

[Chairman: Mr. Stiles]

[8:35 a.m.]

MR. CHAIRMAN: Could we call the committee to order, please? The only item on the agenda this morning is Bill Pr. 10, the Westcastle Development Authority Act. The sponsor of this Bill is Mr. Gogo. Unfortunately, as he's the chairman of AADAC and has an AADAC meeting this morning, he cannot be with us. Mr. Gogo is not actually a member of the Private Bills Committee, but he is the sponsor of this Bill. Each private Bill that is introduced in the Legislature must have a sponsor, and Mr. Gogo is considered the sponsor of this Bill. He will receive a copy of the Hansard of this meeting and will keep track that way.

The proceedings in the Private Bills Committee are more or less informal. We don't ask you to stand when you're speaking, or anything of that sort; you can sit in your position. The format is that we'll ask you to make an opening statement as to the purpose and the object of the Bill, basically what it will accomplish, and then committee members will ask questions of the proponents of the Bill. The same thing applies to the intervenors. We'll ask the intervenors to make their opening remarks, and then the committee will ask questions of them.

The witnesses who are going to give evidence must be sworn, and I'll ask Mr. Clegg to do that at this time.

[Messrs. Friesen, Judd, Haavardsrud, Pharis, and Teran, and Mrs. Pharis were sworn in]

MR. CHAIRMAN: Thank you, Mr. Clegg. Perhaps you could give us your report on the Bill.

MR. CLEGG: Mr. Chairman, this is my report on Bill Pr. 10, Westcastle Development Authority Act, pursuant to Standing Orders. This Bill is a petition of Pincher Creek and Pincher Creek municipal district No. 9 to create a development authority to operate Westcastle Park. The Bill does not contain any provisions which I consider to be unusual in connection with the proposed purpose of the Bill, and there is no model Bill on this subject.

MR. CHAIRMAN: Thank you. Mr. Hudson, perhaps you'd like to give us the background and

purpose of this Bill.

MR. HUDSON: Mr. Chairman, I believe Mayor Teran wishes to describe the town of Pincher Creek's involvement in this particular development. Following that, Reeve Pharis wishes to describe the MD's role in this development Act.

MR. TERAN: Very briefly, Mr. Chairman, the position of the town in this matter is that we have been working towards developing a viable alternative for our economy for about 10 years. We got involved with rescuing the ski hill after it burned down. We turned it into a municipal park, in partnership with MD No. 9. We have always felt that we have to provide an alternative for our economy, that we have to build from our strengths, and our strengths have to be renewable resources such as tourism. We have had serious downturns in the economy. Some of the gas wells have run dry, and we know what could happen to our children and grandchildren in years to come. We are in the position where we can do something about it. The purpose of this Bill is to allow us to do precisely that.

We do not intend and have never intended to be in the business of skiing, but we have always thought of ourselves as being the catalyst causing something to happen, which I think is the proper role of municipal governments, or any other government for that matter. We have worked, we have dreamed, and it has come now to having a vehicle to allow us to do what we think is right for the area. Over the years we have had the support of the citizens of Pincher Creek. Most people have agreed with us on council, that it is a wise thing to think of the future.

That briefly is our position and involvement in this matter. Thank you.

MR. CHAIRMAN: Thank you, Mayor Teran.

MR. PHARIS: Mr. Chairman, I endorse what Mayor Teran has said. Getting down to the actual reason for this Bill, since 1978 the town of Pincher Creek and the municipal district of Pincher Creek have operated this as a partnership, just an agreement. We believe the time has now come, regardless of whether there's any further development, whether or not

anything happens there at all, when this should be set up as a co-operation and, shall we say, a little distance put between the municipal governments and the actual operation of it, for a number of reasons: for limitations of liability, to give the co-operation some independence of action. The partnership arrangement makes it a bit awkward in some of our dealings, whereas a co-operation would be much better.

The municipal district of Pincher Creek became involved in this almost reluctantly, I would say, in 1978. The involvement came about because of a great deal of pressure from local citizens, residents of the MD, to preserve what was considered a valuable asset for the district. To indicate their good faith in the development, local businesses and residents of the MD and the town raised \$110,000 and contributed that to the town and the MD to make the thing go. The town and the MD purchased the original assets for \$50,000, although they were worth considerably more than that, probably 10 times that amount. The original \$50,000 was paid back to the town and the MD after the first year of operation, I believe.

I'm not going to go into all the details. That's a brief outline of where it started and why we believe we need some formalization of the arrangement at this time.

MR. CHAIRMAN: Thank you, Mr. Pharis. Mr. Hudson, do you have anything to add?

MR. HUDSON: Mr. Haavardsrud, I believe, will speak to that, Mr. Chairman.

MR. HAAVARDSRUD: Mr. Chairman, I should perhaps explain my role. I'm the chairman of the committee that manages the Westcastle ski hill right now on behalf of the town and the MD. The committee is made up of local residents, seven of us. The document you have gives a little bit more detail on the historical background that Hilton just referred to, about a page and a half. There is another page of recent operating statistics that gives you some indication of the service the ski hill has provided to the area: the number of skier-days, which compare favourably with other major ski areas in Alberta; the involvement of southern Alberta schools in the skier program, roughly 5,000 student skier-days during each of the past

two winters we operated; the number of total skier-days, in the 30,000 range. The hill has produced a net profit of about \$76,000 in each of the last two operating years. It employs 33 full-time and 17 part-time people during the winter season. So even at the present time it has quite a significance to Pincher Creek and area.

The next section deals very briefly with the proposed expansion background. There are attachments, basically in the form of three letters that we think are important: a letter that has a good deal of content from Travel Alberta, when they announced the release of the Marshall Macklin Monaghan study; a letter from the Hon. Don Sparrow to the town and the MD of Pincher Creek indicating approval of the preliminary disclosure for expansion; and a letter from improvement district No. 6 indicating their support of development in the Westcastle area. The last paragraph on the proposed expansion background says:

The primary objective of the proposed corporation is to promote and facilitate the development of Westcastle Park by the private sector.

The Bill is really required to provide the town and the MD with a more certain legal entity when they're dealing with the province and with developers than the loose partnership arrangement that exists now and, as Hilton referred to, is quite awkward.

My primary role here will be to answer any questions you may have on the existing operation.

Thank you very much.

MR. CHAIRMAN: Thank you, Mr. Haavardsrud. Mr. Hudson, anything else?

MR. HUDSON: No, sir.

MR. CHAIRMAN: Mr. Friesen, would you like to outline your position, please?

MR. FRIESEN: Hon. members, our organization is a residents' organization for accountable representation. I live at Cowley and am the spokesman for this organization. The ratepayers -- that's district ratepayers; this has nothing to do with the town of Pincher Creek -- became alarmed when loans to operate Westcastle ski hill totalled \$228,000. That's \$114,000 from each MD.

The agreement governing the Westcastle operation, under bylaw 698, reads as follows:

It shall be the objective of the Management Authority to ensure that Westcastle Park is a self-sustaining program financially, and that money from municipal revenues need not be diverted to Westcastle Park. Short term operational financing may be advanced to the Management Authority, by either Municipality, with the approval of both municipalities.

When we became alarmed, we took a petition with some 30 signatures of rural ratepayers and presented it to council. Another organization of ratepayers from the Beaver Mines area took a petition that consisted of some 118 ratepayers, and that was also presented to council. Both petitions were rejected. We felt that in order to submit a proper petition, we would have to do so under the municipal Act. Our organization went through the different wards in the municipality, obtained 359 signatures, and submitted them to the administrator of the municipality.

On November 13 my wife and I attended a council meeting with regard to our petition. We were advised that because the request of the petitioners was unclear and possibly invalid, it was almost impossible to draft the requested bylaw; however, council planned to develop a policy regarding Westcastle Park, which would be publicized and presented at a public meeting of electors. We suggested the possibility of holding a referendum or a vote on the question in lieu of proceeding under section 125 of the municipal Act. They suggested that holding such a referendum in February 1985 would be a reasonable time frame.

One of the duties of the administrator is to express the legality of such a petition. At the council meeting of November 13 he expressed the opinion that if the sufficiency of the petition was questioned in a court of law, a judge would find the petition to be insufficient because the requirements of section 6 of the Municipal Government Act had not been strictly followed. However, and I want to stress this, he did not recommend that the petition be rejected for this reason.

Following this, on December 11, I received a letter from the administrator, Mr. Ken Phillips, and he stated as follows:

With reference to a petition received

from David Friesen with regard to Westcastle Park I wish to report that I have examined the petition and sought legal advice as to the sufficiency and validity of the petition.

The petition contained 359 signatures. I have determined that the petition is not sufficient for the following reasons:

1. None of the persons who witnessed signatures swore an affidavit before a Commissioner for Oaths, Notary Public, or Justice of the Peace as required by Section 6(1)(a) of the Municipal Government Act.

2. None of the petitioners showed their municipal address opposite their signature as required by Section 6(1)(b) of the Municipal Government Act.

We put their normal post office address. However, they required the land description of the quarter we live on.

3. The effect of the by-law proposed in the petition would be to amend or suspend the agreement signed pursuant to By-Law No. 698 as it relates to operational financing. Accordingly, pursuant to Section 125 1.1 of the M.G.A., such a petition has no effect unless it is received by Council within 60 days of the day in which the existing by-law was passed, which in this case was October 10, 1978.

Council held an information meeting on March 12, which we attended. At that time Bill Pr. 10, which had been submitted to the Legislature for consideration, was brought forward and discussed. We suggested that the taxpayers would be best served if Bill Pr. 10 were amended to include a section giving the taxpayers a say or a vote on the matter before any moneys were made available to the development corporation.

Our amendments read as follows:

AMENDMENT No. 1 In the definition portion of Bill PR 10, under Section 2, add sub-section (k) "Proprietary elector" as it is defined in Part 1 Interpretation (1)(u) of the Municipal Government Act.

AMENDMENT No. 2 Add Section 6 (1) to read as follows:

Without the approval of:

(a) the proprietary electors of the Municipal District of Pincher Creek No. 9, by way of a plebiscite;

(b) the proprietary electors of the Town of Pincher Creek, by way of a plebiscite;

(1) each plebiscite to be held independent of the other

the Authority shall not be eligible to receive any municipal Funds in the form of:

(1) Grants, MCR Grants or Recreation Grants

(2) Loans

(3) Gifts

(4) Loan guarantees
or

(5) Municipal tax dollars from the Councils of the Municipal District of Pincher Creek No. 9 or the Town of Pincher Creek.

In essence, we want to ensure that no municipal tax dollars, in any form, be made available to the development authority without a vote. All we have ever asked for is a vote on how our tax dollars are being spent; nothing more, nothing less.

Also, a new bylaw 773 was formulated after the information meeting. At that information meeting I requested that our amendments be considered to be placed in Bill Pr. 10. Near the end of the meeting, I could see that we weren't getting anywhere, so I advised the members of council and Mr. Haavardsrud that I was writing to Mr. Stiles, chairman of the Private Bills Committee, to intervene. In view of that, we believe that bylaw 773 was formulated. This bylaw, which has had second reading, restricts the expenditure of public funds on Westcastle development to \$400,000 -- \$200,000 from each MD -- but places no limit on loan guarantees, gifts, or the like that may be made available by either the MD or the town of Pincher Creek.

Bill Pr. 10 also fails to place a limit on loan guarantees, gifts, or the like that may be made available to the authority by the principals. Given Westcastle's dismal history of bankruptcy and continuing financial losses, it is highly unlikely that financial institutions would be willing to provide funding for the proposed resort without firm guarantees from the MD and the town.

Ratepayers in the MD now have bylaw 698, which sets no limit on money that may be made available to Westcastle. Proposed bylaw 773,

which has had second reading, makes up to \$200,000 available to the corporation from each MD. Bill Pr. 10 appears to rural ratepayers to be specifically designed to permit their tax dollars to be illegally funnelled into a resort corporation. Bill Pr. 10 also fails to include the legal mechanism necessary to allow the principals to recover tax dollars once they are in the hands of the corporation. Bill Pr. 10 is not distanced from either council. Bill Pr. 10 provides that the mayor and the reeve plus two councillors and two elected members serve on this authority board. It's not distanced.

Residents of the MD have made repeated requests to the council of MD No. 9 for a vote on the issue. I stress again that that's all we want. If the ratepayers vote for it, our opposition ceases, but council has refused to consider a plebiscite or referendum and continues to commit further tax dollars to the project. Creating a four-seasons recreational resort using public funds is a most extraordinary use of tax dollars, and in our opinion should not take place without the approval, by plebiscite, of the proprietary electors.

It is our contention that the local democratic process has been bypassed by MD No. 9 and that the provincial Legislature must now take steps, by approving our proposed amendments, to protect the taxpayers' interests. This is the reason for our intervention. We have the greatest regard for law and order and the democratic process. We believe our amendments will guarantee that the rights of taxpayers will be honoured and the system of free enterprise preserved.

Members of our organization have a further concern which we would like the committee to consider. Bill Pr. 10 allows the corporation control over some 1,600 acres of Crown land in improvement district No. 6 which we understand will be leased or deeded to the principals and may subsequently be sold. Once this precedent has been established, other municipalities in Alberta would be in a position to apply for Crown land and could rightfully expect to have sections of the Eastern Slopes made available to them under the same terms. We believe that in this respect Bill Pr. 10 will establish a policy that will adversely affect both present and future generations of Albertans. Our heritage of land should not be lightly tossed aside.

Although the provincial government has

given approval in principle to the project, the implications of such legislation are frightening. Therefore, our organization begs the committee to delay passage of Bill Pr. 10 until the long-range effects of this Bill have been studied in detail.

With regard to the development corporation and both MDs, I refer to a letter from Mr. Tom Forgrave, Assistant Deputy Minister of Municipal Affairs. This is dated September 10, 1984, and is directed to Mr. Phillips, the administrator. I'm reading the first paragraph, and it states:

I have reviewed the position paper and other information supplied on the proposed development of Westcastle Park. The Municipal Government Act does not provide authority for municipalities to become major shareholders of any corporation to develop and operate the proposed recreation facility, nor does it provide authority for an order in council approving it.

Ladies and gentlemen, I ask members to consider our intervention most seriously. I think you have an obligation to the taxpayers, and we beg your consideration in this regard. Thank you.

MR. CHAIRMAN: Thank you, Mr. Friesen. Mrs. Pharis, do either you or Mr. Judd wish to say something?

MRS. PHARIS: Thank you, Mr. Chairman. I think we both do.

I am here today representing the Alberta Wilderness Association. My association has had a long-standing interest in the Southcastle area. It's one of the areas we proposed in 1973 before the then Environment Conservation Authority public hearings on the Eastern Slopes. We've continued our interest in the area; we've continued to develop our proposal for the area.

In regard to the development before us, I think I can say that my association is certainly in sympathy with the people of Pincher Creek for wanting to broaden their economic base, but we would not like to see that base broadened at the expense of our public lands. My basic concern here today is the extent of the development and the precedent it will set if this municipal district is given, *carte blanche*, a block of our inheritance along the Eastern

Slopes.

I know the new 1984 Eastern Slopes policy no longer gives guidance regarding trust in our public lands. Although this was a priority -- and I must stress "priority" -- in the 1977 Eastern Slopes policy, this was deleted from the new policy. I must say that during the 1973 hearings on the Eastern Slopes, one of the major concerns brought forward was that our public lands along the Eastern Slopes be kept in trust for future generations. As I said, we fear the precedent that will be set. The 1984 Eastern Slopes policy is open-ended; there's no limit on the amount of land that may be applied for on the Eastern Slopes. If this development on public lands is allowed to go ahead, if our public lands on the Eastern Slopes are sold, we fear that we will be forever alienated from them. This includes not only my generation but all those to follow.

Another concern of ours is strictly with the Bill. It seems deliberately broad. There's no definition of the land we're talking about: no delineation, no size discussed. We're left up in the air regarding just how much land we are talking about. We're rather suspicious because we see in the latest draft document for integrated resource planning for the area that a large facility zone has just recently been placed into the Westcastle area. That facility zone does not follow the boundaries of the present Westcastle Park: it's much enlarged; it looks like about 1,600 acres. If we're talking about this much land, I think it is of major concern.

Also, there is no discussion in the Bill of how the environment will be treated should this development go ahead. We're talking about a thin-soiled subalpine area. Sewage would be a major problem. There's no discussion of how this is going to be dealt with. We're also talking about a subalpine area right next to an alpine zone. As I said, the numbers of people that could be in the area should the development go ahead could really be detrimental to the environment, and we would like to see a lot more discussion of how such a development could go ahead.

We would definitely not like to see the land sold; we would like to see it remain in public trust. My association is not against leasing land in the area, but we are certainly against lands being sold.

Thank you.

MR. CHAIRMAN: Thank you, Mrs. Pharis. Mr. Judd?

MR. JUDD: Most of my comments will follow what Vivian said. We're particularly concerned about this Bill granting the authority the right to sell land which is presently held by the Crown, and we believe the Eastern Slopes land within the forest reserve should continue to be held by the Crown for the people of Alberta.

Another concern of ours is that part of this Bill uses the term Westcastle Park. As far as we're aware, such a park does not now exist, yet nowhere in the Bill is Westcastle Park defined as to size, location, or land use nor are any development objectives described in this Bill. We believe that the Bill should adequately define and describe Westcastle Park. In its present form the Bill sets up an authority to administer something that doesn't exist. Our group and other citizens cannot adequately respond to this Bill unless we know what Westcastle Park entails: what area it is, where it's located, and what development is going to occur there.

At present there is no section in the Bill which requires an assessment of the environmental impact of the development, nor is there any indication that the authority in its actions is subject to any Alberta government departments or legislation other than certain sections of the municipal Act. Since the development, depending on its nature and extent, may have a large impact on adjacent land, fish and wildlife, water quality, and other land users, including other recreationists, we believe environmental impact assessment and environmental controls are essential before development occurs. We believe further that provincial government involvement at the start and ongoing is essential to maintain the environmental quality of the region and that the Bill should specify how this is going to be accomplished.

Some other sections of the Bill, subsections 4(b), (f), and (k), grant sweeping powers to the authority. It can buy, sell, or lease any property, buy or sell any goods, and do anything else it wants. These sections should be tightened so they're realistic.

Section 12 of this Bill should specify that the annual meeting of the authority be open to the public. This would afford users of adjoining Crown lands and others an opportunity to place

their concerns before the authority.
Thank you.

MR. CHAIRMAN: Thank you, Mr. Judd.

Mr. Clegg, one or two points have been raised that I might ask you to clarify for the benefit of members of the committee and other persons present. There is a suggestion that Westcastle Park is not defined in the Bill as presented. Would you clarify that?

MR. CLEGG: Mr. Chairman, there is a definition of the park in section 1(k). It is a definition which leaves open the opportunity for additional lands. There is a definition there, but in some ways it could be said that the total compass of the park in the future is not determined at this point. However, the petitioners have suggested that the definition should not only cover the lands which are presently described in those two leases, which are definite lands, but also any future lands which may be leased by the province to the authority. To that extent, the extent of the park will be under the control of the province, because it can only contain those lands which are described in those two leases plus any other lands transferred or leased by the province. So the definition is not final and determined at this point in time, but it is within the control of the minister.

MR. CHAIRMAN: Thank you. I wonder if you would perhaps address the other question that was raised, the matter that the proposed Act would give power to the authority to sell public land held by the Crown. I'm curious to know if that power is actually in the Bill.

MR. CLEGG: The land described in section 1(k) is at the moment only leased land, and therefore there would be no power for anybody to sell it because it's still owned by the Crown. If at some future time further land is leased to the authority, it would still only be leased and would still be owned by the Crown. Therefore, there would be no power to sell or transfer it, and any power to sublease it would be within the terms and limitations in the Crown lease. If the province chose to grant lands to the authority, then the authority would have the power to sell those lands unless there was some covenant placed on the grant. So the possibility of the authority selling land in the future would

only arise if the government of the province decided to give land to the authority and did not restrict disposition of it. To that extent, there is a theoretical possibility of the authority being able to sell land, but its capability remains within the control of the province. In other words, it could only sell land if it was given land with the power to sell it. That would be a matter of ministerial decision by the province of Alberta.

Mr. Chairman, I'd like to mention one other point for clarification. It should be noted that although the authority is given specific powers within this Bill, it will be subject to the general laws of the province. The fact that the authority is given the power to develop the park does not mean to say it can do so without compliance with the Planning Act and various other land use legislation in the province. It may be that some concern expressed by some of the intervenors of the manner in which it will be developed arises from an assumption that this Bill would short-circuit and cut out the other provisions of the general law. But the general law of the province also applies to the authority, except where it is specifically exempted. To put it in simplest terms, there is nothing here which says they do not have to get planning permission for what they're going to do.

MR. CHAIRMAN: Thank you, Mr. Clegg.

MR. THOMPSON: As far as I can see, all this Bill does is create a legal entity. The intervenors may have very valid concerns, but as far as the authority itself is concerned, they will have to deal with the province and the different departments, comply with provincial law and policy and everything else. I'm asking you the question, Mr. Chairman: does the Bill not just basically set up a legal entity?

MR. CHAIRMAN: That is correct. In fact, if you look at section 2, "There is hereby created a body corporate"; that is essentially what the Bill does. It creates a corporate body which then creates a legal entity which can go on with the development of this particular recreation park. The powers of that corporate entity are then set out in the Bill.

MR. THOMPSON: That's the way I understood it, Mr. Chairman. Basically, the body of the

Bill sets up the mechanism of how this thing is operated, but it basically creates a legal entity which, after it has been created, has the ability to deal with government as a legal entity. Therefore, it does not give them any more or less power than any individual or corporation in the province.

MR. CHAIRMAN: That's essentially correct.

MR. CLEGG: That's correct, Mr. Chairman.

MR. ALGER: Mr. Chairman, this is a terrible map. For one thing, I wonder what range and township we're in. Could any member of the panel describe it to me? Are we talking about this big section or this little part here? What is the reason for the inset? Could I get a legal description of the land? Even the township and range would help quite a bit. I think I can figure the rest out.

MR. HAAVARDSRUD: The inset area is the land covered under the existing lease and licences of occupation. The large area is the maximum area defined in the Marshall Macklin Monaghan study that would be suitable for leasing. The size has quite a bit to do with providing a buffer zone, a protection area for line-of-sight, so there wouldn't be logging and that sort of thing. That by no means says that would be the size of the lease. It's simply the maximum they've set out in their study. It's the only parameter we have at this time, because there is no specific development proposal or plan at the present time.

If I may just confirm what Mr. Clegg was saying. There's nothing in the Bill that confers any land rights to the authority. When a specific proposal is put forth by a developer, the developer will of course have to do an environmental impact assessment study and go through all the Public Lands requirements before any lease or anything like that would be granted. At this time, we don't have any proposal whatsoever in front of us.

The purpose of this authority is to attempt to create a climate that would attract a private developer to develop that area. At that time we would have to weigh the quality and appropriateness of the proposal and the scope of a potential lease.

MR. ALGER: Mr. Chairman, and the township

and ranges, please?

MR. HAAVARDSRUD: I'm sorry; I don't have that. Would you do that, please, Hilton?

MR. PHARIS: I'm not exactly sure -- I don't have the figures in front of me -- but it's approximately township 6, range 3, west of the 5th meridian.

MR. BATIUK: Mr. Chairman, I can sympathize and agree to some extent with both the proposers and the intervenors. However, a concern has been mentioned to preserve the heritage, which is all right, but my area was a heritage to the natives for several hundred years before the British and the white men came and broke up the land. I'm glad they did, because they're providing plenty of food for a hungry world. Because the topography in the Pincher Creek area is such that that cannot be done, maybe a contribution should be made in that area. When we look at agriculture as the second largest industry in the province and tourism as the third, maybe that area of the province could also make a contribution, like other areas of the province. If we're looking at heritage, I can't see that it's really being taken away to such a great extent.

MR. CHAIRMAN: Would you like to say something, Mrs. Pharis? Go ahead.

MRS. PHARIS: May I make a comment on that, please? I know that in 1975 our provincial business development and tourism department, in consultation with ski industry consultants in the area, took a look at the Westcastle ski area for viability of expansion, et cetera. This study concluded that it was highly improbable that any amount of additional capital investment would allow the ski area to operate at a profit. Only if there were superior physical features and natural resources would profitability be possible. It is not felt that this combination exists at Westcastle or on Haig Ridge. In this Bill before us, I feel the word "sell", which is there over and over and over -- I don't know if I can request that it be deleted or what -- is really key to this whole issue. We're talking about selling public lands. That's the only way this development is going to be viable. That's my concern.

MR. BRADLEY: On the point Mrs. Pharis brought forward, is the Wilderness Association aware of the most recent study, which was done by Marshall Macklin Monaghan, looking at the potential for development in that area in terms of financial viability, et cetera?

MRS. PHARIS: If that's a more recent development than 1975, we're not aware, but we'd like to have that. Would you make it available to us?

MR. BRADLEY: That study was made public by the Minister of Tourism and Small Business in Lethbridge, I believe, in 1982. It's a public document. It's been well circulated in the southern part of the province. It was put forward at a meeting of some 500 interested citizens of southern Alberta at a meeting in Lethbridge.

MRS. PHARIS: Are you saying that it contradicts the '75 assessment?

MR. BRADLEY: It's a recent more assessment in terms of the viability and future of potential development of the specific area.

MR. SZWENDER: Mr. Chairman, I have two questions. My first one, to any of the petitioners. During Mr. Friesen's presentation, he said their objection would end if the issue went to a plebiscite, because of the use of taxpayers' dollars. I was wondering what discussions have taken place in turning this over to a plebiscite? Is it still being considered?

MR. PHARIS: Mr. Chairman, this business of a plebiscite has been a contentious local issue for the last six months. When the first petitions came, council rejected them partly because they attacked a bylaw that was six years old. We had gone through two municipal elections, and the issue had never been raised at election time. In consultation with the people who developed the petitions, it was decided to develop a policy that the municipal district of Pincher Creek would have toward this. The eventual development of that policy came out in bylaw 773, which has been alluded to here.

On March 12 an information meeting on Westcastle was held in Pincher Creek. Input from the public was considered by council and helped develop bylaw 773. At that meeting

council served notice that the policy would be developed and presented to the public at an annual meeting two weeks from that date. In the intervening two weeks bylaw 773 was developed and, we believe, incorporated some of the concerns of the citizens. At the annual meeting on March 26 when first reading of the bylaw had been given, it was presented to the public. The impression of council was that it was well received. The ratepayers approved it 2 to 1: 2 for, 1 against.

Since then, I and other members of the public have had calls from people who had previously opposed the situation, saying that they have had a complete turnaround. One in particular, Mr. Terry Yagos, signed the back of the petition, not the petition itself but as one who was gathering it. He said he has had a complete turnaround of his feelings toward it, and he now approved of the situation. We believe we have the public behind us.

Saying that, I have cautioned council that there is no way anything can go ahead unless we are sure we have the public behind us. When bylaw 773 is given third reading, there will be ample time for ratepayers to express their opinions to council. At that time, council will not be adverse to going to a referendum. But until then we really had very little -- we didn't know what we were going for a referendum on. The first petition basically asked that we completely withdraw from the thing. The next one attacked a bylaw that was six years old. We thought we had agreement of the people who were concerned. From the meetings we've had, we think we do have agreement. However, it may well have to go to a referendum at some time in the future.

MR. TERAN: If I may just add something to that. I suggested in several public meetings that those issues were really not to be addressed in this Bill. We have a municipal Act with provisions for agreements we have to have with the MD. The local bylaw should cover that. I don't think our council and I would ever go for any type of legislation that sets out at the beginning that you have to have a referendum every time you want to spend any money. You wouldn't approve it. That would be a very crippling thing for democracy.

MR. CHAIRMAN: Mr. Friesen, you wanted to say something?

MR. FRIESEN: Yes. Regarding the remarks of the mayor, we became aware of the scope of the expansion of Westcastle Park when the integrated plan dated February 19, 1984, was released. This is when we became concerned. If the petitioners feel they have the consensus of the ratepayers, they should be more than happy to go along with our suggestions of the amendments that we wish to put in Bill Pr. 10. All we want is a simple democratic vote -- no more, no less.

MR. CHAIRMAN: Thank you. Mr. Hudson, did you want to make a comment on this?

MR. HUDSON: Mr. Chairman, for the benefit of the members, I have a certified copy of the bylaw that's been referred to as bylaw 773 of the MD of Pincher Creek No. 9, setting out the limitation of liability of \$100,000 to the MD, support for the private member's Bill, with the view to limiting liability and developing scenarios for private investment and with the ultimate aim of divesting itself of the need for public support. I propose at this time, sir, to tender that to you. As I said, it has been certified by the municipal secretary as being the bylaw that has received two readings at this point.

MR. CHAIRMAN: Thank you. We'll circulate that to the committee members.

MR. SZWENDER: I guess my second question could be answered by yourself or Mr. Clegg. In the municipal Act, our municipalities or counties are not permitted to hold shares in development corporations? Is that correct? Is there any way Bill Pr. 10 is in violation of that?

MR. CLEGG: Mr. Chairman, Bill Pr. 10 provides and permits the council and the municipal district to do something which they cannot presently do under the Municipal Government Act. Without this Bill they could not do it. The Bill itself, as the member puts it, is in violation of the Act, but it provides for a different procedure. It permits the municipality and the district to do something they could not do under the Act, and that is why they've had to come with the Bill. The provision of this Bill will effectively provide an exemption for them in this particular case.

MR. HYLAND: The Member for Edmonton Belmont asked one of my questions in his last question. I guess my second question is: what this Bill does that much different from a couple or three Bills we've passed for the city of Edmonton and their various authorities?

MR. CLEGG: Mr. Chairman, they're essentially the same in that they permit a municipality to do something they're not otherwise permitted to do. There's a similar principle in the Bill.

MR. HYLAND: My second question is just to be sure of sections 5(a) and (b). Even though those two sections are in the Bill, it's really not the authority that makes a decision whether Crown land is sold or not; it's the minister or this Legislature that makes that decision. Is that right? Even though it's in the Bill, it's totally out of their hands. They have no authority to sell it unless it's agreed to or given to them at a higher level of government?

MR. CLEGG: Mr. Chairman, that is correct. Unless land had been directly deeded to the authority by the Crown without restriction, they couldn't sell it. This provision of the Bill merely gives them the power to sell any land they have the power to sell. At present, they don't have the power to sell anything because the land they have is under lease. Therefore, it would essentially be the decision of the Crown, the province, as to whether they acquired any land they could sell. If the authority purchased land freehold, it could then sell land freehold. The land the authority appears to be interested in is all Crown land anyway. So the only way it could acquire land it could sell would be in the unlikely event that the minister recommended that the Crown should give them land with the power to sell it; in other words, transfer complete title. The present policy for recreational land is that it is leased by the Crown to developers and operators. But as the member said, that would be a matter within the control of the government, not within the control of the authority.

MR. LYSONS: First, I'd like to say how pleased I am to see that we have a town and a municipal district working so well together for a common cause. It's a treat to see this happen. We're a little more used to the other side of it.

I'd like to point out to Mr. Judd — I

understood you to say that you understood that they could buy and sell land without consent, but if you read 5 carefully, it says, "Without the approval of the Councils the Authority shall not . . ." In other words, the authority can't do a number of things without the approval of the councils. That is, "Sell real property designated for recreational use", and on it goes. So if you were to read section 5 carefully, it may help you with your problem on it.

In regard to Mr. Friesen, under section 3 of bylaw 773

the accumulated total of advances to the Corporation under this section shall not exceed \$100,000.00 in the Municipal District of Pincher Creek No. 9.

So if this is passed, that would perhaps help you with your problem of worrying about a nonending drain on municipal finances. It looks like a reasonable figure to me, but as was pointed out by the mayor, if we had incorporated into this Bill your amendment, where they would have to go to a borrowing resolution or plebiscite each and every time they wanted to do something, it would really be impossible to function as a body, an authority.

MR. GURNETT: Mr. Chairman, I'd just like to ask the petitioners if they could confirm something that certainly sounds like a bit of a concern to me. That was a statement a little earlier that while we're being asked to look at this Bill and the Legislature to approve it, there are, in fact, no existing studies in any detail, no proposal that concretely indicates what would happen in the future; for example, some of the environmental questions that have been raised by the intervenors. There is no detailed investigation of what this development would be, what directions it would take, what its economic viability is, or the related environmental issues. I'm concerned that it seems like the situation is being gone about backwards. In other words, this Bill should come with that kind of supportive work behind it rather than the Bill first being approved and none of that other work being there.

MR. HAAVARDSRUD: I'd like to again refer to the Marshall Macklin Monaghan study that was commissioned by Travel Alberta in 1981 and completed in 1982. That set out four different scenarios of potential or possible development, including the financial viability of each one.

They ranged from the first scenario of simply upgrading the existing Gravenstafel Ridge facility that we're on right now. The second scenario went on to Haig Ridge, with one chair lift and a day lodge. Scenario 3 was larger, with some on-site accommodation. Scenario 4 was a very large development of international significance. That study is really the basis for recognizing that there is a development potential at Westcastle that is viable and should be followed up on. It was that study that encouraged us to really carry on in our quest to find a developer. This Bill really enhances our ability to do that.

As I said, we can certainly provide you with copies of that study. They're here in the Travel Alberta office.

MR. GURNETT: Mr. Chairman, without taking time right now to look at the study, although I certainly think it would be good to see it in detail, my question is whether you can indicate if any of those four scenarios would potentially involve sale of some of the land involved in the development.

MR. HAAVARDSRUD: At that time, no. The sale of land wasn't anticipated in that study. The matter of the sale of land came up in the response to the preliminary disclosure; you have a copy of the letter in the handout I provided. The intention there is to make land available for sale for areas that are to be intensely developed at the base area. In my own personal view, without having any sort of proposal in front of us, that would probably be a very small area. It's not the intention to sell any of the areas to be developed for recreational use. But I can't give you a number, because we don't have a firm proposal by anybody in front of us. Just using your own judgment, you might think what a base area would look like, with some townhouse and condominium development, a restaurant, a lodge, and that sort of thing.

MR. GURNETT: Mr. Chairman, I'd also like to ask the petitioners and perhaps Mr. Clegg as well about section 7 of the proposed Bill and the composition of the authority. I have some concern about subsection (g) and the intentions behind it, the necessity for it, and whether there are any limitations on those up to four additional persons that are referred to.

MR. HUDSON: If I may respond, I believe that particular section came at my suggestion. There may well be people living in the improvement district -- I'm advised there aren't people living immediately adjacent to this particular site -- who want a say as to what is happening in their particular district. Subsection (g) would permit the councils, by joint resolution, to appoint them to the authority. It may also give people outside the immediate area a role on the authority if their role would be productive to the good management of this particular development, whatever it might become. It was a design to give the authority some flexibility to co-opt into it people that could serve the authority, the limitation being that they'd be residents of the province of Alberta. That person may be in Edmonton but has some unique skills.

MR. GURNETT: Before Mr. Clegg perhaps responds to that as well, is there anything that would legally prevent some of those four people potentially being representatives of corporations that were involved in developing the facility?

MR. HUDSON: If I might respond, Mr. Chairman, I don't believe there is anything to prohibit it. It may very well be unlikely that the respective municipalities would want someone on their board dealing with the municipality's interests in that close a relationship, but conceptually it is possible.

MR. CLEGG: I don't have anything to add to that, Mr. Chairman. It's certainly possible to appoint any resident of Alberta.

MR. CHAIRMAN: The hon. Member for Cypress on that point.

MR. HYLAND: Mr. Pharis had his hand up. He wanted to respond.

MR. CHAIRMAN: Did Mr. Hudson deal with it, Mr. Pharis, or did you want to add something?

MR. PHARIS: My question is to you, Mr. Chairman. Would not the general rules of conflict of interest make it unlikely or impossible for a person who was a developer to be on a municipally appointed board or authority that handled that? I understand that

those rules would be in place under the Municipal Government Act.

MR. CHAIRMAN: Mr. Clegg, if you'd like to address that?

MR. CLEGG: All I can say on that point, Mr. Chairman, is that it would probably make it difficult for that person to vote on a number of occasions. I don't think it would actually make it impossible for him to hold that position. It would make it unlikely, and it would probably disqualify such a person from voting on a number of important issues.

MR. CHAIRMAN: The hon. Member for Camrose.

MR. STROMBERG: My question has been been answered.

MR. FRIESEN: With regard to subsection (g), with four additional members together with two members of the authority, there is a possibility that council could lose control.

MR. LYSONS: In answer to that question, in section 10:

The provisions of sections 29, 30 and 31 of the Municipal Government Act, applying to members of the council of a municipality shall apply mutatis mutandis to the members of the Authority.

As I understand it, that would exclude them from sitting on the council and having an interest in it. Right?

MR. CHAIRMAN: It would have an effect on their capacity.

MR. CLEGG: On voting, yes.

MR. OMAN: Mr. Chairman, just a comment with regard to the relativity, I guess, of some of our discussion to the Bill before us. It's not that I have not found a good deal of the discussion enlightening. But if I am correct, it seems to me it should be clarified that most of the issues we have talked about this morning are not really issues that are to be dealt with in the arena of discussion on the Bill. It seems to me that the Bill has to do only with the formation of an authority that will handle these issues in relationship to the local councils and, say, the

provincial government's Department of the Environment. I hope that the intervenors, as the case may be, understand that that's where their arguments should be made and will be worked out.

Other than that, I don't see that this authority is really any different from many authorities we have dealt with. I think that point has been made up, and the arguments that have been made against the development are not necessarily arguments against the authority as such. If I'm mistaken on that, I'd like to be corrected, but as I see it, that's the case.

MR. CHAIRMAN: I would say that's essentially correct. The authority is the vehicle which will allow these two municipalities to have a body which can deal with these issues. As it stands at the moment, they're operating on a partnership basis, and it makes it awkward for them. The authority would give them the legal entity which could then deal with these various issues: the question of whether there's economic feasibility, the question of environmental impact, and all the relationships they would be involved in in dealing with the provincial government and other entities.

MR. OMAN: As I understand it, Mr. Chairman, it does not take away from the local authority at all. In other words, the local council or whatever still has the decision-making aspect of forming the authority, financing, and whatever. I don't think we're taking anything away from the local jurisdictions, are we?

MR. CHAIRMAN: I would see no reduction of their powers by any means.

MR. BRADLEY: Mr. Chairman, I want to ask the petitioners what other support, if any, their development has had in the past from surrounding communities in southern Alberta.

MR. TERAN: Perhaps I'll respond to that like this. As I mentioned earlier, this has been a quest for almost 10 years. We've acquired support from many municipalities. We had a lot of moral support, letters and that sort of thing. We had very substantial support from the town of Fort Macleod when they diverted \$60,000, I believe, from the major recreation grants to enhance the facility at Westcastle.

We have made a school program available to

southern Alberta, and it has been used extensively. They have very reasonably priced programs, and we've had quite a few schools from many areas in southern Alberta -- Lethbridge, Bow Island, Taber, and many, many places -- that have developed ski programs during the school year. We have enjoyed a good relationship with the city of Lethbridge. The city solicitor is here helping us with passage of this Bill.

I don't think that area is strictly a local Pincher Creek MD issue. I think it is a very significant part of the lives of many, many people in southern Alberta. We have had very good monetary and moral support from many people. The fund-raising that Mr. Pharis referred to wasn't just in the area. For instance, many, many people from Lethbridge contributed.

MR. CHAIRMAN: Thank you Mayor Teran.

MR. PHARIS: I am presently chairman of the Oldman River Regional Planning Commission, representing something over 40 municipal governments in southwestern Alberta. My belief is that they would unanimously support us in setting up this Bill and also in the development of it, providing of course that the proper safeguards are built in.

MR. CHAIRMAN: Thank you, Mr. Pharis. Mrs. Pharis, I believe you wanted to get in a few moments ago in response to Mr. Oman's comments.

MRS. PHARIS: Yes, thanks. By way of support I might say that on our side, opposing the establishment of this authority, we also have the full body of the Fish & Game Association, 28,000 members who've given us a letter of their support to bring along.

I might just add to Mr. Bradley that I now recall the study he's talking about. As far as I can recall, all that study did was lay out four possible scenarios that developments could take. I don't recall a good economic analysis going along with each of those possible scenarios. I could be wrong on that, but I don't think so.

Once again, I'm sorry to harp on the sale of lands, but the specific reason I'm here is that I feel setting up this authority is going to set a precedent. The specific reason for this Bill, as I

see it, is to set the wheels rolling to take over and sell public lands. I know that Mr. Haavardsrud, for example, is quoted in the April 22 Edmonton Journal as saying that the sale and development for accommodation and commercial development is essential for the success of this resort. That's the crux of my concern over this authority.

MR. GURNETT: Mr. Chairman, I want to respond in part to some of the comments of the Member for Calgary North Hill. I suggest that while the specific intention of the Bill as he described it is accurate, in fact it's completely necessary and reasonable to look at some of the potential that Bill gives to the authority that would be created by the Bill. It's important not to diminish the importance of those considerations and for us as a committee to end up feeling that these kinds of things, because of the unlikelihood that's claimed or their remoteness in time, are irrelevant to considering whether or not we should establish an authority. By this Act the authority would have the potential, the power, to do these kinds of things. That certainly has to be part of our consideration in deciding how to respond to the Bill.

Related to the potential for land sales, I'd like to ask the petitioners a question that comes out of that. Since we've agreed, as Mr. Clegg said, that the government could provide the land to the authority with the power to sell the land, would there then be any control whatsoever by the authority or any other party over the land once the authority sold it and it became removed one more step and was in the hands of private holders?

MR. CHAIRMAN: Perhaps Mr. Clegg might address the implications with respect to sale of public land by the Crown in response to that question first.

MR. CLEGG: Mr. Chairman, as the member said, if the land is granted or sold to the authority by the Crown, the authority will then have the power to sell it. The use of the land will still be subject to provincial law. The manner in which the land is used by any subsequent purchaser will be subject to planning and environmental legislation. Essentially, the point about this Bill is that it does not give any power to use any particular land in any

particular way, nor to deal with it. It gives the legal power if that power arises from some other source. All the power to sell land or to use or develop it has yet to be granted to the authority by departments of government. It is therefore those decisions which will determine how the area is developed and not anything in this Bill.

MR. NELSON: Mr. Chairman, first of all, I was going to basically make a comment similar to Mr. Clegg's. I think we're jumping to some conclusions that I don't really think we should be jumping to at this point. The other thing I want to say is that I have a lot of faith in our elected people at the municipal level. Having been there once myself, I think that generally speaking they act responsibly to their electors. If the community at large is not supportive of the activities they are pursuing on behalf of those communities, I think they will find that out at an appropriate time.

At the same time, though, Mr. Chairman, in dealing with this particular type of Bill, there is no intention or suggestion that I can see of anybody selling lands or anything of that nature for the public good. Quite frankly, I think the local people have to be given some confidence in their jurisdictional abilities to deal with their communities at large rather than our seemingly going away from the intent of this Bill.

MR. CHAIRMAN: I should point out that this Chamber is only ours until 10 o'clock, at which time another committee has the use of the Chamber. I would ask you to please be brief in your comments in consideration of the time we have left.

Mr. Friesen, you wanted to say something a few moments ago.

MR. FRIESEN: Yes, sir. There was public input on the integrated plan, and the final summary has been issued. In total 332 people attended public forums, 21 local ranchers, and a total of 30 briefs were submitted on the integrated plan. In the summary of comments on page 7 with regard to Westcastle Park four-season resort development:

the majority of comments received on this subject rejected the draft plan's accommodation for four-season resort development at Westcastle Park. Sale of public land or expansion of the existing

lease at Westcastle Park was a primary concern at the Crowsnest Pass public forums. Concern was strongly expressed that traditional opportunities would be seriously disrupted because of the environmental impact associated with large-scale commercial development.

Thank you, sir.

MR. HYLAND: On the point that was discussed, unless I misunderstand the proposed Bill, all the authority does is recommend. It's the councils of the two municipalities that decide what leases go. If the land is in their possession to sell, isn't it the councils that decide that and not the authority?

MR. CHAIRMAN: That's correct, pursuant to section 5, which was mentioned earlier.

MR. CHAIRMAN: I believe we've run out of time in any event, but if there aren't any further questions from members, I'd like to thank the petitioners and the intervenors for appearing before the committee and providing us with the information, background, and concerns on the Bill. The committee will be dealing further with the Bill in camera, in a closed session, on a future date, and we'll notify you accordingly in due course.

Thank you very much.

MR. HARLE: Mr. Chairman, I move that we adjourn.

MR. CHAIRMAN: It's been moved that we adjourn. Are we agreed?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: The motion is carried.

[The committee adjourned at 10 a.m.]