

Standing Committee on Private Bills

10:10 a.m.

[Chairman: Mrs. Black]

MADAM CHAIRMAN: Committee members, I'd like to welcome you again this morning to Private Bills. I want to apologize for our delay; the previous committee stayed in the Chamber a little longer than anticipated. We're now ready to go. I presume you've all received your agenda for the meeting today. This morning we will be dealing with Bill Pr. 7, Bill Pr. 8, and Bill Pr. 10.

[Messrs. Saunderson, Miskuski, and Iwanicki were sworn in]

MADAM CHAIRMAN: I'd ask that we deal first with Bill Pr. 7, the Medicine Hat Community Foundation Act. This morning I'd like to welcome representatives from the Medicine Hat community: Mr. Donald Saunderson, Mr. Barry Miskuski, and Henry Iwanicki. I'd like to welcome you to our Private Bills Committee. We are an all-party committee of the Legislature. The format we usually use is that petitioners, who have filed petitions for private Bills according to our Standing Orders, come forward to the committee and have a discussion and present their case for their private Bill. We usually start with opening comments, and then the committee will ask you questions pertaining to your Bill. At a later date the committee will deliberate the findings of the Bill, and we will then report back to the Legislative Assembly as a committee with recommendations as to whether your Bill should proceed or not proceed. It's a very interesting process, and our committee looks forward to your presentation today.

I'd ask Parliamentary Counsel if the members have been sworn in.

MR. RITTER: Yes, Madam Chairman.

MADAM CHAIRMAN: Are there any model Bills available?

MR. RITTER: No, there have been no model Bills that duplicate the terms of this incorporation, being rather unique. Otherwise, it generally follows the standard that has been adopted by other community foundations of this type.

MADAM CHAIRMAN: I am correct that Standing Orders have been complied with?

MR. RITTER: Yes, they have, Madam Chairman.

MADAM CHAIRMAN: Thank you very much.

At this time I'd ask Mr. Miskuski if he would like to make some opening comments.

MR. MISKUSKI: Thank you, Madam Chairman. First of all, Heather, I have some background material here which I was told to give you, but I neglected to do so until now.

Madam Chairman, my name is Barry Miskuski. I'm solicitor for the petitioners in connection with this application. May it please you, the petitioners of Bill Pr. 7 have made application for the passage of an enactment to establish a Medicine Hat foundation, being a charitable foundation for the purpose of administering charitable funds entrusted to it for the purposes of charities -- educational, recreational, and cultural endeavours -- that will assist and promote the well-being of all mankind and primarily the inhabitants of the city of Medicine Hat and community.

Madam Chairman, with the assistance of Heather, I circulated to the members of the committee a background information and

material brief, four pages of large type, so we should be able to dispense with some of the things. Suffice to say that Medicine Hat is a city of 43,000 people in the southeastern corner of the province. The Medicine Hat community would include an area which is bounded by the Saskatchewan border on the east, by the United States border on the south, and by various landmarks, which are referred to in the background report, on the west and the north. To the north, of course, there is the Suffield range and the Red Deer River.

The Medicine Hat rural areas that are represented include Walsh, Irvine, Bow Island, Manyberries, Suffield, Jenner, Hilda, Schuler, and Empress. Not to be forgotten, of course, is the town of Brooks, which is the centre generally frequented by the hon. member Tom Musgrove, who is the sponsor of this Bill.

The purpose, Madam Chairman, was perhaps seeing what was happening, and with great success, in other communities such as Lethbridge, Calgary, and Edmonton, where individuals wishing to benefit their community, long-standing citizens, may by inter vivos or testamentary gifts bequest sums of money for charitable purposes. Oftentimes that particular objective was not met in the city of Medicine Hat and community. Most notably, recently our Mayor Harry Veiner passed after spending well over half a century serving the community of Medicine Hat, and we could well, I think, have benefited his charitable intentions if a foundation had been in place at that time.

We have, as usual, our pioneer rancher John Ignatius, a close acquaintance of Mr. Musgrove's from the Jenner area and also from the Medicine Hat area, to thank for getting things under way. Much study had been made of the Medicine Hat foundation establishment through connections with Lethbridge, but until Mr. Ignatius got involved, we really didn't know the extent to which we all agreed upon the subject.

Madam Chairman, it is a fairly standard piece of legislation. After discussing the matter at length with your Chief Parliamentary Counsel, Mr. Ritter, we have, it seems to me, touched upon the essence of the corporation, which is of course its powers and the manner in which the board of 15 members shall be established. In that respect it is noteworthy to point out that the committee of nominators, the people who nominate one-third of the board each year for a three-year term, are the mayor of Medicine Hat, a senior judge of the Provincial Court, the president of the Medicine Hat Chamber of Commerce, and the president of the Medicine Hat and District Trades and Labour Council. Those four individuals are very enthusiastic and were at every meeting we had with the exception of the president of the Medicine Hat and District Trades and Labour Council, who was asked to be excused because he had duties which took place at the time of our meeting. So we have, I think, an enthusiastic group. Medicine Hat, as usual, had pretty sound representation from all walks of life. There was no difficulty in having agreement as to the nature of the Bill and the terms of the Bill itself.

We have, Madam Chairman, in the course of the Act provided for the appointment of honorary directors and, of course, the appointment of a custodian to take care of and provide for the investment of funds received by the foundation. There is also provision for the board to make resolutions which will resolve the matter of operation of the board and, of course, the revocation and appointment of a custodian or investment manager.

In all, Madam Chairman, we believe that the donations which will be received can be administered successfully for the benefit of Medicine Hat and community. It is noteworthy also that we have already received a pledge of \$25,000 from Mr. Ignatius' sister in connection with this particular fund. We anticipate the Medicine Hat foundation to be a very successful endeavour.

Madam Chairman, those are my brief remarks. Mr. Don Saunderson and Mr. Hank Iwanicki are the petitioners delegation who are accompanying me to the House today. I think that if there are any questions in relation to the substance of the statute I will be available. Otherwise, my friends can answer any questions concerning the Medicine Hat background.

MADAM CHAIRMAN: Thank you very much for your opening comments. At this time I'd like to turn to the committee. We do have some questions from some of our committee members.

We'd like to first go to Ms Laing.

MS M. LAING: Yes. I'd like to look at Objects, section 4. I notice that it says:

will . . . most effectively . . . encourage and promote the well being of Mankind . . . regardless of race, national origin, colour or religion.

I'm wondering if this is just tradition or whether in fact there is a reason for gender not being included, as not being a category to be protected is discrimination.

MR. SAUNDERSON: I'd have to respond that there was no reason except tradition and that certainly it's understood that both genders are important members of society. In fact, on our preliminary list of suggested directors for our foundation there are several women, two or three of whom I am absolutely positive will be directors.

10:20

MS M. LAING: Would you be agreeable to including gender as a protected category then?

MR. SAUNDERSON: We have no objection to that amendment whatsoever. It's just an oversight perhaps.

MS M. LAING: Yeah, I assume that. Okay; thank you.

MADAM CHAIRMAN: Mr. Bruseker.

MR. BRUSEKER: Thank you, Madam Chairman. I have first perhaps a question to Parliamentary Counsel. I'm unfamiliar with the term "inter vivos." There's a mention of that term in the backgrounder. I'm wondering what that means.

MR. RITTER: Madam Chairman, I'll leave that question for the solicitor for the petitioners. I'm sure he's much more familiar with the term than I am in his context.

MR. MISKUSKI: Madam Chairman and member of the committee, inter vivos means a gift during the life of the person as opposed to a gift of a testamentary nature, which is a gift that takes effect on death.

MR. BRUSEKER: Thank you. On page 3 your foundation serves to serve all the area. I noticed that you talked about real estate. Since Medicine Hat really serves as a centre for a larger community, as you pointed out, if you received a gift of, say, some ranch land outside of Medicine Hat community, I'm wondering how you would deal with that. Would you then sell that and use the money for Medicine Hat city, or would you try to develop a park? Have you considered that?

MR. MISKUSKI: Well, Madam Chairman, through to the member of the committee, the manner in which you treat a gift depends firstly upon the conditions attached to the donation, the donor's testamentary wishes. If there were no conditions attached to it,

unless they were going to use the ranch for some charitable purpose, then it would be incumbent on the board to seek out the highest value and create something and manage it in a fashion which would bring the highest return to the foundation. It is certainly something which the board would deliberate on.

MADAM CHAIRMAN: Mr. Tannas.

MR. TANNAS: Thank you, Madam Chairman. I see that under section 9 on page 4 you've got 15 residents in the Medicine Hat community nominated and appointed by the committee. Do you have a minimum or maximum for out of town and a minimum or maximum for in the city?

MR. SAUNDERSON: No, we don't.

MR. TANNAS: So theoretically they could all be from the city or, presumably, all from the country?

MR. SAUNDERSON: Theoretically, yes. But we have a long history of that not happening in Medicine Hat, as evidenced by the stampede board, the hospital board, all these sorts of things. We're very conscious of the need for that kind of representation.

MR. IWANICKI: If I may interject, several of our proposed members on the initial board are rural people, farmer/ranchers.

MR. McEACHERN: I just have a couple of questions. Why did you choose to go the private Bill route as opposed to, say, going under either the Societies Act or the Business Corporations Act? I can't remember just what stage things are at between the nonprofit associations or foundations and which Act they would have to work under now, because there have been some recent proposed changes. Is there a reason why you didn't choose to just register under one of those Acts rather than doing the private Bill? Maybe I can get that question answered first. I have a second question. Do you want me to put them both on the floor? Okay.

MR. MISKUSKI: Well, Madam Chairman, through to the member of the committee, the private Bill procedure eliminates a lot of perhaps unnecessary reporting and perhaps some strictures which are associated with establishing a permanence which is not there with a private Bill. We have really done very little examination of the reasons why to do this except that the Edmonton, Calgary, and Lethbridge foundations are all enacted by private Bill, and we followed suit. Certainly permanence is one of the things; reporting is another. I suppose there's a long list of reasons why the private Bill is favoured.

MR. IWANICKI: Let me interject. In our conversations with the Lethbridge board members, they only indicated this particular type of procedure. They were certainly all happy with it, so we didn't see any need to investigate any other avenues.

MADAM CHAIRMAN: Your second question, Mr. McEachern.

MR. McEACHERN: I want to comment on that answer. I hope that the part about not wanting to report isn't a very important part of that answer. It does seem to me that if you're going to be a public foundation or a private foundation, whichever way you want to regard yourselves, nonetheless you have a responsibility to the whole community and surely will want to report annually to the community in some way what's happening in the community. It certainly is the

public's business in a sense, or at least the people of Medicine Hat and area's public business.

The other thing I might point out is that in order to change this Act, then, if you find there are some things in it that aren't as convenient as they might be or aren't quite the way you would like to have them, you do have to come back to this body and specifically ask to have them changed again, whereas under those other two Acts you probably would have some flexibility. So I'm a little surprised you haven't investigated that a little more closely.

In any case, the second question. I'm just looking at the objects of the corporation under 4 on page 2, and I see "charitable, educational, recreational, cultural and benevolent purposes." I wonder if setting up this foundation has anything to do with the controversy on the Medalta pottery museum, which has had some trouble getting off the ground in Medicine Hat. If it hasn't, on the other hand, would the Medalta pottery museum idea qualify under this foundation if the board chose to look at it? Is it something that would be a reasonable recipient of foundation funds?

MR. SAUNDERSON: The short answer is that there is no relationship between the two groups at this time. My quick answer is yes, Medalta pottery could well apply.

MR. McEACHERN: Thank you.

MR. CHAIRMAN: Mrs. Mirosh.

MRS. MIROSH: Thank you, Madam Chairman. I'd like to commend Medicine Hat community for this Act. I chair a Calgary caucus and have had a lot of work to do with the Calgary Foundation Act. I found it to be an extremely workable Act and very, very, very positive for the community.

Just to reinforce, the private Bill does give it a significant amount of clout in the community at large. Also, for those who want to bequeath their will to the foundation, it has given that person a lot of comfort knowing that it is a statute in this House. Because of that, more and more people are bequeathing to that foundation, and it has been extremely successful in Calgary.

My question to our Parliamentary Counsel is with regards to the makeup of the committee, with naming people and what they do. I've come back to the Calgary Foundation Act in changing that in this Bill. A lot of people get busy. Do we have to name them by name and by profession rather than just the numbers? We found in Calgary, particularly, that it should be really at arm's length from the political city aldermen and mayor. It is in fact a community foundation made up of people of the community rather than a political body that operates under their board. I mean, does it matter? Do you have to state in this Act who they are?

MR. SAUNDERSON: You're asking whether our suggested list of nominators is the wise one? Do I understand?

MRS. MIROSH: That's right. Do you have to be specific in this Act?

MADAM CHAIRMAN: Counsel, could you respond to Mrs. Mirosh's comments?

MR. RITTER: Yes, Madam Chairman. It's important that the members see the petitioners. They're named by name and their occupation. But if the petitioners for the private Bill die or later resign, it doesn't change the fact that they were the original incorporators of the community foundation. This only means that they were in office as of the date the petition was submitted, and that

wouldn't require an update to the legislation if these people disappeared one way or the other.

10:30

With regard to the committee of nominators, Madam Chairman, certainly it's the prerogative of the foundation itself to indicate in section 7 the occupations of the persons they want to make that committee. Now, it is true that we found in Edmonton's and Calgary's cases that occasionally they'll come to the Legislative Assembly and realize they've bound themselves in too tightly. But with this particular provision in the Act, as long as they're naming the position and not the individual person, the positions will certainly be occupied by someone 20, 50, or 100 years from now. If the foundation feels that this is appropriate to their constitution, then it shouldn't cause too many difficulties. If it does, of course, they'll have to come to the Legislative Assembly and get an amendment to their constitution.

MRS. MIROSH: Just a brief comment about it. If we could do it right now, it just saves you coming back here at great expense from Medicine Hat. That's just that level of comfort to keep it as flexible as possible so you don't have to repeat coming back here.

MR. MISKUSKI: Madam Chairman, through to the member of the committee, we point out that section 7(3) does provide for the substitution "on unanimous resolution and with the approval of 2/3 of the Committee" for a different office. Discussions were had between myself and Mr. Ritter concerning the tightness of this particular nominator group. There are obviously things that can change. At the current time we do not have a resident Court of Queen's Bench judge. We hope to get one. Since we have a rather large and expensive court house in Medicine Hat, we expect to have a resident Court of Queen's Bench judge very soon. However, the person named in the nominators is the senior Provincial Court judge, and of course that position could be substituted if the parties thought it suitable. I think, Madam Chairman, one can perhaps go a little too far with respect to the nominators insofar as those positions are about as wide as the four corners of the society in Medicine Hat. We're a very simple bunch down there. We don't have a lot of the Calgary problems and so forth.

MADAM CHAIRMAN: Just before we go on to the next question, just for clarification, Mr. McEachern, if you're concerned over the reporting on your comment about public record, I want to refer you to section 20, (1) and (2), and I think that will answer your question.

Mr. Musgrove.

MR. MUSGROVE: Thank you, Madam Chairman. I notice that in the Parliamentary Counsel's report there have been some changes made in the former version. Although I'm not sure what those changes were, I know that in the foundation Act some of the donors' intentions were to earmark certain funds for certain things. I wonder if that change rules that possibility out?

MR. SAUNDERSON: Madam Chairman, section 19 on page 8 covers that: "if no conditions are imposed by the donor." In other words, a donor can very well impose conditions. For example, one of the things we need in Medicine Hat is a performing arts theatre. It is very conceivable that somebody could leave us some money to start a fund to build a performing arts theatre. That would be well handled by the Act in our view.

MR. MUSGROVE: So they can earmark funds for certain things. Good. Thank you.

MR. CHIVERS: Just on that point. With respect to the income tax implications, earlier in this session we were dealing with a Bill in second reading regarding the establishment of certain advanced education foundations for purposes of tax law, and it was pointed out at that point in time that there was an advantage to having the freedom of those foundations not bound by conditions. I think it had certain tax implications. I'm just wondering if those tax implications had been considered by yourselves or by Parliamentary Counsel and whether you'd made a specific decision that you wish to constrain the activities of the foundation by the intentions or strictures imposed by the donors.

MR. MISKUSKI: Madam Chairman, through to the member of the committee, the Income Tax Act of Canada is a very fluid thing, and we would never think of tying this Bill to the current thoughts of Revenue Canada. Insofar as the question of the donor putting us in an embarrassing situation with respect to tax, it is our opinion that we'll deal with that matter at the time it arises. I can't foresee at the moment any charitable purpose, which obviously you have twigged on, that would cause a tax situation to arise in Medicine Hat. However, it is conceivable, and we prefer not to get into that area until it arises.

MR. CHIVERS: I have a couple other points, Madam Chairman.

MADAM CHAIRMAN: Please proceed.

MR. CHIVERS: With respect to the definition of Medicine Hat community, I'm concerned. I realize a very integral part of your proposed Bill is that there be your ability to extend beyond the municipal boundaries of Medicine Hat and therefore you need some sort of definition of the Medicine Hat community and what that entails. But I'm not sure that the definition chosen here is precise enough. I think you might encounter some difficulties in applying this, although discretion is left to the board as to what that entails. The words that limit the discretion of the board are: "as in the opinion of the Board is readily accessible to the City of Medicine Hat." I'm referring to section 2(f), of course. To me it would be difficult to construe the words "is readily accessible to the city of Medicine Hat," and I'm just wondering if you've grappled with that issue.

MR. IWANICKI: If I may respond to that, Madam Chairman. We felt that the appointment of directors from the rural areas that come from the areas mentioned in our preamble would certainly tend to serve the area quite well. The city of Medicine Hat and area has been a community that has worked together for quite a number of years. When you say you're from the Medicine Hat area, it encompasses quite a large area. I don't think the question was brought up in any of our discussions when we were organizing it other than the fact that John Ignatius, the prime proposer or organizer who gave us the seed of the idea, is a rural gentleman himself who has lived north and south of Medicine Hat. He's also got support, and so have I in my communication with proposed people to serve on the board. I have spoken to quite a few rural people, and Medicine Hat is their town and their community.

MR. MISKUSKI: Madam Chairman, if I might add to what Hank Iwanicki has said. I know it is a large area. As set out in the background material, it encompasses all the MD of Cypress, most of the county of Forty Mile No. 8, and special area 2. The particular

area, however, is delineated by the voting pattern in the federal constituency. It is also delineated with respect to the hospital district. We have, as you may or may not know, a very expensive hospital facility there, one of the best in southern Alberta. This area which we were describing is north as far as Jenner and across to perhaps midway between Bow Island and Taber as a supporting area, and members of those various municipal bodies are on the hospital board. So we are a homogeneous group which has been gelled by other services.

10:40

MR. CHIVERS: Well, I'm not taking issue with that. I'm just concerned that you might encounter some difficulties in applying that phrase if it became a difficulty for your board to make a determination. "Is readily accessible" is pretty imprecise language. If there's another way of framing the territory, it might be wise to include it in the legislation. I don't have any objection to the concept that it would extend beyond the city of Medicine Hat.

My third area is that I want to share the concerns expressed by Mrs. Mirosh with respect to section 3. I think there is some ambiguity because section 3 provides for certain named individuals and then goes on, "and such other persons as are from time to time appointed members of the Board." It seems to me that the use of the conjunctive there could get us into difficulties, because it may mean that you have to have at least one of the named individuals plus such other individuals as are from time to time appointed. I think a simple amendment would be "and/or." We could deal with that. I'm just wondering if you'd have any objection to that kind of minor amendment.

MR. MISKUSKI: Madam Chairman, through to the member of the committee, the member is in deep water as far as legislative drafting here. This is an incorporating section which in fact is necessary for the purposes of establishing the initial institution. But the nominators do establish -- and there are provisions through the sections of the Act -- a board, and they're appointed for three, two, and one years at the outset. That becomes the initial board. Parliamentary Counsel and I went over this, and I'm sure he can point out the actual gelling of the sections which provide for the nominators to institute the first board and then appoint successive one-third replacements year by year. The members of the board are not tied to the original petitioners. The petitioners are there for the purposes of the statute and for establishing the legitimacy of this particular foundation.

MADAM CHAIRMAN: Parliamentary Counsel, would you like to clarify for committee members?

MR. RITTER: Yes, Madam Chairman. Section 3 is virtually identical in terms of precedent to hundreds of other Acts incorporating foundations and organizations of this type. I think the wording developed through the years is now just regarded as traditionally the legislative drafting style of the enacting clauses. But as Mr. Miskuski properly points out, the original petitioners are only those for the moment the Bill becomes law, the provisional board of directors. After that point, if you refer to other sections of the Act, the board is going to be determined by the vote of the membership and the bylaws of that particular organization.

But the form that section 3 takes now in fact is -- I hate to say it -- the standard form. It tends to be that way because it's always been that way. There probably are better ways to do it, but this is what has been adopted as a precedent in Alberta.

MR. CHIVERS: I appreciate that, but it seems to me it would be wise to say "and/or such other persons as are," and then it would be beyond dispute. From a point of interpretation, the conjunctive is used there and must have some meaning, so there must be at least one representative from each group.

MADAM CHAIRMAN: Mr. Bruseker.

MR. BRUSEKER: Just to follow up on my previous question, I'm looking at section 19 that talks about waivers. Presumably this is the ideal kind of donation where somebody says, "Here's the money and do what you will." Is there provision somewhere that if you get a donation where conditions are unacceptable, you can simply say thanks but no thanks? In other words, if someone hands you a donation of real estate and says, "You cannot sell this; you must keep it and use it," can you then decline a donation?

MR. MISKUSKI: Madam Chairman, through to the member of the committee, donations of whatever nature made to the foundation must be accepted by the foundation before the foundation has responsibility for them. Under the power section, section 6:

In addition to the powers invested in the corporation pursuant to the Interpretation Act . . .

(a) to accept gifts . . . of real or personal property of every nature and wherever situated.

Michael may have better understanding or better reference, but I believe there is no section saying you may refuse gifts. On the contrary or on the corollary side, you must accept them or else you have no responsibility for those gifts. If someone gave property to be used in a segregational manner or a discriminatory manner, the foundation, the board, in my opinion, would be right in saying, "We refuse to accept the gift."

MADAM CHAIRMAN: Mr. Severtson.

MR. SEVERTSON: Mr. Chairman, I was going to ask the same question Mr. Bruseker had because of that problem, but you've answered it.

MR. EWASIUK: Madam Chairman, my question is probably going to demonstrate my ignorance about the structure of the foundations. I notice there is nothing in the Bill that addresses the situation or the eventuality of the foundation dissolving at some future date. I was wonder how that would be handled and what takes place in that eventuality.

MR. MISKUSKI: Madam Chairman, through to the member of the committee, dissolution of this foundation is the thing which was properly pointed out by the previous speaker. It's the thing we want to guard against. If you're going to leave funds for the purposes of assisting youth in the community of Medicine Hat, you don't want to ever have that foundation dissolved. To suggest that there be provision for dissolution of it I think would be counterproductive at this time. Presumably Michael can advise with respect to repeal of the Act, but that would be a very odd occasion.

MR. RITTER: Madam Chairman, for Mr. Ewasiuk, there's also a provision in the public law of Alberta that if, for example, this foundation should go into bankruptcy or some other type of involuntary dissolution, the provisions for winding up are scribed by the Interpretation Act, and there are procedures in place in the public law of the province in the eventuality that some disaster should happen and this foundation should become insolvent or otherwise have to dissolve.

MADAM CHAIRMAN: Are there any other questions from the committee? Mr. Tannas.

MR. TANNAS: Back to question 2(f), Medicine Hat community. Sometimes in these sorts of things for illustrative purposes but not to restrict the foregoing you can put in some examples, such as your communities of Bow Island and Jenner and Walsh and Cypress Hills and Thelma and whatever else. That could be put in there. Would that be seen to be of any benefit?

MR. MISKUSKI: Madam Chairman, I have not discussed this matter with Parliamentary Counsel. It being our common understanding that the board would from time to time move the boundaries of this, it should be recognized that between Lethbridge and Medicine Hat there's somewhat of a no-man's-land. In other words, Foremost is sometimes in the Lethbridge community and sometimes in the Medicine Hat community. For us to delineate the boundaries of the community would not serve our purposes.

MR. TANNAS: No, I wasn't suggesting that. I was just saying for illustrative purposes and not to restrict, and then you name a few. I mean, sometimes those sorts of clauses are put in so that whoever reads it has some idea of it, but it doesn't restrict it at all.

You mentioned the federal boundary of Medicine Hat. Under our Constitution for Canada they have to do a redistribution every 10 years, so that changes every 10 years.

MR. MISKUSKI: Madam Chairman, through to the member, we have no objection to including examples.

10:50

MADAM CHAIRMAN: Any other questions from the committee? Mr. Gesell.

MR. GESELL: Madam Chairman, just one for clarification. I'm on page 3 under the powers of the corporation, 6(e). You refer to investing money in property. I'm not quite clear about what the definition of the term "property" is in this case. I assume it may be invested in some very secure money-saving funds or something like that, triple A bonds or whatever. Does this term "property" preclude you from doing that, and is that intentional? My definition of property would be some object: land or parcel of . . . Is that intentional, or is the definition of property broader in this context?

MR. MISKUSKI: Madam Chairman, through to the member of the committee, I think the matter of the definition of property is in the widest possible sense. I believe you're speaking of real estate, and there's personal property. We would in all respects be adhering to the Trustee Act and the Insurance Act, which is referred to in the section delineating investments. There is a broad definition set forth, and generally for the committee's information, which they probably already know, it covers first of all the investment in any government of Canada bonds, provincial bonds, municipal bonds, school bonds, et cetera. Then it goes on from there to delineate other areas in which moneys may be invested. Certainly this does encompass in some respects the acquisition of property if the acquisition of property in a real estate sense is for a charitable purpose. It would not, it seems to myself anyway, be a proper thing for the board to invest in property for a speculative purpose, because that would be contrary to the Trustee Act.

MADAM CHAIRMAN: Are there any other questions from the committee? Hearing none, I'd like to thank our petitioners for their presentation today.

Counsel has informed me he has some comments to make. Parliamentary Counsel.

MR. RITTER: I'm sorry, Madam Chairman. Two very minor things. I've been jotting down some notes as I've been listening to the members of the committee. With regard to Mr. Chivers' suggestion for Constitution, section 3 of the Act, a correct drafting style that would be consistent and in fact handle the points as pointed out by Mr. Chivers is replacing after the words "the Province of Alberta" the word "and" with the word "or" rather than "and/or." You'll never find and/or's, but I think "or" would cover it and give the flexibility.

MR. CHIVERS: Yes, it would.

MR. RITTER: So I would recommend that in Committee of the Whole we introduce that amendment, if that's acceptable to the petitioners.

With response to Ms Laing's point about gender in section 4: the deletion of the word "Mankind" and replacement of the word "Society", which is a gender-neutral term, if that is acceptable to the petitioners; and the last line of section 4, "regardless of gender, race, national origin, colour or religion," if that is acceptable to the petitioners. We could implement that in Committee of the Whole, Madam Chairman.

MADAM CHAIRMAN: Thank you very much, Counsel.

At this time I'd like to ask if our petitioners have any closing comments to make. Mr. Miskuski?

MR. MISKUSKI: No closing comments.

MADAM CHAIRMAN: Mr. Saunderson.

MR. SAUNDERSON: I don't think so, except to say that it's been a delight for me to work on this project because it's one of the two occasions we've able to gather people from all strata in our community, from social democrats to conservatives and so on. It's a delight to see a broad group working together for a common good. It's been a pleasure for us to work together for the good of the community.

So I urge you to adopt the Bill, pass the Bill.

MADAM CHAIRMAN: Mr. Iwanicki.

MR. IWANICKI: The only thing I would like to say is that I've never been involved with the formation of foundations before, but in my conversations with various members of the community -- and that's in the city as well as the rural -- I was overwhelmed and very much surprised at the reception that we received. I didn't really get one turndown. People offered pledges of financial assistance or a pledge that they were going to donate to the foundation as soon as it became law. As a matter of fact, one has already said, "Well, how much do you want?" I said, "Well, I can't accept your donation yet." Among the people that are perhaps in their senior years there's a tremendous amount of support for this community foundation.

I also would like to thank you for considering our participation and our Bill, and I hope that it passes.

MADAM CHAIRMAN: We'd like to as a committee thank you for taking time out of your very busy schedules to come all the way up from Medicine Hat, and it is nice to indeed hear that communities are working closely together for the benefit of their communities. We do want to thank you for coming forward. As I said in my

opening comments, we will be deliberating the Bills at a later date, and we will notify you as to our recommendations to the Assembly. Thank you very much for coming.

Committee members, if we can now turn our attention to Bill Pr. 8. The petitioners are just coming in. We are dealing with Bill Pr. 8, the Calgary Municipal Heritage Properties Authority Amendment Act, 1992. We seem to have misplaced Parliamentary Counsel for a moment, so could we take a two-minute break, please.

[The committee adjourned from 10:58 a.m. to 10:59 a.m.]

[Mr. Anderson was sworn in]

MADAM CHAIRMAN: Okay; we're dealing with Bill Pr. 8. I'd like to welcome Mr. Jim Anderson from Calgary. He is the petitioner for this Bill, and he will be presenting on behalf of the heritage properties authority.

The usual format of our committee, Mr. Anderson, is that we will ask you to make a few opening comments and then the committee will ask you questions with regard to the Bill. For the record I'd like it noted that Mr. Anderson has been sworn in by Parliamentary Counsel. Parliamentary Counsel, have all the Standing Orders been abided by with this Bill?

MR. RITTER: Yes, Madam Chairman, they've all been done.

MADAM CHAIRMAN: Are there any model Bills in place?

MR. RITTER: In fact for this amendment type of Bill, no, but there are numerous precedents which the petitioners have followed.

MADAM CHAIRMAN: I would note for committee members that this is an amendment to an existing Bill.

Mr. Anderson, would you like to make any opening comments, please?

MR. ANDERSON: I'd first like to describe the Calgary Municipal Heritage Properties Authority by way of giving a minute of background. It is an authority created at the initiative of the city of Calgary, and it was specifically intended to be an authority which would take control of city heritage buildings not required for civic purposes and see them protected and restored and that sort of thing. There's also an intention that the authority acquire and participate in the restoration and preservation of other properties as well. The authority has been active in the restoration of a number of important heritage assets in Calgary, including Fire Hall No. 1, the Cross house, the old CN station, the Haultain school, and several of the old cottage schools.

The specific need for an amendment to the Act involves three issues, and I hope you'll find them straightforward and reasonable. The first one relates to the fact that the authority attempted to participate with the city in being an organization passing on grants that the city wishes to provide to private corporations to upgrade heritage assets. The authority found that it was unable to do that because the city solicitor felt the authority lacked the legislative ability to function in that capacity. So the first amendment, to section 4(b), is to remedy that problem.

The second amendment, to section 5, amends the present arrangement where two members of city council must be appointed to the authority. City council has had some difficulty with all the boards and committees that it must participate in. I must confess that the day-to-day activities of the authority are more related to rather housekeeping matters and architectural details, and it's difficult for members of council to find it interesting and exciting.

So the amendment provides that council "may" appoint two of its members to the authority along with the other appointments it may wish to make.

The third amendment, to section 17, amends the present condition which requires that the director of land and the director of finance attend the committee meetings. These are rather high-priced employees of the city of Calgary, and it was felt that it would be better if they "might attend" or "may attend" on occasions where it is important rather than at all meetings.

Those are the amendments before you, and I'm asking that you give them your consideration and approval.

MADAM CHAIRMAN: Thank you very much.

We now turn to questions from the committee. Mr. Gesell.

MR. GESELL: Thank you, Madam Chairman. The Bill appears to be straightforward, and I appreciate the explanations. I've got three questions, however. The first one is really directed to the Chair. It's of a more general nature, but it applies to this Bill as well, and it becomes clearer when I get to my point two. This is an amendment of an existing Bill. I'm somewhat at a loss. I hate to ask for more paper, Madam Chairman, but when we do amend an existing Bill, I wonder if it may be appropriate that we have a copy of the original Bill to refer to, and that maybe relates to all the amendments that occur. It puts the thing in perspective.

Number two, Madam Chairman, relates to the changes and the clarification, as I read the explanatory notes, of the powers with respect to grants and donations. I guess the first question I should ask Mr. Anderson through you, Madam Chairman, is: does this change offer any additional powers to the authority?

MR. ANDERSON: My own interpretation and that of our own council was that the heritage properties authority had this authority already. Unfortunately, the solicitor of the city of Calgary determined that we did not have this authority, and because this was to be a relationship with the city of Calgary, it did present a problem. Therefore, if you believe the legal opinion of the city solicitor, yes, it is an increase in authority. If you agree with our own lawyer, then no, it is not. But it is a clarification.

MR. GESELL: A second portion to that point, Madam Chairman. With responsibilities and powers, there are some duties that go with that, and that's maybe where I'm lacking the original Bill. Is there a mechanism by which the authority would provide, say, annual reporting, fiscal information of what occurs?

MR. ANDERSON: Yes. Madam Chairman, the heritage properties authority reports annually to city council. In fact, its budget is approved by city council, and any matter related to the disposition of money, the amounts charged in rents, and the rehabilitation initiatives must be presented to and approved by city council.

MR. GESELL: So it is public information?

MR. ANDERSON: Yes, it is.

MR. GESELL: The third point, Madam Chairman, relates to the change in the structure. I note the word in the original and also in the new proposal as to "electors." Now, electors may be political people that have been elected or may be community league electors or agricultural society people that have been elected. Am I reading this correctly? The word "electors" after the number in each case -- it's now proposed that nine electors be appointed by resolution. Is there a restriction here to only those people that have been elected

as opposed to an average resident in Calgary, say, that perhaps hasn't been elected to any of these bodies or his church group or whatever?

MR. ANDERSON: The word "elector," Madam Chairman, means a person entitled to vote in the city of Calgary. It does not mean that it is a person holding elected office. The only distinction is that you must appear on the vote registry for the city of Calgary to be eligible to be appointed to the Calgary Municipal Heritage Properties Authority.

MR. GESELL: Thank you, Madam Chairman.

MADAM CHAIRMAN: Mr. Chivers.

MR. CHIVERS: Thank you, Madam Chairman. To begin, let me say that I appreciate that the only way for you to accomplish your objectives here is through amendments to the existing private Act, and so this is not any comment on the amendments you are seeking. But one of the things I am concerned about, being a new member to this committee, is that once again we seem to be dealing with things that in my view would be better dealt with by public law rather than the private Bill system, and I think the committee should in its report make some recommendations to the Legislative Assembly that we examine this whole area. I've done a quick perusal of the currently extant private Bills in the province of Alberta. They number in excess of one thousand, and they deal with many standard sorts of problems that in my opinion could be dealt with better by public law.

MADAM CHAIRMAN: Mr. Bruseker.

MR. BRUSEKER: Thank you, Madam Chairman. Just to clarify. In the amendment to section 17, I understand it deals just with attendance of these two individuals, the director of finance and director of land, at meetings. That's all it deals with?

MR. ANDERSON: That is correct. Their status as advisers to the heritage properties authority would not change.

MR. BRUSEKER: I guess then I'm wondering why it is that you seek that change. I understand that you want to make it permissive, but since these two individuals seem to have an important role to play, I'm wondering why you would not want them at every meeting.

MR. ANDERSON: Only, Madam Chairman, because of the amount of time. The committee meets every month. The vast majority of material reviewed by the authority is housekeeping, administrative matters and not policy oriented. The individuals involved feel that it's a burden to have to sit through all this discussion at every meeting, and they feel they can fulfill their role as advisers on request and when required on an ad hoc basis rather than on an every meeting basis. They certainly can participate in the major decisions of the authority in a much less onerous way than attending every meeting.

MR. BRUSEKER: Just a quick follow-up. Are they voting members of the authority?

MR. ANDERSON: No, they're not. They may be, but they are not.

MADAM CHAIRMAN: Are there any other questions from the committee?

Mr. Anderson, I'd like to thank you for coming up from Calgary today. I understand it's beautiful in Calgary, and it's not too bad here.

MR. BRUSEKER: But Calgary is always nicer.

MADAM CHAIRMAN: Calgary is always nicer. I agree with Mr. Bruseker, not that I'm biased.

MR. ANDERSON: You'll have to excuse yourself on that vote, Madam Chairman.

MADAM CHAIRMAN: As I mentioned in the beginning, we will be deliberating further on your petition and making recommendations back to the Assembly. I was just wondering if you had any brief comments you'd like to make to the committee in closing.

11:09

MR. ANDERSON: Only, Madam Chairman, that I think I understand the point that was made about the desirability of having organizations such as the heritage properties authority embraced by public law rather than by private member's Bill. However much of a nuisance you may find it, to us it is an even greater nuisance to have to go through this kind of process rather than administrative procedures. I can only say that the establishment of the heritage properties authority by an Act of the Legislature preceded my involvement, and I can't provide a complete explanation of why it was done that way. In retrospect, I would certainly endorse that it could easily be handled under the normal Business Corporations Act or the Societies Act.

MADAM CHAIRMAN: Thank you very much, Mr. Anderson. Have a safe trip back to Calgary.

I'm going to desert the Chair and ask Mr. Clegg to assume the Chair because I will be presenting Bill Pr. 10.

Before we do that, in response to requests for original Bills, certainly those Bills are available in the library to all committee members in their preparation for these meetings. I'm sure your researchers could pull the original Bills for you. However, if you feel you need to be supplied with the original Bill to do your backgrounder for the meeting, certainly that's a request we could make of counsel, to provide you with the original Bill as well as the amendment. However, I'm sure most of you have research staff that could pull those for you. We'll have that as a discussion at the end of the meeting.

I'd ask now that Mr. Clegg take over the Chair while the committee deals with Bill Pr. 10.

[Mr. Clegg in the Chair]

MR. ACTING DEPUTY CHAIRMAN: Thank you, Madam Chairperson. It's my understanding that we will be dealing with Bill Pr. 10 now and that Mrs. Black will be presenting this Bill. As you can see by your information, Mrs. Osterman was the sponsor of this Bill, and now Mrs. Black has taken it over.

MRS. MIROSH: Has she been sworn in?

MR. RITTER: No. Mr. Chairman, when it involves a member of the Assembly, we know that your oath of office covers the fact that Mrs. Black won't be lying to us today.

MR. ACTING DEPUTY CHAIRMAN: Okay, Mrs. Black. Would you like to have some opening comments on Bill Pr. 10?

MRS. BLACK: Thank you, Mr. Chairman. It's really weird to be sitting over here. Anyway, I will be the new sponsor of this Bill as of yesterday. If committee members will remember, at our first meeting we agreed that the petitioners would not be required to come before the committee with such a simple change.

In essence, the change is a change in name that has come about because the St. Mary's hospital, Trochu, has expanded in their ability. I'm going to read, actually, from their notification that was sent to Mrs. Osterman for the justification of the name change. It says:

The term "Health Care Centre" is more appropriate than "Hospital", as this facility now provides both active treatment and long term care services. The corporation is currently conducting its business under the new name, and therefore requires the above noted amendment to give legal recognition to the amended corporate name.

It's simply a name change from the St. Mary's hospital, Trochu, to the St. Mary's health care centre, Trochu. That's all the change there is involved with it, Mr. Chairman. I really have nothing further to add.

MR. ACTING DEPUTY CHAIRMAN: Thank you, Mrs. Black. I think our Parliamentary Counsel has got a few remarks before we have questions.

MR. RITTER: Just one comment, really, Mr. Chairman. I'm also advised from the Department of Health that the petitioners have cleared the name change through the Department of Health. They have approved of the change from St. Mary's hospital to St. Mary's health care centre, so this has been approved of at other administrative levels as well.

MR. ACTING DEPUTY CHAIRMAN: Thank you, Michael. Tom.

MR. THURBER: Yes. Thank you, Mr. Chairman. I wonder if the petitioner could give us a brief outline of all the health care activities this entails under the St. Mary's health care centre. It implies that there's a number of them, and I just wonder if you could give us an outline of those.

MRS. BLACK: I would like to respond, Mr. Chairman. I'd be delighted to get a directory and listing of all the events that occur at the health centre and forward it to you for your perusal.

MR. ACTING DEPUTY CHAIRMAN: Thank you, Mrs. Black. Dianne.

MRS. MIROSH: Yes, Mr. Chairman. I'd like to ask the petitioner if she could define the scope of practice between what hospitals and health care units do, now that we're changing the name from hospital to health care centre. Is there a specific scope?

MRS. BLACK: Actually, there is. Mr. Chairman, there is a difference, because we're going from a straight health care facility into a long-term care facility, which doesn't have the acute care function added into it necessarily. However, I'm sure that for the definitions, occupations and professions would be clearly reviewing this matter as it comes forward to their committee.

MR. ACTING DEPUTY CHAIRMAN: We're having a very good discussion on this Bill. Gary.

MR. SEVERTSON: I didn't have my hand up.

MR. ACTING DEPUTY CHAIRMAN: Oh, sorry. It was Don.

MR. TANNAS: Yes, Mr. Chairman. To the petitioner. I would just wonder, if people in that area were unable to get to the St. Mary's health care centre in Trochu, what health centre would she direct them to, and in what direction might that be from Trochu?

MRS. BLACK: Well, with due respect to the Bill, that isn't part of the Bill, but I'm sure if you wanted to ask the question of the people of Trochu, you could do that.

Getting back to the Bill at hand, Mr. Chairman, I would say that this is a simple name change, and any other information that's required by committee we certainly will provide.

MR. ACTING DEPUTY CHAIRMAN: Thank you, Mrs. Black, for that answer.

Barrie.

MR. CHIVERS: Mr. Chairman, this is a very uncommon opportunity to have Mrs. Black in the hot seat, and I think we're all having a great deal of difficulty in resisting the temptation. Unfortunately, as usual, she always has all the answers, so I'm not going to ask her any questions.

MR. ACTING DEPUTY CHAIRMAN: Thank you, Barrie.

Any more questions to Mrs. Black? Okay.

Thank you, Mrs. Black.

MRS. BLACK: I want to just summarize, Mr. Chairman, by saying that the reason I have the answers must be because I'm sitting at Mr. Hawkesworth's desk.

MR. ACTING DEPUTY CHAIRMAN: Thank you, Mrs. Black, for those closing comments.

I think that's all the Bills we're going to deal with today, so I would like a motion to adjourn, if that's in order.

MRS. MIROSH: I move that we adjourn.

MR. ACTING DEPUTY CHAIRMAN: Well, I was a little bit scared that everybody liked me so much, we weren't going to have that motion.

We have a motion by Mrs. Mirosh that we adjourn. All in favour?

HON. MEMBERS: Agreed.

MR. ACTING DEPUTY CHAIRMAN: I want to thank our petitioner, Mrs. Black, for her chairmanship.

[The committee adjourned at 11:18 a.m.]

