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The Honourable Gene Zwozdesky, Speaker

Legislative Assembly of Alberta
The 28th Legislature
First Session

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Legislative Assembly of Alberta

7:30 p.m. Tuesday, May 14, 2013

[The Deputy Speaker in the chair]

The Deputy Speaker: Please be seated.
The hon. Member for Little Bow.

Mr. Donovan: Thank you, Mr. Speaker. I'm just asking if we could ask for one-minute bells for the duration.

The Deputy Speaker: I take it, hon. member, that you're asking for unanimous consent that for the duration of the night for the House and Committee of the Whole we would have one-minute bells?

Mr. Donovan: That's how I was trying to roll that out. I just had a little supper still in my mouth.

The Deputy Speaker: Having heard the motion by the hon. Member for Little Bow, I'll ask one question. Is anyone opposed?

[Unanimous consent granted]

Private Bills
Second Reading

Bill Pr. 2
Wild Rose Agricultural Producers Amendment Act, 2013

The Deputy Speaker: The hon. Member for Calgary-Glenmore on behalf of the Member for Grande Prairie-Smoky.

Ms L. Johnson: Thank you, Mr. Speaker. On behalf of the hon. Member for Grande Prairie-Smoky I move second reading of Bill Pr. 2, Wild Rose Agricultural Producers Amendment Act, 2013.

Mr. Speaker, Wild Rose Agricultural Producers is Alberta's biggest producer-funded general farm organization made up of farmers and ranchers who provide expert advice on the agricultural industry in our province. Key initiatives of the organization include striving to generate and maintain sustainable farm income levels, establishing stringent fair trade practices, improving the social and economic viability of our rural communities, and being a beacon of information for producers regarding current farm practices. Additionally, Wild Rose Agricultural Producers strives to offer our farmers important information on farm labour issues, farm safety initiatives, environmental issues, and taxation issues. The organization is available as a reference point for our farmers to utilize in order to obtain accurate information on innovative farming practices. The overarching goal of the organization is to provide a voice for Alberta's farmers at all key operational levels.

Mr. Speaker, the main intent of Bill Pr. 2 is to simply change the organization's name from Wild Rose Agricultural Producers to the Alberta Federation of Agriculture. The word "federation" implies strength in numbers and cohesion. It also exemplifies the strong, overarching vision of the organization; namely, the sustainability of our province's thriving agricultural sector. As we all know, our agriculture sector is an ever-evolving industry that demands long hours and intense physical labour.

More than ever I am realizing that this is a strong sector, playing a key role in the diversification of our economy as the government continues to build Alberta. As we all know, the success of this industry is also tied to a number of unpredictable and sometimes volatile factors such as shifts in weather. However, through the sharing of best practices passed down from generation to generation, our farmers are able to adapt and consistently deliver the high quality of products our province is known for both on the domestic and international stage. This is also a goal the Wild Rose Agricultural Producers aims to foster and pass down to future generations.

That is why I ask on behalf of my colleague that all hon. colleagues pass Bill Pr. 2. Thank you, Mr. Speaker.

The Deputy Speaker: Thank you, hon. member.
Are there other speakers? The hon. Member for Little Bow.

Mr. Donovan: Thank you, Mr. Speaker. I'm rising in favour of this bill. It would definitely clear up some confusion sometimes between the Wild Rose Agricultural Producers and the Wildrose Party.

Ms Blakeman: You're serious?

Mr. Donovan: Yes, I am.

I went to their AGM last year. They are a strong agricultural group. It always does add some confusion. With an up-and-coming party that's probably going to take over one day, it'd be sure nice to get the names cleared up. I thank everyone for the support on that.

[Motion carried; Bill Pr. 2 read a second time]

Government Bills and Orders
Committee of the Whole

[Mr. Rogers in the chair]

The Chair: I'll call the Committee of the Whole to order.

Bill 22
Aboriginal Consultation Levy Act

The Chair: Are there comments to be offered?

An Hon. Member: Question.

Mr. Saskiw: That was very, very hopeful, and I wouldn't put it past him.

It's an honour to speak here in Committee of the Whole with respect to Bill 22, Aboriginal Consultation Levy Act. What's happening here, of course, though, at least what's been indicated by a bunch of reserves as well as treaty members from treaties 6, 7, and 8, is an indication that there has been absolutely no consultation on this by the Aboriginal Relations minister.

Before we get into the substance of the bill, I think it's imperative to look at what processes transpired here. With the Metis Settlements Amendment Act, 2013, there was obviously extensive consultation with the settlements throughout Alberta. They got agreement among the respective partners in that field. There was just an extensive amount of consultation. If you look at the flip side, the Aboriginal Relations minister has apparently, according to the sources at least, rushed Bill 22 and hasn't fleshed out the act.

I think if you look at an act, you can really tell that there hasn't been enough work done on it, that there hasn't been enough consultation in advance, when you see how thin the act is, but with respect to regulations that come thereafter, the act gives the minister an extensive, broad range of powers to do almost anything he wishes to do.

What he's asking us here today is to somehow pass a piece of legislation for which the key stakeholders that will be affected by this legislation have been indicating that they have not been consulted. They're asking us here in this Legislature today to give the minister extensive powers, powers to make regulations on essentially any topic within this bill. I don't think Albertans would want to give such an extensive amount of power to a minister no matter how well intentioned he may well be – or she. There could be a shuffle. You never know. There may be after this one. Someone's vying for this portfolio.

You know, this is one of these things, Mr. Chair. We have a process where you do extensive consultations with individuals and stakeholders in advance of putting forward a piece of legislation. Instead what the stakeholders are saying right now is that this piece of legislation was put forward, and now the minister wants to pass a law and then consult after the fact and then make a bunch of regulations based on that new consultation. It's backwards. You know, it's unfortunate because it looks like the minister did a good job with respect to consulting on the Métis amendment act but has completely failed in this consultative process.

Mr. Chair, what we would have liked to see here, of course – and this was done in second reading – is that because this bill is so poorly drafted, hasn't contemplated very much of anything other than the statement of, you know, a framework and a few other enactments of it, rather than trying to go through Committee of the Whole, rather than making a series of amendments trying to breathe some semblance of reasonableness into this piece of legislation, trying to take something that's so bad but with a series of amendments trying to make it better, our caucus had suggested that this be referred to a committee, a committee that over the summer could do the proper consultation, could listen, get feedback, and then put forward the amendments in an amendment bill afterwards.

7:40

Unfortunately, Mr. Chair, it looks like this minister wants to ram this bill through. We just got this bill late last week. Again, stakeholders from across the province were unequivocal that they did not feel that they were consulted, that they were, to quote some of them, blindsided by this piece of legislation, but here we are tonight with this legislation put before us. Somehow we want to make this work, this little bill with about five pages where all the power is in regulations. Look how thin this is. It's almost like this was an afterthought. After no consultation: let's just put something together before we head off for the summer.

Instead of doing that, why don't we refer this to a committee so that they can do the consultation so you can flesh out this piece of legislation rather than put everything in regulations? If you actually look, Mr. Chair, at the regulations that this minister can make orders on, they are basically on everything. It's hard to see many pieces of legislation that just put everything into regulation. It's completely improper in terms of the legislative process to not flesh out some of the key, core principles right in the enabling legislation itself.

So, Mr. Chair, I would hope that the minister would reconsider, not proceed with this now, do the proper consultation, consult with stakeholders, make some substantive amendments to this. Even if we were able to pass all the amendments that we could on this bill, the bill is just in such poor form that it would be very difficult to make it palatable to us. Let's hope that he would listen to some of the amendments, you know, at least hear them out, and we hope that he would accept some of them.

Thank you, Mr. Chair.

The Chair: The hon. Leader of the Official Opposition.

Ms Smith: Thank you, Mr. Chair. I concur with the Member for Lac La Biche-St. Paul-Two Hills in wondering whether or not this bill can be amended and saved. I highly doubt it. I know that the minister has been busily doing last-minute consultations and meetings with various treaty chiefs, hoping to salvage the legislation, and, I think, hoping at the last minute to try to get some buy-in on it, all of the work that he should have been doing up until introducing it. But we're going to try to do his work for him and try to propose some of the amendments that we have heard the members of the different treaties bring forward as very serious concerns that they have.

I don't think that's going to go far enough, quite frankly, Mr. Chair. I think that the only way for the minister to actually re-establish the relationship with First Nations that he's so badly damaging is for him to refer this to committee, take the summer to do the consultation and make sure that it comes back with some of the major issues that they're addressing revised in the legislation so that we can actually move forward with something that we know has buy-in not only from First Nations but also from industry.

That being said, because we're in Committee of the Whole, I'll play ball. I'll go ahead and put forward amendments. I would have liked to have been able to have the opportunity, as I did in the Metis Settlements Amendment Act, 2013, to provide them to the minister in advance. With the great rush that we are going through, having just had second reading on Monday and now being in a process where we have to go through Committee of the Whole, I have great respect for Parliamentary Counsel, who has been madly rushing to try to put the amendments together.

I will have seven or eight amendments. I have four of them here this evening, but they'll be coming as we go. I would have liked to go through the amendments one at a time in the order of the bill, but that's just not quite the way Parliamentary Counsel has been able to deliver them to me. No criticism whatsoever on my part to Parliamentary Counsel, but I think the government ought to recognize the kind of stress and pressure they're putting on our legislative staff in trying to ram this through and not being able to give them the proper amount of time to be able to put the amendments together. I do thank them for the incredible work that they are doing in trying to accommodate the government's rushed time schedule.

The issues that I'm going to attempt to address fall into a number of broad categories. I had heard about 13 different areas of concern with this bill from the First Nations chiefs that we consulted with and their legal counsel. I'm not proposing amendments to address all of them. In some cases it was difficult for us to put forward language that would be able to adequately address their concerns. So for the members of the First Nations communities who are here this evening, understand that it is an imperfect process. We're dealing with a bad piece of legislation, a flawed piece of legislation. We're doing our best to try to address the concerns that they have raised with us, but I think it is an imperfect process and certainly not the one that we would have followed if we were government.

Issues that the First Nations raised in the last couple of days, just to remind the minister. They're very concerned that the preamble presents a diminished view of treaty and aboriginal rights. I'm going to try to put forward an amendment that will address that. They're also concerned about the potential that Alberta is abdicating its role in the Constitution on consultation. They don't like the way in which the Indian Act references the definitions for what a band or First Nations ought to be. They

don't like the fact that the minister gives himself the power to determine aboriginal groups for the purposes of the act. We're hoping to address some of that.

They are concerned as well about the issue of whether or not these funds should be held in trust. They're concerned as well, they're telling us, about the use to which the funds will be put, making sure that they are for the exclusive use and benefit of the process. We're going to address that. They also want more consultation built into the provisions in the legislation, and we've got an amendment that will address that as well. They're also very concerned about the discriminatory nature of a section of the act which seems to indicate that agreements for First Nations are going to be subject to disclosure, which is not the case for nonaboriginal landowners who have similar agreements with the energy companies, so making sure that we're getting the kind of information that First Nations were told the minister was setting out to collect in the first place.

With that in mind, I will table my first amendment. I'll be happy to give some time while this is circulated.

The Chair: Just give us half a minute, and then I'll let you speak to it.

Ms Smith: Thank you.

The Chair: This will be referred to as amendment A1.

Please proceed, hon. leader.

Ms Smith: Under this amendment I would move that Bill 22, the Aboriginal Consultation Levy Act, be amended in section 7(1) by adding "as well as a list of the recipients of the grants for each project" after "audited financial statements of the Fund." I'll just direct you to the section under question. The section under question is the annual report, and this section reads: "The Minister shall, as soon as possible after the end of each fiscal year, prepare a report that summarizes the operation of the Fund during the preceding fiscal year and includes the audited financial statements of the Fund." That is where we would add "as well as a list of the recipients of the grants for each project."

Now, the legal counsel for the First Nations communities that we spoke with indicated that what they would prefer to see is for the government to actually consult with them on what the contents of the annual report ought to be. But in the absence of the government being willing to do a full consultation with our aboriginal communities to find out what it is they do want in the report, at the very least we believe that having a list of the recipients of the grants for each project provides a certain level of transparency so that we can understand and know the kind of progress that the government is making in being able to do its mapping of the different claims in different communities.

We also need to make sure that we have an opportunity to have that information shared. I would note – and I'll be making reference to this in other points throughout the debate this evening – that one of the government's main goals in the minister's business plan was to have a "coordinated approach to Aboriginal consultation and land claims [which] enhances resource development certainty."

7:50

The issue that the minister had described in estimates when we were talking about this was that the kind of information that he was attempting to collect was information that would lead to "the development of GeoData maps with First Nations' input to help guide decisions related to consultation on resource development projects, facilitate more consistent notification for consultation, and help satisfy the Crown's duty to consult." If the government was going to achieve that goal, certainly being able to have an enduring, ongoing record of the types of groups that had been consulted as well as those who had received grants to be able to do some of this mapping, some of this traditional land-use planning or land-use claims in the different overlapping areas of different aboriginal groups – having a reporting function so that we can have that information publicly available would also indicate to various industry players where some of this work had already been done.

I think part of the issue that the minister is facing is that there's a lot of this information being gathered in a bunch of different places. There's no central place for it to be collected. There's not a lot of sharing back and forth. By being able to amend the act in the way that we're proposing, having the list of recipients of the grants for each project, we think that this would facilitate the government's and the minister's achievement of goal 2, being able to move along with the geodata mapping function that he's identified as one of the principal goals for his ministry over not only this year but also over the next three or four years.

I do encourage other members to speak to this amendment. I do encourage others to support this amendment. We think that this will be one of the many amendments that would improve and give greater clarity to what it is the minister is trying to accomplish with this act.

With that, Mr. Chair, I'd be happy to hear from others.

The Chair: Are there other speakers? The hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Chair. I'm going to rise to defend this amendment and ask my colleagues to support it. In particular, I just had an opportunity to speak to members of the O'Chiese band, who happen to occupy lands northwest of Rocky Mountain House. In my short tenure as an MLA I've come to know Chief Darren Whitford, and I've gained a lot of respect for him and for his leadership and for some of the work that that band does for its people.

It's disturbing that they weren't consulted whatsoever. They were shocked to find out that this bill has come forward. They feel that they've been deceived. We have a government that even till today will not listen to the people who have shown up in opposition to this bill. We're railroading this bill through.

We have an amendment here now that at least asks for a list of the recipients that receive a grant of the fees that are going to be charged so that we have some sort of accountability. But I want to make one note here. The O'Chiese own their own pipeline company. They own their own industry companies dealing in the oil patch. The question that they have never received an answer to is: will their industry companies be charged a fee according to this act? As I read this act, I don't know. If they are working on their own lands, do they get charged a fee to consult with themselves? I guess it's a little akin to the way this government has been consulting lately; it doesn't really mean a whole heck of a lot. It's just a question that's never been answered, and they deserve that right to have that answer.

I don't understand why this government has continued to push this. What's the rush? What's the rush that this has to be done now, tonight, and voted on tonight and then again tomorrow night in third reading? Nobody has explained to me the mandate that this has to be done now. Why could we not take the time, even take something like this amendment and go back to all the First Nations to get some input and say: "Listen. The opposition is

willing to put in this amendment. Would that suffice? Would that make it better?"

We've not had the opportunity. As a matter of fact, this thing has been rushed so fast that we can't even submit these amendments in the order that we wanted to because the legal counsel here has been just overworked and pushed to try to keep up with this time limit. That is a signal that tells us that something is wrong. There's absolutely no rush. To have to go through this so that we cannot do this in an orderly fashion, so that we cannot consult properly and get everybody involved that this is going to directly affect: that's a shame.

I don't know how you go back and speak to the people that have come here on a Tuesday night now. They had no idea this was coming forward. They didn't know, and they made it clear that they didn't know. How do you look them in the eye and say: "We're going to push this through regardless. Oh, by the way, this is a consultation bill." That doesn't make sense. That's not logical, and you can't sell it. So why are we doing it to these people?

It gets to the point where you've got some serious questions in here. As we look at this amendment, I notice one thing that it's missing. It doesn't list any race. Curious, because when we look at the bill, it says that if you're aboriginal, you have to divulge your private contract with a private company, but it doesn't say that if you're white, you have to do that. It doesn't say that if you're Chinese, you have to do that. You can laugh over there, but the people up there are taking it seriously. They're taking it seriously. I'm not sure that's going to stand up constitutionally, and I will tell you that nothing would satisfy me more than to have the Supreme Court of Canada shoot down this law for just that very reason.

I think this is a serious matter. I think these people deserve better, and they deserve to be consulted on each and every amendment that comes forward, and we don't have the time to even do that.

Thank you very much.

The Chair: Are there other speakers? The hon. Member for Edmonton-Centre.

Ms Blakeman: Thanks very much, Mr. Chair. I rise in support of this amendment. It seems very reasonable. We always seem to have to pull this information out of the government. I'm thinking back to the lottery grants. You know, for a long time that was sort of a big mystery, and now we've managed to get them, first of all, to publish it. We could get it if we asked, and then they finally put it on the website. You think: what's the big deal? Why do they need to hang on to this information? What do they think is so secret about it?

This is perfectly reasonable and is actually an amendment that helps the government as they attempt to stumble down the road to more transparency and accountability. I have to admit that they haven't done very well on that. Therefore, I think it's very kind of the Wildrose caucus to help them in their transparency attempts by proposing an amendment that would require them to make available a list of the recipients of the grants for each project under the annual reports section of Bill 22.

In addition to that, the next section talks about that the report has to be tabled in the Legislature if it's sitting, and if it's not, within 15 days after the commencement of the sitting, which, of course, makes it available to everyone – the opposition, the media, the public, whomever – because it's now publicly available.

It's perfectly reasonable, enhances transparency of the act, shouldn't cause anybody any harm at all. I definitely support it. Thank you.

The Chair: The hon. Minister of Aboriginal Relations.

8:00

Mr. Campbell: Well, thank you, Mr. Chair. You know, I don't know where to start on this.

Mr. Anglin: Consulting.

Mr. Campbell: Well, we have been consulting, Member. I've spent the last eight months on the ground when I wasn't in here. I've visited 30 communities now. I'm visiting some more. I just received some more invitations. I've visited the eight Métis settlements. So I'm on the ground, Member, and I am listening to what's going on.

You know, we've heard lots of talk about consultation. Let's put this bill into perspective. This is a money bill, period. This gives the government the ability to collect funds from industry. That's the only reason this bill is here. This isn't about the consultation process in the broad sense. This isn't talking about the consultation office. This isn't talking about the consultation matrix. We haven't even had the chance to sit down with First Nations and talk about the regulations or how we're going to collect the levy. This just gives us the ability to do that. I've made a commitment to all the First Nations chiefs that we will sit down and talk about the regulations with industry at the table, about how much money we're going to collect, how that money will be distributed, and moving forward from there.

You know, the reason that this bill is here and the reason that we do consult is because the courts have been very clear about treaty rights and that we have a duty as a Crown to consult when it impacts on their treaty rights and impacts on traditional land use. That's what we're doing, and that's what the consultation is about. To say that we're ramming anything through, I disagree. I've spent eight months talking about this.

Mr. Mason: To whom?

Mr. Campbell: To everybody. I've attended four Assembly of Treaty Chiefs meetings and talked about consultation. I've had a number of different meetings with industry and technicians from First Nations talking about consultation and what it will look like. As we move through the process, I'll table some comments later from my speeches and the dates in which I talked about this.

Mr. Chair, again, one of the conversations that we had is that First Nations are very wary about divulging their information. That's one of the reasons that we did what we did with 7(1), to leave it that we will provide an aggregate amount of the monies coming out of the fund going to First Nations because the chiefs have made it very clear that they aren't comfortable divulging the monies that are coming in.

Again, the question that you asked about whether they have to pay a levy on their own land: it's the first I've heard of that, Member, but I will get you an answer. I will suggest that, in my mind anyway, I can't see the O'Chiese oil company paying to do work on the O'Chiese reserve, but I'll get an answer for you on that very quickly.

I will not be supporting the amendment, Mr. Chair.

The Chair: The hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you very much, Minister, for getting up and at least saying that you now will go look for that answer because

that's the question that I was told was asked more than once. Now we have it on the record, and I hope you will get back to the O'Chiese as soon as you possibly can on how that works.

I will say this. This is not just a money bill. I know what you're telling me, but when I look in here, it says that the decision of the minister is final. That's it. No appeal beyond that. That's how it's taken. That's how that wording is read, and as long as that wording is there, that's offensive in many regards.

I will read one thing to the hon. minister.

Mr. Dorward: On the amendment.

Mr. Anglin: Mr. Chair, do I have to get heckled again by the Member for Edmonton-Gold Bar? I mean, that's a bit ridiculous. We've got people here willing to listen, and I will tell you . . . [interjections]

The Chair: Hon. members, the hon. member has the floor.

Please proceed.

Mr. Anglin: Thank you very much.

The entire Confederacy of Treaty Six First Nations: "At the outset . . . we again express concern that Alberta has declined to engage the Confederacy of Treaty No. 6 Nations and our member First Nations in a meaningful fashion." That's a significant statement from the people that are involved on the other side of what you're saying, that you've consulted. That, to me, is fundamentally wrong. I just don't get it. You're telling me, and I want to believe you, but the people have shown up tonight. The people showed up last night. When you have an entire treaty nation here and you have other chiefs from the other treaties coming in saying that they have not been consulted, that they are completely opposed to this, that are talking about constitutional rights, something has gone wrong. Something has definitely gone wrong. To me, it's so easy for you to fix, and you have not yet explained to me what the rush is.

When I say that this is being pushed or this is being railroaded, what I'm looking for is: why the time frame now? You've already mentioned you're going to meet with them. I think that's great. That's absolutely great. If you have that plan to meet with them, then what you can do is table this thing, cancel this bill, go meet with them, get the buy-in, and then bring a law back that they agree on. That's the way to do it. That's consultation, not passing this law first and then going out and telling them what we just did to them. That's a terrible thing.

Thank you very much.

The Chair: Are there other speakers?

Seeing none, I'll call the question on the amendment.

[The voice vote indicated that the motion on amendment A1 lost]

[Several members rose calling for a division. The division bell was rung at 8:05 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Rogers in the chair]

For the motion:

Anglin	Fox	Saskiw
Bilous	Hale	Smith
Blakeman	Mason	Stier
Donovan	McAllister	Towle

8:10

Against the motion:

Allen	Fawcett	Lukaszuk
Amery	Fenske	McQueen
Brown	Griffiths	Oberle
Campbell	Jansen	Olesen
Cao	Jeneroux	Olson
Casey	Johnson, L.	Pastoor
Dallas	Kennedy-Glans	Quest
Denis	Khan	Scott
Dorward	Kubinec	VanderBurg
Drysdale	Leskiw	Woo-Paw

Totals:	For – 12	Against – 30

[Motion on amendment A1 lost]

The Chair: Back to the bill. The hon. Leader of the Official Opposition.

Ms Smith: Thank you, Mr. Chair. I think we have to remember what it is that we're trying to accomplish with this legislation, and this is why I mentioned the issue of the geodata map goal that the government has set. Part of the issue that we're facing is that those lands that are not covered by defined reserve areas have multiple traditional uses for multiple different bands. So when drilling activity takes places in those areas that are outside the reserve areas, there are multiple bands who have to be consulted and who have to make sure that their rights to hunt, fish, gather, and other traditional uses are not impacted.

The problem is that we do not have comprehensive information on this, and when you look at the minister's performance measure, in '11-12 they had zero per cent of this mapping done. The target in 2013-14 is to get 30 per cent of the mapping done. The target in '14-15 is to get 60 per cent of it done. The target in '15-16 is to get 90 per cent of it done. If this is the data that the government needs to collect to be able to facilitate resource development and activity on Crown lands, then let's be specific about this being the data that the government is going to collect in legislation.

With that in mind, this is the set-up to my next amendment, Mr. Chair, which is going to be an amendment to section 8.

The Chair: Please send me the original.

Ms Smith: I'd be happy to send you my copy.

As this is being circulated, let me just tell you the feedback that we are getting from First Nations legal counsel. Section 8 has to go entirely. Keep in mind that this is bolded and underlined in the document I have before me. First Nations have broadly panned this entire section and will not accept the forced disclosure of agreements. In their view, it is unnecessary in terms of accountability because new federal legislation already puts new onerous financial disclosure requirements on First Nations governments and industry.

They also say that it is a blatant violation of the UN declaration of indigenous rights and section 15 of the Charter. Other landowners and individuals who are nonaboriginal do not have to disclose their agreements with industry, so why would someone who is aboriginal have to disclose their agreement just because they are aboriginal? It is discriminatory, it probably would not stand up to a Charter challenge, and it is the reason why I've suggested this additional amendment, that would remove the existing section 8 and replace it.

The Chair: Hon. leader, I believe that's been circulated to everyone now.

Hon. members, we will refer to this amendment as A2.

Please proceed.

Ms Smith: I move that Bill 22, the Aboriginal Consultation Levy Act, be amended by striking out section 8 and substituting the following:

> 8 The Minister may, in accordance with the regulations, require a proponent to provide the Minister with information related to aboriginal traditional land use studies for one or both of the following purposes:
>
> (a) to assist in determining the amount of funds to be provided to First Nations and other identified aboriginal groups;
>
> (b) to plan and facilitate any required Crown consultation in respect of regulated provincial activities that are occurring in the areas under development.

As you can see, this new replacement for section 8 would negate subsection (2) in the existing legislative proposal and negate subsection (3) as well.

I think this is important because this is why the minister's so-called consultation is such a mismatch with what we've seen in the actual legislation. In the minister's consultation I think he gave the impression to First Nations communities that they would be having a very narrow amount of information that was going to be gathered. In fact, I look at the government's draft report, the Corporate Guidelines for First Nations Consultation Activities, an April 2, 2013, document. This is where they were out there consulting with First Nations communities, saying that the kind of reporting and data that they were going to be collecting was all related to consultation records.

> The proponent [would be] required to compile their consultation record as directed by the consultation office, detailing the activities that occurred as part of the consultation, and provide it to the consultation office and the First Nation. The consultation office [would then] use this record to assess the adequacy of consultation. The consultation office may also ask the First Nation to provide their consultation records.

May also ask the First Nation to provide their consultation records.

> If the consultation is considered inadequate, the proponent will be given further direction on what is required. The consultation office will manage the consultation process and conduct the final assessment of adequacy.
>
> Once the consultation is considered adequate, the consultation office will inform First Nations, project proponents, the appropriate regulatory bodies, and (if different from the project proponent) the consulting party of the result of its assessment.

The entire act is supposed to be centred around determining the adequacy of the consultation so that proponents know whether or not they have gone forward and done their due diligence. The only records that the government has said that they want to collect and have been out consulting with First Nations on and saying that they're going to collect are related to determining the adequacy of consultation.

Now, that is not what the legislation as it has been presented by the minister actually says. The legislation as presented by the minister is much more broad than that. It says:

> 8(1) The Minister may, in accordance with the regulations, require a proponent to provide the Minister with information, including third party personal information, records and other documents, including copies of agreements relating to consultation capacity and other benefits pertaining to provincial regulated activities, for one or both the following purposes.

That is the reason why First Nations are feeling blindsided by this legislation. The intention of what the government says that they want to create out of this consultation office, the information they have told them that they want to gather is much more narrowly defined than what the minister has put into this section of the legislation.

If landowners who are nonaboriginal are not required to deliver to the government by mandate all of the agreements that they have with an energy company, we can't be asking for aboriginal communities to be providing an excessive amount of information that others are not required to.

This is why I have proposed an amendment that narrows the scope of the information that the government would be collecting. The information the government needs to collect is information related to traditional aboriginal land-use studies. That's what we need to understand. We need to understand where it is that traditional land uses have been taking place by different nations so that we can ensure that the consultation to be able to determine those areas and to determine the adequacy is reimbursed to those nations and other identified groups and also to be able to plan and facilitate Crown consultation in respect to all of the provincially regulated activities that are taking place on that.

The language that is being used in the current act is not only discriminatory but is way too broad. As a result, they have to have all of these additional addendums to it.

> (2) Where any information, record or document provided by a proponent to the Minister . . . is subject to any kind of confidence or is supplied, explicitly or implicitly, in confidence, the providing of that information, record or document does not waive or negate any confidence attached to the information, record or document, and the confidence continues for all purposes.

And then, of course:

> (3) Notwithstanding . . . the Minister may publish in aggregate form any information collected under this Act.

Well, you don't need to have those two sections qualifying the first section if you actually narrowed the scope of the information that was going to be collected in the first place.

I think what has happened here is that the government is giving itself a wide latitude to collect pretty well whatever it wants. It's soft comfort to First Nations communities that the government says, "Well, we'll consult after the fact, and we'll put it together in regulations; just trust us because the consultation will come later," when the consultation didn't come in the initial drafting of this legislation to begin with.

8:20

This is why the trust is breaking down between the minister and First Nations communities. As we say, it's not too late for him to be able to change course and do a fundamental redraft on some of the language in this legislation, but barring that, I would hope that other members would see that part of what we're doing here is trying to make the legislation and the scope of the information collected nondiscriminatory and also more palatable to the First Nations so that we can actually move forward with trying to get some kind of legislation passed that is not going to cause an uproar in our First Nations communities.

With that, I would ask for other members to weigh in. I hope that I can get their support for this amendment.

Thank you, Mr. Chair.

The Chair: Thank you, hon. member.

The Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Chair. I rise in support of this amendment, and I ask my colleagues to support it also. What this amendment does is that it puts parameters around what information would be required and for what reason. It removes this broad authority to just say that we can collect pretty much any type of information with regard to their agreement or their contract.

I just want to read a statement from the numerous letters that have appeared and have been tabled in this Legislature in the last couple of days: other landowners and people don't have to disclose their agreements with industry, so why aboriginal people; is it just because they're aboriginal? It's a very interesting question, and it was written because of the frustration with this section. To amend it at least to a limit and to put parameters on the information that the minister could require is a step in the right direction.

I will support the leader of my party for bringing this amendment forward, but I will state categorically that this does not go far enough. It does not go far enough. The aboriginal people and the First Nations treaties and the First Nations within those and the bands within that have not been consulted, in my view. They've said so, and I take their word on that. Until they're consulted, there's no value in this bill. There's only trouble ahead. It's not good for industry, it's not good for relations with First Nations, yet we're forcing it through. What we can do is to at least try to take a step in the right direction. I will tell you that this is not a step that I think anyone can be absolutely proud of. We need to consult. Bottom line: we need to pull this bill. We need to sit down with First Nations. We need to have an agreement with them in principle. They are a separate and distinct people. They are proud, and they have their own nation. This is government to government.

You shake your head no, Deputy Premier, but it's true. It's true by treaty; it's true by the Constitution. That's what's going wrong here. They need to be negotiated with as if they are an equal, not something less. That's really what is the problem here all along. We need to stand up and do what's right, and it's just a simple process. Negotiate first. Come to an agreement first. Bring the law after you have a full consensus. Nothing less is any good. That is just where we are at right now.

Thank you very much. I ask my colleagues to rise and support this.

The Chair: The hon. Minister of Aboriginal Relations.

Mr. Campbell: Well, thank you, Mr. Chair. Let me start off by saying that there is no intent in the broadest scope to intrude on the constitutional rights of self-government. We understand that First Nations have self-government. We understand the government-to-government relationship.

Mr. Chair, what this does is give us the ability to check with proponents that are paying money into consultation, and we're just talking about consultation, the adequacy of consultation. We're not talking about impact benefit agreements. We're not talking about economic opportunities. We're talking about the consultation piece itself.

You know, the member brought up about mapping and about our targets. Right now a large amount of money goes into First Nations to do mapping. The fact is that they won't share that information right now, so we have to work to get that done.

The other thing is on traditional land use. Again, the member talked about that there are various First Nations that have traditional land uses that overlap. Actually, a couple of chiefs said to me: you know, we'd like to be able to sit down and see if we can work that out because we understand the issues it causes.

Mr. Chair, this does not infringe on any rights of the First Nations people. You know, I'm getting a little tired of the member across the way continuing to say that we don't care about aboriginal people and that we don't consult and we don't meet. As I've said, I've spent the last eight months on the ground visiting First Nations people, and we've talked about a number of different issues. I mean, I made it very clear to First Nations people that sometimes we're going to agree to disagree. There are some things that I'm not going to be able to deliver that they want, but that's not going to stop us from moving forward and working in the right direction.

You know, I give my colleagues and the ministers from different departments full kudos for opening their doors to sit down with First Nations and talk about a broad scope of issues from water to education to economic opportunities to health care to housing to children in care to domestic violence to opportunities for aboriginal women.

Mr. Chair, I'd be quite happy to sit and talk about the intent of this legislation, but I am getting a little tired of hearing the patronizing remarks from the member across the way that this government does not believe in aboriginal rights.

The Chair: The hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you very much, Mr. Chair. I hope you're getting tired. I hope you're all getting tired. I hope that when you leave here tonight you're sick and tired because they can't come down here and tell you how sick and tired they are. They don't have a voice. This is your job. I understand you, and I'm not picking on you as an individual, but what I'm saying is that you're missing the point.

They don't come here on a Tuesday night because they've got nothing better to do. There are a lot of better things to do. They're here because they're upset and they're concerned. This bill is going forward. You say that you're consulting. We saw all the chiefs that came here yesterday. We heard from the various chiefs, and we got all this contradictory information, and what you're telling us is: don't listen to the contradictory information. Well, then we're going to have to agree to disagree because we are listening to this. That's what consultation is. You reach out and you communicate and you find out that – wait a minute – there isn't an agreement here. There are a lot of people upset, and they haven't been consulted, and they've got significant issues in dealing with this.

Again we're back to the question I asked, and I'll ask it again. Hopefully, you'll get sick and tired of it. What's the rush? Why do we have to push this through now? You said that you have appointments to meet with them. Let's get rid of this bill. Meet with them, come to an agreement, then come back here when those people agree on the bill.

Mr. Lukaszuk: Mr. Chairman, I have to tell you that the rhetoric that I'm hearing in this Chamber right now is somewhat disturbing and really disappointing. If these members of the Wildrose from across the way would have chosen to avail themselves of just a little bit of information, just ask the minister . . . [interjection] And now they won't let me talk.

Just ask the minister for the information: how many bands and First Nations peoples has he met over the last number of months? I can tell you, Mr. Chairman, that if there is one cabinet minister

that has been on the road virtually 24/7, it is the Minister of Aboriginal Relations.

Mr. Saskiw: How many? Tell us how many.

The Chair: I think he's trying to do that, hon. member, if you'd let him. Thank you.

Please proceed, Deputy Premier.

Mr. Lukaszuk: Thank you, Mr. Chairman. There are a number of issues that come up in this Chamber from ministry to ministry . . . [interjection] Mr. Chairman, would you please advise this member that I would like to talk, and maybe he will give me an opportunity to talk.

Mr. Saskiw: Sure.

The Chair: Proceed.

Mr. Lukaszuk: Thank you, Mr. Chairman. There are a number of issues that this government is dealing with relevant to situations arising with our First Nations. I know that from economic development to education to advanced education to health care there is amazing work going on between this government and leaders of our First Nations and rank-and-file community members both on reserves and in urban communities. I don't see this passion and excitement on the other side of the House to contribute and to support that and to work with that.

Here, Mr. Chairman, what we're seeing is an opportunity to wrap themselves in this political veil of being very supportive of First Nations rights and simply trying to exploit what they perceive is a wedge issue. It isn't, Mr. Chairman, because leaders of First Nations have been consulted and will continue to be consulted and always have been. [interjection] That member will not stop, will he, Mr. Chairman?

The Chair: I'm sure he will, hon. Deputy Premier.

Mr. Lukaszuk: If there is a government in this land, Mr. Chair, in Canada, that has a great relationship with our First Nations, it's the government of Alberta. Historically our Premiers – Premier Klein, Premier Getty, Premier Stelmach, and now Premier Redford – have had phenomenal relationships with our First Nations. Why? Because we always work together, we always collaborate, and we always consult. That history simply is undeniable.

8:30

Mr. Chairman, to stand up and to profess to be the righteous defenders of aboriginal rights when they know that this bill, as a matter of fact, is designed to assist First Nations in the long run with economic development on reserves, with elevating First Nations – if he knew the fact that this particular minister wants nothing more than to make sure that our First Nations reach equity in this country and enjoy any and all benefits that every other Canadian enjoys, if he knew that this minister is working right now with leaders in aboriginal communities on education, making sure that children on reserves receive the same funding for education, if he knew of all this work, maybe he would actually support this minister in the work that he's doing as opposed to trying to politicize the issue.

You know, Mr. Chairman, in this country we have 150 years of politicizing native issues, and this is where we have ended up. This minister is trying to take leadership, as a matter of fact, and not politicize the aboriginal community, do the right thing for them as Canadians because they are just as Canadian as anybody else. But this is what you get. You get exactly what has been happening in this country for the last 150 years, the politicizing of issues, trying to use aboriginal communities for wedge issues to score cheap political points. We won't stand for that. We will be working with our aboriginal communities, and we will make sure that they get to benefit from the same privileges and rights like every one of us in this province does despite the rhetoric and the patronizing comments that we hear from the opposition.

Thank you.

The Chair: Thank you, Deputy Premier.

The hon. Member for Edmonton-Highlands-Norwood, followed by Edmonton-Centre. [interjections]

Hon. Member for Lac La Biche-St. Paul-Two Hills, please. Let someone else have the floor. Thank you.

Member for Edmonton-Highlands-Norwood, please proceed.

Mr. Mason: That speech from the hon. minister, the Deputy Premier, I think, deserves a response. His job apparently in the government is to pour oil on troubled waters, but I think what he does is that he usually pours gasoline on troubled waters and then throws a match down.

I just want to make a few points. First of all, it's the words of the First Nations leadership itself that we have been using and quoting in this debate. It's their statements that they don't support the bill and that they feel they have not been consulted with that form the basis of the opposition of all three opposition parties, Mr. Chairman. That's the first point. So to try and make statements about how the opposition is trying to make use of First Nations to score cheap political points is a nonstarter. It's just not there.

Then there is the question about politicization of these issues. The government has been using this a lot lately whenever the opposition raises a concern among people, for example, who haven't got proper treatment in health care or others. They say: "The opposition is politicizing the issue. Just bring it to us, and we'll deal with it." Mr. Chairman, that's very disingenuous. Those issues are very political because when the government decides that they are going to continue major tax breaks for corporations, keep some of the lowest royalties in the world, maintain a flat tax that gives huge tax savings to the wealthiest Albertans, and at the same time cut programs that needy and vulnerable Albertans depend on, that's political.

That's a political decision, that you're favouring the rich and the wealthy in our society at the expense of lower income and middle-class families and people who are vulnerable. That's a very political debate. We take the opposite view. We think that it's in fact the people who are most in need that deserve the most help from the government, not those that already have the most wealth. That's a political debate. So to say that there are no politics here or we should avoid politics is absolutely ridiculous.

It's more ridiculous when you apply it to aboriginal issues because it's been the politics of aboriginal issues by patronizing and colonial governments both at the provincial and the federal level that have driven many of the issues that we are still trying to sort out today. It's the politics of aboriginal issues, hon. member, that is at the root of all of these issues. To say that we're trying to politicize it is ridiculous. It is politicized. It's politicized by you. It's politicized by First Nations. It's politicized by the opposition parties. It is a political issue. So to say it's political is like saying, you know, that there's sunshine. It's just a ridiculous statement.

The Chair: The hon. Member for Edmonton-Centre, followed by Rimbey-Rocky Mountain House-Sundre.

Ms Blakeman: Thanks very much, Mr. Chair. You know, I have to say that I really appreciate the government's current track record of a scandal a day and offering the opportunity to the opposition parties to be able to offer our alternatives up in response to their scandal a day. It's really nice of you to offer us that. We appreciate it because you're just putting it in our laps every day. I wonder what the scandal will be tomorrow.

The Chair: On the amendment, hon. member, please.

Ms Blakeman: Oh, Mr. Chair, I'm sorry. On the amendment, which would be amendment . . .

The Chair: A2.

Ms Blakeman: Okay. Good. Thank you very much.

This issue of: it's not political. Of course it's political. It's also specifically discriminatory. I'm sorry. I probably didn't need to use both of those words in the same sentence. But the gist of this bill is to be able to collect information on aboriginal interests in the oil and gas sector and publish their participation and their interest, but there is no attempt to publish anyone else's, so it is very specifically directed at publicizing what they're doing and how much. That is very much to the benefit of the current oil and gas industry because they get to find out what's being proposed on aboriginal land, and nobody else has to say anything or bring any information forward.

To say that it's, you know, not political is a ridiculous statement, and knowing this member, it's probably done in great fun to give us all an opportunity to stand up and extend the evening. I know he takes a childish delight in that, and we're all duly on our feet around it, so it worked. Indeed, we have him giggling right along with us.

The other part of this is that concept of consultation. You know, I believe that the minister was out there. I've worked with him for a while, and I have some respect for him, but . . . [interjection] Yeah. That was a compliment.

Mr. Mason: That's the best you're going to get in here.

Ms Blakeman: Yeah. Probably.

I think that this government's understanding and acceptance of a definition or a standard, let me say, for a consultation is different than what many others would do. I've negotiated with various ministers on various subjects and the Government House Leader many, many times, and what I find is that a couple of things happen. Either a concept or an idea or a plan is mentioned very briefly in passing in a social situation. It's interesting to hear it, and you maybe give a little bit of a reaction but not much because you didn't really have it fully explained. It was just in passing. You move on and, you know, finish your smart snacks, and on you go to the next event. Then you come into the House or go into a committee or whatever it is and find out that this little idea that was just mentioned in passing has become a full-fledged bill or motion or a plan that is being implemented by the government, and you think: "Whoa. Whoa. Whoa. That is not what I would have called consultation."

I've also been in negotiations where we got right down to the nitty-gritty of it. Every word counted. Interestingly enough, I reviewed every single version of it word by word because I would find that deals that had been made previously disappeared, and the wording got changed back to what it was before. Now, maybe this was an oversight. Maybe people were tired. Maybe people weren't wearing the correct glasses and they missed the fact that there was a change to it. I don't know. All I know is that a number of times when I would go back and review the deal word by word, I would find that in fact it had reverted back, and all that work was gone. If I hadn't read it word by word, I would have missed the fact that that was now gone, and I had to say: "No, no, no. Remember? We had this agreement. It needs to go back in again, and this is the wording that we agreed upon." "Oh, right." So it was a very slow process and a very thorough process to move that kind of thing along, and admittedly not very many people are as directed towards the minutiae of this kind of thing as I am.

8:40

Those are two ways that one group of people like the minister would believe that he had reasonably raised this issue and had talked about it and for people on the other side of this to believe that they'd never heard it. It's quite possible for those two conflicting points of view to be absolutely true in this case.

But I think that this government has become so used to implementing in a hurry what they believe is the right thing to do, and they used to talk about it in their caucus, I know. I'm not so sure that's happening now. Based on some of the things that have happened, I am sure that the backbenchers would not have allowed this to happen. Let me assume that, you know, they've talked about some things; their staff has been working on it for quite a long time; things have been presented.

You know, there's a whole process in government where there are all kinds of initials for it. There's a request for a decision, and there's a request for information and all these different processes where it keeps coming back before them, so as far as they're concerned, they've looked at this issue – what? – four, five, six times by the time it spits out the other end of the pipeline and is a bill or a motion or a committee understanding or whatever. They think they've done it a lot but, in fact, for the people on the receiving end they may have heard it once or twice without understanding the weight of the issue that that discussion about, "Well, we'd like to follow up on this," and "We're thinking of implementing such and such," actually has in a cocktail setting or a social setting or a dinner or a coffee or even just passing in the hallways. That actually carries a lot of weight, and people need to know that and pay attention and follow through.

It took me a while. I got had a couple of times but good before I figured out that that kind of minutia is necessary and that kind of follow-up and that kind of ear for the slightest change in tone or wording. I think that is what's happened here. This government has reached a point where they believe themselves omnipotent. I spoke once about the hubris that is experienced and demonstrated by members of this government, that they are above the gods, that they are so amazing and all knowing that they don't have to use the usual processes that man, humans, need to use. I think that's part of what's happened here. We've certainly seen that demonstrated in this sitting. [interjection] Thanks.

How have we seen that? Well, you know, we have, for example, a deal with teachers. There is a process in place, and it says that if everybody doesn't vote for it, then it's kaput. That happens, and government says: "No, no, no. We won't accept that. We're going to bring through legislation and, more than that, we're going to do more than one stage in a day." That is a big deal, Mr. Chair. There's a reason why our standing orders and all the other parliamentary books say that you can't do more than one stage in a day. It's to allow the public to hear what's going on, the media to hear what's going on, people to give input, opposition to think about it and research it. You know, there's a good reason for why that kind of thing happens. To truncate that, to squish it all together in the timing and to run it through in a day or less than a day is really a dramatic step. So there's one example of what's

going on: we are above criticism; we are above having to use the standard processes.

When we're talking about consultation with a group of people, this is what's happened. The government is so used to acting that way that they have put themselves above what everyone else, what a reasonable person and the reasonable person test would consider adequate consultation. I believe this minister did go out. I believe he did meet with people and pitch these ideas, and he probably does have speeches of where he talked to people. But that nitty-gritty of saying: "Okay. Everybody good with this?" – you know, I'm a bit pushy. What I do is say: "You have to look me in the eye. We're going to have to communicate that this is what we're understanding this to be." If that doesn't happen, it's easy to have somebody that believes that a deal is had when it's not, that something's been agreed to or that wording has slightly changed this time around that actually changes the whole thing.

As we know in this Assembly, a word like "may" versus "shall" is a big deal. Three letters; five letters: you wouldn't think much of a difference, right? But the difference in importance in legislation between, you know, the government shall do something and the government may do something is a huge difference, so the wording is really important.

Gee, it's just so much fun sitting at night with the Deputy Premier, who just gets everybody all fired up.

I'm sure I'm near the end of my 20 minutes. That was a wonderful opportunity. Thank you so much. I am speaking in support of the amendment that is proposed.

Thank you.

The Chair: The hon. Member for Lac La Biche-St. Paul-Two Hills.

Mr. Saskiw: Thank you, Mr. Chair. I'd ask for unanimous permission to briefly revert to introductions.

[Unanimous consent granted]

Introduction of Guests

The Chair: Proceed, hon. Leader of the Official Opposition.

Ms Smith: Thank you, Mr. Chair. I'd like to introduce to you and through you some members of our First Nations communities. Chief Herb Arcand from Alexander First Nation is the acting grand chief of the Confederacy of Treaty 6, which is 35 miles northwest of Edmonton. He would like to welcome everyone to Treaty 6 territory. He also wanted us to indicate that the minister has never visited to discuss this bill with the Alexander First Nation, so he's just wanting to correct the record there. Also in the gallery we have Edwin Paul from Alexander First Nation; Donna Ahkimnachie and Kevin Ahkimnachie from Treaty 8; Phyllis Whitford, proxy for O'Chiese; Cherish Cardinal from Bigstone and Frieda Cardinal from Bigstone; and Shannon Pastion from the Dene First Nation. Please rise and receive the traditional warm welcome of this Assembly. Thank you for being here.

The Chair: Thank you.

Bill 22
Aboriginal Consultation Levy Act
(continued)

The Chair: I'll recognize the hon. Member for Edmonton-Beverly-Clareview, followed by Rimbey-Rocky Mountain House-Sundre.

Mr. Bilous: Thank you, Mr. Chair. I rise to speak in favour of this motion that's put forward, and I'd like to clarify a couple of things for the Deputy Premier and for other members as well. You know, it's very important to recognize the fact that much of the information that the opposition has been sharing over the last 48 hours regarding Bill 22 has been coming directly from direct correspondence – letters, e-mails, phone calls – and face-to-face meetings with members from all three treaties and from First Nations communities.

I think it's interesting that the Deputy Premier in his own words had talked about the work that the Minister of Aboriginal Relations has done and the number of groups that he's met with. I'm not going to try to argue that in the least, Mr. Chair. I know that the minister has met with many different aboriginal groups and many different First Nations chiefs and councils, but I do need to clarify for the record that meeting with a group or an individual is not consultation. One of the frustrations that I'm hearing from members of the First Nations communities is that the term "consultation" is being thrown around, I think in some contexts incorrectly and improperly.

There has been context established, or I'll say a precedence established. There have been different cases that have gone before the Supreme Court. I know yesterday I had talked a little bit about the Mikisew and their court case, so there has been discussion around consultation. There clearly are different interpretations of that term. I just wanted to clarify what I'm hearing from many representatives of the different treaties. Part of their frustration with this bill and why there has been so much outrage about Bill 22 is because of the lack of consultation on it. The intention of this bill was mentioned in passing in meetings, not in a sit-down, back-and-forth consultation as far as the government proposing bringing forward a levy.

8:50

Now, the intention of this levy to allow an equal playing field for all First Nations throughout the province to be able to have the capacity to consult I agree with, and I don't think there are any bands that would disagree with that. But the process by which the minister and this government went about drafting this bill, without proper and meaningful consultation with different First Nations bands, is quite simply, Mr. Chair, disrespectful.

I know some of the members from the government side have talked about the intent. The reason I rise to speak in support of amendment A2 is because with what we pass in this House, Mr. Chairman, it's extremely important that we're conscientious of every word that is being either approved or disapproved. Although a bill, an amendment may have the intention of doing well or bringing about positive consequences, there are sometimes unintentional consequences that come about and that especially come about when we use ambiguous or vague language or don't have proper definitions or very defined definitions.

This motion narrows the gap in section 8 of this bill. As some of the hon. members have said, this is a section that has been the most or one of the most contentious sections for several treaties. I just want to get into that a little bit and maybe shed some light for some of the members across the way as to why this is so offensive. I mean, first and foremost, you know, requiring First Nations to publicly share or disclose sensitive documents, agreements between industry and First Nations: first of all, as other members have said, in no other context, in no other group are they required to disclose this kind of information, and it really begs the question as to if this section was either intended or not intended to be discriminatory.

The fact of the matter, Mr. Chair, is that agreements between landowners and industry are private. That's between industry and landowners. They are not required to disclose this information. The fact that in this bill there is a section requiring First Nations to disclose this is ridiculous. As other members have quoted, you know, yesterday there was a press release put out by Treaty 8 where Grand Chief Roland Twinn had talked about how private companies and their agreements are not subject to public scrutiny. So this section can be interpreted as discriminatory. As mentioned yesterday, First Nations will not accept this section as it is written.

I mean, again, when we talk about accountability, it's unnecessary. First of all, there is federal legislation that puts onerous financial disclosure requirements on First Nations governments, and industry as well is bound by anticorruption legislation – okay? – in sections of the Criminal Code which prohibit the bribery of public officials. The point of this is that in the eyes of different First Nations bands this section 8 of Bill 22 is a blatant violation of the UN declaration on the rights of indigenous peoples and of section 15 of the Canadian Charter of Rights and Freedoms. Other groups do not have to disclose this information. Why is it that aboriginal groups have to disclose this information? For that reason and many others, Mr. Chair, I'm opposed to Bill 22 in its entirety.

However, speaking to the amendment, this does attempt to plug one of the many gaping holes in this piece of legislation, I do think, and I urge all members of this Assembly to vote in favour of this.

You know, the last point I'd like to make, Mr. Chair, is that I think there are many people around the province that may disagree with the hon. Deputy Premier when he speaks about how the Crown, or the province of Alberta, has this fantastic relationship with First Nations communities. That's something to aspire to, but I think we're far from that. I do think it's worth mentioning for those who maybe weren't aware that both yesterday evening and this evening we have guests, representatives from different First Nations communities who are here to make their presence known, that they are completely opposed to this bill.

There have been numerous press releases – many of them, I believe, have been tabled in this House – where we have grand chiefs, chiefs, and councils all speaking in opposition to this bill primarily because of the lack of consultation. If the Deputy Premier thinks that's how you build a great relationship, that you draft a piece of legislation and you ram it down someone's throat and you try to push it through this House as quickly as possible, then it's no wonder there are so many frustrated and discouraged members of First Nations communities, you know, who feel patronized by this government and do not agree with the Deputy Premier's sentiment that they have a great relationship.

A great relationship starts with trust. It starts with, well, building trust and having a conversation, a conversation or multiple conversations which lead to consultation, where they are equal partners with an equal voice at the table. From everything that I've been told in communicating with different community members, that has not been the case. There have been discussions, but discussions and notification is not consultation.

Hopefully, that clarifies a little bit for members of the House.

I will conclude by saying that I strongly urge all members to support this amendment.

The Chair: Thank you, hon. member.

The Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Chair. I am so grateful that the Deputy Premier has chosen to enter this debate. I think the last time I debated him, I didn't. He ran out. [interjections] Oh, that was Sylvan Lake. I'm sorry. [interjections] Oh. Correct me, please.

The Chair: Are you on the amendment, hon. member?

Mr. Anglin: I'm going to speak to the amendment. But I want to say something here. Isn't it ironic that a bunch of white men down here are talking about what's good for aboriginal people? That just doesn't make sense. That's almost a comedy in the making.

The consultation process has to be engaged with the First Nations. The Deputy Premier asked: how many First Nations people did I meet with? Well, I did. I went out, and I met more than a few times with the O'Chiese band. I brought the Leader of the Opposition with me once. We had a great meeting. I've gone to the Sunchild more times than I can count. I know various people individually, and I have met them in an official capacity. The reason I'm here speaking today is because they've come to me to bring their concerns because you have not listened to them. That's why they'll come.

Clearly, what we have here is an amendment coming forward dealing with an issue that requires exactly what the Deputy Premier has sort of hinted at, so I would like him to respond. He asked the question: do I know how many bands the hon. minister has met with to discuss this bill? The answer is: I don't, and neither do the people up there. Please, somebody tell me. Give me a list of every band that you met with that agreed to this so you brought this forward. Please give us the list. Then we'll go check that list. I think that's reasonable. Then we'll find out.

9:00

We had Treaty 6 here. We have Treaty 8. We have Treaty 7. We've got bands represented from all around the province who say that they have not been consulted. Let's get right down to the bare facts, and let's find out. If the hon. Deputy Premier will divulge who has been consulted and who has agreed, let's create the list – it's a little bit like our infrastructure list – let's go check on it, and let's find out if it's real. You know what? That's not hard to do.

The people that this most affects are not here on this floor to discuss it, and they're upset, and that's why they're here to watch in, probably, frustration. They have a lot to say. It shouldn't be between us. It should be between the minister and them. That's where it belongs right now, and that's where it should stay right now until there's an agreement.

Thank you.

The Chair: Are there other speakers on the amendment? The hon. leader.

Ms Smith: Thank you, Mr. Chair. Just jumping off the point that the hon. Member for Rimbey-Rocky Mountain House-Sundre put forward, I think that the Deputy Premier has offered us a very good opportunity to ask the minister to table exactly what the Member for Rimbey-Rocky Mountain House-Sundre and the Deputy Premier himself have asked for, which is the full list of those who were consulted with, the full documentation that showed that the minister has put on the table all of the different aspects of this bill as well as the letters of support for the approach that he's taking, in particular in section 8.

I think that that the Treaty 8 First Nations of Alberta press release has been read into the record several times, but it's worth noting again. I will mention the others that I have here. Grand Chief of Treaty 8 First Nations of Alberta Roland Twinn states:

> "We oppose this new legislation, created without meaningful and proper consultation and view it as a continuation of the paternalistic attitude that our Nations have struggled against for decades."
>
> The new bill, according to an Alberta Government announcement, is "aimed at strengthening the First Nations consultation . . ."

But according to First Nations

> "this bill does nothing to ensure the consultation process is appropriate and meaningful. It is instead creating a consultation levy fund that has the potential to impact Treaty Rights and our ability to consult, it is more likely to hinder than enhance."

I'll be happy to table this tomorrow. That is just from Chief Twinn.

We also have a letter from the Samson Cree Nation, authored by Chief Marvin Yellowbird, which goes on to say:

> As Chief of the Samson Cree Nation, both I and my Council are shocked today to learn about the introduction of the Aboriginal Consultation Levy Act in the Alberta Legislature. The Government of Alberta provided no notice to First Nations that the legislation was imminent and has failed to meaningfully consult with First Nations regarding this legislation. Indeed, Samson has been absolutely clear in our discussions with [the minister] personally about the proposed new Consultation Policy that Samson Cree Nation is opposed to a levy on First Nation consultation and a proposed requirement to disclose agreements between First Nations and the natural resource companies. Alberta has been less than clear as to how such measures and such a mechanism will work or benefit Samson Cree Nation or the resource sector. [The minister's] government's approach to this legislation clarifies one thing only – [they] simply do not care what Samson Cree Nation has to say about consultation.

It goes on to say that they would request that he attend a meeting of Treaty 6 chiefs as soon as possible to review the act. They want to provide a thorough response, but their initial concerns are very serious. They're around the nature of what this amendment proposes, that we have to modify section 8 so that we take away the discriminatory element and so that we also take away the aspect of them having to disclose their agreements. That is Chief Marvin Yellowbird's.

I also have a letter here from Chief Charles Weasel Head of the Blood Tribe, and in it he states:

> I recently learned about the introduction of the proposed Aboriginal Consultation Levy Act . . . in the Alberta Legislature. The Government of Alberta . . . has completely disregarded our constitutionally protected rights by providing no notice to First Nations that this legislation was imminent and has not consulted with First Nations regarding the act whatsoever.
>
> To the limited extent that First Nations have had any opportunity to date to discuss the proposed new Consultation Policy with [the minister] and other government representatives, Treaty 7 First Nations have been clear that we are opposed to a levy on First Nation consultation and any requirement to disclose agreements between First Nations and natural resource companies. Alberta has failed to explain how such measures will work or benefit First Nations, or the resource sector. Instead, [the minister's] government has introduced the Act in the face of those concerns, before a meaningful consultation process on the proposed new Consultation Policy has completed, and before any consultation about the Act whatsoever. [The minister's] government's decision to introduce this legislation makes it clear to us that you do not understand the scope or breadth of our constitutionally protected Treaty and Aboriginal rights or the Crown's duty to consult and accommodate. Of even equal concern is the complete lack of respect Alberta is demonstrating by proceeding in this manner without our engagement.

Then, of course, they go on to – guess what? – identify this exact section that we're talking about right now because it's discriminatory and it goes too far asking for the disclosure agreement.

So I am quite interested in hearing the minister respond to this, to the challenge by the Deputy Premier, and to the request of the Member for Rimbey-Rocky Mountain House-Sundre. I have visited the Beaver Lake Cree Nation, Siksika Nation, Fort McKay, Blood reserve, Piikani, Sunchild, O'Chiese, Enoch, Tsuu T'ina. I've been to Sturgeon Lake Cree, where I met with Horse Lake and Duncan's First Nation, I've been to the Assembly of Treaty Chiefs and addressed them, I've been to the Treaty 7 office, and I've also addressed the Piikani education conference.

In all of those opportunities to meet with First Nations, none of them mentioned that the minister was consulting with them on this levy, on this act, and the provisions therein. They talked about education. I'm glad the minister is considering looking at Jordan's principle and funding every student in this province to the same level regardless of whether they live on-reserve or off-reserve. I have suggested that many times before in the times that we have been on conference panels together, and I think that that would be a positive first step.

But the fact of the matter is that just because I went and met and had wonderful conversations and tours of schools and participated in powwows at these different events, that does not replace meaningful consultation on a bill like this. I don't think the minister can pretend that because he went and had dinners and maybe casually notified people this might be coming, that in some way replaces meaningful consultation.

With that in mind, I would love the minister to respond to this. What nations have written to him saying that they are in support of this bill, in particular section 8, the one that we're trying to amend through this legislation?

I'd also like to know: since he has said that he has done such consultation, surely there's a written record. Surely there are letters back and forth with different First Nations identifying the elements of this bill coming, identifying that it was coming altogether, identifying some of the different provisions that are going to be built into the act, describing what section 8 was going to mean and the impact it was going to have on First Nations. If the minister, as he claims, has been travelling around consulting about this, surely there has to be some kind of written record of the discussions that went back and forth because that is what consultation is all about. It's an exchange of ideas where you can come to a conclusion. It's not just casually notifying somebody in passing when you happen to visit their reserve.

I do hope that the minister would be able to provide some clarity on that because when he first spoke to the amendment that I was proposing here, his interpretation of what he is trying to do doesn't seem to be that far apart from what I'm saying that this amendment should do. The problem is that what he is telling First Nations he's intending to do is not what is written in the text of the legislation that he put forward in this Assembly. The text of the legislation that he put forward in this Assembly is discriminatory, probably would not hold up under a Charter challenge, and proposes to put additional restrictions and disclosure requirements on aboriginal citizens that he is not putting on nonaboriginal citizens.

If he is actually in agreement that he wants to abridge the information collection in the way that I've described, he should be speaking in favour of the amendment. It would send a strong message to the First Nations members who are here this evening,

to the First Nations members who have written to us, to the 50 First Nations members that I've introduced over the last couple of days. I note that the minister hasn't introduced anyone into this Legislature in the last few days who is in support of his bill. How unlike the approach that was taken when he was doing his consultation on the Metis Settlements Amendment Act, 2013, which is something that the members opposite should keep in mind.

I would like for him to respond and explain why it is he feels he has support to go ahead and put forward legislation with this amendment in here, with this provision in here, and who exactly he has the support of in the First Nations community.

Thank you, Mr. Chair.

9:10

The Chair: Hon. leader, you read exclusively from a letter. I would ask that you table that letter tomorrow at the appropriate time. Thank you.

Also, hon. members, might I remind you that there's quite a bit of latitude during Committee of the Whole, but if at all possible would you please try to stay to the amendment? I anticipate we have a number of amendments to go through tonight, so it would be helpful if members got up and spoke to the amendment.

We are dealing with amendment A2, and if there are no more speakers, I will call the question.

[The voice vote indicated that the motion on amendment A2 lost]

[Several members rose calling for a division. The division bell was rung at 9:11 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Rogers in the chair]

For the motion:

Anglin	Fox	Saskiw
Bilous	Hale	Smith
Blakeman	Mason	Stier
Donovan	McAllister	Towle
Eggen		

Against the motion:

Allen	Fenske	McQueen
Amery	Griffiths	Oberle
Brown	Jansen	Olesen
Campbell	Jeneroux	Olson
Cao	Johnson, L.	Pastoor
Casey	Kennedy-Glans	Quest
Dallas	Khan	Scott
Denis	Kubinec	VanderBurg
Dorward	Leskiw	Woo-Paw
Drysdale	Lukaszuk	Young
Fawcett		

Totals: For – 13 Against – 31

[Motion on amendment A2 lost]

The Chair: Now back to the bill. The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Well, thank you very much, Mr. Chair. I do have amendments to propose, but I just want to say for the record that I'm hesitant to put forward amendments to this bill because it is so flawed. On Friday, May 10, I joined with many of the chiefs and the treaty chiefs in calling for the minister to withdraw this bill altogether, so after careful consideration I am putting forward this evening two amendments to this bill but really need to emphasize the fact that I think, regardless of how many amendments the opposition may put forward in an attempt to improve this legislation, it's an impossible mission. For that reason, this bill really should be withdrawn.

You know, Mr. Chair, the other reasons that are more pragmatic on why I hesitate to put forward amendments: it's clear to me that this government is not listening to First Nations. As has been identified, there have been numerous letters and press releases from chiefs, from grand chiefs, from representatives from the treaties who are all opposed to this bill. With the fact that there's been such a disregard that this government has shown First Nations by, again, failing to acknowledge their concerns, their disgust – I guess that is the word I'm going to use – for this legislation I really think is salt in the wounds, so to speak. I mean, again, the government loves to talk about the relationship that they want to build or have built with First Nations communities. The reality is that this piece of legislation is working counter to that and is dismantling that relationship.

You know, Mr. Chair, by not withdrawing this legislation, I feel – and I'm sure that there are many that agree – that the minister and this government have lost the confidence of people whose interests they should be promoting and protecting. So the amendments that I bring forward today should not be construed as indicating my support for this legislation nor my endorsement of the process that this minister has taken. I vehemently oppose the manner in which this legislation was drafted without consultation as well as the problematic wording of many sections, as I've spoken to in second reading and as I will continue to bring to the attention of members of this Assembly.

The amendments that I'm proposing here, Mr. Chair, merely attempt to compel this minister to speak directly to just two of many sections in this bill, the two sections that have been vocally rejected by First Nations. You know, adopting and accepting these amendments is the least that the minister can do and far less that what he ought to do.

With that being said, Mr. Chair, I'd like to bring forward my first amendment.

9:20

The Chair: Okay. Hon. member, we will treat that as amendment A3. I hope that you are sending me the original. Thank you.

Proceed, hon. member.

Mr. Bilous: Okay. Thank you, Mr. Chair. I'll begin by reading the amendment into the record. I move that Bill 22, the Aboriginal Consultation Levy Act, be amended in section 4 by striking out subsection (3) and substituting the following:

> (3) The Minister may only use the Fund for the following purposes:
>
> (a) to pay all of the costs incurred by First Nations and identified aboriginal groups with respect to consultation;
>
> (b) to make grants in accordance with the regulations to First Nations and identified aboriginal groups to assist them in developing capacity to participate fully in all required Crown consultations in respect of provincial regulated activities; and
>
> (c) to pay the costs of administering this Act.
>
> (4) The Consultation Levy Fund, and grants made from therein, cannot under any circumstance be construed as accommodation or compensation for infringements of Treaty or aboriginal rights.

Mr. Chair, this amendment is very important. First of all, the fund is to be used to pay all of the costs incurred by First Nations

and Métis communities during consultation as well as, and extremely importantly, to develop consultation capacity to enable these communities to participate fully in consultations. My hope here is that the levy charged by the government will need to be adequate to actually cover the full costs incurred by First Nations in preparation for and during consultation.

In subsection (4), Mr. Chair, I indicate importantly that none of these funds can be construed as accommodation with respect to consultation or as compensation for infringement upon treaty or aboriginal rights. It's very important that if there is an infringement on either treaty or aboriginal rights, there is a penalty, that that is paid. This original levy fund is not to be confused with any penalties that could be incurred for failure to properly consult or an infringement upon inherent treaty rights and aboriginal rights.

You know, Mr. Chair, I do hope that this amendment makes it into the bill. This is providing further clarification and ensuring that there is no confusion over monies that are put into increasing consultation capacity but not, I guess, removing – on the off chance that there is an infringement on aboriginal rights or treaty rights, the original levy is not used twice and used as a way to pay those fines. That needs to be separate and distinct.

Mr. Chair, the courts have been very, very clear, as I've said earlier tonight. There have been a few cases that have gone all the way to the Supreme Court. Consultation should be coupled with accommodation. The government needs to be clear in this bill that funds provided from the consultation levy will not be considered part of accommodation or compensation under any circumstances. I mean, if consultation is to be meaningful, it needs to also have accommodation where, again, industry and the government are open and willing to not only receive suggestions, concerns, and ideas from First Nations but to accept them, adopt them, and ensure that they are included in policy, in agreements. Again, this is a two-way conversation.

As was stated numerous times over the last week, notification is not consultation. You know, for the benefit of members of this Assembly an example of notification would be when ministers provide briefing notes to a bill to opposition members before it's tabled in the House. That would be an example of notification. It's a one-way conversation, information passing from the minister to the member. That is not consultation. There is not input from the member back to the minister on what should be included in the bill or how it could be improved or offering different points of view.

Consultation is extremely important. This amendment speaks to the spirit of this bill, which, as I've stated, is quite flawed. However, the intention of ensuring that all First Nations have the ability to consult and have the capacity to consult with industry on proposed projects: when it comes to the funds and how they're going to be distributed, it's very important, Mr. Chair, that we outline these specifics and that there are no shortcuts to ensuring that First Nations have the full capacity.

In conclusion, Mr. Chair, this recommendation, this amendment I'd like to share with the Assembly, and I'm pleased to say that I've got full support of the First Nations and legal counsel for two of the treaties that support this amendment, that wholeheartedly endorse this amendment and feel that this needs to be in this bill. I ask members and the minister to seriously consider this amendment. As I've said, this has full endorsement from the First Nations communities that I've been in touch with over the last three days, but importantly the legal counsel for two of the treaties wholeheartedly endorse this.

I do want, in conclusion, Mr. Chair, to express my appreciation to the legal counsel as well as to the First Nations chiefs I've been able to speak with in the last few days, including the grand chiefs, for their input on trying to improve legislation. I mean, their opinion is that it be withdrawn altogether, but I appreciate their counsel and their advice, and I urge all members of this Assembly to support this amendment.

Thank you, Mr. Chair. Hai, hai.

The Chair: The hon. Leader of the Official Opposition.

Ms Smith: Thank you, Mr. Chair. I rise in support of this amendment. I guess it's a good indication to the minister of just how little he has to go to meet First Nations partway. If you look at the amendment that's being proposed, two of the provisions are pretty well identical to what's existing in the legislation right now. But to provide the certainty that First Nations communities need, there's a new (a) that would "pay all of the costs incurred by First Nations and identified aboriginal groups with respect to consultation."

I think the Member for Edmonton-Beverly-Clareview has sort of peeled back the veil on what some of the concerns are in First Nations communities when talking about the number of dollars estimated currently for consultation versus the number of dollars likely to be raised through this levy and the difference between the two.

As the member has indicated in this Assembly, $150 million is the estimate currently going to First Nations for the purpose of consultation, and the proposal as he's described it in his conversations with the minister is that this levy would only generate $70 million. What that would seem to indicate is that this is actually a way of carving out $80 million worth of legitimate consultation fees that First Nations have come to rely on to be able to determine their rights on their traditional lands. I think that what this does is that it gives that disclosure and that assurance that this is not a mechanism to be able to shortchange First Nations communities relative to what they're currently getting under the status quo.

The second part, adding a new (4): "The Consultation Levy Fund, and grants made from therein, cannot under any circumstance be construed as accommodation or compensation for infringements of Treaty or aboriginal rights." I think the language that's been put into the preamble has given First Nations concerns that the government is trying to somehow dodge the constitutional protections that they have or dodge their requirement to do proper consultation. I think what this does is that it demonstrates and reaffirms that this is a parallel process and in no way has any bearing or any infringement upon the rights as they exist under the Constitution, as they exist under treaty, and as they may in future be enumerated through various sources of litigation.

I think this is a very important amendment. I think it goes a long way towards addressing the concerns of First Nations communities.

9:30

It's kind of interesting that with all of the busyness of a member from a party with four MLAs – we certainly know how busy that can be when you have a party of four MLAs – the hon. member found time to sit down with the chiefs, to talk with them about how the bill might be able to be improved, to come up with language, to put forward an amendment, and to be able to get an endorsement from them. It wouldn't have been that hard for the minister to do exactly the same thing. He's had the same amount of time over the last few days. He doesn't like any of our amendments. It would have been nice for him to propose a few of his own.

But in the absence of seeing any amending language to address the concerns of our First Nations chiefs and communities, I think that the Member for Edmonton-Beverly-Clareview has done a pretty good job here, and in so doing, this amendment deserves the support of the Assembly. I encourage the minister to at least pass one of these amendments this evening to demonstrate that he is listening to First Nations chiefs, that he is going to go forward with an attitude of accommodation, genuine consultation. I think this would be a very good place to start.

Thank you, Mr. Chair.

The Chair: Are there other speakers? The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Yes. Thanks very much, Mr. Chairman. I rise to speak in favour of this amendment because I think that it strengthens what's a very, very weak bill. It may still be so weak as to not deserve the support of the Assembly, but I think it is important that we talk about this. Subsection (3) in the amendment will indicate that the fund is to be used to pay all of the costs incurred by First Nations and Métis communities during consultation as well as to develop consultation capacity to enable these communities to participate fully in consultation. Now, the problem with the bill as it's drafted is that there can be an arbitrary decision about how much is fair to pay First Nations costs relative to consultation, not something in their control and not necessarily related to their actual costs or their legitimate costs. This just turns that around and says that the First Nations and other identified aboriginal groups will have their costs of consultation covered. Also, I think that if there were any charges, for example, against the applicant, it would prevent this fund from being used to cover those costs. They would have to pay out of their own pocket.

I think that on balance this strengthens the act and shifts the balance in this one area in favour of First Nations and other recognized aboriginal groups in terms of ensuring that if we're going to have this fund and it is to pay the costs for consultation, it covers all of those costs and not just a small portion arbitrarily determined by someone else. That's the basis of the amendment, and that's why I think all members should support it.

Thank you very much, Mr. Chairman.

The Chair: Are there other speakers? The hon. minister, followed by the Member for Edmonton-Centre.

Mr. Campbell: Well, thank you, Mr. Chairman. I'll start backwards on the bill, on subsection (4), that the consultation levy and grants made therein cannot under any circumstance be construed as accommodation or compensation. The bill is very clear. This consultation fund is for adequacy, for consultations, so it won't be used for accommodation or compensation or infringement of treaty rights or aboriginal rights. Again, the duty of the Crown to look after accommodation and mitigation will be taken. That will be done between the Crown and First Nations.

Also, Mr. Chairman, the whole concept of this bill was to make sure that there's proper money in the fund for consultation. One of the things that both industry and First Nations have identified very early on in the process is that a number of the First Nations did not have the capacity to do a proper job of consultation. What this bill does is allow them to have the money from the fund so they can build up their capacity and do a proper job so that we as a Crown have met our obligations in consulting with First Nations in an adequate manner in areas which infringe on their treaty rights or their traditional land use.

Mr. Chairman, everything that the member is asking for is in the bill already. I will not be supporting this amendment. Thank you.

Ms Blakeman: Thanks for that clarification from the minister. I'm glad he's still engaged in answering questions tonight. He's setting a good example for his colleagues. I hope they'll learn to follow him. That would be a change in direction.

It seems to me that the issue here is adequacy. Again, as I often caution everybody here, the specificity of the language is very important, and when the minister says "adequacy" – I should have looked it up in a dictionary before I got up; I'm sorry, Mr. Chairman, because I'm going to kind of wing the definition – it strikes me that there's a difference and perhaps quite a monetary difference between adequacy and an adequate amount of money determined by the government in putting together a consultation versus the actual costs. I think that's where the division is happening here. I mean, I've certainly watched a number of times where the government has determined: this is the amount of money that is going to be handed over for a given service. Often it has nothing to do with the cost of the service. It's just that the government has decided that they're going to get X amount, percentage, and that's what they get.

You know, I'm thinking back to some of the requests from health regions for keeping their ability to provide health services, and it would be – oh, bless you. Thank you.

Sorry. I've just had the dictionary sent to me. Once again, the *Oxford* dictionary, 10th edition, the world's most trusted dictionary, Mr. Chair. Only the best for this Assembly. The definition of adequate is "satisfactory or acceptable."

Mr. Mason: The minimum required.

Ms Blakeman: Yeah. My colleague is saying, "The minimum required." It is a little kind of underwhelming that it would say that. Adequate I think is the problem here. It would not indicate that full costs would be covered.

I note that the minister talked about capacity and capacity building, but I talk about capacity building for public institutions all the time, and mostly I'm talking about it because what this government grants is not even adequate; never mind the full freight on any given program. The fact that the government is determining the amount makes me a little uneasy because I just have not experienced this government – as I said, they don't tend to actually research how much it is. They tend to determine an amount. That's what's in their budget. That's how much they've decided it's going to be, and there's no connection to reality there.

If some of the chiefs have agreed to stand behind this, I'm willing to go there and support the amendment as well because I think this puts us on the other end of that spectrum in that it is to pay all the costs incurred by First Nations and identified aboriginal groups with respect to consultation. Clearly, we are talking about the consultation in section 4, which is under the subheading of Establishment of Consultation Levy Fund. Section 3 is the one that says: here's how we're going to pay for this. The two existing sections in subsection (3) are still there. It's just been added to say that this means all the costs identified with respect to consultation will be paid. It certainly clarifies things, doesn't it?

Thank you.

The Chair: Are there other speakers to amendment A3? The Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you very much, Mr. Chair. I just wanted to echo a couple of the really important points, and I'll make this brief. As the legislation is currently written, I appreciate, first of

all, the hon. minister for getting up and addressing some of the concerns that we've outlined in the amendment. I do truly appreciate that.

9:40

I think that this amendment was done in consultation – and, actually, there is the accurate use of the word – with two out of the three legal counsel for the treaties. I can tell you, Mr. Chair, that I can appreciate that in the minister's mind the bill already addresses the points raised in this amendment. However, if that was the case, then legal counsel for two of the three treaties would not have been in consultation and dialogue and communication with us as far as drafting this amendment and speaking very strongly in favour of having this amendment and this clarification.

I think, Mr. Chair, something that's really important is that the amount that the levy is going to be will be determined afterwards. For the members who don't know this, the actual amount of the levy is not indicated in the bill, which is something that I spoke to in second reading as far as one of the issues I had with this. However, if the decision for the levy is whatever the amount – okay; we can use anything as an example – yet the cost of meaningful consultation with industry and giving the First Nations band the capacity to consult fully on a potential or proposed project turns out to be more than the amount that is issued in the levy, what is the recourse? What is the response for the band? Well, it's: you're going to have to put in the rest.

We feel and many of the First Nations feel that that capacity fund should be there regardless – I mean, some projects are quite complex; some are going to take more time – to ensure that First Nations have adequate, have sufficient, have enough funds and capacity to participate meaningfully in this consultation. This amendment speaks to that the fund is going to pay for all of the costs incurred for the First Nations and Métis communities to have that consultation capacity. I think that is a really important part of this amendment, and I strongly urge members to support this.

As I stated earlier, Mr. Chair, the fact that legal counsel for two out of the three treaties have wholeheartedly endorsed this amendment – and as I've said, in fact they've helped us and helped me draft this amendment – speaks to the heart of this bill, which is based on the premise of consultation. Again, we've indicated that clearly the government failed to do that, but in this amendment there was a meaningful conversation and back-and-forth. If we want to respect the wishes, the mind, and the opinion of those who this levy is purporting to help and to represent, then I think that if we want to do the right and respectful thing, it's to include an amendment that they wholeheartedly approve.

Thank you, Mr. Chair.

The Chair: Thank you, hon. member.

Are there other speakers to amendment A3?

If not, I'll call the question.

[The voice vote indicated that the motion on amendment A3 lost]

[Several members rose calling for a division. The division bell was rung at 9:44 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Rogers in the chair]

For the motion:

Anglin	Fox	Saskiw
Bilous	Hale	Smith
Blakeman	Mason	Stier
Eggen	McAllister	Towle

Against the motion:

Allen	Fawcett	McQueen
Amery	Fenske	Oberle
Brown	Jansen	Olesen
Campbell	Jeneroux	Olson
Cao	Johnson, L.	Pastoor
Casey	Kennedy-Glans	Quest
Dallas	Khan	Scott
Denis	Kubinec	VanderBurg
Donovan	Leskiw	Woo-Paw
Dorward	Lukaszuk	Young
Drysdale		

Totals:	For – 12	Against – 31

[Motion on amendment A3 lost]

The Chair: Back to the bill. The hon. Member for Edmonton-Beverly-Clareview.

Mr. Bilous: Thank you very much, Mr. Chair. I've got the requisite number of copies of my next amendment. I'll wait for them to be distributed.

The Chair: If you'll circulate those, please, and make sure we've got the original. Thank you.

Hon. member, we'll refer to this as amendment A4. Please proceed.

Mr. Bilous: Thank you, Mr. Chair. I'll just begin by reading this into the record. I move that Bill 22, the Aboriginal Consultation Levy Act, be amended in section 10 as follows:

Part A strikes out clause (d) and substitutes the following:

(d) respecting the amount or the method of determining the amount of a consultation levy in consultation with First Nations and other identified aboriginal groups, including, without limitation, regulations

(i) prescribing factors on the basis of which a consultation levy is determined,

(ii) respecting any formula, ratio or percentage to be used to calculate a consultation levy, and

(iii) establishing different consultation levies for different types of provincial regulated activities.

Part B strikes out clause (k).

9:50

Mr. Chair, I'll break this into two sections as I speak to this A and B. I'm proposing two changes to section 10, which deals with cabinet regulations regarding the consultation levy. In clause (d) I propose to add a stipulation requiring that these regulations be created only after negotiations with First Nations. First and foremost, as it's currently written, it is a decision that will be made by cabinet without necessarily including or consulting with First Nations, which again seems to be the method that this government is using with First Nations. There isn't consultation. The government makes a decision and then pushes it through and forces First Nations to accept legislation that affects them. This government feels that if they say that they're consulting over and over enough, somehow that will make it true.

The first part of the amendment ensures that First Nations are included as full partners in determining the amount and the method of collecting the consultation levy. That's very important, Mr. Chair, because it is the First Nations groups who know better than anyone what they will require in order to fully participate and have the capacity to consult with industry on projects. They need to be recognized as full partners and to have a seat at that table.

These negotiations are really the first step towards creating that capacity and building the capacity, which, interestingly, the minister claims as one of the objectives of this legislation, so at the onset this amendment fits very well with what the minister is already saying.

The other thing, Mr. Chair, is that if we want to build First Nations capacity for consultation, then we need to include them from the beginning, from the first step. This also speaks not only to this amendment but why in second reading I spoke to the fact that this bill should be withdrawn altogether. There's a due process. There's the right way to do something, and then there's the way this government chooses to do things. The right way is to have conversations and meaningful consultation with First Nations groups right from the onset, from step 1, from day 1.

Unfortunately, that hasn't been the case for this bill despite what the minister says. I know that the minister is a very honest person. However, I've got the minister's word versus a couple of grand chiefs, several chiefs, and members of different First Nations bands all saying that they were not consulted on this levy act. You know, Mr. Chair, because there have been so many of them coming independently speaking to all opposition parties, I believe them when they say: "We have not been consulted. We have not been included in the drafting of this legislation." It's critical that they are included and a partner from the onset. This part of the amendment, Mr. Chair, will ensure that they are part of that discussion on how much the levy will be and, again, will ensure that they are in a position to be able to consult.

The other point, as I've indicated on numerous occasions in the last few days, is that during my briefing with the minister his documents suggested that around $70 million will be collected as part of this levy, which is woefully inadequate. You know, I've been told by the minister that industry currently provides First Nations a figure around $150 million to $200 million per year to support consultation efforts, and there is a small amount that the government kicks in as well.

Mr. Chair, as you can see, if the current amount is somewhere between $150 million and $200 million that is provided for First Nations to have the capacity to consult and this government is looking at a levy of around $70 million, we're looking at less than half of the current amount going toward supporting the capacity for First Nations to consult. Well, that isn't going to be enough. That's half of what is currently given to support First Nations today.

Again, these numbers should not be artificially picked. They shouldn't be picked out of the sky. They shouldn't be decided by just the government or just the cabinet or just industry. This really should be a partnership, and First Nations should be at the table indicating what they need in order to do the job that they want to do.

Secondly, Mr. Chair, this amendment strikes out clause (k). Clause (k) currently allows cabinet to create regulations exempting a proponent or class of proponents from requirements of all or part of this act and regulations. I mean, the way that we see it in consultation with several First Nations, this is seen as nothing more than a loophole. This is a way for this PC government to pick winners and losers, to decide which companies, which members in industry will pay a consultation levy and which will be exempt from that levy. You know, our position is that no proponent of a development project should be exempted from paying the consultation levy. Again, this creates an unequal playing field that means that some will have to pay the levy where others are exempted.

Further to that, it's up to cabinet to make that decision. Well, based on what? Based on personal relationships? Based on the nature or the scope of the project? I mean, it is beyond my grasp to see why the government and the minister would put this clause, this loophole in this piece of legislation.

All industries that are proposing projects that affect First Nation lands – their air, their water – that are on their lands should be paying this consultation capacity levy. There shouldn't be any exemptions or situations where industry does not have to pay. It makes me believe, because we don't have an answer from the minister, that, you know, if a company is large enough, they get a free pass from this government. I mean, maybe the minister will enlighten us as to why this clause is in here.

Mr. Chair, this amendment really speaks to those two different aspects. We're ensuring that First Nations are an equal partner from step 1 at the table in discussions with how much the levy will be and to ensure that it's adequate for that First Nation, for that project to have the capacity to consult and, number two, to close this loophole so that industry or certain members of industry can get away without paying it while other members of industry pay it.

I will strongly urge all members of the Assembly to support this amendment.

The Chair: Thank you, hon. member.

Are there other speakers? The hon. Leader of the Official Opposition.

Ms Smith: Thank you, Mr. Chair. I think that this amendment was a nice pairing with the previous amendment, that it aims to get at this issue of ensuring that aboriginal communities are not left worse off under this new centralized approach to managing the consultation process that the Crown is inserting itself into versus what the current status quo is. Although this would have been a better amendment had the first one that the hon. Member for Edmonton-Beverly-Clareview proposed passed, I think that this goes at least part of the way towards achieving what he is attempting to. If we start putting in some more of this language about how First Nations and other identified aboriginal groups will be consulted before these decisions are made, that would put a lot of individuals who have raised some of the concerns at ease that they will have some control over how these levies are established.

10:00

These are substantial dollars that we're talking about, as the Member for Edmonton-Beverly-Clareview has pointed out, and there's the potential that half as many dollars will flow through for the purpose of covering the consultation costs under the minister's new proposed plan than under the current plan. I think that the member is quite right to also point out that striking clause (k) is essential to making sure that there isn't quiet, behind-the-scenes lobbying that takes place to be either on the list or off the list.

With the idea that the minister would have sole discretion to exempt a proponent or class of proponents from the requirement of all or part of this act in the regulations, I guess people are wondering: what exactly does that mean? I suppose what it could mean in the case of the Member for Rimbey-Rocky Mountain House-Sundre is that the O'Chiese Nation, who have their own company, might be exempted under the regulations. But who knows? Maybe it means that there are certain energy companies that would be exempted under the regulations.

This is the problem when bills come forward that are not fully consulted on, where you can't go to the First Nation and you can't go to industry and say, "What do you think the minister means by that?" because the minister hasn't been clear about what he means by that. The regulation gives way too much latitude without

clarity. We're trying to seek some clarity. I think that we get that clarity by ensuring that a consultation levy with all of these different factors would not pass unless First Nations and other aboriginal groups were in favour of it and also by striking out the clause that seems to allow for a very arbitrary and unilateral and singular exempting on the part of the minister without any additional parameters or description around that.

I would urge other hon. members to support this amendment. Thank you, Mr. Chairman.

The Chair: The hon. Member for Strathmore-Brooks.

Mr. Hale: Yes. Thank you, Mr. Chair. I, too, would like to rise and speak in favour of this amendment. You know, the energy companies that I've talked to regarding this bill don't know exactly what the levy is going to be. They said: "Right now we have deals already made with the First Nations and aboriginal groups that we deal with. We know when we talk to them, depending on the scope of the project, how much we're going to pay." If it's a single well, you know, they know what it's going to cost. They know how much time it's going to take to do the proper consultations and make sure everybody is on the same board. If it's a larger project, many wells and lots of accesses and many pipeline routes, they know how long it's going to take. Right now they don't have much certainty in this bill and in how much this levy is going to be. I think there needs to be something more than just leaving it up to the minister to decide.

You know, speaking on Bill 2, when we were doing that last fall, the hon. Energy minister said: just trust me; it's going to be fine. Well, this comes down to the same thing. The hon. minister, I'm sure, will say that they're going to make it fair. But then that leads to clause (k). Again, that takes the fairness out of it because they're going to have that opportunity to determine which oil companies pay and which ones don't. It should be something straight across the board.

If they start on the same page, everybody knows where they're at. If the aboriginal groups and First Nations are included right from the start in determining the levy and the amount of the levy that the oil companies pay, the oil companies know; the aboriginal groups know. Everybody starts on the same page. You can make the process a lot smoother.

The other problem that we see coming is the fees that they already pay to the First Nations and the aboriginal groups when they're doing their consultations now. Will they continue? You know, will they still have to pay those fees, or will those fees be cancelled and this new levy take the place of that? That's a question that I've been asked.

They say, you know: we don't know; we don't know how much it's going to cost us. It's pretty tough to do business when you don't know how much it's going to cost. It needs to be set out specifically in this bill what the charges are going to be. It can't be left up to the whim of the minister or the cabinet to make these changes whenever they want to and include some oil companies and exclude some. It's got to be right across the board, so I think taking that section (k) out will help that.

You know, there are lots of different aboriginal groups, and I know that some of the lands that they have claimed may have more value or mean more to them than others. Those are some of the factors that are going to have to be taken into account. There are going to be more aboriginal groups that have different claims within that geomapping to worry about. But I think that to leave it up to the regulations and to have this much uncertainty for the aboriginal groups and the First Nations and for the oil companies and the gas companies is too much indecision. I think there needs to be more consultation and getting the feedback from the oil companies and the First Nations groups to determine what they each think is fair. Sit down at the table and decide from the start, before we rush through and pass this legislation.

I urge my colleagues on both sides of the floor to support this amendment. Thank you.

The Chair: Are there others? The hon. Member for Edmonton-Highlands-Norwood.

Mr. Mason: Thank you very much, Mr. Chairman. Well, just very briefly, the concern, I think, is twofold, and that is to ensure that adequate funds are available. The documents we received from the minister indicated that about $70 million would be collected as part of this levy. That's not enough. I think that two or three times as much might be required in order to provide for adequate consultation. I think that we need to include First Nations as full partners in determining the amount and method of collecting the consultation levy. That's the first piece.

Secondly, clause (k) is struck out by this amendment. It allows the cabinet to exempt "a proponent or class of proponents from the requirements of all or part of this Act and the regulations." I think it's nothing more than a loophole, Mr. Chairman. I don't believe that large energy corporations, our natural resources corporations, should get a free pass or should have the opportunity of a free pass from this government. Striking out section (k) is important.

On that basis, I urge all members to support this amendment.

The Chair: Are there other speakers to the amendment?

Seeing none, I'll call the question.

[The voice vote indicated that the motion on amendment A4 lost]

[Several members rose calling for a division. The division bell was rung at 10:09 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Rogers in the chair]

For the motion:

Anglin	Fox	Smith
Bilous	Hale	Stier
Blakeman	Mason	Towle
Eggen	Saskiw	

Against the motion:

Allen	Fawcett	McQueen
Amery	Fenske	Oberle
Brown	Fraser	Olesen
Campbell	Jansen	Olson
Cao	Jeneroux	Pastoor
Casey	Johnson, L.	Quest
Dallas	Kennedy-Glans	Scott
Denis	Kubinec	VanderBurg
Dorward	Leskiw	Woo-Paw
Drysdale	Lukaszuk	Young

Totals: For – 11 Against – 30

[Motion on amendment A4 lost]

The Chair: Back to the main bill. The hon. Leader of the Official Opposition.

Ms Smith: Thank you, Mr. Chair. I've got six amendments here. I'm not sure how quickly we'll move through them. I did put forward what I thought was the most substantive amendment, but

there are still, I think, some other ways in which I think this bill can be improved. I wouldn't mind just circulating this copy of the amendment that I'll be putting forward.

The Chair: That will be referred to as amendment A5, hon. leader.

Ms Smith: Thank you.

Now that I've got all of my amendments, I think I'll try to deal with them in the order of the bill as well, just to make it a little more straightforward in how we're dealing with them. This will have us going back to section 1 in the subsections on definitions. I would like to move that Bill 22, Aboriginal Consultation Levy Act, be amended as follows.

Part A strikes out clause (f) in section 1(1) and substitutes the following:

> (f) "identified aboriginal group" means "aboriginal peoples of Canada," as defined in section 35(2) of the Constitution Act, 1982, in the province of Alberta.

Part B strikes out section 2, which would be the identification of aboriginal groups: "The Minister may by order identify aboriginal groups for the purposes of this Act."

If you go back and look at the concerns that were raised by Treaty 6, Treaty 8, and Treaty 7, one of the concerns that they have is that the minister is apparently granting himself the power to be able to define what an aboriginal group would be. I think we've got some perfectly good definitions in legislation already not only in the Indian Act, which is referenced in one part of the legislation already, but also in the Constitution. It seems to me that part of what the concern is in the minister wanting to give himself the power of doing this identification is that we do have bands in Alberta that don't have reserve land.

Nonetheless, at the federal level, looking at the accommodation of these two provisions not only in the Indian Act but also looking at the Constitution Act would provide a full listing of all of the bands that are normally resident in Alberta, including the Lubicon, which is the one that has been referenced several times in the course of the debate. I understand there may be as many as five bands that have outstanding land claims and are in the process of potentially negotiating territorial reserve arrangements. I don't think that you need to give a new power to the Minister of Aboriginal Affairs in Alberta when you've got pieces of legislation that already cover this off.

What this amendment would also do is solve a problem for the minister of having to come back and amend this legislation later. As he's developing his new relationship with Métis settlements, at some point he's going to have to deal with this issue of consultation with Métis and the rights that they would have in Crown land areas as well. By using this broader definition going back to the Constitution, not only would that, I think, give some certainty to the First Nations that the government truly does understand that there is a special status given to our aboriginal peoples under the Constitution, but it would also broaden it out to include other aboriginal peoples; namely, the Métis and as well those nations that are not included under the restricted definition under (d).

Under (d) it says that "First Nation" means a band as defined in the Indian Act with reserve land in Alberta. That, I think, is why the minister felt he needed to bring forward (f), where he gives himself the power to identify aboriginal groups. Unfortunately, this is just not going over well in our First Nations communities.

I'll just read into the record what we hear not only from Treaty 7 and Treaty 6 but also from Treaty 8, the concern that they have about Alberta overstepping its constitutional authority.

> The proposed legislation would empower the Minister to determine who is and who is not Aboriginal for the purpose of consultation about Treaty rights. It is well established in law that Provincial governments do not have the authority under the Constitution to legislate regarding Aboriginal identity. The constitutionality of the Act is questionable given the division of powers under the Constitution. Further, since time immemorial, First Nations have had an inherent right to govern our own identity and membership. This right is protected by Treaty Six and the Constitution, and acknowledged by the United Nations as noted below.

Then they go on to make clear the section in the United Nations where indigenous people have a right to determine their own identity in accordance with their customs and traditions. I think that this amendment would get at what it is the minister is attempting to address, which is the issue of First Nations that don't actually have a land base as yet relative to the land claim negotiations happening at the federal level.

The reason why I bring this one forward in particular is because I did go onto the government of Canada website, Aboriginal Affairs and Northern Development, where it talks about First Nations of Alberta, Treaty 6, Treaty 7, and Treaty 8. I would note that the Lubicon are actually listed as a nation under the parameters that I just described. Looking at the constitutional mandate as well as the Indian Act legislation, the Lubicon Lake Indian Nation, with no reserve, is identified by the federal government as a nation with standing.

10:20

I think the minister would remove one of the challenges to the legislation on constitutional grounds if he was to make the amendment in these two sections, as I've indicated, to ensure that we continue to have the Indian Act and the Constitution apply as the prevailing law in determining First Nations identity rather than taking it upon himself to grant a new authority to the minister here in Alberta, which probably is not in compliance with some of the Supreme Court decisions as well as some of the development of law as well as the development of convention in Canada with regard to First Nations. I would ask others to support this amendment so that we can hopefully make some progress on improving this bill.

Thank you, Mr. Chair.

The Chair: The hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Chair. I rise in support of this motion, and I would hope that the minister would give consideration to it. What it does is just put parameters around the definition to make it consistent. It does take a little bit of flexibility away from the ministerial authority, but it gives consistency to the definition. I would hope that the hon. member would think about that and support this motion.

Thank you very much.

The Chair: Are there others? The hon. Minister of Aboriginal Relations.

Mr. Campbell: Mr. Chair, thank you very much. I think it's important to clear up a few things. First of all, this act does not empower the minister to deal with aboriginal identity. What this does is allow the minister to identify the aboriginal groups with which the government of Alberta has a duty to consult and those that are receiving capacity funding.

As the member stated, I think we have five groups in the province that, while they've been deemed First Nations, don't

have land claims right now. What this does is give the minister the ability to consult with those groups, make sure they have capacity funding, especially for the groups, Mr. Chair, that are having their land surveyed right now.

A prime example is Peerless Trout. They've been identified as First Nations. The federal government right now is in the process of surveying their lands. In talking to them, it's going to take two and a half years, Mr. Chair, before the federal government makes a decision on the boundaries of that reserve, so it's important that we have the ability to say to Peerless Trout: you are involved in the consultation. As a matter of fact, I'll even go one step further. I talked to the First Nations and got their approval so that Peerless Trout is now in the First Nations development fund. Under the current fund rules they aren't allowed to be in there because they aren't recognized as a First Nation and have a reserve base, so we're doing that.

This is what this is about, and this is all this is about.

Also, Mr. Chair, it gives us the ability – and it says: all aboriginal people. So we're talking Métis. We're talking Métis settlements. We're talking Inuit. We're talking First Nations.

Mr. Chair, I'm quite happy that the legislation is the way it is, and I won't be supporting the amendment.

The Chair: Thank you, hon. minister.

Are there others?

I'll call the question on amendment A5.

[The voice vote indicated that the motion on amendment A5 lost]

[Several members rose calling for a division. The division bell was rung at 10:23 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Rogers in the chair]

For the motion:

Anglin	Hale	Smith
Blakeman	Mason	Stier
Eggen	Saskiw	Towle
Fox		

Against the motion:

Allen	Fawcett	Lukaszuk
Amery	Fenske	McQueen
Brown	Fraser	Oberle
Campbell	Griffiths	Olesen
Cao	Jansen	Olson
Casey	Jeneroux	Pastoor
Dallas	Johnson, L.	Quest
DeLong	Kennedy-Glans	Scott
Denis	Khan	VanderBurg
Dorward	Kubinec	Woo-Paw
Drysdale	Leskiw	Young

Totals: For – 10 Against – 33

[Motion on amendment A5 lost]

The Chair: Now back to the main bill. The hon. Leader of the Official Opposition.

Ms Smith: Thank you, Mr. Chair. I will move the next amendment.

The Chair: We'll refer to this one as A6, hon. leader.

Ms Smith: Okay. Thank you.

The Chair: If you'll circulate that, please. I look forward to the original.

Ms Smith: I would like to move that Bill 22, the Aboriginal Consultation Levy Act, be amended in section 1 by striking out subsection (2). Subsection (2) currently reads: "Nothing in this Act is to be construed as creating a trust in favour of a First Nation or other identified aboriginal group."

I'll tell you the concern that has been raised and the concern that I have about keeping this provision in there. This would allow the government to make these levies on industry, put them in a fund, and then if for some reason the fund was dissolved, those dollars could go into general revenues. We believe that they actually should be creating a trust for these dollars. They're being collected for a particular purpose, and there would be one of two things that could be done if they were collected and held in trust. If for some reason the fund was dissolved, then it would make a requirement that the funds actually be used for the purpose for which they were collected, which is to aid in First Nations consultation, or presumably the government could also make the decision to return them to the industry proponents who paid them. If there were additional dollars left in the fund that were not needed for that purpose, that would imply an overtaxation on the part of industry.

I think that industry needs to have some certainty that this levy is not going to be used as some source of an additional revenue-generating tool, especially if we end up seeing an increase in drilling activities after the rates are set that end up increasing the amount of dollars coming into the fund that go far in excess of what is required for the aboriginal consultation provisions that this act is supposed to be enabling. You don't want to create a situation where the government can just siphon off the funds into general revenue.

10:30

So by eliminating subsection (2), it would give the opportunity for it to be treated as a trust. I think that explicitly saying that it isn't a trust would make certain First Nations concerned about what the true intention of the fund would be. I know it would make industry concerned about whether or not the number of dollars that are being generated would be put towards the use to which it is supposed to be ascribed under this legislation.

I would ask other members to support the amendment.

The Chair: Are there other speakers to the amendment? The hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Chair. I rise in support of this amendment. The ability to have a trust is an issue that was brought to us by numerous First Nation groups. That was one of the very issues that they sort of zoomed in on when they had their first look at the bill.

Again, I would ask that the minister at least consider this. I realize that we probably don't stand a chance of getting any votes on that side in support of the motion, but you never know. As we get late into the night, someone might have a change of heart. But I will say that a number of First Nations have recommended it.

Thank you very much.

The Chair: Are there other speakers?

Seeing none, I'll call the question.

[The voice vote indicated that the motion on amendment A6 lost]

[Several members rose calling for a division. The division bell was rung at 10:32 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Rogers in the chair]

For the motion:		
Anglin	Hale	Smith
Blakeman	Mason	Stier
Eggen	Saskiw	Towle
Fox		

Against the motion:		
Allen	Fawcett	McQueen
Amery	Fenske	Oberle
Brown	Fraser	Olesen
Campbell	Jansen	Olson
Cao	Johnson, L.	Pastoor
Casey	Kennedy-Glans	Quest
Dallas	Khan	Scott
DeLong	Kubinec	VanderBurg
Denis	Leskiw	Woo-Paw
Dorward	Lukaszuk	Young
Drysdale		

Totals:	For – 10	Against – 31

[Motion on amendment A6 lost]

The Chair: Now back to the main bill. The hon. Leader of the Official Opposition.

Ms Smith: Thank you, Mr. Chair. I will circulate another amendment.

The Chair: We'll refer to that one as amendment A7.

Ms Smith: Thank you, Mr. Chair. This goes back to the amendment prior to the one that we just debated. I think that if, as the minister declared, this indeed does not confer on him any additional rights to define aboriginal identity, what would satisfy some of the concerns of our First Nations chiefs is to make that doubly clear through this amendment.

So I am moving that Bill 22, Aboriginal Consultation Levy Act, be amended by renumbering section 2 as section 2(1) and adding the following after subsection (1):

> (2) For greater certainty, a Minister's order identifying an aboriginal group under subsection (1) does not constitute recognition for any purpose beyond the scope of this Act nor shall it be interpreted as bestowing any other rights or benefits.

I think this is important because it affirms what the minister has told this Assembly about what the intention is of this particular amendment. But I think with the fact that it seemed to be unclear to First Nations legal counsel, who had a look at that, it requires the greater certainty and the greater clarity of saying that it does only apply to this act and that it does not confer any additional rights or benefits.

The concern, I think, that the First Nations have, especially in the way the preamble is written, is that the provincial minister is foisting upon them an act which has not been consulted upon with apparently new powers, apparently new provisions. I think, the minister's assurances aside, that because there has not been adequate consultation, it is creating a lot of uncertainty. We know that this is only one part of a broader approach to aboriginal consultation.

I think it's important, to set the stage right now, that the minister recognize that he does not have an equivalent role in being able to do this identification that you might see at the federal level under the Indian Act or the Constitution, that you would not see given to First Nations themselves under the recognition of their inherent rights. I think that the language that has been used here lacks clarity, and that is the reason why it has been identified by First Nations as something that seemingly violates the UN declaration on the rights of indigenous peoples but, more importantly, oversteps constitutional authority.

I think that to be able to ensure that the minister stays within his bounds as provided by that subsection, as he declares that he would like to do, we need to have the additional certainty about what the scope of that ability to identify aboriginal groups actually means. For that reason we're proposing subsection (2), and I'd ask other hon. members to support it.

Thank you, Mr. Chair.

10:40

The Chair: Thank you.

Are there other speakers? The hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Chair. I rise in support of this amendment. Based on some of the comments the minister made earlier, it is consistent with exactly what he was saying, with what he proposed to do or his understanding of what has been written in this bill. All this amendment does now is to clarify that. It makes it consistent with the intentions of exactly what the minister said that he wants to do. As far as I'm concerned, when I look at this, this amendment just puts into the legislation exactly what the minister says are the intentions. So I would hope that the other side would just support this, and we could give the bill some clarity.

Thank you very much.

The Chair: Are there other speakers? The hon. Member for Edmonton-Centre.

Ms Blakeman: Yeah, I agree. This is a really clean clarification on what we have in the act. Clearly, what is written here has led to a number of people interpreting this legislation differently. Interestingly, as much as my colleagues opposite loathe what they call judge-made law, they create the opportunity for a lot of it because when you create unclear legislation and people argue about the meaning of it, inevitably you end up in court, which is the ultimate decider. If we haven't given clear guidance through the legislation that we have approved, then the courts make the decision, their best decision, on what they think it was intended to mean. So if we write legislation that's difficult to understand or is vague or uses language that can be misunderstood, we're going to create that kind of problem for ourselves and, frankly, eventually for the taxpayers. This does provide greater clarity, and I would urge the minister to seriously consider this one.

It does look at section 2, which gets renumbered. It says, "The Minister may by order identify aboriginal groups for the purposes of this Act." Now, that's a clause that has created a lot of controversy here. The minister claims that, "No, this is just so that we can decide who's in and who's out for the consultations," which leads to a whole other conversation here. But he's had to stand and say: "No, no, no. This is what I mean by this." Well, as helpful as *Hansard* is as it can be used later to provide some clarification, it's really better if we put it in the bill. That's what's available online and through the Queen's Printer when you actually go to get something. You don't necessarily get the *Hansard* comments.

So this one is actually going to help the minister in what he's trying to do, if I understand correctly what he's trying to do, because it does clearly say that it doesn't constitute recognition for any purpose beyond what's absolutely in here. It doesn't bestow any other rights or benefits. You know, the one other thing I would have added in there would be punishments and with-

holdings. You've got the good here, but you don't have the bad. I'm being incredibly picky. That's the only other thing I would have added to it. But I hope the minister does consider this one because I think it's going to help him.

Thank you.

The Chair: Are there other speakers?

Seeing none, I'll call the question.

[The voice vote indicated that the motion on amendment A7 lost]

[Several members rose calling for a division. The division bell was rung at 10:45 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Rogers in the chair]

For the motion:

Anglin	Hale	Smith
Blakeman	Mason	Stier
Eggen	Saskiw	Towle
Fox		

Against the motion:

Allen	Fawcett	McQueen
Amery	Fenske	Oberle
Campbell	Jansen	Olesen
Cao	Jeneroux	Olson
Casey	Johnson, L.	Pastoor
Dallas	Kennedy-Glans	Quest
DeLong	Khan	Scott
Denis	Kubinec	VanderBurg
Dorward	Leskiw	Woo-Paw
Drysdale	Lukaszuk	Young

Totals: For – 10 Against – 30

[Motion on amendment A7 lost]

The Chair: Back to the main bill. The hon. Leader of the Official Opposition.

Ms Smith: Thank you, Mr. Chair. Three more to go, so why don't I just start?

The Chair: This will be amendment A8, if you'd circulate it.

Ms Smith: Perfect. Happy to circulate it.

The Chair: I appreciate that.

Please go ahead, hon. leader.

10:50

Ms Smith: Thank you, Mr. Chair. Now, it has been said in this Chamber that I'm not a lawyer, so I will be calling on my colleague from Lac La Biche-St. Paul-Two Hills, maybe even the hon. Member for Calgary-Acadia to lend a hand and offer his observation on this next amendment.

I am going to move that Bill 22, the Aboriginal Consultation Levy Act, be amended by striking out section 9. Section 9 is also another area that has caused great concern for First Nations. It's that the minister's decision is binding. What it currently says is: "A decision of the Minister under this Act is final and binding and not subject to review."

Now, I had considered proposing different language because it's quite interesting if you compare the decisions that are written under the Metis Settlements Act with this decision. Under the Metis Settlements Act if there's a decision that comes out of the appeals tribunal, it actually is subject to appeal to the Court of Appeal after seeking appropriate leave. I find it fascinating that the minister would have such different provisions in law, recognizing that there is another level of appeal in his dealings with Métis but then completely trying to deny an avenue of appeal with First Nations.

Now, I don't know how the minister thought that he could actually get away with this because my understanding of Bill 36 and the manner in which Bill 36, the Alberta Land Stewardship Act, was written that allowed the government to be able to shield itself from an appeal process was that they described any of the acts that were coming out of the process as being a matter of policy. I think that was the key language and the signal to the court that any of the Land Stewardship Act agreements under the land-use framework could not then be appealed to the court, so they set up a separate type of appeal process under the minister's oversight that would allow them to skirt around the provisions and requirements of going to a court of law.

Now, the question of whether or not this would stand up to scrutiny is, I think, an open question. Again, I'll ask my colleague from Lac La Biche-St. Paul-Two Hills to comment on that. The point of the matter is that I have a suspicion that this would not be something that would stand up, that if there was a legal appeal, it would be allowed to the Court of Appeal. Just by stating this in the legislation doesn't make it so. But I can tell you what has happened by stating it in legislation. It's like waving a red flag before a bull. Our Member for Strathmore-Brooks will have to correct me if I've used the wrong terminology there.

The point is that what you see is that you have the First Nations wondering why it is that the government, a provincial government, would confer upon itself the right to make decisions and then shield themselves from any type of legal challenge. I don't think that's been the experience of our First Nations because, once again, they do have constitutional rights that go above and beyond what landowners in this province have and what leaseholders in this province have under section 35 of the Constitution.

I know that when rights get in the way of the government and they look at them as being pesky, they try to pass legislation to find some way of skirting around them and undermining them because property rights aren't included in the Charter of Rights and Freedoms. Unfortunately for the government, First Nations have a higher bar that they have to reach. I think that by trying to pass legislation that might take away from aboriginal rights, that might take away from their ability to appeal, and then just declaring it in legislation – I'm sorry – I have a hard time believing that would actually stand up in court. If it won't stand up in court, why don't we just take it out of there? If it's one of these things that is an aggravation for our First Nations communities, why not just take it out of there? That's what this amendment proposes to do.

With that, I hope that my colleague from Lac La Biche-St. Paul-Two Hills will be able to shed some light on whether or not this section as it's currently written is something that would be final and binding and not subject to review. If there are any other lawyers in the Assembly who would like to comment on that, I would be delighted to hear from them. In any case, I do hope that they are in support of it.

Thank you, Mr. Chair.

The Chair: The hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Chair. I stand in support of this motion, and I ask my colleagues to support this motion. The thing

that probably set off a lot of the First Nations that I had the chance to speak to was this particular provision where "A decision of the Minister under this Act is final and binding and not subject to review." That has appeared in a number of acts dealing with landowner issues, and here it appears in this act. It is just as offensive under each and every act that it has appeared in.

The allegation that the cabinet has been consolidating power more and more to itself is based on this very principle. I don't understand the value. Our whole democratic process is founded upon due process. A minister cannot always be right. There need to be the appealable processes in place, however they're constructed. That gives what I view as legitimacy to the effect of any act, any piece of legislation.

With that, I support this amendment, and I ask my colleagues to support this amendment, too.

The Chair: Are there other speakers to the amendment? The hon. Member for Lac La Biche-St. Paul-Two Hills.

Mr. Saskiw: Thank you, Mr. Chair. What has become evident is that you definitely don't need to be lawyer, as demonstrated by the Leader of the Official Opposition, to thoroughly understand the details of a privative clause, and that's what section 9 is. It is a privative clause that states: "A decision of the Minister under this Act is final and binding and not subject to review."

What is very clear here, though, is that any decision made by the minister that is outside of his jurisdiction or on a question of law would clearly be appealable, so I'm not sure why the minister put this forward. Maybe it's that he's unaware of the legislation, of the laws that govern our democracy, and the court decisions from the judiciary on this. If it's a question of jurisdiction, it would clearly be appealable, so if he acted outside of his jurisdiction in this act, it would be appealable in court. For him to put this privative clause in here I think is a continuation of what this government does. Bill 36 is a perfect example, where they created the broadest worded privative clause that most lawyers have ever seen. That was confirmed by various independent third-party groups that had assessed Bill 36.

Here's another patent example of it. You know what? A provision like this may not matter if the bill itself was exhaustive and really went through all the decisions a minister could make, if it went through every different permutation of everything. What's particularly problematic here is that the minister can make decisions under the regulations. If you look at section 10, it's subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), almost three entire pages on regulations that this minister can make, and now those are not subject to any review. The minister, by making this – I don't know what to call this act. I won't demean it that badly, but for him to put forward an act that has eight sections with most of the sections themselves being 10 words long and then putting everything else in regulations, it's like he had to rush this bill through. He had to rush it through. He's got this bill that doesn't delineate any specification on anything and then puts everything in regulations. Then because of this privative clause those regulations are not subject to review.

Mr. Chair, what we see again is a very poorly worded piece of legislation. The minister is obviously rushing this through for some reason. Perhaps it's because, you know, they've put forward a single regulator here, and he needs to have something that matches up with what was Bill 2. This is why we should actually be going back, putting this to committee, and reviewing this legislation in detail so that all the decisions that are put forward for regulations, from (a) through (o), aren't decided by the minister but are actually properly put forward in the enabling legislation.

Mr. Chair, this privative clause would not be binding. The minister should know that. He should have proper counsel. I'd like to hear from him. Does he actually know that this is not binding? If it isn't binding, why doesn't he just accept our amendment to repeal it?

Thank you, Mr. Chair.

The Chair: Thank you, hon. member.

The hon. Member for Edmonton-Centre.

11:00

Ms Blakeman: Thank you very much. You know, that jumped right out at me when I read this bill. I'm not a lawyer, but I've looked at a lot of legislation, and it's unusual not to have an appeal or a review process as part of a decision-making bill. Perhaps this is also part of that pattern of this government that I am noticing, their autocratic ways of determining that this is what they want, and that's it, and that's the way it's going to be, and tough luck to anyone that doesn't like it. But this I found very unusual, and I think it's going to cause them trouble. I think that it's quite likely to be challenged.

Now, I was listening with half an ear, I'll admit, to the lawyer talk, but it does strike me that taxpayers could be funding the government's defence of this particular clause if they get taken to court. I really get annoyed when we go into legislation and the government passes it knowing that it's going to get challenged, and it does, and then the taxpayer has to fund the government's defending itself. It just really bugs me because it's pretty clear that this should not be in there. This amendment takes it out, which it should do.

I think it's fine to have something in there that lays out a review process or lays out an appeal process, so I would certainly support something being in there. But I can't support the sort of autocratic decision-making that is done, you know, that the decision of the minister under this act – and under anything in the act. It's not even narrowing it to this choice or that decision or this particular section. It's everything. "A decision of the Minister under this Act is final and binding and not subject to review." Uh-uh. No. I don't think that's right.

I thank the member for bringing it forward, and I urge all of my colleagues in the House to support it. Thank you very much.

The Chair: Are there other speakers? The hon. Member for Lac La Biche-St. Paul-Two Hills.

Mr. Saskiw: Thank you, Mr. Chair. On a very important section of the act, which essentially makes the minister's decision on regulations binding and not subject to review, it would hopefully be appropriate for the minister to give some type of rationale for why there is this privative clause. It's quite frankly shocking that he would just sit there on this very important provision and not say anything.

The Chair: Thank you, hon. member.

Are there other speakers?

Mr. Campbell: Well, Mr. Chair, I think that again they're taking the bill out of context. When it says that, you know, the minister has the right, I mean, this is about the levy fund. So, yes, you have to pay into the levy fund. Industry can't appeal that. If they're doing work on the ground and if consultation is needed, then they have to do that.

Again, this is also for the part of the act, Mr. Chair, where we talk about other aboriginal groups that don't meet the requirement because they haven't got their land yet. The minister makes the determination that they have to be consulted with. Industry can't challenge that.

Mr. Chair, when we look at the part of the act where we're talking about the disclosure, if the minister asks for the documents to be disclosed, again, that's not appealable. It's for transparency and making sure that the money is going into the right aspect of the consultation process. Then they will comply with that, and we'll make sure the department is aware of that and the First Nations are aware of that.

Mr. Chair, again, this is a very small act. As they said, it's five pages. All it does is that it sets up the levy.

Ms Blakeman: It causes big problems.

Mr. Campbell: Well, you know, I appreciate that, but in talking to our legal counsel and in talking to our department and going through our legislative review, we found that this was appropriate, and we'll move forward.

Mr. Saskiw: I won't belabour the point, but the minister's explanation here: the regulations state that he can prescribe "a person or class of persons for the purposes" of the act. That's not appealable. He can prescribe or describe "an activity as a provincial regulated activity." That's not appealable in this act. He can pass a regulation respecting the amount or the method for determining the consultation. That's not appealable. All of these different powers that are set out in section 10 of the regulations are not appealable. That's because this bill is rushed – completely rushed – so you had to put everything in regulations.

Again, when I go and consult with First Nations, the four reserves in my area, I'm going to give them the answer that, you know, this was just rushed through, and that's why the minister is given these massively broad powers.

Thank you, Mr. Chair.

The Chair: Are there others?

Seeing none, I'll call the question.

[The voice vote indicated that the motion on amendment A8 lost]

[Several members rose calling for a division. The division bell was rung at 11:06 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Rogers in the chair]

For the motion:

Anglin	Hale	Smith
Blakeman	Mason	Stier
Eggen	McAllister	Towle
Fox	Saskiw	

The Sergeant-at-Arms: Order!

Against the motion:

Allen	Fawcett	Oberle
Amery	Fenske	Olesen
Brown	Hughes	Olson
Campbell	Jansen	Pastoor
Cao	Johnson, L.	Quadri
Casey	Kennedy-Glans	Quest
DeLong	Khan	Scott
Denis	Kubinec	VanderBurg
Dorward	Lukaszuk	Woo-Paw
Drysdale	McQueen	Young

Totals: For – 11 Against – 30

[Motion on amendment A8 lost]

11:10

The Chair: Back to the bill.

Mr. Mason: Point of order.

The Chair: Hon. Member for Edmonton-Highlands-Norwood, you are rising on a point of order?

Point of Order
Maintaining Order in the Assembly

Mr. Mason: Yes. I am looking for the citation, but it's going to take me a moment. I want to raise the question on keeping order in the Chamber. The Sergeant-at-Arms just called order in the Assembly. It is my understanding that it is the chair's and the Speaker's responsibility to keep order within the Chamber, and it is the Sergeant-at-Arm's responsibility to keep order outside, in the galleries. I would like a ruling from you, Mr. Chair.

The Chair: Hon. member, you are correct. It is my role to keep order in the Chamber. During the vote members are required to stay in their places. The Sergeant-at-Arms did call the one member that attempted to walk out during the vote. I believe that's quite in order. I can't quite find the standing order myself quickly. You couldn't either. But that is my ruling, sir.

The hon. Leader of the Official Opposition to speak to the bill.

Debate Continued

Ms Smith: Thank you, Mr. Chair. You know, I have another amendment underneath my papers that I haven't addressed.

The Chair: This will be amendment A9, hon. leader.

Ms Smith: Yes. It goes back to the first part of the bill, but it's probably worth while to discuss it now that we have a very broad interpretation of what the minister's powers are.

The Chair: You may speak to the amendment, hon. leader.

Ms Smith: Thank you, Mr. Chair. I think it again goes to trying to provide some clarity as well as trying to provide some boundaries or fences around some of the ministerial powers. I think the concern with the ministerial decision being binding, final, not subject to review causes us to have to go back to the interpretation and definitions in the act, in particular under section 1(1)(j)(viii). I move that Bill 22, Aboriginal Consultation Levy Act, be amended in section 1(1)(j) by striking out subclause (viii), "any enactment prescribed by the regulations for the purposes of this clause."

I think part of the issue that we face is that, again, we're giving the power to the minister to prescribe a great many parts of how this bill is going to work without bringing it back to the Legislature. It does seem to me that (j) does talk about the specific enactments, and it goes through and enumerates them: Environmental Protection and Enhancement Act, the Forests Act, the Historical Resources Act, parts of the Mines and Minerals Act, the Public Lands Act, the Water Act, and a regulation under an enactment referred to in the subclauses. But this is a fairly broad

provision: any enactment prescribed by the regulations for the purposes of this clause.

It does seem to me that if the minister is going to prescribe regulations for any enactment and then put it into the regulations, he should actually come back to the Legislature and enumerate it in the course of the legislation. Otherwise, I suppose we have to question why it is that he's bothering to enumerate anything under this section at all. Why can't he just give himself powers to make any regulations respecting any enactment at any time that might ever impact aboriginal issues? I'm taking it to the ridiculous to kind of make a point. If the minister is going to give himself such broad powers, then it does kind of render the rest of this section a bit useless. If the section actually matters and he is trying to actually prescribe in legislation the powers that he is giving to himself in regulation, they do need to be prescribed in some way.

I would hope that other members would support this amendment. If the minister has other acts that he wants to change in regulation, I would say that he should come back and fix his bill. He should come back and fix it through legislation so it's very clear to First Nations communities what it is that is actually going to be amended by this section rather than leaving it to the sole discretion of the minister, which, as has been pointed out by the Member for Lac La Biche-St. Paul-Two Hills, then no longer is subject to any level of appeal, is final and binding and not subject to review. I think that is why it requires the minister to have extra clarity in how the regulations and the enactments will apply, especially when it comes to such an important issue as First Nations consultation. I hope others will support this amendment.

Thank you, Mr. Chair.

The Chair: Thank you, hon. leader.

The Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Chair. I rise to support this motion. Not to be redundant, it's just the broad scope of the statement "any enactment prescribed by the regulations for the purposes of this clause," when the parameters are already set under section (j), (i) through (vii). Being consistent here, this is just about putting some sort of parameters around the authority that the minister has given this act and limiting the broad scope and keeping it more focused on what the intent of the act is.

With that, I support this amendment, and I ask my colleagues to support it also.

The Chair: Are there other speakers to the amendment?

Seeing none, I'll call the question.

[The voice vote indicated that amendment A9 lost]

[Several members rose calling for a division. The division bell was rung at 11:16 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Rogers in the chair]

For the motion:

Anglin	Fox	Saskiw
Blakeman	Hale	Smith
Donovan	Mason	Stier
Eggen	McAllister	Towle

11:20

Against the motion:

Allen	Fawcett	Oberle
Amery	Fenske	Olesen
Brown	Hughes	Olson
Campbell	Jansen	Quadri
Cao	Johnson, L.	Quest
Casey	Kennedy-Glans	Scott
DeLong	Khan	VanderBurg
Denis	Kubinec	Woo-Paw
Dorward	Lukaszuk	Xiao
Drysdale	McQueen	Young
Totals:	For – 12	Against – 30

[Motion on amendment A9 lost]

The Chair: Back to the main bill. The hon. Leader of the Official Opposition.

Ms Smith: Thank you, Mr. Chair. I will hand out the next amendment. We're down to our last two. Saving the best for last, Mr. Chair.

The Chair: This will be amendment A10, hon. members.

Please proceed, hon. leader.

Ms Smith: Thank you, Mr. Chair. This is a little complicated, but let me read through it. I would like to move that

> Bill 22, Aboriginal Consultation Levy Act, be amended in section 10
> (a) by renumbering it as section 10(1);
> (b) in subsection (1)(d) by adding "Subject to subsection (2)," before "respecting the amount";
> (c) by adding the following after subsection (1):

And this would be a new subsection.

> (2) Prior to any regulation made pursuant to subsection (1)(d), the Crown must negotiate the amount among First Nations and identified aboriginal groups and industry representatives.

Let me explain what this amendment would do. First of all, if you're looking at the regulations, what would happen is that under subsection (d) it would now read:

> (d) subject to subsection (2), respecting the amount or the method of determining the amount of a consultation levy, including, without limitation, regulations

and so forth. Then subsection (2) would mean that anything related to

> (i) prescribing the factors on the basis of which a consultation levy is determined,
> (ii) respecting any formula, ratio or percentage to be used to calculate a consultation levy, and
> (iii) establishing different consultation levies for different types of provincial regulated activities

would be subject to the provision that the Crown has to negotiate the amount among First Nations and identified aboriginal groups as defined in the act as well as industry representatives.

This is similar to an amendment that was brought forward by the hon. Member for Edmonton-Beverly-Clareview, with the difference being that industry is also a stakeholder in the determination of what these levies would be. The hon. Member for Edmonton-Beverly-Clareview had put forward a motion looking at how important it was to consult with First Nations. But, as we've heard from the hon. Member for Strathmore-Brooks, he's hearing from industry representatives some grave concerns about how this levy is going to be calculated, how it's going to be applied, and what the overall amount would be. It's important that we recognize that there really are two stakeholders that are going to be covered by this act, neither of which have been sufficiently consulted with, neither of which have had sufficient input.

Giving blanket power to the minister with, "Just trust us. We'll work it out on the golf course, or we'll work it out over dinner" I

don't think is going to cut it. It's certainly not cutting it with First Nations members, and it certainly won't cut it with industry groups. Consultation means that you actually sit in a formal environment exchanging ideas, going over them. I read that definition into the record earlier. I think the casual manner in which the minister thinks these kinds of things can be resolved needs some greater clarity around it, which is the reason why we're proposing that we would add this subsection, so that not only would he be obligated to negotiate and actually meaningfully consult with First Nations, which is quite clear that he's not done at this point, but meaningfully consult with industry representatives as well.

I would ask hon. members to support this amendment so that we can improve this bill.

The Chair: Are there other speakers? The Member for Strathmore-Brooks.

Mr. Hale: Yes. I'd like to rise to speak in favour of this amendment. As our hon. leader just mentioned, it's imperative that industry has a say in this levy, seeing as they're the ones who ultimately are going to be paying these fees into this fund. You know, it's only fair to give them some certainty and give them a voice on this levy that they will ultimately be paying themselves. I think that it's something that the hon. Energy minister, being such a strong advocate for industry, would grasp wholeheartedly, including industry.

Ms Blakeman: Now there's a bromance thing happening.

Mr. Hale: I won't bring that comment up.

I think, you know, we definitely have to include industry in this bill, and this is a very good way to allow industry to have a say in the fees that they will ultimately be paying.

I urge all my colleagues to support this amendment.

The Chair: Thank you, hon. member.

Are there others? The hon. Minister of Justice and Solicitor General.

Mr. Denis: Thank you, Mr. Chair. I want to thank the hon. Leader of the Opposition for this amendment. That being said, I've just done some quick research. Knowledge of aboriginal law was never my specialty, but I do know that there is an inherent obligation to negotiate. Therefore, it is my view that this amendment is redundant, and I will not be supporting it.

The Chair: Thank you.

The hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Chair. I understand what the hon. minister said, but it isn't about the redundancy. There's a lot of redundancy built in through various laws. It's also about clarity. One of the main complaints that has come from many of the First Nations groups is about the whole issue of clarity. The obligation to consult is clear. It's been spoken about here on the floor of this Assembly. Yet the argument that consultation is not taking place has been put forth not just by members here in opposition but by many of the First Nations that have shown up. When you look at this amendment and just dismiss it, saying that it's redundant because of another act, what's not clear in this act is the mandate that consultation takes place.

I will say, hon. member, that I can cite a number of acts, the Electric Utilities Act being one, that have a number of points where you can say that there's redundancy built in, but the point is that it also gives clarity to the various sections to make sure that the bill stays consistent. That, to me, is all that this does here. It says exactly what this minister says that he's going to do. It keeps consistency within the flow of the bill, that First Nations, the people who are directly and adversely affected by any negative decisions that come out of this bill, have some sort of certainty in the clarity that they will be consulted. Just saying it to be so does not necessarily give the confidence. Pointing to another section does not necessarily give confidence. You can make the argument that it's redundant, but you can also make the argument that this gives clarity. It doesn't hurt or take away from the powers of the minister whatsoever. That's important.

I would argue to support this amendment. I'd ask my colleagues to support this amendment. It will ease the frustration and the anxiety that many of the First Nations have about this piece of legislation.

Thank you.

Ms Blakeman: This one isn't sitting right with me because it's essentially instructing the government to negotiate with the proponents around the fee that's supposed to be paid. I thought that earlier we had been arguing that the amount that was required for the consultation should be the amount that's paid. We, in fact, had a standing vote on that. This, I think, runs counter to that in that it is saying that the industry representatives or, in the language of the bill, the proponents, should be part of this negotiation. I don't think they should. They're being charged a fee for something specific.

This one isn't sitting right with me. I'm happy to hear more arguments. I don't know that it's redundant, as the Minister of Justice and Solicitor General has said, but I don't think it brings clarity. I think it muddies the water.

Thank you.

11:30

The Chair: Thank you, hon. member.

The hon. Leader of the Official Opposition.

Ms Smith: Thank you, Mr. Chair. I think we have to remember the context that we're talking about, this whole framework for this new approach. Right now industry is already paying for consultation. They're paying fees that amount to about $150 million a year. What is happening now is that the government is inserting itself in negotiations that have been going on privately between industry and First Nations. If you look at what the First Nations say, they say that that's actually been working pretty well for them.

We've been talking a lot this evening about making sure that First Nations rights are protected. I think that the hon. Member for Edmonton-Beverly-Clareview argued that very well, about wanting to make sure that First Nations don't end up getting shortchanged by moving to this centralized process of managing consultation, but on the same token we're hearing from industry that they don't want to get gouged. The minister refused to accept the amendment about the money being held in trust, which means that they've created an environment where they actually can overcharge industry, siphon money off into general revenues. We certainly know that they're looking forward to other avenues to be able to get more money for general revenues.

What we're wanting to do is create some balance. We know that First Nations need to be negotiated with and need to be included in establishing the levy to make sure that they're able to maintain the same number of dollars that were coming to them under the private agreements they were negotiating with industry, but on the

same token we don't want to give government the latitude to set those rates so high that it goes over and above what the First Nations may be able to negotiate on their own. We don't know what will happen because the minister has granted himself carte blanche power to change the regulations on a whim without being subject to any appeal or any restrictions, so it may well be that it's implemented at one level but then maybe ends up generating more revenues than they actually need to support the consultation process.

I think in the interest of fairness, because we are interfering with this legislation in private negotiations that, by the proponents' and the First Nations' testimony, have been working relatively well or at least certainly better than the Crown relationship has been, we owe it to both parties to make sure that when we establish what the new levies are going to be, we talk to both parties who are party to the existing agreements.

I hope that clarifies for the Member for Edmonton-Centre.

The Chair: Thank you, hon. leader.

The hon. leader of the ND opposition.

Mr. Mason: Well, I share the misgivings of the hon. Member for Edmonton-Centre on this one. In my view, such a negotiation would be fraught with problems. It's a three-way negotiation, and it's not determined on the need of the First Nations to do the things that they need to do. It's some kind of a deal struck where you saw off somewhere in the middle. I know how a lot of the negotiations would go with the government involved. The government would not side with First Nations in most cases, and it would be a 2 to 1 situation.

I can't see this working and think that it's not up to the Crown to negotiate with oil companies or resource companies about how much they're going to pay. It's to determine it objectively based on submissions that First Nations may make, and then the proponent, if they wish to proceed with the project, just pays.

So I'm not prepared to support this particular amendment.

The Chair: The hon. Member for Strathmore-Brooks.

Mr. Hale: Thank you, Mr. Chair. I respectfully disagree with both of the other opposition parties. I think that we have to remember who is paying this fee. It's the energy industry that's paying this fee. They should have a say in the fee that they are paying, and to say that it's redundant, I think, is maybe a little bit of a misstatement. I'm sure that the energy companies who are going to be paying these fees and who are right now paying these fees on their own, when this bill comes into effect, will then have to be paying a different type of fee to a fund. Is it going to take the place of the fee that they're already paying? They're concerned, you know, about the dollars going out.

In any business we know that it's all about making a profit. If they're not going to be able to have a say in what's going out, that's not good business. There are many of us sitting here that are and were business owners, and the bottom line is, you know, you've got to watch what you're putting out and, hopefully, you take in more than you put out. I think it's very imperative that these oil companies have a say. You know, for a government to sit there and tell these oil companies, "Okay. You know what? Glad to have you in the province, but here's another fee that you're going to have to pay" without giving them any sort of consultation process – this can't be a dictatorship where you're dictating to these oil companies and gas companies and pipeline companies how much they're going to have to pay. They have to have a say in this whole procedure or it causes uncertainty.

As we see in this bill, the minister can make changes at any time and can decide how much the fee is going to be. That goes back to the uncertainty if they don't know from one year to the next or one month to the next or in a specific time how much they're going to pay. It's pretty tough to do your books and take on bigger projects if you're leaving it up to the whim of the government to decide on your behalf how much is coming off your bottom line.

So I do support this amendment. I hope that that maybe changes some minds. I doubt it, but . . .

The Chair: Are there others?

Mr. Mason: I just want to indicate that the documents we got indicated that the minister thought that about $70 million would be collected as part of the levy, but at present we understand – I think the Leader of the Official Opposition used these numbers, too – that industry is currently paying between $150 million and $200 million on consultation as it goes. I don't see how this is going to be completely onerous for industry if in fact the government has in mind a substantially lower amount of money. I hope that that is adequate. I doubt that it would be. I think it will remain the main point.

It's not that we want to gouge industry or allow the gouging of industry by others, but I also think . . . [interjection]

Ms Blakeman: Sorry. Keep going. You don't want to gouge.

The Chair: Please proceed, hon. member.

Mr. Mason: That's quite a concession on my part. I hope you know that.

Ms Blakeman: And it was delightful.

Mr. Mason: Okay.

I think the process envisaged in this amendment would disadvantage the First Nations significantly and would mean that they would have to negotiate short of what they actually needed for consultation and would thereby undermine the intention of the act. So I'm not going to support it.

The Chair: Thank you, hon. member.

The hon. minister.

Mr. Campbell: Thank you, Mr. Chair. I won't support this amendment for some of the reasons that the member talked about but for some other reasons also. First of all, I think it's important to understand that the Supreme Court has set a very high benchmark for consultation in this country, and as a provincial government we have to meet that standard. I can also say to you that in talking to First Nations and industry, the reason I worked through this whole process in the first place is that both First Nations and industry said they were not happy with the consultation process that was presently in place.

Also, Mr. Chair, I think it's also fair to say that this process has been going on for three years now. To suggest that we're rushing anything through – we've been at this process for three years and ministers before me.

Mr. Chair, I've talked to industry, and industry is worried about two things. They're worried about certainty, and they're worried about timeliness. They understand that they are on a world stage. So when you talk about our natural gas and our oil industry, they understand that they have an obligation to look after the landscape and treat the First Nations in a proper manner because the rest of

the world is watching. If it's Husky or Esso or Total, people are watching to see how they treat First Nations. That's why this consultation process is important. Industry gets that, and industry wants to do the right thing.

11:40

As I said before, we will sit down with industry and First Nations. We will talk about the levy, about what makes sense. Does it make sense, for example, for the levy to go project by project, or does it make sense that First Nations get so much money on a yearly basis? Even if we took $70 million, that's $3.5 million per First Nation in this province. That's a lot of money.

Now, again, some nations are different than other nations in the sense that, for example, with the nations that are involved in the oil sands, of course, you know, the consultation obligation is a lot more intense. The footprint is a lot bigger. So it's different than going and doing a gravel pit down in your riding, Member for Strathmore-Brooks, for example. Okay?

We are very conscious of industry's concerns. I've spent as much time with industry as I have with First Nations. I've met with CAPP. I've met with the Alberta Forest Products Association. I've met with the Coal Association of Canada. I've met with the geophysicists. I've met with the seismic guys. I've met with the pipeline guys. This isn't just oil and gas or just energy; this is all industry in the province.

I've met with the AAMD and C. I've met with the AUMA because they're neighbours in this process, especially out in your areas, out in the counties. You know, the reserves border the counties. In lots of cases we have very good neighbours, and they have a very good relationship working forward.

You know, I understand the depth and the complexities that we have to deal with on the landscape. I can say to you that we have spent as much time with industry as we have with First Nations, and I can say to you that I am very comfortable that industry wants to do the right thing. We'll get this process up and running, and I'm confident that at the end of the day we'll be doing the right things for all Albertans in this province moving forward.

The Chair: The Leader of the Opposition.

Ms Smith: Thank you, Mr. Chair. To answer the issue raised by the hon. Member for Edmonton-Highlands-Norwood, I think that the issue that we're seeing industry raise is that they're worried that the $70 million is not a replacement for the $150 million, but it's in addition to the $150 million. What they have observed in the industry is a number of different additional charges that came through in the course of the budget, and they're just now really beginning to grapple with the kind of impact that it's going to have. If you're not part of the consultation and you've got a government setting up a whole new bureaucracy and bureaucratic structure and you still end up having to pay the $150 million in consultation fees in addition to $70 million to support the government consultation process, that is, I think, what the industry is concerned about and why it is they want to part of it.

I recognize the concerns raised by the Member for Edmonton-Beverly-Clareview, that it might be perceived the other way, that it's actually going to see fewer dollars flow through to First Nations, which is why we think it needs to be entrenched in the legislation that the government is going to consult with both parties so that we have some certainty around it.

I'll just give one example. We haven't had an opportunity, unfortunately, to talk about this in the Legislature. This is an example, again, of how the government can make dramatic changes when they give themselves the power under regulation, where it gets no scrutiny by the Legislature and is just placed on industry and comes as a complete surprise. The licensee liability rating is just one example.

My father works for a company called Midlake oil, and . . . [interjections]

The Chair: Can we keep the noise down, please? The Leader of the Opposition has the floor.

Ms Smith: The government went through and changed the licensee liability rating unilaterally. For the next three years this small oil and gas company is now being charged an extra $2 million, that they're going to have to pay, because of the unilateral changes to the fee structure related to the licensee liability rating. This is the kind of thing that the industry is being hit with from all different sides, and it's the reason why they don't have trust in the government.

The minister says: "Just trust me; we'll figure it out. Trust me; we'll negotiate. Trust me; we're going to consult." The record, unfortunately, has not been very good so far of the industry getting proper consultation. They seem to consult at this sort of high level, sort of like the second reading level of consultation. "Do you support the concept of what we're going to do?" You can get all kinds of folks in agreement on the concept of what you're trying to do. I think even First Nations and energy companies would agree with the concept of this bill. Even we agree with the concept of what the bill is trying to do.

The problem is that if you're sloppy in the way the legislation is written and you give too much unilateral power to a minister to make decisions without oversight and without appeal and without requiring them to do an appropriate level of consultation with the parties who are all going to be impacted by it, you end up with a bad outcome. That's what we're worried about. That's why I again would urge members to support this amendment so that we can put some fences around this. The minister says that he wants to do this; he claims that he will do it. Well, if he's going to do it, then he shouldn't be so concerned about it actually being written into the letter of the legislation that he's actually mandated to do it. I think that's what the Assembly should support.

Thank you, Mr. Chair.

The Chair: Thank you, hon. leader.

Are there other speakers? The Member for Strathmore-Brooks.

Mr. Hale: Yeah. Back to the industry, I do believe that the hon. Minister of Aboriginal Relations has consulted with industry and that industry does get it. You know, they get Bill 2, the single regulator. They want that. I'm sure that they want some certainty dealing with the aboriginal peoples, but I think they want a voice in that certainty to ensure that they're being heard fairly and on a level playing field. The hon. Leader of the Opposition mentioned the LLR program. Well, industry now also is paying to fund the regulator. Where before the government in their budget funded the ERCB, now that funding is going directly to the energy industry.

It's all fine and good to say that, you know, industry will be consulted, and we'll take into account their ideas and their feelings – they all have feelings – and get some input from them. But I think it goes back to the legislation. If it's actually in there, in the legislation, then we know it's certain that it's going to happen. Just to say that we will do it is a lot different than actually having it written in law. Certainty is a big deal in all of our industries in Alberta and especially in the oil industry. Dealing with this bill would go a long way to show certainty and give them some clarity.

Thank you.

The Chair: Thank you.

Are there other speakers?

Seeing none, I'll call the question on amendment A10.

[The voice vote indicated that the motion on amendment A10 lost]

[Several members rose calling for a division. The division bell was rung at 11:47 p.m.]

[One minute having elapsed, the committee divided]

[Mr. Rogers in the chair]

For the motion:

Anglin	Hale	Smith
Donovan	McAllister	Stier
Fox	Saskiw	Towle

11:50

Against the motion:

Allen	Fawcett	Mason
Amery	Fenske	Oberle
Blakeman	Hughes	Olesen
Brown	Jansen	Olson
Campbell	Jeneroux	Quadri
Cao	Johnson, L.	Quest
Casey	Kennedy-Glans	Scott
Denis	Khan	VanderBurg
Dorward	Kubinec	Xiao
Drysdale	Lukaszuk	Young
Eggen		

Totals: For – 9 Against – 31

[Motion on amendment A10 lost]

The Chair: Back to the bill. The hon. leader.

Ms Smith: Thank you, Mr. Chair. This is the last amendment that I'll be putting forward this evening.

The Chair: This will be referred to as A11. Hon. leader, if you would send the copies around and send me the original, please.

Proceed, hon. leader.

Ms Smith: Thank you, Mr. Chair. I would like the minister to consider this like a get-out-of-jail-free amendment because if he passes this amendment, I think this will go a long way towards correcting some of the errors that were made in the hasty drafting of this legislation.

Let me start by actually commending the government on having taken this exact approach in their Metis Settlements Act, of which they're so very proud. The Metis Settlements Act is actually model legislation for other jurisdictions on how the province has managed to carve out a nation-to-nation, respectful, other order of government relationship with Métis while also respecting their rights under the Constitution. One of the linchpins as to why that relationship works goes to the process that the minister used when he was making amendments to the Metis Settlements Act through the Metis Settlements Amendment Act, 2013, and the fact that he had all of the chairmen of the Métis settlements here in support of the bill and the fact that he did not feel comfortable changing one word without proper consultation with the Métis leaders.

I think that he should be mindful of the reason why he has that level of trust and support. It's, I think, in large part due to language in the Metis Settlements Act that is very, very similar to the kind of language that I'm now going to propose that we pass and put into this legislation and, indeed, any legislation that deals with aboriginal consultation.

This is new ground for the province, to be legislating in this area of aboriginal consultation. There have been legal judgments that have given them the latitude to be able to do this. But why do it wrong when you can do it right? Why do it wrong this time when you did it right before? Why not build on some of the things that worked in the Metis Settlements Act and bring those same provisions into this and other subsequent legislation so that we can start on fresh, solid footing with First Nations communities in developing this new relationship?

With that context, I move that Bill 22, the Aboriginal Consultation Levy Act, be amended by adding the following after section 10:

> 10.1 Before introducing an amendment in the Assembly or making a regulation under section 10, the Minister must
>
> (a) provide First Nations and other identified aboriginal groups with notice in writing and a copy of the proposed regulation or amendment as the case may be, and
>
> (b) give due consideration to written suggestions about the regulation or amendment that are received from the First Nations and identified aboriginal groups within 45 days of the notice.

If the minister goes and has a look at his own Metis Settlements Act, he will see that this type of language is paralleled in that legislation, so that if there are any regulations that are passed that affect Métis under that act, they would give 45 days' notice plus they would give written notification of the regulations plus they would give due consideration to the input asked from First Nations.

I like the 45-day window. It's double the amount of time that the government is currently allowing for First Nations consultation, but it seems to work. Obviously, since they just did a major overhaul and major review of the Metis Settlements Act, if there was a problem with this 45-day provision, they would have already amended it in that legislation. Obviously, it's been tested in the 20-year relationship that the government has had, and it is something that has been demonstrated to actually create the foundation for a collaborative relationship, which is what I think they want to build with our First Nations communities.

It would seem to me very odd, I think, if our First Nations communities actually saw that there was more due consideration written into legislation for Métis than they're able to enjoy under legislation that impacts their rights because the Constitution section 35 acknowledges aboriginal rights for all aboriginal peoples, not just First Nation, not just Métis, but Inuit as well. We can't have legislation that is creating an unlevel playing field in what the expectation and duty of consultation is when regulations change.

As the Member for Lac La Biche-St. Paul-Two Hills pointed out, the minister has given himself more sections of latitude to be able to make regulations than we have sections under the act. We have sections for regulations going all the way from (a) down to (o), and the minister claims that all of this is going to be duly consulted, all of this is going to have First Nations input. Well, because we have seen that his first step into this area with this bill has not had adequate consultation, I just think that taking the trust-us approach is not going to work for the minister this time.

I think he can avoid a lot of misery over the summer and I think he can avoid having to go around the province putting out fires if he passes this provision, that makes it very clear that he's not just going to make regulations willy-nilly, that there is going to be a proper process. It's time limited, so that gives the certainty to the

industry that they're seeking. It's not that regulations are going to be out there being consulted upon forever. There's a provision in here that it would be time limited to 45 days, which is a reasonable amount of time to be able to get the input. It puts it on parity with the treatment that we have and the respect that we have for our Métis communities, and I think it could go a long way towards helping the minister make amends in some of the areas that have obviously been lacking through these last few days, as we have heard from so many chiefs.

This is a bit of a catch-all because it would apply to the vast bulk of the bill, the last half of the bill. The amendments that got voted down by the government I think would have improved the bill greatly, but if nothing else, if there are no other amendments to pass, this is the one, I think, that would give the First Nations communities the certainty they need. It would give industry the certainty that they need as well that things would be progressing along the time frame that the Minister of Energy wants, to be able to have it work in collaboration with his new single regulator. I just think that if you don't pass this amendment, I guess I would just have to wonder about the due diligence involved in passing this massive amount of new regulations.

I think that because we've heard the minister speak in such a casual way about what he thinks consultation looks like and we've heard from the First Nations communities that they don't think that the kind of consultation and casual way in which the minister has consulted are actually cutting it, we need to formalize this process. This is an amendment that would formalize the vast, vast majority of the rule-making that the minister wants to enable himself to do under this act.

12:00

I would urge other hon. members to support it so that we all can leave for the summer, go to our First Nations communities, say that we did our best to make sure that this legislation lives up to the spirit of what is intended in the Constitution, and have some confidence that the minister is actually going to undertake to do exactly what he said he was going to do and make sure that our First Nations consultation process gets off to a good start. There's no point in starting off a brand new relationship with a rocky start. I think this would go a long way towards making some of those amends, and I ask members to support it.

Thank you, Mr. Chair.

The Chair: The hon. Member for Rimbey-Rocky Mountain House-Sundre.

Mr. Anglin: Thank you, Mr. Chair. There are a couple of key words in this amendment that make it a valid amendment to support: in part 10.1(a), to provide notice in writing, and in part 10.1(b), "give due consideration to written suggestions . . . within 45 days of the notice," a very short form of reading the amendment. It makes sense. It provides clarity. It provides consistency with everything this government says that it intends to do.

With that, I do encourage my colleagues to support it and members across the aisle to look at this with an open mind and look at or at least consider the clarity. I'm seeing some shaking of some heads. To heck with the open minds. Maybe look at it with a tired mind, and give some consideration to why it makes sense to show First Nations that by putting this in, it gives them a little bit of confidence that you will do what you said you've always wanted to do.

With that, I thank my hon. leader for putting forth this amendment, and I ask my colleagues to support it. Thank you very much.

The Chair: Are there others to speak to this amendment?

Seeing none, I'll call the question.

[The voice vote indicated that the motion on amendment A11 lost]

[Several members rose calling for a division. The division bell was rung at 12:02 a.m.]

[One minute having elapsed, the committee divided]

[Mr. Rogers in the chair]

For the motion:

Anglin	Eggen	Saskiw
Blakeman	Hale	Smith
Donovan	McAllister	Towle

Against the motion:

Allen	Fenske	Oberle
Amery	Hughes	Olesen
Brown	Jansen	Olson
Campbell	Jeneroux	Quadri
Cao	Johnson, L.	Quest
Casey	Kennedy-Glans	Scott
Denis	Khan	VanderBurg
Dorward	Kubinec	Xiao
Drysdale	Lukaszuk	Young
Fawcett		

Totals: For – 9 Against – 28

[Motion on amendment A11 lost]

The Chair: Back to the bill.

Hon. Members: Question.

[The clauses of Bill 22 agreed to]

[Title and preamble agreed to]

The Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Chair: Opposed? That's carried.

Bill 26
Assurance for Students Act

The Chair: The hon. Member for Edmonton-Centre.

Ms Blakeman: Thanks very much, Mr. Chairman. Given the pace that this bill is going through, I thought I'd better take the opportunity to speak in Committee of the Whole because I may not get another one. I do appreciate the opportunity to do that.

Bill 26. Hmm. You see, I get to the title, and I just don't like this bill. Assurance for Students Act is one of those kind of spin-the-language titles that we get from this government. I would have called it the Whack the Teachers Bill. [interjection] Yeah. I know. It just doesn't strike me as being assurance for anybody in particular. I know that, you know, we're seeing the family divisions close here. We've got the Wildrose and the Conservatives in agreement on how to work with a collective bargaining process. I understand that, and I don't agree with you on that one.

How did we get into this position? We have the government, who wants to get a long-term agreement with teachers around compensation, workload – I'm just flipping through the different sections of it – professional development, lieu days, pilot projects, maintenance of collective agreement, teacher instruction time, et

cetera. I believe this document is available. Well, I certainly got hold of it, so I'm assuming it's been tabled.

You know, this government doesn't seem to really like collective bargaining and unions very much. It strikes me that they've almost picked fights with people, and part of the intended or unintended consequences of Bill 26 is to warn everybody else that's in a collective bargaining position from a public union to watch out, or they're going to get whacked, too. As funny as the Minister of Aboriginal Affairs and the Justice minister think my subtitle is, I think it's pretty accurate.

12:10

This government always wants to drive down wages, which I don't understand. I would have thought that we wanted to be closing the income gap between the really, really rich in this province and everybody else, yet I consistently see choices made by the government to drive down the earnings of regular working folks here. The determination to continually create underclasses or subclasses of workers that do more or less the same work but with a lot less training and for a lot less money: and we've seen that turn up in a number of different sectors, from health care to corrections and policing to social work and other sectors beyond that.

I keep thinking: doesn't the government do better – oh, maybe that's the trick. I was going to say: doesn't the government do better if a lot of people are working and earning a reasonable salary? Then they make more money from income tax. But you know what? That might be the problem. The government doesn't really bring as much in from income tax as it should because it's subsidizing itself with oil and gas revenues. Tsk, tsk, tsk. Shouldn't be doing that.

We have a situation where the government offered an agreement to both the school boards and the bargaining units of the Alberta Teachers' Association. I'm really interested in the ratification of the framework agreement that appears toward the end, part F.

> 3. This Framework Agreement is conditional on the ratification of this Framework Agreement by May 13, 2013 by all School Jurisdictions listed in Appendix A and their respective Association Bargaining Units.

Okay. That's the set-up.

One would assume that the government is looking for unanimity from everyone, that they're all going to agree to this so that they don't have to deal with exceptions except that they spend an extraordinary amount of time in this agreement talking about an exceptions committee, about how if you really can't afford this, they'll try and help you.

We do have, I think, three different groups – we've got the Calgary board of education, which is one of the ASBA groups, and two bargaining units that I'm aware of – that have voted against the agreement. Now, this is where government language and kind of Trixie Belden stuff starts to happen. Sorry. I'm using somebody else's phrase there. But it is that kind of tricky language. In the preamble, which is not enforceable and actually doesn't appear in the statute after the bill has been ratified, one of the whereases partway in says, "Whereas a significant majority of ATA Bargaining Units voted in favour of ratifying the Framework Agreement." The next one: "Whereas a significant majority of the members of the ASBA voted in favour of ratifying the Framework Agreement," and then it goes on.

I'm thinking: yeah; not really true. By a simple majority? Correct. But if we look at the effect of the Calgary board of education not agreeing to this, that's a very large percentage of people that are not agreeing. It is not taking into consideration and, I think, not being honest – in other words, being devious – about the consideration of the size of the Calgary board of education, the size of the budget for the Calgary board of education, the number of staff that are affected, the population that's served. It's a solid 30 per cent. Twenty per cent of the students in the province are affected by the Calgary board of education, and I believe 30 to 35 per cent of, you know, total budget, total staff, total population, and all the rest of those considerations is right in that area there. So no. I'm just not buying this simple majority stuff. It makes it all sound too – I believe that it's not recognizing the complexity of it but also the reasons behind it.

I have to commend the Calgary board of education, which is not known for being a pink-tie-wearing, radical group of people. They're pretty conservative. Yeah. Well, you know, you are on that side. [interjection] Okay. They're pretty conservative, and they're not – oh, not pink. No. [interjection]

Mr. Anglin: They just cheered the election in B.C.

Ms Blakeman: Those are not Liberals. They're Conservatives in disguise. Sorry.

The Chair: If we could just stay on the bill, hon. member. Thank you. I'd really appreciate it.

Ms Blakeman: Okay. They have goaded me, Mr. Chair, into talking about the results of the B.C. election. A number of people here are quite overjoyed that the Liberals have won. I, too, would be overjoyed, but, honestly, they're not Liberals; they're Conservatives. So we have both the Conservatives and the Wildrose rejoicing because the Conservatives have won in B.C. Having clarified that, I'll move on. Thank you very much, Mr. Chair.

I want to commend the Calgary board of education, who, I will point out again, are not exactly radical people, for stepping out and saying, "No, we will not sign this" because of, I think, two reasons that I've been able to find backup for. One is that the amount of money is not nailed down about how much reducing the teachers' workload is actually going to cost and what it's specifically meant to be. You know, I think they're right to not sign an agreement in which that is left up to the future. Secondly, once again the government is forcing a group of people into accepting an agreement which includes increases for staff that are built in as a result of a collective bargaining process or grid increases or, you know, whatever the agreement is that's in place, but the government is clearly not providing the money that goes with it.

Now, this government collects education property taxes, which in my time in this Assembly used to be requisitioned by the school board for how much money they needed. The government collected it and handed it over to the various school boards, and off they went. Then the government in their wisdom under Premier Klein said: "No, no. There's too much discrepancy. We've got rich schools and poor schools in Alberta. We will redistribute the money."

So the government started to collect all of the education property tax and supposedly redistributed it. You know what? It wasn't even set aside in a separate fund. It just went straight into general revenue. So it got a little hard to track there about how much redistribution was actually happening. It wasn't kept in a separate account at all. So we have the government now collecting Education's money and then kind of doling it out to them again, you know, like good little children or bad little children, in which

case they probably didn't get the amount of money they were hoping for.

Now we have government agreeing to salary increases and what's under the workload. The teachers are requesting a workload reduction with no price tag on it, but the school boards are expected to pick up the tab, whatever it is. I think the Calgary board of education was right in saying no. I'm going to respect the collective bargaining process on the teachers' side, but – okay; they agreed to it. I'll stay out of that one. Stay out of it, Laurie.

In their own agreement they say that everybody has to decide, or it's off. Well, everybody didn't decide, so the effect of that has been for the government to bring in a bill and put it through very quickly. Again, I'm going to point out a pattern that I see with this government. They leave the big, heavy-duty, tough, controversial bills to the last couple of days, bring them in, use all kinds of obscure clauses, and use their majority to move the bills through very quickly.

12:20

You know, for people to be able to respond to this bill, for the public to respond, even the other people that are involved in it, boy, you'd have to be right on top of it and put everything else on your desk aside in order to be able to concentrate on responding to this because it's going through quickly. It came into the Assembly yesterday or today, and there was a special motion to allow it that is rarely used. I can't remember that section ever being used before. It's section 77(2), I think, that allows the government to move a bill through more than one stage in a day.

Standing Order 77(1) says, "Every Bill shall receive 3 separate readings on different days before being passed." That's the rule we operate under. Now, here's the exception. Government always gets to win because, one, they've got a majority, but, two, they have the responsibility of making sure stuff actually moves along and gets done, so they always get the bias in their favour from parliamentary process. But they need to respect the fact that that's built in there for them and not abuse it. I would argue this is abuse of it.

Standing Order 77(2) says:

> On urgent or extraordinary occasions . . .

Okay. So is what's happening here urgent or extraordinary? I'm going to say no to both of those, but I'll come back to that.

> . . . a Bill may receive second and third reading or advance 2 or more stages in one day.

For people following along at home, a stage of a bill is the reading, so it's first, second, and third. Committee of the Whole is not a stage. So on any given day you can have the government move a bill through, say, second and Committee of the Whole or Committee of the Whole and third. That's fine. That can happen with nothing special happening. But to move it from first to second and now to committee in one day is extraordinary. That's what's extraordinary about this, not the fact that the government believes that the events that have led to this bill are extraordinary and need to be addressed in this manner.

Urgent. I fail to see how this is urgent, that it's so urgent that it has to go through in essentially a day and a half. You know, third reading for an opposition the size that we have is just a matter of time. If everybody speaks once, and that's what they're allowed to do, then you're just counting down the time. Each one gets 15 minutes. At a certain point you've run through the 25 of us, and that's it. It's done. It's just a matter of waiting. You don't have to do anything extra, although I'll bet the government does.

What is the all-hellfire-burning hurry here? We're supposed to be in session until June 6. Well, I think that's a fantasy. I bet we're going to be out of here before Thursday. More specifically, what is the all-hellfire-burning hurry in Bill 26? You know, we've got a new school year that's happening in September. Once again, the government gets to set very short timelines for people that they're dealing with, but they get to spend years on stuff. We just had Bill 22, where Treaty 6, I think, pointed out that in one of their agreements the government took eight months to respond to a framework that they had put forward, but the government imposed a 30-day response on that same group. We're seeing that here. The government gets all of the time that it wants, but there's a very short period of time for the group to respond.

I don't think this is urgent. Yes, we're looking for stability for teachers. Yes, we're looking for stability. Yeah, yeah, yeah. Well, you know, this is not civil unrest. We're not at war. We don't have any kind of crisis happening here. What's the big hurry? Why can't the government go back and deal with this? Clearly, there is a problem. You can try and minimize it by using simple majorities. Fine. That's just disguising the fact there's a problem, and I think it should be addressed.

I don't like the fact that the government is disrespecting a group of people who are trying to stick to their budget. I've looked through the budget documents of the Calgary board of education. They're saying: "That's it. We're using up all of our reserves. We're pinching pennies everywhere. We've reduced the administrative budget." They can't go any lower or they won't have any administration, never mind librarians or anything else useful in a school, yet they keep putting requirements on the school that will make use of those same administrative staff that they're not allowed to have now.

Extraordinary. Well, this government has a long record of really bad relationships with public unions, so what's extraordinary about this one? I mean, when was it – 10 days ago, a week ago? – that they were in a big battle with the correctional officers? Before that it was with the teachers. None of this is extraordinary for this government. They just don't like working people. They certainly don't like collective bargaining. They don't like unions. This is not an extraordinary happening with this bill, and I am really unhappy about the government using this process to force this through.

Now, having said that, I have to admit that I am at odds with the Liberal critic who is in charge of this portfolio. But, you know, I'm the one here tonight, and more than half of this is showing up.

An Hon. Member: Free votes.

Ms Blakeman: Yeah. Actually, our caucus does a lot of free votes.

But I want to put on the record, so that I don't dis my colleague the Member for Calgary-Buffalo, who is our chosen critic for Education, that he has come out in favour of this bill. He is speaking in favour of stability. He's willing to go forward on that. I'm the one that showed up, so that's how I'm going to be voting.

Thank you.

The Chair: Are there any other speakers?

Hon. Members: Question.

The Chair: Question has been called.

[The clauses of Bill 26 agreed to]

[Title and preamble agreed to]

The Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Chair: Opposed? That's carried.

Private Bills
Committee of the Whole

Bill Pr. 2
Wild Rose Agricultural Producers Amendment Act, 2013

The Chair: The hon. Member for Calgary-Glenmore.

Ms L. Johnson: My apologies. I have an amendment to the bill.

The Chair: I thought you might, hon. member. If you'll just take a minute, hon. member, we'll circulate the amendment.

Ms L. Johnson: My apologies to the House. The table officers are circulating the amendment now.

The Chair: The amendment is coming around. Hon. member, would you speak to the amendment, please.

12:30

Ms L. Johnson: I move that Bill Pr. 2, Wild Rose Agricultural Producers Amendment Act, 2013, be amended as follows:

The following is added after section 7. Section 8, section 18 is repealed and the following is substituted:

> Filings with Registrar of Corporations
>
> 18(1) The Business Corporations Act and the Companies Act shall not apply to this corporation except the disclosure and filing obligations set forth in this section.
>
> (2) Within 30 days of the coming into force of this Act, the corporation shall file with the Registrar of Corporations
>
> (a) a list of the directors and officers of the corporation and their addresses,
>
> (b) a notice of the address of its registered office, and
>
> (c) a copy of its bylaws.
>
> (3) Commencing January 1, 2014, the corporation shall, once in each calendar year, file with the Registrar a copy of its annual financial statements.
>
> (4) Within 30 days after a change is made to any of the items outlined in subsection (2), the corporation shall file with the Registrar a notice setting out the change.

The Chair: Hon. members, this is amendment A1.

Any questions or comments on the amendment? The hon. Member for Edmonton-Centre.

Ms Blakeman: Yes. Why? Why doesn't this organization under the Wild Rose Agricultural Producers Amendment Act have to adhere to the requirements of the Business Corporations Act and the Companies Act? I'd like to know why it's set aside or exempted if you can tell us that.

I mean, clearly, you're still trying to address what is usually required by the Business Corporations Act and/or the Companies Act if you're looking for part 9, I'm assuming, the filing of who is in charge with the directors and officers and their addresses, where important documents are kept, a copy of its constitution and bylaws, and then the requirement that henceforth they have to file that information once a year or, well, update if it changes 30 days after any change is done. All the regular stuff is in here.

Why don't you want it to come under either one of those? I'm assuming it's also not coming under the Societies Act. Do you want to answer that for me?

The Chair: Are there any other questions or comments?

Hon. Members: Question.

The Chair: Seeing none, the question has been called.

[Motion on amendment A1 carried]

The Chair: On the bill.

Hon. Members: Question.

The Chair: The question has been called.

[The remaining clauses of Bill Pr. 2 agreed to]

[Title and preamble agreed to]

The Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Chair: Opposed? That is carried.

Bill Pr. 1
Church of Jesus Christ of Latter-day Saints in Canada Act

The Chair: The hon. Member for Edmonton-Gold Bar.

Mr. Dorward: Thank you, Mr. Chair. This bill was reviewed by the Standing Committee on Private Bills, and the committee recommended that the bill proceed with some amendments. I move that Bill Pr. 1, Church of Jesus Christ of Latter-day Saints in Canada Act, be amended as follows. I understand the chair has copies to distribute.

The Chair: They're coming around in just a moment, hon. members. This will be amendment A1.

Mr. Dorward: Mr. Chair, may I proceed?

The Chair: Please proceed, hon. member.

Mr. Dorward: Thank you. There are three parts to this amendment, all as a result of discussions with Service Alberta, all agreed to by the proponents and by the committee.

The first one is that section 15 is struck. There was no need to have section 15, the liabilities section. It's replaced with a new section, which previously was dealt with in section 19, which is also struck. Section 15 now deals with dissolution and is a little bit more elaborate than the information that was in section 19 previously. However, it lines up quite well with the situation in the Business Corporations Act of Alberta. I've dealt with two, then. Section 15 is struck, the new dissolution wording is there, and section 19 is struck.

The other one. Service Alberta didn't like the words "for greater certainty, upon" at the start of section 18. Therefore, we have changed that and substituted just the word "upon" rather than "for greater certainty, upon."

Mr. Chair, those are the amendments.

The Chair: Speakers to the amendment?

Seeing none, I'll call the question.

[Motion on amendment A1 carried]

The Chair: Now back to the bill as amended.

Hon. Members: Question.

The Chair: The question has been called.

[The remaining clauses of Bill Pr. 1 agreed to]

[Title and preamble agreed to]

The Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Chair: Opposed? That is carried.
The hon. Deputy Government House Leader.

Mr. Campbell: Mr. Chair, I'd move that the committee rise and report.

[Motion carried]

[The Deputy Speaker in the chair]

The Deputy Speaker: The hon. Member for Calgary-East.

Mr. Amery: Thank you, Mr. Speaker. The Committee of the Whole has had under consideration certain bills. The committee reports the following bills: Bill 22, Bill 26. The committee reports the following bills with some amendments: Bill Pr. 1, Bill Pr. 2. I wish to table copies of all amendments considered by Committee of the Whole on this date for the official records of the Assembly.

The Deputy Speaker: Does the House concur in the report?

Hon. Members: Concur.

The Deputy Speaker: Opposed? That is carried.
The hon. Deputy Government House Leader.

Mr. Campbell: Thank you, Mr. Speaker. Seeing the time, I'd say that we adjourn until 1:30 tomorrow afternoon.

[Motion carried; the Assembly adjourned at 12:38 a.m. on Wednesday to 1:30 p.m.]

Table of Contents

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