

Title: Wednesday, January 30, 2002 FOIP Act Review Committee

Date: 02/01/30

[Mr. Rathgeber in the chair]

THE CHAIR: Okay. I think we'll call this meeting to order and welcome everybody to the inaugural meeting of the Select Special Freedom of Information and Protection of Privacy Act Review Committee. My name is Brent Rathgeber, and I'm the MLA for Edmonton-Calder. I will be the chair of this committee. I'd ask at this time that the members of the committee please introduce themselves.

You'll note that we're in a brand-new room that is *Hansard* equipped, and I'm advised that you don't have to do anything to adjust your mikes. The technicians at the back will adjust the mikes based on whoever is speaking.

We also have a number of technical support people here, and I'm also going to ask that they introduce themselves after the members of the committee do so. So if we could go down this row first of all.

[Ms Carlson, Mrs. Dacyshyn, Ms Dafoe, Mr. Ennis, Mr. Jacobs, Mrs. Jablonski, Mr. Lukaszuk, Ms Lynas, Ms Lynn-George, Mr. MacDonald, Mr. Mason, Mr. Masyk, Ms Molzan, Mrs. Sawchuk, Mr. Thackeray, and Ms Vanderdeen-Paschke introduced themselves]

THE CHAIR: Thank you, everybody, and welcome. Tom Thackeray, who has introduced himself, is the executive director of information management, access, and privacy with the Alberta Department of Government Services, and he is quite integral to the operation of this committee from a technical standpoint with respect to the preparation of documents and with respect to some of the discussion papers that have been prepared and are in the process of being prepared, as I understand it. Is that right, Tom?

MR. THACKERAY: That's correct.

THE CHAIR: I say this without any hesitation: Tom will be available to any members of the committee who have any questions regarding the provisions of the act, any overlap with other jurisdictions or with other acts, the operation of the act in comparison with other jurisdictions. I suspect that Tom would be happy to take any of your phone calls or e-mails to answer those types of questions or to refer you to the resources that can answer those questions.

Also, I'd certainly like to thank and acknowledge the Legislature committee clerks, whose assistance is invaluable in the operation of this committee. Karen Sawchuk, to my far left, and Corinne Dacyshyn are the committee clerks. The committee clerks are in charge of preparing and circulating the documents and giving assistance to myself as chair.

I believe you've all received briefing binders with respect to today's meeting, and inside that binder I think you'll find an agenda. I was hoping I could have somebody move adoption of the agenda for today's meeting. It's moved by Mr. Jacobs. All in favour? Anybody opposed? The agenda is carried. Thank you.

Now, the purpose of this meeting is just very much an inaugural meeting to sort of set what is going to be the game plan over the next about 10 months as we slowly and then quickly dig our teeth into the FOIP legislation in Alberta. As I'm sure everybody knows, we have a mandate to go through the act and to report to the Legislature no later than November 30, 2002.

So at this point the third agenda item is the Legislative Assembly Mandate of the Select Special Freedom of Information and

Protection of Privacy Act Review Committee. Inside your binder you will have a copy of the motion that was passed by the Legislative Assembly of Alberta on November 28, 2001, and that is simply there for your information.

The fourth agenda item is the Approved Committee Budget 2002-2003. The 2002-2003 committee budget for the fiscal year commencing April 1, 2002, was approved by the Special Standing Committee on Members' Services on December 11, 2001. A copy of the budget is included for information purposes. Does anybody have any questions or comments with respect to the budget?

MR. MASON: Mr. Chairman, I was wondering about the committee's plans for travel. I see there's a budget item of \$3,000. Is that just contingency, or has there been some thought given to the actual plans for hearing from Albertans?

THE CHAIR: Well, I guess it's a little bit of both. We'll get into this maybe in a little more detail when we talk about what we think is the overview of how the committee is going to conduct itself. Tom and I have met on a number of occasions, and I've met with all of the technical people that are assembled here on at least one occasion. What I anticipate happening – and this is only my suggestion, and it's the committee's decision as to how it wants to conduct itself. All of this is governed by the fact that we don't have any money to spend until April 1, 2002, so we have to be extremely frugal between now and then. What I anticipate we are going to do between now and then is discuss and approve the discussion paper that has been provided in your binder, and once that has been approved, which I think we want to have done by the first week of March – is that right, Tom? – then that paper will go out to known stakeholders in the province of Alberta for their comments and their discussion.

Now, after April 1, when we actually have some resources that we can have access to, it's anticipated that we will conduct an advertising campaign through the daily papers, the weekly papers, and some of the biweekly papers in the province of Alberta, advertising the existence of the discussion paper and asking if people want copies of it either in hard form or Internet form and inviting people to make submissions to the committee in written form. Some stakeholders are going to apply to have an oral presentation before this committee, and the committee will have to decide how broadly we wish to engage in that sort of oral presentation given the parameters that we may be inundated with such applications, but the committee will have to deal with it when the time comes.

So to answer your question, Mr. Mason, what I suspect might happen is that the committee will meet at some point to determine which stakeholders will be able to present orally and which ones will have to present written submissions, and if need be, we may take on some limited travel; i.e., perhaps to the city of Calgary for a day to hear oral presentations from stakeholder groups if there is a sufficient number in that city. But given the fact that there are as many members of this committee both in terms of members of the Legislature and technical support team, any travel will be extremely limited.

Any other questions with respect to the budget? The budget has already been passed by a committee of the Legislature, so it does not need to be passed by this select committee.

The fifth agenda item is the Committee Terms of Reference and Proposed Time Frame. We have updated terms of reference and proposed time frame, and we should probably generate some discussion regarding that.

MS CARLSON: Could you please give us an overview of any significant changes in the draft that we see before us as compared to what was in our binder?

MR. THACKERAY: Through you, Mr. Chairman, to Ms Carlson. The major change you will find on page 2 under item 3, Proposed Timelines for the Review. We have added a section called “Finalize and approve discussion paper: February, 2002.” We have changed the next line to read, “Issue discussion paper, advertise, receive responses and hear stakeholder presentations: March 1 to May 10.” Then the next line, “Committee to review feedback and prepare preliminary report: May 1 to June 30.” Everything else remains the same.

1:15

THE CHAIR: I can advise the committee that these revised terms of reference and time frame were mandated by the necessity that we don’t have any advertising budget until April 1 of this year. I think that in an ideal world we probably would have done the advertising in March and had stakeholder presentations in April, but everything got pushed back, and there’s really nothing that we can do about it. That being said, I don’t think that it’s going to cause us any inordinate problems, except we might have to meet twice over the summer. Other than that, I don’t think there will be any inordinate problems.

So do you have any other questions or comments on the proposed terms of reference and the proposed time frame? Mr. Masyk.

MR. MASYK: Yeah. I just want to make a comment. Section 91 I believe allows you one year from the time it starts. So this would be the time it starts, November 15 would be the time it would complete, and then it would be for review by the department if there are any amendments. Is that the idea, why we’re calling this one year?

THE CHAIR: We have one year to report to the Legislature from the day that we got appointed, which is November 28 of 2001. So we have 12 months from that date.

Any other questions or comments? Does it seem reasonable what we propose in that time frame? Mr. MacDonald.

MR. MacDONALD: Yes. At a later time, Mr. Chairman, are you going to discuss the proposed scope of the review? Am I correct in understanding that right now we’re just talking about the time lines of the review?

THE CHAIR: That’s quite correct, Mr. MacDonald.

MR. MacDONALD: Okay.

THE CHAIR: What I anticipate doing is passing the terms of reference and the proposed time frame today and then adjourning for approximately one month, to the last week of February, at which time we’ll have a detailed orientation of the history of the act and some comparative sessions regarding the Alberta legislation vis-a-vis other jurisdictional legislation in place, including that of the federal government. Then we’ll reconvene shortly thereafter, in the first week of March, and have some meaningful discussion regarding the terms of reference and the discussion paper. Sorry; the terms of reference I want to have passed today, but regarding the discussion paper, I think that session will be more enlightened after we’ve had a thorough briefing on the provisions of the act and some of the regulations. Does that help, Mr. MacDonald?

Any other questions regarding the terms of reference and the time frame? Could I have somebody move that the terms of reference and the time frame be accepted by the committee? It’s moved by Mr. Masyk. All in favour? Anybody opposed? It’s carried.

The next item on the agenda is the Draft Communications Plan, and the clerks will be circulating this. Oh, it’s already been circulated. This is the communications plan with the draft

advertisement and the letters. It’s fairly generic, and I’m not anticipating any huge opposition.

MR. MacDONALD: Excuse me, Mr. Chairman. If you could clarify this for me, I would be very grateful. Getting back to section 5, the proposed scope of the review, I don’t believe we had an opportunity to discuss this. We just discussed the review process and the time line, and I have some questions regarding the proposed scope of this review. I was led to believe from my original question that we would be discussing the scope of the review.

THE CHAIR: If we could revert, then, to item 5. I think I misunderstood your question. I agree that it would be appropriate at this time to discuss the scope of this review, and I welcome your comments and suggestions.

MR. MacDONALD: Thank you very much. I’m, first off, disappointed that the scope of the review is going to exclude the privacy of health information under the purview of the Health Information Act in light of the Mazankowski report. There’s talk in this province of having a widespread use of cards. We’re going to create a new electronic patients’ health record system over the next few years. I think it would be prudent of this committee to examine that entire issue.

THE CHAIR: Well, you are aware, Mr. MacDonald, that the Health Information Act falls outside of the purview of the Freedom of Information and Protection of Privacy Act.

MR. MacDONALD: It certainly does, but in light of what happened with the Mazankowski report and the interest that Albertans have in their health information privacy, perhaps this committee should expand – that’s a very narrow scope – in light of what’s going on in this province.

THE CHAIR: Well, it’s my understanding that this committee has the authority to define its own mandate. Is that not correct, Mr. Thackeray?

MR. THACKERAY: That is correct.

THE CHAIR: So we can certainly open that up for discussion.

MR. LUKASZUK: Well, I’m not convinced that we can. If you revert to the motion originally passed in the House, tabled by the Hon. David Coutts, it was clearly voted by the House that a Select Special Freedom of Information and Protection of Privacy Act Review Committee be established constituting all the members currently present here. If it had been the intent of the House to review the Health Information Act, I’m sure the House would have clearly directed this body to do so. So if there’s any question as to whether we should be discussing any piece of legislation other than this particular act, perhaps that should be brought back before the House and have the House make that decision as a whole.

THE CHAIR: I tend to agree with that, but I stand by what I said earlier, that this committee has the jurisdiction to define its own mandate. So I think we’ll hear as much discussion on this topic as we need to, and then we’ll have to put it to a vote of the membership.

MS CARLSON: Mr. Chairman, there’s no doubt and my interpretation is that we can define the scope of the mandate here and that that could include anything under the Health Information Act. I would think that given the topical nature of health issues at

this time and the lack of clarification that some Albertans or stakeholders may have and the general interest we have from Albertans, at the very least what this committee should do is undertake to receive or hear submissions and pass them on accordingly, at least undertake to review them in accordance with their impact under our mandate.

THE CHAIR: Mrs. Jablonski, then Mr. Mason.

MRS. JABLONSKI: Mr. Chairman, because the scope of what's happening with the Mazankowski report, as far as electronic data cards, hasn't even been defined yet, I think that any discussion of what could happen is theoretical and premature.

THE CHAIR: Mr. Mason, then Mr. Lukaszuk, then Mr. MacDonald.

MR. MASON: Thanks, Mr. Chairman. I just have a question I think probably for administration. In the draft discussion paper it talks about the paramountcy provisions of the FOIP Act. I'm wondering if the corresponding legislation that governs health information clearly delineates that information from the FOIP provisions. I had trouble formulating that question. I hope you understood it.

MR. THACKERAY: I believe that the Health Information Act is specific as to what it covers: personal health information as defined in the legislation. There is a built-in review mechanism within the Health Information Act that calls for a review of that legislation within three years of proclamation.

MR. MASON: Just to follow up on that. The FOIP legislation has a paramountcy provision, which means that if it's not clearly distinguished in another piece of legislation, then the FOIP Act applies. So I'm wondering if there's anything in what's been raised by these members which could come under the paramountcy provision of the FOIP Act.

1:25

THE CHAIR: Perhaps our legal counsel might be able to help us with that question.

MS MOLZAN: I'm sorry, Mr. Chairman; I'm not exactly sure what sort of information the question is asking for, I guess. If you're talking specifically about health cards, that would very likely be under the Health Information Act and not subject to FOIP necessarily. Generally, FOIP does refer in a number of sections to health information, where you've got some crossover. Certainly the Health Information Act is a stand-alone act. It came after the FOIP Act, and it basically cuts out a chunk of information that is specific to health and health providers and sets it into a different sort of category, divides it off. If that helps at all . . .

THE CHAIR: I don't pretend to understand this thoroughly, but it's my understanding that the paramountcy provisions of the FOIP legislation kick in if another piece of legislation is silent as it regards privacy and access issues.

MR. MASON: Or is ambiguous.

THE CHAIR: Or is ambiguous. But if the Health Information Act provides the comparable provisions regarding access and privacy, I don't think FOIP has any application. Is that correct, counsel?

MS MOLZAN: Yes, I would say that that's a fair – and it's not just the Health Information Act. There are numerous pieces of legislation, like the Maintenance Enforcement Act, that have certain

abilities to provide information that would be paramount to FOIP. So it's where another enactment has an expressed provision that would apply or that would allow some different sort of procedure than under FOIP.

THE CHAIR: Mr. Lukaszuk.

MR. LUKASZUK: Thank you, Mr. Chairman. It seems to me that Mr. Mason is on a bit of a fishing expedition over here. It's clear that the Health Information Act is a stand-alone piece of legislation, and my limited understanding of it is, as the counsel has indicated, that FOIP is only applied when the act discussed is either silent or in the case of a release of information or doesn't adequately address a situation. This particular committee has been given the mandate to review its own scope, however, only within the limits of the FOIP legislation. This committee by no standard has any potential of expanding its scope to reviewing any other pieces of legislation, whether it be the Health Information Act or any other act, for that matter.

THE CHAIR: Mr. MacDonald.

MR. MacDONALD: Yes. Thank you, Mr. Chairman. It is my understanding that the provincial Health Information Act covers only information gathered in relation to publicly insured services. Publicly funded procedures carried out in a private health care hospital or clinic would still be covered by the act, and this is why I raised this issue in the first place. The government is proposing to delist some services from the publicly funded health care system while expanding the role of the private health services. In a recent letter, as I understand it, to both the Premier and the health minister, Mr. Gary Mar, the acting commissioner, Mr. Work, is calling for the scope of the act to be expanded to cover Alberta's health information, regardless of whether health services are delivered by the for-profit or public sectors.

Now, I'm led to believe that the government is beginning in 2003 to invest in provincewide hardware, software, and data development for the electronic records. This is discussed in an article in last weekend's *Edmonton Journal*.

The electronic patient records system could be tested sometime this year. Alberta Health said this week it will allow secure access to patient records throughout the health-care system.

This is why I would urge all members of this committee to widen the scope of this discussion and the recommendations and the terms of reference. This is too narrow for the political minefield that lies ahead. No one is going to want to have their patient records willy-nilly around to anyone. I think we can do a lot to stop that here with this committee, and I would encourage all members to do so.

Thank you, Mr. Chairman.

THE CHAIR: Tom, do you know whether or not FOIP legislation applies to health services that are conducted in a health care facility that's been approved under the Health Care Protection Act, or Bill 11 or whatever it became when it became law?

MR. THACKERAY: It's my recollection – and perhaps Mr. Ennis can help me – that when the Health Information Act was brought forward and passed by the Legislature and proclaimed last spring, there was discussion as to whether or not that piece of legislation would apply to private facilities that were providing services under contract to regional health authorities. It's my view that personal health information is outside the scope of the Freedom of Information and Protection of Privacy Act and that it would be covered through contracts between regional health authorities and

private providers.

THE CHAIR: John, do you have anything to add or retract from that?

MR. ENNIS: Mr. Chairman, I think the important construct to keep in mind here is that the FOIP Act governs the activities of public bodies only. The FOIP Act does not go to the operations or activities of private companies, private organizations. The Health Information Act governs the use of personal health information in the public health care system. Where health information would be used outside of a public body or outside of the public health care system, I think that neither the FOIP Act nor the Health Information Act would necessarily govern that. Certainly the FOIP Act would not.

The letter that was alluded to, written by the commissioner, was meant to highlight that particular issue that the Health Information Act as currently constructed governs a class of activity that seems to be expanding.

THE CHAIR: Mrs. Jablonski.

MRS. JABLONSKI: He already answered my question in his last statement. Thank you.

MS MOLZAN: Mr. Chairman, if I might point out, section 4(1)(u) of the FOIP Act does specifically exclude health information “that is in the custody or under the control of a public body,” of a custodian that is subject to the Health Information Act. So there’s a specific exclusion in the FOIP Act for that type of information.

THE CHAIR: Thank you. Mr. Mason, then Ms Carlson.

MR. MASON: Thank you, Mr. Chairman. Well, contrary to the assertion of Mr. Lukaszuk, I’m not on a fishing expedition. I’m trying to clarify the relationship between the two acts so that I can make a decision on the proposal by Mr. MacDonald.

It does seem to me that information which is specifically under the Health Information Act is excluded by these terms of reference, but for some of the information that Mr. MacDonald is talking about, it is unclear whether or not it will come directly under the Health Information Act. To the extent that it does not clearly come under the Health Information Act, it seems to me that we will be able to explore that within the terms of reference that are presently before us.

What I would appreciate is if staff, particularly legal counsel, could prepare a report for us for the next meeting that clearly defines which things are excluded but also deals with some of the things that may be under consideration as part of the Mazankowski report which do not or may not come under the Health Information Act so that we can decide whether or not to take up those questions.

1:35

THE CHAIR: Thank you.

MS CARLSON: I would certainly second what Brian just said, and I hope that that information could be made available to us.

I just want to clarify my understanding. What I heard here this afternoon from the legal counsel we’ve got and other people who have appropriate knowledge of these acts is that in fact in this province there is no protection of privacy for people receiving health services from private companies. Is that what I heard?

MS MOLZAN: Well, under the Health Information Act custodians would include private doctors. There’s a long list of entities that are

custodians, but it does follow only government-funded procedures. So generally, if you were to go to a dentist and that would be paid for, let’s say, through a private plan, likely the government wouldn’t have that information anyway. There has to be a connection to government. That information would be just subject to the regular common law on privacy and the protections you would have as you would with any business that you would deal with. So that isn’t specifically caught under health information or under FOIP.

Both of the acts only relate to or are tied into government moneys, with some connection to the public body. The public body either has to have some custody or control of the record. So a private dentist that would have your private files would not have a connection to government, would not be receiving government funding, and then the acts would not kick in.

MS CARLSON: So private, for-profit medical facilities, like those for hips or hernias, would not, then, be covered by FOIP.

MS MOLZAN: I don’t think I could answer that definitively in that I’m not sure how they would be paid for. If there’s government money that’s going to pay for this, then the public body would likely have a record and would be a custodian, and it would be subject to the act.

MS CARLSON: So you’re saying that any portion of government money, even if it was 10 percent government money and the rest was topped up by private citizens, would still be covered under the act.

MS MOLZAN: Generally, if the public body has paid out money and there’s a record connected to it, it should be covered, but I’m not exactly sure – I didn’t bring my Health Information Act – in terms of who exactly would be captured as a custodian. Certainly if there’s government money, there’d be a record that the public body or that the custodian would have, and they would be subject to the act. For example, private doctors, I guess, who are paid through the health care system, even though they run their own business, are subject because they receive government moneys. It’s captured. So it depends upon the specific circumstances in each case. I suppose if someone went and paid a hundred percent for a procedure like plastic surgery and it was done through a private clinic and there was no involvement of government funds or insurance, if it was just someone paying out of their own pocket, that would be a purely private action that likely would not be captured, for example.

THE CHAIR: Any other questions or comments?

Well, once again I’m going to ask that the committee’s terms of reference and proposed time frame be approved as drafted.

Mr. MacDonald, do you wish to make an amended motion?

MR. MacDONALD: I’m sorry, Mr. Chairman; could you repeat that, please?

THE CHAIR: We have passed the motion to approve the committee’s terms of reference and proposed time frame. However, I believe that there was some misunderstanding between the chair and yourself regarding the terms of reference.

MR. MacDONALD: Correct. Yes.

THE CHAIR: If you wish, I’m giving you the opportunity to propose an amendment to the already approved terms of reference and proposed time frame.

MR. MacDONALD: Mr. Chairman, that’s very gracious of you. I certainly would like to do that. However, I think it is wise for us to

listen to the suggestion of Mr. Mason from Edmonton-Highlands and have at our next meeting legal advice on this matter, because as I understand it, Alberta Health has stated that it will allow secure access to patient records through the entire health care system in this province. I think this is a very important issue, and if I could advise or encourage, I would like to table this term of reference if possible until the next meeting, until we receive information from legal counsel, as suggested by Mr. Mason.

THE CHAIR: Okay. The terms of reference and proposed time frame have been passed. I am going to ask for a motion that we ask our technical team to provide us with an opinion regarding what is and what is not covered by the FOIP legislation with specific regard to health care information.

If need be, we will then revisit the committee terms of reference at our next meeting.

Can I have somebody bring that motion? It's brought by Mr. Mason. Everybody in favour? Anybody opposed? Thank you.

The next item on the agenda is the Draft Communications Plan, which I think has either been circulated or is being circulated.

MS CARLSON: While the rest of the information is being passed out, on the original document that we were given, what are the substantive changes in the piece of information we got that's at tab 6?

MR. THACKERAY: The major change is under Action Plan, where you see the point that starts "Place ads." We've changed the date from the third week of February to the first week of April.

THE CHAIR: Tom, I believe the ad has been changed, and there's a draft letter attached.

MR. THACKERAY: That's right. There's also a draft press release which includes the date of May 10 rather than the original date of April 2. We've changed the draft ad as well so that the deadline for feedback on the review is May 10. The same changes were made in the draft letter to accompany the discussion guide as well as in the draft memorandum from the chair to Members of the Legislative Assembly.

THE CHAIR: I can further advise Ms Carlson and the members of the committee that all of those changes were necessitated by the budgetary restrictions that the committee is forced to deal with. We had to push our advertising back, and therefore everything else fell back, given those parameters.

I'll just give the members a couple of minutes to peruse the documents, and then we'll have some discussion.

MS CARLSON: Mr. Chairman, do we see the actual schedule of the public bodies that are listed here for distribution?

THE CHAIR: The list that's been provided is for the members' consideration, and certainly the membership has to approve the stakeholders which are included or some which may be excluded.

MS CARLSON: I'm quite happy with this list. I would just like the detail of who exactly is involved in the 207 public bodies and the 150 key stakeholders, for our information.

MR. THACKERAY: We will provide that information once we have the consolidation of the Freedom of Information and Protection of Privacy Act based on *RSA 2000*, which we anticipate getting early next week. All of the agencies, boards, and commissions are listed in schedule 1, and we will provide that information.

MS CARLSON: And the key stakeholders too; right?

MR. THACKERAY: That's right.

The other thing, Ms Carlson, is that I apologize for misspelling your name in the draft press release.

MS CARLSON: That's okay. You and everyone else in this province.

THE CHAIR: Any other questions or comments regarding the draft communications plan, draft advertisement, or letters? Any comments regarding the wording and the placement of the advertisement? Any questions or comments regarding the draft of the letter that I propose to send to all the MLAs asking for their input? Any preliminary input regarding the mailing list?

1:45

MS CARLSON: Just one more thing. I would like Gary Dickson, a former MLA in the Legislature, who was a key part in getting this legislation drafted, to be added to the list.

THE CHAIR: Mr. Thackeray, I think we can accommodate that request.

MR. THACKERAY: Yes.

MS CARLSON: Thank you.

THE CHAIR: Any other questions or comments?

Could I have somebody move that the committee adopt the newspaper advertisement as presented.

Mr. Mason. All in favour? Carried.

Could I have somebody move that the committee place the advertisements in Alberta daily and weekly newspapers at an approximate cost of \$32,000.

Moved by Mrs. Jablonski. All in favour? Any opposed? It's carried.

Could I have somebody move that the communications plan be adopted as presented.

It's moved by Mr. Jacobs. All in favour? It's carried.

Your binders contain a draft discussion paper. Initially, I think, we were going to have a discussion and debate concerning the appropriateness of that draft discussion paper. Given that the time frame for this committee has been moved back, it's my proposal that we take the discussion paper home and read it. Once we've received our detailed orientation, which I anticipate is going to happen the last week of February – is that correct, Tom?

MR. THACKERAY: Yes.

THE CHAIR: After we receive that, we'd reconvene in the first week of March and go through the details of the draft discussion paper before that gets forwarded to the stakeholders. Are there any question or comments concerning that suggestion?

MR. MASON: Mr. Chairman, I did read it. I wonder if we could just give some general comments now, and perhaps the administration, if they want to take some of those into account, might even be able to produce an amended version for us before we finalize it.

THE CHAIR: Certainly. I welcome general, generic comments regarding the paper if you've had an opportunity to read it.

MR. MASON: I thought the paper was quite, quite good. There's one area, though, where I think it would be helpful to me and

probably to the public if it was fleshed out a bit and elaborated. That has to do with the question of electronic information. I thought that section was just a little thin. It might be useful because it's a new field and a rapidly developing one. If we put a little more detail into that section, it might provoke more thoughtful comment. I think that is what I'm saying.

THE CHAIR: Thank you, Mr. Mason. I don't think there's any doubt that electronic information and storage of information is going to be one of the large issues that this committee is going to have to wrestle with.

Tom, do you have any comment regarding the thoroughness of the portion dealing with electronic records?

MR. THACKERAY: Mr. Chairman, we will go back, review what was put forward in the initial draft of the paper, see what we can do about elaborating a little more to make it a little clearer for the public and for members of the committee and for other stakeholders so that we can get some meaningful input back from them on the discussion guide.

THE CHAIR: Thanks, Tom.

Any other general comments regarding the discussion paper as it exists, bearing in mind we're going to go through it in some detail after we've had our act orientation?

MR. MacDONALD: Mr. Chairman, I believe I will wait. In reading it and in the general discussion that was provided to me regarding fees, I will wait for the appropriate time, I believe, before addressing that. There is some information that I certainly would like to add there now if there is to be an amended version of this, and high FOIP fees should not be a barrier to receiving information.

THE CHAIR: Well, I appreciate that, Mr. MacDonald. But would you not agree that the issue of fees is covered and that the way the draft discussion paper is prepared does generate that discussion, which is really what the paper is designed to do: to generate discussions on various topics without advocating anything one way or the other? I think you'll agree that the way the paper is worded with respect to fees, it does promote discussion on that very topic.

MR. MacDONALD: Oh, it certainly does, and I will anxiously await my opportunity to discuss this because of the implications of the Eurig decision in Ontario and this current government's use, in my view, of excessively high FOIP fees, particularly with this member whenever I request information from various departments.

Thank you.

THE CHAIR: Do you have any comments, though, with regard to the paper and the paper's attempt to generate that discussion, which is what I think we're discussing in the most general terms right now?

MR. MacDONALD: Well, I would take exception to the first statement, that this act is based on the user-pay principle.

THE CHAIR: That's merely a statement of fact, Mr. MacDonald. It's meant to generate discussion as a statement of fact. You may disagree with that statement of fact, but the discussion paper is not advocacy. It's a discussion paper to generate debate.

So I think, then, without passing a motion, we can agree informally that the paper is certainly a very fine attempt at generating discussion, and we'll spend a little bit more time with it and will get into the meat of it, I suspect, at our third meeting.

Is there anything else that needs to be discussed before we

adjourn?

It's my anticipation that the next meeting will be in the last week of February and that we will meet that week with respect to orientation on the act, as I outlined at the beginning, and then we will meet the first week of March to approve the draft discussion paper and approve it for circulation. Does anybody have any questions or comments regarding that proposed time frame?

MS CARLSON: Do we expect the meeting in February, then, to be while we're in session?

THE CHAIR: That's correct.

MS CARLSON: In the morning then? You're anticipating Monday to Thursday?

THE CHAIR: That's correct.

MR. MacDONALD: Mr. Chairman, I'm sorry to interrupt, but the thought has occurred to me that Mr. Bob Clark was the first and only commissioner to date. Mr. Work is the interim commissioner. Would it be inappropriate – and it would certainly be at the discretion of the chair and the members – considering Mr. Clark's other public duties, would it be possible for him to come and give us a brief overview of his experiences as the first and only commissioner of the act in this province? I think he could shed valuable insight, certainly to me – I don't know about other members of the committee – with his advice and observations. As I'm aware, he is the first and only commissioner so far, and Mr. Work is the acting commissioner.

THE CHAIR: Thank you, Mr. MacDonald. As I indicated, the committee will circulate a discussion paper, and then people will ask if they want to make oral presentations. I certainly anticipate sending a copy of the discussion paper to Mr. Clark. If Mr. Clark wishes, he will ask to have the audience of this committee, and this committee will decide whether or not we want to hear from him. Speaking on behalf of myself, I'd love to hear from him.

Anything else?

MRS. JABLONSKI: Brent, just to clarify what you just said. You said that this committee will decide whether or not we want to hear from him. Is it not our mandate to hear from anybody who wants to speak to us?

THE CHAIR: Yes, it is. However, given the amount of organizations that are currently covered by this legislation, I'm not convinced it would be instructive to hear from, you know, 54 school boards, so we're going to have to do address those issues. Again, it's ultimately up to the committee to decide who we want to hear from, but it's going to be my suggestion, at the appropriate time, that we hear from the governing bodies on behalf of the various stakeholders in the MUSH sector. For example, the Alberta School Boards Association, I think, would be a more appropriate spokesperson than any of the individual school boards. But, again, that'll be up to the committee to decide.

1:55

MRS. JABLONSKI: Thank you for that clarification.

THE CHAIR: Anything else?

MS CARLSON: I just have a housekeeping matter before we adjourn. Is now the time to do that?

THE CHAIR: Certainly.

MS CARLSON: It's just with regard to the binders. We're supposed to take our papers out and return them with the tabs all the time, but for me it would be much easier – I like to keep all the information in the same binder. If we could just get the new handouts brought to the meetings and distributed at that time, hole-punched, then I can put them in the binder. I promise to be responsible enough to bring the binder.

MRS. DACYSHYN: If I can just suggest a slight alternative. If the members choose, we could hand out the material ahead of time like we do with the binders. We'll just give you the material ahead of time. We'll figure out a way to tell you what tab to put it under or where to put it or whatever, if that's what people want to do then.

THE CHAIR: Thank you, Corinne. Thank you, Ms Carlson.

Anything else?

Could I have somebody move that we're adjourned? Mr. Mason.

All in favour? Carried.

Thank you very much.

[The committee adjourned at 1:56 p.m.]

