



First Session, 39th Parliament

REPORT OF PROCEEDINGS
(HANSARD)

SELECT STANDING COMMITTEE ON

**PARLIAMENTARY REFORM,
ETHICAL CONDUCT,
STANDING ORDERS
AND PRIVATE BILLS**

Victoria

Wednesday, October 21, 2009

Issue No. 1

NORM LETNICK, MLA, CHAIR

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**SELECT STANDING COMMITTEE ON
PARLIAMENTARY REFORM, ETHICAL CONDUCT,
STANDING ORDERS AND PRIVATE BILLS**

Victoria
Wednesday, October 21, 2009

- Chair:* * Norm Letnick (Kelowna–Lake Country L)
- Deputy Chair:* * Rob Fleming (Victoria–Swan Lake NDP)
- Members:* * Donna Barnett (Cariboo-Chilcotin L)
Harry Bloy (Burnaby-Lougheed L)
* Eric Foster (Vernon-Monashee L)
* Pat Pimm (Peace River North L)
John Slater (Boundary-Similkameen L)
* Katrine Conroy (Kootenay West NDP)
* Mike Farnworth (Port Coquitlam NDP)
* Jenny Wai Ching Kwan (Vancouver–Mount Pleasant NDP)

** denotes member present*

Clerks: Ian Izard
Kate Ryan-Lloyd

Witnesses: Chuck Burkett (Chair, Board of Directors, Victoria Foundation)
Luke Johnson (Trustee Board of the Church of God)
Sara Neely (Victoria Foundation)
Patrice Newman (Verigin Memorial Park Amendment Act)
Paul Parkins (Trustee Board of the Church of God)
Claire Reilly (Victoria Foundation)
Sandra Richardson (CEO, Victoria Foundation)

CONTENTS

Select Standing Committee on Parliamentary Reform,
Ethical Conduct, Standing Orders and Private Bills

Wednesday, October 21, 2009

	Page
Election of Chair and Deputy Chair	1
Committee Business	1
Bill Pr401 — Verigin Memorial Park Amendment Act, 2009	1
P. Newman	
Bill Pr402 — Trustee Board of the Church of God, Richmond Municipality, B.C. (Corporate Restoration) Act, 2009	2
L. Johnson	
P. Parkins	
Bill Pr403 — Victoria Foundation Amendment Act, 2009	5
S. Richardson	
C. Reilly	
C. Burkett	

MINUTES

SELECT STANDING COMMITTEE ON
PARLIAMENTARY REFORM,
ETHICAL CONDUCT, STANDING
ORDERS AND PRIVATE BILLS



Wednesday, October 21, 2009
10 a.m.
Birch Committee Room
Parliament Buildings, Victoria, B.C.

Meeting: 10:00 a.m., Wednesday, October 21, 2009
Location: Birch Room, Parliament Buildings, Victoria, BC
Present: Letnick, Barnett, Conroy, Kwan, Foster, Fleming, Farnworth, and Pimm.
Appearing: Verigin Memorial Park
Patrice Newman, Agent

Church of God
Luke Johnson, Agent
Paul Parkins, Representative of Society

Victoria Foundation
Sandra Richardson, C.E.O.
Chuck Burkett, Board Chair
Claire Reilly, Solicitor
Sara Neely, Solicitor

Business: Convening and Private Bills Pr 401, Pr 402, and Pr 403

Resolved on the motion of *M. Farnworth*, that Mr. Letnick be appointed Chair of the Committee.

Resolved on the motion of *K. Conroy*, that Mr. Fleming be appointed Vice-Chair of the Committee.

Resolved on the motion of Mr. Foster, that the Committee recommend to the House that Bill (Pr 401) *Verigin Memorial Park Amendment Act, 2009* proceed to second reading.

Resolved on the motion of Mr. Fleming, that the Committee recommend to the House that Bill (Pr 402) *Trustee Board of the Church of God, Richmond Municipality, B.C. (Corporate Restoration) Act, 2009* proceed to second reading.

Resolved on the motion of Mr. Fleming, that the Committee recommend to the House that Bill (Pr 403) *Victoria Foundation Amendment Act, 2009* proceed to second reading.

The meeting adjourned.

Norm Letnick, Chair

Rob Fleming, Vice-chair

WEDNESDAY, OCTOBER 21, 2009

The committee met at 10:03 a.m.

N. Letnick (Convener): Welcome. Good morning, everyone. Thank you for coming to our committee meeting. I'd like to call it to order and introduce to you Ian Izard.

Election of Chair and Deputy Chair

I. Izard (Clerk Assistant and Law Clerk): The first item of business we have is a nomination for Chair of the committee.

M. Farnworth: I nominate Norm Letnick.

I. Izard (Law Clerk): Okay. Any other nominations? Any other nominations? Any other nominations? I think he's acclaimed.

The second item will be nomination for vice-Chair, which normally is an opposition member.

K. Conroy: I nominate Rob Fleming.

I. Izard (Law Clerk): Okay. Any other nominations? Any other nominations?
Okay, Rob. You've been appointed.

[N. Letnick in the chair.]

N. Letnick (Chair): Would you like to report the business for the session?

Committee Business

I. Izard (Law Clerk): For this session we have three applications for private bills, which are all before us this morning. The first one is the....

M. Farnworth: Can I make a suggestion? Because there are a lot of new people, and even some of us who are old, can you go over exactly what the difference is between a private bill and a government bill and a private member's bill, just so that....

I. Izard (Law Clerk): Okay. The distinction is quite clear between a private and a public bill. A private bill is requested by an individual or an organization outside the assembly, which is what these three bills are. Because that is different from a government bill or even a private member's bill, there is a screening process to see whether the bill should go to second reading. That is the purpose of this committee.

At this committee, the applicants will explain what they're seeking in their bill. The committee can then

determine whether it's appropriate or not. If it's reported appropriately back to the House, the bill will then go on to second reading, etc.

M. Farnworth: So this is not a bill that's brought forward under government policy or in our.... This is someone requesting it.

[1005]

I. Izard (Law Clerk): That's correct.

The three bills that we have before us are the Verigin Memorial Park Amendment Act, 2009; the Trustee Board of the Church of God, Richmond Municipality, B.C. (Corporate Restoration) Act, 2009; and the Victoria Foundation Amendment Act, 2009. I'm not going to summarize the content of the bills because the applicants can do that.

The Verigin bill does deal with burial rights at the Verigin Memorial. The trustee bill deals with the restoration of the society to the registrar of companies. The Victoria Foundation Amendment Act purports to amend the existing Victoria Foundation Act in a number of respects.

I think we can proceed to the first bill.

N. Letnick (Chair): We invite the presenters to join us at the table, please.

I. Izard (Law Clerk): We'll have Patrice Newman up first on behalf of the Verigin Memorial Park Amendment Act.

N. Letnick (Chair): Good morning. Thank you for coming, Patrice.

Bill Pr401 — Verigin Memorial Park Amendment Act, 2009

P. Newman: I am here as a lawyer representing the.... Actually, I'm acting as agent for a local lawyer who is representing the Union of Spiritual Communities of Christ.

As stated, we are looking to have the bill passed called the Verigin Memorial Park Amendment Act. This act is an amendment to a prior act of 1968 called the Peter Verigin Tomb Act, and in that act what was allowed was the burial of an individual, Peter Verigin, who was exiled from Russia. He was a prominent Doukhobor in the Kootenay area. It allowed for him.... He had already been buried in 1924, along with three of his family members, in a park.

Sort of retroactively, the Peter Verigin Tomb Act was enacted in 1968, along with another act that vested the lands of the park that came into existence in 1957 to the Union of Spiritual Communities of Christ.

What we are looking for today is to provide for the interment of remaining members of the family of Peter

Verigin and to maintain the tombs or interments of the individuals listed in the appendix to the act. This is in accordance with the Cremation, Interment and Funeral Services Act.

Do you have a copy of the act in front of you?

N. Letnick (Chair): Yes, we do.

P. Newman: Yes, okay. What my client is looking for is to, basically, legitimize two of the members who have been buried since the act allowed for the first burial of the four. If you've got the act in front of you, if you look at the appendix, that would be (d) and (e), who are actually already buried in this park subsequent to the 1968 coming into play.

Then there are four remaining family members. This is a discrete list, and that would be listed from (f), (g), (h) and (i). These are all from the Peter Verigin lineage. It seems that this family is.... We know that there are not going to be any further family members, just because these three children — the John Verigin at (g), Barry Verigin at (h) and Nina Decaire at (i) — are all beyond childbearing years or have family situations which indicate that there will be no more Verigins.

What we're looking for is basically something that's going to allow the further family members to be buried and for the family to continue to maintain the gravesites or the interment sites for these family members.

N. Letnick (Chair): Questions.

M. Farnworth: Are there any other descendents, apart from these, who...?

P. Newman: No.

M. Farnworth: Okay. So there's no other...?

P. Newman: There are no other Verigins. The only other possibility, apparently, is the honorary chairman, and I'm advised that if that is a desire of the family, then they will bring another further amendment to the act.

[1010]

N. Letnick (Chair): Any other questions?

Well, thank you very much, Patrice, for your excellent presentation.

Would a member of the committee like to move a motion?

E. Foster: I move that the preamble to Bill Pr401, Verigin Memorial Park Amendment Act, 2009, be approved and that the committee report to the House recommending that the bill proceed to second reading.

Motion approved.

N. Letnick (Chair): If we can have the next presenter, please, for the Trustee Board of the Church of God.

Ian, do you want to do an introduction to this?

I. Izard (Law Clerk): Yes. For the Trustee Board of the Church of God, we have Luke Johnson, their solicitor, and Paul Parkins, who is a society representative. Mr. Johnson will make the presentation. Mr. Parkins can answer any questions on behalf of the committee.

N. Letnick (Chair): Welcome. The floor is yours.

**Pr402 — Trustee Board of the
Church of God, Richmond
Municipality, B.C. (Corporate
Restoration) Act, 2009**

L. Johnson: This private act would restore the corporate registration of the B.C. society that was incorporated in 1950 under the name Trustee Board of the Church of God, Richmond Municipality, B.C. It's a registered charity and has operated as a registered charity since 1967.

The society inadvertently ceased filing their annual reports in 1979. They were struck from the corporate register in 1986 for failure to file. It's not entirely clear why they failed to file. It's been approximately 24 years now, but it seems that perhaps, as directors and parties moved, the notices went to the wrong address. So they've carried on since 1986 without knowledge of having been struck from the registry. They continue to carry on the charitable activities of the church and continue to own property. They had purchased property prior to being struck.

They own land at No. 5 Road in Richmond, which they purchased in 1971. Title to the property is held under the name Trustee Board of the Church of God. By operation of the Escheat Act, ownership of the property reverted to the Crown in right of the province of British Columbia after the society was struck. The society has continued to use that property since and remains in occupation now.

The church decided to change their name to Trinity Pacific Church in 2008. When they started that process, they became aware that they had been struck from the registry and realized that their property had escheated to the Crown. Because the church has been struck for longer than ten years, the method to achieve restoration to the corporate registry is via a private bill.

Following re-registration, the society intends to make application to the Attorney General's office for a ministerial order revesting the property in the name of the society. That order will be made as the Attorney General sees fit.

This application process has required substantial time from the society, so they're now aware of the filing requirements and do not intend to have this happen again.

Those are my submissions, subject to any questions you may have.

N. Letnick (Chair): Thank you.
Are there any questions for Paul?

J. Kwan: Has the society filed since 1986?

L. Johnson: No, they haven't.

J. Kwan: So they have not filed since 1979, effectively.

L. Johnson: Yes, that's correct.

J. Kwan: And only discovered they have been in violation in 2008, when they wanted to change their name?

L. Johnson: Yes. They weren't aware of the requirement to file an annual report until.... They've carried on. They followed their bylaws and elected directors, not understanding that that was actually of no effect. But no, they haven't filed any reports.

I. Izard (Law Clerk): If I could add one thing here. The process, if they hadn't been struck off for ten years, would be to apply to the registrar of companies. That would be a quicker process than this, but it's because of the ten-year factor.

D. Barnett: Just to reiterate what MLA Kwan has asked, since 1979 there's been no filing?

L. Johnson: Yes, that's correct.

D. Barnett: And the society carried on in the same name up until 2008, when they realized that they hadn't filed?

L. Johnson: Yes, they've operated under the name Richmond Church of God, which is a contraction of their formal legal name.

D. Barnett: One more question, if I may. As far as the financial statements, they were done appropriately every year since 1979, but they weren't filed. That's the understanding?

[1015]

P. Parkins: That is correct.

R. Fleming (Deputy Chair): Just a few questions. Are there any issues with Revenue Canada with your charitable status, having issued tax receipts, presumably, for donations?

P. Parkins: We've been able to do that since 1979 with no problem at all, and we are in good stead with Revenue Canada.

R. Fleming (Deputy Chair): I presume you have full tax exemption with the Richmond municipality?

P. Parkins: That's correct.

R. Fleming (Deputy Chair): Then you would have received receipts of that property tax exemption every year. Is that...?

P. Parkins: That's correct. We get the yearly submission from the city, as far as tax is concerned.

R. Fleming (Deputy Chair): Are there any original directors from 1979 that are still involved with the society?

P. Parkins: Oh, probably one. One member is still attending the church, yes.

R. Fleming (Deputy Chair): Will there be an obligation to reconstruct 30 years of annual reports?

P. Parkins: We have them available.

R. Fleming (Deputy Chair): The Society Act will require you to....

P. Parkins: Right. We understand that.

L. Johnson: Those will be filed with the corporate registry.

R. Fleming (Deputy Chair): The property was purchased in 1971 and through, presumably, an auction process, it became a Crown title?

L. Johnson: No. There was no auction. By operation of the Escheat Act, it reverted to the Crown. I take it the Crown has not been aware of this since that time.

R. Fleming (Deputy Chair): Right.

L. Johnson: It's still formally registered in the land title office under the name of the church.

R. Fleming (Deputy Chair): Okay.

P. Pimm: Are there any repercussions for not filing? I guess this is a repercussion — having to go in front of everybody. More than this?

I. Izard (Law Clerk): I think I can answer that question. No, there aren't. The way filing works nowadays, the annual reports are sent to the last known registered office. So if that has been changed, you don't get them. Obviously, it takes a little care to make sure you are still getting your annual report.

P. Pimm: So there are no penalties — no back taxes, interest, anything like that?

I. Izard (Law Clerk): No. And the other thing I think I could explain.... We've done a number of these bills, so I think I'm becoming knowledgeable on them.

The registrar of companies, even though the House may pass this bill, will not allow the society to go back on register until they have complied with any outstanding requirements — that means filing of the annual reports, etc. They've also reserved the name so that there will be no confusion with any other existing society. That was a step in this process.

J. Kwan: I'm just curious: is there any liaising with the federal government? Because if tax receipts are issued and have continued to be issued, that would mean that the federal agency that handles these matters would have granted the charitable status.

Charitable status can only be granted to non-profits that actually exist. In this instance it actually hadn't existed since 1979, so I'm wondering what implications might there be following from that. Who follows through with that issue?

I'm not sure how the issuance of tax receipts could be made in that circumstance because the society didn't exist. If the society didn't exist, I don't know how you can issue charitable status receipts for donations. So that's one set of questions.

The other one relates to the Crown reverting the land back. Are there implications for the government with respect to this, particularly on a monetary basis, or is it just simply signing the piece of paper?

N. Letnick (Chair): Who would like to take one or both of those questions?

L. Johnson: I can. From the point of view of Revenue Canada, which is the authority that authorizes the church to issue tax receipts, it's not a requirement that tax receipts be issued by a corporation. They can be an unorganized charity. I don't know what CRA's position on this is. We'll advise them once the society has been restored.

I. Izard (Law Clerk): I can answer part of that too. The bill has a retroactive characteristic. So the society is restored back to the date when it was struck out.

N. Letnick (Chair): And the second question, concerning Crown land?

[1020]

L. Johnson: The Escheat Act provides the Attorney General's office with discretion to transfer the property back to a party that has a moral or legal claim to it. In this case, the church has that moral and legal claim to it. They purchased the property. They've operated and occupied the property since 1971. It's for the Attorney

General to determine if that is sufficient to justify the Crown transferring the property formally back into the name of the society.

J. Kwan: Presumably, then, with that explanation, the assumption is that there would be no obligations for the province with this transference. That is to say that there'd be no financial obligations for the province to assume retroactively back to 1979.

L. Johnson: I'm not sure if I understand your question. There are no liabilities associated with the property. There are no back taxes or anything like that.

M. Farnworth: There are no liens?

N. Letnick (Chair): The question was: are there any liens on the property?

L. Johnson: No, there are not.

N. Letnick (Chair): Does that satisfy all the members? Any further questions? New questions?

R. Fleming (Deputy Chair): You had mentioned that the property had never actually been changed or formally transferred to the Crown at the land title office. You're still registered on the property's title?

L. Johnson: Yes, it's registered in the name of the church at this time. As far as I know, the Crown doesn't receive notice of escheated properties. It only comes to light, perhaps, in a situation like this, where the society becomes aware of it.

R. Fleming (Deputy Chair): Right. It's good to know that everybody hasn't been opening their mail.

N. Letnick (Chair): Are there any further questions, concerns, issues? If not, would someone on that side like to make a motion?

R. Fleming (Deputy Chair): I move that the preamble to Bill Pr402, Trustee Board of the Church of God, Richmond Municipality, B.C. (Corporate Restoration) Act, 2009, be approved and that the committee report to the House, recommending that the bill proceed to second reading.

Motion approved.

N. Letnick (Chair): The motion is carried unanimously.

Congratulations. Thank you very much. Let's not see you here again. [Laughter.]

I. Izard (Law Clerk): The next application is Pr403, Victoria Foundation Amendment Act. I just want to advise the committee that I have been a board member of the foundation, although I am not at this point in time. For that reason, Kate Ryan-Lloyd is going to take my place at the table.

N. Letnick (Chair): Thank you, Ian.
Welcome, Kate. Happy to see you again.

K. Ryan-Lloyd (Clerk Assistant and Committee Clerk): Thank you. Nice to see you, Norm.

N. Letnick (Chair): Did you want to introduce this act for us?

K. Ryan-Lloyd (Committee Clerk): We have four witnesses before the committee this morning: Sandra Richardson, Mr. Chuck Burkett, Ms. Claire Reilly and Ms. Sara Neely — if they'd like to come to the table.

N. Letnick (Chair): It's amazing. We have four chairs open. What a coincidence.

Good morning. How are you this morning? Thank you so much for coming and helping us with this. Are you all going to be speaking? You say: "I hope not."

A Voice: As needed.

N. Letnick (Chair): Well, the floor is yours.

Pr403 — Victoria Foundation Amendment Act, 2009

S. Richardson: Good morning. My name is Sandra Richardson. I'm the CEO of the Victoria Foundation. We're here today to seek proposed amendments to our act. The specific switch will be discussed by Claire Reilly, who's our parliamentary agent here. Before that, I just wanted to provide you with a brief introduction to the foundation.

The Victoria Foundation is the second-oldest community foundation in Canada. It is the sixth-largest across the country. The foundation provides leadership by inspiring giving; by thoughtful caring of the assets entrusted to us; and by investing in people, ideas and activities that strengthen our community. Our vision is "We connect people who care with causes that matter."

[1025]

We invest our funds prudently and get as much money out to the communities as we can, all the while maintaining the value of our assets. That's our objective.

We fund in a variety of different areas, which we call fields of interest. They fall into areas of education, arts, culture and heritage, health and recreation, community service and the environment. We are broad in scope,

both within the county of Victoria and through the authority of the board of directors. Under the act, the board gives effect to a donor's direction to benefit charitable purposes outside the Victoria area through grants to federally registered charities.

Our fund holders include individuals as well as over 75 charitable organizations and non-profits that look to us to hold and invest their endowed funds and to distribute their annual returns, to allow them to carry out their missions.

We have provided many services to the community and charitable organizations that do not involve money, including hundreds of hours of pro bono services by our community advisers.

Our fund holders include the Irving K. Barber B.C. Scholarship Society, the Lex Reynolds Adoption and Permanency Fund, the Fetal Alcohol Spectrum Disorder Action Fund and the youth education assistance fund. We have also been privileged to be chosen by the Kwadacha and Tsay Keh Dene First Nations to hold their endowment funds arising from the settlement to the B.C. Hydro Williston reservoir disputes. So it is to allow us to continue all these activities that the Victoria Foundation is involved in seeking proposed amendments to the Victoria Foundation Act.

I would now invite Claire Reilly to speak on behalf of these amendments.

C. Reilly: Well, as Sandy pointed out to you, the foundation is the second-oldest community foundation in Canada. It was established by an act of this Legislature in 1936, and it's that act that we're proposing to amend.

You've probably got — at least I hope you've got — a copy of the bill in front of you. Though it looks fairly lengthy for a private bill, it includes a number of consequential amendments. Really what I'm going to do now is talk about the main amendments, their purpose and also about a sort of secondary thread of the bill.

The primary purpose is to enable the foundation to make grants to charitable organizations in all economic circumstances. The present provisions of the act hamper the board's ability to do this. I don't know if you've got the present act in front of you. For example, it defines investment returns to include those certain forms of income, things that we commonly think of as income, such as interest and dividends possibly. But it also includes within the definition of "returns" capital gains and losses.

N. Letnick (Chair): Claire, if I may interrupt for a moment. We do have the act, so if there's any specific area you want us to look at, just reference it, and we'll be happy to look to that paragraph.

C. Reilly: Yes. I'm looking at the definition of returns right now in section 1 of the existing act. It says it means

all dividends, interest, capital gains and losses, whether realized or unrealized, and this definition is a key in the mechanism for distributing money for charitable purposes.

[1030]

The second problem about the present act is that in section 9, for example, if you've got it there, it allows for the distribution of capital. But without going through the details of that provision, capital that is distributed has to be replenished or replaced before any more money can be distributed.

What the amendments do is dispense with the definition of returns. We're purporting to repeal that and instead to separate the two concepts of income and capital and use those as the vehicles for the distribution provisions.

What the amendments also do is require the board to develop or establish policies and further distribution of both capital and income and to distribute in accordance with those policies, but all, as we say, with the objective of enabling the foundation to distribute in all economic circumstances.

That's the main purpose. Some of the amendments included here are proposed to bring the act into line with the Income Tax Act, Canada, and particularly with the charitable donations provisions of that act. The federal Income Tax Act has been changed, but there also have been changes in the interpretation of the act over the years. I'll give you two examples of this.

For example, the Victoria Foundation Act allows up to 5 percent of the capital of a donation to be distributed at any time. That's in section 9 of the present act. Now, this may result in certain donations failing to qualify as enduring property under the Income Tax Act, Canada. Ensuring that gifts qualify as enduring property, sometimes they're called tenure gifts. It's very important, because these gifts form an essential part of the foundation's ability to accumulate endowed funds. One of the proposed provisions here is a removal of the 5 percent limit.

To give another example of roughness with the way the federal Income Tax Act is administered, the Victoria Foundation Act gives the board absolute discretion after the death of the donor or the winding up of a corporate donor to depart from the terms expressed by the donor to the extent necessary to further the objects of the foundation. There is a risk that this may inadvertently change the tax treatment of donated property such that it would no longer be considered enduring property. Perhaps more important, that provision may also be interpreted as allowing the board to disregard the donor's expressed intentions relating to their gift.

The proposed provisions are intended to clarify the board's power to depart from the donor's terms. I think you'll see that in the new section 9.1 of the bill. We're clarifying the circumstances in which the board may

depart from the donor's intentions after the death of the donor.

As I said earlier, there are a number of other provisions. Most of those are housekeeping or consequential in nature. For example, we've moved up nearer to the front of the act, to a more prominent position, the provision that authorizes the board to benefit charitable purposes outside the county of Victoria. There is also an updating of a reference to the federal taxation authority. The name there has changed in recent years.

[1035]

N. Letnick (Chair): Thank you very much for your presentation. Does that conclude the presentation of the team?

We have questions.

E. Foster: A couple of them. When I looked down through, you talk about property. Is that real property you're speaking of or...?

C. Reilly: Property is very widely defined in the act. It includes real property and personal property.

E. Foster: Okay. I've quickly kind of gone through this. So you're proposing to eliminate the 5 percent. Do I understand that you're proposing — for example, this year when nobody got any percent — to actually take out of your capital and then remove the provision that you have to replace that before you can make a contribution out of that fund again? Is that what I understand?

C. Reilly: That's correct. We're removing those two provisions, and we're putting in these.... The board will be guided by the policies that it develops, and the criteria that have to be considered in developing those policies are set out in the new section 9.2.

They include things like the board has to look at the need to maintain a reasonable balance between the value of property and the amounts that it's going to distribute and so forth. In other words, it has to be very conscious of the preservation of capital. It's got to look at the returns on investments. It's got to look at existing and anticipated requirements. It's got to consider stability in granting, the achievement of stability in the amounts that it's going to distribute so that there's a certain predictability for the organizations, the charitable bodies that are getting these funds.

It's got to look at the disbursement requirements of the existing federal legislation, for example. It's got certain things that it's got to consider before it decides how much it's going to take from income and capital.

E. Foster: Do you feel that's building enough protection into the act, if you will? In the future different people are involved. You get a special interest and a concern

that the capital could be depleted. I sat on a foundation board for quite a few years. The board I sat on this year did not grant any funds at all. It's a fairly substantial fund holder.

So that would be my concern — that in the future.... The idea of the 5 percent is to protect those endowments in perpetuity. Again, it's a protection for the future — so that as a donor, if I bequeath money to a foundation that would go for cancer research, I know that the fund is there in perpetuity. I know that money is going to be granted when possible.

I understand that in times like this year or the last couple of years, when there was no investment income, there would be a reduced amount of money going out. But that initial investment that I put into the foundation would be in perpetuity. I'm concerned that that's not there.

C. Burkett: The clause that allows us to encroach on capital if that was going to occur is.... The intro to it is that it's subject to the express provisions of the instrument which gave the property to the foundation. So if you had left a gift to the foundation under your will, for instance, we have to honour that gift. In terms of if you say, "Do not touch my capital," our ability to touch your capital is subject to what you've said in your will. So we have taken that step to protect those donors that are no longer with us.

N. Letnick (Chair): Okay. We have a long list.

[1040]

R. Fleming (Deputy Chair): I'm just trying to recall the Vancouver Foundation amendments that we discussed in the last parliament, because they were experiencing the same market instability and downturn that is affecting your funds. They brought amendments through the House. As I recall, there wasn't congruency between the two acts on the 5 percent issue. They've always had a 10 percent restriction?

C. Burkett: I think they had zero at the time. That's my understanding.

R. Fleming (Deputy Chair): They had zero at the time and now have 10?

C. Burkett: I think it's 7.

R. Fleming (Deputy Chair): Oh, 7? Why was I thinking 10? Okay.

In this amendment act, you're going to deal with policy through the foundation. Basically, they have it silent on the percentage amount?

C. Burkett: We wanted to prevent a situation where we would have to come back and predict today what

the right percentage might be, in terms of arriving at a 5 percent or a 7 percent. What's important, I think, is the sustainability of the granting. Our investments are developed much like a pension plan, in that there's a balance between equities and bonds, and each one has some volatility to it.

So if you put yourself into a position where you are including your capital losses — realized or unrealized — in your income, you are going to get into situations, as we were last fall, where you could suddenly find yourself with an inability to grant. The wording that we've put in, which the board has to consider, is similar to some other existing acts. What we think it recognizes is the long-term nature of the investments and the long-term development of a disbursement policy that matches with those investments.

R. Fleming (Deputy Chair): Okay. I think you've answered the question from MLA Foster about restricted funds and donor bequests and those things.

Just out of curiosity. The discussions you had, since you had to do some write-downs on investments, about what the balance is.... I'm just curious. You're obviously looking long-term as a fund manager to rebuild capital and continue granting to community organizations that are doing good work. What are the guidelines around how much capital you might draw on? Where are those discussions arriving at, in terms of percentage? Where is that balance that you're striking?

C. Burkett: The process to develop a disbursement policy involves looking at long-term rates of returns. It involves discussions with people like actuaries and our investment managers. I think it's fair to say that with long-term bond rates — where they are right now — with some uncertainty in the market, people are bringing those disbursement amounts down. We're trying to do it in a gentle approach, not over-reacting to the investment market that we saw last fall, to provide some predictability to the recipients.

I think the general trend you're going to see with endowments is that they will be reducing their annual disbursements from their endowment.

K. Conroy: In my former life I used to make applications to foundations, and I was always somewhat envious of the people of Victoria that had access to this foundation. We didn't.

I just wanted to clarify if I heard you correctly that this amendment will allow you to grant outside of the Victoria area. If that is in fact true, when there is a downturn in your investments, how is that going to affect the people of Victoria? It's wonderful for people from the Kootenays, but I was just wondering about the people in Victoria and how people will respond to that.

C. Reilly: That provision is already in the act — the power to grant outside of Victoria. I don't think it has caused any problems. It's just that at the present Victoria is the county of Victoria, so you might not be able to do it over that line or whatever. So the power to distribute outside the county is already there. All we're doing is moving it up nearer the front of the act, where it has a more prominent position.

S. Richardson: When you look at how we're structured.... Even Victoria — there are many people from other communities. So they'll come in to us to establish a fund, and very often they want to give back to a community that they're from. They would like a portion of their gift to go back to Winnipeg, as well as doing something here in the community.

You know, the agreements are set up at the donor's wishes, so the donor may say, "I would like this fund to benefit these organizations," and some of those may be provincial in scope.

[1045]

For organizations to write to us for a grant, they must come from the county of Victoria, which is basically the CRD. The boundaries extend to Mill Bay, across to Port Renfrew and the southern Gulf Islands. That is sort of the area from which we would receive applications for granting for more discretionary funding.

P. Pimm: I've got a couple of things. One of them is that it sounds like this is not new. It's been dealt with before. I'm just wondering if the foundation act is something that should be addressed more generally.

But where I'm really looking is the Williston reservoir and the first nation groups that are there. How does that tie into this foundation act? I'm very curious about how that all works out. Then how does any of that go back out? You're saying that it used to not be part of the greater Victoria area to apply. I'd like to have a little background on that.

S. Richardson: Well, those are other funds that we hold. I think I gave you some examples, too, of the Irving K. Barber scholarship fund, for instance, which benefits post-secondary education across the whole province. We have the ability to hold those funds.

When these first nations funds came forward, we, along with a number of other community foundations, were contacted to see whether we would host these. I think it was a three-year process. They base their opinion on what they see happening within your community foundation — if you have the ability to hold that and to fulfil those.

These will benefit those first nations communities. That is how that deed is set out. So that is for those particular areas.

P. Pimm: So they actually put some specifications in, in regard to that.

S. Richardson: Oh, absolutely.

N. Letnick (Chair): On your first inquiry as to the act, that would be up to the House Leaders to decide. We have one here. You never know where that will go.

R. Fleming (Deputy Chair): I'm just curious. What is the county of Victoria, and where do I get a map of it?

S. Richardson: Well, you know, that's a very interesting question. If you would like the definition, I thought perhaps I would just give that definition short form. Sara has the definition of it. To read it would put you to sleep. But there is a map existing. We actually took one of the existing maps, and then according to that.... So for orientation purposes with the board and people that are curious — to be able to show them.

M. Farnworth: Walk two leagues north of the Ross Bay cemetery. Turn right for a further six leagues.

R. Fleming (Deputy Chair): That kind of thing. Now I'll just compare it to the capital regional district, with interest.

N. Letnick (Chair): Are there any other questions, issues or concerns by committee members?

Thank you very much for your presentation.

Rob, as Deputy Chair, would you like to make the last motion, please?

R. Fleming (Deputy Chair): I move the preamble to Bill Pr403, Victoria Foundation Amendment Act, 2009, be approved and that the committee report to the House, recommending that the bill proceed to second reading.

Motion approved.

N. Letnick (Chair): Just one item before we adjourn. Did anybody get the package prior to coming to this meeting? Yes over there. Some of you no. Okay, we'll just make sure that next time you all get the package prior to coming.

Seeing no further business, a motion to adjourn, please.

The committee adjourned at 10:49 a.m.

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