

Legislative Assembly of Alberta

Title: **Monday, April 3, 2000**

8:00 p.m.

Date: 00/04/03

[Mrs. Gordon in the chair]

head: Government Bills and Orders

head: Committee of the Whole

THE DEPUTY CHAIRMAN: I'd like to call the committee to order, please.

Bill 2

First Nations Sacred Ceremonial Objects Repatriation Act

THE DEPUTY CHAIRMAN: Hon. minister, do you wish to . . .

MS CALAHASEN: Keep going. We were just listening to them.

THE DEPUTY CHAIRMAN: Edmonton-Norwood.

MS OLSEN: Thanks, Madam Chairman. There were so many people standing in the House I thought everybody wanted to speak right away on this, but I see that's not happening.

Madam Chairman, I'd recently addressed a couple of issues about this bill. One was the whole issue of the ministerial responsibility and how that seemed to be a pretty powerful section. That's section 2(2), and I guess I had some concerns about that.

Also, on behalf of some of the other stakeholders who brought up some issues, what is the definition of First Nations? Who will define what First Nations sacred ceremonies or artifacts are? That's not clear. That should be outlined in the text of the legislation, not left to regulation. There should be some sort of common notion as to what that is.

Where is the appeal process for aboriginal groups that don't agree with the minister's decision? Section 2(2) says, "The Minister must agree to the repatriation of a sacred ceremonial object unless, in the Minister's opinion, repatriation would not be appropriate." There's no appeal process. There's no mechanism for the First Nations community to go elsewhere. It's the minister who has the ultimate say, and if that minister of the day isn't familiar with the traditions of a particular First Nations community, it could cause some problems. So I'd like to see an appeal process set out. I'd rather see that set out in the legislation, not in the regs, so I'm hoping that the minister will be able to address that tonight.

I guess it goes back to the whole notion that the bill is vague, and the powers of the LG or the minister and the regulations are a little bit too broad and need to be defined. I think it's important they are defined in the legislation so that the aboriginal community sees this.

In fact, I've spoken to a number of people and have spoken to a couple of chiefs in the aboriginal community who didn't know that this bill existed, so I'm a little concerned. [interjection] Absolutely, Madam Associate Minister of Aboriginal Affairs. There are First Nations communities – and I can tell you right now that I have sent this bill out to their legal counsel. Those communities are in the south, and I'm sure they'll be contacting the ministers. Those particular communities don't know that this bill exists.

I'm wondering if the ministers can put on the table for us a list of stakeholder consultations that they have undertaken to assure this member and all the other members in this House that this consultation was broader than the two or three First Nations that are outlined here, and that's the Blood tribe, Peigan nation, and Siksika.

I'm hopeful that the minister can help us out here. Please reassure

us. Probably the best way to do that is to table a list of the stakeholders in the House. I've taken the word of the hon. ministers that they've done their homework, and it seems to me that after running into a couple of people – and that was just by chance – speaking to a couple of chiefs, they're not aware of this. So please inform us as to the consultation process.

Also the feedback of the museums. I'm interested in what their comments were in relation to this. I know that they're somewhat supportive, but they have some issues as well. How were those addressed? What sort of compromise or consensus did the ministers come to in dealing with the stakeholders?

I think what happened is that this bill was tabled and it was a feel-good bill for a very good reason: we were going to repatriate artifacts to the aboriginal community. However, I'm hoping that along with the feel-good this bill puts forth, the work was done and that it's not just smoke and mirrors for the aboriginal community and creating difficulties for both the aboriginal community and the museum community. So I hope we can hear something today that will help us feel a little more comfortable about where we're at with this bill.

Before I conclude my comments, I'd like to put forward a couple of amendments. Madam Chairman, I think you have the amendments. Okay. The first amendment that I'd like to put forward is: I move that Bill 2 be amended in section 2 by striking out subsection (2). So really what we're doing, Madam Chairman, is taking out the section that says "The Minister must agree to the repatriation of a sacred ceremonial object unless, in the Minister's opinion, repatriation would not be appropriate." We haven't had defined for us "appropriate." We don't know what this really means. "In the Minister's opinion" based on what? What is "appropriate"? This just can't be some pie-in-the-sky decision. This affects lots of communities and their particular sacred ceremonial objects.

Although, Madam Chairman, I have spoken to one of the hon. ministers in relation to this who assures me that the elders would be involved in this decision, I think it's very patronizing and very paternalistic to have section 2(2) included in this bill. If we're really talking about wanting the aboriginal community to be self-sustaining, if we want to talk about the aboriginal communities as entities that can look after themselves – and that's what they want; they want to be able to take control of their lives and not have so much government interference – this, quite frankly, is a very obscene clause. I believe that this particular section needs to come out of here to ensure that the right – you know, like I said, it's fine for the Premier to sit in the House in a traditional headdress, but it can't be just photo ops and feel-goods. There has to be some substance to this.

So I'm hoping that the House can support this amendment. We can see some other form of control if that's what the minister needs to have, but I think this is just far too paternalistic for the aboriginal community. I think that if they went out, Madam Chairman, that if the consultation was broad enough, then this particular section would've been struck.

I'm aware that this is A1, Madam Chairman. [interjections] Yes. Thank you. My colleagues are helping me out here. With that, Madam Chairman, I'll let my colleagues speak to this. I think it's very important.

THE DEPUTY CHAIRMAN: Yes, the chair would thank you. We will deem this amendment A1.

With that I would recognize Edmonton-Calder, who wishes to introduce guests. I have to ask for unanimous consent of the committee to revert to Introduction of Guests. Could I have unanimous consent?

[Unanimous consent granted]

head: Introduction of Guests

MR. WHITE: Thank you, Madam Chairman. It's a pleasure today to introduce two guests we have in the public gallery. They've come along to see what transpires here. Interestingly enough, one has a very famous name. The young man is Trevor Strome. Everyone here will recognize the name. Whether it's connected, we're not sure. It is a nod. It's an affirmative. We have a guest from Winnipeg, Karen Serfas. I'd like to welcome them to the Assembly. If they'd please rise and receive the warm welcome of the Assembly.

8:10

Bill 2
First Nations Sacred Ceremonial
Objects Repatriation Act
(continued)

THE DEPUTY CHAIRMAN: Edmonton-Centre and then the minister.

MS BLAKEMAN: Thank you, Madam Chairman. I am rising to speak in favour of amendment A1, put forward by my colleague from Edmonton-Norwood. I know that she has been very involved with this bill and very concerned about the correctness of what's being done here, and I appreciate her taking the time to put forward this thoughtful amendment.

I do agree with the sentiment that is embodied in this amendment in that we are recommending that section 2(2) be struck. It is a patronizing, sort of Father Knows Best clause in the bill, and without knowing too much of what's being intended here, the legislation is not elucidating at all for me as an individual. We have no idea of what is appropriate or not appropriate. The minister is making a lot of decisions here, either giving or withholding permission on something without any idea of why that might be the case.

There is no avenue of appeal that's incorporated in it. Generally, if you're going to have a decision made at that level or a decision made by a quasi-judicial body, there is an avenue of appeal that's incorporated into the legislation, and that is not the case here. So if I could envision any concerns arising about the passage of this bill, that's where it's going to come, because people will not understand why something has either been granted or denied, and there's no avenue of appeal to follow up and say: well, please explain why this has happened.

I'm concerned generally about the amount of information that is inferred will be put forward through the regulations, and as usual I have difficulty with that. The government is very fond of putting forward shell bills in which they empower themselves to do whatever they wish in the future without that ever having to come before either this Legislature or the people to allow any scrutiny or understanding, which is also an important part of the process.

I think this is important. This is a good bill. It's much needed. If anything, I would say that it is long overdue. But there are a few suggestions on how to make it a better bill, and this is one of them. Especially when you're dealing between two sovereign nations, there needs to be a clear process outlined as to how decisions are reached and how discussions can take place about that and how there can be further discussions if there is a disagreement about the decision that's been reached. That just isn't in this bill, and I think it sets up what should be a good thing for a great deal of acrimony in the future, and I don't think that was intended when the bill was put forward; quite the opposite, I imagine. But they've certainly set themselves up for a fall with this.

So I would ask that the hon. members in the Assembly do support this amendment. I'm not sure if anyone else wishes to speak to it, but I will not drag this out, and I'll take my seat at this point.

Thank you.

THE DEPUTY CHAIRMAN: The Minister of Community Development.

MR. WOLOSCHYN: Thank you, Madam Chairman. I'm a little bit dismayed at this particular amendment. I think it should be made clear that this legislation didn't just drop out of the sky. There was a lot of thought given to it. Just for the record, before it was introduced, every native band, every treaty band in the province was given a letter to the effect that it was coming and what was to be expected in it, and I would be glad to share that list with you at some point if you wish.

With respect to the amendment specifically, I think that there's a lot of needless fear mongering going on from across the way. We have to understand, quite frankly, that there has to be at some point a final authority with respect to when repatriation will proceed. Now, the clause is quite specific. It says that the minister "must," unless the minister deems it's inappropriate. Well, what could trigger such a situation? We are a provincial entity within a sovereign nation called Canada dealing with First Nations folks and having to do with objects that belong to them within this country. If for some reason it was deemed that there was going to be a movement of the said sacred ceremonial objects outside of Canada without the proper processes, if you will, taking place, then that would be a reason for it to be deemed inappropriate.

In addition, this bill is set up in such a way that upon the request of the First Nations groups, we will sit and deal with each First Nation in their own parameters, within their own guidelines, because they are different, as we well appreciate, and there are different levels of desire to have these objects returned. Certainly, obviously, there would be and would have to be an appeal, if you will, all along the way, even in the identification of what a sacred ceremonial object is. That's all virtually impossible to define. That has to be gone through with the people who lay claim to it, and we're quite prepared to follow that on each basis.

As a test run, if you will, the Blackfoot agreement identified some 250 objects. These were done in consultation with the people. As a matter of fact, the First Nations folks there are the ones who removed from the list ones that they felt were better to stay with the province. So I think that if you look at the intent of this bill, you understand that it is triggered by the request from groups to have their objects come back. We're dealing with First Nations people. We may be dealing with chiefs and councils. We will definitely be dealing with elders – there's no question of that – and there are various societies within these bands who use these. So it's not just a simple idea of coming in and cataloguing an item and giving it back to someone.

The other side of this equation is that these objects belong to the people to which they're being returned, and at the same time they must be looked after for longevity and continued use by these same people that own them. If we were to draft regulations here and now in the bill to cover every possible variation, if you will, then we'd have a bill that you couldn't get through.

It's quite clear. It's a request of the First Nations folks. The term "First Nations" can be variable. That's a very recent term. Before that, they were called tribes. Some groups like to be called tribes even today: the Blood tribe down south. Consequently, if there is some more direct action with them, they would be referred to as the Blood tribe, but for the purposes of this legislation it's defined in the regulation in consultation with what they want to be called.

I feel that the bill is very good. This amendment, quite frankly, although I do have a degree of understanding, is totally redundant and would take away from the spirit of the bill, and I would ask us to turn it down.

THE DEPUTY CHAIRMAN: The hon. Member for Calgary-Buffalo.

MR. DICKSON: Thanks very much, Madam Chairman. Just a couple of points. Firstly, you know, it looks like we haven't advanced very far. We might as well still have the company of adventurers trading into the Hudson's Bay. We could have the factor of the old fur-trading post of the North West Company and the Hudson's Bay Company exercising what they thought was best judgment in terms of the aboriginal peoples who lived in this country. I think that the reason for this amendment has been ably described by my two colleagues, and the minister has been absolutely, completely unresponsive to the concerns expressed in the amendment.

You know, what section 2(2) provides is that a minister – and it may not be this minister. It could be any minister. If you look at section 1(c), it's any minister designated under section 16 of the Government Organization Act. So this minister is having discussions over here in the left corner. In the meantime there's some other minister charged with responsibility under the act. What we have is a minister under section 2(2) who can act recklessly, capriciously, inconsistently, unilaterally. There are absolutely no bounds on the unfettered discretion provided in section 2(2). What strikes me is that one week the minister, whoever that minister may be under section 16 of the Government Organization Act, may exercise his or her discretion in one way and then the following week may exercise his or her discretion in exactly the opposite way on virtually identical fact situations. There's nothing fair, just, or certain about that.

8:20

Legislation, Madam Chairman, is designed to import a degree of certainty, to provide a degree of finality, subject to perhaps appropriate appeal, subordinate lawmaking through regulation, but to have a provision in here that's as wide open as this one, as I say, suggests that this government is no more committed to respecting the sovereignty of First Nations people than we might have expected from the governor of the Hudson's Bay Company a couple of hundred years ago.

The concern, I think, would be this. Regulations in this province are scary enough, and all members no doubt will soon be treated to a novel argument around the Standing Committee on Law and Regulations. But while they're waiting for that novel argument on a favourite amendment that members know and love and always look forward to on bills, we can consider that this is a case where the government is not even comfortable with the hammerlock they have on the regulation process. They control it completely. They control it absolutely, completely, and they can change the regulation from week to week if the minister so chooses. Yet here that's not enough. On top of everything else, they want the minister to be able to make an assessment: he has to agree.

You know, it's a fundamental principle of administrative law that if there is discretion to be exercised, it is for us as legislators to identify the criteria that should be applied when the discretion is exercised. The fact that no criteria have been enumerated in Bill 2 suggests that this government doesn't really know where they're going. I mean, that's one reasonable inference, Madam Chairman, from section 2(2). The government has absolutely no idea of how they're going to manage these kinds of cases in the future. Once we do sort of the one-off thing that plays well to camera and gets great media attention, the reality is that once we get past that, we find that the government has virtually no plan at all in terms of dealing with this in the future. There's not even a stipulation that the exercise of

the discretion has to be in the best interests of the province. It doesn't have to be in the best interests of the First Nations people.

Madam Chairman, I've seen a number of curious provisions and statutes in the eight years I've been in this Chamber. This is clearly one of the most curious. I don't ever remember a minister having the temerity to come into the House and suggest that he wants absolute, unfettered discretion. All ministers aspire to this. There's not a member in this front row that wouldn't love to have a provision like this in a bill. Once we give it to this minister, the Minister of Community Development, can we not expect that his colleagues are going to say: "Hey, I like this unfettered discretion thing too. Sign me up. Mark me down. Where's the government leg. review committee? I'd like a few provisions like that."

I understand it's tough work being a minister. It's darn tough work having to meet standards and meet tests, but just as I told my daughter going into the elementary school track meet, Madam Chairman, there's no point in trying to win if there isn't a significant challenge to overcome. There's no challenge here because what the minister, what the government purports to give with one hand, they are reeling back in virtually simultaneously with the other. I think the excuse we've heard proffered from the minister is more alarming than perhaps silence would be, because it tells us that this bill, for all the grandstanding, for all the fancy wrapping, is not about much of anything. That's disappointing, because I think the minister would agree in his heart of hearts that this is too important an issue to be treated as cavalierly as Bill 2 would treat it.

So, Madam Chairman, always hoping that maybe I'm more persuasive on this amendment than I routinely am on amendments, I'd suggest that this is an amendment we could embrace. It means that the minister is going to have to work a little harder in crafting regulations that give him the kind of flexibility he needs, and he'd be able to do that in regulations. I wouldn't be perfectly happy with that, but it would be less offensive than section 2(2) in the bill in its current form.

I'd make this challenge to the minister through you, Madam Chairman. Will the minister stand in his place and enumerate the criteria that he will apply and he will warrant on behalf of the government of the province of Alberta? In saying yes or no, what criteria will be applied by other ministers who have the power under section 16 of the Government Organization Act? What are the criteria? If he tells me with precision and with exactitude what those criteria are going to be, I will sit down happy in knowing that the amendment may not carry but that at least we've been able to put some flesh on this bare skeleton, and I think that's really what's required here.

I challenge the minister. He's had weeks to think about this, first before drafting the bill and then when it came in for first reading and received second reading. The issues we've raised have been raised before. Will that minister stand in his place tonight at 8:30 and for all members and Albertans and anybody who accesses *Hansard* on the Internet and the guests that are bravely here tonight particularize the criteria that will be employed in making that decision under section 2(2)?

Thank you.

THE DEPUTY CHAIRMAN: The hon. minister.

MS CALAHASEN: Thank you very much, Madam Chairman. First of all, I want to address a few issues that have come to the forefront on this bill, because it's very important from the perspective of the First Nations and the elders.

First of all, this is the only bill in the country which allows repatriation of sacred ceremonial objects – the only bill, Madam

Chairman – and it is the only bill that's going to be able to allow the First Nations people and aboriginal people to be able to take back what was taken away from them. In many cases they might have lost them along the way.

One of the areas that I want to talk about is exactly the questions that have been coming out. In order for us to do this, we had to do proper protocol. What do we mean by proper protocol? First of all, we had to go to the elders, and I think many people do not understand what proper protocol in Indian country is, despite the fact that they may feel they do and pretend they do. I'm just really frustrated with the fact that I think we get people who don't have a clue what the heck they're talking about discussing something of this nature.

I really feel strongly, Madam Chairman, that when you're talking in consultation with First Nations, it doesn't mean that we go after the fact, after we build the bill. It means that we have a legislation that's enabling, to allow First Nations to be involved. I'm tired of the business of going to the First Nations after the fact and saying that we consulted with them. That's something that I really want to bring to a halt here, because these are the kinds of things that I'm hearing from the opposition, and I think it's time to shut up or put out.

Number two, we also have to look at: the elders committee has to be established. That is what the elders indicated, and that to me is the primary consultation that has to happen because they are the only ones who can determine what happens. I don't think it's up to us, whether you're white or whether I'm Metis or whether there's a First Nation in here, to determine that process. We let the First Nations determine that process in consultation with the minister and myself. I think that is the proper protocol and something that we need to be very aware of despite the fact that we may think this is something that we want to put little fences around.

I don't agree with that. I feel that's really losing out on the intent of what we're trying to do. Regulations cannot be built by anybody. They have to be built working with the First Nations people, and that is an important facet that the Minister of Community Development and I have talked about to the elders and some of the chiefs that have wanted to become involved.

8:30

I have a question for the Member for Edmonton-Norwood. I would like to know who the First Nations chiefs are that did not know about this bill? Every single one of the chiefs in this province received an invitation to come to this as well as to know what was happening. I think that's a very important protocol when we're talking about dealing with First Nations.

When we're talking about the fancy wrapping that the Member for Calgary-Buffalo just discussed and talking about cavalierly dealing with this bill, well, I think what is happening – if we're talking about criteria that have to be applied, the criteria have to come from the First Nations and those elders. It's not up to you. It's not up to anybody on the opposition side. It's not up to us to do that. We have to do it in consultation with those First Nations. That is something that has to happen with those First Nations. Whether we like it or not, it's about time we started talking about working in cooperation with them.

Madam Speaker, I also want to talk about some of the concerns. I'm really disturbed by the Member for Edmonton-Norwood. I always thought she was quite sensitive to aboriginal people. She calls this a feel-good bill. She says that it shouldn't be smoke and mirrors, and she indicated that it's fine for the Premier to sit in the House with his headdress. In my books and in aboriginal country that's blasphemy. When you talk about the headdress, when you talk about the designation that the Premier got from those First

Nations as honorary chief, it was not cavalierly done. It was done with feeling. It was done with meaning, and they love him in giving that designation. I am very, very appalled that we would even begin to think that that's something that we should just toss off as if it meant nothing. To us it means lots. It means lots.

That's important when you're talking about involvement in the consultation processes with the people who are going to get these objects, the people whom they rightfully belong to. That's something the elders told me. When I went initially to talk to them about this, when I took my offerings and did the offerings that needed to be done, when I had to go and talk about what we needed to do, they were the ones who outlined what had to happen. It wasn't I. It wasn't the minister. It was they who outlined what kind of process we had to use. I for one want to see this bill passed, because it is an important bill for aboriginal people. Finally the whole issue of patronizing the aboriginal community is starting to disappear. We are working with them, not against them and not according to what we want. It's according to what they have identified to us.

These objects are very important. It doesn't mean that these objects can be just taken and given away any old time. They want to see a process identified that would involve them, and they want to see that process put forward in a format that's going to be good for them, for those people who will be accepting them. These are powerful objects in aboriginal country. These are objects that mean a lot to them, and these are objects that they are finally going to pull together at all their sacred ceremonies to start understanding and to be able to know what they have to do to get better. That's the healing process of aboriginal people, who want to see this bill passed. This is the reason I support it and the Premier supports it.

I was totally honoured that the Premier asked me to bring this bill forward, because we had to carry it out with the proper protocol, in the way that the elders, chiefs, and Metis people were able to carry it out. I for one would not want to say no to those aboriginal communities to what they have put forward in terms of what needed to be done.

So that amendment, Madam Chairman, I think is just something that somebody else wants and throws at the table without really proper dialogue with the elders who are part of this process as well as some of the Metis and the aboriginal community. So in that sense I believe that whatever happens, however the bill comes in, is written, that's exactly the way we have to pass it. I don't think I would want to go back to those elders and those chiefs that have supported this a hundred percent and say: oh, the Liberals wanted it changed; they wanted to see some things done because they don't believe that you as an aboriginal community can be involved in the decision-making along with government. Not arbitrarily made for them but rather with them.

So I cannot support the amendment as outlined, because it's a process that we've gone in, it's a process we've dialogued with, and it's a process that I want to carry through to make sure that whatever we do is going to be for the betterment of the First Nations and the Metis people in this province.

THE DEPUTY CHAIRMAN: The Chairman did not see who was up first, so I'll let you decide.

Edmonton-Norwood.

MS OLSEN: Thank you. Well, I'd like to thank the minister for her eloquent speech. However, my concern is this. Nobody's talking about not consulting with the aboriginal community. In fact, Madam Minister, what you're talking about isn't identified in this particular bill, if you really want to know about it. What you're identifying is not supported by this bill. What you're asking for is

not in this bill, because section 2(2) doesn't allow that to happen. That's what we're talking about. That's why I'm saying that this section needs to go. It is as paternalistic, Madam Minister, as it can possibly be. This is allowing any minister on this front bench without any degree of knowledge or consideration, if they so choose, in their opinion, to just say: no, this is not a ceremonial object. That's what that's all about.

This isn't about whether the Liberals believe that something else should be changed. It's not about that at all. What it's about is erasing and getting rid of the paternalistic behaviour that is imparted on the aboriginal community time and time again. You talked about that. Then do something about it by supporting, Madam Minister, this particular amendment to remove that power. You talk about the elders. The elders have no say under this bill as it is. They have no say because it's not outlined in the bill. So one day somebody in this government sitting over in his bench could say: who cares about the elders? That's what this bill can do, because it's not outlined in it. So if you believe that, then put it in the bill. I think you've missed the point. This is not fear mongering. The reality is that the history of this government shows what happens when this kind of section is added into a bill. We've seen it time and time and time again.

You can go on and you can talk all you want, Madam Minister, about what this member might or might not feel, but I believe that this particular amendment is supporting exactly what the aboriginal community wants. They don't want any more paternalism. That's what they don't want.

Thank you.

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Centre, followed by the minister.

MS BLAKEMAN: Thanks very much, Madam Chairman. I've been inspired to rise again on this amendment. What's interesting about this is that I think everyone in this Assembly wants this bill to pass. I haven't heard anyone say that they don't want it to pass. As a matter of fact, I've read the *Hansard*. I think every single person that stood has said: good idea; we want this bill to pass. So let's be clear about that and not be sort of throwing about accusations that somebody's trying to sabotage a bill.

As a legislator in this Assembly it's important to me, wherever it's in my power to craft stronger legislation, legislation that will stand, legislation that will be true to its original source, legislation that can't be used further down the line for something that wasn't anticipated in the original drafting of it, then I think it's incumbent upon us to do whatever we can to strengthen that legislation. We can't assume that people years from now or even months from now will somehow be able to cast backwards through some sort of reverse telepathy and understand what was in our minds at the time. It has to be written in the legislation.

8:40

Now, this government has a habit of writing it into the regulations, which are even further afield and more difficult for people to access and find out what's going on. I think it's important that we do the best job we can, when we identify something that could be strengthened in a bill, to do it. You know, I'm excited that this bill was brought forward. I think it's very appropriate that these moves are made, and I said when I rose earlier that I wish it would have happened earlier.

I have to say that I don't appreciate a member opposite getting up and somehow attempting to insult me in my attempts to uphold this bill. That's not what it's about. It's about creating good and lasting legislation that will be clearly understood by everyone now and in the future.

I listened with great interest to the Associate Minister of Aboriginal Affairs, who spoke very passionately about the need for the criteria to be generated from the community, and I am certainly not going to disagree with her there. I do agree. I think it's important that those who are most affected by a process are deeply involved, intimately involved in establishing the process, or it's not going to work for them. Especially when you are dealing with different cultures, it's absolutely critical that those people are represented at the table and are able to establish their own criteria.

My concern on behalf of the member is that the criteria are not in this bill. What I heard her say was so important to her and important to the people that she represents is not in this bill, and I worry for the future if the member thinks it is in the bill and finds out later it isn't. She spoke so passionately about it. I don't understand why, having identified what's important to her, she wouldn't be making sure that it was specifically drawn out in the bill.

There's nothing in that bill that talks about that process. There is nothing in this bill that talks about those criteria. Nothing. There's not even any reference to it. All it says is that the minister will decide, unless he decides not to. That's what it says. It doesn't say in here that the elders will be consulted. Nowhere in here does it say that. It doesn't say that a process that's respectful of that will be incorporated or will be used or will be sought or followed in any way. It's not written in the bill.

Hon. member, you know, I'm concerned, in being able to follow what you've identified as being so important to you, that it's not in here. If you do want it in here, then I would advise that you support the amendment that is before us. Work with us. I mean, everybody's trying to get the same thing happening here. Why are we arguing about it?

Thanks very much, and I'll give way here. Thank you.

MRS. McCLELLAN: Madam Chairman, I just want to speak very briefly to the amendment and to urge members not to support it. I think that if one reads the whole bill, there is a better understanding of what is meant. You cannot take one section by itself. You have to look at section 2(1), then (2), then (3).

You have to also understand that there has to be for the objects that have been in the care of the province a process for repatriation. You have to ensure ownership. Many of these objects have been out of the hands of First Nations for many, many years. They have been, as the hon. minister indicated, sometimes sold, sometimes gifted. Sometimes it's very difficult to trace. So it is important to have a process in this bill that will deal with it.

The important thing that the associate minister emphasized is that this bill was developed with the Minister of Community Development, the Associate Minister of International and Intergovernmental Relations responsible for aboriginal affairs, in consultation with first the elders and the chiefs and the Metis people, as the regulations will be developed and the criteria will be developed with those same people. It is incredibly important to the First Nations that their elders be consulted, and that process is enabled in this bill.

I sat in this Assembly the day this bill was introduced and the Premier wore his headdress, which, as the associate minister said, is not gifted lightly. It is a very great honour to have that. When the associate minister, my colleague, stood in her ceremonial dress and presented this bill, I looked up at the gallery and I saw all of the representatives from the different nations sitting there and the elders, agreeing with this bill being presented – it was a part of their making – and how moved I felt when I heard them talk, and I'll paraphrase, of this being an opportunity to have the pages of their Bibles returned to them.

I believe this House has a responsibility to our First Nations

people to pass this bill. They have been waiting a long time for the repatriation of some of these sacred objects. It is incredibly important also that the minister who has the authority and the responsibility for many of these objects today have a role in deciding whether repatriation is appropriate, for the reasons I outlined. It is difficult in some of these cases to trace the origins, to trace which tribe perhaps used these objects. Some of these are a hundred years old and more. So you have to have a process.

If you take this section out, you almost render this bill useless, and I think you have to think about that when you ask to have section 2 removed. Maybe it would've helped if you had an opportunity to be a part of the years of discussions, first all of the discussions with the Glenbow Institute – the minister had an opportunity to be involved in that discussion, as I did earlier and as the associate minister did – and to understand how we came to this wonderful, I think, historic moment in our Legislature, another very proud moment in Alberta's history, where we could present a bill that will in an orderly and fair fashion repatriate these very important sacred objects to the First Nations.

As the associate minister indicated, the consultation must occur with the elders. If the hon. members opposite would stand and outline to me which chiefs, which elders, which persons from the First Nations or the Metis communities have asked them to have this bill amended, then I would listen very carefully and very seriously, as I did anyway, as is my practice. I would have considered support, but I did not hear that from any member opposite that spoke on this bill. I do know that the minister whose department brought forward this bill and the associate minister who presented this bill in the Assembly did have those consultations, did have those requests from the First Nations, and I am going to have to support the First Nations' support for this bill, not some ideas of interest that we might have here. As I said, there's a lot of consultation. A lot of work has gone into this.

I would encourage any member opposite to give me that information. Tell me which First Nations have asked for these amendments, which elders wrote or phoned or spoke to them on the street and asked for these amendments. Then I might consider supporting it, but I frankly wouldn't risk supporting an amendment to a bill this important that I have absolutely no indication that the aboriginal community has asked for.

Thank you, Madam Chairman.

[Motion on amendment A1 lost]

8:50

MR. DICKSON: I was just thinking, Madam Chairman, that this would be an appropriate time to consider a further amendment. You know, I just feel mischievous enough tonight that I'd like to be able to pull out of my pocket a different amendment than the old Standing Committee on Law and Regulations, but then I realized I've given myself away. We had the amendment distributed earlier, and in any event I'm not moving it. But if I were to move it, I think what I would want to identify . . . [interjection] If it has not been, I'd be hoping that the table could assist us in distributing the second amendment to this bill. I thought it had been distributed.

THE DEPUTY CHAIRMAN: It is distributed.

MR. DICKSON: I'm not moving that amendment. I just wanted to make sure it had been distributed, and I understand it has now. I expect my colleague for Edmonton-Norwood is probably ready to move that amendment momentarily, but I just wanted to make the point that it's clear that the two government members that have

spoken most recently to this really don't appreciate the reason, the rationale, the motivation for putting forward the last amendment. One would hope that they will at least understand the value in having the regulations vetted in some kind of a process that's not internal.

You know, we heard impassioned speeches from the government side about respecting what the First Nations people want, and it seems to me that that is precisely what my caucus colleagues are alive to. That is precisely why we say: why would we give all of that power to the minister? We should be empowering the First Nations people. They're the ones who stand to benefit from this. [interjections] Madam Chairman, I think that when I'm reincarnated, I want to be able to come back in some fashion that is more persuasive than my current version. Anyway, I'm straying a little bit.

The point I wanted to make was simply this. These regulations are important for all of the reasons that the government members who have spoken to it have mentioned. It's too important to be treated as something a single minister with some kind of a selective consultationalist – can't we do this in a way so that every First Nations person in this province can see what's going on, that everybody knows that this is not a closed consultation but rather should be an open one.

I think that if there were an amendment such as I anticipate may come and may become A2, what that would do would be to open up that process. It doesn't hurt anything. I say to the government members that have spoken against the last amendment: you know, there's a sense we're creating some kind of a false contest here. There's nobody on the opposition side that wants to disempower First Nations people. Rather, what we're all about tonight is respecting their ability to know what the rules are going to be and to have input in those rules. The most straightforward way of doing that is to open up the regulation-making process. In fact, the government has nothing to lose by opening up the regulation process, because what they clearly have now with section 2(2) unamended is that it means the minister can do whatever he or she darn well pleases in any event.

So, Madam Chairman, I hope that someone will come forward with an amendment to open up the regulation process, and I'm going to be holding my breath waiting for that announcement.

Thank you very much.

MS OLSEN: You know, Madam Chairman, my colleague took all the anticipation out of this. It's called the Dickson amendment, I want you to know, and I think it should be framed, and everybody should get a copy signed by my hon. colleague. But you know what? It's the best amendment – it's the best amendment – that comes to the floor of this Legislature and for all of the same reasons that we've discussed in the past.

I'd like to move amendment A2, Madam Chairman. The amendment states that Bill 2 be amended by adding the following after section 5:

- 5.1 (1) In this section, "Standing Committee" means the Standing Committee of the Legislative Assembly on Law and Regulations.
- (2) Where the Lieutenant Governor in Council proposes to make a regulation pursuant to section 5, the Lieutenant Governor in Council shall cause to be forwarded to the Standing Committee a copy of the proposed regulation.
- (3) On receipt by the Standing Committee of a copy of a proposed regulation pursuant to subsection (2), the Standing Committee shall examine the proposed regulation to ensure that
 - (a) it is consistent with the delegated authority provided in this Act,
 - (b) it is necessarily incidental to the purpose of this Act, and

- (c) it is reasonable in terms of efficiently achieving the objective of this Act.
- (4) When the proposed regulation has been examined as required under subsection (3), the Standing Committee shall advise the Lieutenant Governor in Council that the proposed regulation has been so examined and shall indicate any matter referred to in subsection 3(a), (b) or (c) to which, in the opinion of the Standing Committee, the attention of the Lieutenant Governor in Council should be drawn.

Now, Madam Chairman, at some point somebody will see the significance of this amendment. You know, there's a particular bill that's going to be before the House tomorrow that this amendment should apply to, but this also should apply to this. You see, we have this committee called the Standing Committee on Law and Regulations. I am a member of it. I know that the chair of that committee would dearly love to be able to chair the committee and be involved.

In fact, a reporter was just telling me the other day that one of the things that the opposition members in the House of Commons like best is their committee work, and they do have these committees. They review this process, and that cuts the time that they spend in Parliament debating these kinds of bills, because there's some agreement in the Standing Committee on Law and Regulations on the laws and the regulations.

We have so many of the members in this House saying, "We should never be here," and "We're wasting our time," and "Our job is in our constituency." Well, that's the government side. We on this side, we the Liberals, believe that we have a job to do, but we could be far more efficient if this government would just let us, if this government would just pass this type of amendment and put into their particular legislation this amendment so that we could go forward, Madam Chairman, and bring this kind of legislation to some sort of agreement before it hits the floor of the Legislature, and that's really what those committees do.

In fact, I would say that the hon. Associate Minister of Aboriginal Affairs gave a great speech in support of my last amendment. Her speech actually supported my amendment, so I sort of anticipate that she would probably want to support this one because she gave such a great speech in support of the last one.

I really feel, Madam Chairman, in all seriousness, that there is a better process and that we ought to be using that process. We ought to be sitting down as legislators like we do in other committees and talk about the legislation that comes forward. I would bet that had that happened with Bill 26, the sexual sterilization bill, the outcry on that would never have happened. It would never have surfaced because we would have dealt with it from the outset.

9:00

Bill 25, the Justice Statutes Amendment Act that was brought in a couple of years ago, required 20 pages of amendments, some astronomical number of amendments. We would have had that refined before it even got to the floor of the Legislature.

Bill 11 that's coming to the floor of the Legislature. You know, if we were able to go through a process in committee that dealt with these kinds of things, then we might be able to see the light of day and at least come to some agreement, even if in that bill it's to agree to disagree.

I would suggest, Madam Chairman, there are bills that come to the floor of this Legislature that we could agree on, and we do agree on, and this bill we agree on. It's part of the process that we're not agreeing on. We're not going to not support the bill, but I think there are some issues that could have been dealt with in a committee prior to bringing it to the floor of this Legislature. That wasn't done. There's no opportunity to do it. The hon. Member for Banff-

Cochrane never gets to chair the committee she's chair of, you know.

I think it should be incumbent upon this government, if they want to be more efficient and use this Legislature and this Legislative Assembly in a more efficient manner, that they should pass this amendment.

Thank you.

MS CALAHASEN: Madam Chairman, first of all, I know that the hon. members on the opposition side do want to see this bill passed. I know that, because they have indicated that they support the bill and are trying to make sure it gets passed. I know that they have some really good intentions, but I think that's all they've got, because if you look at what it is they're trying to do, it really makes me question what it is that they're trying to bring forward.

First of all, when you look at the amendments that have been brought forward and when you look at this latest amendment by my hon. colleague from Edmonton-Norwood, you're talking about the standing committee making the regulations, things of that nature. When you think about what it is that she would like to see on this bill, it makes me question who's patronizing now. If you think there should be a group that determines who makes the regulations, well, that's a different story, isn't it, when you begin to look at what it's all about. Because all of a sudden somebody else will be making the decisions, not necessarily in the consultative way that we have identified with the First Nations and the elders.

The elders have often said: "We're not just one homogeneous group; we are diverse. There are so many of us out there that have different ways of being able to deal with different sacred objects, and we need to be able to bring that in." That's where we have to find a process that will just enable them to establish what needs to be done, because that's one of the problems they've always had. So they're saying: "Let us make that decision. Don't let him make the final decision, because ultimately it is still Community Development who has the legal right. However, it's going to be ours once we determine that process."

[Mr. Herard in the chair]

It's really interesting that all of a sudden we see the First Nations Sacred Ceremonial Objects Repatriation Act – something that was so sacred, something that's so good, something that was wonderful because we had the First Nations and the elders and everybody who felt very good about this – being used to try to do a number of things, in my view. One, I see it as trying to do a job that would create more work for people or change legislative processes. Well, aboriginal people are not stupid. They do not want anybody to be using them to be able to advance their own causes. They want to see what can be done, and they want to be involved.

I for one do not support the idea of sending it to the Standing Committee on Law and Regulations. I mean, how patronizing can one get? Even though the Member for Banff-Cochrane is probably one of the most wonderful people – she has many, many people in her constituency. She spoke on this bill when we were coming through it. She was very supportive. She did all those things, but, you know, Mr. Chairman, she was very good because she said: we can't make those decisions; let the First Nations make those decisions; we have to enable them to be able to do that and not have our own white biases in this whole process. So now we see that whole change, and I for one have supported her a hundred percent in what she was saying because I agree with her. The elders told me that. The First Nations chiefs we met with told us that. They are saying: let us make those decisions.

Mr. Chairman, it's like one of my colleagues said: you can't suck

and blow at the same time. I don't know if the member across the street knows how to do that, but I think she has a skill that I still haven't found.

MR. WICKMAN: Just very, very briefly, Mr. Chairman. I respect the views of the member speaking on this particular bill. She, of course, with her cultural background is in the position to probably understand these types of issues more so than other members in this Legislative Assembly, sort of like issues that relate to persons with disabilities mean a great deal to me because certainly I can identify from a firsthand point of view. So I give the minister full credit from that point of view.

However, I don't understand, Mr. Chairman, why there would be hesitation with the amendment. When we look at the amendment where we talk in terms of the Standing Committee on Law and Regulations, there is no arguing that the agenda of that particular committee is overcrowded or that that committee is so busy meeting that it doesn't have time to take this particular one on, because we know that's not the case.

That particular committee was struck for a reason, and in the 11 years I've been here, I don't ever recall that particular committee meeting. Why would there be hesitation when there's an opportunity to say, "Let's activate that particular committee and let's support this amendment so we do have a provision that ensures that before regulation change occurs, it would go to that committee."? Then possibly other ministers would follow suit with their particular pieces of legislation.

I don't see, Mr. Chairman, that the elders would hesitate at this type of amendment or this type of procedure in that it allows members from the opposition party or parties to also participate in the decision-making process. So rather than the elders being restricted in terms of their lobbying or their decision-making channel to the governing party, they have the opportunity to feed in a meaningful fashion to the opposition party as well.

With all respect to the minister and what the minister is saying, what that member is saying, I have no problems myself supporting the amendment and feeling it is a good amendment, and it's not being done for political purposes. It's being done because it enhances Bill 2, which is a very, very great bill. It's a great bill. It's a bill that should have been presented in this Assembly a long time ago. In fact, I guess if you look at history, it should have never been done in such a way that there is a need for this bill, because the items that are affected by this bill should have never left the hands of the native people to begin with.

So, Mr. Chairman, just to conclude, I certainly will support the amendment.

9:10

THE ACTING CHAIRMAN: The hon. Member for Edmonton-Centre.

MS BLAKEMAN: Thank you, Mr. Chairman. This is interesting. I listened very carefully to what the member opposite was saying, and I would have to comment at this point that I wish she would extend the same courtesy to what's being said by other members in this Assembly, because very clearly what we are suggesting with this . . .

Chairman's Ruling Decorum

THE ACTING CHAIRMAN: Hon. member, excuse me. There seems to be a meeting going on here on the right. You know, if there's a need to have a meeting, could you go and have it in the

Confederation Room, please, because I can't understand a word the Member for Edmonton-Centre is saying.

Go ahead, hon. member.

Debate Continued

MS BLAKEMAN: Thank you for that courtesy, Mr. Chairman.

No one has said that there is any attempt, understanding, indication to make regulations here. This is about asking that a standing committee that was established by this Assembly long before this government was in – it's an all-party committee – that that all-party committee, with all the good intentions and all the good resources it has, be used in being of assistance to this legislation. So I don't understand why the member would be saying that someone is trying to make regulations here. I think if she checks the *Hansard* and listens carefully, what's being suggested is that any regulations that are forthcoming be referred to that committee, and I think that's been quite clear.

There are three reasons why I think this is a good amendment and why it's helpful. It always clarifies any regulations. It brings into the open regulations that are being brought forward in support of a bill, and certainly we've already had a discussion in this Assembly as we tried to understand what are the criteria. The Associate Minister of Aboriginal Affairs has said: well, there are criteria to be followed that have been agreed upon; it's in the regulations. Well, good. Then this helps to bring those regulations into the open and allows us to make a better bill.

There's quite a bit in this bill that is decided by regulations: the definition of First Nations, the process and procedures to be followed in repatriating a sacred ceremonial object, regulations about who is to represent a First Nation for any purpose relating to the repatriation of a sacred ceremonial object, regulations about the consultations with a First Nation that must be completed for the purpose of section 2(3), and regulations respecting the process by which input may be obtained by the minister from persons, other than a First Nation, that apply for repatriation under section 2 before a decision is made by the minister. All of that we've all supported and decided in this Assembly are important regulations, and certainly bringing them before the all-party standing committee on regulations should be very helpful to that.

Secondly, I have spoken a number of times about this amendment in the context of other bills, of the need for this government to be more open and transparent. It's very difficult for members of the public or members of interested groups to get access to the regulations of any given piece of legislation. Having regulations referred to the Law and Regulations Committee, to have that debated, *Hansard* taken of it, the *Hansard* available, would really help people to be able to understand what the process is, exactly what's intended, exactly what's behind everything, and in fact what the regulations are, because it is darn difficult to get what the regulations are for any piece of legislation the government has.

My colleague from Edmonton-Norwood has already spoken about how in other jurisdictions having committees on law and regulations meet makes the work of the Assembly itself more efficient because a lot of the questions and misunderstandings and clarifications have already been worked out in the committee. Indeed, I agree with that. A lot of times I wouldn't have to be standing up here asking questions if in fact it had gone to an all-party committee.

So once again I'm confused about why the member would believe that referring regulations that are coming under this bill to a legislative all-party committee is somehow changing the legislative process. You know, we're all appointed to these committees. It's a well-known and accepted practice of this Legislature. I'm not

understanding why the member would believe that this is somehow changing a legislative process, exactly the opposite actually, since everything is in place.

MS CALAHASEN: We don't need it.

MS BLAKEMAN: Ah, well, the member doesn't think we need any of these processes. We should just trust her or something. I'm not sure what she is meaning by those comments.

AN HON. MEMBER: You guys are just wasting time.

MS BLAKEMAN: Oh, yes, you see, now we get comments from the other side about wasting time. I find that most unfortunate, because I think that when we meet in here we are meeting to make legislation better and to bring forward . . .

Chairman's Ruling Decorum

THE ACTING CHAIRMAN: I hesitate to interrupt the hon. member. Hon. members, you're making it absolutely impossible for me to hear anything that is being said, so let's get back to the amendment, please.

MS BLAKEMAN: Thank you, Mr. Chairman. Yes, it's interesting, because the interruptions and the sort of heckling from the members opposite always do seem to extend the debate longer. So I don't think the accusation could be thrown on members on this side for extending the debate but rather on the other.

Debate Continued

MS BLAKEMAN: I had wanted to speak in favour of amendment A2, and for all the good intentions, for all the legislative protocol that is involved in the Standing Committee on Law and Regulations, I hope there would be support for that and upholding this process that is available to this Legislative Assembly in Alberta.

With those words I will take my seat. Thank you.

[Motion on amendment A2 lost]

THE ACTING CHAIRMAN: The hon. Member for Edmonton-Norwood.

MS OLSEN: Thank you. I just want to close the debate, my debate anyway, Mr. Chairman. You know, from a parliamentary process and from looking at this legislation in the big picture, the big scheme of things, which is sometimes very difficult for some of the members on the other side – it is really important that we look at the broad picture, and when I see something in a bill that gives the minister an override like that, which quite frankly I think is unnecessary, shouldn't exist, I view it as a paternalistic section of this bill. I would have that perspective on any other bill.

For the Associate Minister of Aboriginal Affairs to suggest that we're trying to use the community for our amendments – it's unfortunate she thinks that, because it's not what's happening at all. Also, it's unfortunate that the hon. member, whom I've worked with very closely, decided that she had to take a few low blows for whatever reason. You know, it's not very gracious, and it doesn't often get us very far in the Legislature. So I'm sorry that this particular debate went that far.

I know that the hon. Associate Minister of Aboriginal Affairs will come along. You know, we do work together and I would hate that

to stop. Nobody on this side of the House is saying that we shouldn't pass this bill. We want to make the best legislation possible. We want to ensure that everybody is looked out for.

Quite frankly, we're in a partisan province. We each hear from different sectors of the community. We each hear different things from different sectors of the community. That's the nature of politics in this province. It doesn't make one person right and the other person wrong. What it does mean is that that's why we're here, to debate the merits of it. Quite frankly, we're in support of this. We've brought our issues and concerns to the table. I just hope that what I feel could happen down the road doesn't happen, because I don't want to have to tell the minister I told you so.

So thank you, and with that I'll take my seat.

9:20

MS CALAHASEN: I feel I have speak on this, Mr. Chairman. First of all, I want to say thank you for allowing the bill to go through. I know there's interest from the opposition to see this bill go, and I know the interest is there to make sure it's the best it can be, and I appreciate that.

However, I get very excited when I think that my own people are being used, and I don't like that. No matter who it is, it's always a difficult one, because I take it personally. I know that's exactly what the Member for Edmonton-Rutherford has indicated on the disability side. So when you think about that, it really affects me when things are belittled, and I don't like that, so it's a very important part.

I want to thank the members for the comments they've brought forward and the support. As you know, the legislation has the support of the elders and in many instances as many of the chiefs as possible, but I want to be able to identify that it is a government commitment. When you have the political will and you have a Premier who is also an honorary chief and got his name through a ceremony, you begin to wonder that if he says something is going to go, it does go. He really is a strong supporter of making sure that the people get what is rightfully theirs. We have to ensure that whatever happens, it is going to be something that will be good and that it's good for the people.

I thank the members for their comments, and we'll certainly see if we can move this along so it is the best bill that can possibly come out.

[The clauses of Bill 2 agreed to]

[Title and preamble agreed to]

THE ACTING CHAIRMAN: Shall the bill be reported? Are you agreed?

HON. MEMBERS: Agreed.

THE ACTING CHAIRMAN: Opposed? Carried.

Bill 4 Surveys Amendment Act, 2000

MR. PASZKOWSKI: Mr. Chairman, on behalf of the Minister of Environment, I'd like to table a response for members opposite which was raised during second reading regarding Bill 4.

THE ACTING CHAIRMAN: Hon. Member for Edmonton-Calder, did you want a copy of those responses?

MR. WHITE: Yes, sir. I would like to respond to those.

THE ACTING CHAIRMAN: All right. We'll get a copy for you immediately, but go ahead and start.

MR. WHITE: Well, Mr. Chairman, it's rather difficult to respond, because those items are precisely what I was looking for. On the 13th of March of this year the minister indicated that he'd be happy to review all the comments made by members of the Assembly and respond accordingly. Well, we have the response now, which is a time when you'd normally put some amendments to the bill. Those questions and answers coming forth immediately prior to speaking make them rather difficult to respond to. So I'll have to go through the questions again to make sure they're clearly on the record.

This bill does what's required so that a private contractor is able to respond to the public and able to file some maps. These particular maps are filed electronically a great deal of the time, and they're called cadastral maps. They basically outline subdivisions and the specific location of evidence in law and in survey law.

The questions we had were surrounding the firm Spatial Data Warehouse, how it was formed, where it was funded, the object of the exercise, how one searches the net proceeds, although it's a not-for-profit organization. It would be nice if we had all those answers before us. Quite frankly, it is a private firm, and it's a single source private firm, as I said, albeit not for profit, but certainly there will be excess of cost over income or income over cost. They certainly won't match. We'd like to know where those funds go and how they're carried forward and to what purpose they're put.

It's well known in the private sector that any firm can be non-profit, by definition or by practice. Quite frankly, this member and other members would like to know what the operating procedures of this particular firm are and how it's been laid out and what protection the public has not to be gouged at any point. We have not had those answers until they were just put in this member's hands. Unfortunately, this member will not have time to review those while standing and speaking.

It is a simple procedural matter to file these, Mr. Minister, when you clearly know that one has to respond to them. It really is not in the best parliamentary tradition of this House, so I would ask that the sponsoring member in fact consider an adjournment of this bill, albeit it's a little out of the ordinary and I'd not normally ask that that be done. With the process being a little tardy, it would be nice and it would be only reasonable to expect that a bill might be postponed even for an hour in order to enable this member to read the data and understand what is transpiring here.

So with your permission, sir, I'd like to move that debate be adjourned on Bill 4.

[Motion to adjourn debate lost]

MR. PASZKOWSKI: Mr. Chairman, I'd like to call the question on the bill and ask for the support of all the members of this Assembly.

[The clauses of Bill 4 agreed to]

[Title and preamble agreed to]

THE ACTING CHAIRMAN: Shall the bill be reported? Are we agreed?

HON. MEMBERS: Agreed.

THE ACTING CHAIRMAN: Opposed? Carried.

9:30

Bill 5
Land Titles Amendment Act, 2000

THE ACTING CHAIRMAN: The hon. Member for Grande Prairie-Wapiti.

[Mrs. Gordon in the chair]

MR. JACQUES: Thank you. Madam Chairman, when we concluded second reading on March 13, I believe it was, the Member for Calgary-Buffalo had asked some questions with regard to the consulting process beyond that of the Law Society and the federal government. At this time I'd like to table three copies of a letter dated March 14, and I did provide the Member for Calgary-Buffalo with a copy earlier this evening.

I don't want to go through the entire letter, but it is from a Mr. Mirth, QC, who is chairman of the Legislative Review Committee of the joint Canadian Bar Association/Law Society of Alberta. Rather than trying to interpret what had been concluded by them during their deliberations going back to last fall, including consultations and discussions with the department, we thought it best that they put in their own words their findings. That is included in the letter. Needless to say, basically they have been involved in the development of Bill 5 and at this point in time have no objections to it.

So with that, Madam Chairman, I would call for the question.

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Manning.

MR. GIBBONS: Thank you, Madam Chairman. I'm pleased to stand to speak to Bill 5, the Land Titles Amendment Act, 2000. Even if it didn't take much time for the presenter to put forward, I think it needs some points put on the table. I've seen the letter the hon. Member for Grande Prairie-Wapiti talked about for about the last 10 minutes. I see that there are no concerns, as per what they're saying there, and I see that they haven't had any complaints through the bar society, but we have some questions from people we have talked to.

Virtually what's happening on this particular bill, Madam Chairman, is that this bill will establish the use of only one seal for land titles, make reference to the general registry, and deal with other housekeeping manners. Just to put on record what I talked to some lawyers about, where is the one office going to be, in what city, if it is going to be Edmonton or if it's going to be Calgary? I want to reflect on the fact that in the early part of this province there was a war between Edmonton on this side of the river and Strathcona on the other side about where there was going to be a registry office. So what's going to be actually happening here has never come out very clearly.

I've been told that this is something the Law Society has been asking for for a very long time, and it's general revenue. The question we'd like to have some clarity on is section 122(9). Is this by a civil action, when a person being filed against can't borrow money or is registered from buying property because of the lien? Is there any compensation for wrong against someone?

Section 33 of the Land Titles Act is repealed, and a substitute is inserted. This section currently allows the deputy or acting deputy of the minister in charge of the National Parks Act of Canada to clarify and copy certificate originals for registry. The new section would extend this power to the chief executive officer under the Parks Canada Agency Act of Canada. Issue might be taken with the continued extension of decision-making power and further development of the bureaucracy. This person is equivalent to administration

in this province. Where is the pressure coming from to extend this position? Is it from the federal level? Why is this position introduced? Is it that the deputy of administration can't handle it himself? Who has the decision-making? Is this just further diluting the present position?

The largest portion of the bill deals with the repeal of sections 17.1 and 17.2 of the Land Titles Act. These will be replaced by new sections which include most of the original text in sections 17.1 and 17.2. The first deviation is the removal of the provision allowing for the creation of a "general register" in which is kept "a record of all copies of writs of enforcement and other registrable instruments" and "set out in alphabetical order the names of the persons whose land is affected by writs of enforcement and other instruments." There is no replacement made for the general register. Question to the presenter. Maybe we can get some of these answers over the next period of time.

The other key deviation between sections 17.1 and 17.2 is the new section condensing the two terms "writs of enforcement" and "other registrable instruments" in the single term "instrument." This seems to be a simple housekeeping change as the definitions of the original terms are made in the opening of the proposed new section. What may be questioned, however, is why such an extensive change needs to be made when the result of these is essentially the same as the original.

Now, under instruments. Why are these terms to be changed to the word "instrument"? This seems to be implying that instead of the north and south registers there would only be one.

Under the general register, the main amendment of this particular one: in the wake of the removal of the general register, is there any sinister motive in the movement to Edmonton or Calgary? I understand there might be, and this is one item that I would like to come out maybe over the next questions.

Now, we have contacted the Canadian Bar Association in Edmonton and the Canadian Bar Association in Calgary. The Canadian Bar Association has not had any major concerns with this. We also contacted a law professor at the University of Alberta specializing in real estate. He has brought out a few concerns, but there haven't been major items.

Some of the questions I'd like to have on record. Another issue is the extension under section 33 of the powers of the CEO under the Parks Canada Agency Act to certify copies of the duplicates of originals. Is there a good reason for this? If so, what is it?

The bill repeals sections 17.1 and 17.2 and replaces them with almost identical wording but omits the term "general register." What does that do to the registry system? The second change is the combining of the terms "writ of enforcement" and "other registrable instruments" into the single term "instrument." I can't see anything wrong with this. But why is it necessary?

Another question. There are some specific areas of the new bill that I'm trying to find out what the effect is to be. First of all, is it consolidation of the land registries districts into one? The main concern I see is the inability of Albertans in the area far from the location of the new office to access its services. For example, the new offices in Edmonton: what does that mean to residents in southern Alberta?

So, Madam Chairman, I do believe I've brought a few things out here, and maybe over the next few weeks while this bill is going through the steps, we can get some answers from the presenter. In the meantime, hopefully we'll have some more questions back from stakeholders.

9:40

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Glengarry.

MR. BONNER: Thank you very much, Madam Chairman. It is a pleasure this evening to rise and speak briefly to Bill 5, the Land Titles Amendment Act, 2000. I would like to congratulate the Member for Grande Prairie-Wapiti for sponsoring this bill and bringing it forward.

There are a couple of highlights here that I think we have to look at. Bill 5 effectively creates a single land titles office with one registrar as opposed to a registrar for each land titles office in the province. Hopefully this will lead to more efficiency in the whole process here in the province. As well, what this bill will do is create one seal for land titles here in the province.

Now, as I understand it, there are a number of reasons why this has taken place. Of course, one of those is that it will place certain land title practices in legislation and ensure that the Land Titles Act is in sync with certain federal legislation. Of course, this is of primary importance here in the province where we do have a number of federal national parks.

In repealing section 122 of the Land Titles Act, it removes the section splitting Alberta into north and south land registration districts, effectively creating one. I think this is a very good step. I think – and time will bear this out – that in the public good, with technology as we have it today, it certainly will give us better centralized control in the storage, retrieval, and transmission of this type of information throughout the province. I would just hope that in doing this, access to this information will not be hindered by people in other parts of the province. Again, this has to deal with where that single office is going to be located.

Now then, what I hope this will do as well is that through technology we will be able to give a timely service to all those people involved in any transactions where we do require the services of land titles. Can one register work effectively? I think that with the passing of this bill we will in fact find out if we do have to alter this bill in order to have more than one office here in the province.

Another minor amendment, as I mentioned earlier, was that now we will be able to use one seal. With only one district, one land titles office, and one registrar, there certainly isn't any need for more than one seal. Of course, what this legislation will do is accommodate the recent amendments to the Parks Canada Agency Act by the federal government.

With those few comments, Madam Chairman, I would like to close my section here. In doing so, I just want to mention that I am happy to see that there were a number of stakeholders consulted in the development of this bill. They were the Canadian Bar Association, the Edmonton office, the Calgary office, and also Registrations Are Us Limited.

Thank you.

[The clauses of Bill 5 agreed to]

[Title and preamble agreed to]

THE DEPUTY CHAIRMAN: Shall the bill be reported? Are you agreed?

HON. MEMBERS: Agreed.

THE DEPUTY CHAIRMAN: Opposed? Carried.

Bill 10

Securities Amendment Act, 2000

THE DEPUTY CHAIRMAN: The hon. Member for Calgary-Mountain View.

MR. HLADY: Madam Chairman, thank you. I do have a couple of typographical corrections to be made through two small amendments, so if we could get those handed out, that would be great. In the meantime, I'll just speak to a few of the concerns that were brought up during second reading.

The Member for Edmonton-Glenora had a couple of concerns in regards to attracting capital, and Alberta still has a little bit of that problem. Some of the pieces are being filled in by the Canadian Venture Exchange. There are still some gaps in the early venture capital, and I think they'll be addressing those issues.

There were also some concerns by the Member for Edmonton-Glenora about two businessmen who felt they were being overregulated and because of lots of red tape weren't able to get money from the marketplace. We weren't able to get specifics on that complaint, so it was very hard for us to do any checking on that. We don't really know if there was a true complaint there or not, Madam Chairman.

Bill 10 also leaves a number of issues for discussion in committee, and that's why we're here today, particularly the breadth of scope of section 196, the need for disclosure, openness, and transparency in relation to the regulations.

The Member for Calgary-Buffalo noted that subordinate legislation under the Securities Act can be made either as a regulation or as a rule under the heads of power enumerated in section 196 of the act. The commission was given rule-making powers in June of '95, and most of the then existing regulations were deemed to be rules by the commission. The act provides that rules made by the commission have the same force and effect as the rules through the Lieutenant Governor in Council.

The only real change we've had since that power has come into effect is that we had an amendment to the fee schedule, Madam Chairman, which was a reduction in fees in 1997 made at the request of the commission following consultation with industry participants.

I think those were some of the main concerns that were brought up during second reading, and what I will do now is go to the amendments. I'm very close to getting all of those handed out. I think they're almost there. You've got them? Great.

Okay. The two amendments were just for typographical errors in printing. The first amendment was going from "a exchange" to making it "an exchange," and the second amendment was to add "or" in section 13. I would like to see if we can get some approval on that, Madam Chairman.

Thank you very much.

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Gold Bar.

MR. MacDONALD: Yes, Madam Chairman. In regards to the amendments put forward by the hon. Member for Calgary-Mountain View, these are certainly housekeeping, to say the least. I am glad to stand briefly and support them. Meanwhile, I am anxious. I have some questions concerning this bill, but in regards to the amendments here, they're simply a correction of grammar, and I support them.

Thank you.

[Motion on amendment A1 carried]

THE DEPUTY CHAIRMAN: The hon. Member for Edmonton-Gold Bar.

9:50

MR. MacDONALD: Thank you, Madam Chairman. It's the first

opportunity I've had to speak on this bill. I think it will be recognized perhaps 10 years in the future as one of the first steps in a significant change in the economy of not only Calgary but also the entire province, because I, too, share the concerns of my colleague from Edmonton-Glenora regarding the raising of venture capital in this province.

Specifically on the bill, I have some questions for the House and specifically hopefully for the hon. Member for Calgary-Mountain View, and that is on section 35, the regulations and rule-making. Section 196 sets out the regulation-making powers of the cabinet, from which the commission derives its rule-making authority. Now, the amendment to section 196 is intended, as I understand it – and if the hon. member could clarify this – to clarify that the cabinet and the commission have the authority to implement a permanent registration system by way of regulation.

Now, also under the same section, in section 196(j), amendments, the cabinet and the commission will have the authority to make regulations or rules in respect of securities in which there is the category of registrant, and I understand that this is the category of registrant that may or may not trade. Does this include mutual-fund dealers or, for instance, scholarship plan dealers?

Section 196(k) now is being amended here in Bill 10 to clarify that the cabinet and the commission have the authority to deem a particular form or type of disclosure document to be or not to be an offering memorandum for purposes of offerings of exempt securities.

Now, on the next section of 196 that is being added, the hon. member can correct me. Is this to clarify that the cabinet and the commission have the authority to deem any type of trade in securities to be a particular form or type of disclosure document, to be a distribution? As I understand it, there is no current provision prescribing the circumstances in which an exemption from the prospectus requirements of the act, the regulations, or the commission are deemed to be a distribution.

As I understand it also, Madam Chairman, under the proposed resale national instrument, the resale of securities by a purchaser in an open jurisdiction without resale restrictions backed into a closed jurisdiction will be deemed a distribution. This will ensure that an issuer does not sell into an open jurisdiction under a private placement in order to avoid applicable resale when those securities are sold back into the issuer's home jurisdiction or another closed jurisdiction.

Now, if the hon. member can also in due time explain to the House the amendment to section 196(n). Is it correct that it is going to clarify that the cabinet and the commission have the authority to establish a system to integrate prospectuses and continue its disclosure?

With those remarks and those questions, Madam Chairman, at this time I would like to adjourn debate on Bill 10 in committee.

[Motion to adjourn debate carried]

THE DEPUTY CHAIRMAN: The hon. Deputy Government House Leader.

MR. HAVELOCK: Thank you, Madam Chairman. I move that the committee do now rise and report.

[Motion to report progress on Bill 10 carried]

[Mrs. Gordon in the chair]

MR. SHARIFF: The Committee of the Whole has had under consideration certain bills. The committee reports the following:

Bill 2, Bill 4, and Bill 5. The committee reports progress on the following: Bill 10. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly. I would also like to table copies of the documents tabled during the Committee of the Whole on this date for the official records of the Assembly.

THE ACTING SPEAKER: Does the Assembly concur with this report?

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed? So ordered.
The hon. Deputy Government House Leader.

MR. HAVELOCK: Thank you, Madam Speaker. I'd like to thank the opposition for their co-operation this evening. I think we had a very productive evening.

[At 9:59 p.m. the Assembly adjourned to Tuesday at 1:30 p.m.]

