minister confirm what the total cannabis revenues were for fiscal 2018?

Hon. C. James: We can get the number around the federal excise tax and what the total was for the year to you.

S. Cadieux: I guess I'm just struggling with this a little bit. If the cannabis revenues have been so small and the sales have been so slow in comparison to the rest of the country, there is a lot of commentary that part of the reason for that is the way British Columbia chose to roll out its legal cannabis process or program. But it's also about the taxation and the cost differential between the black market and the legal market.

Is the minister concerned at all about pushing more of the market to the black market with an increase in tax to 20 percent on vape products that contain cannabis?

[3:45 p.m.]

Hon. C. James: Two different conversations here. I know the member will look forward to having those conversations with the Solicitor General and the Attorney General, who are responsible for the process of licensing, so I'll leave that one to them, to discussions that I'm sure will occur.

On the issue of vaping, I think the really important piece here is that this really is a strategy. It's not a revenue strategy. It's a strategy to be able to discourage vaping, particularly by our youth. I think we all know that price point is…. Youth are price sensitive. Ensuring products reach that point…. I think the member raises a very important point around: what number do you pick, and what pushes people to the black market and what keeps them in?

We did some work around that to look at where we could start that would be important. For example, if the cannabis vaping liquids were exempt and only received the 7 percent sales tax, that, from my perspective, would not be sending a positive message to youth about vaping. You can buy a cheaper product because it has cannabis in it than you can buy the other products. I think having consistency across vaping products is very important when you're sending a message to youth about not wanting them to vape and making sure that we keep the products out of their hands.

As the member will know well, you can't tell what kind of product is being vaped when somebody is vaping it. Again, youth and use of cannabis at school — youth, period, using cannabis — has all kinds of health implications as well. From our perspective, looking at it from a vaping health issue and trying to keep it out of the hands of our youth in particular, it just seems that consistency is critical to being able to ensure that.

S. Bond: Speaking of the black market, we want to ask a few questions about that and the implications of the taxation process that's been put in place here. Can the minister tell us whether she took a look at…? The minister said she and her staff have had a look at the black market implications. Can she tell us what her thoughts are related to the black market for cannabis products and whether or not it is more prolific?

Did any of the work that the minister looked at demonstrate that it's more prolific than the black market for tobacco?

[3:50 p.m.]

Hon. C. James: I think two very different products, two very different histories with those products, which I think is important.

I think the risk is the same, which is why I certainly raised the black market. I think, again, we talked about it in second reading. The risk of moving things to the black market, I think, is similar. But tobacco we have a long history with. We have a long history of watching what happens with tobacco. It's an extremely regulated industry compared to vaping, which has very little regulations.

I expect the regulations and the discussion that occurred through the ten-point plan and the Minister of Health will have an impact, no question, and also will need to be looked at and will need to be studied. Certainly, when we took a look…. We looked at the research out there. There's an example in the *British Medical Journal*. They have a journal of *Tobacco Control*.

They did a study around price point and how you can discourage behaviour with price point. Their study talked about how a 10 percent price increase should be able to reduce demand by 12 to 19 percent. That was an interesting piece to take a look at. Some of that certainly informed our view around product and pricing and how you can increase the price and reduce the demand. So that's one of the tools that we looked at when we looked at raising from 7 percent up to 20 percent. It was, as I said, the research.

There's not a lot out there on vaping. Vaping is a new product, as we've talked about. It's an ever-changing product, both by technology as well as the push to try and include young people. So we felt it was a reasonable approach to increase it by the amount that we have — not enough to push it into the market, but something we're going to have to watch carefully, something we're going to have to pay attention to.

If changes need to be made, I know this House will be interested in having that discussion as well, because I think that everybody, as I said, in this House wants to ensure we get youth away from vaping products. If we start seeing a positive direction, there may need be to changes to increase that positive direction as well.

S. Bond: I do think we appreciate the fact that the minister and the staff have taken some time to look at black market implications, because they are significant. The Royal Bank of Canada estimates that only 12 percent of cannabis sales in Canada are legal. Think about that. That means that 88 percent of cannabis sales go to the black market.

Can the minister give us an estimate of the black market for tobacco?

[3:55 p.m.]

Hon. C. James: I can get that information. We don't have it with us, but we'll make sure we get it back to the member.

S. Bond: Thank you for that. I appreciate that. The issue is really that the robustness of the black market for cannabis is significantly different than the black market for tobacco. I guess the question, then, emerges as to why the minister is treating two different products and markets basically in the same way.

Hon. C. James: Perhaps some clarification around the issue. We've been talking about cannabis and the legal and illegal market. We've been talking about tobacco and vaping. We'll get the specific numbers to the member around illegal sales of tobacco, but we expect it's probably the reverse of what you're seeing with cannabis.

Again, because of the long history of tobacco, because of the regulation in tobacco, you're probably seeing the reverse. Where the member used the 12 percent of sales legally, it's probably the reverse when it comes to tobacco.

I think, again, if we're talking about cannabis products in vaping, it's important to remember that we're simply talking about the vaping products that have cannabis or don't have cannabis in them, not cannabis itself.

Just to clarify for the member, was the member talking about the issue of taxing tobacco and the issue of taxing vaping being a same kind of approach?

S. Bond: Yes.

Hon. C. James: Thank you to the member for that clarification. I think the issue of price point is the same in both products, so that's really the basis that we're bringing this forward on — that it has been shown that price point makes a difference. B.C. is the example of continued efforts, not simply….

Again, I think it's important to remember that this tax work is one part of the ten-point plan. Just as for the tobacco industry, taxation was a huge piece in getting people to quit smoking, but it was also the products. It was also the advertising. It was also the laws put in place around where people could smoke and couldn't. I think it's important to remember this is simply one piece.

The price point is the same. Whether we're talking about vaping or whether we're talking about tobacco, that price sensitivity is there, particularly for youth. Increasing the cost makes it more difficult for people to be able to access it. That's why we're utilizing the same kind of process to be able to address the vaping piece.

The tax is not near as high as it would be if we were matching tobacco, an increase in tobacco tax or increase in tax on vaping. Tobacco is much higher taxed. That's why I say that we'll have to watch it. We'll have to watch it and see whether it's having an impact, whether we can define how much of an impact is coming here, how much of an

impact is coming from the other points in the plan, and make adjustments as needed.

S. Bond: I think there is general agreement about price point likely impacts behaviour, when the minister talked about price point having an impact on whatever product the person is choosing to use.

[4:00 p.m.]

Was there any variation or differentiation that made it less likely that the price point would impact a person, whether it was tobacco vaping or whether it's cannabis? Was there any sense of…? Did the minister look at: is the price sensitivity different in various categories, or is the ministry simply working on the principle that if you tax it more, there will be a behavioural change?

Hon. C. James: I think that there is very limited vaping economics, as they call it, that's out there, but there is some research, as I talked about, around price point. One of the things that is clear is that youth are more price-sensitive than adults. That's clear market research that's out there.

Certainly, again, if we're looking at the work we're doing on vaping, this isn't about revenue. This is about making sure that we do what we can to stop vaping, particularly in youth, who are highest at risk. Therefore, the price sensitivity was part of what we were utilizing as we looked at what we're setting the rate at.

S. Bond: Thanks for that answer, Minister. If we look at the Stats Canada sales data that was referred to earlier…. In 2018, we're talking about. If the legal market is only 12 percent of sales in Canada, then if you were to calculate, the black market must have been worth roughly $143 million in the reported October-to-June period. So losing roughly $10 million in tax revenue.

Can the minister tell us whether her data estimates the tax losses from sales occurring in the black market?

Hon. C. James: Revenue, obviously, we calculate based on what we can generate, not what we might have lost. It wouldn't apply, in fact, simply to these products. It would, in fact, apply across the board. Part of the work we're doing around money laundering and other areas is to try and get at that, to try and get at revenue that could provide resources back to government, but that's not a calculation we would use in our budget or in our calculations. We use the money that we can generate.

S. Bond: The chair of the drug advisory committee of the Canadian Association of Chiefs of Police, Mike Serr, has said this: "If there is a strong, vibrant dark market out there selling illegal drugs, people will go to that, and we need to direct them to the legal market." That was in October of 2019.

I'm wondering how the minister would react to the suggestion of tripling the PST on cannabis direct sales. How does that impact people and look at directing them to the legal market?

Hon. C. James: I think the important piece, again, that I'll emphasize is that this is not a tax on cannabis. We're not talking about a tax on cannabis. We're talking about a tax on vaping products, whether they include cannabis or don't include cannabis. We have to be very clear about that: this is not a tax on cannabis.

[4:05 p.m.]

S. Bond: If the black market for cannabis is significantly more vibrant than the one for tobacco, is the minister not concerned that it will be easier for people to turn to unregulated, illegal cannabis vaping products?

Hon. C. James: I understand. I recognize that the member wants to have a debate about the cannabis issue and the issue of cannabis and black market and getting more market in legally. I think you would not get disagreement from anybody on this side of the House, including the ministers responsible, that we want to see the market be legal. There are steps that are being taken, and that's a debate for other ministers and other days.

What we are talking about are vaping products. A very small part of the vaping industry is related to liquids that include cannabis — again, to have a differentiation between liquids that include cannabis and that do not include cannabis. From a youth's perspective, providing the opportunity for people to be able to access a product that includes cannabis, because it has a lower tax, would be reverse encouragement for people to utilize the vaping products that had cannabis and not the ones that didn't.

Again, I recognize that the discussion is a bigger discussion to have, but this is talking about vaping products and keeping vaping products out of the hands of youth, as part of a ten-point plan.

S. Cadieux: I appreciate the minister's desire here to stem the growth of the vaping market and put in place some mechanisms — any and all mechanisms, I think — by which we can do that. I think both sides of the House are in complete agreement on that.

What we're trying to get at through this line of questioning is whether or not government did the necessary policy work around two very different products that, when treated the same from a tax perspective, could have two very different policy outcomes.

At the minister's press conference earlier, announcing these tax measures, it was stated very clearly that nicotine was the health threat, not cannabis. So what are the health reasons behind tripling the tax on cannabis? Or was there just a large oversight at the press conference?

Hon. C. James: I will continue to correct the member.

We are not taxing cannabis. We are taxing vaping products, including vaping products that have cannabis in them.

Cannabis e-juice is not without health risks. The member asked about the health risks. Cannabis is not without health risks. In fact, it includes many of the products that are found in e-juice, which are also a risk and are being pointed out to be more of a risk than some of the other products.

Whether we're talking about the liquids that are used to add the product in there…. On the health side, we wanted to ensure that the risks of vaping were taken into account. That includes all vaping products, which includes vaping products that may contain cannabis.

S. Cadieux: Well, reports on the risks of vaping definitely have shown that one of the major risk factors has been people using black-market cannabis vaping juices and that it contains dangerous by-products. They include cannabis, and they include other things that have been mixed with it for this purpose. In the U.S., *NBC News* lab tests suggested that with knock-off marijuana vapes they found pesticides linked to hydrogen cyanide in ten out of ten products. Of course, nobody wants anyone using that, least of all children.

[4:10 p.m.]

At this stage, with a tax coming into effect mere weeks before the official launch of regulated, securely managed and sold cannabis vaping juice, has the minister factored in the timing of this tax with the risk associated with increased cost pushing yet more users into the black market, especially given that of the users of cannabis products, legal and illegal, about 20 percent report using cannabis vapes as their preferred mechanism?

We already know it's a large portion of the illegal market. Would we not want to, at minimum, be moving them to the legal, regulated market rather than pushing it further underground?

Hon. C. James: We're talking here about vaping, and we're talking about taxing vaping. The issue of the illegal market for vaping is exactly the reason that we looked at the research that I talked about to the previous member, where we talked about the study that was looked at to look at how you decrease demand, how you discourage people from vaping and how we find that balance.

There is no question. I believe this balance will have to be looked at over the next number of years, just the same way the bill was passed in this Legislature around vaping, presuming that it was going to be fine, and it wasn't. It had to come back for discussion and for this ten-point plan, because the times changed. The research changed. The science changed. I believe we will be looking at, just as we've done with tobacco: is it time for an increase? Is it time to look at the black market? How do we look at balancing that off? I think this will be exactly the same kind of process that will have to happen over the next number of years.

We do believe, based on the research that's out there around price and on changing behaviour, that we have found that spot that will provide the balance of discouraging youth, in particular, but everyone, from utilizing vaping and not push the black market out. Again, it will have to be monitored.

This is a relatively new market. It will have to be monitored, and we'll have to pay attention to it and make changes in a way that's going to meet the goals that we all have, which is: how do we discourage vaping in British Columbia, particularly amongst our youth?

S. Cadieux: What analysis was done by the ministry related to this particular tax, adding a significant amount of tax to the e-cannabis juice, in comparison to other jurisdictions? Our closest neighbours, like Alberta, whose legal market has been much larger and has grown much quicker than ours, and Washington state…. Our two closest neighbours — how are their vape tax regimes compared to British Columbia? Are we likely to see people access those markets to be able to access this product?

[4:15 p.m.]

Hon. C. James: Alberta has just simply announced their change. They haven't implemented it yet. We would be one of the first jurisdictions to actually have an increased tax and a taxation rate on vaping.

T. Stone: I just wanted to ask one question for my clarification on this particular piece of the committee stage debate here.

Surely the minister can agree that taxes on tobacco, if set at the right level…. They tend to go up marginally year after year or at least every other year. There's analysis done that ensures there is that right tipping point where the taxes are not increased so dramatically, so fast, as to drive people to purchase their tobacco in the black market. If the taxes are increased just incrementally, as they typically are, the tobacco taxes tend to be a significant strategy that has been proven to be successful in getting people to quit smoking.

With respect to the taxes on cannabis products, the reason we're trying to be so thorough in our questioning here in the context of tax changes that are about the vapour market, of which…. Cannabis products are increasingly being included in vape juice. I think we know the minister acknowledges that, or there wouldn't be any contemplation of capturing cannabis in this legislation and in this tax increase.

When it comes to cannabis taxes, I think the number one concern that we're certainly trying to reflect that we're hearing and that you certainly see pre-eminent in every debate and every jurisdiction around North America — well, across Canada, certainly, but I think also in U.S. states where there has been legalization of cannabis products — is if that tax is a burden, if the tax expectation is set too high on cannabis products, the result, generally, that has been demonstrated in other jurisdictions has been that it has driven people to not quit their consumption of cannabis but, rather, to pursue the purchase of cannabis products in the black market.

Further, with respect to the entire production chain, the entire regulatory scheme that has been established in the Canadian context and, in part, here in British Columbia with respect to cannabis retail, the entire production scheme, the entire regulatory scheme, has been designed to keep these products out of the hands of our youth. So it's not like our kids, our youth, are, at a point of sale, distinguishing between a juice product that has nicotine in it or not or cannabis in it or not.

Again, I just want to try one last time to understand what analysis has been done here to suggest that incorporating, in the context of a tax change, a PST increase on vapour products…. What analysis was done that satisfies the minister that including in this tax, this PST increase, the sale of vapour products — that include cannabis even for medicinal purposes, I would point out…?

Is she satisfied that that analysis she has looked at has told her that we are not going to see a corresponding increase in people simply moving even more to the black market for cannabis purchase, cannabis sales, than we have already seen as the government has rolled out their broader retail environment for cannabis sales here in British Columbia?

[4:20 p.m.]

The two are very much linked, Minister. The vapour world and the cannabis world have intersected here. There is no doubt that cannabis-infused vapour products, the juice, are expected to be one of the fastest-growing segments of the vapour products market.

We think this discussion is very relevant at this particular juncture and hope that the minister can shed a bit more light than perhaps she has to this point on what has led her to be satisfied that the analysis she has seen would suggest that applying this 20 percent PST to the sale of cannabis-infused vapour products is not going to drive people, particularly our youth, to obtain these products, increasingly so, on the black market.

Hon. C. James: Just to, I think, come back to the policy, the reason we're here having this discussion. We're here having this discussion because all members — certainly, that's what I heard in the second reading — in this House want to do what we can to discourage vaping, particularly youth vaping. That's the reason that we're having this discussion. It's the reason the Minister of Health brought forward such a thorough bill. It's the reason we're looking at a ten-point plan, with taxation being one of those points.

We know, based on the research, that price point makes a difference, that increasing prices will discourage behaviour, particularly for youth. Youth are particularly sensitive to this. A 10 percent increase in prices can reduce demand 12 to 19 percent, based on the research information that's there. We are increasing by 13 percent. Let's remember there's already a 7 percent tax on the products.

No changes on all other cannabis products. There is no change on any other cannabis product. But if we are looking at vaping products, to exclude products that have cannabis in them doesn't follow the policy direction of doing everything we can to discourage youth, in particular, from vaping.

The member asked whether I feel comfortable and confident in the research that was done and in the work that was done. Yes, I do. I feel that we found that price point. I do believe it's going to have to continue to be monitored.

I do believe it's going to have to continue to be watched, just as I know the Solicitor General and the Attorney General are doing their work around the legalization and ensuring they get more of the black market of cannabis ended and people moved into the legal market.

I think we will have to continue to monitor this to see whether the policy direction that we all believe in, which is discouraging youth, really occurs.

S. Cadieux: As a part of this, then, what's the average price of a tobacco-based vape product and the average price of a cannabis-based vape product?

[4:25 p.m.]

Hon. C. James: I think this is exactly the continued information that will be helpful to everybody, as we go through this.

We're presuming that vaping products with cannabis would be more expensive than the tobacco or added flavours, but again, that's going to vary. That's going to vary out there, depending on the product, depending on the store, depending on the sales that are out there.

S. Cadieux: While I am 100 percent behind doing what we can to keep vaping products out of the hands of youth, the reality is that the vast majority of youth using products are not getting them legally. They are using them from the black market. I mean, they can't even legally buy them until they're 19. When we're talking about kids in high school, we're talking about kids who are getting products through the black market, one way or another. Whether they were legally purchased first, the secondary purchase is a black market purchase.

We are relatively…. You know, the minister can cite some relative comfort with the issues around taxation and price point increases and the elasticity of demand and the push to the black market with tobacco products but with absolutely no sense of what that would be for cannabis products, with a legal market in its complete infancy in British Columbia, especially given the botched rollout that we've seen. The reality is that we have a thriving black market for cannabis products in British Columbia.

I would think that we would want to be doing everything we can to ensure that we keep the price point on the cannabis products as low as possible to move people from the black market to the legal market at a minimum, where we know the products are regulated, where we know that government, be it through Health Canada or be it through the provincial government's distribution and supply processes, is and has

the ability to monitor the content of the products being sold and who they're sold to.

At this point, I'm going to move an amendment to this section and suggest that this section be amended.

[**SECTION 1 (b) be amended by deleting the text shown as struck out:**
(b) by adding the following definitions:
"e-substance" means a solid, liquid or gas
(a) that is designed for use in an e-vaping device,
(b) that, on being heated, produces a vapour, and
(c) that may or may not contain nicotine,
but does not include cannabis within the meaning of the *Cannabis Control and Licensing Act* ~~other than cannabis that is in liquid form~~; ,]

Hon. C. James: This is the first we've seen of this amendment. Can I suggest we take a ten-minute recess?

The Chair: Absolutely. The House is in recess for ten minutes.

The committee recessed from 4:30 p.m. to 4:47 p.m.

[R. Chouhan in the chair.]

On the amendment.

Hon. C. James: I'm speaking against the amendment that's in front of us. While I appreciate the discussion around how we encourage more legalization of cannabis and how we ensure there's less of a black market for cannabis…. It's something that I certainly strongly agree with and think we have to do everything we can, and I'm sure the Solicitor General and the Attorney General would have lots of conversation about steps that could be taken. I don't believe that making a change on the e-juice, the vaping products that include cannabis, is going to help in that regard.

Because it would require two completely different systems for businesses, it could, in fact, jeopardize the January 1 date because of the requirement of the systems. Many vaping products are, in fact, sold in packages, and we would, in fact, again, have to create two different tax systems, because you'd be talking about one system with 7 percent and one system with 20 percent. So it certainly would be a huge challenge for many of the businesses that we're talking about and would create difficulties.

It also could potentially create a huge loophole. How much cannabis in vaping liquid? How much do you think you would require to be able to only charge 7 percent versus 20 percent? What opportunity would that provide for…? We've talked a lot in this House, during second reading in particular, about how the marketers are very clever at being able to market to children, very clever at being able to change their products. This could, in fact, provide an opportunity for marketers to say: "We have a couple of drops of cannabis in this vaping product. Therefore, it's only 7 percent now. It doesn't cost 20 percent."

I appreciate the sentiment around discouraging the black market. I appreciate the direction about doing that. I don't believe that the amendment does that.

S. Cadieux: Just a clarification, please. I understand the minister's position. But the minister said a couple things there that I question. First, the minister suggested that this could set up a difficult situation for people having two systems. I don't believe that cannabis products of any kind can be sold in the same locations as tobacco products. Am I incorrect on that?

[4:50 p.m.]

Hon. C. James: Maybe the member can clarify. What I'm talking about are two different products. Through the amendment that the member has put forward, we would have products with cannabis in them that would be charged at the 7 percent rate. We would have products not with cannabis in them at the 20 percent rate, which creates, then, a challenge and an additional piece for the business people to have to look at, whether they're talking about packaging or whether they're talking about the combining of the products that they have. You'd have two different products with two different prices.

Amendment negatived on division.

S. Cadieux: Well, moving on. Now, cannabis is currently prescribed medically. Can the minister confirm that medical cannabis will be taxed, if it's under this section, if it is in liquid form?

Hon. C. James: We've talked about…. It has to have two pieces. It has to have the cannabis, but it also has to be produced for vaping in order for it to be taxed under the higher rate. So other medical products obviously wouldn't, but if it was a product that was used for a vaping machine, yes, it will be taxed.

S. Cadieux: The minister is content to tax prescription cannabis if it is in the vaping form?

[4:55 p.m.]

Hon. C. James: If someone has the medical authorization to use cannabis through their medical authorization, they have the ability to use any product. That's the ability that's there for them.

S. Cadieux: The minister is saying that if that patient who has a prescription for medical cannabis prefers or, for some reason, needs to use that in a vape form, they will be taxed at 20 percent?

Hon. C. James: Yes, 20 percent will apply to vaping products, including those that include cannabis.

S. Cadieux: Can the minister tell us what prescription

medications are currently taxed under the Provincial Sales Tax Act?

Hon. C. James: Prescription drugs are tax-exempt, as the member knows.

S. Cadieux: Are there any circumstances where there are prescription drug options, where someone might choose one drug over another, where one is taxed at a different rate than the other?

Hon. C. James: The member heard my answer previously, which is that prescription drugs are exempt.

S. Cadieux: If prescription medications are PST-exempt, then why are we now tripling taxes on prescription cannabis?

Hon. C. James: People have medical authorization to utilize cannabis. They have the choice of a variety of products to utilize to be able to fill that prescription.

S. Cadieux: The minister's rationale for tripling a sales tax on a cannabis product being used for medical purposes is: "Well, it doesn't matter, because there are other products you could choose." Is that correct?

Hon. C. James: I've answered that question.

S. Cadieux: However, this is treating a prescription product, a product for which an individual has a medical authorization, a prescription, differently from all other prescription drugs in the province. Is that correct?

Hon. C. James: I think we've canvassed this. Again, if it is a product that is utilized for vaping that includes cannabis, it will be taxed at the new rate.

S. Cadieux: Does the minister hold any concerns that those using medical cannabis e-juices may switch to smoking dry cannabis instead? And are there any health concerns with smoking dry cannabis?

Hon. C. James: An individual who wishes to vaporize the dry cannabis rather than smoking it is perfectly able to do that. These are vaping juices that we are talking about, used for vaping. They've been juices that include cannabis. But an ability to be able to vape continues to be there for people who use cannabis.

S. Cadieux: The minister, then, assumes that any individual who wishes to vape would prefer to use or would be comfortable using another product. Perhaps they don't. What if that individual is particularly used to or comfortable with a particular product, currently using a cannabis e-juice? Instead of paying the additional 20 percent, they will just continue to use that product by buying it on the black market. Does that concern the minister?

Hon. C. James: We have gone through the black market issue. I am very concerned about the black market, whether we're talking about this product or any other product, including tobacco. I believe we've found that balance.

S. Cadieux: Not only do medical cannabis patients generally pay for their medicine out of pocket, but they're subject to an excise tax, GST and PST. Does the minister not think that this tax increase counteracts the goals for affordable PharmaCare?

Hon. C. James: I believe we've found the balance in discouraging youth and discouraging people from a very dangerous product in vaping.

[5:00 p.m.]

S. Cadieux: Can the minister respond to concerns that applying an additional PST on medical cannabis vaping products may force some patients to either smoke their medical cannabis or purchase cheaper, unregulated vaping products without the ongoing supervision of a medical practitioner?

Hon. C. James: I've answered that question. I've already spoken about the fact that you can continue to vape without using vaping juice. That includes cannabis.

S. Cadieux: The Select Standing Committee on Finance and Government Services unanimously supported an exemption from PST on medical cannabis. How does the minister then justify tripling the PST against that recommendation?

Hon. C. James: I've spoken about the balance.

S. Cadieux: The Canadian Nurses Association and the Nurse Practitioners of B.C. have called for the removal of PST on medical cannabis, saying that medical cannabis, authorized by a health professional like other prescription medications, should be exempt from PST. How does the minister respond to the nurses as it relates to those people who choose to use their medical cannabis through an e-cannabis solution?

Hon. C. James: Already discussed. Thank you, Member.

S. Cadieux: Well, we're going to continue. The Arthritis Society, the Canadian AIDS Society, the Canadians for Fair Access to Medical Marijuana all say that patients who access medical cannabis to manage their health conditions should be treated consistently with other patients who access pharmaceuticals to manage their illnesses.

Many British Columbians, including seniors and veterans,

only turn to cannabis after all other traditional pharmaceutical options have been exhausted, and applying PST to medical cannabis is inconsistent with the taxation of other prescription drugs and supplements in British Columbia, which are PST-exempt.

Would the minister respond the same way to those organizations, given the understanding that at this point in time, when people get to the point in their life where they are choosing medical cannabis as an option to manage pain or their other chronic health conditions, that perhaps, in some cases, the vaping option is the best delivery option for that patient? Is the minister suggesting the minister knows best as to their medical needs?

Hon. C. James: Asked and answered.

S. Cadieux: The B.C. Chamber of Commerce also recommends the removal of PST on medical cannabis. Can the minister tell the chamber why she's tripling the tax instead?

Hon. C. James: Thank you very much, Member. We are talking about the tax on vaping products that may include cannabis, not medical cannabis.

S. Cadieux: The minister continues to suggest that this is not about taxing cannabis, and yet it is, because cannabis e-juice is a cannabis product. It is a product that will be sold through the cannabis retail outlets set up and delivered by the province. In doing so, the minister has decided to arbitrarily triple a tax, adding 13 cents to what is already a significantly high rate of taxation on a product that is, in many, many cases in this province, being used for medical purposes under prescription by a medical professional.

Can the minister explain, again, with no data…? We understand that vape products are potentially harmful. We know that we want to try and keep them out of the hands of minors. There's no argument. And we know that the data, the research that is showing, is showing that the majority of the products that contain…. Where the challenge appears to be is largely in the black market, which we are trying to minimize.

Yet the minister is now adding a tax to a product that is used for medical purposes and that, by all accounts, should not be taxed in this way, the way that regular prescriptions are. Where medical cannabis is being used for prescriptive purposes, why is it not treated the same way as any other prescription medication, all of which come with side effects and risks that are monitored and managed by government through Health Canada?

[5:05 p.m.]

Clearly, the minister is not going to give me a different answer here. But at this moment, again, with that in mind, and with the fact that there are patients, many patients, who find that a particular method of receiving their medical cannabis works for them, for their pain management or for their appetite inducement or what have you, I'm not prepared to tell them that their choice of medical product is not legitimate.

With that, I would move a second amendment. This time I would move that we amend section 1(b) by adding the underlined text as shown, adding the following definitions:

[**SECTION 1 (b) be amended by adding the underlined text as shown:**
(b) by adding the following definitions:
"e-substance" means a solid, liquid or gas
(a) that is designed for use in an e-vaping device,
(b) that, on being heated, produces a vapour, and
(c) that may or may not contain nicotine,
but does not include cannabis within the meaning of the *Cannabis Control and Licensing Act* other than cannabis that is in liquid form and is not medical cannabis; **,**]

On the amendment.

[5:10 p.m.]

Hon. C. James: I'm speaking against the amendment. This amendment, in fact, is even more complex than the previous amendment, and certainly, we've had no opportunity to look at it.

There's not a definition in the PST Act on medical cannabis. That doesn't exist. How would a person know? There is no definition. How would that be defined for the retailer to determine whether someone was medically authorized? How would that determination be made? As I said, with the PST not having a definition on medical cannabis, that makes it impossible to administer.

T. Stone: I just wanted to speak to this amendment really briefly. I do support this amendment. I supported the previous one as well. What we're trying to get at here is this: while we absolutely support doing everything possible, which is largely detailed in the broader action plan, to decrease the growth of youth vaping rates, this particular application of the PST….

Our first amendment dealt with its application on cannabis-infused juice. We're of the view that, ideally, it would be better to deal with that broader issue of taxation related to cannabis as a separate matter.

We've asked the minister a series of questions with respect to what analysis has been done that has given her the confidence that a 20 percent tax on cannabis will not serve to have the effect of actually driving more people into the black market. And I think that the distinction is this: this PST tax is one tax on two very different products, two different products that will have very different markets. The cannabis market does not look at all like the vaping market. It just doesn't. It's two different products and two different markets that will have two very different potential health outcomes.

The stated goal of taxes, as we've talked about, and the concept of consumption taxes…. The proposed tobacco tax increase is part of this bill — the proposed increase in the vaping tax. The goal here is, ideally, to price people out of the market. And we know that when tobacco taxes get to a cer-

tain point, that has actually had the deterrent effect of driving people to quit smoking combustible cigarettes, which is a very good outcome.

The cannabis market is a very different market than both the tobacco market and the vape market. While with tobacco, the effect of the higher taxes is to encourage people to quit, the black market on the tobacco side is relatively small and contained. With respect to cannabis, as I've said a few times now, it's a very different market, and it's a robust market.

In fact, if anything, the actions of this government as it pertains to their retail cannabis strategy has been an absolute disaster. We not only sell…. The volume of legal cannabis sales in this province is not only the smallest volume in the entire country second only to Prince Edward Island, but it's a robust market in British Columbia. If you're going to continue to see a piling-on of costs, our worry is that you're not driving people to quit cannabis; you're driving people to actually seek out their cannabis product, even more so than perhaps they are already, in the black market.

[5:15 p.m.]

With respect to this particular amendment specific to the medical cannabis side of the equation, we've got some serious concerns about there being a 20 percent PST applicable on the sale of medical cannabis. Everyone in this House knows that medical cannabis patients receive an authorization from a physician or a nurse practitioner. The B.C. College of Physicians and Surgeons says that the authorization provided by a physician is equivalent to a prescription, and patients must be clinically reassessed regularly.

We have tried to ask the minister specific questions about concerns that the Canadian Nurses Association and the nurses and nurse practitioners of B.C. have about the application of PST on medical cannabis. Both those organizations, in a joint letter, have said: "Medical cannabis is authorized by a health professional and, like other prescription medications, should be exempt from PST."

We referenced the arthritis society, the Canadian AIDS Society and Canadians for Fair Access to Medical Marijuana, who all have very similar concerns and don't understand why this government is moving forward with a 20 percent tax on medical cannabis that just happens to be consumed in a vapour fashion.

To conclude my remarks on this amendment, it would appear that the government hasn't really thought through what this intersection of two very different markets actually looks like with respect to tax policy. The cannabis market and the vape market — two very, very different markets; two very different health outcomes when people engage in these markets.

We would hope that since the government was not willing to exempt or remove the application of this 20 percent PST on all cannabis revenues, cannabis-related sales in the vaping market, they would at least be willing to not be punitive with respect to the tens of thousands — I guess almost 18,000 British Columbians — who are medical cannabis patients by implementing or imposing this 20 percent tax on their medical cannabis if they are, in many cases, taking the medication, the medical cannabis, through a vapour product.

I strongly support this amendment and hope all members of the House will as well.

Hon. C. James: Just a couple of pieces to add. I mentioned earlier the issue — and we certainly have heard the concerns from leg. counsel — that there is no definition of medical cannabis. Therefore, that creates an impossibility to be able to carry out the amendment. I think that's important to note.

I also want to come back to something the member from Surrey said earlier where she said the vaping products are potentially dangerous. I think we have had a lot of discussion in this Legislature about vaping products. We have had a lot of discussion from the member who brought forward a private member's bill on vaping products about the danger of vaping products, about the challenges of vaping products. I think it's important to recognize that, and I think it's important to acknowledge that in this debate as well.

S. Bond: Obviously, I support the amendment that's been tabled. But I have a question for the minister. I think this is, perhaps, a little less complicated than it is being described as here.

Can the minister clarify, when she notes the complexity of implementation…? Isn't it true that medical cannabis isn't sold at retail? In fact, it's sold through licensed producers after medical authorization. So how difficult could it possibly be to actually exempt and look at the amendment that the member has tabled? It is actually not sold in retail, as far as we understand. Maybe the minister can clarify how it's so complicated when we're talking about medical cannabis.

[5:20 p.m.]

Hon. C. James: I think that the member is showing the complexity in the question and in the discussion around vaping products that include cannabis versus medical cannabis products. The member is quite right. Medical cannabis products are received through authorization. We are talking about vaping products being sold in vaping stores that include cannabis that will, as of October, be able to be sold in stores. We are saying not two prices — one price for all vaping products in the stores.

I again am going to speak against the amendment that's here. I think if the member…. We've shown, through this session and how quickly that goes, the ability to be able to work on amendments that have notice, that have discussion, that have the ability to look at the policy implications.

It's a completely different discussion that the member is talking about if we get into the broader issue of medical marijuana. I understand that the member may want to have that discussion as well, but what we're talking about here are vaping products.

[5:25 p.m.]

The ability to be able, on the fly, to bring forward

amendments that haven't gone through leg. counsel, that haven't had the policy discussion around other areas that are impacted, that involve buying products both in a retail store as well as through the medical system and the complexity of that means that, once again, I will speak against the amendment.

S. Bond: Obviously, we want to be able to have a look at the amendment. But we should be clear. What the minister said…. We're talking about the use of vaping as part of a medical prescription. People have the opportunity to get a prescription to medically use cannabis, and they should have the right and the ability to choose the method, and that includes vaping.

Those products that are acquired are not acquired in the same place as other products. So the minister could actually look at an exemption for vaping use for medical cannabis. They would be sold in a separate location. Is that correct?

Hon. C. James: I think I've spoken already to the complexity. It's not as simple as portrayed, and it's exactly the reason that we have the discussion about bringing these issues forward and having the conversation before we get into making policy on the fly.

[5:30 p.m.]

Amendment negatived on the following division:

YEAS — 40

Cadieux	de Jong	Bond
Wilkinson	Lee	Stone
Coleman	Wat	Bernier
Thornthwaite	Paton	Ashton
Barnett	Yap	Martin
Davies	Kyllo	Sullivan
Reid	Morris	Stilwell
Ross	Oakes	Johal
Rustad	Milobar	Sturdy
Clovechok	Shypitka	Hunt
Throness	Tegart	Stewart
Sultan	Gibson	Isaacs
Letnick	Thomson	Larson
	Foster	

NAYS — 41

Kahlon	Begg	Brar
Heyman	Donaldson	Mungall
Bains	Beare	Chen
Popham	Trevena	Chow
Kang	Simons	D'Eith
Sims	Routley	Ma
Elmore	Dean	Routledge
Singh	Leonard	Darcy
Simpson	Robinson	Farnworth
Horgan	James	Eby
Dix	Ralston	Mark
Fleming	Conroy	Fraser
Chandra Herbert	Malcolmson	Furstenau
Olsen		Glumac

[5:35 p.m.]

[J. Isaacs in the chair.]

Section 1 approved.

On section 2.

S. Bond: We're going to spend a bit of time looking at the tax rate and the analysis that the minister and the ministry undertook. Can the minister just articulate for us what decisions went into setting the tax rate and why 20 percent was chosen?

Hon. C. James: We did canvass this already, but I'll canvass it again if the member wants it canvassed again. We did go through this all at the beginning of the discussion.

We are looking at the discussion around whether the price point utilized will discourage behaviour. So we looked at all the research around that, and certainly, there is clear research that talks about the fact that price point makes a difference. Price point is particularly sensitive for youth. Youth are more sensitive around price point, so, again, that was part of the reason we looked at it.

We also looked, I mentioned already at the beginning of this discussion, at the journal *Tobacco Control*, a British medical journal. It talked about how a 10 percent price increase could reduce demand between 12 and 19 percent. So again, based on those findings, we believe we could have a comparable effect. That's why we picked the 20 percent.

Again, as I said earlier this afternoon, I believe this will need to continue to be looked at, because I think there is, obviously, the opportunity to be able to monitor, to see how it goes, to see how the ten-point plan goes and to determine whether this is the right measure or not.

Tobacco taxes are much higher, but we have a much longer history with tobacco, around the use of tobacco, and hence the decision that was made on this.

S. Bond: Just curious if the minister or her staff have had any conversation with Alberta. I think they announced that they were considering a tax, looking at the vaping tax, and I think it was actually prior to this package being announced. So have there been discussions with Alberta and whether there will be any sort of consistency in approach?

Hon. C. James: Yes, we've had conversations with Alberta. They are just at the initial thoughts of their process. They haven't gotten any further than that.

S. Bond: Can the minister tell us what the current rate of

tobacco tax, as a percentage of the average product, is and how that compares to the new PST rate on vapour products?

[5:40 p.m.]

Hon. C. James: On cigarettes, we tax it as a per-unit tax, but if you convert it to a package of cigarettes, close to 90 percent is taxation. If you include the federal tax, it's about 148 percent.

S. Bond: Can the minister just indicate why an increased PST rate was chosen, as opposed to another form of tax?

Hon. C. James: I think the first reason is that the tax already exists. It doesn't mean creating a new tax; the tax is already in place. That makes it easier for consumers — who, certainly, already understand the tax. It's easier for businesses. They already have the structure in place around that. Considering the number of retailers — I think we heard that discussion earlier from the member from Kamloops — it's certainly easier to use an existing structure.

S. Bond: Certainly, all of us recognize that there is a price sensitivity, probably, and particularly for young people, and the minister has reflected on a number of reports today. Has she looked at or modelled expectations around the level of price sensitivity for young people and what we could expect to see with this increase related to youth vaping behaviour?

Hon. C. James: As I mentioned earlier, one of the pieces of research that we looked at was the journal *Tobacco Control*. It looked exactly at the price and at the issue of youth. It suggests that a 10 percent price increase could reduce demand. It should reduce demand, by about 12 to 19 percent. Based on those findings, we believe that our PST will have about that, comparable, without pushing out to the black market.

S. Bond: Did the ministry analyze the elasticity of demand relative to vaping products prior to setting a tax rate?

Hon. C. James: That in fact is exactly what that stat speaks to: that issue. Yes, we did the research.

S. Bond: Maybe, just for clarity, could the minister speak to how it compares, relative to tobacco products?

[5:45 p.m.]

Hon. C. James: I want to stress again — I stressed this at the beginning of our afternoon — that this research is relatively new. There isn't a lot of research out there, as I mentioned before. I think that's important to note. But the research that we do have and able to review points out that in fact, tobacco is less elastic. I think that's an important piece as well.

T. Stone: Has the Ministry of Finance done any net-present-value analysis regarding this PST tax increase?

Hon. C. James: Like other measures, we build the revenue into the budget, and we do a revenue forecast of what that's going to be. I'm not sure what the member is getting at around his question, but it's no different than other revenue. We build in the revenue expectation, we build in the revenue forecast, and that's what gets built into the budget.

T. Stone: Can the minister say that with this tax increase there are going to be any projected gains based on decreased future health care costs and gains in quality-adjusted life years in the health care system?

Hon. C. James: No, none of that's built in. That certainly would be a hope — I think, of all of us — of the ten-point plan. I think it's important to remember, again, that this is one piece of that ten-point plan, isolating the tax piece from the other pieces. We'll continue to do that kind of research. But certainly, the hope is that we're going to see reductions in the kinds of incidences — most importantly, for the individuals who are facing these kinds of illnesses from products that they thought were going to be safe.

T. Stone: I agree. I think we all, certainly, hope that there will be some short-, mid- and long-term health benefits as a result of the broader action plan to crack down on youth vaping and, generally, to reduce vaping rates provincewide.

With that in mind, will the minister commit to publicizing any quality-adjusted life years or net-present-value analysis relevant to vaping and tobacco tax increases, so that we can actually measure and model the public health benefits of these PST tax increases?

Hon. C. James: As I pointed out earlier, this is a ten-point plan. We certainly hope that there will be those changes. Pulling out, we don't do a net present value on taxation. That's not a process that occurs.

[5:50 p.m.]

The process of determining whether there are changes we'll certainly be monitoring. I know the Minister of Health, if he was here, would be also talking about monitoring, because we want this plan to be successful. There will be tracking of what's going on. There will be that kind of a view. But the changing of the dollars and accounting for perhaps savings in the health care system I think would be very hard to pull out when you're looking at one point of a ten-point plan.

T. Stone: I'll just maybe bundle this next question into three parts. We have canvassed a bit the discussion around the concerns that I think the opposition has been trying to express with respect to the black market. I'm just trying to understand from an analysis perspective.

One, is there an expectation on the part of the minister and her Ministry of Finance that some consumers may turn to the black market as a result of this tax increase, and if so, how many? Two, does the minister have an estimation

of what the current size of that vape products black market is today? And three, do we have distinct estimates for black market products in the vapour market?

The different types of products that cumulatively make up the vapour industry — are there some estimates that the ministry would have as to what the size of the black market would be for each of those very distinct product categories in the vapour market?

Hon. C. James: I think this is exactly the kind of information that, as the ten-point plan is implemented, we'll have a better handle on.

[5:55 p.m.]

There aren't good estimates out there, but I think one of the first pieces we can all agree on is that all of the youth using vaping products is a black market because they're not buying them legally. They're buying them illegally. Basically, all that youth use is black market, currently, because of the challenge through the system.

They may be buying them from people who are buying them as part of the legal market and then reselling them as part of the black market, but that's exactly part of the challenge that is faced here. As I said, as we go along, I think we'll have better estimates. But certainly, the youth market, as I said, has got to be black market.

T. Stone: Can the minister indicate whether or not this PST increase to 20 percent will apply to online sales of vapour products?

Hon. C. James: Certainly, anyone selling on line in B.C. is already required to be able to collect the PST. It's already a part of the requirement. Those who are selling from outside B.C. into B.C. — many of them are already part of the system. But those who aren't, as part of the work that I talked about earlier, in making sure that we're capturing all of the people who'll be required to pay PST….

T. Stone: I appreciate that. I'm wondering if the minister could speak to what happens in the situation of youth — or anyone else, for that matter — accessing, purchasing, these vape products on line from retailers that are not captured by the regulatory environment here in British Columbia, not captured by the PST here in British Columbia. What protections are being considered, particularly for our youth, to ensure that that consideration is in mind?

The minister and I could probably go and have a little sidebar conversation, and we could rattle off a number of online retailers in the cannabis piece that are actually good, law-abiding organizations or companies that will ensure they're in compliance with this right away. It's the shadier operators, which would more likely than not be based outside of British Columbia, that would be offering their products for sale on line. That could, potentially, prove to be a rather attractive opportunity — especially, again, for youth — to access these products.

What considerations or thinking has the minister put in place to make sure we capture those retailers and ensure that the tax is applicable there?

[6:00 p.m.]

Hon. C. James: We already have existing arrangements with border crossings around collection of PST, so we'll just be expanding that. If this legislation passes, we'll just be expanding that to include the new rate for vaping products. So that captures both U.S. as well as international packages coming through the U.S. That's taken care of through the arrangements with the border crossing that are already in place.

We're looking at all the options necessary, if the bill passes, to require vendors across Canada to register and comply, as well, with PST.

S. Bond: Does the minister know the current revenue from PST for vaping products? If not, could she outline how the projections were modelled?

Hon. C. James: It's estimated. Again, these are estimates. The estimate is that sales are about $75 million in the province, PST roughly $5 million, and revenue for a year would be $10 million on the new adjusted rate.

S. Bond: Could the minister just confirm for us specifically the revenue from the PST increase for Budget 2019 and then the projected revenue from this measure for Budget 2020?

[6:05 p.m.]

Hon. C. James: For 2019, for the quarter, because it only starts in January, it will be $2.5 million in new revenue. For 2020, it would be $10 million.

S. Bond: Is it the minister's intent that these revenues will go into the consolidated revenue fund?

Hon. C. James: Yes, as all revenue does.

S. Bond: So the entire revenue that's generated from the increase will go straight into the consolidated revenue fund?

Hon. C. James: Correct.

T. Stone: I'm wondering if the minister would be open to considering a special account for the purposes of administering and dedicating these funds to evidence-based awareness, prevention and support programs.

We heard loud and clear in the debates that we had in second reading — again, it was supported by every member of this House — that the success or failure of this action plan will rest on the resources being dedicated in every middle and high school to prevention, awareness and support.

It's not simply posters, buttons and brochures or an

expectation that there will be a one-off discussion held on an ad hoc basis at the sole discretion of each teacher or each principal in each school but, rather, an in-school program that might be modelled on Preventure or any number of other programs out there, to ensure that youth are talking to youth.

The Minister of Health said this over and over in his announcement, which was great. We agree at a high level. What we want to make sure is that the funds that are needed to ensure a robust, evidence-based prevention, awareness and support program for anti–youth vaping is actually properly funded, that the resources are made available for that program to exist in every middle and high school.

Again, I'll ask the minister this question. Would she be willing to consider a special account for the purposes of administering and dedicating the funds that are generated from the PST on vapour products? Would she be willing to dedicate those funds to those evidence-based prevention, awareness and support programs for anti–youth vaping efforts?

Hon. C. James: On accountability, I completely agree with the member. On the government being accountable for the program, for the development of the program, for the costs of the program, for what the program is going to look like, I completely agree that there should be direct accountability.

Putting things in a special fund is not a direction that we're heading in. I expect that every minister and every member involved in this will get their questions around how much the program is costing, what the costs of the program are and what the demands of the program are. But that program is just being developed, as the member knows well.

[6:10 p.m.]

There are not costs, at this point, around the program. It would not be responsible to allocate money at this point, until the program is developed and determined and we determine how much costs are already in place, how much costs are needed, what the program might look like, what youth will determine the program might look like. I think the member rightfully pointed out the importance of involving youth, it being a real focus of this ten-point plan. No question about it.

I wouldn't want to determine what that looks like until the minister puts that program together and makes a determination around that. I expect the resources that are needed to deliver that program will be provided and that the member, and all other members, will hold the minister and all of us accountable for that.

T. Stone: Well, I think we agree in spirit with what the minister is saying. I think the challenge that parents have, that educators have, that health officials have and that I think many legislators in this House have, is: that the government will actually make the resources available as needed to fund these robust prevention, awareness and support programs in every middle and high school across the province.

The partnership that the government has initiated with the B.C. Lung Association is welcomed. The inclusion of an expansion of the QuitNow program to include an anti-vaping component to it, or a vaping component, with a particular emphasis on youth vaping, is welcomed. What I have not heard — what parents have not heard, what educators have not heard, what the health officials have not heard — is the youth-led, youth-delivered, youth-focused education campaign that needs to be delivered in every single middle and high school in this province.

We have not heard from the Minister of Health or from a member of government that this campaign is going to be that robust, engaged program — a program like Preventure, which I've talked about at length many times, that is not just a one-time discussion that gets implemented on an ad hoc basis in one school versus another and that is completely at the sole discretion of the teachers and principals in each school but rather a program that is funded.

Typically, it would be delivered by.… There would be someone from the health authority within which each school is located. That health authority individual would visit each school and would identify, with the parents, principals and teachers, specific youth individuals that are willing and able to step up to be the in-school champions. Those individuals would be ramped up and trained on the program's curriculum. They would, then, be responsible for having an ongoing dialogue with students in those schools. The youth would. This would be a living, breathing exercise. It's a behavioural exercise, a risk analysis exercise where youth are talking to youth.

These programs exist. We wouldn't be suggesting that there be a recreating of the wheel here. I think the acknowledgment that we all need to make is that educators are running off their feet in schools — I know the Minister of Health has certainly heard this — as students, increasingly, are vaping in washrooms; in hallways; even in classes, behind their teachers' backs; on the areas outside of the schools; just off of school property. Schools are doing everything that they possibly can to try to fight back, to try and combat this rise of youth vaping in their schools.

Every school is trying something different. I note Principal Sheldon Marsh of Revelstoke Secondary School, who has been featured recently for being quite innovative in the approach that he's taken. He has established a buyback program in his school. He offers cafeteria credits for students who forfeit their vape devices. He has taken up a collection amongst some administrators, the parent advisory council in Revelstoke and some small businesses, and so he has managed to have 50 vape devices actually handed in, in his school, and those kids have received credits in the cafeteria.

[6:15 p.m.]

Other schools have gone to very extreme measures, in having to take doors off of washrooms. A wide variety of different types of lectures have been provided in schools around the province. Teachers and principals, in particular, are run off their feet, and it just speaks to the importance of a

standardized, provincewide program that would be in every middle and high school and would focus on awareness and prevention.

On the support side, let's not forget about addiction here. I read into the record in second reading some pretty heartfelt comments that had been emailed to me from parents in Kamloops. In one case, a woman said: "Look, I appreciate the focus on vaping. I appreciate that we're going to now maybe try to get ahead of it here and prevent youth from doing it in the first place, but my daughter is already addicted. What am I supposed to do with that? Where do I send her? Who do I connect her to? Where is the support for my daughter?" This mother said that to me in her note.

I've had other parents come into my office and say the same thing. I've had 14-year-olds look me in the eyes and say: "I don't know what to do. All I know is I'm addicted." An expansion of the QuitNow program is great, but I'm receiving a lot of correspondence, even just in the last week. I'm being copied on everything that the Minister of Health is from folks in the health community, saying: "We're not certain that this is going to be enough — that there's going to be enough capacity to ensure that the addiction support programs are available provincewide for youth who are already addicted."

I come back to the point here that the entire youth action plan falls completely flat on its face if we get the education component of this plan wrong. The words are correct. The words in the action plan have been correct. What we want to make sure of is that there is dedicated funding — that the funding that is generated from vape product sales is truly dedicated to those prevention awareness and support programs that our kids need in every middle and high school in the province.

With that in mind, I am going to move an amendment.

[**SECTION 5 be amended by adding the following sections:**
Special Account
5.1 The Vulnerable Adolescents Protection from E-Substances Special Account is continued as a special account in the general fund of the consolidated revenue fund.
Specified PST funds for nicotine education and prevention
5.2 The account consists of 100% of the amounts that are paid into the consolidated revenue fund under sections 34 (11), 35 (8), 36 (11), and 55 (3.6) of the *Provincial Sales Tax Act*, up to a maximum in each fiscal year that is equal to the amount shown in the Estimates as revenue in the Vulnerable Adolescents Protection from E-Substances Special Account for that fiscal year.
Expenditures
5.3 On the written authorization of the minister, money may be paid out of the account for the administration, operation and delivery of education programs focused on awareness, prevention, and addictions support respecting e-substances.]

This would amend sections 5.1, 5.2 and 5.3, which would provide for a vulnerable adolescents protection from e-substances special account. That would be a special account in the general fund of the consolidated revenue fund. The account would consist of 100 percent of the amounts that are paid into the consolidated revenue fund under a variety of sections — I'll let the minister, obviously, take a look at that — up to a maximum in each fiscal year that is equal to the amount shown in the estimates as revenue in the vulnerable adolescents protection from e-substances special account for the fiscal year.

Last but not least, the amendment would provide for this. "On the written authorization of the minister, money may be paid out of the account for the administration, operation and delivery of education programs focused on awareness, prevention, and addictions support respecting e-substances."

I think a very reasoned amendment that would ensure that the resources are made available to support the education programs and the awareness, prevention and support programs that are needed in every middle and high school. I'll table that amendment now.

[6:20 p.m.]

Hon. C. James: I believe the amendment is out of order because it imposes on the Crown.

S. Bond: I just would like to have the minister clarify, then. The concern here is about transparency. This isn't about imposing any financial expectations on the Crown. It's about saying to British Columbians that revenue will be made transparent and will be set aside to actually fund the plan that the government has laid on the table. It's about transparency. It's about saying to British Columbians: "Here's the line. We're going to take this money, and we're going to use it when it comes to the vaping."

Is the minister saying that it is impossible to create a dedicated fund from revenue that's generated from vaping?

Hon. C. James: I had this conversation with the member's colleague, but I'll repeat it again. The member is quite right to hold the government and ministers accountable for where dollars are spent. That's exactly the process that occurs in this Legislature each and every day, which occurs through the budget process and occurs through the estimates process.

[6:25 p.m.]

The member raised some very good options and ideas around a youth program. He also talked about how the strength of this program is that youth will be helping to develop it. We have no approach at this point, because we want to make sure that youth are involved, because we want to look at the good programs that are out there, and we need to ensure that people are engaged.

For the opportunity for those programs to be developed, to determine how many dollars will go in it, I fully expect every member on that side of the House will be asking those questions as we go through the process. It is not the only way to be accountable, to put money into an account. The accountability happens each and every day. As ministers, we are fully responsible for how the budget is spent, for where those dollars go. I expect the members to hold us accountable.

The Chair: Members, I've had a chance to review the

amendment, and I'm going to rule it out of order. It goes beyond the scope of the bill.

Amendment ruled out of order.

S. Bond: Well, can we continue debate on the issue at hand, on the section that we're debating?

The Chair: Yes.

S. Bond: To the minister, then: this isn't at issue. We're not here, with this amendment, trying to debate the issue of what programs are going to be in place, or the quality of them, or which ones they're going to be. What we're debating is a fiscal matter. The government is imposing a new tax, an increased tax, a significant tax — which, by the way, we and probably most British Columbians agree with. What we are saying to the government is this: be transparent about how much money is raised and where that money is going.

The government intends to roll that money into the consolidated revenue fund. Then it will make a determination, I'm assuming, across ministries. There's no cross-ministry working group yet, but we're looking forward to hearing who that will be. When it goes into the consolidated revenue fund, what we're arguing is that that revenue — all of the revenue that's been generated from a new tax imposed by this government — be clearly outlined for British Columbians: where it's being spent, how much is being spent.

We're not debating the program issues today. We're debating the fiscal implications of rolling the funds into the consolidated revenue fund. Is the minister willing to consider how that information is made public and how the spending related to the total revenue generation is made clear to British Columbians?

Hon. C. James: Again, we've had this conversation. I'm happy to have it again if the member requires it.

The revenue — as with all governments, regardless of whether it's this government, the previous government or governments before that — will go into general revenue. The program will be developed. The programs will have a cost to them. Government will be accountable for those costs, accountable to make sure that the program is implemented. I think that certainly, the spirit that I heard in second reading, from all members in this House, was that we want this to be implemented well. I expect we'll be held accountable for that.

With that, 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 6:28 p.m.

The House resumed; Mr. Speaker in the chair.

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

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

Hon. M. Farnworth moved adjournment of the House.

Motion approved.

Mr. Speaker: This House stands adjourned until 10 a.m. tomorrow morning.

The House adjourned at 6:29 p.m.

Proceedings in the Douglas Fir Room

Committee of the Whole House

BILL 41 — DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES ACT
(continued)

The House in Committee of the Whole (Section A) on Bill 41; R. Kahlon in the chair.

The committee met at 2:45 p.m.

On section 2 *(continued)*.

Hon. S. Fraser: From Lake Babine, visiting us here today are Coun. Verna Power and also Betty Patrick, the foundation agreement manager. I'd like the committee to make them feel welcome, please.

The Chair: I recognize the member for Vancouver-Langara.

Sorry to pressure you, my friend.

M. Lee: Only at the suggestion of the Chair, I would also like to introduce the other two guests in our small but very important gallery. Here are my wife, Christina, and my son, Graham. They're over here from Vancouver. My son is here as a guest in this House but also to observe the proceedings.

M. de Jong: Well, it's pretty clear I have no guests or friends in the gallery.

When we left off last week, we were talking about article 19 and just a couple of things that flowed from the conversation. The minister confirmed, I believe, that he saw the essence of article 19 as applying to the assembly, to laws of general application within the province of British Columbia.

That gives rise to the question: are we, then, obliged to think about, and is the government thinking about, a different process for the preparation and introduction of legisla-

tion? The essence of article 19 being that the state, in this case, the province of British Columbia, would obtain "free, prior and informed consent before adopting and implementing legislative or administrative measures" that can affect Indigenous peoples.

Maybe if I put the question this way. We are accustomed in this assembly to the convention and the protocol that, except in very rare circumstances, legislation is presented on the floor of the assembly for all to see at the same time. That doesn't preclude consultation work taking place. But is the government contemplating a more significant change and a procedural change to the manner in which laws of general application, which certainly include the bills that come before the assembly, are developed and ultimately introduced into the House?

[2:50 p.m.]

Hon. S. Fraser: I think it's safe to say that there's going to be deeper and more involved consultation between the province and First Nations — or those nations affected, certainly, or if nations are affected as a whole. That is what's contemplated within the bill. The province is expected to "consult and cooperate in good faith," as called for in the UN declaration, when considering decisions that may affect Indigenous peoples.

That being said, the procedures for those measures cited by the member, there's no plan for change with those.

M. de Jong: Does the article, though, contemplate the notion that it adds an additional obligation to that which the province discharges now?

The reason we asked about laws of general application is that by definition, each bill, each statute that passes through this chamber would impact Indigenous peoples. I think there has been an attitude for many, many years that has developed, as the notion of consultation has evolved, that in circumstances where there is legislation that is particularly pertinent to Aboriginal peoples or a particular Aboriginal community, that it makes sense to engage fully.

This, on the surface, suggests that that is an obligation that accrues to every single piece of legislation because if it is laws of general application, that includes every single bill. Maybe I'm misreading what I see in the article, but it does suggest that the obligation extends more broadly than we may have traditionally thought.

Hon. S. Fraser: There's no plan. There's no plan to change anything as far as laws of general application, except for those decisions that may affect Indigenous peoples. We are expected, in those cases, to consult and collaborate. I think that would be consistent with the advice we've received from the courts too.

M. Lee: I just wanted to come back to a few words in this article. First, in terms of the words "consult and cooperate," we will be having further discussions as we go into section 3, in terms of those same words that are utilized at the front end of that section. I think this is the first instance in the declaration that we see those words utilized.

I'd ask the minister: from the government's perspective, what would the term "consult and cooperate" mean in this instance? Beyond consultation, what level of cooperation is expected here between First Nations leadership and the government?

[2:55 p.m.]

Hon. S. Fraser: In general, I just think we can all agree that there's a better chance of agreement by working together. That's the intent here — that by involving Indigenous communities and listening to their knowledge and their concerns on projects, for instance, or laws that affect them, we're going to get a better outcome. That helps to bring certainty and predictability also, I think, to all British Columbians.

M. Lee: When we had the discussion, when I raised it previously, on the previous article to this declaration — on free, prior and informed consent — the minister provided an explanation of the terms, recognizing that it is a process to get to a mutual understanding, a mutual agreement, but it would not constitute a veto in that context. So when we're talking about cooperation, this is consistent, in the government's view, that cooperation is intended for achieving mutual understanding and mutual agreement but wouldn't constitute a veto in the hands of Indigenous peoples.

Hon. S. Fraser: I believe the member has captured that. The legislation provides the tools, which we'll see as we go to further sections here, for ensuring that decisions are made with due process. This is a part of the transparency of the bill, I think, and the beauty of the bill. And when you have due process, there is no veto.

M. Lee: My last point on this. I appreciate the response. This is very much ensuring that there is due and appropriate, fulsome process, certainly, of consultation and cooperation between the government and Indigenous peoples represented through their Indigenous governing bodies or leadership.

That means, at the end of the day, though, in terms of this level of consultation and cooperation in good faith, that the implementation of legislative or administrative measures that may affect Indigenous peoples ultimately will still be in the hands of the government to proceed with, keeping in mind that that level of consultation and cooperation has been done in that process. Is that correct?

Hon. S. Fraser: The answer is yes. But again, there is certainly a better chance of agreement by working together and involving and listening in good faith so that we'll get a better outcome from that.

M. de Jong: Let's go to article 20 briefly. Emphasizing the

rights of Indigenous peoples to maintain and develop political, economic and social systems or institutions, in article 20-1. That seems reasonably clear to me. In No. 2 of that article, we again see the reference to an entitlement to "just and fair redress" where the rights afforded and spoken to in article 20-1 have not been respected or abided by.

Can I again ask the minister: does the government take the view that that phrase, "just and fair redress," includes the notion of remedy and possibly compensation?

[3:00 p.m.]

Hon. S. Fraser: We discussed this, I believe, on Thursday, the question of redress and the issue of redress. I believe I stated "which could include financial compensation" — yes — as we have done and previous governments have done, certainly, too. I mean, there have been some examples of that. I would suggest, and I think I cited this before, the treaty itself or non-treaty agreements or impact-and-benefits agreements. So there's already a bit of a pattern, I think, from government, heading in that direction.

M. de Jong: When the minister and the government read article 20-2, does it see those provisions in the context of the application to B.C. laws as a forward-looking instrument, or does it also capture events of the past? If it also, to the minister's mind, captures events of the past, how far into the past?

Hon. S. Fraser: Generally, we're being forward-looking here, I think. While it's important to recognize the historic context, B.C. is looking to establish partnerships that will build shared prosperity, going forward. But again, I think we discussed examples last week — Kwadacha, Cheslatta — where we certainly have looked in the past — again, as the previous government has, as all governments have, I think.

M. de Jong: Around the general issue here of deprivation and the sorts of things contemplated in article 20-1, we've seen — I'd say recently, maybe in the last ten or 15 years — governments, both at the provincial and at the federal level, create specific processes to address specific claims. In fact, I think at the federal level, that's what one of the panels is called — the specific claims process.

In bringing the declaration forward attached to Bill 41 in the way that the government has, are there any present plans to create a separate mechanism by which claims for just and fair redress might be advanced by First Nations, Aboriginal peoples?

Hon. S. Fraser: Nothing contemplated, no. But we are being forward-looking. I can't speak to what will happen in the future.

M. de Jong: I'm going to go down to article 24, which speaks to the whole question of ensuring Indigenous peoples have the rights to traditional medicines and to maintain health practices, the conservation of medicinal plants, animals and minerals.

It strikes me that in taking the concept that is contemplated in article 24, which I think most people reasonably understand and are supportive of, there is the potential for tension between that and notions of standardized drug approvals and the kind of thing that we see with respect to pharmaceutical products.

[3:05 p.m.]

To the minister's mind, is there a way to accommodate, dare I say, the westernized notion of medicine and drug approvals with the spirit of what is being contained, being referred to in article 24, which is an entirely different form of medicinal product that historically has not lent itself to the kind of scientific study that pharmaceutical companies are contemplating?

I don't know if I've made myself clear. But I'm interested to know the minister's and the government's thoughts on the level of government with responsibility for ensuring the safety of medicinal products. How do those two coexist, in the minister's mind?

Hon. S. Fraser: I've just got to divert a bit from what I was going to say. It was last winter. I have a good friend and work colleague — I had a really bad cold — and she gave me some rat root, which she said would be effective there. I can tell you it really tasted horrible. It was really, really bad. I chewed on it for a while, and then I swallowed some of the juice, but I did think it scared the cold out of me. That being said, I'm being respectful here. I think I felt better. I don't know if that was a placebo effect.

The jurisdiction for dealing with the safety of drugs and pharmaceuticals…. I think that rests with Health Canada. But the article we have here, I think, speaks to the right for Indigenous people to have access, without discrimination, to all social and health services. Subsection 2 speaks to: "Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health."

The article speaks to Indigenous peoples having the right to their traditional medicines as well as that, and to maintain their health practices. The issue that the member raised is a good one. I think that responsibility and that discussion would rest with the federal government and Health Canada.

M. de Jong: All right. That's helpful. It probably is the kind of issue that only arises, in a practical sense, if we begin to see more of a commercial trade in some of the traditional remedies. To the extent that it develops as an issue, I think the minister is saying that we'll let the federal regulatory authorities worry about it.

The second question that arose for me out of trying to interpret the essence of the article is…. All the various lenses that government will need to look through in approving land use decisions, does this add another lens — that being the preservation of medicinal plants and animals and miner-

als that may be relevant to traditional medicines and health care, health practices? Or is that lens already there? Hopefully, I'm communicating this clearly.

[3:10 p.m.]

It strikes me that to give effect to article 24 in the context of British Columbia, it is difficult to conceive of a land use decision that couldn't potentially impact the matters referred to in article 24.

Maybe I'm overstating that. If I am, the minister can tell me. If I'm not, can he share with the committee some of the steps that he and the government may be contemplating to address that question and create that lens through which article 24 asks for land use decisions to be viewed?

Hon. S. Fraser: If I could, by way of example…. The new environmental assessment process — which is kicking in, I think, this fall — contemplates, specifically and purposefully, the use of traditional ecological Indigenous knowledge as part of the informing process for, for instance, projects that might be happening on the land base. So I think that might be captured already in that process of government, newly done. The bill was developed over the last year and a half, I believe.

Bill 41 sets out a process for how this article could be addressed in the work to align our laws with the UN declaration — or in the development of an action plan, which, again, would be following in the later sections of the act. That'll be done, again, in cooperation and consultation with Indigenous peoples. I very much look forward to that discussion that we'll have as we proceed to implement the act.

M. de Jong: Last question on this article for the minister, then. Is that…? I think that was a good example he gave — the Environmental Assessment Act and how that has already incorporated elements of the kind of thing contemplated in article 24.

Going forward, is that going to be equally applicable in the rules, regulations and processes associated with the issuance of grazing right permits or cutting permits? Is it a broader lens now that comes to bear on all of these land use decisions?

Hon. S. Fraser: That's already, I think, been captured in section 35. It already contemplates that, I believe. For a long time, since 1982…. Of course, that is when that was placed in the constitution, including with grazing rights. So that, I think, is already contemplated there.

M. Lee: I just wanted to turn now to article 25. I appreciate that, in the area of recognizing the very important, distinctive spiritual relationship that Indigenous peoples have with their lands, this article speaks to that. In the context of a further article that we'll be discussing with the minister — in terms of articles 26 and 28, for example — land use, as my colleague the member for Abbotsford West just went through on article 24, is an important consideration as to how UNDRIP will be utilized and implemented through the action plan.

Could I ask the minister, please, at this time, to give us an indication as to the government's view as to the words: "the right to maintain and strengthen their distinctive spiritual relationship with"? The words that will follow, we will talk about in terms of what they mean — in terms of "traditionally owned or otherwise occupied and used lands, territories" and the like.

Just the right itself. If the minister could provide comment on what the government's view is on what that is intended to mean in the context of British Columbia.

[3:15 p.m.]

Hon. S. Fraser: Thank you for the question. The UN declaration was drafted in a way that can, I think, broadly capture the situations that may present for all countries of the world, and we've talked about that. We needed, again, the context of the UN declaration.

Bill 41 is to be applied within the constitutional framework of Canada, which includes section 35 of the Constitution Act again, 1982. Bill 41, subsection 1(2), specifically requires the government to consider the diversity of Indigenous peoples, including their relationships to the territories. It's actually set out in the earlier section that we were discussing.

M. Lee: Certainly, we had some discussion, of course, of that particular section that the minister referred to, in terms of recognizing the diversity of Indigenous peoples in British Columbia — subsection 1(2) of the bill.

I wanted to ask one more time at this juncture, though…. The words in article 25 say: "…the right to maintain and strengthen their distinctive spiritual relationship…." I appreciate that, in terms of applying UNDRIP from a UN perspective, recognizing the number of nations that went through that process over many years to get to 2007, that may have broad meaning to it.

In the context of British Columbia, which is what I'm asking the minister, what does that right to maintain and strengthen their distinctive spiritual relationship mean? How will that be seen by the government as it goes into the consultation and cooperation discussion with First Nations?

Hon. S. Fraser: We'll be working…. As is laid out already in Bill 41 in the upcoming sections, we have a process where we'll be working collaboratively with First Nations to get their interpretation of what they think that means. But this work will also involve engagement with the public in general, local governments and other stakeholders. I would submit that's part of the work that we will be doing that's already contemplated within Bill 41. I look forward to the discussions that we'll be having as we proceed to implement this and other parts of the act.

M. Lee: I appreciate the response, and I appreciate the pre-

vious response from the minister, in terms of referring to the framing around any article in the declaration.

Just as we've walked through each of the articles of this declaration…. We did skip over a few, which is good, to progress the discussion here. I just wanted to ask, though, when the minister referred earlier to section 35 jurisprudence…. Could I ask the minister for his view as to what, under section 35 jurisprudence, would be the understanding of "right to maintain and strengthen their distinctive spiritual relationship"? Where has that been considered and applied within that jurisprudence, if the minister has a sense of that in this committee stage?

[3:20 p.m.]

Hon. S. Fraser: Thanks, again, to the member for the question. The courts have already described…. Section 35 includes activities, practices and customs, including spiritual activities that are integral to the culture of Indigenous nations. That has been interpreted already by the courts. It's already part of consultation, as being recognized and affirmed.

M. de Jong: We'll move on to article 26, which includes some general statements of principle around the right to lands and territories and resources that Indigenous people have traditionally owned or occupied or otherwise used. Article 26 exists in three separate sections.

I think it's important enough — given the magnitude of what the UN is saying here and the importance that Indigenous peoples would naturally attach to this — that we take a moment, on the record, and ask the minister to articulate on behalf of the government what article 26 means and represents, from the government's perspective, within the context of British Columbia and British Columbia laws.

Again, I'm not presuming to put words in the minister's mouth, but I think he would, again, point the committee to the jurisprudence around section 35, and I think — I hope — he would also point out the relevance and importance and protections that exist for private land owners within British Columbia.

When I was reading through the declaration, I thought this might be the moment for us to take a moment and have that conversation and have the minister articulate on behalf of the government its views about how these rights fit within the broader context of B.C. law as it relates to private land and other tenure holders that have interests on the land base.

Hon. S. Fraser: Thank you very much. It's a good question from the member opposite.

Again, I just want to recognize that the UN declaration was drafted in a way that can broadly capture the situation, which may be present in other parts of the world too. I think this section needs to be taken in that context.

I do acknowledge the member's reference, specifically to British Columbia, but I just want to get that on the record, because the wording of this is broadly laid out. I stated earlier that Bill 41 doesn't give the UN declaration itself the force of law and doesn't create any new laws and new rights. That's inclusive of private land. It's to be applied within the constitutional framework of Canada, including section 35 of the constitution.

[3:25 p.m.]

The degree of the constitutional protection already afforded to Indigenous land rights in Canada is unique, I think, among UN member states, largely because of section 35. How this and other articles will be applied in B.C. — whether it's in relation to alignment of laws, in section 3, which is yet to come, or Bill 41 or development of the action plan set out in section 4 — will be done in consultation and cooperation with Indigenous peoples in British Columbia.

This work will also involve — and this is, I think, referring to private land — engagement with the public, local governments and other stakeholders. Again, I look forward to those discussions coming.

M. de Jong: That is helpful from the minister. I think it follows, therefore, from what he has said, and perhaps the minister would oblige and put this on the record, that it's the government's view — and I ask the question, as opposed to make the statement — that a person with a fee simple interest in lands that are within the traditional territory of an Indigenous group, Aboriginal group or a First Nation need not look at article 26 and become afraid that somehow Bill 41 and the attachment of the declaration are going to negatively impact that person's fee simple interests in their lands.

That is a question, as opposed to a statement, to the minister.

Hon. S. Fraser: That's correct.

M. de Jong: We will have an opportunity in a few minutes to discuss the question of various tenures, interests that stop short of a fee simple interest. I mentioned a few examples a few moments ago.

Is it the minister's view that those interests in land will need to be examined on a more individualized basis and that there may well be different processes that evolve as it relates to the granting of, for example, a cutting right or a grazing right on the land base? Is there a slightly different consideration at play when we are talking about something other than a fee simple interest in the land?

[3:30 p.m.]

Hon. S. Fraser: As the member I know well knows, the evolution of case law in the country, but especially in this province…. There's been quite a dramatic evolution there with case law as regarding meaningful consultation.

I submit that Bill 41 will create and does create opportunities by working with and meaningfully involving Indigenous people on the land. It's going to bring more clarity and more predictability on the land base, certainly. I know tenure holders already get this. They're already living and working

this way in their relationships with the First Nations and the territories that they're in.

M. de Jong: A couple more things on the article. The two previous questions I've asked the minister about relate to the relationship between the Crown and individuals with interests in the land, and the interest and the rights of Indigenous peoples.

I just wanted to ask a question within the context of article 26 and solicit the minister's views on whether or not these provisions, going forward, will alter the ability of the Crown to make broad land use designations.

I'll give the minister a specific example. This has come up in the past in the context of the treaty negotiations and treaty settlements, and I think you may well be aware of that — the agricultural land reserve. If we take the article itself and, as the minister has often urged us to do, the declaration in its entirety, are those kinds of broad land use designations, in the way that that one was done almost 40 years ago, in '73…. Are the abilities of provincial governments post-passage of Bill 41 limited in any way, insofar as those broad land use designations most assuredly have an impact on lands, territories and resources and access to them?

Going forward, does article 26, in the minister's mind and the government's mind, serve to impose a different obligation on the Crown and on government before it can make those kinds of broad land use designations?

Hon. S. Fraser: Just a clarification. I'll go back and get an answer. I'm just trying to get the context of this too. I'd harken back to the previous government and it was the Tsawwassen treaty. Of course, there was an issue around an agricultural land reserve there. At the end of the day, there was the treaty with the full support of the House here — supported, in this case, removal of land from the obligations of the ALC, normally set by the ALC. I'm just unclear here. There's already a history of….

[3:35 p.m.]

You could argue that negotiations under the Treaty Commission process…. There's already an example of how this relates to the ALC or could relate to the ALC. If I could just get some clarification on it, so I don't go onto the wrong track here.

M. de Jong: No, that's fair enough. In the case of the Tsawwassen…. It's ironic that we're correctly talking about the ALC in the context of the first urban-based treaty. The urban centre there was surrounded by very fertile farmland, and the government of the day and the minister of the day chose to remove any doubt.

There were two schools of thought around that. One was to sign the treaty and obligate the First Nation to then bring an application to the ALR for removal. I thought that was unfair. If the intention was to allow that to happen, then the government should facilitate that and not put the ALC in a position where it was required to adjudicate.

I think my question, though, is broader than that. Most assuredly, it is possible for parties to come to an agreement on things, but if I am a First Nation with traditional territories that, in part, have been captured within…. I'm using the ALR designation, but it could be other broad land use designations.

Does article 26 enhance my ability to say to the Crown: "Ah, but wait a moment; these are traditional territories, and since the advent of Bill 41 and article 26, I'm not so sure that my community should be limited or that the lands that you have purported to capture by an ALC designation, our usage, should be limited in the way contemplated by the ALC"?

I guess my question is on these sections and this section. Are we creating — the minister has said an interpretive tool; I'll use that language — an interpretive tool for an adjudicator to say that broad land use designations on traditional lands can no longer occur in the way that they have in the past and must themselves be the product of consultations and free, prior and informed consent?

Hon. S. Fraser: Governments are already required to consult, based on case law. I think that we've been directed that way — not just we but the previous government too. So I don't see that as a change.

[S. Chandra Herbert in the chair.]

I again would want to recognize that the UN declaration…. Bill 41 does not give the UN declaration the force of law. I think what we get out of Bill 41 is an opportunity to actually make better land use decisions by involving First Nations in their territories, as it affects them. We will end up getting better decisions and, I think, more predictability and certainty on the land base too.

[3:40 p.m.]

The Chair: Member.

M. de Jong: Thanks for stepping in, hon. Chair.

I think my last question on article 26 relates to No. 3. Again, I am mindful of something the minister has emphasized a few times over the course of our several days of discussion, and that is that we are dealing with an international declaration that is designed to speak to a multitude of different circumstances. No. 3 in article 26 speaks of giving legal recognition and protection to lands, territories and resources and that that recognition "be conducted with due respect to the customs, traditions and land tenure systems of the Indigenous peoples concerned."

My question…. This also relates in part to my recollection of some of the experiences around the negotiating table. British Columbia operates on the basis of a particular land title system, the Torrens system. It's not perfect, but one that has served the province reasonably well.

[R. Kahlon in the chair.]

At this time, in advancing the declaration, is the province and the government giving any thought to an alternative or a parallel — recognizing a parallel land title system with application to Indigenous lands or settlement lands? That hasn't been the case, but perhaps there has been an evolution of thinking with the advent of article 26 and the presentation of the UN declaration.

Hon. S. Fraser: The answer would be no, but there are…. I mean, we have agreements. We have the foundation agreement with the shíshálh and other reconciliation agreements that are being negotiated now. They have measures to guide collaboration on natural resource management and support economic development and social development opportunities across those nations' territories. So it's a no. Even the Klappan, the plan with the Tahltan Nation, is, I think, another good example.

M. Lee: I'd like to just turn to article 27. It refers to the importance of ensuring that there's a "fair, independent, impartial, open and transparent process" in recognizing and adjudicating the rights of Indigenous peoples pertaining to their lands. Does the government consider the current process through the courts or through the treaty process to be adequate to meet this article?

[3:45 p.m.]

Hon. S. Fraser: Thanks for the question from the member. As stated earlier, Bill 41 is to be applied within the constitutional framework of Canada. That, of course, includes section 35 of the constitution. The legal framework includes the ability for nations to have their rights legally recognized and adjudicated.

We, as a province, have quite a number of tools available to us. I mentioned treaty — of course, treaty is one tool — and non-treaty agreements. There will no doubt be more tools too. We're trying to think out of the box as a government as we're evolving and recognizing that rights and title do exist, as opposed to sort of a rights-denial approach, which has kind of been a universal way of governments handling affairs on the land. Suffice it to say, I think we do have quite a few tools already that are certainly being utilized right now by government, and we look forward to other tools developing.

M. Lee: Thank you for that response. I think it's been contemplated, in some of the reports by First Nations leaders, as they look at their own views as to implementation of UNDRIP, what the other tools might look like. I'd ask for the minister to comment on what he understands — some consideration of a call for, for example, some sort of Aboriginal commission to deal with some of these disputes in overlapping claims.

Hon. S. Fraser: The issues around shared territories, shared boundaries and overlap have been around for many years. The work we're doing in this area needs to continue, and it will.

The legislation — Bill 41, to be more specific — won't fix the issue of overlap. It does give us, I would submit, a platform to continue to engage in those conversations on establishing processes for boundary resolution in accordance with First Nations' respective laws, customs and, of course, traditions.

M. Lee: Thank you for that response, just to further the discussion on this particular article and what the further considerations may well be as we talk about consulting and cooperating with the implementation of this declaration and this Bill 41.

When I attended, with other members of our caucus, the recent meeting of First Nations leaders in Vancouver, there was a session that I sat in on. As the minister just referred to, the challenge of overlapping claims has been something that many First Nations have been trying to work through amongst themselves.

There was a presentation that indicated that there would be some further discussions coming up in the spring. A model or a framework was presented, as to possible alternatives. It certainly was presented as an area where First Nations themselves would take on some direct responsibility for adjudicating the rights of Indigenous peoples pertaining to lands in respect of overlapping claims.

[3:50 p.m.]

Again, given that we're at this juncture — certainly, this has been a topic that's been going on for a long time — is there an expectation from this government that they will work with First Nations leaders as to what that possible mechanism might look like, whether it's through negotiation, arbitration, mediation, those sorts of frameworks? What level of involvement would the government expect to have in that sort of alternative adjudication framework?

Hon. S. Fraser: The work that's being done currently by First Nations to address this issue — I applaud them on that, and we're certainly aware of it. As far as our role as government goes, this may well come out in the upcoming action plan that we'll be developing and that's contemplated further in Bill 41. I think it's wholly appropriate for First Nations to take this issue on, and I very much thank them and support them for doing so.

M. de Jong: Just before I move on to article 28, and following on the discussion the minister had with my colleague from Vancouver-Langara on article 27….

We have the treaty process; we have the courts. With respect to this notion of establishing and implementing an "independent, impartial, open and transparent process…." I've asked this question with respect to other parts of the declaration. Is the government considering, at this time, the creation of any kind of additional process, beyond the

treaty and the judicial processes, that has heretofore been made use of?

Hon. S. Fraser: On a case-by-case basis, when asked by nations, we've been involved with them on trying to address these issues. Other non-treaty-constructive arrangements are also being pursued that can address Aboriginal rights and title in British Columbia. I know we've been working with a number of nations on comprehensive reconciliation agreements. Those are happening.

The heavy lifting is happening by First Nations on this topic, and again, I applaud them on that.

M. de Jong: I think, in the context of article 27, the minister has properly referred to some of the other mechanisms and instruments that are designed to "recognize…rights." So maybe my question more fairly relates to the other part of what article 27 refers to, which is "adjudicate."

[3:55 p.m.]

We have in B.C., ultimately, as an adjudicator, the court system. Has the government given any thought to something other than the courts as an adjudicator of these interests?

Hon. S. Fraser: At this time, we're not thinking about any other means.

M. de Jong: Then on to article 28. In this case, the reference to an entitlement to compensation is clearly enunciated in the scenario contemplated by the section.

A couple of questions came to mind for me in reading this part of the declaration. In the minds of the minister and the government, is article 28 speaking to a collective right to compensation, or does it include an individual's right to compensation?

Hon. S. Fraser: Section 28 cites, specifically, Indigenous peoples. So that would be, I think, by definition, collective rights.

M. de Jong: Okay. Thank you. That's helpful. That has been the traditional notion of compensatory rights in the context of relations with First Nations. I think the minister…. What I'm hearing the minister say is that he does not read article 28 as intending to convey something different, nor is the government contemplating a change in that regard.

Hon. S. Fraser: That's correct.

M. de Jong: We see again, in article 28, the phrase "free, prior and informed consent." For some reason, when I got to this section, it prompted me to think of this question that I'd like to put to the minister. We have a few, not many…. We have some modern-day treaties in British Columbia, starting in '96-97 with the Nisga'a treaty and then seven additional modern-day treaties that were the product of the treaty commission process.

For the minister and the government, do treaties, by definition, represent free, prior and informed consent with respect to the matters dealt with therein?

[4:00 p.m.]

Hon. S. Fraser: Actually, it's a tough question in many ways. I appreciate that.

The treaty process is quite a lengthy and comprehensive process, and it's complex. It does involve nations coming to a specific decision, and numerous decision points along the way. It's done internally. It has to be brought back to the communities for ratification. I would suggest it would be the nations that would need to be asked if they feel that that represents free, prior and informed consent, if that's how they would describe that process or not.

From a government's point of view, I think our obligation is to work towards addressing the treaty process to make sure that it is in line with the UN declaration and the values that are in there.

Just prior to the writ dropping for the federal election, we signed an agreement with the First Nations Summit. For those who aren't aware, they represent, in British Columbia, those nations that are involved in the treaty process. So it would involve the summit, the federal government and the provincial government. We made some major changes addressing what I think were considered some of the main shortfalls within the modern-day treaty process in British Columbia. The intent was to bring that process into alignment with the values within the UN declaration.

It's early days. We'll see if we can make that process even better.

M. de Jong: A couple of things flow from that. I hope I communicated clearly enough to the minister that there may well be issues around the process of treaty negotiations.

There's certainly been ample criticism around the relatively modest number of agreements that have arisen out of the treaty commission process. Although there have certainly been some, it has been deemed a very lengthy, a very costly exercise. The documents are weighty, to be sure.

I think I heard the minister say at one point during his reply, though…. In response to my question about whether, if there is a modern treaty arising out of the treaty commission process, that by definition met the test for free, prior and informed consent, I think I heard the minister say: "Better to ask the First Nation." If he didn't say that, I'll stand corrected. If he did, I think I disagree.

[4:05 p.m.]

I think it is acceptable, dare I say advisable, that the government be in a position to say with a measure of certainty — having negotiated a comprehensive settlement that has taken ten, 15 or 20 years; that is captured in 500 pages; that has been ratified by a community; all of those things that are part of arriving at a full and final comprehensive settlement

agreement — that we are satisfied. "We the government are satisfied that this is the product of an Aboriginal group, a First Nation, exercising free, prior and informed consent." I'm a bit troubled if that's not the case.

We'll talk a little bit more about free, prior and informed consent. I'm actually more interested in what it means practically than trying to come up with the perfect definition, because there are more experts with more definitions than I care to think about. But I do think it's fair to ask the minister, in trying to bring some notion of practical relevance to that phrase that appears and reappears in the declaration…. In applying that to the British Columbia experience, I think it is fair to ask for a clear answer from the minister.

Yes or no, do the modern-day treaties that we have negotiated…? I can list them, but I don't think I need to. I think the minister knows the seven that I'm referring to, including the Nisga'a. From the government's point of view, he and the government are satisfied that those are the product and the result of an Aboriginal group giving their free, prior and informed consent to the terms contained therein?

I've said a lot there, and I'll be interested to hear the minister's reply.

Hon. S. Fraser: I am confident that a treaty nation or treaty partner, part of our tripartite treaty process, when signing a final agreement…. To me, it fits into the model of my interpretation of free, prior and informed consent. But I wouldn't want to say…. When I'm saying that, I don't want to speak on behalf of a treaty nation. I just don't believe that's appropriate.

M. de Jong: Whilst I certainly respect the minister's reluctance or refusal to speak on behalf of an Aboriginal group or a First Nation — I understand and accept it — I think it is legitimate for him and the government to say: "But in our view…."

I think he has said that. I think he has said that in his view, the conclusion, execution or ratification of a comprehensive treaty settlement…. Within the context of what that means today in British Columbia and the treaty commission process, he and the government are satisfied that that represents an expression of free, prior and informed consent on the part of the First Nation from the point of view of the provincial government.

[4:10 p.m.]

Hon. S. Fraser: Yes, once we settle a treaty, we agree that that means we are satisfied that our treaty partner has agreed that they have had free, prior and informed consent. The consent would be the agreement to sign the agreement and to move on with the treaty.

Again, our obligation in Bill 41 would be to make sure that things like the treaty process do capture…. You know, the previous treaties have not had, maybe, the benefit formally of the UN declaration.

I don't know that you'd find the term…. I'm not sure. I don't think you'd find the term "free, prior and informed consent" within the modern-day treaties. I don't believe so. Maybe the member opposite would know that because he was the minister at the time of the Tsawwassen treaty. I don't believe that term was necessarily contemplated within the modern-day process.

That being said, the answer would be yes to his question.

M. Lee: Just turning to article 29. If I could ask the minister whether under article 29-1…. Is there any expectation of any change in approach by the government in meeting what is set out in article 29-1?

Hon. S. Fraser: If the member could…. He's phrased the question quite broadly. I know it's 29-1, but I'm not entirely sure how to answer the question. I'm just not sure what exactly was being asked. Sorry about that.

M. Lee: Under article 29-1, it refers to how "States shall establish and implement assistance programmes for indigenous peoples for…conservation and protection…" of the environment. It goes on, in terms of the actual right that's stated, that Indigenous peoples also have the right to ensure or to protect the productive capacity of their lands, territories or resources.

My question, in terms of the initiatives, the partnerships that currently the government has with First Nations in our province, in meeting what would be an expectation by Indigenous peoples as to the level of support they might be receiving from government for those programs, would the minister see, on behalf of the government, any change in approach, requirements for support, funding that would be necessary to be received by First Nations in order to meet what's set out in article 29-1?

Hon. S. Fraser: I think we actually have some pretty good tools now. I think what we're contemplating in further sections of Bill 41…. We'll continue to work on that in consultation, cooperation, of course, with Indigenous people. That's exactly contemplated, this sort of thing.

It will also involve the consultation's engagement with the public and local governments, other stakeholders, that sort of thing. I'd certainly look forward to those discussions.

M. Lee: Just on article 29-2, what is the government's assessment as to whether it has in place effective measures to ensure that there is no storage or disposable hazardous materials on the lands of Indigenous peoples?

[4:15 p.m.]

Hon. S. Fraser: When it comes to the storage and disposal of hazardous waste on the land base, the Environmental Management Act has been guiding us, and the intent is that will continue to guide us.

M. Lee: Just in referring to the Environmental Management Act, are there circumstances where this government can contemplate where, when we look at article 29-2 in the application in British Columbia, there actually would be storage of hazardous materials on Indigenous lands — even if, at the end of the day, in an effort to reach mutual understanding and agreement through free, prior and informed consent, as we've been discussing, government still decides to allow that to occur? Are there circumstances where that might happen?

Hon. S. Fraser: There's certainly no intent on the part of government to store hazardous materials on Indigenous land. But the Environmental Management Act — and the Environmental Assessment Act, in part, too, could come into play, I suppose — will still be the guide for us on that.

M. de Jong: I'm going to drop down to article 31 and simply ask the minister this. What are his and the government's ideas for giving effect to the essence of what is being advanced in article 31?

[4:20 p.m.]

I'll ask a series of questions, and if we need to break them down, I will. Has the government received requests from Indigenous peoples, from First Nations? My sense is that there is some work taking place. If that is the case, what is the nature of that work?

Hon. S. Fraser: I hope I'm going to capture the question's intent properly in this answer.

While intellectual property is actually an issue of federal concern, I would submit that Bill 41, subsection 1(2), does expressly refer to the diversity of Indigenous "knowledge systems of the Indigenous peoples in British Columbia." Therefore, that would be something that we'll be considering in the alignment of laws in section 3 and the action plan in section 4.

M. de Jong: I'm not sure that that captured the essence of my perhaps clumsily asked question except insofar as the minister has pointed out his view that what we are talking about here are elements of intellectual property and the protection of that and the fact that constitutionally, in this country, responsibility for that falls largely to the federal government.

The article also includes references to oral traditions and literatures and designs and sports and traditional games. I'm not quarreling with the minister's reference to the federal responsibility in the area of intellectual property.

In some of these other areas, though, where there is more likely to be an overlapping responsibility between the province and the federal government — and the answer to this may be "no, not yet" — has the government of British Columbia developed any specific ideas or proposals in advance of the conversations that will be taking place with First Nations about how to breathe life into the spirit and intent of article 31?

Hon. S. Fraser: At this point, there's no intention. We don't have a plan, if that's what the member is asking. But we will be working with Indigenous peoples to…. There may be more work done on this as is contemplated in section 3 and 4.

[4:25 p.m.]

This may touch on an answer that the member is asking for. We have provided…. I know in the first budget that we had, we committed $50 million over three years towards the First Peoples Cultural Council, which certainly touches on some of the issues that are contemplated here in article 31.

M. de Jong: Hon. Chair, I am, of course, and we are, in your hands. We're going to move to article 32. To advise the minister, I think our intention is to spend a little bit of time on article 32.

This might be an appropriate time, if the Chair and the committee were contemplating a short break, to take that break.

The Chair: All right, Members. We'll take a short five-minute recess.

The committee recessed from 4:26 p.m. to 4:35 p.m.

[A. Kang in the chair.]

M. de Jong: We'll just go into article 32. There will be a bit of a theme, with respect, I think, to a number of the questions that we ask. I'll try to lay out as best I can at the front end what I think that theme will be.

We've talked about the phrase "free, prior and informed consent" and what that means, and we've had different examples and tried to hash out what that definition captures or doesn't capture. We just had a conversation a few moments ago about comprehensive treaties and how for the government — and by the way, I share their view in this regard — it would represent an example of having obtained free, prior and informed consent with respect to the contents of those documents. But there are all of these other areas that relate to land use and decisions that the Crown is responsible for making around land use and access to resources.

Where I think there is general interest — in some cases, perhaps concern — is the question about the embedding of the declaration, in the manner Bill 41 contemplates, with all the caveats that the minister has relayed to the committee, and what the practical implications of that will be. The best way that I can think of, and my colleague from Vancouver-Langara will also be posing questions, is to probe with the minister what the practical implications of this may or may not be.

I've alluded, a few moments ago, to the question of forestry activities and the granting of cutting permits, and,

in the case of agricultural activity, ranchers' access to Crown grazing permits. Maybe we can start there.

If I am operating a forestry operation in, say, the Nicola Valley…. There's no magic to where, to put the minister's mind at ease. It could on be the Island. I'll say the Nicola Valley by way of example. There is a process now that has been informed by decisions of the court that the Crown embarks upon before it issues those cutting permits. It has changed somewhat over the years from the time when I was Forests Minister, from 2001 to 2005. It has evolved, in keeping with some of the direction from the courts.

How is that going to change? Or will it change, I guess, is the first question. Will that process change as the result of the language? Will government be prompted by the language contained in article 32, which speaks to Indigenous people having "the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources"?

[4:40 p.m.]

That's the theme of the questions that I'm going to ask. Maybe before we get to those examples, though, in fairness, I should ask the minister whether, from his point of view and that of the government, there is any particular magic or significance to the language around lands.

In article 32, the UN has chosen to refer to, in No. 1, Indigenous lands or territories. In article 26, we were dealing with traditionally owned, occupied or used lands. Is there a difference? Do the minister and the government interpret those two phrases, both of them referring to lands and lands that Indigenous peoples have an interest in…? Is there a difference between "their lands or territories" and "traditionally owned, occupied or used lands"?

Hon. S. Fraser: I'm not repeating this to be bothersome. I mean, this was built with international implications. So there may be other meanings for other jurisdictions but not in the B.C. context. I would say they could be used synonymously.

M. de Jong: Okay. It's helpful to know the minister's and government's view on that matter.

If we accept that approach and that interpretation, or that understanding, and we come back to the example I gave of the forestry licensee seeking the issuance of a cutting permit, does what is contained in the declaration and, I suppose, specifically, article 32 require significant change on the part of the government with respect to the processes that are presently in place around the question of consultation? If so, what is the nature of those changes?

Hon. S. Fraser: As I mentioned before, there's been quite an evolution — I think that's the best term — of jurisprudence around the issue of consultation and the directions to government over the decades now. That, I believe, continues to evolve. We know where the court trajectory has been going, based on those decades of such interpretation by the courts.

[4:45 p.m.]

This, I believe, gives us the…. Bill 41, which includes the UN declaration and section 32, as cited, does give us, I think, an opportunity to involve Indigenous peoples in the process at an even deeper level. I believe that would be in keeping with the trajectory of the court's decisions over the recent and mid-term history.

M. de Jong: Okay. Well, that's helpful. I'm going to, hopefully gently, press the minister on a little bit of this. When the minister says deepen the involvement…. I should have written it down. I didn't. He had spoken about the evolution and deepening the involvement. What does that look like in a practical way?

There are, I think, people following the proceedings who are particularly interested — my colleague and I will raise a few more examples — where they're asking themselves: "So what does that mean? I know what I have to do. I know what I have to do today as a forestry licensee. I think I know what the Crown is doing and the district manager, the folks at the district office, but the minister is alluding to that evolution."

It sounds like he believes this bill and the declaration and the article will influence that evolution around the notion of consultation. But I am looking for a little more about — for the person on the ground trying to make a living or trying to operate on the land base — what that evolution might look like.

[4:50 p.m.]

Hon. S. Fraser: Thanks to member for the question. I think the thrust of where we're going is getting to Indigenous communities early and often, and licensees have already been showing us the way in many cases. In doing so, I believe that we…. And doing it genuinely. This is a collaboration in good faith. It gives us an opportunity to truly understand the thoughts, concerns and interests of an Indigenous community.

Many forest companies investing in the province are doing their work in alignment with the UN declaration already and understanding that the collaborative relationships with Indigenous nations are creating improved investment certainty. Certainly, that's the goal here too.

It's not just justice. It's about certainty and predictability on the land base. I know the Ministry of Forests will continue to work with nations on various models that support strategic and collaborative management of the land base, including, potentially, engagement on the timber supply review. Modernized land use planning is also contemplated. Environmental stewardship initiatives. The collaborative stewardship framework.

I would submit also…. The minister, in relation to decisions that government makes about projects where the Ministry of Forests is concerned, was directed to work with myself, as the Minister of Indigenous Relations and Reconciliation, and communities to modernize land use planning.

There are things that will be changing in that way —

evolving, I would suggest — in keeping with the court trajectory, to allow us to do what many of the licensees are already doing. The goal here, on the land base, is to make sure that we are addressing concerns early. That is, I think, the real route towards predictability and certainty on the land base for those licensees.

M. de Jong: As is frequently the case, part of the minister's answer prompts me to explore one related issue. On a couple of occasions just now, but also in the context of the debate around the declaration, the minister has made reference to the corporate practices of companies operating on the land base. I think he has done so to point out some of the positive work that's taking place, and there is most assuredly some of that taking place.

In the context of article 32, I read that to refer to the obligation that exists at the state level, or, in our case, on behalf of the Crown. Does the minister and the government read article 32 as also creating an obligation on the private sector? The minister, I think, knows the litigation, in the Canadian sense, about clearly enunciating where the obligation to consult and, if necessary, accommodate is flowing to the Crown. Does the minister read, and the government read, article 32 as expanding that to the private sector?

Hon. S. Fraser: I'm going to take a stab at answering this by a quote from the B.C. Chamber of Commerce, because this is their take. I know we had a number of groups in our collaborative work that we did with stakeholders, industry, local governments and such, and some of these entities were able to have a look at the legislation under NDA.

[4:55 p.m.]

The chamber of commerce said that this is their take: "With reconciliation in mind, the B.C. Chamber of Commerce provincial network first adopted a policy on UNDRIP in 2018." I had to be reminded of that, by the way. I'd forgotten about that when I met with them.

They recommended that the declaration "serve as a basis for reforming laws and policies in B.C. We believe this legislation is the start of a long-term conversation that has the potential to lead toward clear and meaningful collaboration between government, Indigenous groups and the business community. Practical implementation of the legislation's intent will be vital, but our network believes a shared decision-making process between Indigenous peoples and government must be pursued and has the potential to create greater certainty for business."

That's signed by Val Litwin, of course the president and CEO of the B.C. Chamber of Commerce. I really thought she captured well the essence of.... I don't want to speak for business, but she does speak for business and their role.

Sorry, that was a he. Just to correct. Of course, I know Val. I just met Val, and Val is a he. I said "she." I apologize for that, and I correct it.

Sorry about that, Val.

The Chair: Thank you, Minister.

M. de Jong: I promise not to cross-examine on that point.

All right. That is helpful. The quote the minister read from Mr. Litwin referenced the importance of the practical implementation. I think that's the part of this that I'm trying to focus a little bit on right now.

I will come back to the question, because I think a clear statement from the minister and the government at this stage, around where the obligation to consult rests, would be important, and if the minister and government view that as changing in the aftermath of Bill 41. To this point, the legal obligation has accrued to the Crown. Companies and operators on the land base have certainly undertaken work, but the legal obligation has accrued to the Crown.

Does the minister see that changing going forward to extend to the private sector?

Hon. S. Fraser: Thanks for the clarification. I apologize if I didn't hit that one the first time around. The legal obligation that the member refers to is the Crown's obligation. This article does not change that.

M. de Jong: Something else that the minister said I found helpful and insightful when he spoke of what he saw as the objective — challenge, maybe, is a better word — going forward in the aftermath of Bill 41 and the declaration. It was, he said, the challenge around.... Well, he talked about engaging with First Nations "early and often." That was the phrase that he mentioned.

Is it fair to say, then, that the objective going forward will be to engage earlier and more often? Is that likely to reveal itself in some of the changes that we see?

[5:00 p.m.]

Hon. S. Fraser: When I say "early and often," I do mean that, but I'm not just talking about quantity here. I'm talking about quality, to genuinely hear the concerns raised, the suggestions raised, and to substantively respond to what we hear — again, even at the strategic level.

I see that as best identified by the work in the environmental assessment process, because what it refers to is involving First Nations from the very beginning of the process and throughout the process, including the genuineness. The depth of that consultation would include things like recognizing, along with modern science, the traditional and ecological Indigenous knowledge that goes with that. There's a greater quality, I think, of consultation, if you will. Qualitatively, that's improved also.

M. de Jong: Maybe I can wrap the next question into a slightly different example. I'll stick with my geographic area because I like the area.

I'm a rancher in the Nicola Valley, and my three-year grazing permit is due to expire next year. I'm applying for a renewal. It's an essential part of my operation. I can't make

the ranch work without the advantage of the grazing permit, but it is clearly located in the traditional territories of a number of First Nations.

I'm worried that what has already become a fairly lengthy process, in terms of the time it takes to have the certainty associated with securing that grazing tenure, is about to get even longer. I'm unsure about how the government, in the post–Bill 41 world, is going to take articles like article 32 and alter the process they follow to fulfil the Crown's obligation around consultation and to secure the free, prior and informed consent that will now, apparently, guide those deliberations as well.

What can the minister say today to that rancher who is harbouring some concerns on that front?

[5:05 p.m.]

Hon. S. Fraser: There won't be any immediate changes as a result of the legislation. The act itself does not change how the province consults with First Nations, nor how operational decisions are made. We will be focusing on the higher-level strategic process that I referred to versus individual permitting processes. That's what's anticipated.

M. de Jong: Thanks to the minister for that response. I'll say one thing and then move on to a different example.

I hope the minister appreciates that the reason for the questions are the questions that we have gotten from the rancher in the Nicola Valley who says: "You guys in Victoria are sitting around talking about this historic document, which leads me to think things are going to be different. I want to get a sense of how different things are going to be and how relevant that is going to be for my ranch operation."

Similarly, if we were in the Shuswap, obtaining foreshore lease renewals is something that I think has come to the minister's attention. Some of the issues have arisen around the timely renewal of the foreshore leases, some of which are instrumental for the operation of businesses employing many, many people. What can the minister say to people with a particular interest on that front?

It may be that — I don't say this to be dismissive or mischievous — he may simply want to say the same thing he said a moment ago: that he doesn't foresee any immediate changes and that he doesn't see any change with respect to the model of consultation. I don't want to put words in the minister's mouth, but these are specific examples where people have articulated an interest in better understanding what the impact of Bill 41 will be in areas that directly impact their livelihood. So there's yet another example, around the question of foreshore lease renewals.

[5:10 p.m.]

Hon. S. Fraser: The act doesn't change existing tenures on Crown land, and nor does it, in and of itself, give the declaration legal force and effect. The act sets the province and Indigenous peoples on a long-term path to work together to advance reconciliation; again, to foster an increase in lasting certainty on the land base that supports reconciliation; and to promote job creation and, of course, sustainable economic growth.

In the short term, we don't anticipate any significant changes in that regulatory framework. If there were future changes coming, they would come in collaboration with Indigenous nations, but there would be the opportunity — this is built in later parts of the bill that deal with transparency and such — for engagement with the business sector, local government and other stakeholders. That's built into further sections of Bill 41, which we will get to, I'm sure, in the fairly near future. That is already contemplated within the act. I hope that answers the question.

M. Lee: Just picking up the last point that the minister has made, certainly, we will come to that. But just as a note — I'm not asking the minister to respond right now; it's just so that we can keep track of the discussion that we're having here — my reading of the bill provides for a specific consultation and a plan for local governments and other persons that under section 7 would be consulted. I think that that was what the minister was referring to.

When we look at section 4, in terms of the action plan, it's not entirely clear — in the words that are there in that section — that there's the same level of explicit consultation plan. That will be a question, certainly, that we will come to on that section.

I just wanted to come back, though, not to distract from the main focus here on article 32. The importance of understanding clarity around the language that's in article 32 is…. Certainly, I appreciate the minister suggesting that in the future, through the work that's going to be occurring, there may be some adjustments, let's say.

At the outset, when this bill comes into effect, as it is being passed this week…. In section 3 of the bill, it has this language that we will come to after we complete the review of the declaration that "…the government must take all measures necessary to ensure the laws of British Columbia are consistent with the Declaration." That, again, is why we've been spending the amount of time we've been spending on understanding what the declaration does say.

With that in mind, I want to come back to article 32 and ask the minister this. We talk about understanding consent, the duty to consult. Certainly, when we're looking at a project development of the nature that's described in articles 32-1 and 32-2…. I wanted the minister first to confirm that, recognizing that under existing section 35 jurisprudence there is a firm duty to consult, a duty to accommodate in the ways that the Crown is responsible to do.

[5:15 p.m.]

If the minister can first confirm that through all of that and how article 32 may be applied, the Crown still retains final decision-making authority. Is that correct?

Hon. S. Fraser: I'm going to refer to James Anaya. He was the former special rapporteur on the rights of Indigen-

ous peoples who explained free, prior and informed consent. That standard is meant to ensure that all parties work together in good faith and that they make every effort to achieve mutually acceptable arrangements and that a focus should be on building consensus.

This is quite different than veto, of course. In fact, the UN declaration does not contain the word "veto," nor does the legislation contemplate or create a veto. So the bill does not limit the right of government to make decisions in the public interest. But there are many decisions where we need to make those decisions with Indigenous peoples. This legislation gives us the tools, I would suggest, to get an orderly, structured and, especially, a transparent process to do just that.

M. Lee: I appreciate the minister sharing that very well-formed statement. What I'm hearing are words that stated that this process of free, prior and informed consent is not anticipated to affect the need of government to act in the public interest. Of course, in acting in the public interest, presumably that does include recognizing the interests of Indigenous peoples in this province. But there's a balance there that is necessary for government to take. That's a topic to be discussed, still, at this committee stage.

What I'm asking, though, is that even if you read through that statement and the government looks at that statement and understands that that's what that means, the effect still is that the responsibility for the final decision rests with government. That is what I'm asking to confirm. Is that the case?

Hon. S. Fraser: The short answer is yes, but I'm going to just add to that. The importance, I think, of Bill 41 is that we are committing to work together collaboratively to try to arrive at decisions that have a consensus base to them. That is the direction I think we've received from the courts, time and again and again and again.

[5:20 p.m.]

Then, just as a bit of a qualifier, too, if I may…. Things can change. A treaty can happen. In those situations, decision-making takes on a different…. That's just one example where a decision-making process can change through things like modern-day treaties.

M. Lee: Well, thank you for confirming that government still has the final decision-making authority and responsibility. I think it's helpful to have that acknowledged in this committee stage because ultimately, when we're talking about how to implement the declaration and how it's defined for clarity, it is the government's responsibility, taking everything into account. Certainly, I respect the need to build consensus. This is what UNDRIP is about.

I just wanted to go one step further at this point, to ask a further question of some detail. That is, when we look at the term as it's referred to in article 32, there is no distinction in terms of free, prior and informed consent in terms of whether we are talking about, let's say, a project for approval — if it's a mining development or a forestry, timber licence. If that's on traditional territory where clearly, in the case of the Tsilhqot'in, there's been a determination of Aboriginal title or, if it's by treaty, there's been a determination as to the title of First Nations to a particular territory that certainly consent would be very clear in terms of that requirement….

Is there a distinction? Does the government agree that under case law — including, of course, the Haida decision in 2004 — where there are questions as to First Nations continuing to assert rights and title over particular traditional territory, that in that instance, there's a distinction as to what requirement there would be for consent in those kinds of situations as spoken to in Haida? Does the government see that there is a distinction between what is traditional land of Indigenous peoples over which title is asserted versus the same traditional lands where title has actually been declared either by court decision, in the Tsilhqot'in decision, or by treaty?

[5:25 p.m.]

Hon. S. Fraser: The courts, I think, have recognized…. I mean, there is a distinction we recognize when the courts make a decision, a title decision, or there is a treaty. In the two examples that the member gave, the decision-making process there is the nation. So I believe there is a distinction there.

M. Lee: Well, I think, as I attempted to describe the distinction, there clearly is a distinction, as the minister acknowledged. The other side, for example, where there are asserted rights and title…. The decision of Haida certainly set out the framework in Canada for the duty to consult and accommodate.

The quote that came from the court of the day, which I understand is still good law, so to speak, is: "This process does not give Aboriginal groups a veto over what can be done with land pending final proof of the claim. The Aboriginal 'consent' spoken of in Delgamuukw is appropriate only in cases of established rights, and then by no means in every case. Rather, what is required is a process of balancing interests, of give and take."

It's not my intention to get into a back-and-forth of court interpretation decisions here. My only point that I'm making, which I'd like the minister to comment on, is that when we look at the language in article 32, it does not make a distinction….

[The bells were rung.]

The Chair: I hear that a vote bell has rung. I'm going to call a recess.

The committee recessed from 5:27 p.m. to 5:37 p.m.

[A. Kang in the chair.]

M. Lee: Just to rephrase my question. I appreciate the minister acknowledging that there is a distinction in terms of the duty of accommodation and duty to consult versus between where there are asserted title rights on traditional territories versus where there is not, where it's been determined, either through treaty or through a court decision. If the minister agrees with that, then…. I'm just turning back to article 32 and saying that there is no clear wording in article 32 in terms of that distinction.

Where that becomes a question is when we're talking about the application, literally, of section 3 by the government. The requirement is to use "all measures necessary to ensure the laws of British Columbia are consistent with the Declaration" on the day that this bill is passed and the action plan that will unfold, that process.

What is it that British Columbians and this government will understand as to the expectation around article 32? That is one of the articles that, as the member for Abbotsford West has taken us through, has a number of really impactful questions from individuals who are trying to create the right level of economic partnership in our province, including with First Nations.

When I look at that language in article 32, it does not make a distinction between, using the words there, lands or territories over which Indigenous peoples have asserted rights or title versus lands and territories of Indigenous peoples over which, by treaty or by court decision, there clearly is title that's been determined.

What is the view of the government, and the minister speaking on behalf of the government, as to how article 32 will operate and how B.C. laws will be made consistent with something that doesn't draw the distinction?

[5:40 p.m.]

Hon. S. Fraser: Thanks to the member for the question. You know, I don't want to be a broken record here, but we have a real opportunity here to do things differently and bring more certainty, predictability, I think, to the land base.

In reference to the distinction here between title and treaty and traditional lands — I think is where the member was at — it's so important that we do this work, that we move forward with the action plan to work collaboratively, in good faith, with Indigenous people regardless of the status of the land.

I think it's informed well by the Tsilhqot'in decision. The Supreme Court of Canada, in 2014 — the Tsilhqot'in decision — talks about the situation of government proceeding with a project without the consent of an Indigenous nation. That nation, subsequently, established Aboriginal title, and that project could be cancelled.

This was, I think, a strong warning, a decision from the court that we will need to embrace opportunities, like opportunities created by Bill 41. To make decisions and not collaborate in good faith in an asserted territory, there is a risk, a strong risk — and not just a hypothetical one, but one that the court has already established with the Tsilhqot'in decision.

[5:45 p.m.]

M. Lee: I understand what that decision in 2014…. It was a landmark decision in many ways. It certainly encapsulated all of the tremendous — I say tremendous in the sense of significant — court decisions that have unfolded in this country over many years.

The guidance that the Supreme Court of Canada has provided is very instructive, as the minister is suggesting, but it does establish a framework. The minister cited one example of where the court turned its mind. There are other examples, of course, including strength of claim — duty to consult in the context of that.

My point here, though, is not to spend the committee's time in a full exercise of understanding section 35 jurisprudence. We could spent a lot of time doing that, certainly. My point, though, that I'm trying to make to the minister is this. In the committee stage of this bill, the understanding around section 35 jurisprudence we've talked about from the beginning of the debate on this bill at committee stage…. It's the understanding that section 35 jurisprudence is to be utilized as a framework around which this government will be viewing Bill 41 and the implementation of UNDRIP, the declaration.

If that's the case, then I would have thought that…. The response that I was looking for from the government to confirm is that article 32 will be minded, when it's read and when it's to be consulted on, when we have the mutual process between government and First Nations….

All of that process — the due process that the minister described earlier in this session — will be guided by section 35 jurisprudence and the distinctions that are drawn, including in the 2014 decision of the Supreme Court of Canada. That is what I'm looking for — confirmation from the minister — recognizing that this is a pretty technical type of question that I'm asking.

It's technical in nature only because of the importance of article 32. There is a lot that's covered in article 32 that is not referred to. The words are not there. The words are very general in nature. As the minister has described even in this session, twice in response to my colleague from Abbotsford West, this declaration is of a broad nature. It was broadly constructed with other nations and other situations in mind.

Well, the challenge, of course, is to ensure that, as we and as this government goes forward with Bill 41, it's done within the context…. I'm merely asking for reaffirmation and reconfirmation of another technical point as to how duty to consult and duty to accommodate is to operate on lands that are not even qualified anymore by traditional occupation or other means.

This is just a term that says: "their lands or territories." Again, I believe that it would be appropriate for the government to confirm, in response to my question, that that cer-

tainly will be drawn upon, guided by, section 35 jurisprudence. That's my question.

Hon. S. Fraser: Indeed, it is to be applied within the constitutional framework of Canada, including section 35 of the constitution, recognizing that, as I mentioned before, case law will still evolve. Hopefully that clarifies things.

[5:50 p.m.]

M. de Jong: We have been listening carefully to the answers and the explanations that the minister has been giving over the course of the discussion these past days. He said something again that is a theme that has emerged throughout that he has, I think, with the best of intentions, been attempting to articulate. He has talked about the desire of the government, in general terms, with respect to engaging with First Nations, to do things differently and bring certainty — but to do things differently.

I have taken from our conversations over these days that the significance of Bill 41, ultimately, in light of the information the minister has been able to provide to the committee, is largely procedural in nature, and not to suggest that's not important. But given what the minister has said about Bill 41 not bringing the declaration into legal force and effect and given what he has said about Bill 41 not creating new rights and given what he has said about the declaration having been an interpretive instrument for the courts and remaining an interpretive instrument for the courts as opposed to a mandatory instrument, the key here is procedural, with respect to the minister and government's mind.

When he says "do things differently," it largely relates, or perhaps exclusively relates, to the nature of that engagement, the act of coming together. There is an obvious question that flows from that. I've asked it in a couple of different ways with respect to forestry tenures and agricultural tenures or grazing tenures, foreshore lease arrangements. We could talk about it in the context of access to minerals, recreational trails, access to the back country that involved the granting of licences and permits.

I think the essence of the question is: to the extent that the minister can…? I don't pretend this is an easy question. But if what I have said is largely accurate, then the key question becomes: how's it going to be different?

There are two groups that are interested in the answer to that question. One would obviously be First Nations themselves, Aboriginal people. The second group would be non-Aboriginal people, non–First Nations, who may themselves have an interest in the land base and are listening and watching and reading and understand that, presumably, the government's intention here is to utilize this legislation and the declaration, which is its centrepiece, as the impetus for, as the minister said, doing things differently.

This is both the question and the invitation to the minister, with as much particularity as he can at this stage, to articulate what that means, what doing things differently means with respect to the procedural components of this bill.

Hon. S. Fraser: I do appreciate the question, and I do appreciate the time we've had together. It is day 4. The bill is 2½ pages. It's a fairly small bill, although I'm not meaning that in a qualitative sense by any stretch of the imagination. I think we're approaching hour 18 of this debate. I appreciate the question coming from the member, but I believe his suppositions are somewhat premature.

We're on section 2 of the bill and have been for quite a while. The meat of the bill…. A lot the meat of the bill that will inform the how, as I think the member is asking — how this will be different and how it will change — is all in the bill.

[5:55 p.m.]

Even while one member is asking the question, the other member could actually read the bill and see what's coming. Until we get that on the record…. I think that will clearly show what will be different and how we're going to make it different.

M. de Jong: My purpose is not to quarrel with the minister. I hope he understands and accepts that our purpose is, as well, not to be repetitive with respect to the questioning. I think there is clearly an opportunity in section 4 to explore the issue, and we'll happily do that.

I think it is equally relevant, though, I will say with the greatest respect, in the context of article 32 — where the minister has said that that article and the declaration are pointed to, by the government, as providing support for the proposition and the effort to do things differently — that it is a worthwhile endeavour in the context of these specific examples that we have been talking about for him to provide some specificity around that. But if he is more comfortable having that conversation elsewhere in the bill, then I suppose that is his prerogative.

May I pose this question, though, with respect to article 32 and the comments that the minister has made about doing things differently, about engaging earlier, engaging more, engaging better, which, I presume, he feels is an approach that is consistent with article 32 of the declaration? Does that necessitate additional resources for the minister — for, certainly, his department of government and for other departments of government?

It strikes me that what he is describing and I think what he is going to, if I anticipate subsequent discussions, particularly around sections 3 and 4…. He is going to talk about a more robust engagement, consultation initiative. Does that, by definition, require more capacity on the part of government? There will be a question later in our conversation about what it means for First Nations. But for government, does it require more capacity to fulfil that noble objective?

[6:00 p.m.]

Hon. S. Fraser: In answer to this specific budget question, I think that is definitely an estimates type of question. So I'll save that one for estimates.

The importance of what we do. This bill is significant in

what we do, in recognizing the human rights of Indigenous peoples as a starting point, engaging early and often with Indigenous people, working strategically in ways that we have not before. Those things will not just bring about more justice and more equity in this province, and more certainty and predictability, but they'll keep us out of the courts. Again, courts are a very blunt instrument, as we know from the Tsilhqot'in decision.

In my time over the summer working with all sectors as we moved forward with the drafting of this legislation in the collaborative work with the First Nations Leadership Council, we heard time and time again that the status quo was not effective. It was fraught with problems. Business was looking for guidance from government, and the courts were giving guidance for a long, long time, but that guidance was not being adhered to by governments. I'm not going to point any fingers here.

This is a significant piece of legislation. That is why the level of support is across the board — from business, from labour, from NGOs, from academia and from local governments — just urging us, in many cases. Business is urging us to get on with this. The B.C. Business Council is already doing this work. Government has not been doing the work that we need to do. This is about how we do things and how we do things differently, and I'm hopeful that the members opposite will support the bill because of those reasons.

Those in the business community, those in local government, those in academia understand just how this is desperately needed — a significant change of government recognition of rights that we all, generally, take for granted in this province and that, in theory, should be the rights of Indigenous peoples.

We're taking that on up front to change the relationship. It will allow us to change laws over time, to bring them into line with the human rights aspects of this bill, of this declaration. It is the guide for us to follow, and the process and how to do that is going to follow in the upcoming sections of this bill, which I'm very much looking forward to.

[6:05 p.m.]

M. de Jong: Okay. I'll maybe try a different way. I think there is an element of this that is relevant and appropriate to ask the minister.

In achieving the procedural improvements that the minister has referred to — the improved engagement, the more robust levels of consultation in the way that the minister has repeatedly described — is the government going to require devoting more people, more resources and, therefore, more money to the initiative?

Hon. S. Fraser: I'm just going to correct…. I don't believe I stuck to the procedural in our discussions here over the last four days. The human rights of Indigenous people and locking that down into law in British Columbia is not procedural. It's fundamental.

Again, the question from the member to me, like the last question, would be a question for estimates.

M. de Jong: Well, I think the minister is staking out his turf. I think if I were endeavouring to quantify in any specific way from the minister's budget, he may have a point.

Asking in the context of what the minister has described as a historic piece of legislation that is going to be the catalyst for doing things differently, whether in general terms…. There is a budgetary implication, and whether the government and the minister contemplate devoting additional financial resources to achieve that objective, I think, is entirely appropriate. And that is my question.

Hon. S. Fraser: Every minister in this government has received mandate letters to move forward on this from the very beginning. So over two years ago, when we formed government. I think the member could reflect on the actions, significant actions taken by this government, through cross-ministries, in response to those mandate letters.

In our ministry — a very small ministry in the big scheme of things — the first big-budget item that changed was languages and the $50 million designated towards Indigenous languages, the most significant move towards protecting and revitalizing Indigenous languages. It was certainly something that we undertook. Housing, $550 million over ten years. Indigenous languages, off and on reserve. I mean, I could go on.

Pretty much every ministry can point to specific budget items that they have undertaken, significant budget items — $3 billion over the next 25 years towards any revenue-sharing through gaming; Mental Health and Addictions, a brand-new ministry with a significant budget addressing specific needs for Indigenous people and addressing mental health and addictions. It goes on.

[6:10 p.m.]

These budget issues do come up, of course. They have been coming up. We are going into the next piece of this legislation, Bill 41, and it will talk about where we're going next and how we're going to do that.

Will there be budget implications for that? That will become…. Those implications, if there are implications, will be dealt with in the next budget. Therefore, it would be…. This is not the place for that. The place for that would be in the estimates process.

M. de Jong: Again, my purpose is not to quarrel with the minister. I can assure him that it is a time-honoured tradition of this institution that when ministers bring legislation before the House for consideration, an always appropriate, relevant and acceptable question is: what's it going to cost?

I am not asking the minister to specify in great detail. I'll ask it one more way, and the minister can answer or not or tell me to go elsewhere and pose the question. I will say, though, that for as long as I have been here, ministers, when presenting legislation, have been prepared to offer whatever

information they can about the fiscal implications of the new law they are endeavouring to advance through the assembly.

The last question on this point. Has there been any preliminary analysis conducted on what the costs are to the government — I'm not talking about the First Nations at this point — of enshrining into the laws and applying to the laws of British Columbia the UN declaration, as contemplated by this Bill 41?

Hon. S. Fraser: What's still coming in the deliberations that we have here in third reading and committee stage…. I call it the meat, I guess, of this bill. It is the alignment of laws, the process for that, the action plan. These have not yet happened. This hasn't been passed yet.

Obviously, those pieces that the act directs government to do — action plans and alignment of laws…. Those details will be considered in future budgets by government. When that does happen, that would be the place to ask specific questions or any real questions about the monetary aspects of this or the budget.

[6:15 p.m.]

M. de Jong: In fairness to the minister, I will interpret that answer as no. If he disagrees with that….

The question was a fairly basic one about a preliminary analysis of the impacts of the bill and the costs that will accrue to the government to implement the bill, once passed. The minister didn't address that, or to the extent he did, it was to say: "We'll deal with that later."

My specific question was: has there been a preliminary analysis around the cost of doing that? I assume from his answer that the answer is no. If I'm incorrect, at his next opportunity he can tell me that's not the case and there has been a preliminary analysis of cost, but that is not what I took from his answer.

I wonder, if we go to article 34, where there is reference to juridical systems or customs. This is, again, one of those general questions to the minister. Within the context of B.C. and applying the declaration to B.C. in the way contemplated by Bill 41, how does the minister interpret and how does the minister believe article 34, dealing with unique juridical systems or customs, applies to the British Columbia example and British Columbia experience?

Hon. S. Fraser: Thanks to the member for the question. The article is connected to self-determination, which we've already discussed earlier. But as set out in subsection 1(2) of Bill 41, the province recognizes the diversity of Indigenous peoples in this province, including with respect to their customs, their traditions and their governance structures. We'll take this into account when going about the process set out in Bill 41, which we will get to at some point.

I'll give an example. In 2017, the province and the B.C. First Nations Justice Council signed a landmark MOU to create a First Nations justice strategy that is Indigenous-led rather than Indigenous-informed. It doesn't sound like much, but it's significant. There's a difference there between Indigenous-led rather than Indigenous-informed.

The work in this area includes creating new Indigenous courts, developing alternatives to traditional courts and developing culturally relevant ways, I would say, of delivering justice services for First Nations people.

M. de Jong: What I'm hoping to do is ask two more questions, so I'll keep them brief before I think we're obliged to be on our way.

I'd be very much obliged if the minister could provide just a little bit more information about what he and the government contemplate to be captured by the notions of Indigenous courts and alternative courts.

Hon. S. Fraser: The strategy that I referred to also includes up to 15 Indigenous justice centres throughout the province to provide legal support and advocacy and wrap-around services in holistic and culturally appropriate ways. The province is also committed to working with the Métis Nation B.C. Of course, we have an accord there, with the Métis Nation B.C. justice council on developing a Métis justice strategy.

If there are any other questions on this particular issue, they're probably best aimed at the Attorney, because I know that's work that they're doing at the Attorney General's office.

[6:20 p.m.]

M. de Jong: I'm going to go to article 36, and this may be…. Recognizing the time constraints that we're on, maybe I'll ask the question and I'll lump a bunch of questions together. It'll give the minister and his team something to chew on until we meet again, as they say.

Article 36 speaks to Indigenous people's rights and interests where there are international borders. This can apply in different ways, depending on where you are in the world. In our context, it involves an international border with one country, the United States. The question I wanted to put…. I was going to do it in separate instances, but I'll bundle them all together, and the minister may be in a position to speak to it when we gather again.

We are engaged in negotiations with our neighbours, the United States. We are engaged, for example, in softwood lumber agreements, which is an interesting one. There is, I'm told, some prospect that we may, as a nation and a province, return to a model of agreement, if we ever get there, that we saw 20 years ago with a quota system that involves the provincial government assigning to forestry companies a certain right to ship lumber to the United States. It limits their right to do that.

How does that operate in the context of us giving effect to the international rights contemplated in article 36 for First Nations? That's the first example — the softwood lumber agreement.

We are engaged right now in negotiations around the Columbia River treaty. I am advised that certain First Nations

have observer status on those negotiations. Does the government, moving forward in the post–Bill 41 world, believe that the rights of First Nations change? Maybe that's the wrong terminology, given what the minister has said. In giving effect to the rights of First Nations, are they entitled to something other than observer status and a more direct participation in that exercise?

And then thirdly, the Skagit River treaty is becoming the subject of discussion once again. I am told that the treaty is jointly managed by the city of Seattle and the province of British Columbia. What role, if any, does the minister and the government contemplate for British Columbia First Nations who would have a genuine interest and a historic interest in matters touched on by the Skagit River treaty?

Three examples that I think are relevant to article 36 and I think I have taken this as close to the deadline as I dare to.

The Chair: Thank you, Member.
Minister, noting the hour.

Hon. S. Fraser: Thank you, Madam Chair.

Again — ten seconds — matters that cross international borders are generally matters of federal jurisdiction, so this may be another example, like military issues. I think that would be the applicable answer and the place to place this. But we can discuss that when we meet again, as the member said.

I move that the committee rise and report progress and ask leave to sit again.

Motion approved.

The committee rose at 6:23 p.m.

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