

9:05 a.m.

[Mr. Langevin in the chair]

THE CHAIRMAN: It's past 9 o'clock, so I'll call the meeting to order. We have a quorum. We have a few members missing, but maybe they'll show up yet. I hope that you all have a package and an agenda and also the minutes of the previous two meetings. So if you'd like to have a look at the agenda, I'd like to have a motion to approve the agenda or recommendations for additions or changes.

MR. JACQUES: I so move.

THE CHAIRMAN: Okay. Moved by Wayne Jacques that the agenda be approved as circulated. All those in favour?

HON. MEMBERS: Agreed.

THE CHAIRMAN: The motion is carried. Thank you very much. The next item is Approval of Minutes. We have two sets of minutes that have not been approved. One is the January 26 meeting, and one is February 11. We should have a motion separately if you want. Maybe we should start with the January 26 meeting.

MRS. FRITZ: Thank you, Mr. Chairman. I'll move the minutes of January 26.

THE CHAIRMAN: Okay. We have a motion to approve the minutes of January 26 as circulated. All those in favour of the motion?

HON. MEMBERS: Agreed.

THE CHAIRMAN: That's carried. Thank you very much. The February 11 meeting minutes.

MR. HIERATH: Mr. Chairman, I'll move the minutes of the February 11 meeting.

THE CHAIRMAN: Thank you very much, Ron, for that motion. All those in favour of the motion to approve the minutes?

HON. MEMBERS: Agreed.

THE CHAIRMAN: Carried. Thank you.

We just approved the agenda as circulated, and we approved the minutes of the last two meetings as circulated. The fourth item on the agenda is the Ombudsman, Mr. Scott Sutton, but I would like to ask you to jump to number 5 first and handle this as this won't be a long discussion.

The Auditor General has been asked to do an audit of Travel Alberta because of the changes and the problems that there were in that organization for a while, and in order to do that, he needs the support of this committee. It does not involve any change in budget or anything; he just would go ahead and do it. But I have to sign a letter of authorization for him. I don't know if there's any discussion, or can we just have a motion?

MR. DICKSON: I'll so move.

THE CHAIRMAN: We move that we authorize the Auditor General to proceed with his audit. Travel Alberta has been changed. It's a numbered company, for the

record. It's 771045 Alberta Ltd., so the motion would read for that company.

MR. DICKSON: Yes.

THE CHAIRMAN: Okay. Any discussion on the motion? If not, I'll call the vote. All those in favour of the motion?

HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed? The motion is carried. Thank you very much.

Now I'll go back to item 4. Mr. Scott Sutton is here, and I'll call him in in a few minutes. Just a bit of briefing. He had talked to me about this last summer sometime, I would say August or September, and I had asked him to wait a while and come to this committee. He had just been appointed last April, and my reasoning for that was that I thought he should get at least a year of experience in the job before he would start to make some firm recommendations. So coming April 1 here, it's a year. I did tell him that in about year I would entertain him coming to the committee and making this presentation for the proposed change he's looking for.

In the meantime I had said to him: as you gain experience in the office, you could review what you're asking. If there's any change to the original request that he was thinking of last summer, he would adjust these and come to us and make his pitch, and we would ask him questions. What I'd like to recommend to the committee: because his proposed changes here affect several different government departments, we should make a little study on how these will affect the departments and what the outcomes would be if we give him the okay.

I would like to propose that we form a small subcommittee of three people, three persons from this committee, and take the time to talk to the departments that would be affected to see what the pluses and minuses are and what the whole effect of these changes would be. So I would suggest this morning that we don't give him any confirmation, yes or nay, but that we form a committee at the end of the conversation and do some groundwork and then come back to the committee with some recommendations. If that's okay with the committee, we'll call Mr. Scott Sutton in.

There's another issue. At 10 o'clock there's a function downstairs. I have to speak at the opening, and I would have to leave about 10 to 10. I understand that Mary also would like to leave.

MR. DICKSON: So would I.

THE CHAIRMAN: So would you. Somebody told me that Gary might want to be there at the function this morning.

MR. FRIEDEL: No. I told them that I couldn't attend because I was here.

THE CHAIRMAN: Oh, okay.

So I don't know what we should do. If we're not finished by 10 to 10, should we adjourn the meeting for a few minutes to do that and then come back?

SOME HON. MEMBERS: Sure.

THE CHAIRMAN: Okay. Let's do it then. Diane will call Mr. Sutton in.

MS BARRETT: Excuse me for being late.

THE CHAIRMAN: No problem. We started a couple of minutes late. Before you came, we just went through the approval of the agenda and the minutes of the last meeting. So we didn't make any earth-shattering decisions.

MR. SUTTON: Good morning.

THE CHAIRMAN: Good morning. Welcome to the meeting. We went through part of our agenda, and we're down to your item. Mr. Sutton and Pam, thank you for coming this morning. We'd like you to make a presentation on your proposal, your request for changes to the Ombudsman Act. I know that this came to this committee before with the previous Ombudsman. I was not part of the committee at that time, so I'm not exactly sure if there has been change or if you're proposing some new proposal here. I would like to have your comments on it and have you give us an explanation and a reason why you feel you need these changes to the Ombudsman Act.

Following that, we will form a subcommittee of three to study the proposal and talk to the departments and see how we will proceed to make the changes you require, if we approve making the changes. We'd like to make a little review of that with the different departments that are affected and get some input so we have the pluses and minuses of how this would affect the whole scheme of things. So I'd like you to proceed.

MR. SUTTON: Okay. Good morning, everyone. I appreciate the opportunity to get together with you to discuss these proposals. I don't know if all of you have been introduced to Pam McHugh, my legal counsel. Pam has been working on this project for some time, even before my appointment a year ago.

The Ombudsman Act has not been amended in almost 30 years, other than a minor amendment in 1996 which allowed the then Ombudsman, Harley Johnson, to take part-time Ombudsman duties in the Yukon. Although there was an amendment request in 1995, that request did not result in any changes. This is the second time I've appeared before this committee to seek support in furthering much-needed amendments to the Ombudsman Act. In the past whenever amendments were needed, it was my understanding that I would bring forward my concerns to this committee to seek support and thereafter follow through the legislative process to have the act amended.

What we're dealing with at this committee is support for principles of legislation. What you have before you is not a final draft of proposed legislation, and we should not get too concerned with the finites of the wording you have before you as we have legislative drafting people for that purpose. Once the principles are agreed to and the necessary legislation is drafted, it's my understanding that the Minister of Justice carries it through to the Legislature. My understanding at this time with this particular proposal: we have not followed through on those guidelines.

You have before you two documents. One is a three-column spreadsheet outlining the problems we're encountering, the present provision within the Ombudsman Act, and the proposed amendment we're seeking. Accompanying that document is a letter dated March 8 with an attachment that attempts to clarify further what is being asked for and the reasons why. I don't know what other explanations can be given at this time. However, if it's the committee's desire, both Pam and I will go through each amendment and answer any questions you might have.

9:15

THE CHAIRMAN: I'll ask the committee members. I don't know if we should do that or if you want to go straight into questions. If they all have read the document, maybe they just want to go into specific questions and get some clarification.

MR. DICKSON: That would be my suggestion, Mr. Chairman. I don't think we have to review what's a pretty straightforward document, and thank you for giving it to us in advance.

MR. SUTTON: Yes.

THE CHAIRMAN: Okay. Well, we'll go straight into questions, and you can supply some clarifications.

Gary, do you want to start? Do you have some issues you'd like to bring?

MR. DICKSON: Well, I guess the one thing I was a bit intrigued by in the background paper and that I just wanted to ask -- this is a concern about limitations on the power, and it has to do with legislative supremacy. This is item 7, the potential conflict with the Human Rights, Citizenship and Multiculturalism Act. As I understand it, what you're telling us is that you worked out creatively a protocol and an understanding with the other office that seems to be working satisfactorily now.

MS McHUGH: We worked it out on the understanding that we would amend our legislation. That's why in the backgrounder I put the general intentions of the MOU, because when we had discussions with the Human Rights Commission, they recognized this is a problem, and we indicated we intended amending our legislation. We didn't know when that was going to happen, so to avoid problems and clarify how we were going to handle a situation if it arose, because it has arisen in the past, we entered into this memorandum of understanding. But, as I say, it's based on the understanding that our legislation will be amended.

MR. SUTTON: It was basically a temporary corrective measure.

MS McHUGH: Yes.

THE CHAIRMAN: If I may suggest, we're recording for *Hansard* and this is a bigger room. You may want to pull the mike closer to you when you're speaking.

Thank you very much.

MR. DICKSON: So I take it your position is that the amendment to 19(1) and the amendment to 22 and then 19 -- well, it's the same provision. So it's actually sections 19 and 22 that would have to be amended to codify, if you will, this memorandum of understanding that's been entered into between the two offices.

MS McHUGH: That's correct, yes. Now, of course that's subject to Legislative Counsel. That's my interpretation as to how I believe the act would have to be amended, but they've not looked at this. They may have another solution to it. I don't know.

MR. DICKSON: Can I just further ask: is it your understanding that the Human Rights Commission is comfortable with this proposal, that they're ad idem with what's been suggested here?

MR. SUTTON: We've worked together with them. Yes.

MR. DICKSON: Okay.

THE CHAIRMAN: Okay. Wayne, you have some questions.

MR. JACQUES: Yes. Thank you, Mr. Chairman. Mr. Sutton, my name is Wayne Jacques. I'm the MLA for Grande Prairie-Wapiti. I think we've met before, but welcome again.

MR. SUTTON: Good morning.

MR. JACQUES: I assume, Mr. Chairman, that if we have more than one question, perhaps we'll only ask one question at this point and allow others and come back to them.

My first question, Mr. Sutton, is with regard to page 2 of the three-column document, your item 3, the heading being Investigation of Merits of Decisions. In referring to the three-column document and also to the handout in the form of a letter for summary, I was wondering if you could elaborate more in terms of what this means to your role, particularly as it relates to either examples in the past where this hasn't been able to come into play or specific examples not dealing with the complainants -- obviously involved -- but rather the situation you've encountered that you believe this change would address.

MR. SUTTON: Well, I'll start and then let Pam finish. In essence we are a process. We look at process. That's what our job is. But if that process is flawed, if that process is not followed -- if there's an arbitrary decision and there is a decision made, the merits of that decision are also flawed. We have to clean up our act so that somewhere in there we have to be able to follow through. It's a hollow responsibility I have if I can say that the decision that you have arrived at was not arrived at properly, that it was arrived at through an arbitrary decision or through a hollow base, and then leave it at that. And then the decision remains.

Now Pam might want to elaborate a bit more.

MS McHUGH: Yes, sure. As you know, we will be involved in the new health professions legislation. We had this very discussion with the people who were working through that piece. Firstly, it's very difficult when you do an investigation. You ask me: by and large look at the process. But we do reserve the right to look at the merits. It's extremely difficult to sort of have a point where you can cut it off and say: this part of the decision deals with process, and this part deals with merits. So in order for the Ombudsman to do a complete investigation, he looks at both. As the backgrounder has set out here, the courts, both the Supreme Court and the Ontario Court of Appeal, as well as Mr. Justice Milvain in the Alberta case have all basically blessed the right of the Ombudsman to look at both merits and process.

What we wanted to do here was to clarify that, because in the past we have had situations where we've almost ended up going to court on a challenge from an administrative tribunal. In fact, it's no secret because it was brought before this committee by the former Ombudsman, Harley Johnson. It involved the Land Compensation Board in a complaint that was submitted to our office about that board of the board decision. It involved the merits, and we worked very hard with the Land Compensation Board and Alberta Justice to come to some understanding as to how far we could go in our investigation, because the investigation did involve the merits.

We finally sort of agreed at the courthouse steps that the Ombudsman could go in and do the investigation. But the agreement was, according to the Land Compensation Board: if at the end of the day the Ombudsman was going to find anything wrong with the merits of the decision, then they would continue with the challenge. As it turned out, our investigation did not support the complaint, and therefore this issue did not have to be dealt with. But the fact is that if we had found something wrong with the merits and had made comment on it, the Land Compensation Board indicated that the challenge would continue.

On the basis of that example and some others I would like to just clarify this. It's not adding any powers to the Ombudsman; it's merely clarifying what we already do and what the courts have said we can do.

THE CHAIRMAN: Yes, Mary.

MRS. O'NEILL: Thank you, Mr. Chairman. To follow up on that question then. Simply put, why is there a need if already the courts have said you could and it is something you already do?

MS McHUGH: Because it's not recognized and some administrative tribunals, particularly the ones that don't deal with us on a regular basis, have challenged and I don't see why they would not walk away from a challenge in the future. Given the Land Compensation Board, that's sort of been left up in the air. If we do another investigation and come to that point, then we'll probably end up in court over it, and we don't want to do that. We don't want to spend time in court. We want to spend time investigating complaints. So I think it would be best to clarify the legislation so that there's an understanding in the legislation as opposed to having to go back through all the court precedents over and over again. Once you get into that, it adds, as you can appreciate, many months where a complainant is sitting there waiting for us because the door's been slammed in our face and we now have to meet with an administrative tribunal to try to convince them that indeed we have the merits, we have jurisdiction to look at the merits.

9:25

We've had that discussion, as I said, with the health professions legislation that's coming up. We certainly have an understanding among the working group people that we will have jurisdiction to look at the merits, and it will be an education, because it will be a new group of entities under our jurisdiction. It will be an education function for us to go out and explain to these people, as I've done in the backgrounder here, that this is all balanced out.

While we look at this, we don't ever pretend to substitute an expert's decision. What we will say is: "The decision has no basis in evidence. The evidence that was before you doesn't lead to the decision that you made. So would you please go back and look at it and say what you've done with this evidence and why you've reached that conclusion," which is very close to the merits. As I say, it's splitting hairs sometimes. People are saying, "Well, that's not process; it's merit." So it's difficult to split them in two, although some try.

MRS. O'NEILL: Thank you. If I could belabour this just a little bit further though, I understand what you're saying with respect to the merits, but you said that in practice it is what you can do and in fact have been allowed and directed to do by the courts. My question is: is an MOU a temporary answer, or literally is there a stumbling block to effecting -- again I keep repeating -- what the courts have directed and what you in practice are able to do?

MR. SUTTON: There is a stumbling block, because when we deal with our agencies and whatnot, they refer to the acts; they don't go back to court precedents. Our act is not consistent right now with court precedents, so if they refer to the act and it is consistent with court precedents, fine.

MRS. O'NEILL: Thank you.

MS BARRETT: Just one question on that very subject. Can either of you tell us if the recommendation you're making here on that item, on the merit issue, is consistent with Ombudsman legislation elsewhere in the country?

MS McHUGH: Certainly. I haven't reviewed the actual wordings of other Ombudsman acts on this point, but certainly it's recognized across the country that the Ombudsman looks both at process and merit.

MS BARRETT: Thanks.

THE CHAIRMAN: Ron.

MR. HIERATH: Yes. Scott, if you are investigating a complaint, you look at the policy of the government, and if then you do the investigation with the policy in mind when you write a recommendation, the process of how the policy was implemented -- is that the key as far as what you're talking about? When you're talking about merit, it seems to me you're bringing in a word that is the same thing as the process of implementing policy or not implementing policy with regards to someone's complaint.

MR. SUTTON: It gets confusing, but it isn't the same. If we're looking at a complaint and we follow: "What are the rules? Have the rules been followed? Have they been applied fairly? Et cetera, et cetera -- and if there's been an arbitrary decision, those rules have not been followed. If there's a terrible, terrible flaw within that structure or whatnot, then the decision that agency arrived at based on that criteria is flawed. That's all we're saying.

MR. HIERATH: So might you be saying that the act is flawed?

MR. SUTTON: Our act?

MR. HIERATH: No. The Alberta health act, Municipal Government Act, or an act of the provincial Legislature?

MR. SUTTON: We're not making decisions on legislation. We're making decisions on process and whatnot. The legislation is for you people to deal with.

MS McHUGH: The merit would actually just deal with the actual decision.

MR. HIERATH: Your decision or a government policy decision?

MS McHUGH: No. It would be an administrative tribunal's decision. For instance, the Workers' Compensation Board has a tremendous amount of evidence, medical evidence, before it. Based on the evidence that's placed before it, it makes a decision. We could very well do an investigation and find that a crucial piece of evidence was never reviewed by the appeal board. Therefore, what we would do in that situation is suggest that because that piece of evidence was not reviewed, the decision should be reviewed and referred. We could say the decision was wrong, sort of mincing words. There are different ways of describing the decision, but normally what we would say is: the merit of that decision has to be revisited because you didn't consider a very crucial piece of medical evidence.

MR. HIERATH: So you're not able to do that now?

MS McHUGH: We do it now. The fact is that it's not recognized that we can do it. We've been challenged on it, and we want to avoid that in the future.

MR. HIERATH: Okay. Thank you.

THE CHAIRMAN: Gary Friedel.

MR. FRIEDEL: I've got four items that I have questions about. The very first one: where it suggests that the authority of the Ombudsman should be expanded to include "any person, corporation, or authority with which the province has a contract to

provide services." We're just finalizing a report on the review of the Freedom of Information and Protection of Privacy Act. We dealt with a recommendation along these very same lines. I expect there are people at this table who may disagree with this opinion, but the recommendation coming from there indicated that the requirement to deal with the FOIP Act would be included in any contract the department or the public body had with the agency that was providing the service and to the extent of that service providing some legislative administration.

The way it's written here, it certainly leaves it wide open. It virtually would say any contract that the government would have. Anything that organization or corporation did could be brought under the blanket administration of the Ombudsman Act this way.

The concern I have: first of all, it's too broad. I am not sure how in the actual act the alternative could be built in, whether simply the contractual arrangement could trigger the same accountability through this act as it does through the FOIP Act. I'm not sure, but I'm raising that as a concern. The way it's written here, I could not support it at all.

I have similar concerns about the debate we just went through on merit. I believe it may open this thing beyond what the intent was, but I think that's already been debated sufficiently. If we are going to have a subcommittee review that maybe deals with the departments that are affected and any other agencies, it's an issue that could be considered.

Item 11(3), also on the second page. I'd be interested in your interpretation of what the difference is between the indication that the recommendation is final or the alternative, final and/or binding. I mean, what is the actual interpretation that you could give us?

9:35

On the next page, top right-hand box, it talks about "anything which, in the Ombudsman's opinion, relates to the matter." Again, in the review of the FOIP Act we dealt with a very similar issue where the existing act did use the word "opinion." We asked that it be strengthened so that it was reasonable certainty, not just an opinion, because this is too much like a blank cheque. Without going into a lot of detail on the rest of that recommendation, I would definitely have problems with that word.

At the bottom of the page we're looking at a notwithstanding clause here to exempt the Ombudsman from the provisions of the Freedom of Information and Protection of Privacy Act and the Human Rights, Citizenship and Multiculturalism Act. There is provision for paramountcy in the act, and I'm not suggesting that it is or isn't valid here. I guess what I would wonder is: why would it be appropriate to have the Ombudsman not be included in these two acts, but the reverse wouldn't hold true? The next page, 22(1)(b), seems to be saying the reverse.

I'm assuming that this next thing might just be administrative, but is there a reason why 19(1) is in here twice? Is that an emphasis, or does it have a different connotation?

Those are my questions.

THE CHAIRMAN: Thank you, Gary.

Would you like to reply to those concerns or questions?

MR. SUTTON: Mr. Friedel raised quite a number of points, but I think that the issue that we have to deal with is that we come before the committee with some proposals. We have to deal with the ministries that we're involved in to get the wording, to get things exact. These are proposals, nothing more. I appreciate Mr. Friedel's concerns about exact wording and whatnot, but I don't think that at this committee level we're going to satisfy all the concerns relative to wording and everything else.

Now, I don't mind going through it with Mr. Friedel and

answering his questions, but again, you know, it's my understanding that we come before this committee, we put a proposal towards this committee, and we either get support or nonsupport in general terms. Then we go before the ministries to work out wordings and whatnot.

MR. FRIEDEL: I'm actually quite willing to accept that. I just wanted to raise flags on these issues. At whatever level they're resolved is quite okay with me.

THE CHAIRMAN: I think that Mr. Sutton at the outset mentioned that a lot of wordsmithing may need to be done, that this was just a proposal at this time.

Now Yvonne. I apologize for having you last.

MRS. FRITZ: Thank you, Mr. Chairman. I'm going to be very brief because we do have a function down in the rotunda here shortly that our chairman is speaking at. I appreciate what's before us and what work has gone into this proposal. I will support the subcommittee reviewing this proposal and will vote for that.

I do have a concern about item 7. I know you talked about principle of legislation and that what's in practice right now you'd like to see put under the umbrella of your legislation, but I see it actually as conflicting with what is happening. Under the Human Rights, Citizenship and Multiculturalism Act I see what you've stated here is happening, that in practice you're doing something quite different, which is why you want to have it changed. I don't know if that's a good thing or a bad thing, though, from what I've heard from people that represent the human rights area. I know you're trying to stop the snowballing effect, that they can investigate you and you can investigate them and they can investigate you and whatnot.

I think that that kind of discussion has to occur under the subcommittee, Mr. Chairman, so I will support this proposal going forward to a subcommittee.

THE CHAIRMAN: Would any other members like to ask questions or make a comment on the proposal?

If not, I would like to thank you both for coming this morning. We will definitely form a committee and move that along as fast as we can here. I know that you want an answer on this, that you want to know where we're going to go from here. So if there's support from the members here, we'll make a motion to appoint a committee, and when the committee does the work, we may have to get back to you for some further explanation. I'm sure you'll be available for that.

MR. DICKSON: Mr. Chairman, presumably the committee would want to meet further with Mr. Sutton to discuss some of the details, some of the elements. It would give us that opportunity to have a more direct kind of discussion around them.

THE CHAIRMAN: Yes. I just mentioned that, and I'm sure that they would be agreeable to that.

MRS. FRITZ: Definitely.

Mr. Chairman, I'll make a motion, then, that we have an all-party committee formed for the review of the proposed amendments to the Ombudsman Act that were put forward by our Ombudsman here today, that we have a subcommittee formed.

THE CHAIRMAN: Okay. We should have a number maybe in your motion of how many would sit on the committee.

MRS. FRITZ: Three people, I would think, from this committee.

MR. FRIEDEL: If you have an all-party committee, it has to be five; doesn't it?

MRS. FRITZ: Does it?

MR. DICKSON: By convention sometimes. I mean, I'm interested in being on the committee. My point is that this committee has to make the decision anyway, and all the subgroup can do is make recommendations. So three people is probably plenty.

THE CHAIRMAN: Yeah. A subcommittee, I understand, can be any number. We're not bound by a certain number.

MRS. FRITZ: I just thought three people meeting with Mr. Sutton and going over the proposal. What would you like, Mr. Chairman? Three or five?

THE CHAIRMAN: I support three. I think if we had a motion that read something like:

we form a committee of three members from the main committee.

MRS. FRITZ: Thank you. That'll be the motion.

MR. HIERATH: I would just suggest an amendment, that the committee structure consist of two government members and one opposition.

MS OLSEN: That's not an all-party committee then.

THE CHAIRMAN: Will you accept that as a friendly amendment to your motion?

MRS. FRITZ: I will.

THE CHAIRMAN: Any discussion on the motion?

MS BARRETT: I object.

MS OLSEN: I guess that I would not see that as an all-party committee if it's an all-party committee made up of just three people, three representatives. This isn't a matter of voting on anything. I think it's a matter of three conscientious people working with Mr. Sutton to review proposed legislation, bringing forth that information to this committee, where there would probably, I would suspect, be further discussion. So I would not see that as a true all-party committee, and I think there's nothing being created here.

THE CHAIRMAN: Thank you.

Gary.

MR. DICKSON: Yeah. It seems to me the advantage I see in having a representative of each of the three caucuses represented in the Assembly is that it ensures that each of those people has some sense of the way their caucus reacts and so on. I think that because we're not doing any voting and we're not making any decisions, it simply ensures you get the flavour from each of the three caucuses, which is, I think, what you want in a subcommittee. Then we bring it back. You may have three different opinions, but at least we've tried as a small group to get in and examine each of the issues that have been discussed today. Because there's no voting and no decision being made, I don't see any reason why you'd have to have a government majority. I just think a representative from each caucus fits the bill most nicely.

9:45

THE CHAIRMAN: Thank you.

Mr. Friedel.

MR. FRIEDEL: I think it depends on what we expect this committee to do. If it's going to come back with a recommendation that is going to be something of a consensus, it's not going to happen in all practical purposes with one person from each of three parties. You'll end up with three separate recommendations.

If it's going to be an all-party representative committee, I think traditionally, as this committee itself is set up and generally as subcommittees have been, you take in a ratio of the representation of the caucuses on the committee. So if it was going to be an all-party committee and we expected some kind of a recommendation that we would follow, then I would suggest we go to five. That would allow both opposition parties a member plus three from the government caucus in that balance.

If our entire committee simply wants to look at three recommendations and then sort through them, then the other system will work. Otherwise, I think we're just spinning our wheels.

MRS. FRITZ: Well, Mr. Chairman, given that and knowing the time and the debate is amazing around this table right now, when really we're just working with our Ombudsman about these recommendations -- I didn't realize that with the motion I would have created this kind of controversy -- what I'd like to do is withdraw the motion and put forward a motion that says that we have a committee of five from this committee, which is traditional with this committee, as Mr. Friedel has pointed out, and that we meet with Mr. Sutton as a committee of five to review the proposed amendments to the Ombudsman Act.

THE CHAIRMAN: In your motion would you say an all-party committee?

MRS. FRITZ: No. Well, it can be in there if you like, as long as we have a committee of five.

THE CHAIRMAN: A committee of five.

MR. SUTTON: Mr. Chairman, I wonder if I could just make a comment before you go into that.

THE CHAIRMAN: Yes.

MR. SUTTON: All we're seeking is support from this committee to take these amendments forward to Justice. There's much work that has to follow after that. We're not deciding on the finites of wording of amendments and everything at this level.

MRS. FRITZ: That's a big step, going forward to Justice, and the committee has to meet before that decision is made.

MR. SUTTON: Right. I just wanted to clarify that.

MS OLSEN: Well, if you're going to move the committee to five, you just might as well leave the committee as a whole. Everybody can participate and debate. Why bother having a subcommittee? This committee is small enough as it is that we might as well just move forward, have another meeting, or we can expend the time looking at all the recommendations and then have that discussion around the table. I see no need to break down and have a subcommittee of five come back to this committee. I think that's just a waste of time. I think we could be far more progressive in just having another meeting, knowing we're going to discuss this, and move forward that way. I think that's far more productive.

THE CHAIRMAN: Okay. We have a motion on the floor though. Any more discussion on the motion?

MRS. O'NEILL: I need to know what the motion is that is on the floor right now.

THE CHAIRMAN: Would you repeat your motion, please?

MRS. FRITZ: My motion is that

the chairman strike a committee of five members from this committee to review the proposed amendments that were put forward by the Ombudsman here this morning and bring it back to this committee.

THE CHAIRMAN: You've all heard the motion. All those in favour of the motion? Those opposed? The motion is defeated, I believe. I didn't see too many votes; half of the people abstained.

MRS. FRITZ: I saw three.

THE CHAIRMAN: I said, "All those in favour of the motion."

MRS. FRITZ: Oh, I didn't hear "in favour."

THE CHAIRMAN: Oh, sorry. Maybe I didn't word it. Okay. There's a motion on the floor. Yvonne repeated her motion, so I'll ask for the vote. All those in favour of the motion as proposed? Okay. Those opposed to the motion? The motion is carried.

Okay. We can have a motion to adjourn.

MS OLSEN: Will the taxpayers now have to pay for that committee to meet if the committee meets outside the Legislature time?

THE CHAIRMAN: I think that, yes, under the rules committee members have the right to file their claims.

MS OLSEN: That's right. So now we have a subcommittee of this committee who now can go, and the taxpayer pays for that and then the . . .

MRS. FRITZ: That's not a bad thing, though, Sue. It's not a bad thing to sit down with the Ombudsman and review these proposals.

MS OLSEN: It's not a bad thing to bring it back as a whole either.

MRS. FRITZ: It's good to do that.

THE CHAIRMAN: Okay. I need a motion to adjourn.

MS BARRETT: So moved.

THE CHAIRMAN: Moved by Pam that we adjourn. Thank you very much.

[The committee adjourned at 9:50 a.m.]