

[Ms Graham in the chair]

THE CHAIRMAN: Good morning, colleagues. I'd like to call this meeting of the Standing Committee on Private Bills to order.

If you've had a chance to look at our agenda for today, I would entertain a motion to approve that agenda.

MR. STRANG: So moved, Madam Chairman.

THE CHAIRMAN: Thank you, Mr. Strang. Mr. Strang moved that we approve the agenda. All in favour, please say aye.

HON. MEMBERS: Aye.

THE CHAIRMAN: Any opposed, please say no. The motion is carried.

You also will have received in your package of documents minutes from the last meeting, March 21, 2000. Mr. Langevin, you move the adoption of the minutes as circulated?

Yes, Mrs. Sloan.

MRS. SLOAN: In regards to those minutes, particularly on page 6, what I'm not clear on is how the concerns and requests that I made relative to Bill Pr. 2 have been incorporated.

THE CHAIRMAN: The question, Mrs. Sloan, was that you wondered how your questions and concerns had been incorporated in the minutes?

MRS. SLOAN: Yes.

THE CHAIRMAN: What specifically are you referencing?

MRS. SLOAN: Well, as one example, I had asked for further clarification relative to the department of health's position on this application, and I don't believe that is expressed in the minutes, firstly. I'm just wondering why that hasn't been incorporated. I think that request originated from my query.

THE CHAIRMAN: Yes. I think if you have reference to the last paragraph on page 7 of the minutes, which does deal with the discussion on Bill Pr. 2, it reads:

The Chairman requested that Parliamentary Counsel forward copies of the proposed Bill Pr. 2, William Roper Hull Child and Family Services Amendment Act, 2000, to the departments that are in charge of the Persons with Developmental Disabilities (PDD) and the Assured Income for the Severely Handicapped (AISH) programs requesting the departments' comments on the proposed legislation.

In fact, that would be Health and Wellness vis-a-vis PDD and Human Resources and Employment relative to the AISH program, I believe. Does that answer your concern?

MRS. SLOAN: I'm wondering. If we look at the transcripts of the meeting, there were a number of other questions I asked that have not been incorporated in the minutes. Another example is that I asked what impact the provider would perceive "the expansion of mandate will have on their focus and ability to provide those intermediate and severe treatment programs for children and families." I asked if they would "envision that there would be separate facilities developed to treat the adult population." I also asked about the position of the Canadian Mental Health Association relative to the submission and because of the expanded provision of service. That particular reference is not incorporated in the minutes.

THE CHAIRMAN: Well, Mrs. Sloan, I do take issue with what you're saying, because all the points you've mentioned are contained in the very large paragraph on page 7. It's in fact the second paragraph that takes up the balance of page 7. Those items are all identified now.

MRS. SLOAN: Where's the mental health reference, Madam Chairman?

THE CHAIRMAN: It's about two-thirds of the way through that paragraph. The phrase begins:

whether the petitioner has made its intentions known to the Department of Health, the Provincial Developmental Disabilities Board or the Canadian Mental Health Association.

Did you find it?

MRS. SLOAN: Yes, I've found it. However, what the minutes don't reflect is a request that was made that that organization's position relative to the application be sought and provided.

THE CHAIRMAN: I don't recall that the Canadian Mental Health Association was an entity that you requested be canvassed for their position.

MRS. SLOAN: On page 8 of the transcripts the request is made.

THE CHAIRMAN: We can certainly confirm this in the minutes, but the recollection is that while you asked the petitioner that question, that was not a specific recommendation made of Parliamentary Counsel or this committee. We're certainly able to do it if you wish to have us do it at this time.

MRS. SLOAN: That would be great.

The final issue that is not raised in the minutes is the issue relative to regulations. That particular concern was raised on page 9 of the transcripts. While the child welfare representative was able to respond to that, there wasn't anyone at the committee meeting that was able to respond relative to the regulations required for the treatment of adults.

THE CHAIRMAN: Okay. In fact that question is included here in the minutes if you look another line or two down from where I just read. It starts:

whether that department anticipates that regulations will need to be expanded or that additional regulations will be required to other statutes to encompass the change of mandate.

So it is included in the minutes.

I think we can deal with your concerns, Mrs. Sloan, by way of motion after the approval of the minutes. It would appear to me that all of the concerns have been incorporated in the minutes, but it just may be that you wish the committee to take further action of an investigative nature. We can deal with that after the adoption of the minutes. Is that satisfactory to you?

MRS. SLOAN: I prefer that they be amended to accurately reflect the requests that were made in the transcripts. I believe a motion has been made to adopt the minutes. I have expressed my concerns about the minutes' reflection of the transcripts, and that's sufficient at this point.

THE CHAIRMAN: All right. Thank you.

Mr. Langevin, you've moved that the minutes be adopted as circulated. All in favour of that motion, please say aye.

HON. MEMBERS: Aye.

THE CHAIRMAN: Any opposed, please say no. The minutes as circulated are adopted.

Now, Mrs. Sloan, do you wish to pursue those two matters by way of motion?

MRS. SLOAN: Well, perhaps you can assist me, Madam Chairman. I'm not sure what you are requesting that I put in a motion.

THE CHAIRMAN: All right. I think, Mrs. Sloan, you wanted some assurance about regulations.

MRS. SLOAN: Yes, and the transcript is reflecting that.

THE CHAIRMAN: Okay. Also you were concerned about whether consultation had taken place with the Canadian Mental Health Association?

MRS. SLOAN: Yes.

THE CHAIRMAN: Well, rather than requiring you to make a motion, I will just ask Parliamentary Counsel.

MS DEAN: If I may, Madam Chairman, the request is that the CMHA be provided a copy of Bill Pr. 2 for comments. Is that the request?

MRS. SLOAN: Yes.

THE CHAIRMAN: That's not a problem. We'll undertake to have that done. In terms of the regulations, what was it that you needed to know?

MRS. SLOAN: Well, the representative at the last meeting was from Children's Services. It would be sufficient if there's a commitment from Parliamentary Counsel to seek that response from the department of health relative to the regulations that would apply to provision of adult services.

MS DEAN: Sorry to interrupt, Mrs. Sloan. The department of health has been forwarded a copy of the bill at this point in time. We are awaiting comments from them. Is there another department to which you would like that specific question about additional regulations posed?

MRS. SLOAN: You've notified both?

MS DEAN: Human Resources and Health have both been forwarded a copy of the bill at this point in time.

MRS. SLOAN: Okay. That's great. Thank you.

8:43

THE CHAIRMAN: Thank you very much.

Before we move on to the hearings scheduled for this morning, I just want to make sure everyone has received and taken note of the copy of OC 591 of '97, which is in relation to Bill Pr. 3, which we heard last time, Westcastle Development Authority Repeal Act. The OC authorizes the minister of environmental protection to sell the public lands which were the subject of that hearing to the Westcastle Development Authority for a specified sum. All right?

Okay. As you can see from our agenda, we have two matters before us for hearing this morning: Bill Pr. 4, Calgary Municipal Heritage Properties Authority Amendment Act, 2000, and Bill Pr. 5, Calgary Foundation Act.

We'll proceed now with Bill Pr. 4, the sponsor of which is Mrs.

Bonnie Laing. If the petitioners on Bill Pr. 4 could be brought in, please.

[Mr. Gilchrist and Mr. Graham were sworn in]

THE CHAIRMAN: Good morning, Mr. Gilchrist and Mr. Graham. Please be seated. Welcome to the Standing Committee on Private Bills. Before we begin hearing evidence this morning on your matter, I would like to introduce the members of this committee to you. For the record, I am your chairman, Marlene Graham. This is an all-party committee of members of the Legislature. I will ask the other members to introduce themselves to you.

[Mr. Bonner, Mrs. Burgener, Mr. Cao, Mr. Coutts, Mr. Jacques, Ms Kryczka, Mr. Langevin, Mr. Magnus, Mr. Marz, Mr. McFarland, Ms Paul, Mr. Pham, Mr. Renner, Mrs. Sloan, Mrs. Soetaert, Mr. Strang, Mr. Tannas, and Mr. Thurber introduced themselves]

THE CHAIRMAN: All right. Assisting us are our table officers, very able table officers, I might add: Ms Shannon Dean, Parliamentary Counsel; Ms Florence Marston, administrative assistant.

Before we get under way, I'll just briefly describe our procedure. Mr. Gilchrist, I know you have been here before, but you tell me it's been a few years. This hearing affords the petitioner and you, on behalf of the petitioner, an opportunity to present the purpose of the private bill and the reasons for it. After your presentation there will be an opportunity for members of the committee to ask questions, if they have them. We'll also hear from Parliamentary Counsel, who will provide a report on the matter.

After we've heard the evidence, the committee will meet – right now we're scheduled to meet April 18 – to deliberate on the evidence and make a decision on this matter. Our options are one of three: to decide that the bill proceed as it stands, that it proceed with amendments, or that it not proceed. Assuming that it is to proceed, then it will move through the Legislature as any other regular either government bill or private member's bill through the various stages through to royal assent, and you will be notified of our decision after April 18 and, of course, as to the final resolution of the bill.

With that, Mr. Gilchrist, I'll turn things over to you.

MR. GILCHRIST: Thank you. The Calgary Municipal Heritage Properties Authority was established by an act of the provincial Legislature in 1985. There have been two subsequent minor amendments to it since that time. Calgary city council's intention in approving the establishment of the authority was to demonstrate its commitment to the stewardship of municipal heritage property and to enable an autonomous organization to function proactively in the marketplace for the furtherance of heritage objectives.

With regard to these dual objectives I'm pleased to inform the select committee that the authority has assumed leasing and maintenance responsibility for seven city-owned properties. We've had important successes in the marketplace, including the restoration of Calgary fire hall No. 1 to accommodate Budget Rent A Car, the retrofit of the A.E. Cross residence to restaurant use, and the relocation of the historic Riley ranch house.

The authority's corporate offices are located in the Calgary municipal building, and the staff for it is provided by the city of Calgary. The board is governed by a board of council-appointed citizen volunteers, with some help from city administration.

In 1997 the city initiated a comprehensive organizational review of all its operations and activities, and in October of '98 council directed the administration to evaluate the potential for a merger of the authority with the Heritage Advisory Board, which had been established in 1978 to advise council on all matters related to

heritage preservation in Calgary. Now, the authority basically had grown out of the Heritage Advisory Board in the early years. The authority and the advisory board are separate entities with related mandates, some overlapping resource requirements. The HAB is a committee of council composed of council-appointed citizen volunteers and is not a corporation at law, whereas the CMHPA is a corporation recognized by law and established under an act of the Legislature.

In January of this year, after extensive review by both the HAB and the authority, council approved proposed amendments to the Calgary Municipal Heritage Properties Authority, the ones that are before the select standing committee today. I'll summarize these briefly.

The proposed amendments provide for the incorporation of the Heritage Advisory Board's three key responsibilities as additions to the authority's special powers. These include the responsibility to advise council on all matters related to historic resources in Calgary, to maintain and amend the city of Calgary's inventory of potential heritage sites, and to advise the city of Calgary on matters relating to the restoration, alteration, and demolition of all sites listed on that inventory.

In recognition of the broader responsibilities that the authority is undertaking, we are proposing to change the name to Calgary heritage authority. Also in recognition of its increased responsibilities, the proposed amendments will increase the authority's membership to not less than 10 and not more than 12 members, one of which may be a member of council, one of which may be a member of the Legislature.

There are some standard housekeeping amendments in accordance with the Municipal Government Act, as amended, to address the qualification of a member of council appointed to the authority. Advisory and reporting requirements are also proposed to be clarified by providing city council with the authority to identify positions of advisory responsibility.

No other substantive revision of the Calgary Municipal Heritage Properties Authority is proposed.

That concludes my presentation, and Mr. Graham and I would be pleased to answer any questions that you may have that may clarify the intent of this bill.

8:53

THE CHAIRMAN: Thank you very much, Mr. Gilchrist.

Would there be any questions from members of the committee?

MR. CAO: Well, thank you very much, Mr. Gilchrist, for your information. I just want to know with these amendments here, these two points: is it affecting any dollar budgets at the municipal level?

MR. GILCHRIST: Not really. It opens the way, however, for a lessening of the impact on the mill rate with respect to Calgary because the authority is set up in such a way that we can solicit and receive donations from private individuals or corporations as well as accept money from the city of Calgary for the operations. At some point in time there's a possibility, I suppose, that the authority would depend a little less on city staff for the operations of the authority. We are working on a proposal to put to council which would probably have a zero influence with respect to the budget but which would see the source of funding come from rents and whatever the city now receives from heritage buildings, which would go towards helping for the upkeep and so on of these buildings. But that is more of a diversion of funds within the city government rather than any lessening of the cost to the city.

MR. CAO: Thank you.

THE CHAIRMAN: All right. Mrs. Sloan, go ahead.

MRS. SLOAN: Just a brief question to the petitioner. Can you just explain how this will impact the actual governance of the authority relative to the existing governance structure that exists for the advisory board authority now? Will there be a merger of those two boards, or will it be a completely new process of appointment once the bill is approved?

MR. GILCHRIST: Total details haven't been worked out as yet, but the idea is to merge some members from both into the new body so that there would be some continuation and some continuity. As I mentioned, the authority was sort of an offshoot of the Heritage Advisory Board in the beginning, back in the early '80s, which was a proposal put forward by the Heritage Advisory Board which was eventually accepted by council. Basically, the appointments still rest with city council. We will still be relying to a degree on city staff. I think the one change, perhaps, is that the authority will now have a more consistent contact with city council because it's taking on an advisory role, which it hasn't had before. It's been mainly a property management, real estate type of organization to this point.

MRS. SLOAN: Thank you.

MS KRYCZKA: This is related to your last comment, when you said that it will have more of an advisory role to the city council. Would that be included in this where it says, I've got here: expanding its responsibilities. Is that the kind of thing that's an example of expansion of responsibilities?

MR. GILCHRIST: Yes, that's correct. Up to this point the Heritage Advisory Board has had the advisory role. The municipal properties authority has been more of a property management organization. By merging the two, it now puts the advisory responsibility as well as the property management responsibility into the same hands basically.

MS KRYCZKA: With, I suppose, the goal of becoming more effective as a body in your heritage area?

MR. GILCHRIST: Yes, that's correct. We're hoping that in this way we reduce some of the overlap that has taken place, particularly in staffing requirements and advisory requirements that we've had from the city.

MR. CAO: I just have two questions regarding this thing. One is: how is your relationship with the Calgary heritage building conservation? I believe that's the name of it, kind of a private organization, a volunteer organization.

Number two is kind of a specific point on section 5, to repeal the number of five and replace it with increasing the number of electors. It was "no less than 5 nor more than 9," to be replaced with "not less than 10 and not more than 12." Now, I wonder about this authority of electors here in any kind of decision-making by voting, because when you vote, if you have an even number, then you're kind of tied. How do you deal with that?

MR. GILCHRIST: Under city council's procedure bylaw, a tied vote is a failed vote. We operate primarily using the same procedure as city council.

I think perhaps I'll ask Mr. Graham. He's had more contact with the Historical Preservation and Re-building Society than I have had. The Heritage Advisory Board has been more involved than the authority with respect to that group.

MR. GRAHAM: Madam Chairman, the Alberta Historical Preservation and Re-building Society is a grassroots organization of citizens in Calgary concerned with the preservation of Calgary's heritage. They do currently receive minutes and agendas from the Heritage Advisory Board and very often come to board meetings to make presentations, but there's no other formal relationship between the two bodies.

MR. CAO: Thank you.

THE CHAIRMAN: That answers your question? Okay.
Yes, Mrs. Soetaert.

MRS. SOETAERT: Hi. I have a question. Section 5 is repealed, and now an MLA can sit on that authority. I'm wondering: what was the motivation behind that? I love historical buildings, and though I live up here, I might be one you'd be interested in. Seriously, I am asking: what was the reasoning for that change?

MR. GILCHRIST: The Heritage Advisory Board has had a member of the Legislature sit as a member for a number of years now, and it's a matter of incorporating that into the new structure. Perhaps, Mr. Graham, because of your closer association with the Heritage Advisory Board than I've had over the years – I began with it back in 1981 – I'll let you talk a little about the relationship.

MR. GRAHAM: Thank you, Madam Chairman. The Calgary caucus appointed Bonnie Laing some years back. Mrs. Laing has been of great assistance to the Heritage Advisory Board over the past number of years and has attended virtually all the board's meetings. So the intent in bringing forward a proposed merger of the two bodies was to ensure that we would still have the benefit of an MLA's response to heritage issues in Calgary.

MRS. SOETAERT: Are members of the opposition considered? Though we're skinny in Calgary, are they considered part of it, or do you only look at the government caucus? I'm just asking a fair question, honestly.

9:03

MR. GRAHAM: A fair question, Madam Chairman, but at this time it's been the Calgary caucus's right to do that.

MRS. SOETAERT: The Calgary government caucus then. Okay. All right.

MRS. SLOAN: Just further to that point. The Member for Calgary-Buffalo, who is not a member of this committee but whose constituency resides in downtown Calgary, most certainly would have a number of the historic sites within his constituency. My point, further to the Member for Spruce Grove-Sturgeon-St Albert, is that perhaps because this is being formalized now as part of the actual act, that is something that should not be a partisan appointment.

THE CHAIRMAN: Well, thank you for those comments. They are on the record, you know, but for the purposes of Bill Pr. 4 I don't know that that's particularly relevant to what has to be decided on the actual bill. Those comments are certainly on the record and, I'm sure, will be duly noted.
Ms Paul.

MS PAUL: Thank you, Madam Chairman. I think that the clarification in section 5 is very clear: "one may be a member of the Council and one may be a member of the Legislative Assembly." So I think that speaks volumes, but it's not something that's written in stone.

I'm sure that you have qualifiers when people do apply, make application to sit on the authority. In your mind you must have certain criteria or certain services that that person can offer to the authority. I think that just sort of blanketing the fact that a member from council and/or a member from the Legislature, or collectively, can be on that doesn't state that in fact you have to be an MLA or a member of council. I like the thought process there. Maybe you could have explained it a little bit more in sort of the mandate and how the appointments are made. That might have clarified that issue.

MR. GILCHRIST: When the authority was first constituted, it was required that two members of city council be on the authority. A few years ago city council did some reconsidering of all the committees and authorities to which members were appointed, and as a result of that it was decided that they would prefer not to have to sit on the authority. We had an amendment put through to the act which, as it sits now, states that up to two members of council may be members.

Because the Heritage Advisory Board has had an MLA on it for the last while, that was the reason for the decision to incorporate that into the act at this time, to make an allowance. The only specific qualification for membership is the fact that the person must be an elector of the city of Calgary. So someone from outside the city, although they may work in the city and whatever, would not be eligible to sit on the authority.

THE CHAIRMAN: Mr. Pham.

MR. PHAM: Thank you. I would like to thank both Larry and Bob for your excellent presentation this morning. Your proposals make a lot of sense.

As a Calgarian I am sure that if the Member for Calgary-Buffalo would like to become a member of the committee and if he goes to other fellow MLAs in Calgary and convinces us to vote for him, then we would certainly put him on the board. But if he cannot garnish enough votes within the Calgary MLAs so that he can represent us, then probably it is a moot point. So thank you very much for your presentation. That is my advice for the hon. members from the Liberal Party.

THE CHAIRMAN: All right. It would appear there are no other questions.

Parliamentary Counsel, you had some comments?

MS DEAN: Thank you, Madam Chairman. I just want to point out to the committee two housekeeping matters. In your materials that were circulated last week, there was a copy of the minute from the Calgary city council meeting which approved these amendments to Bill Pr. 4. There was also a background executive report outlining the history of the Heritage Advisory Board and the functions of that board and the proposed merger.

I'd also like to point out to the committee that enclosed in their materials was a letter of March 27, 2000, from the Department of Community Development, specifically the historical resources division, which indicates that they have no comments, concerns with this bill.

Thank you.

THE CHAIRMAN: All right. Well, I think we've had a thorough hearing this morning on this matter. On behalf of the members of the committee and myself I'd like to thank you both very much for your attendance here and your excellent presentation. We will notify you in due course of our decision.

Moving on, then, to Bill Pr. 5, Calgary Foundation Act, sponsored by Mrs. Burgener, the member of the Assembly for Calgary-Currie and also a member of this committee, in fact the vice-chairman.

[Mr. Dunlop, Ms James, Ms Spetz, and Ms Warrack were sworn in]

THE CHAIRMAN: Please be seated. Ladies and gentleman, representatives of the petitioner, the Calgary Foundation, welcome to our committee. Prior to commencing to hear evidence on your matter, I'd like to introduce you to members of the committee. For the record, I am the chairman, Marlene Graham, MLA for Calgary-Lougheed.

[Mr. Bonner, Mrs. Burgener, Mr. Cao, Mr. Coutts, Mr. Jacques, Mr. Langevin, Mr. MacDonald, Mr. Marz, Mr. McFarland, Ms Paul, Mr. Pham, Mr. Renner, Mrs. Sloan, Mrs. Soetaert, Mr. Strang, Mr. Tannas, and Mr. Thurber introduced themselves]

9:13

THE CHAIRMAN: All right. Assisting us at the table are Parliamentary Counsel Ms Shannon Dean and the administrative assistant, Ms Florence Marston.

Before calling on you to make your presentation, I would just like to say for the record that it's my understanding that the purpose of Bill Pr. 5 is to replace and repeal the existing legislation, the incorporating act for the Calgary Foundation, as it has been amended. There are a number of materials that you have provided in support of that application, but I would just like to prompt members that probably the most important will be the black-lined copy of the draft bill with explanatory notes. I know that one of the members did not have that in his package, so I would just ask members to have a check for that now. It will probably be helpful to you during the deliberations.

Without any more, I'll turn it over to Mr. Dunlop on behalf of the petitioner, and perhaps you would introduce the various members of your entourage here this morning for the record. Then I invite you to make your presentation.

MR. DUNLOP: Thank you, Madam Chairman, hon. members. My name is Bruce Dunlop, and I have the honour of being the current chair of the board of the Calgary Foundation, Alberta's largest community foundation, the largest of nine. We're currently managing some \$120 million worth of donors' funds for the benefit of the community in Calgary in all respects. We're the third largest community foundation in Canada, following Vancouver and Winnipeg, and we expect that we'll move up from third place before too long.

With me today from our board are Cheryl James, fellow director; Ruth Spetz, our solicitor; and her colleague Lauren Warrack. Ruth is going to handle the technical part of our presentation. It seems that about once a decade we turn up here updating the Calgary Foundation Act. I must admit I had some thoughts myself of changing our incorporation to the Societies Act, but it seemed that after due study it made more sense to continue with our private act, not the least that it gives us the opportunity once a decade of coming to meet with you and tell you about how we are updating our bill. We're delighted that Jocelyn Burgener agreed to sponsor our bill.

With that, I'll turn it over to Ruth.

MS SPETZ: Thank you, Bruce. As indicated in the petition and as indicated by Madam Chairman, we had a number of amendments that we were seeking to our governing legislation. The Calgary Foundation originally incorporated in 1955. A repeal replacement occurred in 1981, I believe, and again our act was amended in 1989

and 1992. So when again looking at amendments this time, we looked at what was the most appropriate form to do that, and given that this would be the third time amendments would be made, we looked at doing a repeal and a replacement of the whole statute. Thus, we would have one consolidated act to be dealing with.

One key impetus for seeking changes to the act at this particular time, the key motivator for the review, was the nature and extent of the foundation's investment powers. As you can see from the comments by Mr. Dunlop, the foundation has grown in the last 10 years and has doubled in size the assets under management. Over the period of time we were getting additional questions and concerns as to what is the proper scope of the investment powers for the foundation. There were concerns about, you know, what was the proper law authorized for trustee investments and the proper asset allocation, what proportion could be in equities, what proportion could be in bonds, whether or not mutual funds or indexed funds were appropriate investments under the current test in our act. So that was one of the motivators to reviewing the investment powers in our legislation.

Once that started, also then the foundation had formed an ad hoc committee to look at basically all elements of the act and where in part it could be modernized to current legal and financial norms and where we could ensure some conformity between what was happening in practice and some of our governing procedures. I don't profess going through on a clause-by-clause basis, but the major changes would be on the investment powers: a change from the legalist approach provided by the Trustee Act and a change also from having reference to the Canada and British Insurance Companies Act of 1932, which was repealed and replaced by the Insurance Companies Act of Canada later. So updating that.

Secondly, perhaps the most major change involves the change to the indemnification of directors. I'll spend a few more minutes on those two points in respect of the written submissions we've provided to you just a little bit later.

In addition to that, I guess some of the other key changes were the thought to remove some of the procedural matters from the act itself in terms of if there were changes to the meetings of the boards or if there were changes to the quorum of the board as the numbers were changing, we might be able to deal with some of those internal governance matters by procedural bylaws.

Again, another suggested change that we were looking for was a specific power to authorize the board to make low-interest or no-interest loans to charitable organizations. The board of the foundation was not wanting to be in the lending business by any means but has a new civic loan program whereby they would very much like to be in the position to provide funding on a loan basis to charitable organizations to assist them in financial need. So looking at a specific provision to authorize that expressly.

Also, looking at a specific provision in the act to expressly authorize the foundation to manage funds on behalf of other foundations or charitable organizations, the managed fund provision, deeming it to have effect from January 1, 1990, which was originally the time the foundation first began to manage funds for other organizations. The foundation has found that often private foundations will look to have some funds managed by the Calgary Foundation and after being satisfied with the management, investment, and grant-making authority of the foundation may ultimately have the funds transferred absolutely from the private foundation to the Calgary Foundation, which, again, is a public community foundation. So a specific provision there.

Also, there's another change which speaks to dealing with ambiguity where the directions of the donor cannot be clarified, where the donor is deceased or the donor is a corporation that's been

wound up, so that in fact the board, in essence, has the power to deal with the funds as they see fit where the directions can't be carried out that the donor originally gave.

Another change is a deeming provision that suggests that if the donor hasn't otherwise stated, all contributions would be deemed to be held in perpetuity for the foundation and would form part of the capital of the foundation's funds to be invested then, with the net income being disbursed.

9:23

There are also a number of housekeeping changes, then, that we looked at in the context of reviewing the act. We wanted to adopt gender-neutral language, and we have made some changes throughout, that you'll note on the black-lined version, that are really a move towards modernizing it. As well, there are several amendments to ensure that we've got our practice and the procedure under the governing legislation matching.

As you'll note, we have a committee of nominators, that includes the mayor of the city of Calgary and the judges specified in item 8. Now, often these individuals don't have a formal meeting but act by resolution. So we've specifically provided that they can act by resolution in writing rather than having a formal meeting.

Additionally, our current legislation had required the foundation to publish in the *Calgary Herald* its complete financial statements. Again, we have added a provision which would allow a summarization of those financial statements, the auditor's report and summarized financial statement, without the detail and expense of publishing the entire set of audited financial statements.

We have more than one trust fund. In fact, we have many trust funds, so we've removed the reference to just a single, common trust fund. I think the foundation has well in excess of 150 little, separate funds.

Those were some of the housekeeping changes that have been made. The black-lined version of the bill with the explanatory notes I won't go through at this point in time, but I did want to direct your attention for a few minutes just to the written submissions that we had provided on those two key, major changes: the investment powers and the indemnification of directors. That's a memorandum to this committee dated March 30, if you can find that in your materials.

Currently our act, our governing legislation, says that our investment powers for the foundation are "in any property in which a trustee may invest . . . or in which a life insurance company may invest funds under the Canada and British Insurance Companies Act, 1932." Now, funds "in which a trustee may invest trust [funds]." Currently, under the Alberta Trustee Act that is a very, very restrictive list of permissible investments, a very conservative approach and would in essence prohibit probably more than 15 percent of the foundation's portfolio being held in equities. So that's a limit placed on that. It's a conjunctive test. We could also look to: what are the investment powers that a life insurance company under this 1932 act might have? That act has been repealed and replaced, and we end up having reference under the Interpretation Act to the Insurance Companies Act of Canada.

Again, that act adopts a prudent investor approach to investments, but it does so for insurance companies, and particularly there are several sets of regulations that we need look at, then, to see if it fits. The foundation isn't an insurance company, and it becomes very, very difficult to work through concepts of: what is our regulatory capital, and what are our lists of prohibited investments to determine how that test applies to the Calgary Foundation?

What we have suggested as an alternative and what we are proposing before this committee and in this bill is the adoption of a prudent investor approach, one that requires the foundation's board, when investing the property under its control, to exercise the care,

skill, diligence, and judgment that a prudent person would when investing the property.

In coming to the prudent investor approach, we've looked at really four very separate items. We've looked at the Trustee Act of Ontario, which was amended in 1998 to adopt this approach. We've look at the Vancouver Foundation Act in British Columbia, because again the investment powers of the Vancouver Foundation Act were amended in 1998 to move towards this prudent investor approach. We've also looked at a report from the Uniform Law Conference and now the Alberta Law Reform Institute's own report. The Minister of Justice had asked the Alberta Law Reform Institute to look at the concept of the prudent investor approach for our Trustee Act. That report is now out for consultation and is recommending the adoption of the prudent investor approach, though there is still some discussion with respect to the nature and extent of the list of factors.

With respect to the indemnification provisions of directors – I'm moving on to really the last page. The current structure of the act really comes out of the Alberta Business Corporations Act. The wording of our existing provisions is from the ABCA, and while this may be satisfactory to deal with the hundreds of business corporations we have in this province, it's just the foundation governed by this particular legislation. When we looked at the structure provided, with a series of providing bylaws for the indemnification of the directors, and then entering into individual indemnification agreements with each director and officer – we're trying to draft that and in part thought that, well, we would prefer to have complete indemnification for our directors and officers and put that right in the legislation. Rather than in a series of here's the statute, here's the bylaw, then here's the indemnification agreement, put the indemnification provisions directly in the legislation.

When we compare the indemnification provisions in other legislation, such as similar community foundations, there aren't any. Most other pieces of legislation, if they address the issue, address it in terms of simply saying that the director shall not be liable, period. They don't provide for indemnification, just no liability. The Societies Act simply says that the members shall not be liable. The Vancouver Foundation Act simply says that the directors shall not be personally liable. So we have really recommended almost a compromise approach, saying that while there may be liability for the directors of a charitable corporation such as this public entity, there is going to be indemnification if they meet the standards set out in the legislation of acting in good faith with a view to the best interests of the corporation.

Those are some general comments, and I would invite any questions from any one of the members. Thank you.

THE CHAIRMAN: Thank you very much, Ms Spetz.

I think we have Mr. McFarland first.

MR. McFARLAND: Thank you. My questions are primarily dealing with sections 3, 4, 5, and 26. I noticed that in 26, if I can start at the back and work towards the front, you're changing the name from Calgary and District Foundation to the Calgary Foundation. With that in mind, I'm wondering why the object of the foundation is primarily for the inhabitants of the Calgary district under section 3, yet in section 4 you're talking about whether or not they are within the Calgary district, and then in section 5, although you seem to restrict it to Calgary, you're willing to accept gifts, grants and legacies and so on from any place at all. Why is there, to me, a lack of consistency? Either you're working for the Calgary district or Calgary itself or Calgary and district.

The second part of the question is related to the liability. You've indicated that the board is not liable for any loss, yet you can farm out some of the investment side of the business to stockbrokers. I presume I know what the answer will be: if they follow good

practice, they're not going to be liable. But I would just like a couple of comments from you.

MS SPETZ: I would like to maybe address the first question with respect to the change of name. One of the difficulties of doing the black line is making sure we're comparing. We have not changed the name at this point in time. It has been the Calgary Foundation. That amendment I think in the preamble: "The Calgary and District Foundation became the Calgary Foundation pursuant to the Calgary Foundation Act," which was in 1981. We're not changing the name at this time, although we did consider that and the board did address that.

9:33

The board has found that it is, in part, sometimes a leader with respect to Calgary and the surrounding district and has been providing funds and receiving gifts; for example, from the vicinity of Banff. So it is a broad district that the foundation has received gifts from. At this point in time the foundation has quite been able to serve that, and we haven't looked to expand or change anything in section 3 or 4 at this time.

With respect to the second question on the loss, you're quite right that in the event we have an investment policy and strategy in place that's being followed with respect to comprising those risks of return, the board wouldn't be, again, liable for that loss. We do have a responsibility, though, under the prudent investor test to be in essence supervising, a proper responsibility to supervise and to monitor those individuals that we may delegate that investment-making power to. One of the original concepts is that the foundation has to do those investments themselves. Well, when you have \$100 million in your portfolio, it becomes prudent to seek expert advice to assist you in managing that. Then it really is important to develop that investment plan and strategy, those investment policies, and if that is part and parcel of the overall strategy, the board is not liable for specific losses but is responsible in item 3 to supervise those stockbrokers and investment counselors.

MR. DUNLOP: I might just add that relative to the area served by the Calgary Foundation, we do have a designated fund for Cochrane and another for Drumheller. I guess the expectation from the community foundation movement would be that in time they grow large enough to establish a separate community foundation in those centres. In the meantime, we're managing their money as designated funds, and we'll be happy to do that for others. I know that the Edmonton foundation similarly looks after the funds for a number of communities around Edmonton.

MR. McFARLAND: Madam Chairman, may I ask one fast supplemental?

THE CHAIRMAN: Go ahead.

MR. McFARLAND: Thank you. Do I assume that if somebody gave the Calgary Foundation a gift to administer and the terms of it were that the interest received from that investment was to be paid out in the way of, for example, a scholarship to a beneficiary, that in itself would limit your ability to use that part of the nest egg for low-interest or no-interest loans?

MR. DUNLOP: Oh, absolutely. If it were designated for that purpose, that's where the income would go.

THE CHAIRMAN: All right. Moving on to Mr. Cao.

MR. CAO: Thank you, Madam Chairman. First of all, I would like

to add my commendation to the Calgary Foundation for the good work that you've done in Calgary itself, in particular in the Calgary-Fort riding.

My question is regarding the revenue you receive, I guess, from private donors and perhaps from the public sectors of governments, municipal or provincial, if you have those. Maybe I'm not quite clear here. Can we invest government grants and give them out as loans?

MR. DUNLOP: Our solicitor may not be quite up to date. The Calgary Foundation has been studying the possibility of what we called a civic loan fund to provide these emergency low- or no-interest kinds of loans to registered charitable organizations. In fact, the results of our study to date were inconclusive, and we have shelved the project for the time being. We are not operating that kind of a loan fund, but we did want to provide for it in our act in the event that we got to that point.

MS JAMES: Revenue Canada has allowed that this concept can develop. A private foundation in Alberta, the Muttart Foundation, actually advanced it, so what we're trying to do now at this point is avoid having to come to you again by building in what we see could develop, but as Bruce said, at this point we're not sure we're going to proceed with it.

MR. CAO: May I have one supplement here? You're proposing you're going to enlarge your investment portfolio and, it looks like, become a creditor to other organizations. It's quite a big task in becoming collectors. If they go bankrupt, what are you going to get back and all of that? Is there any comment that you can help with that?

MS SPETZ: I guess, with respect to that point, first of all we look to make in part the loans as an investment. We always have had the power under our governing legislation to make loans for investment purposes earning reasonable rates of return. We also have had the power to secure and to pledge and mortgage and otherwise encumber some of the existing property.

The idea behind the expansion of the low-interest loans is, rather than particularly providing immediate grants to the charitable organizations, being able to assist them in developing their financial strategy, being able to be self-sufficient in repaying them. We don't want to be in the lending business, and we don't want to be foreclosing on security amounts, but in the event that there's a financial need, we could provide some assistance in that manner.

MS JAMES: For example, one that came to mind was if they have a short-term problem. One kind of loan conceived under this program is when they're waiting for core funding from a government body to come; they have an issue and it's a short-term bridged loan.

MR. CAO: Thank you.

THE CHAIRMAN: Okay. Very good.

Then Mr. Strang.

MR. STRANG: Thank you, Madam Chairman. To Mr. Dunlop. I guess I want to sort of follow up on what Mr. McFarland said. As a rural MLA the biggest thing that I find with urbanites and rural people is that the community is getting bigger. We realize, number one, that you changed your name in 1981, but I think it sends a strong message if you have Calgary and district. I realize that your explanation to Mr. McFarland was that you're holding these other ones, but with the changing times and changing demographics, the

way people move, I think it would be wise to have Calgary and district because a lot of people work in different areas. They don't always live in Calgary itself. They migrate out to the district. I think it just sends a stronger message, you know, that the community is getting bigger and you're realizing that, being that we're in the 21st century. Then one of your goals that you stated in your preamble was that you're number 3 and you would want to move up on that. So I'd like to sort of give you that challenge.

MR. DUNLOP: Mr. Strang, we did have considerable debate on our name, and the issue of the area that we serve we ended up concluding goes into our mandate. It's one of the points in our mandate, that we serve Calgary and area.

MR. STRANG: I think that when the majority of people look at something, they look at specifics. When they see Calgary Foundation, right away you're stalled, because they say: well, that's just Calgary. I mean, a lot of us take a lot of things for granted, but when you're portraying a name, I think that usually tells the story and gives a person a lot more insight to look into it further and get a better understanding. So that's all I'm suggesting.

THE CHAIRMAN: All right. I don't know if you want to respond any further, but I would just point to sections 3 and 4 of the proposed bill. I don't know, Mr. Strang. Have you looked at the reference to Calgary and district?

MR. STRANG: Yeah, I did look at that.

THE CHAIRMAN: Okay.

All right. Moving on then to Mr. Jacques.

9:43

MR. JACQUES: Thank you, Madam Chairman, and thank you for your presentation this morning. I have three questions I'd like you to respond to, please. The first question. Mr. Dunlop, you alluded to it briefly in your introduction. You had looked at possible incorporation under the Societies Act but for some reason had decided that that was not perhaps the most appropriate vehicle. I wonder if you could kindly expand more specifically in terms of: are there items in terms of powers of the foundation or actions of the foundation that you are proposing or already have that you could not do under the Societies Act? I'm trying to find what the specific kinds of reasons are. Or are there specific items in here that you would not be able to do under the Societies Act? That's the first question.

The second question is with regard to your section – I guess it's section 5 of the act – where you're proposing to lend money with or without interest to such institutions, et cetera. You touched on it briefly, and I'm just trying to come to grips with kind of an understanding of why this body would be doing that as opposed to, quote, a financial institution, if you like, that would normally be in that business, so to speak.

The third question is under section 15, where you are requesting a change that would enable the foundation, as I understand it, to receive funds, to manage those funds on behalf of other organizations, which again raises the question of why, more particularly in this case not so much the question of why – because that's obviously your rationale for wanting to do so – but rather the fact that it's retroactive to January 1, 1990. It kind of says: hmm, have you been doing something you're not supposed to be doing? You know, why would you want to go back almost 10 years retroactively in terms of the legislation?

Those are my three questions. Thank you.

MR. DUNLOP: With respect to the first one, Mr. Jacques, it would be my understanding that there are no powers that we're provided with by this act that wouldn't be available to us in the Societies Act, but I'll defer to Ruth as to maybe the technical reasons why we chose not to go that route.

MS SPETZ: Thanks, Bruce. I know that Cheryl had quite strong comments on that. The Societies Act, in my recollection, is legislation from 1980 covering all nonprofit and charitable organizations existing in the province, so it is very broad. Our current legislation is much more, I think, focused and tailored with respect to, for example, the wishes of the donor, provided in section 14, that we would already have. When we looked at the Societies Act vis-a-vis investment powers, there isn't a specific investment power actually even specified at this point in time, and when we looked at it in the context of the indemnification of directors, again that act is absolutely silent on that point and actually merely provides that no member is personally liable. There is, I think, a sense in the community that perhaps the Societies Act itself is in need of reform since it was first introduced, and we are in part better served by our existing governing legislation that we have even if we are coming back to seek amendments to update and modernize every 10 years.

MR. DUNLOP: On your second question again I'd emphasize that we don't intend to get into the loan business yet, but the kinds of loans we're contemplating to registered charitable organizations of likely low or no interest would be of the bridging, emergency kind and would not be available to them from regular financial institutions. They're quite common in the United States, where they're used in providing affordable housing, but unfortunately for us the United States income tax laws are very favourable to providing the funds for that sort of loan, and we don't have the same attraction in Canada yet.

The third question with respect to our managed funds. Incidentally, the largest one we hold, for the United Way of Calgary, and the Nat Christie Foundation are two examples; Heritage Park is another. We hold them, from our perspective, in the hope that in due course they'll turn them over completely to the foundation. They need to be effectively permanent endowments for them to make sense to go into our investment pool.

As to the retroactivity, I think we saw that provision in the Vancouver Foundation Act. We thought it was probably a good one for us to have and should go back to when we first took on managed funds.

MR. JACQUES: A supplementary?

THE CHAIRMAN: Go ahead.

MR. JACQUES: Do you have the authority under your existing act to manage funds on behalf of other organizations?

MR. DUNLOP: I think I would argue that we do, although the existing act is silent on the issue. We thought it would be better to cover it explicitly.

MR. JACQUES: Okay. So by that, then, you actually have been managing funds going back to 1990.

MR. DUNLOP: Yes.

MR. JACQUES: Okay.

Again, I don't want to get into the nature of your business because that's not our job as legislators. We're dealing with the principles

of the legislation. But in that context, when you mentioned the United Way, for example, would be using, quote, your managed funds, is that because the foundation is getting, quote, a better rate of return that it can pass on to the United Way in terms of its investing ability or compared to what the United Way could do otherwise? I'm kind of grasping here why this foundation would want to manage funds or what the advantage would be for other organizations you implicitly might have because of the act or something else. Am I missing something here?

MR. DUNLOP: No. That's a fair enough question. I think the advantage to these others is that they gain our investment management and their fund forms part of the larger pool. If you are investing and managing a fund of \$2 million, your flexibility in what you can do is rather different than when the pool is \$120 million.

MR. JACQUES: So effectively, then, it's agreed that it's a kind of collective effort in terms of all parties. Okay. I just wanted clarification on that point.

Thank you, Madam Chairman.

THE CHAIRMAN: Moving on to Mrs. Burgener.

MRS. BURGNER: Thank you, Madam Chairman. I just want to take a few minutes as part of the proceedings to advise colleagues that having met with the petitioners and gone through the material, the preamble they have drafted that is part of the beginning of the private bill does articulate very clearly the elements this particular petition is responding to. I am quite satisfied, in reviewing the amendments they're making to their legislation, that a very comprehensive review has been provided to us. So, Madam Chairman, it was not specifically that I had a question, but knowing our time is limited, I just wanted to make the comment that I am confident that a rewrite of the act at this point is the appropriate strategy to address the issues that have been brought forward.

Thank you.

THE CHAIRMAN: That's appreciated. Thank you.

Mrs. Sloan.

MRS. SLOAN: Thank you, Madam Chairman. Just a couple of questions for the petitioners. I find it of interest that the current act does not have any provisions that explicitly discuss conflict of interest relative to the appointment of the board, its officers, and particularly given the substantive assets and allocations that the foundation would be making to a variety of entities. It's curious to me that there isn't some provision within the statute that talks about the consideration of conflict of interest in the appointment process. That is also rooted in the fact that there are not really any criteria embodied in the statute for appointment to the board. The statute talks explicitly about the committee of nominators and how that is comprised, but it doesn't particularly say that there will be certain criteria considered for the appointment of the board members.

Perhaps I'll outline my questions in their entirety, and then I would be most interested in hearing your responses.

9:53

The statute and amendments do not indicate whether the executive director and chief financial officer are members of the board or if they have voting powers on the board. Again, given the nature of your request relative to investment changes, I'd like to hear your thoughts or perhaps the practice of how those officers have been involved in board decisions relative to investment in the past and how it's considered they will be in the future in the new approach.

Thank you.

MR. DUNLOP: On your first question with respect to conflict of interest, we do have policies. They're not in the act, as you note, but the investment area is one in which members of the investment committee and board, if there were to be an investment in a company they were associated with, are required to declare it and not participate. Also, on our granting side, if a board member or any of our advisory committee members is associated with a grant applicant, they must declare it and not participate in the decision on that grant. So I think we have the policies that cover the main aspect.

With respect to the criteria for the selection of directors, we do have in addition to our formal committee of nominators our own internal committee that screens people who come forward and say they would be interested in serving and effectively looking to our committee of nominators as almost a blackball group if they should know of some skeletons in the closet of people that are proposing. But we have a list of criteria. Community involvement is high, as you might expect, and we look for a variety of people with investment background as well as community social service background so that the board is, we hope, as representative as possible of the Calgary and area community.

Our CEO, who is our executive director, is a nonvoting participant on our board. The CFO is not on the board. And our investment decisions – I guess the key decisions we make through our investment committee are determining the investment policy, the asset allocation, as Ruth mentioned, between equities and bonds, and we prescribe that policy, hand it to the investment managers we select. They do the security picking, and we monitor their performance, meet with them quarterly. The CFO and the CEO are involved in that process but only as two of 10 people.

MRS. SLOAN: Okay. Thank you.

MS SPETZ: I want to point out on a supplementary basis that section 11(2)(d) talks about the term of a board member being terminated by resolution of the board where there is a serious position of conflict of interest. So there is that board power to terminate in the conflict of interest situation, with the policies and guidelines backing that up.

THE CHAIRMAN: It appears there are no other questions from members, but before calling on Parliamentary Counsel for any closing comments she may have, I just have one question, and that relates to the indemnification provision for directors. Now, it was mentioned that this, as far as you know, would be the first time such a provision is included in legislation for a nonprofit group. Would there be any reason or any downside to including it in the legislation that you know of? I presume you considered the pros and cons of doing it.

MS SPETZ: I don't see any downside for including it directly in the legislation. There is a concern with respect to Ontario legislation that the indemnification of a director from the assets of the charitable organization might be considered improper remuneration to the director. A director of a charitable corporation on a volunteer basis isn't entitled to any remuneration. We have dealt with that in the drafting of the statute to say: no remuneration, with the exception of the indemnification, in this respect.

THE CHAIRMAN: All right. Thanks.

Parliamentary Counsel, any comments?

MS DEAN: Just briefly, Madam Chairman. We are running out of time, so perhaps you can respond to me in writing. I just have a couple of technical questions with respect to some of the wording that has not been incorporated in this bill compared to the act you're currently operating under. Specifically, sections 17(1) and 18(1)

don't include wording to the effect that these delegations or appointments are subject to the provisions of any trust imposed by the donor. I'm not sure what the answer to that question is. Perhaps you feel it's redundant, but perhaps you could confirm that to me in writing.

MS SPETZ: I can address that now. The concern was that we weren't appointing a custodian or appointing a trust company after each donation was received, doing it more on a global basis.

MS DEAN: I have just one other question. There's a phrase used in section 6(3), "ordinary business practice of a foundation." That's a bit of a unique phrase for these types of acts, and perhaps you could elaborate on that.

MS SPETZ: It's a difficult one, I guess, to elaborate on initially. We wanted to put it in terms of some frames of reference as to what would be reasonable with respect to a foundation of this particular size and the operations of a foundation of this particular size when we were looking at parameters for choosing those standards for the prudent investment.

THE CHAIRMAN: All right. That seems, then, to conclude the evidence on this hearing.

MR. DUNLOP: What I meant to mention at the outset: knowing that you always need more literature to read as MLAs, we have for you the current annual report of the Calgary Foundation. I hope that goes automatically to all the members for Calgary and area, but if it

hasn't, we'll make sure it does in the future. Anyway, we have copies for you.

THE CHAIRMAN: I recall that we do receive it annually. Thank you, and we'll make sure that is circulated to members.

I would just like to thank you all for your very thorough and well-prepared presentation. It was very helpful to the committee, and we appreciate your attendance here. We will be meeting on April 18 as a committee to deliberate and make our decision on this matter, and we'll notify you soon thereafter as to the outcome. Thank you very much.

In view of the hour, perhaps we'll just move along here. Is there any business we need to deal with other than adjournment?

MR. THURBER: Adjourn.

MS PAUL: I move we adjourn.

THE CHAIRMAN: Okay. Mr. Thurber beat you to the punch. Moved by Mr. Thurber. All in favour, please say aye.

HON. MEMBERS: Aye.

THE CHAIRMAN: Any opposed? The meeting is adjourned. We will see you on April 18 at 9 a.m., a more civilized hour for our deliberations. Thank you for your deliberations this morning, your diligence, and your excellent questions.

[The committee adjourned at 10:02 a.m.]