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SECOND SESSION, 38TH PARLIAMENT

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Proceedings in the Douglas Fir Room

THURSDAY, MAY 18, 2006

The House met at 10:02 a.m.

Prayers.

Introductions by Members

D. Routley: It gives me the greatest pleasure to give a heartfelt welcome to two of my dearest friends, Ross Davies and Ranjit Manhas. Could the House help me welcome them.

Orders of the Day

Hon. M. de Jong: Mr. Speaker, in this chamber I call continued committee stage debate of Bill 27; and in Section A, Committee of Supply — for the information of members, on the estimates of the Ministry of Public Safety and Solicitor General.

[1005]

Committee of the Whole House

TENANCY STATUTES
AMENDMENT ACT, 2006
(continued)

The House in Committee of the Whole (Section B) on Bill 27; H. Bloy in the chair.

The committee met at 10:06 a.m.

Sections 2 to 6 inclusive approved.

On section 7.

D. Routley: Section 7 dictates that landlords may not restrict access to residential property and that this is governed by the standard of reasonableness. Who is to dictate and determine that standard of reasonableness, and couldn't the minister consider a standard of unconscionability?

Hon. R. Coleman: This amendment allows landlords to restrict access of a tenant or a guest to residential property under some circumstances. Some examples of those situations when a landlord could reasonably restrict access would be: there's a fire in the building, and tenants are not allowed entry into the building until it's determined to be safe; there are structural issues where it would be determined to be a risk to the tenant to go in, because of an earthquake or whatever the case may be; a guest is a known drug dealer and suspected of selling drugs to tenants. That would also be something.

This provision, hon. member, was actually inadvertently omitted in the new act, but it is included in the regulation today. The amendment is to make the act consistent with the regulation and reflect the common practice that's already in existence. Publications will be updated by us to give examples of circumstances where it would be considered reasonable for a landlord to restrict access.

Sections 7 to 9 inclusive approved.

On section 10.

D. Routley: The second point permits a landlord and tenant to agree in a tenancy agreement that a tenancy agreement is assignable. Should not an owner of a manufactured home have the right to assign their tenancy without approval?

[1010]

Hon. R. Coleman: This is also an amendment that makes a housekeeping correction to match up with regulation. It permits a landlord to authorize the assignment and sublease of a tenancy agreement. The reason it needs to be there is that in some tenancy agreements that are in place today, the agreement says you can't sublet. It does allow for the….

[Interruption.]

Hon. R. Coleman: Thank you, hon. Chair. It does allow that the two of them can agree to do it. So if it's in an agreement, it authorizes them to be able to do it.

Section 10 approved.

On section 11.

D. Routley: Section 11 is particularly concerning in that it allows a landlord to increase rent in an amount that is greater than is authorized by the act, with the tenant's consent in writing. Since this act applies to people who are in very vulnerable positions in terms of their B.C. Housing accommodations, in many cases, and since there is great pressure on the owners of manufactured homes and on the owners of manufactured home parks to redevelop, this measure makes vulnerable those people to coercion.

If someone owning a manufactured home park were to go to their tenants and say: "Look, I'm under a lot of pressure to redevelop this park. It's just not profitable for me. I could stay in this business if you could allow me an increase greater than, say, 30 or 40 or 50 percent…." I think that there are many tenants in manufactured home parks who are extremely worried about the future of their tenancy, extremely worried about their investment. They have worked and paid mortgages to gain ownership of their homes, and now, with the widespread redevelopment of parks, they are at risk.

I can see that this measure — particularly section 11, which amends section 36(1): "(c) agreed to by the tenant in writing" — exposes to vulnerability many, many people, and exposes them to coercion of an unscrupulous landlord. Could the minister describe how those people's interests will be protected?

Hon. R. Coleman: Actually, this amendment authorizes a landlord to increase rent in an amount

greater than is authorized by the act — the act has a calculation by regulation — with the tenant's consent in writing. This provision was inadvertently omitted from the new act but was included in the regulation. It's been there in tenancies for years with regards to this.

There are two ways you can look at this, though, hon. member. One of the challenges…. If you sit down with owners of manufactured home parks today, the first thing they'll tell you is that they can't get appropriate increases like residential tenancy can under apartment buildings to be able to just cover off their costs. They will tell you that over the last 15 years or so, they have, inflationarily, been squeezed down in their operation by different laws of government that say you can't increase your rent and can't do certain things.

At the same time, the park's municipal property taxes have gone up, for argument's sake, over 20 or 25 percent over a ten-year period. They may have an older septic system that needs to be replaced. The roads could be in disrepair — whatever. They say that actually sometimes to improve the park, to make it viable in the long term, they need to be able to go to their tenants and say: "This is the list."

[1015]

Now, the regulation is pretty strong, and so is the operational side, that they have to be able to justify this when they're asking for it. It's not unlike, though, what we have as a provision under the Residential Tenancy Act, which is the same. One of the concerns that we had when we debated this act back then was that would be the ability. That was represented to us by both landlords organizations and tenants. The concern was that if the landlord — whether it be an apartment building; I'll use that as an example — was to have his taxes go up but in addition to that needed to upgrade a sprinkler system or fire system or whatever within the building, there was no ability to recapture that. So what they did instead is allow their buildings to deteriorate, and eventually they would redevelop them into condos or whatever the case may be.

The provision, because it has to be agreed to in writing, is actually intended to work for both parties. As the member says, there's always this question around unscrupulous landlords, which the member and other people would like to bring up with regards to this. Within the act, further on, we deal with some administrative penalties with regards to that which will allow us to actually levy significant fines for bad behaviour, rather than having to go to the court system, and have a more proactive system with regards to bad behaviour on behalf of the parties under this act.

The challenge here is — like I say, it was admitted…. It's already in regulation. It is consequential. The requirement for the rent increase has to be on an approved form, as it duplicates, you know, the other provisions of the acts.

The important thing to remember as we go through this, manufactured home parks…. I know I mentioned this to the member in question period some time back. We actually hired a consultant on the manufactured home park file. My staff are meeting with that individual next week to basically go over the terms of reference that we're trying to achieve here.

We recognize that there's an aging complex of manufactured home parks. There's pressure on development in various areas. In the valley where I come from, the pressure is because the agricultural land reserve surrounds so many communities. Somebody can now look at a park and say: "Actually, if I could get the density on there, I could make it work for another use."

The challenge is that we need to decide what we're going to do with municipalities on rezoning. Interestingly, this morning I was advised of a letter that came from a local council out my way written to the federal government to do something about manufactured home parks. That tells me that the educational level at local government really is pretty low, when the letter is, basically, asking them to do something about rezoning of manufactured home parks when they have the rezoning power within them. They can make that decision — yes or no.

I told the member in question period one day that I've made the commitment to the industry, to both sides — the tenants and the landlords — that we're going to hire the consultant. I think it's important for a number of factors. One is that because this has been an ongoing problem for probably 15 or 20 years, we need to find the short-term, medium-term and long-term solutions for the existing housing stock.

On the other side of it, though, at the same time, I do believe we have to look for some innovation. I actually happen to believe that manufactured home parks, properly done, more with a bare-land strata than a tenant-landlord relationship, can actually be an affordable form of housing for seniors and other people and can solve some of the housing issues within some of our jurisdictions. But it will take local government to take the next step — the next step being that they actually recognize that this is a good form of affordable housing, rather than saying it's opposite to that.

The reality is…. I know this because I've actually owned three manufactured homes in my life. My first home was a manufactured home. My second and third were also manufactured homes. Two of them I was in a rental relationship; the other one I was into a lease arrangement. They are a very good form of housing.

What needs to be recognized is that local government will first have to realize that if they want affordable housing, they're going to have to put down some positions for themselves, just like we do with the homeless strategy, to have local government step up and take some leadership. At the same time, our role has to be: what can we do going forward to make it easier for certain things to happen within that marketplace?

[1020]

That doesn't answer the question with regards to this. But it is a pressure in parks, and what happens is if the deterioration of the park goes such that it gets to the point where nobody wants it there, then we have another problem. We have that other deterioration of

an attitude by local government towards the parks. They need to be able to at least maintain their structure. That's why, if they really do have a pressure that comes forward and they need to do it, they can, by agreement with their tenants, raise the rent higher for a period of time or for a long period of time, depending how they amortize it.

There are pressures on these operations, because the whole rent control — freezing, whatever you want to call it — over a long period of time has pushed the inflationary point to the park to the point where the park isn't making investment, in some cases, where it should be in the infrastructure to make the park sustainable. So it goes both ways.

I think the fact that it's in writing, that there are some strong rules around it and that it has worked in the past, because we know that…. Those two things do not take away, though — frankly, don't get away — from the fact that some municipal governments appear to be prepared to just rezone them, no matter what the case may be.

It's a concern. That's why we've hired the consultant. We've undertaken that we're going to go work on manufactured home parks as a particular project within the Housing Ministry to try and find the long-term solutions.

D. Routley: I'm pleased to hear the minister recognize the value of manufactured home parks and relate his own experience. I appreciate the investment in the consultant looking at the situation.

I could offer a productive suggestion that I'm quite sure the minister has probably considered. That would be that several jurisdictions have initiated bylaws. There seems to be a template moving around the province that's developing. Other jurisdictions are calling for leadership from the ministry to establish a format and put the pressure on those jurisdictions that haven't been as responsive or, as the minister points out, aren't as well acquainted with the issue.

It would be good to see some coherence and consistency brought to that. But that doesn't change the fact that adding to this legislation a provision for rent increases greater than allowed under the act with the agreement, in writing, of the tenant, still — in my view and the view of many of the activists in this area — exposes tenants to the risk of coercion.

I would offer in a friendly way this amendment to this portion of the act. The amendment is to section 11, which modifies section 36 of the Mobile Home Tenancy Act.

[*by deleting the text shown as struck out:*
11 Section 36 is amended
(a) by repealing subsection (1) (a) and (b) and substituting the following:
(a) calculated in accordance with the regulations,
(b) ordered by the director on an application under subsection (3), or
(c) agreed to by the tenant in writing. ,
(b), in subsection (3) by striking out "a landlord may apply to an arbitrator for approval" ***and substituting*** "a landlord may request the director's approval" ~~***and by adding***~~ ~~"by making an application for dispute resolution"~~ ~~***after***~~ ~~"subsection (1) (a)"~~, ***and***
(c) by repealing subsection (4).]

[1025]

On the amendment.

Hon. R. Coleman: It defeats the purpose of the section. The purpose of this section is to allow — which is already happening in regulation and has actually operated properly within the business cycle for a long period of time — the relationship we've been working to change between landlord and tenants, and the ability to actually have long-term sustainability for the park. Frankly, it's already in practice. It's already in regulation. I mean, the member is wanting to amend something that we're already doing, which is actually working.

Having said that, I won't be supporting your amendment. I think that when we already have a practice in place and it's working, we should let it work. Because we've hired a consultant to do the review, we're going to go through and not amend any of this act today. When it comes to manufactured home parks, I've hired somebody to take a look at the whole package. I'm not going to piecemeal this package, because governments successively over the last 20 years have done exactly that.

The member mentioned standardized bylaws for manufactured home parks. Those have been available since I was Housing critic in the 1990s. How to even design one has been standardized by manufacturing…. Suggested bylaws for municipalities were in place many years ago. They've actually been run through UBCM. When I was a critic, I found that out.

The challenge I find with this is getting people to actually read the material and get educated on the value of manufactured home parks. Let me just give you one example. You say to a municipality: "Don't zone out the manufactured home parks." The owner says: "Look, I can't afford to maintain this place anymore, and I can't get any other use for my land, so my only opportunity is to not fix things." Then the people who are living on the land get a deteriorating asset that they're living on, which is unfair to them.

There has to be an opportunity for the landlord and tenant to sit down and have that discussion. But even if a landlord today in some municipalities said: "All right. I'll tell you what I'll do. I'll do a bare land strata here" — which is basically like a subdivision on a piece of land, bare land, but you're not actually going to where you have to do the size of road for a subdivision — "and I'll actually allow that the lots could be sold to my tenants."

Some municipalities, many municipalities, wouldn't allow that. If they did, they would whack the owner of the property — who's trying to create affordability for their tenants and long-term sustainability — with a great big development cost charge just for the privilege of doing that for their tenants. Those are the type of things that have to be dealt with by the consultant looking for solutions going forward.

We have something that is actually working. It does work with that relationship. I know there's always the

thought that there is somebody out there who is surreptitiously going to threaten a bunch of people to sign a document to do something in a park. The reality is that they have to justify not only the signature but the information and the expenses under the act today and under regulation.

This fixes it in the act. It harmonizes it with regulation. It is, frankly, a section that is working. I believe that the most important aspect on the home manufactured park side is: can we get a report and a consultative process, a relationship with municipalities…?

The member always says they're looking to the provincial government for the solutions. Well, we don't actually rezone the land in municipalities. We could have all the solutions, but we can't stop them from rezoning the property. They can decide at a public hearing and go through three readings that they're going to turn it into a Wal-Mart property, or whatever the case may be. Then we obviously try to have the protection of the people that move off.

There are a number of aspects here. One is: what can we do going forward? That's what we're doing with the consultant. Two: where else can we put parks? Where is an opportunity to look at our land base to see if we can find alternative locations for people that may want to move?

[1030]

As the member is aware, one of the challenges is that in certain jurisdictions, there's not another park to move to if somebody wants to make a choice. So because of that no choice, and because of the freezing over here of the rent and the inability to invest capital, we're creating a perfect storm of a deteriorating asset for both parties. That's just not fair to either party.

They need to be able to work together to keep their park in a place where, capital-wise, it's functioning properly. In addition to that, you have to find the next level of solutions, and that's not going to be found in these debates today.

I obviously have some ideas. The member opposite has some ideas. I'm sure former members that have held this portfolio have ideas. I want to bring them all together and see if we can find the long-term solutions.

Amendment negatived.

Sections 11 to 18 inclusive approved.

On section 19.

D. Routley: This section deals with and provides the ability for the director to make a decision without hearing under certain circumstances. It reads: "Despite section 54 *[setting down dispute for hearing]*, in the circumstances described in subsection (2) (b), the director may, without holding a hearing, (a) grant an order of possession to the landlord."

We have seen this bill, so far, draw arbitrators into government as employees. I've put on record my feelings about what that will do to the independence of that process of adjudication of disputes. Now we have a section that permits the director, who will now hold all the powers of adjudication, to grant an order of possession without hearing. This is a limitation of voice. Could the minister consider removal of the provision "without holding a hearing"?

In other areas of the act, interests of landlords — when it comes to administrative penalties — are well protected in that hearings must be held. Third-party interests are provided later in the bill. If there is a third party who's affected by a tenancy dispute, they must be heard. But here we have circumstances where the tenant themselves may not be heard. Could the minister explain this provision?

[1035]

Hon. R. Coleman: This amendment allows orders of possession without a hearing in circumstances where a tenant has no right to apply for dispute resolution under the act. So what would those circumstances be?

One, the tenant has actually given notice to end the tenancy. They give their notice to end the tenancy and they leave, but they abandon the site. The landlord needs the right to get an order of possession to move the unit off the site, because it's been abandoned or vacated.

Two, there's a fixed-term tenancy with an end date. There's an agreement between two parties that they have a tenancy agreement for 12 months or six months, or whatever the case may be, and that runs out. Unless a new agreement is signed, an order of possession could be given simply because the contract has run out.

The landlord and tenant mutually agree to end the tenancy. Where the two parties have agreed to end the tenancy, the two parties say: "Okay, I'm done here." Somebody has an older unit, and they decide they're not going to move. That leaves the landlord with a unit, even though the tenancy has been agreed to be ended, sitting on the site — and needs an order of possession to vacate it.

The last one is that the time period for a tenant to dispute a notice to end the tenancy given by the landlord has passed. If there's a notice to end the tenancy and there's been no dispute by the tenant, there's not much sense in holding a hearing when there's no dispute.

Having said all of that, if the notice or order of possession is issued, the tenant still has a right to ask for a review of that order of possession. Even if they haven't met any of their legal responsibilities with regards to the act, they still have the right to ask for a review. I think it's pretty protective.

At the same time a lot of time is spent on orders of possessions under the act. Folks just basically don't show up at hearings — have abandoned the site because the tenancy agreement is over. They've agreed to mutually go.

Even today, if a tenancy agreement runs out and the tenant leaves, and everybody knows the contract's run out and it's all over, we still have to hold a hearing. Now what we can do is say we don't have to have a hearing because we actually have the end of the tenancy by agreement by the two parties. But one party has now left stuff on the site, which the landlord needs an order of possession to go in and remove.

It's actually pretty balanced. It takes care of the concerns the member raises with regards to this. Frankly, it basically allows for a number of things to deal with behaviour in a manner that makes a lot of sense when there are already mutually agreed-to situations under contract.

D. Routley: The minister has offered reassuring comments on issues and circumstances where there is no dispute and where a hearing seems redundant. In order to protect the interests of those who may not, in some circumstances, have been able to respond to a dispute or within the time frame allowed, I would offer another friendly amendment to this bill.

That would be an amendment to section 19 — that section 19 amends section 48 of the Manufactured Home Park Tenancy Act. This amendment would strike out under 19(b)(4)(2)(b) where it says "the director may, without holding a hearing…." This would strike out "without" and substitute "after" holding a hearing. This would be offered with the hope that the minister would embrace it as a protection of those who may be in circumstances other than he has described.

[***Section 19, by deleting the text shown as struck out and adding the text shown as underlined:***
19 Section 48 is amended
(a) in subsection (1) by striking out "applies for arbitration" ***and substituting*** "makes an application for dispute resolution" ***and by striking out*** "order of possession of the manufactured home site if," ***and substituting*** "order of possession of the manufactured home site to the landlord if,"***, and***
(b) by adding the following subsection:
(4) Despite section 54 *[setting down dispute for hearing]*, in the circumstances described in subsection (2) (b), the director may, ~~without~~ after holding a hearing,
(a) grant an order of possession to the landlord, and
(b) if the application is in relation to the non-payment of rent, grant an order requiring payment of that rent.]

On the amendment.

Hon. R. Coleman: I already described to the member earlier what the process would be with going forward on manufactured homes. I also told him that we would not be supporting any amendments to this act because the process is actually working in the system today.

I will reiterate to the member that the tenant will always have the right to apply for a review of an order of possession under any of the circumstances under these changes to the act. We won't be supporting the amendment.

[1040]

Amendment negatived.

Sections 19 to 21 inclusive approved.

On section 22.

D. Routley: In an effort to speed things along, we're going to have to all work together here. There's no doubt about that. Under section 22 there's a provision for monetary claims under the Small Claims Act if the claim is more than the monetary limit for claims under the Small Claims Act.

Elsewhere in the act there's a provision for minors to become landlords. Since minors can't be petitioned through the small claims court, how can the act protect the interests of mobile home park tenants whose landlord may transfer to a minor ownership of a park and thereby make the minor a landlord? The act would empower a minor to enter into a tenancy agreement as a landlord, but then that minor could not be pursued through the courts. Will this act not provide an escape valve, so to speak, for those who would employ those measures?

Hon. R. Coleman: Could I just clarify what section we're on, please?

The Chair: We're on section 22.

Hon. R. Coleman: Section 22. This amendment is consequential to replacing applications for arbitration with applications for dispute resolution as the start of the dispute resolution process, and replacing arbitrators with the director.

The current provisions allow minors to enter into tenancy agreements as tenants. The amendments allow persons under the age of 19 to enter tenancy agreements whether they are landlords or tenants. A similar provision was in the previous act. This is consistent with the Infants Act, which states that a contract with a person under 19 is enforceable if specified in an enactment. So the parallel is back to the Infants Act, and that's how we would protect against that.

[1045]

Sections 22 to 35 inclusive approved.

On section 36.

D. Routley: This section refers to the Administrative Tribunals Act and specifies that the Administrative Tribunals Act shall apply to the director as if the director were a tribunal, when in fact we have diluted the provisions of the act in terms of arbitration by bringing arbitrators from arm's-length independence into being employees of the ministry. So how can the director be determined and described as being a tribunal?

Hon. R. Coleman: This amendment is consequential to replacing arbitrators with the director. This amendment also discontinues the application of section 30 of the Administrative Tribunals Act. Section 30 states: "Tribunal members must faithfully, honestly and impartially perform their duties and must not, except in the proper performance of those duties, disclose to any person any information obtained as a member."

Just so we weren't distracted there for a second, section 30 states that tribunal members must faithfully, honestly and impartially perform their duties and must

not, except in the proper performance of those duties, disclose to any person any information obtained as a member. Basically, it's like a confidentiality clause.

The administrative justice office has advised us that it is appropriate to remove this reference in the act as the staff and the director are subject to the Public Service Act and government policies which also bind them to confidentiality. Therefore the remaining sections of the Administrative Tribunal Act will apply, but this section is no longer required because they will be covered under the Public Service Act.

Sections 36 to 54 inclusive approved.

On section 55.

K. Conroy: In the definitions of assisted- or supported-living residences, this is the first time in the Residential Tenancy Act or in the Community Care and Assisted Living Act that the term "supported living" is used. The term more commonly known throughout the sector is "supportive housing." Could the minister please clarify what the definition of supported living is, because there is no definition?

[1050]

Hon. R. Coleman: I'm going to try this for the member. The Community Care and Assisted Living Act. There is a definition, but this act deals with some exceptions with regard to the definition that this is only where there are hospitality services or personal care services provided by the landlord. It defines it down to where somebody is in a residential situation where there is personal care and services and hospitality services provided by the landlord under the Community Care Act. Now, the Community Care Act has a larger definition that includes other things that aren't applicable in this application.

Section 55 approved.

On section 56.

D. Routley: Section 56 is another provision for a minor as landlord, and I would again express concern over the ability of tenants to pursue a minor to court. Could the minister describe to me again how that interest is protected? What would happen if the circumstances he described earlier were to occur? How is the link made between the tenancy dispute and a minor being pursued to small claims court?

Hon. R. Coleman: I would rather not read the same thing again. It's exactly the same as I described earlier.

Sections 56 to 58 inclusive approved.

On section 59.

D. Routley: It appears to me that section 59 would set up a circumstance where information officers could be appointed in place of arbitrators in adjudicating decisions. Is it the case that information officers would be able to render decisions? Information officers have had difficulty communicating a coherent and consistent message about the act and the regulations to those who have experienced their services. There is a concern amongst the groups who represent mobile home park tenants that information officers may not be fully and adequately qualified to adjudicate their disputes. What power will an information officer have under this clause?

[1055]

Hon. R. Coleman: First of all, just so we're clear, this has nothing to do with manufactured home parks. This is residential tenancy now, so that we don't confuse anybody with that part of it.

This amendment gives the director additional powers to employ persons under the Public Service Act and retain other persons as necessary to carry out the functions of the director. That's number one; that's to give him some ability to do the job he needs to do. Subsection (4) prohibits the director from assigning the same person to investigate and make a determination on imposing penalty, in keeping with the principles of administrative fairness. Information officers will not perform any of those functions. It will be arbitrators and investigators. We will hire people to investigate. However, those who do the investigation will not be those that can actually apply the penalty. It would be like saying that the police can go investigate, arrest, convict and give you the penalty — right? So there's a separation there. The separation is that the person.…

Obviously, under this act…. The member should know that this is new ground. This has been asked for, for a long time. This is completely new ground with this form of a relationship between a landlord and tenant. Just so we're cautious on this, I believe this will be an evolution of a work in progress as we see how this works in the marketplace over a period of the next number of months. It's something that, as we develop the regs, is going to have to be very important.

But really, what this section is about is that it amends a section of director's responsibility to give that ability…. So it protects. Basically, what it does is it says to the director: "You're prohibited from assigning a person to investigate a complaint and have that same person also make the determination on the fine." The investigator will complete the investigation and bring it back to the arbitrator, who would make the determination.

D. Routley: Further to this section under the director's power to delegate to contractors, 9.1:

> (2) A delegation under subsection (1)
> (a) may be cancelled,
> (b) does not prevent the director from carrying out the delegated power, duty or function, and
> (c) may be subject to the terms or conditions the director considers appropriate.

I have a concern, and concern has been expressed to me by others, that this section will empower the director to

remove those appointed to arbitrate or adjudicate disputes in midstream; and that this, together with bringing appointed arbitrators in as employees of the government, will further limit their independence and further empower the director to interfere with the adjudication of tenancy disputes.

[K. Whittred in the chair.]

Could the minister explain how there will be a protection from interference in the adjudication of disputes?

[1100]

Hon. R. Coleman: This section allows a director to delegate certain powers and duties to contractors and specifies the effect of a delegation. We went through, last night, the whole statutory decision-maker discussion. They have to act in accordance with the law regardless of whether they're appointed or not. This is built into the law. The same discussion applies here — that all decisions, even including those involving Crown properties, are subject to court review. There's a test of reasonableness at the court review site.

We do actually have files today that…. If this provision were in place, we might consider hiring a contractor to do an investigation on a larger and more controversial, or whatever, file because they would have specific investigative abilities that we might not have in-house. You might hire a former police officer as a private investigator to go do an investigation on a landlord in a tenancy dispute. There are some out there today that we can't do that with, because we don't have this provision in the act.

We would like to have the provision so that we could deal with those and then come back to the administrative penalty side of things so that we can get to where frankly, as bluntly as you could put it, if we have a bad operator that is operating badly, we could do an investigation, come back with the evidence and hand it to our director, who could make a determination on fines because somebody is operating badly. Today, if we have that situation…. I remember we had this discussion when we did residential tenancy a few years back. The debate in the opposition was, and the question always came up: how many times in history have we ever gone to court and fined somebody for breaking the rules as a landlord, particularly in behaviour with their tenant? This actually allows us to go investigate it.

They are bound by the same rules, though. The statutory decision-maker can say…. The contract could be short-term and, therefore, be cancelled. If somebody gets sick, they're not able to perform or they're not performing, we have the ability to stop it and to have somebody else go on the file. It really comes down to: we need the ability to say that we can cancel something if (a) somebody's not operating within the law, the statutory responsibilities that they have; or (b) they're sick and can't perform the job. Most particularly, just for the member, it's the discussion back to this that is built into the law, and they have to operate within the law.

It really is, frankly, interesting enough that we've stopped at this section. I think this is probably the most important section for residential tenancy in this act — these sections that deal with our ability now to go investigate, bring back the evidence and take it to an arbitrator or the director for a determination on a fine and a penalty. Today we can't do that.

Today, if we have somebody, for instance, that turns off the heat on their tenants, there's a process that is so lengthy into the courts, we can't…. Today, if we could go investigate that, come back with an investigation and hand it to an arbitrator, we could quickly make a determination and protect the tenant way better.

[1105]

Sections 59 to 61 inclusive approved.

On section 62.

D. Routley: Section 62 again uses the standard of reasonableness. Would the minister consider a standard of unconscionability rather than a standard of reasonableness?

Hon. R. Coleman: This already exists in regulations, the same as in our previous discussion. Unconscionable is when things are grossly unfair to one party or the other. This is actually more of a reasonableness test — the building is unsafe, there's been a fire or somebody is selling drugs out of a unit. There needs to be that. It's the same amendment as we had earlier and that we debated earlier, and it's the same answer. If the member wants me to walk through the four paragraphs, I could, but frankly, it's the same answer as we discussed earlier.

Sections 62 to 69 inclusive approved.

On section 70.

K. Conroy: Section 70. There are some issues with the act that relate to seniors, and this is the first time it comes up where the act links the service agreements to tenancy. The concern with section 70(b) is that it looks like, by this act, if a senior, for whatever reason — through some financial difficulties for a short period of time — reneges on their service agreement, they could actually lose their housing.

I just wanted to clarify if this is, in fact, what this act will do. If someone does not pay for their hospitality fees, could they be evicted from their housing?

[1110]

Hon. R. Coleman: It's not as the member describes it. What this does is that it allows for us to create a dispute resolution process. There's nothing out there today for this, so the concern is your concern, hon. member. By regulation we're going to design a dispute resolution process so it can't be just immediately zero to 100. It has to have some measurements in it so it's more comprehensive than what exists today.

Today this is no protection for the tenant, the resident. If what happens, as the member describes — if they forget a payment or something happens and moves — the contract could just be cancelled in the present system. There's no protection for the tenant at all to have a dispute resolution process there, unless it's contained in a contract between the parties. This allows us to design a comprehensive dispute resolution process to deal with those very issues that the member describes.

K. Conroy: What I'm understanding, then, is that the minister is saying this is going to be dealt with in regulations that are going to be determined after this act is passed, and it's going to be clarified in the regulations, which still doesn't give comfort to a lot of the seniors that are affected by this.

I know the minister has said that he is unwilling to accept any proposed amendments, but we will still continue to suggest some amendments because we think the seniors would like the protections that some of these amendments require. I'm proposing an amendment to section 70 to delete the entire section (b) out of the act.

[***Section 70 is amended by deleting the text as struck out:***
70 Section 47 (1) is amended
(a) by repealing paragraph (h) (i) and substituting the following:
(i) has failed to comply with a material term of the tenancy agreement or of a service agreement, and ~~***, and***~~
~~***(b) by adding the following paragraph:***~~
~~(m) the tenant of an assisted or supported living unit fails to pay the amount due under the applicable service agreement within 30 days after the date it is required to be paid under the service agreement.~~]

G. Hogg: I seek leave to make an introduction.

Leave granted.

Introductions by Members

G. Hogg: We are joined in the Legislature this day by a group of students from White Rock Elementary School, my alma mater and the best school in all of British Columbia. They have guaranteed me that, and I know that from personal experience as well.

An Hon. Member: En français.

G. Hogg: En français? En français.

Ms. Thorvaldson, the teacher, along with a number of parents and 29 students from grade five, was out on the front steps and greeted by the Centennial Secondary band, which, I'm assured, was here. I've assured them they are here for just their purposes.

I want you to know that they are experts in Jedi knights. They were able to name for me 14 or 15 Jedi knights. They have great experience, and that's just one of the things you learn if you attend White Rock Elementary School. Please make them most welcome.

Hon. R. Coleman: Bonjour. Frankly, I'm not an aficionado of anything to do with *Star Wars.* I couldn't name one Jedi knight.

Interjection.

Hon. R. Coleman: I assume it's *Star Wars.* Is it?

Some Hon. Members: Yes.

Hon. R. Coleman: That's good. I haven't been totally living in some kind of cocoon. Although some people do consider this building to be one of those, hon. members.

[1115]

Debate Continued

On the amendment.

Hon. R. Coleman: The challenge is this. I want to be clear so that the member understands why I'm not going to accept…. The House has to decide to accept it, but why I'm not going to support the amendment is because this sets down that if the assisted- or supported-living unit fails to pay the amount due under the applicable service agreement within 30 days after the date it is required to pay under the service contract…. So there are 30 days to start with.

Today there's no protection, and if we take this protection out to have some administrative process that deals with the dispute here, what would happen if we don't have this section is there's nothing to stop a landlord from just cutting off all services. So you have somebody now living there who doesn't get their meal service or housekeeping services and doesn't get the other services because they haven't paid.

If there's a dispute, it's better to be able to have somebody give the notice and then put them into a dispute resolution process to take care of both parties. If we don't do that, then what we have is we're setting up a situation where the opposite would occur, because there's no dispute resolution process. There's no regulation that takes you from an incremental level to be able to deal with the concern and the relationship between the parties. You end up with all or nothing, and I don't think that's of any value.

I think what we're trying to do is build a relationship here that says, "If there is a failure to pay, the landlord can give the notice under the contract," but then there's a process that they have to go through before they can discontinue services or anything else. I think it's very important that within the act we have the ability to deal with a dispute resolution process to this type of thing. We're going to work with people out there in the field with regard to designing that because it's of particular concern that we be able to deal with it so we don't get the zero-to-100 effect.

The whole intention of this subsection is that there's a 30-day period for failure to pay, then there's a notice that has to be given, and there's a dispute resolution

process to go through. It's not like a residential tenancy where if you don't pay there is none. This one allows for that, and that's why we'll design the process.

Amendment negatived on division.

Section 70 approved.

On section 71.

D. Routley: This section refers to circumstances where a tenant may cease to qualify for a rental unit by virtue of no longer qualifying for a subsidy. This presents several complications and difficulties. Several questions arise: what about short-term changes in a person's circumstances, and who will decide that those circumstances actually challenge their qualification for subsidy? How frequent would those changes need to be for this to be enacted, and who would decide?

Around child custody issues, people may have several children living with them in a subsidized unit, but in a dispute over custody, that situation could change and change again. So how long would it take for circumstances to be in place where a person could be deemed to not qualify for subsidized housing?

[1120]

Hon. R. Coleman: Actually, this is an important section.

First of all, the amendment allows public housing bodies to end tenancy if the tenant ceases to meet eligibility requirements for a subsidized rental unit. The eligibility requirement for a subsidized rental unit is usually rent-geared to income. If we have somebody living in a unit whose income determines that they should actually be living in the marketplace, so that we could give that unit to somebody who can't afford housing, we should have that ability to deal with that.

There are some examples of subsidized rental units that are in housing where the rent is based on income — family housing and housing for persons with health care needs, etc. Many such landlords have policies which would require tenants to vacate or move to a different rental unit if they cease to qualify. This is due to high demand in housing for persons who do qualify. There's no current provision in the act which allows this to occur.

Let's say, for instance, you are a person living…. Let's deal with a real-life case of an individual living in a social housing project with three children who has been there for some time and now the two oldest children have moved out of home. The person is in a four-bedroom unit. The rules really say they should be in a two-bedroom unit, now. We don't have the ability to say: "You have to move to a two-bedroom unit and vacate the four-bedroom unit for a family with three children who would need the social housing unit." So this allows for that to occur.

Public housing bodies are going to be named in the regulation. I think it's important we understand that, because this isn't going to affect people like non-profits and those. It really deals with Crown-delivered-type operations. It will be B.C. Housing Management Commission, Canada Mortgage and Housing Corp., city of Vancouver, City of Vancouver Public Housing Corp., the Greater Vancouver Housing Corp., Capital Region Housing Corp. and health authorities. So there's an ability to be flexible.

There must be a provision of a tenancy agreement informing the tenant that they may be given notice to end the tenancy if they cease to qualify for a rental unit. If it's not in the tenancy agreement, you can't do it either way — right?

The landlord must give two months notice or negotiate another end date with the tenant, so it's not a quick thing. Another end date could be when another unit comes up on our list that you could qualify for because of the housing mix, or whatever the case may be. If given two months notice, the tenants may leave on an earlier date with no penalty. So the tenant can find alternative housing and leave on their own if they wish, because in some cases they would find that when you reach a certain level of income in many marketplaces, it's actually cheaper to go to the marketplace than it is to stay where you are because your rent is geared to income.

Fixed-term tenancies cannot be ended early if the tenant ceases to qualify unless the landlord and tenant agree. So now, if we have a fixed-term tenancy in one of these projects where somebody has a two-year agreement or whatever, and you have the housing mix change. They can say, "Well, would you agree to move?" and they do it together, that's okay. But they can't be made to move. Notice must be given in accordance with the notice provisions of the act, and there's also the dispute resolution process available to the tenant under all of these circumstances.

There are different tenancies that exist that we need to be able to help people in some circumstances. As our seniors get older within our seniors housing stock, we need the ability to say to them: "In this particular unit, which is just a straight housing unit, we can't provide you with the care you need. So we can't give you the home care."

In many cases, we may not even have bars in the toilets and bathroom so that you could even move in and out of a wheelchair. In some cases we'll modify the unit, and in other cases, because there are services that they need, medical services, whatever, we will look within the housing stock of Health for a place for them to move to out of the apartment-type situation.

[1125]

Those are the type of dynamics that exist in a dynamic housing stock. There are 40,000, 50,000 units of social housing stock in B.C. that is there to benefit the people who need it the most and provide the services for those folks who can live independently, in some cases. The whole idea here is to have the ability to say to someone that is overhoused in one place, "We'll put you in housing that works," because you now have a housing mix change.

I've seen that happen over the years within the housing stock of projects that I was involved in, where

there was a change in the housing mix and people did move into smaller two-bedrooms. But I've also seen the opposite, where somebody says, "I'm not moving," so now you have two people living in a four-bedroom townhouse. Then you're saying to somebody who has three or four children, "We don't have a unit for you because we'd be overhousing you in a two-bedroom," and they'll say: "Well, I've got four children. What am I going to do with a two-bedroom unit?" But you have somebody over there in a four-bedroom with one child. There has to be that ability within the stock to make these adjustments.

D. Routley: In an effort to cooperate and compress this into the time allotted, I've squished two or three questions together, especially in the last exchange. I think it's difficult to petition these issues adequately without ample time. In the interests of continued cooperation, I will continue to compress my questions, but not without noting that it's difficult to give adequate canvass to the issues that people want to hear.

In that spirit I will combine the remaining questions on this section and acknowledge that I support what the minister has just said about the flexibility and being able to have appropriate accommodation for people in social housing. The concern I do have is around those circumstances that the minister himself described, where a family's circumstances change, the number of children changes, but then the family still does qualify for some form of assisted or subsidized housing.

In an effort to accommodate the flexibility necessary to the housing management staff and in order to also protect the interests of those people who still qualify but find themselves in housing that's inappropriate, I would offer the following amendment to this section:

[*71 The following section is added:*

Landlord's notice: tenant ceases to qualify for rental unit

49.1 (1) In this section:

"public housing body" means a prescribed person or organization;

"subsidized rental unit" means a rental unit that is

(a) operated by a public housing body, or on behalf of a public housing body, and

(b) occupied by a tenant who was required to demonstrate that the tenant, or another proposed occupant, met eligibility criteria related to income, number of occupants, health or other similar criteria before entering into the tenancy agreement in relation to the rental unit.

(2) Subject to section 50 *[tenant may end tenancy early]* and if provided for in the tenancy agreement, a landlord may end the tenancy of a subsidized rental unit by giving notice to end the tenancy if the tenant or other occupant, as applicable, ceases to qualify for the rental unit.

(3) If the tenant ceases to qualify for the unit according to its appropriateness but continues to qualify for subsidized housing in a different form, the tenancy can be ended only when a suitable replacement unit is provided.

(4) If a tenant's circumstances change only temporarily, only the subsidizing body can, and only after all appeals of that decision are extinguished, direct that the tenant no longer qualifies.

(5) Unless the tenant agrees in writing to an earlier date, a notice under this section must end the tenancy on a date that is

(a) not earlier than 2 months after the date the notice is received,

(b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, and

(c) if the tenancy agreement is a fixed term tenancy agreement, not earlier than the date specified as the end of the tenancy.

(6) A notice under this section must comply with section 52.

(7) A tenant may dispute a notice under this section by making an application for dispute resolution within 15 days after the date the tenant receives the notice.

(8) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (5), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.]

On the amendment.

Hon. R. Coleman: We won't be supporting the amendment. We believe that we cover that in this and will cover it in regulation adequately in the description I already gave to the House.

Amendment negatived on division.

Sections 71 to 76 inclusive approved.

On section 77.

[1130]

D. Routley: In this section there's reference to tenants who become a risk to themselves and a risk to others. Who would be deciding that risk, both to the tenant and others? What standard would be applied in determining that risk?

Interjection.

The Chair: I'm sorry. We are on section 77.

Section 77 approved.

On section 78.

D. Routley: In the interest of speeding things up, should I say: "As I said before"?

This is indeed the clause that discusses tenants' risk to themselves and others. Again, I would ask: what standard will be applied to determine that risk, and who will determine risk?

Hon. R. Coleman: This is actually an important section for those in assisted living. The director will be the one that will determine by statutory authority, determined by regulation. The definition of that will be put into regulation, and he will be bound by that.

This is an important section because as members know, there are circumstances where someone's own health — be it dementia or schizophrenia — would change their ability to be safely housed in a unit. The director could work with the health authorities to relocate someone.

It's like a double-edged sword, because none of these are long-term contracts. We want the ability to end the tenancy and not, down the road, have an ongoing financial burden to the person whose tenancy is moved on to a different level of health care because of something they have no control over.

There are two aspects here. One is that we don't want someone forced to stay in a tenancy where they're at risk to their own health or in a tenancy where they are at risk to others. We want the ability to end that tenancy so that parties are protected both financially and personally as a result.

K. Conroy: Just two questions in relation to that, and I'll combine them. What kind of qualifications will the director have? Will he or she have the kind of qualifications that could determine appropriately the health needs of an individual?

Hon. R. Coleman: The one thing I've learned in legislation is that when a person is given a particular authority of director, the rest of the act flows from there. In this particular case the director has the statutory authority, which earlier when we discussed how you could contract for different services, investigative, arbitration — that sort of thing….

We have an agreement with the Ministry of Health to work with us on assessments with regards to these, and they would be making recommendations back to the director. In addition to that, they are also going to help us with the actual crafting of the regulations and details as to what would determine that.

It's a body of work that, once you get the act done — before we actually put the act into place — we'll get done with Health in consultation with them. If it's a complex case, the director could hire a doctor or someone that's an expert to give them an opinion with regard to a specific case, because they are able to delegate their authority.

[1135]

K. Conroy: It doesn't say anywhere in this act anything about what the minister has just said, so I'm taking it, then, as his guarantee today that this will be defined in the regulations and that it will be done with consultation from the health authorities.

I would ask what other groups would be involved in the consultation. It's my understanding from talking to many groups that were involved way back when, in 1999 and 2003, and I have not been involved since and, in fact, didn't get a draft copy of this until last week…. They have some real concerns about a number of the issues in this act as it relates to seniors.

I'm asking for a commitment today that the various groups…. I understand that the minister has already received a letter from them, detailing a number of their concerns. Will they, in fact, also be involved in the consultations defining the regulations of this act?

Hon. R. Coleman: Yes, they will be, and that is a commitment.

I want to put in the record, from the public guardian and trustee of British Columbia with regards to this, just so we know that the consultations that did take place some time back have actually been taken into consideration as we've tried to develop this particular piece of legislation:

> I am writing in support of your ministry's initiative to bring in legislation to apply the Residential Tenancy Act to assisted-living residences.
>
> My office raised concerns some years ago about possible abuses of power arising from unconscionable provisions in assisted-living residents' contracts.

That's why, when we were talking about contracts earlier, I said what can happen within a contract if we don't protect by regulation within our abilities. Even when we were talking about the payment of the rent and having the process, the contracts then take over, and people can get hurt by that.

> We have worked with staff previously at the Solicitor General and now at Housing to promote the need for additional protection. We have been consulted in the development of the draft legislation. I am aware that this work is now about to come to fruition.
>
> I also support your ministry's plan to develop and promote a model tenancy agreement for assisted living, consistent with the act.

That's a commitment we've made, and that draft tenancy agreement will be done through consultation.

> This should maximize compliance with the act and minimize the need to rely on the provisions of the act invalidating unconscionable contractual terms.
>
> While I appreciate that this may be an issue that has garnered much public attention, it is important for those persons who are residents of assisted-living residences. Thank you for taking these steps to address the problem.

That's the public guardian and trustee signing it.

To the member: we will do that process before regulations are put in place.

K. Conroy: I just want to clarify, then, that groups that have expressed a concern — like the Alzheimer Society of B.C.; B.C. Coalition to Eliminate Abuse of Seniors; B.C. Non-Profit Housing Association; the Centre for Elder Law Studies; the Seniors Services Society; the Tenants Rights Action Coalition; WE*ACT, Women Elders in Action; as well as the assisted-living registrar's advisory committee — are all groups that will be included in this consultation process to define the regulations of this act.

Hon. R. Coleman: That's correct.

D. Routley: Another provision of this section surrounds the landlord's inability to meet the tenant's needs as reasons or grounds for ending a tenancy. It has been brought to my attention by others concerned with the issues, some of them listed in the previous

exchange, that this clause could act as a disincentive to landlords to improve their services and could act as a disincentive to landlords to maintain facilities. Will there be provisions in the regulations to protect against this acting as disincentive to landlords?

[1140]

R. Fleming: I seek leave to make an introduction.

Leave granted.

Introductions by Members

R. Fleming: I want to bring the House's attention to some teachers joined by their students today: Peggy Baudon, Jen Walinga and the grade seven students from St. Michaels University middle school, which is in my constituency. This is Steve Nash's alumni, and I know, undoubtedly, there are some future athletes in the group that's joining us today, some future scientists, writers and — who knows? — maybe even some future politicians. Would the House please make the students feel welcome.

Debate Continued

Hon. R. Coleman: Politician wouldn't be the particular career I would advise you to follow.

First of all, within this act we have all the investigative things, the administrative penalties we discussed earlier, that protect against this. I do get concerned when the member keeps bringing up that there's a whole bunch of evil people out there that are running these places that are going to do things to their tenants and not improve their facilities. That's what's intimated by the comment the member just made.

This is really…. Within contracting of the services, if they're not provided, there are all kinds of provisions for investigation, arbitration, complaints, all those issues. But if someone is living in assisted living, it's assisted living, so it's got things like…. Care service is limited to a very minimal level because they're not long-term care facilities. They are not hospitals. There's food, and there are those types of services. But what provision is there to protect both parties if somebody's health deteriorates to the level that they can't live there?

The services are not able to be provided, whether that's 24-hour nurse care, or whether it's an aspect of doctor's care, or whether they're really required to be on intravenous for some reason, or they have developed Alzheimer's and can no longer be in an open facility. They need to be in a facility so they can't, you know, as Alzheimer's patients have a tendency to do, move off premises and find themselves in some very difficult situations. So that's what this section is about.

For the things the member describes, where there's no incentive for a landlord to provide the services, the services they're providing are food, linen and those sorts of things. Well, those are in the contract, and if he or she is going to do that, as a landlord, then they can expect that there's going to be an investigation, and they can expect they'll be in front of an arbitrator who now has the ability to fine them up to $5,000 a day. So they can expect to know that they'd better be disciplined in their operation.

The critical part of this body of work on the assisted-living side is that there's nothing out there today to protect those people whatsoever. It's been the complaint and concern for years, and nobody seemed to want to grab on to this body of work and see if they could make it work, either within the Residential Tenancy Act or some other act.

We decided to grab on to this body of work last fall because there had been that out there when we consolidated housing, and we said: "Look. Let's see if we can do this." That's why you're going to have a lot of work in consultation and regulation, a lot of work with health care professionals and a lot of work with the Ministry of Health as we come through this. As we do that, we want to ensure that the services that are there for people are what they've contracted for and that they get them. If they don't, then they have to have the ability to get some immediate results.

Under contract stuff, with the way it is today, they could go to the courts, and they could be tied up in a long process. Who wants to put an elderly person through a long process like that? But this way we can do something about it. It's just like in the rest of it. One of the biggest frustrations I've had as a minister and as a critic was how the act, this act in particular…. It took some work to find out how we could get there — how we could get it so that we could wake these people up out there that they are responsible to the law.

The challenge has been that there's always this court process we could put them into. Well, you know what our courts are like. They're busy dealing with a whole number of things, so they're always putting the court process…. You never focus their mind because you think they can always just drag it out, avoid it, whatever the case may be.

Now it's clear. We investigate you. You're not providing the services. You're going find yourself in front of an arbitrator when we provide a report, and we have the ability to fine you. For the first time, that protection is in residential tenancy at all levels.

[1145]

I'm very pleased about that, because I can tell you that there are some operators out there in British Columbia…. There are not a lot. There are a lot of very, very good landlords in B.C. who run very large portfolios for their tenants and who you never see come across your desk. They operate thousands of units, and you never see a complaint about the particular company or individual. But there are some, a few, that need to wake up to their responsibility to their tenants, whether it be in assisted living or in manufactured home parks or in apartments. They're going to find themselves focusing their minds in a hurry when somebody starts to levy significant fines on them and they start to find out they can no longer operate outside what we think is the responsible way to have that relationship.

I think that's very critical in this act. As we go through it in this particular section, this section's geared to those folks. What the member describes as services being withdrawn, those are in a contract. They're in a tenancy agreement, and frankly, we're going to go after them from the other aspect.

D. Routley: I'm going to end my comments and questions on this bill. My colleague will continue with the other sections of the bill, but I can't resist responding to the last comments the minister made. On the one hand, the minister is upset that I would insinuate there are a whole bunch of people out there who are bad landlords. I don't think I did that. I think what we have done here, and what the minister is attempting to do, is create a legislative framework that addresses those situations where people don't play by the rules and where people don't get along and play nicely with each other — if you'll forgive the impertinence in that phrasing.

Our job, I believe, as critics is not to attack the government's motives but to encourage the government to improve its legislation and to offer suggestions wherever we think that might be possible. That's what I've attempted to do here, and I'm sure that's what my colleague will continue to do.

When I point to possibilities for exploitation, coercion or any other concern, it isn't a general characterization of landlords or of tenants. It's an acknowledgement that these measures are created by this Legislature to accommodate those circumstances where people are not respectful of each other's rights.

I'll thank the Chair for her indulgence, and I'll thank the minister for his responses and carry on.

Hon. R. Coleman: Fair comment to the member. I guess on my side, sometimes you have to get passionate about what you believe you're really trying to protect. In my case, having been around residential tenancy way too long, in two ministries, there are some changes that I believe are fundamentally important to changing the dynamic out there. I believe that these are what they are.

Sections 78 and 79 approved.

On section 80.

K. Conroy: Section 80 is quite a big portion. We're going to slog through it, and I'll try to do it as quickly as we can.

I don't think anybody in the province disagrees with you on the need for an act that protects people. I think what's of concern to people in the province, especially the seniors groups and people involved with assisted living, is how this bill is being put through. If it was being worked on since last fall, it would have been great for the different people who have real concerns about this to have been consulted a little more in depth so that they could have provided their concerns and issues prior to the bill being put onto paper and legislated in this House.

I'm going to go right to section 57.2 around the service agreements in relation to assisted-living or supported-living units. Will these agreements be a uniform agreement? Will they be the same agreement used across the province? Will it be something that's legislated? Will it be brought forward in the regulations, or will they be different agreements — every landlord will come up with their own agreement?

[1150]

Hon. R. Coleman: We're going to develop a basic standard-form agreement. From there, though, as they can in residential tenancy, there can be other things added. For instance, under residential tenancy today there can be an agreement for pets between a landlord and tenant. That can be added to a tenancy agreement, but there has to be an agreement that will have to take the basics of our fundamental agreement, and then from there will be….

In addition to that tenancy agreement, landlord and tenants must have an additional agreement under this act for hospitality and personal care services. So the tenancy agreement will be there. That governs everything from the basics of what a normal tenancy agreement would.

Then they have to have another agreement, and the service agreement must contain a description of the services provided to each occupant; the amount payable for each service for each occupant; when the amount payable is due; details of the landlord's entry into the unit to provide the services; whether an occupant is required to pay for the services that they do not use, because in some cases they have situations where it's two meals a day but if you only take one meal a day, you pay less, and so that has to be determined; terms of the use of guest suites, because there are guest suites in some of these facilities, and those terms would be in there; and any additional terms that the landlord and tenant agree to — and that's where it would go outside the basic form agreement.

So we're going to define the basic description of services and how those will have to be dealt with. Then there can be additional terms with regards to additional care, other things that the two parties can agree to in a contract, because it's the same thing with residential tenancies. One size doesn't always fit all, depending on building and circumstances.

These agreed terms may be amended with the agreement in writing of the landlord and tenant, like they can in a residential tenancy. They can be amended to increase services — whatever the case as the thing evolves. A landlord must state other uses of the property and the rental unit with this requirement: tenants will know whether persons other than assisted- or supported-living tenants have access to the property. That's something that came through some of the groups that were in assisted living, saying: "I want to know whether I, or the facility I'm in, have any protection if they're adding other types of care or other types of issues that may threaten my own personal safety."

Those provisions will all be developed in regulation under the same consultative process with the Ministry of Health that we talked about earlier. I don't know if I've answered the member's question, but there will be

a basic-form tenancy agreement, then certain things that have to be included as far as description, and then there can also be addendums added for additional services.

K. Conroy: You answered some of it. Some concerns have been expressed about the fact that they are two separate agreements. There's the tenancy agreement, and then there's the service agreement. Service plans can be very fluid because health needs change fairly frequently and it can be a rather an onerous process for seniors to be signing off on the changes with a great deal of frequency with some of them.

Some of the questions were: is there going to be a process in place for that that can streamline it? Many seniors are very active and very able in these facilities; some aren't. Some don't have advocates, don't have support, and it could be seen as a difficult process for the seniors.

Hon. R. Coleman: Well, I agree with the member to a point. Some of these changes can be as easy as initialling something off. The best we can do is come up with a tenancy agreement that protects the basics of the operation under law. A service agreement that we will consider to be part of the tenancy agreement has to have what I described in there, which is a description of the services, the amount payable for them, when it's due and the details of the entry on the unit — all of those things.

Both sides of this equation want flexibility — both landlord and tenant, as the member has correctly stated. In some cases the tenant may be represented by family who will want to deal with additional services. In some cases it could be the individual who says: "I'd actually like another meal a day. What's that going to cost me? It's not in my original contract, so can I add it?"

[1155]

That flexibility needs to be there, but the basic descriptions of those things are going to be boilerplate. They're going to have to meet a standard, frankly, so that everybody is starting from a level playing field here.

As they add the options that somebody else may want — because within some of these facilities they have opportunities for all kinds of different options, even social clubs in some cases — those things have to be a separate personal choice, which will be as an addendum. That's where the flexibility comes. We're going to describe, just like we did in residential tenancy: "Here's the basic agreement, and here are the basic things you have to describe, which have to be within the agreement. Then outside the agreement, you can add other things."

K. Conroy: A quick one. Is there going to be anywhere in the act where the minister is going to have any kind of determination of how much can be charged in those kinds of fees?

In a lot of facilities there's a 70-percent charge, and that includes everything — 70 percent of a person's income. Is there going to be anywhere in the act or the regulations where there's going to be a maximum percentage of a person's income that can be charged for these services, including their tenancy?

Hon. R. Coleman: I don't want to blur the lines. Those are the subsidized projects that have 70 percent — the ones that are run by Housing and Health. The marketplace can set its own rates as far as what it does under contracts. They can set an agreement in a private facility with somebody who comes into an agreement on what they're charging. But we try to have that 70-percent formula that we apply, and we continue to apply it.

K. Conroy: On section 80, there are quite a few more, but I'm just…. Can I keep going? We can come back after. We'll have time. The House Leaders have given us…. There's just a few left on section 80.

Hon. R. Coleman: I would move the committee rise, report progress and seek leave to sit again.

Motion approved.

The Chair: We are on section 80 when we return.

The committee rose at 11:58 a.m.

The House resumed; Mr. Speaker in the chair.

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

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

Hon. C. Richmond moved adjournment of the House.

Motion approved.

Mr. Speaker: This House stands adjourned until two o'clock this afternoon.

The House adjourned at 12 noon.

PROCEEDINGS IN THE DOUGLAS FIR ROOM

Committee of Supply

ESTIMATES: MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL
(continued)

The House in Committee of Supply (Section A); D. Hayer in the chair.

The committee met at 10:08 a.m.

On Vote 37: ministry operations, $523,967,000 *(continued).*

J. Brar: Thank you, Mr. Chair, and thank you once again to all the staff members who are part of the ministry.

The other day we were talking about the regional Indo-Canadian gang task force, which was disbanded in 2004. Then a new task force came into existence, which is known as the B.C. Integrated Gang Task Force. I would like to ask a few questions about that.

My first question will be…. The one task force was disbanded. The other task force came up right away. Can the minister tell us what the reasons were to bring in the new task force?

Hon. J. Les: As I think the member is aware, the original task force was ad hoc in nature, but it was specifically targeted at a certain perceived problem and it's fair to say had some considerable success in terms of attacking that specific problem that had been identified. When those results were achieved, of course that task force was then disbanded, because they had achieved the objectives they set out to accomplish.

[1010]

However, very quickly it became evident that an ongoing task force would be a good thing to achieve, so the police came to us and said: "Here's the business case. Here are the results that we think we can achieve if we have a dedicated gang task force." We agreed, and the funding was supplied, and of course, as the member knows, that task force is now in place.

J. Brar: I appreciate the response, but at the same time I did hear that last time we were here and today as well — that the previous task force was an ad hoc task force and there were some established targets to achieve. What I don't know is, at this point in time…. Can the minister specifically provide what those targets were and what was achieved.

Hon. J. Les: In terms of the targets, perhaps it's best for me to describe what, in fact, they set out to do in terms of the achievements of the task force. There were a total of 22 charges that were laid as a result of the work of the task force. Four of those resulted in first-degree murder convictions. There are five kidnapping charges, three aggravated assault charges, one charge of uttering threats, three charges of possession of firearms dangerous to the public, three charges of unlawful confinement and three charges of conspiracy to commit arson.

J. Brar: The other day the number mentioned was seven charges, and today it's 23. I would like to seek some clarification on that. Also, what was the clearance rate of the 23 charges?

Hon. J. Les: I want the member to be clear that what I just illustrated to the member was the various charges that were levied or laid, and how many of each of those. That doesn't necessarily correspond to the number of people.

I outlined 22 charges. That doesn't mean that we had 22 people — 22 different individuals — charged. A lot of those charges overlapped, and there were other charges that were recommended to Crown that did not meet the charge approval process and are still actually under active investigation.

J. Brar: Part of my question was the clearance rate on those charges — if you can provide it.

[1015]

Hon. J. Les: Unfortunately, I can't give the member opposite a clearance rate at this point because, as the member is aware, the majority of these charges are still actively being prosecuted through the courts. Until that is complete we will not be able to come up with a clearance rate number for purposes of this discussion.

J. Brar: To the minister: with the new task force, is there any stand-alone office? You don't need to tell me the location. I just want to know if there is any stand-alone office or not.

Hon. J. Les: Yes, there is.

J. Brar: Once again to the minister: how many files of unsolved homicides linked to the Indo-Canadian gang violence are being maintained by the new task force?

Hon. J. Les: I think we need to understand clearly, when we're talking about the gang task force, that their focus is actually gang activity. It's not necessarily homicides. It could be kidnapping; it could be money laundering. There are many activities that gangs engage in, and all of those activities would be the focus of the gang task force. When a homicide occurs, it isn't necessarily the case that the file would reside with the gang task force. It may well reside with the Vancouver police department, the Delta police force or the Surrey detachment of the RCMP. The role of the gang task force is general in nature, and its focus is gang activity.

J. Brar: I do understand that the task force goes beyond the homicide investigations. I do understand that it involves kidnapping and all the other kinds of organized crime activities, but my question was simple. Is there any file related to homicide investigations which has been or is being maintained by the new task force or not?

Hon. J. Les: First of all, Mr. Chair, let me be clear. The member has asked me two different questions in these last two questions, and I will say this as well: I have no intention of commenting on ongoing investigations and on exactly how police are carrying on those investigations. I don't think that's appropriate — certainly not in this forum.

J. Brar: It's just a bit surprising to me that the response from the minister…. I'm not asking what steps

the police are taking for the investigations. I'm asking a very simple question: how many homicide-related files were handed over to the new task force? How many files at this point in time are maintained with that force, if there's any number? If there's no number, I can take it that there's no number. I'm just asking the number. It could be ten; it could be five; it could be 15. I'm not asking about the investigation process at all.

[1020]

Hon. J. Les: We do not know precisely how many files the gang task force has actively under its purview at any given time. Its mandate, obviously, has to do with assisting all the various constituent police forces across the lower mainland in various investigations — again, as I said, with a specific focus on gang criminal activity. I'm not sure what I can add to that for the member.

I think this is a great innovation in terms of targeting a specific crime-reduction challenge that we have in the lower mainland in particular. But as I said earlier, we need to understand that the original police detachments and police departments still have responsibilities as well. If there's a gang-related homicide that occurs in Vancouver, for example, the Vancouver police department will be fully involved, but so will the gang task force, so that it can learn as much as it can from those kinds of events, because as the member, I'm sure, is aware, municipal boundaries are of no consequence at all to those who wish to carry on criminal activity.

J. Brar: During the last about ten years, and the minister knows about it, over 100 Indo-Canadian young men have been killed through these gang violence activities. I would like to know what percentage of those files are being taken care of — are being investigated, to use a more specific word — at this point in time by the new gang task force. Out of 100, is that 20, ten, 50? Is there any number out of that?

Hon. J. Les: Maybe I'll put it this way. Of those approximately 100 cases that the member has talked about, the member can be sure of this: the gang task force is involved in any of those cases that appear to have any aspect that's associated with them relating to gang activity. Their mandate is exactly that. Any criminal event in the lower mainland that involves or appears to involve gang-related activity will involve the gang task force.

Assisting the local departments and detachments — again, this is one of our integration strategies, if you will. The gang task force is very much another one of those integration initiatives we've undertaken to ensure that as we cross various jurisdictional boundaries, we have a method to make sure that our policing resources are integrated to the greatest degree possible. It's another one of the aspects of the gang task force that I think is very important.

J. Brar: So we don't know the numbers. That's the final bottom line of all the questions I've been asking. There's no exact number we can know at this point in time as far as the new B.C. Integrated Gang Task Force is concerned. We don't know at this point in time — at least, I don't know; I didn't get that information — how many files are being maintained by the B.C. Integrated Gang Task Force, how many files are under active investigation under the B.C. integrated task force.

[1025]

We don't know what the clearance rate is of those cases being investigated at this point in time. I would like to know from the minister that, if the minister doesn't know all that, how he is going to measure the performance of the task force. Are there any established measurements?

Hon. J. Les: It would be helpful, I think, if we had a more productive line of questioning. I can, I'm sure, have a count done at the offices of the gang task force and at the various police detachments, and count with a very high degree of accuracy how many files they happen to have ongoing at any particular point in time. I'm not sure that that would really help us to understand the success of the police efforts across the lower mainland in this case.

We talked about the clearance rate. I explained, I thought, fairly clearly for the member that until these cases are disposed of through the courts, it is impossible for us to actually determine what a clearance rate is or what the clearance rate is going to be. I thought that was relatively easy to understand, and I'm surprised, frankly, that the member now takes exception that I was not able to come up with the clearance rate. Well, if he's clairvoyant, perhaps he's got an advantage over all of the rest of us in this room. But I am not clairvoyant.

I am not able to predict what the clearance rate will be in the future. Many of these cases are still actively making their way through the courts, and I hope that our clearance rate is eventually 100 percent. That would be, I think, a good thing. So I can get into the nitty-gritty of how many cars the task force has and how many files it has and how many of this and that and the colours of their desks and all those kinds of things. I'm not sure that that's particularly productive.

What I can assure the member of is that we have a highly integrated form of policing here, as represented by the task force. Every event that involves criminal activity, whether it's orchestrated by individuals or whether it's orchestrated by gang activity, is an active file in a police force somewhere — whether it's in the city of Vancouver, the city of Burnaby, Surrey, Delta, Abbotsford. Wherever those events occur, there will be a file on it somewhere.

We have given the police, I think, tremendous additional resources, and we have also ensured that we have a far greater integration of those resources than we've ever had in the past. I feel confident in saying that wherever criminal activity has occurred, the police are on it, and they are on it with greater resources than we've ever been able to deliver in the past.

C. Wyse: If my ears were attuned, I believe I heard in the response a questioning of the validity and the

worthiness of the questions that have been raised by my colleague over here.

Chair, I would ask of you for some type of a ruling upon whether that is an appropriate response to questions that are being asked here.

The Chair: I will remind all members to temper their comments.

J. Brar: The questions are…. I asked in the past. I didn't get a straight answer. Now, I will phrase my question differently.

The chief of the task force, during the provincial Congress on Public Safety — and the hon. minister was present at that congress — made these comments. The comments were that the task force at this point in time is investigating a disproportionate number of homicide cases. Now that was one comment. The second comment was that the clearance rate is significantly low as compared to other cases, which is close to 29 percent. Does the minister agree with that or not?

[1030]

Hon. J. Les: We're having difficulty understanding what the question is.

J. Brar: My question is…. The chief of the B.C. integrated task force made a presentation at the provincial Congress on Public Safety. The hon. minister was present at that congress. The comment was that the B.C. integrated task force is investigating a disproportional number of files, which means they're not looking into investigating all the files, but certain files.

That was one, and the second comment was that the clearance rate on the files they have in the task force was significantly lower than the other cases in other jurisdictions, which is 29 percent. I want to ask the minister if he knows about that or not.

Hon. J. Les: First of all, I think it would be unfair to whoever was the speaker at the Congress on Public Safety to try to put them into some kind of context here. None of us have those transcripts or documents.

More generally, let's look at this in context, which I think is important as well. At the time of the congress, the gang task force had been in operation for about six months. Clearly, they were still very much in the mode of pulling the operation together. There may well have been a remark by the chief of the task force that clearance rates were low, but the member also needs to acknowledge that referring to a clearance rate is a pretty subjective thing. There are many ways that a file can be cleared. It doesn't necessarily mean that there is a conviction, that a 100-percent clearance rate would mean 100-percent convictions. That's not at all the case.

Again, I think it's also important to understand that the task force per se doesn't have those files in any event. Those files reside with the various detachments. The task force's role is to collect and analyze criminal intelligence and thereby pull all of that together and assist other detachments and forces to bring criminals to justice.

[1035]

J. Brar: How do you measure the performance of the task force? What are the benchmarks?

Hon. J. Les: I think it's quite obvious what we're looking for in terms of results from the gang task force. We clearly have had, I think, an unacceptably high level of gang-related activity in B.C. and in the lower mainland. I think we can all agree with that.

Quite simply, what we hope to achieve with the establishment of the gang task force is a significant reduction of gang-related criminal activity in the months and years ahead. I have some optimism that we will accomplish that. We are going to be reviewing annual reports that will be generated by the task force in terms of the amount of police intelligence they have been able to assemble and how that has related to, hopefully successful, police investigations — charges laid and convictions obtained.

Clearly, we are looking for those kinds of indicators: reduction in crime, charges laid, convictions obtained. I think those are pretty straightforward. You know, in terms of crime reduction, the more the merrier.

J. Brar: As per the *Vancouver Sun* article dated September 10, 2004, it was stated that the RCMP had developed a hit list of 20 most dangerous crime bosses. It further points out that perhaps the most interesting thing about the RCMP top-20 list, however, is the group that did not make the cut is Indo-Canadian gangs. My question to the minister is: can the minister explain how, on the one hand, we have a stand-alone task force to deal with Indo-Canadian gang violence, and on the other hand, none of the gang leaders were part of the top 20 most dangerous crime bosses?

[1040]

Hon. J. Les: I believe the member was referring to a newspaper article of September 2004. That would have been drawn from a national police RCMP report which featured 20, I believe, of the most infamous folks nationally, who they described as the most dangerous gang-related criminals. However, that does not necessarily have any direct relevance or primary relevance to what our challenges are in British Columbia. Clearly, in British Columbia gang-related violence, especially as it involves the Indo-Canadian community, has been a very prevalent concern, and that is why we in this province have reacted as we've done.

J. Brar: I have heard the minister stating time and again, including in question period, about the record of the Liberal government in adding more police officers, a new helicopter, integration of police services to improve efficiencies of police officers. But the minister has failed to provide one specific on the successful outcome of these new initiatives. I don't know whether that is intentional or unintentional, so my question to the min-

ister will be: will the minister agree that these new initiatives haven't, in fact, at this point in time reduced crime in the province?

Hon. J. Les: Frankly, I'm astounded that the member doesn't recognize that we are seeing some very good results from the approach to policing and the resources for policing that we've made available. I'll perhaps quote two recent examples. When Mr. McMynn was recently kidnapped in the city of Vancouver and recovered, I think, almost a week later, anyone who was at all involved with that investigation readily admitted that the degree of police integration around that case was absolutely vital in terms of solving it.

A more recent one, as a matter of fact: very early this morning the little girl up in Armstrong who was very fortunately recovered by the police alive and well — that was the direct result of very highly integrated police work as well.

I don't want to go too much further into the details around that right now, but I can assure the member that it is highly integrated police work that makes those kinds of results possible. I know that until we've got crime licked and we have 100-percent solve rates, there's always more work to do.

[1045]

Let me assure the member that we are seeing some very good results from integrated policing, and we're seeing some very good results from the additional resources that have been made available.

Another example, perhaps more mundane, is the integrated road safety units that we have operational here on the south Island. The number of traffic infractions that have resulted from that, and tickets written and enforcement work that has been successfully accomplished, is at levels that were previously not seen. Therefore, I think the argument is fairly made that the roads in the lower mainland and in the Kamloops and Prince George areas have very much improved.

J. Brar: I don't want to go to Pattullo Bridge. I could go pretty well with that.

The minister made a very important statement, that the minister does see improvement. Either I don't have access to that information — I think this is the opportunity that the information should be made available — or the minister is contradicting his own service plan.

Here it is. If you look at the service plan on page 6, it states that the overall crime in British Columbia was at 113.8 crimes per thousand people in 2000, and in 2003 it increased to 124.9, subsequently rising to 125.2 in 2004. In the end, in 2005 the crime rate was approximately 128.2 per 1,000 people, which means the crime rate has gone up roughly 2.4 percent since 2000. This means that in the year 2005 there were 57,600 more crimes as compared to 2000.

This is your service plan, minister. How can you say here that you see positive results, that you see crime is going down? Crime is going up. It's a useless plan. So can you give some clarification on that.

Hon. J. Les: There are several things here. First of all, actually the statistics for the last year — which haven't been published yet; they're still in their preliminary stage — are apparently showing that there is now a reduction in the rate of rate of crime as measured by per-thousand population. As soon as that information is available, I will be very pleased indeed to make that available to the member opposite.

The other thing that the member should keep in mind is that as additional police resources are being made available, there actually is — and this isn't unusual — an increase in arrest rates, charges laid and actual files generated, simply because you have more police resources available.

[1050]

I think that's a good thing. It might be counterintuitive in the first instance, but what we hope to see, of course, in the years ahead, then, is a commensurate reduction in the number of crimes as police are able to engage in more preventative types of activity.

Again, I think we're possibly, as well, talking about two different things, in that I attempted to focus the member on specific examples of where the integrated efforts of the police have produced some very good results and the member is referring to something that is, I think, quite different, which is crimes per X population.

I think we're on the right track in British Columbia. We are seen as leaders, frankly, across many jurisdictions in terms of the approach that we are taking. It is highly integrated. It's making the most efficient use possible of the resources we have available.

The other thing I would want to draw to the member's attention as well is that there are societal trends, if you will, that sometimes make our job more difficult. For example, the advent of the usage of crystal meth has been something that's been challenging from a law enforcement perspective. As the member, I'm sure, knows, many of the vehicle thefts that go on can be traced back directly to the use of crystal meth.

Another major challenge over the last few years has been the importation of illegal handguns. Many of those, apparently, are coming across the Canadian-American border, and rare is the weekend, unfortunately, when we don't have some kind of a shooting in our urban areas. It's clearly unacceptable, but you know, it's a problem that we did not have three or four years ago to that degree. So we're challenged there as well.

As the member, I'm sure, also recognizes, this is one of those areas where there needs to be a lot of combined and concerted efforts by all levels of government and, in this case, the federal government as well. I think the increased penalties that are being discussed now in Ottawa with respect to the unauthorized possession of handguns — registered, unregistered or what have you — are a big step forward. The carrying of an unregistered handgun in the urban areas of our communities, I think, is completely unacceptable. I don't think there's any excuse for that kind of conduct and behaviour whatsoever.

There's a constantly evolving menu of challenges with which the police have to deal. I think government,

as well, needs to evolve its responses and its resources in a way that responds effectively to the challenges that the police face daily on the ground.

J. Brar: Thanks for the detailed question, but I'm talking, minister, about your own service plan, not something else. Will the minister agree that there were 57,600 more crimes in 2005 as compared to 2000 and that the overall crime rate in the province has increased by roughly 2.4 percent per year in the last four years? This is according to the service plan.

[1055]

Hon. J. Les: First of all, whether or not crime rates go up or down has nothing to do with the reliability of the service plan. What is important in the Ministry of Public Safety and Solicitor General is to ensure that we have the police resources available in sufficient quantity and appropriately integrated to deal with the challenges we face in our various communities.

As I've attempted to outline for the member, I think we have one of the most highly integrated police presences in the country. I think we have integrated very effectively. We have had the largest increase in authorized police strength in over a generation in this province just in the last few years.

Even legislatively, we have made some changes — such as the Civil Forfeiture Act, which I think will be another important tool that communities will be able to use in combatting unlawful activity — simply by bringing forward the notion that unlawful activity should not be profitable for those who engage in that.

I think what the member needs to understand is that while we have a constantly evolving array of challenges, we are responding effectively and appropriately.

J. Brar: I understand about the integration. I understand about all the changes. That's why I'm asking these questions.

The question is not about whether the huge decision about the integration of police services was good or not. That's not the question. I understand that's going on. I understand there's a new helicopter. I understand there are new things. My question is…. This is your own service plan. I just want to understand whether the minister agrees with his own service plan or not.

Again, I would say in your service plan…. According to that, will the minister agree that there were 57,600 more crimes in 2005 as compared to 2000 and that the overall crime rates have increased by roughly 2.4 percent during the last four years? A simple question — very simple. In your service plan.

Interjection.

The Chair: Order, please. The member can move closer to his friend, if he likes to speak to him, please.

Hon. J. Les: Just having a very quick look at the documents to which the member is referring. What is clear is that in the last two years that are being published, 2003 and 2004, it actually makes the case that the crime rate at that point was stabilizing.

I've already said to the member that when the 2005 figures come out — we only have them in very preliminary form at this point — they apparently are going to show a reduction in the rate of crime. So I would argue to the member that the resources that we've made available, the way we've deployed those resources, are actually showing good results.

[1100]

J. Brar: To the minister: what you don't have available at this point in time, for your information, are the numbers for 2006. The numbers for 2005 are available.

Hon. J. Les: The year's not over yet.

J. Brar: Numbers? I'm just saying…. No, not two years. The minister is talking about two years, Mr. Chair. I'm adding one more year, which is 2005. The numbers are available for 2005; they may not be available to you there. This is for three years. Do the math; 57,600 is the correct figure. Come back, if I'm wrong, at any time. I will leave that page, at this point in time, on that.

[V. Roddick in the chair.]

I'll move on to page 21. The service plan for '06-07 has established three great goals: (1) citizens and communities are protected from crime, (2) public safety is enhanced, and (3) regulatory programs safeguard public interests.

I believe that one of the goals of this ministry must be the reduction of the overall crime rate in the province. In the absence of that goal it is almost impossible to assess the overall performance of the ministry. It's almost impossible to assess what is the success of the ministry. Why did the minister choose not to include reduction of the overall crime rate as one of the goals or objectives?

Hon. J. Les: First of all, I think it's fair to say that reduction of crime has been goal number one of governments and police forces since time immemorial. I think, if you read the three goals the member just pointed out, that it talks very clearly about citizens and communities being protected from crime as a goal and about public safety enhancement as a goal. Clearly within these, I think, it very easily accommodates the member's notion of an absolute reduction in the rate of crime.

Let me be very clear. Reducing crime in our communities has absolutely been a major focus of this ministry. That is why we have made very significant additional resources available to the police in this province. If we didn't care about the crime rate and took sort of a lackadaisical approach to crime-fighting in this province, I doubt that we would have turned over an additional $15 million to communities across this province in terms of traffic fine revenue. I doubt that the Premier would have announced $122 million in additional police resources at about this time last year if we didn't

care about fighting crime in this province. If we didn't care about fighting crime, I'm sure we wouldn't have made an additional 400 police available across the province over the last four years.

I think the actions of this government speak much louder than the words of that member. By virtue of the many initiatives we've undertaken — including integration, which sometimes is not the easiest thing to implement cross-jurisdictionally — those things have all played a very large role in enhancing the ability of the police in our province to do their work. I think it's fair to say that the evidence is in. We do take crime-fighting very seriously in this province. It is one of our overriding goals and objectives, and we have responded in a way that actually gives effect to achieving those goals.

[1105]

J. Brar: Again, I have heard this. I said this earlier, at the beginning, to the minister's talking about the integration, new helicopter and new police officers. I don't dispute that part — that it's going on. What I dispute is pretty simple, and that's where I need a response. That's where the minister is not responding. The end goal of all the administrative changes the minister has made in policing — the end goal of buying a new helicopter, which the minister is talking about; the end goal of adding new police — is to bring crime down. That's where we don't see the end result coming out.

Now, I would like to have more specific questions, and I'll try one more. Can the minister tell me if there is any specific crime-reduction strategy to reduce overall crime rates in the province? Is there any strategy existing at this point in time? If there is, can you give me a copy of that?

Hon. J. Les: First of all, let me point out for the member…. I think he's attempting to indicate that I'm repeating certain things ad nauseam. It's in fact the member opposite who has talked about helicopters. I hadn't mentioned the helicopter once yet this morning. But I'll talk about the helicopter for a minute, because I think it's another one of those great examples of integration.

ICBC actually paid for the capital acquisition. It was just over $2 million for the acquisition costs of that helicopter. This ministry will be paying for the operational cost of that helicopter, and it will be used across all lower mainland police jurisdictions.

The member complains that he hasn't seen any results. The thing has hardly been flying yet. I think it started operationally somewhere around the middle of March, so it's been in the air now for two months. The member opposite is clearly into the mode of instant gratification.

I'm prepared to give it a few more months at least before I start demanding statistics. I have some pretty firm confidence that the acquisition of that helicopter will be another tremendous new resource for the police in the lower mainland — no question in my mind about that at all.

In terms of specific strategies that the member opposite is calling for, I'm not sure that he wants me to go through the entire list again. I've spent a fair bit of time this morning and a fair bit of time on Monday afternoon outlining for the member all of the various things that we have done.

Does he really want me to go through the integration aspect again and how we have integrated, for example, the sexual predator observation team? Or the Combined Forces Special Enforcement Unit? Or the integrated road safety unit? There are many others. We've canvassed the gang task force already this morning. There are quite a number of strategies that we've employed.

Of course, underlying all of that are significant new funding resources that we've made available to policing in the province. It's a strategy that we're proud to talk about. There is, I think, broad acknowledgment in the police community around the province that we are a government that takes policing seriously, that takes crime reduction seriously and that insists, at the end of the day, on making our communities safer.

J. Brar: As for the service plan, 87.4 percent, which is $479 million, of the budget is allocated for goal one of the service plan, which is: "Citizens and communities are protected from crime"; and 9.1 percent, which is $50 million, is allocated for goal two, which is: "Public safety is enhanced."

Is the minister aiming to achieve both of the goals — enhance public safety, protect communities from crime — without reducing the overall crime rate in the province?

[1110]

Hon. J. Les: The member opposite focuses on the crime rate on a year-to-year basis as being a very reliable indicator as to whether or not policing efforts are in fact working or paying off. I would caution the member that it is probably not the best indicator to use.

As I have already indicated earlier, we are making significant new police resources available in the province today. That can and often does have the effect of actually generating more reporting of crime. The more resources you make available, the more files you are going to generate. I don't think there is any question about that. While the member seems taken aback by the fact that the rate might have gone up slightly, that may be a direct result of the fact that more police resources are being deployed more effectively across the province.

There are other factors to keep in mind as well. Again, I don't want to be repetitive here, but we've talked about issues like the tide of illegal handguns coming in from the United States; the crystal meth problem that so often is directly related to criminal activity; the inappropriate sentencing that we've had going on for probably the best part of a decade now, which is apparently being addressed by federal legislation almost as we speak. I think those are all factors that have an effect on the crime rate from time to time.

I don't think those rates necessarily reflect accurately the effectiveness of policing, because I do think we have effective policing in this province, and we are working hard to make it even better.

J. Brar: Just for clarification. I'm not creating these overall crime rates myself. This is part of the service plan, page 6. Read it, and this is there. It's the minister's service plan, not mine. The minister should own it as well.

I will move on to the next one. The service plan has established a number of performance measures to assess the success of the service plan, such as the percentage of offenders who do not reoffend for two years following corrections supervision. Another one is the percentage of coroners' files completed within four months. Another one is the percentage of inspected or investigated liquor licensees in compliance. Another one…. There are 13 more performance measures established in this service plan.

Now, those performance measures probably will be helpful to assess the performance of those suggested areas or departments. I understand that. But there is nothing, absolutely nothing, in the service plan to assess the overall performance of the ministry. That's my concern. Absolutely nothing — I am repeating it. In other words, there are no performance measures to assess the performance of the minister and the leadership the minister is providing.

[1115]

My question to the minister is: will the minister confirm that the service plan of the ministry does not include any specific performance measures on the reduction of overall crime rates in the province?

Hon. J. Les: Well, I think what the member opposite is attempting to suggest is that we do not have any performance measurement in this ministry, so I'm going to go through the various performance measures that we have established in the ministry, starting with the percentage of offenders who do not reoffend for two years following Corrections supervision.

Another key measure is the victimization rate. The percentage of enrolled offenders successfully completing core programs. The number of provincial police service members. The number of first nations policing program members. The percentage of population covered by police agencies using PRIME. The average time to adjudicate claims for financial assistance from victims and others impacted by violent crime. The percentage of protection orders entered within 24 hours of receipt. The number of community-based youth crime, violence, bullying and sexual exploitation projects funded. The percentage of coroners' files completed within four months. The percentage of communities that have achieved an essential level of emergency preparedness. The rate of serious injury and fatality accidents per 10,000 drivers. Stakeholder satisfaction with the office of the fire commissioner. The percentage of inspected and investigated liquor licensees in compliance. The incidence of illegal gaming. Public confidence in the regulation and management of gaming. The percentage of audited gaming funds receipts in compliance. The time that it takes to acquire a liquor primary licence The achievement of milestones in implementing the responsible gaming strategy.

I would suggest it's a pretty impressive list in terms of the performance measurement within my ministry. If the member opposite can't take that as pretty good evidence that we monitor performance very closely in this ministry, I'm not sure anything else will….

J. Brar: First of all, I don't dispute the performance measures the minister has listed. I have already said in my question preamble that there are 15 different kinds of performance measures. But those performance measures measure the performance of different departments. There is nothing, I'm going to repeat, in this business plan to measure the overall performance of the ministry.

[1120]

I would ask this question. Can the minister show me on what page of the service plan the minister has used the overall reduction in crime as a performance measure in the province? Just tell me the page.

Hon. J. Les: I'm surprised the member hasn't really been able to capture this, but frankly, the overall reduction of criminal activity is inherent in everything this ministry does. As I tried to outline before, why would we do all of these things if our main objective in life wasn't to reduce crime in communities?

I won't go through the entire list again, but I think it is pretty much inherent. It is just like in accounting terms, for example. A corporation will often have a whole series of objectives, the end objective of which is to produce a profit.

Interjection.

Hon. J. Les: That's exactly right. The same is the objective here. You have a whole series of performance objectives, the end result of which is to contain crime in communities and reduce it.

J. Brar: What I take from this whole discussion, debate is that the minister is assuming that all these measures have been produced and that the end result will be the reduction in crime. Well, that may not be a bad assumption. But at the end of the day, the minister is here to ask approval for $523 million — a bit more — for a one-year budget. This is not committing to reduce even one crime per 1,000 people — but asking for $523 million.

I would like to ask the minister this. Again, I don't dispute those performance measures which have been there, but there is only one type of performance measure to assess the overall success of the service plan, and that is to establish specific measures to reduce overall crime rates in the province. That is the key tool to assess the leadership of the minister. That is where this service plan is totally silent.

Now, will the minister commit today to add specific performance measures to reduce the overall crime rate in the province even by one fewer crime per 1,000 people, applying his own standard established in the service plan, the incidence of crime per thousand, as a benchmark?

Hon. J. Les: I don't know how many different ways I can actually say this, but let me try again. The member should know that an increase in the reported crime rate might actually be a reflection of the very success that police are having in the communities. I indicated earlier that more police resources, more integration is going to lead to more success. It is going to lead to crimes that are discovered that may not previously have been reported — victimless crimes, for example.

[1125]

The crime rate is not at all an accurate reflection of the success of a policing program. It is at best something you can monitor over a long period of time, but certainly, not on a year-to-year basis. We have plenty of performance indicators within this service plan, all of which, when they work effectively, will have the result of making our communities safer. I think the member's obsession, almost, with one type of measurement — which, as I've attempted to point out, is flawed — is a mistake.

The component performance measurements that I've attempted to draw the member's attention to are a far better indicator of where we are having success and where we have to adjust programs. The ministry doesn't simply adopt sort of a static response here. We need to be responsive to new challenges that we find in communities. Whether it's societal issues, whether it's different impacts that we feel drive criminal behaviour in our communities, we need to be responsive to those.

I would encourage the member to perhaps look for other indicators, not the one that he's specifically looking for. The best advice I have and that I've gathered over a long period of time, going back to the days when I was a mayor in a municipality, is that the specific statistic the member focuses on is not an accurate barometer of what's going on in communities.

J. Brar: It's very interesting. The minister is giving me advice as to what I should look into rather than giving me the answers, which the minister should do.

In the service plan, there are no performance measures for any of the integrated police unit — none. Absolutely nothing. There is nothing about the overall crime reduction in the service plan. What it talks about is a little part about correction services, how many more police we are going to add, which is fine. I don't dispute all of those, but where do we see the outcome? Is there any outcome in this? The answer is no when it comes to crime reduction. I don't know. The minister may have some sort of criteria somewhere to assess the overall performance.

It's very interesting, also, the minister telling me that more police means there will be more crimes. The rates will go up because they will be able attract more. But I don't know where that will be neutralized. Up to now it's okay. Crime is going to go down.

I would ask him…. One reduction in crime out of 1,000 people, the benchmark the minister used in his own service plan — just commit to that to the people of British Columbia for $523 million. Clearly, the minister says no. The minister is not going to use that criteria. That's fine. It's at least clear.

I would like to move on to victim services. The member, my colleague, may want to ask some questions on that.

M. Farnworth: I thank my colleague, the critic on Public Safety and Solicitor General, for this opportunity to ask a few questions around victim services before he picks up the main topic again. I'm going to ask the questions in the context of a couple of specific cases. I'm not expecting the Solicitor General to be familiar with the specific cases, but I'll be raising them in the context of the overall issue around victim services programs.

There have been some high-profile murders in my community in the past several months. The victims' families have had an opportunity to interact with the victim services program. There are a number of questions that have come out of that, and that's what I want to ask the minister.

[1130]

My first question is: how often is the program reviewed? Is there a regular program review in terms of dealing with the complaints and concerns of people who do access the program?

Hon. J. Les: I appreciate the question from the member opposite. Actually, the review process within victim services is an ongoing process. That's not something that we do for a while and then put away and pick up another day. It is very much ongoing.

It is, I think, responsive, as well, to areas of emerging concern. We also have within that a complaints process that people can access at any time. But in terms of its being responsive to emerging concerns, we have, for example, in the downtown east side in Vancouver, an aboriginal youth program specific to that population as well as an aboriginal women's program that is specific to that population.

Clearly, there are diverging needs from time to time. There are certain high-profile trials, for example, that demand from the program a very specific response, a very coordinated and focused response, and we attempt to do that as well.

M. Farnworth: I just want to make one point before I ask my next questions. My questions, because of the limited time, aren't going to be focusing on Pickton, and I understand, around that….

Two issues have come in two cases, and the families both seem to be having similar problems. Currently, if a supporting family member, whose income is helping to maintain the family…. Under the existing program, as I understand it, there is the ability for that

income to be taken into account in terms of the support services that are available to the victim's family. It works that if you can prove how much money that family member is contributing to the household income, then that is taken into account. Is that correct?

[1135]

Hon. J. Les: I'm assuming the member is referring to the crime victim assistance program, and his nod indicates that yes, he is. It is, of course, a program of last resort. It is, sort of, the ultimate resort for people who have no other place to garner that assistance. So it's necessary, of course, to take any other income into account that may be available, and that includes income assistance and other insurances that person might be able to obtain.

I think I can simply reiterate what I've just said. It is a program of last resort. Because it is and resources are always scarce, I think we have an obligation to ensure that we have properly taken into account other forms of income.

M. Farnworth: That is where one of the problems lies. That's the problem I'm asking the minister to look into. If the wage earner, or income earner, is an adult, it's relatively easy to identify the source and the amount of income. But if the individual is a minor or a young person and is contributing money to the family to support that family, in most cases most parents don't ask for, or give, receipts to their son or daughter for the money that they're contributing to help support the family.

That is what, in these cases, families are finding the problem is. When they go to access the program, because there are no receipts, there is no proof that they were getting financial help from the individual, who in this case was murdered. They're finding that the program isn't working for them and that they're not eligible.

I think that is a serious flaw in the program that the ministry needs to examine and look at. I'm asking the minister to do that, and I will provide him with further information if that's required.

Hon. J. Les: I appreciate the member opposite bringing this type of case forward, because I think it is important for us to always attempt to improve these programs. These processes, of course, are adjudicative in nature, and they are based on the balance of probabilities. It needs to be that way, I think, because every situation is going to be different. But that said, I'm happy to take whatever information the member has, and we will review it to see whether there are further improvements that we might be able to make.

M. Farnworth: My last question is around…. For many people, what they're finding is that when they have lost a family member, particularly a child in their family, through violent crime, it takes a significant amount of time to get back into the workforce. I understand that the question I asked is one that is primarily federal in nature. The solution, I believe, lies at the federal level, and that is a recognition of employment insurance benefits to assist people in that type of situation.

Currently there are certain professions…. In the police, for example, if you are involved in a shooting, you're usually on six months' paid leave. One of the ideas that has been put forward to me is that in situations where a child is lost and parents find it difficult to get back to the workforce — because it's not up to their employer to give a certain amount of time available — employment insurance benefits could be used to help guarantee an income for that six months.

Is that the type of issue that the Solicitor General would look at taking up with his federal counterpart, for example, as a way to improve the program?

[1140]

Hon. J. Les: We certainly will be happy to take that forward. As a matter of fact, there is a federal-provincial conference in June, which my staff will be attending, and it is exactly those types of issues that are being discussed. Apparently, a program roughly along the lines of what the member just described used to exist many years ago, and we'll certainly bring that forward as an item for consideration.

J. Brar: I have two questions under victim services as well. The minister is aware that a symposium took place in Prince George about the highway of tears. Officially, nine young females went missing on the highway of tears, so there was a symposium. During the symposium one of the things which came up when it comes to victim services…. There was huge concern raised by the community that the first nations need a unit of first nation counsellors to provide culturally appropriate victim assistance services as needed.

My question is: will the minister work with first nations to discuss the issue of a unit of first nation counsellors to provide culturally appropriate victim assistance services and subsequently act as needed?

The Chair: I just wanted to bring to everyone's attention the time so that we can act accordingly.

Hon. J. Les: In response to the member's question…. I appreciate the question because, along with him, I attended the Highway of Tears Symposium just a few months ago. Of course, unfortunately, many of the unsolved situations up there go back, in some cases, as many as 30 years, so there's still a lot of grieving in those communities. Victim services programs are very important in those circumstances.

[1145]

I believe that the member may be aware that we already have someone in that particular area, an aboriginal person, responsible for delivering aboriginal-specific victim services programs, but I think it's fair to say that more needs to be done. We have aboriginal-specific programs within our crime victim assistance program generally throughout the province. Currently we're doing a review, and this is a review that's being done in conjunction with federal partners, as well, in

part, to see where we need to make further improvements.

I think it was clear…. Although I don't have the formal recommendations yet from the symposium in Prince George, I think one of the things I heard was that there was a greater need for victim assistance programming more specifically tailored to the aboriginal populations. I think that is a valid recommendation, something worthy of following up, and I'm sure it will be a key deliberation within the review process that's currently going on.

J. Brar: I do keep in mind the time, but I think we can probably ask one or two more questions.

We have had quite a bit of discussion about the task force, particularly when we talk about Indo-Canadian gangs. The other side is victim services as well. There have been a number of reports done in the community by the community organizations as well as the government. The federal government has done a couple of reports as well on that.

One of the common recommendations which we see across the board, the community organizations and even the federal government reports…. There is nothing when it comes to the families of young people who are entering into gang life or who are being forced into gang life. There is nothing for the families, where they can go, and probably make a right intervention at the right time, at the beginning.

There has been a recommendation about a 24-hour help line, which is, again, more focused on the issue. My question to the minister is…. The former Solicitor General, about a year and a half ago, I think, mentioned that in his opinion, it was a good thing. Will the minister support that idea and work with — I could be wrong here as well — the Attorney General to make sure the 24-hour line is available for those families, which in my opinion will not only help the families but will also help some young people with the right intervention at the right time, probably saving them from becoming victims of the gang life?

Hon. J. Les: I think the suggestion by the member is a good one. We have in place today the VictimLINK line, which I'm sure the member is familiar with. We are going to be accommodating some upgrade to that VictimLINK line. That will be announced, I think, in the next month or so. It is a multilingual service that is available right across the province 24-7, and we will include aspects in it that will also give some comfort to those families that the member references.

There has also been some discussion and a lot of work done on the 211 line service across British Columbia. I'm not 100 percent familiar with all the details of that, but I know it is actively being worked on as we speak. So that too, I think, can be an important contribution to these families.

Assuming that is what the member requires, and taking note of the time, Madam Chair, I would move that the committee rise, report progress and ask leave to sit again.

Motion approved.

The committee rose at 11:50 a.m.

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