

8:31 a.m.

Tuesday, June 5, 2007

[Ms DeLong in the chair]

The Chair: I'm calling this meeting to order. If everyone could pull out their agenda, our first order of business is approving our agenda. Could I have a motion?

Rev. Abbott: So moved.

The Chair: Reverend Abbott moves. All in favour? Okay. That's approval of the agenda.

The next thing on the agenda is to actually approve the meeting minutes. Everybody, I hope, has a copy of the minutes. We're approving the minutes from Tuesday, May 8.

Dr. Brown: I'll so move.

The Chair: Dr. Brown moved that we approve the minutes. All in favour? Any opposed? It passes.

Okay. Now we get down to the meat of the meeting today. We have several proposed amendments to Bill Pr. 1. I would suggest that everyone pull out their copy of Bill Pr. 1 and their copy of the changes. They were e-mailed to you yesterday. Does anybody need a copy?

Shannon Dean, our counsel, would like to say a few words to start out.

Ms Dean: Before the committee discusses the amendments, I thought it would be beneficial if we'd just go back to where we were a month ago. The decision was that the committee members submit questions for the petitioner and his counsel, which was done. The responses were received last week and were distributed to committee members last Wednesday.

Perhaps before going through the amendments, Madam Chair, you may want to entertain any discussion on those responses to the questions or whether there's any need to discuss further some of those issues.

The Chair: Certainly. As Shannon said, is there anyone who would like to make some comments on those questions and the answers?

Dr. Brown: Well, I guess I could lead off with that, Chair. There were a number of questions to which I don't think we received any answers, particularly the fact that this centre, being an empty shell, the modus operandi of it doesn't seem to be well defined at the present time. I'm wondering whether or not we're going to be back at some future date to amend the bill to some considerable extent to take into account the way that the CyberPol centre would actually operate. I guess that's a problem that rests with the petitioners, but it will come back into the laps of this committee again, I would assume, at some future date.

Another question that I really didn't receive a satisfactory answer to was question 4, the powers and liabilities that these real persons would have by virtue of the fact that they are the body corporate and, particularly, after the board of directors is appointed. The petitioners responded that the incorporators don't have any special powers and will always be subject to a majority vote of the directors. I really don't know what that means, whether or not they still have some residual powers or whether they become functus at the time of the appointment of the directors.

I see also that they are agreeing in questions 5, 6, and 7 that some amendments would be acceptable to the petitioners. I would suggest

that the committee proceed in making the acknowledged amendments that the petitioner has acceded to.

The Chair: Any other comments?

Mr. Cenaiko, did you want to say a few words about the bill?

Mr. Cenaiko: Well, I know that the petitioners tried to answer all of the questions in the time that they were provided but, as well, tried to make the changes and amendments easier to understand, easier to read, and easier to explain.

When you look at the changes to section 2 and section 3, I think those are critically important as we move forward. I guess I'd just like to stress again that this is the first step towards looking at a shell organization that could provide this centre. I know that Dr. Brown has some concerns but is supportive of the legislation. I'm not sure if the future of the business plans and the running of an organization are where we are today. In fact, that will be, obviously, in effect as they move forward in establishing and promoting a facility such as this. I think a lot of those answers will come down the road. This provides them with the opportunity to establish and move forward on a centre.

The Chair: Thanks very much.

Reverend Abbott, please.

Rev. Abbott: Thank you very much. I'm supportive of Bill Pr. 1. I think that it is kind of broad, and there may perhaps still be a few questions to answer, but I think it's a great first step, as Harvey just said. It's kind of a very unique and, I would say, quite an innovative concept and idea. I think that the reason they've chosen this route is because it's pretty much the only one they could see, you know, that is broad enough to fit what they're trying to do. So I would be open to accepting any amendments that are necessary. My view is that I would hope we would do everything we can to see if we can let them go ahead with this, and if they need to come back, then they need to come back.

The Chair: Mr. Pham.

8:40

Mr. Pham: Thank you, Madam Chair. I have given a lot of thought about this bill. I understand that a private bill is set up to address an issue that doesn't have a lot of impact on society. An issue that has a lot of impact on society will come in either a private member's bill or a government bill.

When the petitioners were here, I asked them why they picked this route instead of normal registration, a normal incorporation, and their answer was quite interesting. Their answer was that by setting themselves up under a private bill like this, they will have more prestige and be seen as somehow affiliated with the Legislature. Of course, that is not the case because even when the bill is passed, they will be just another entity that the Legislature has nothing to do with.

However, because of the special business that they are going to engage in – that is, dealing with different law enforcement agencies and dealing with very sensitive issues: how to protect people on the Internet – it certainly has a significant value for our society if it is done properly. That's why I have been torn whether we should give them what they need so that they can go ahead and try to do this, because it is obviously a thing that is very much needed. On the other hand, you know, the tradition of the Private Bills Committee is there. This is an issue that is much wider than the normal private bills we usually deal with.

However, after several weeks of thinking and soul-searching, I have come to the conclusion that it's like chicken soup: it's not

going to hurt the group, and it's not going to hurt our society, especially because of the calibre of the people involved. I think these people have been involved in law enforcement before, and they know what they are doing. There is no doubt at all that there is a gap there in the current legislation and what they are trying to do. Also, looking at the matter of the personal freedom that people have in accessing the Internet and the potential opposition that they will run into if they try to bring in some kind of legislation that deals with this issue anywhere in the world, I think that it is important for us to help them to make that first step.

Therefore, with all the reservations that I made earlier, I'm willing to support this bill, hoping that it will start the process, that it will start the snowball effect, that it will attract other people to come forward, and that it will give them a platform so that they can sit down and look at this issue seriously and come up with solutions to deal with it.

The Chair: Thank you.
Ms Dean.

Ms Dean: Thank you, Madam Chair. Typically I provide a Parliamentary Counsel report to brief the committee. I just haven't had an opportunity because these amendments were worked on until late yesterday afternoon, so I'm giving you my comments orally. Basically, I'm reiterating my comments from my initial report in the sense that I think that there are still fundamental questions that remain with this proposal.

Most importantly, I don't think the petitioner has met the threshold test as to why incorporation by a private bill is required as opposed to incorporating through another means, so I raise that again with the members of the committee.

I still think there are questions regarding the operations of the centre and its governance. As Dr. Brown noted, there may very well be a need in the near future for the petitioners to come back to fix certain provisions in this bill, whether it be the powers of the directors or the bylaw-making powers, et cetera.

Thirdly, I have to advise the members of the committee that I did meet with the petitioners' counsel last Thursday to discuss specific wording of the amendments. There was an issue with respect to the matter of the location of the centre as there was some reticence with respect to putting specific wording in the text of the bill that the centre will be located in Alberta. He has agreed, and he has included in his amendments a statement to the effect that the head office of the centre shall be located in Alberta. I'm not sure if that's going to be the main physical building with respect to the centre or if it will just be a registered office, but I want the committee members to be aware of that discussion that I had with the counsel.

I think the committee has to be aware that when we incorporate things by private bill, we're pulling them away from general public law, so there are no general statutes that are going to apply to this entity in the sense that there are no annual filing requirements like there are with respect to business corporations or societies. There's no requirement for an up-to-date public listing of the names of the directors or the registered offices, and there's no specific mechanism by which the entity can be wound up if it becomes inactive. Again, if it becomes inactive, it would require another private act to have it cleaned off the books.

So I raise these preliminary questions again for you for your further consideration. Where we go from here is really: if the committee approves this bill in principle, there are a number of amendments that have been proposed. I think I need more time to vet these thoroughly if you still want to proceed with this bill, but again I have to reiterate that I have concerns.

The Chair: Thanks very much, Ms Dean.
Mr. Rogers, please.

Mr. Rogers: Thank you, Madam Chairman. Just a comment and maybe just to remind everyone around the table that one of the key elements I focused on when the petitioners made the presentation was the nature of this organization, the fact that it crosses international lines, that there was some sensitivity to stay away from the typical Alberta/Canada corporate-type vehicles. That was something that stuck with me in terms of, I guess, the anomaly that this is trail breaking. It's new. It doesn't exist anywhere, so we're certainly on the front lines of trying to do something like this. That has stuck with me in terms of why we would need this private bills vehicle.

I do appreciate, though, the advice of our Parliamentary Counsel in reminding us of the, I suppose, lack of reporting mechanisms and windup. I guess the question I would ask back to Ms Dean is whether or not those are the further amendments that we might seek that would help to maybe add a little bit more comfort, shore this up, so to speak. But I did really hang onto the fact of the nature of it and the fact that it's multinational. There was a sensitivity to stay away from those typical other vehicles: corporate, Canadian or otherwise. I'm just wondering whether to achieve those two particular parts that you talked about, if we could seek further amendments, if you think that might be advisable.

Ms Dean: It's difficult to craft an amendment that would allow for public filings because this is an entity that's not going to be filed under the Business Corporations Act or have materials filed, you know, with our registrar that exists in our current system. I'm not saying that it's impossible to think of an amendment that would address those issues, but it would be challenging.

The Chair: Actually, I have a question along those same lines if I could interrupt. We do this in other places. We create other organizations. You know, what clauses do they have in the other private bills that we've put forward to cover that?

Ms Dean: What I can speak to are the entities that have been incorporated since I've been Parliamentary Counsel, in the last 11 years. We've had community foundations that have come forward, and we have had Bible colleges that have come forward. There have been provisions in those acts that deal with things like windup. There have been provisions about publication of financial statements, and that's reflected in this bill. I would submit, however, that I think the operations of those entities are markedly different than what's being proposed here so that public filing requirements may be more important in this case.

8:50

The Chair: Thank you.
Dr. Brown, I think you're next.

Dr. Brown: Thank you, Madam Chair. I wonder if through you I could ask Ms Dean to comment on the issue of the directors' liability with respect to various aspects of this proposed corporation.

Section 3 of the bill talks about the objects of the centre, including intelligence gathering relating to such cybercrimes as child exploitation, fraud, threats to infrastructure and intellectual property, identity theft, and so on. The concern that has been raised in question 6, and I think one which is on the minds of a number of the members of the committee, is that if you're going to have a body the stated purpose of which is to gather intelligence, then what responsibility and liabilities would flow by reason of that and whether the imprimatur

of the body corporate in having a piece of legislation relating to it would in any way affect the liability of those individuals that go about this intelligence gathering with respect to other laws such as the privacy laws of the province of Alberta and so on?

Secondly is whether or not some sort of a blanket immunity, which is proposed in the draft act, would be an appropriate standard of immunity for the acts of these directors in the course of intelligence gathering because, obviously, when you're gathering intelligence, it has to be relating to some sort of communications between individuals.

This gives me some concern with respect to (a) how it might affect the application of other public laws and, secondly, whether or not the standard of immunity that's being proposed there is one that is comfortable to the committee. I guess the petitioners, in fact, have acceded to the fact that perhaps some other standard such as is present in the Companies Act would be an appropriate level of immunity from their acts.

The Chair: Mr. Cenaiko on this point.

Mr. Cenaiko: Maybe Shannon can respond as well. This act wouldn't supersede any other provincial act, so they still have to fall within our FOIP legislation. As well, though, if they committed a criminal offence under the Criminal Code – and when you talk about communication and/or interception of private communication, that's all under part 6 of the Criminal Code. Even disclosure of a communication like that is five years in jail. So the board of directors would obviously be liable to any criminal act that falls outside of this, the provincial legislation under FOIP, but as well the Criminal Code would be in place. If they did in fact intercept private communication and it was illegal, you'd be in jail, so obviously you have to fall within those parameters. Any interception of private communications – what they're talking about in intelligence gathering is really to look at and dig through the Internet, for example, regarding child exploitation, that they search the Internet for sites. Those sites could be, for example, in India; they could be in France; they could be in Germany. They could be anywhere in the world.

Canadian law doesn't have anything to do with those sites in that country, but if the site was found, then notification to the police agency in that country can deal with that because they have specific laws related to their own country. It's a site that, obviously, individuals would be searching the Internet world-wide for illegal activity, whether it was child exploitation or whether it was identity theft or identity fraud or a fraud scheme of some sort through a life insurance company or through a bank. When they talk about intelligence gathering, that's really what they're talking about. They're not talking about intercepting private communication. Anyone that obviously communicates over the Internet does so knowing that individuals in some areas, chat rooms, can see and pick up and/or view various sites.

I'm not sure if that answers your question, Dr. Brown.

Ms Dean: I believe Dr. Brown directed some questions to me with respect to the liability issue. If we can just go back a few steps because I think that if you look at the bill as it currently reads and the proposed amendments, the idea of a blanket immunity is no longer there. It was in an amendment proposed previously by the petitioner. However, the fact that that immunity isn't in the text of the bill doesn't raise the matter that the issue of liability is still an important one to discuss. I think it's a grey area with respect to what the liability of these directors is because there's nothing specifically on point in the bill or the amendments. There's indication that this

is a not-for-profit entity, so I think that by virtue of the common law, that standard would be applied to the directors. I guess the question is whether that's an appropriate standard or whether they should be held to a higher standard, that being the standard that is applied to directors of business corporations, given the activities that they're undertaking.

Madam Chair, if I could just comment with respect to Mr. Cenaiko's points about the operations of the proposed centre. I think that the committee has to be aware that when it endorses a bill through a special act, it may create an impression that the activities of the entity are sanctioned by the committee and the Legislative Assembly, even though the committee and the Legislative Assembly have no ongoing role in scrutinizing the activities. I just bring that to your attention for your consideration.

Thank you.

Mr. Doerksen: It seems to me that a lot of the debate is focused around the purpose of the centre and what it might achieve. I don't think there's any objection to the stated purpose of what the objects are or what we're trying to achieve, but I think we're confusing that with what this bill does, and that's the mechanism of setting up what the entity is. That's the part that I'm grappling with, and frankly the petitioners have not convinced me that this is the right mechanism or why we need to go this particular route. We have a completely, entirely private entity wanting to deal with an issue that is completely public. It seems almost an irony in one sense. I look at the letters of proposed support from the various police agencies, and they're pretty lukewarm in terms of their support. They haven't yet convinced me that this is the mechanism that's necessary to set up what they are trying to achieve.

The Chair: Mr. Cenaiko, did you want to respond to that?

Mr. Cenaiko: Well, again, the proposal isn't before the committee regarding what the centre will or will not do. It's really the shell organization that will develop the program and will develop and facilitate the establishment of the program. So that's what the legislation is for. They're not there saying what they will be promoting or what they will be facilitating other than we know that these are the areas of concern as we look into the future of technological crimes. In 10 years from now, when our grandchildren are going to be on a computer at two years of age, the next level of crime is going to be intelligence-based crime, and the proactive program will be intelligence-based policing that will target technological crimes.

9:00

Again, this is to allow this group as a not-for-profit to begin the work of setting up a centre. Obviously, there will be a number of areas that have to be looked at and have to be reviewed and have to be worked on. There will be a relationship with the provincial government and the federal government but, as well, the private sector; for example, with life insurance companies or banks, who are defrauded out of a billion dollars a year. These are the types of acts that will be investigated.

Again, this is regarding criminal activity over and through the Internet. This is the first step towards providing a centre that can do this. We don't have this yet. We have piecemeal activities throughout Canada and/or throughout Alberta right now through police services. This will provide a centre working with a research component through academia that will provide us with the first step towards where we have to be in the future.

The Chair: Victor, did you want to get in on this?

Mr. Doerksen: Nobody has any issue with that, or at least I don't. But they still haven't answered the question: why a private bill? They can use any other mechanisms to accomplish the same thing, so why do they keep pushing this? That's the part they have not been able to answer for me.

Mr. Cenaiko: Well, it's my understanding that it's a not-for-profit. The centre isn't going to have a revenue stream in it as a corporation would. This is a not-for-profit centre.

Mr. Doerksen: There are lots of mechanisms for not-for-profit organizations. I mean, that's the struggle I have. This is a special act of the Legislature, and my mind says: "Okay. Why when you have these other mechanisms?" That's the bar they haven't passed for me. So now I'll be quiet.

The Chair: Well, let's really deal with this.

Ms Calahasen: On this point I read the background on private bills once again because that was an issue that we were trying to have answered for a while. When I look at the definition of what we're trying to do, it states:

By definition, the purpose or intent of a private bill is to confer special powers or benefits upon one or more persons or body of persons; or to exclude one or more persons or body of persons from a general application of the law.

Then it goes on to talk about:

The bill seeks something which cannot be obtained by means of the general law and is founded on a petition from an individual or group of individuals.

So when I look at the reason for private bills and then I listen to Vic's question as to why they are going to the private bill and listen to Parliamentary Counsel in terms of the incorporated text, as you identified, as well as operations and the governance concerns, then I really question why they would want to come through this mechanism rather than other options that are available to them.

I was trying really hard to want to support it because I like the intent of what it wants to do, but I'm really having a hard time understanding and getting the feeling that maybe this may not be the right mechanism. My gut is telling me that this is something we need, but this may not be the right forum for it to come through. So I guess to Parliamentary Counsel: when you were talking about some of the concerns, they did answer as to what they want to do to some degree but not to the degree that I think there's comfort to be able to see this go through to the extent that I'd like to see it go through.

The Chair: I have a question for Ms Dean. When colleges are incorporated with a private bill, couldn't they also be set up as just nonprofits? In the past we've used a private bill to create a college.

Ms Dean: Sure. I would distinguish a college from this entity because a college is going to be subject to public legislation with respect to its programming, et cetera. I'm sorry. What was your question?

The Chair: Why is it that we can set up a private college – okay? – using a private bill when that private college could just as easily be set up as a nonprofit? They could use, you know, our nonprofit side to be able to set up that. So why the difference there?

Ms Dean: The committee has had a practice of approving Bible colleges for incorporation. As we all know, the educational centre that was proposed did not proceed last month, I think partly because

of concerns raised by government officials with respect to the impression that a private act creates when it's used as an incorporating tool. So, yes, you can incorporate a private college through a private bill, but I think that concerns have been raised of whether it's an appropriate tool.

The Chair: I guess we should just keep going on the list here. Mr. Prins.

Mr. Prins: Thanks. Some of my questions have been answered, but I'm wondering if the lack of need to report or file statements as a typical corporation would jeopardize or compromise their ability to gather intelligence. You see, I think that's why, maybe, they want this private bill: because they want to operate totally differently than corporations or not-for-profits because of the nature of their work. Maybe that's why they need this or want this type of legislation. I'm just wondering if that's part of it. If it is, I would accept that as a reason why they would want this and become just a shell body at this point in order to do business from. I don't know how CSIS would work or the FBI or the CIA or these types of bodies. I don't think they want to operate like typical corporations because of the nature of their work, and I'm wondering if that's why we're talking about this.

The Chair: There is section 13 regarding audit and fiscal year, so there is some mention of financial controls in the bill.

I guess I should just keep going here. Okay, Mr. Amery.

Mr. Amery: Thank you, Madam Chair. Perhaps this question is to Ms Dean. I'm concerned about section 3 when it comes to intelligence gathering, and Dr. Brown covered it. You know, I'm concerned when a centre is gathering information about people and about, maybe, other organizations and when they're not obligated to collect money. "The objects of the Centre are to use the funds entrusted to it to promote and facilitate the establishment." Now, where is this money coming from? Is it public funds, or are they going to raise their own funds? I think you said that they're not obligated to submit financial statements for income. Can you explain that to me?

Ms Dean: With respect to the question about financial statements, there is something in the bill that requires annual audited statements to be published in the newspaper. With respect to your other questions about the scope of the objects and intelligence gathering, I share your concerns with respect to the governance of an entity that's going to be intelligence gathering in the sense that this is a private entity; it's not an agency of the government. I'm not sure what controls are in place for a private entity that's doing intelligence gathering.

Mr. Amery: Are they taking the role of the other agencies that we have in place, or are they working in co-ordination with them, or are they supplying the police or CSIS or other organizations with the information that they gather on people in the country? Or we don't know?

9:10

The Chair: On this point, Mr. Cenaiko.

Mr. Cenaiko: Shannon, do you want to answer that?

Ms Dean: In terms of those specifics all I can do is refer you to the testimony of the petitioner, and perhaps Mr. Cenaiko can elaborate.

It's not clear to me at this stage exactly how this entity is going to function. Perhaps it would be partnered with law enforcement agencies. I think it's the likely answer.

Mr. Cenaiko: Well, that's exactly it. They would be partnering with law enforcement agencies. Again, this isn't about digging up intelligence on Joe Blow that lives at the end of the block. This is about intelligence gathering on criminal activity: those individuals, for example, that are stealing identity; those individuals that are exploiting children. This is what the activity will be. It will be working in conjunction with the RCMP or CSIS or the FBI or CIA or MI6. This is all regarding the ability for the policing or the law enforcement community to work together to combat crime throughout the world from a centre.

As you're aware, Moe – I think you know – you can set up a site in Germany, but you can go through Japan and China and Australia first before it ends up in Germany so that you could try to prevent law enforcement from finding you. This is how a lot of individuals target this. It's about the law enforcement community working together but exploring and investigating and intelligence gathering from tips that come in from the community, obviously tips that come in from other criminals or from individuals that want to provide that information to the police and/or to this organization.

Another component from the private sector is, again, banks. Banks are defrauded of about a billion dollars a year out of funds through identity theft, through Visa frauds, through all these types of criminal activity. So they would be partners, yes, from the private sector. Would they be, obviously, a partner at the table and providing funding? Yes, because they have fraud investigators right across Canada that know all about your Visa card right now, but they also know that you've been here for a week, so why would you have some Visa billings in Montreal? Obviously, someone stole your identity. That's exactly what has happened to me and, I'm sure, other members on the committee. It's not about intelligence gathering on one individual. It's about intelligence gathering for those that are involved in a criminal purpose.

Mr. Amery: Just a follow-up.

The Chair: Yes.

Mr. Amery: If we approve this bill, are we opening the gate for other organizations and other groups to come in with similar proposals? Are we setting a precedent?

The Chair: Ms Dean.

Ms Dean: Thank you, Madam Chair. Certainly, it could serve as a precedent for future petitioners.

Mr. Cenaiko: It doesn't exist in the world today. This centre does not exist in the world today. That's why we're here. This is legislation that is groundbreaking, which would provide a centre in Alberta to provide this type of law enforcement and/or law enforcement response and/or working with law enforcement throughout the world. That's why it's here. No one else has started it up because no one else has taken it before a legislative committee. I can guarantee you: if we don't pass it, somebody else will. But, again, that's up to this committee.

Mr. Dunford: First of all, I want to congratulate all committee members for their scrutiny. I note with some interest and perhaps even irony that in some sense we're talking about the Canadian

Association of Police Boards. Like, this isn't the Hells Angels that we're looking into here, so I appreciate that. I think, for the record, that whoever comes before us gets a real going-over, and that is good. Sitting, listening, though, I'm starting to get a little bit concerned how through the passage of time various speakers have been bringing their own interpretations into the discussion this morning.

I would refer everyone back to the *Hansard* of Tuesday, May 1, page PB-11. In the right-hand column, halfway down – I forget how to pronounce Gerry's last name. Is it Chipeur? Anyway, Mr. Chipeur says in the paragraph beginning, "We believe that a special act of the Alberta Legislature is the closest thing to Geneva, Switzerland" – I would just direct members' attention to that paragraph. He answers the question of why they're using this approach and indicates – now, this is what I believe we have to base our decision on as to why we're looking at Pr. 1 instead of some other vehicle – "to solve problems that are cross jurisdictional." I accept that as a valid reason.

If I could get anecdotal just to try to make my point and stress my point – because I believe that the vote, when it is called, is really going to come down to this. It seems that the argument of the opposers to this particular bill believe that there are other ways in which this can be accomplished. I want to indicate to them that one of the other duties that I have in this government is chair of the Alberta Energy Research Institute. We have just been in the process of winding down a particular operation that was to be interjurisdictional. The interjurisdictionalness, if that's a word, of the project was not accepted by other provincial jurisdictions. It became, then, a sort of Alberta initiative. It was almost like a cover for the Alberta government in getting money from the federal government. So there are problems when entities come forward that are part of the Alberta Legislature.

That's baggage that I'm bringing to this meeting today because it's just recently happened, but it reinforces the reaction that I had at the first meeting, when we first discussed this, when Mr. Chipeur did say, "Solve problems that are cross jurisdictional." I believe this is the way in which that can be accomplished. So I'm going to be in favour of this bill.

The Chair: Thank you very much, Mr. Dunford.
Mr. Elsalhy.

Mr. Elsalhy: Thank you, Madam Chair, and I apologize for being late. I'm not sure if these concerns were mentioned or raised before I came, but I'm going to put them on the record regardless.

Let me start by saying that we are in no way questioning the need for this type of initiative. It's actually quite commendable and laudable that someone is thinking about this. I thank Harvey for agreeing to sponsor it, you know, given his experience in government and his previous role as Solicitor General. This is something that we should be discussing. Internet crime is on the rise. Identity theft, financial fraud, child exploitation and luring online: all that stuff is significant and serious. We should be discussing these things.

I would have much rather seen this as a government initiative, you know, something that the Ministry of Justice and Attorney General, the Solicitor General and Minister of Public Security would sit down together and work out a mechanism where it's a government agency. I'm concerned that this agency, however noble and however useful, will not have the full weight of the law behind it, and it'll just be a private entity that is attempting to do good. I listened with some interest to Moe Amery's concern that it might be duplicating some of the work that has already been done or maybe interfering with it.

I second that point of view because we do have departments and agencies of this government as per some of the questions which were submitted to the petitioner and to which he replied.

9:20

Two of the questions in particular, questions 11 and 12, were asking about the release of information or the sharing of information, and the answer we got basically talks about information not being shared except where required by applicable law or treaty. You know, many people in Canada are concerned, for instance, about the PATRIOT Act and whether the PATRIOT Act would apply. If you remember, Madam Chair, a year ago we were discussing Bill 20, and Bill 20 was brought in to prevent the PATRIOT Act from taking precedence in Alberta, but I'm not clear whether this would be applicable here.

Part of question 11 was asking: "will fees be charged for access?" We don't know because there was no answer to this particular question. If it's a nonprofit agency and it's a nonprofit centre, I don't think fees should be charged. It should be a decision based on necessity and merit, and it shouldn't be looked at as a revenue-generating mechanism.

So, again, we definitely need to have this discussion, but I think it's premature. They wanted to do good, and they came up with this idea, but they really haven't thought about the next step and the step after.

Interpol, which is an agency we're all familiar with, has six or seven global locations or global centres of presence, one of which is in Ottawa. Why don't we just focus on co-operation with Interpol, which now has the global network? It has the weight of the law behind it. It has the support and the backing of agencies like the United Nations, and many international entities are fully behind it. So Interpol is there. We can maybe invite them to have an Alberta presence or an Alberta satellite office, but why reinvent the wheel if it's already there?

These are just some concerns, and I appreciate your patience. Thank you.

The Chair: Thanks very much.

Mr. Cenaiko, did you want to make some comments as to why the chiefs of police and these organizations are looking to move forward with this bill rather than using Interpol?

Mr. Cenaiko: Well, I'll answer the latter question regarding number 11. Again, this legislation will not usurp provincial legislation or the Criminal Code of Canada. Those laws are in place, and it's the law for the whole country regarding criminal activity, so they can't usurp their authority in any way, shape, or form.

The issue with relation to Interpol. Interpol provides a liaison between one country and another country. If an individual that murdered someone here in Edmonton decided to fly to Germany, the Edmonton Police Service would notify the RCMP, who would notify Interpol in Ottawa that this individual is on his way to Germany. Interpol in Ottawa would contact their Interpol liaison in Germany, who would then have the national or the city service in Frankfurt go arrest the individual at the airport in Frankfurt. That's how Interpol works.

They are not an investigative body in the fact that they will take on a long-term investigation. They provide a liaison between one country and another country. We don't need to have them here in Alberta because they have to be in one location representing issues from Canada to another country and/or vice versa, from another country with fugitives or individuals that are under criminal investigation who are travelling to another country. So they work with local law enforcement in their own countries and/or in their own communities, but they act as a liaison.

This is a centre that would provide a tremendous amount of research from academia and looking at technology in the future. It ties in local law enforcement, obviously, but as well national and international law enforcement agencies would be working under one roof and under one organization with respect to issues in their country but again sharing intelligence information and sharing information. It technically would be like law enforcement agencies across the country of Canada working together regarding individuals because gang members and/or organized crime aren't worried about the border between here and B.C. They regularly make trips in drug trafficking between Vancouver, Edmonton, Saskatoon, Regina, and Calgary. That's their route. They don't worry about the boundary in between them. So law enforcement in the three or four western provinces has to work together, and that's what happens now.

What we're saying in this is that this will provide the partnership of law enforcement agencies throughout the world working together regarding child exploitation, identity theft, and all the other issues related to fraud over the Internet. We don't have that centre, as I mentioned. That centre doesn't exist. The RCMP has a centre in Ottawa for child exploitation. In Alberta we have the ICE unit that was formed, Internet child exploitation teams, 21 officers that work throughout the province, that work together collaboratively, and they do a tremendous job. Their backlog is incredible with the amount of investigations that they have to work on. This is much, much bigger than that in the fact that now you're going to be seeking out individuals throughout the world that are setting these sites up.

I hope I answered your questions.

The Chair: Dr. Brown.

Dr. Brown: Thank you, Madam Chair. I've listened to my colleague Mr. Cenaiko talk about how the centre might work, and particularly how, in his view, the application of FOIP and the Criminal Code, et cetera, would still remain notwithstanding the fact that the object of the centre is to be an intelligence-gathering body in part. Accordingly, I'm prepared to make a motion at this time that the bill would proceed with a number of amendments.

Madam Chair, if you're prepared to entertain a motion at this time, I would be prepared to make such a motion.

The Chair: I have one more speaker: Mr. Johnson. If that's all right with you, Mr. Johnson.

Mr. Johnson: Go ahead.

The Chair: Go ahead.

Dr. Brown: Madam Chair, I move that the Standing Committee on Private Bills recommend to the Legislative Assembly that Bill Pr. 1, CyberPol – The Global Centre for Securing Cyberspace Act, proceed with the following amendments:

- A The title of the Bill is amended on page 1 by striking out "SECURITY" and substituting "SECURING".
- B The preamble is amended in the first recital
 - (a) by striking out "certain citizens of the City of Calgary" and substituting "Ian Wilms and Kristen Lawson, both of the City of Calgary,";
 - (b) by adding "in Alberta" after "establish".
- C Section 1 is amended by striking out clause (c).
- D Section 2 is struck out and the following is substituted:

2 There is hereby constituted and established a body corporate and politic under the name of "CyberPol – The Centre for Securing Cyberspace" which shall have perpetual succession and a common seal.
- E Section 3 is struck out and the following is substituted:

3 The objects of the Centre are to use the funds entrusted

to it to promote and facilitate the establishment, construction and operation of an international centre for the research, coordination and advancement of public safety, intelligence gathering and public response related to cybercrimes such as child exploitation, financial systems fraud, threats to critical infrastructure and intellectual property and identity theft.

F Section 4 is renumbered as section 4(1) and the following is added after subsection (1):

(2) The Centre shall be operated on a not-for-profit basis.

9:30

G The following is added after section 5:

5.1 The head office of the Centre shall be located in Alberta.

H Section 7 is amended by adding the following after subsection (4):

(5) The founding Directors shall serve until replaced by action of the Board or the appointment of the 8th additional Governor under section 6(6).

I Section 8(1) is amended

(a) by striking out clause (a) and substituting the following:

(a) a Director is in a conflict of interest if the Director takes part in a decision in the course of carrying out the Director's duties knowing that the decision might further a private interest of the Director or a person directly associated with the Director or improperly furthers the private interest of any other person, and

(b) in clause (b)

(i) in subclause (i) by adding "child," after "Director's";

(ii) in subclause (iv) by striking out "having not more than 20 partners".

J Section 9 is amended

(a) by adding the following after clause (i);

(i.1) manage or supervise the management of the business and affairs of the Centre;

(b) by striking out clauses (m), (n), (o), and (p).

K The following is added after section 13:

14 Nothing in this Act exempts the Centre from the application of any other federal or provincial statute.

The Chair: Any more discussion on this motion?

Ms Dean: I just want to clarify that that package of amendments with the exception of clause K that Dr. Brown just read into the record was circulated to all members. Clause K is something that he has just proposed to add to the package, so you do not have the text before you.

The Chair: Has everybody got that? Okay.

Rev. Abbott: I guess my question is: are these friendly amendments? We don't have the petitioners here to see if they accept those amendments.

Dr. Brown: They're proposing all of them except for K.

Rev. Abbott: Except for K. Exactly.

Dr. Brown: And K I have added, Reverend Abbott, in order to accomplish what Mr. Cenaiko said, which was that the intention of the centre certainly is not to exempt themselves from the other statutes such as FOIP or the Criminal Code.

Rev. Abbott: I understand that, but I believe that's redundant. You don't have to put in a law to say that you have to obey the law.

Dr. Brown: Well, with great respect I will say that if I were a judge sitting there and I was trying to interpret whether or not an individual operating under the auspices of a centre which has been authorized by a statute of the Legislature of Alberta in which it is specifically said that one of the objects of this corporation is to gather intelligence regarding fraud, child exploitation, et cetera, I'm not so sure that that wouldn't come into my mind when I was disposing of the issue of whether or not a freedom of information or a privacy issue had been violated. So I would like to make it abundantly clear.

Rev. Abbott: Okay. Thank you.

Ms Calahasen: I like the amendments, and I think they're kind of addressing some of the concerns. I still have a concern with other mechanisms. But I was listening to Clint in terms of what they're trying to do. After discussing a few of the rationales as to why they want to be able to do this and be able to get some status, I think that's an important component, especially when we look at child exploitation and that kind of situation.

I have a question on amendment E, section 3, just for clarification. It says:

The objects of the Centre are to use the funds entrusted to it to promote and facilitate the establishment, construction and operation of an international centre for the research, coordination and advancement of public safety.

If I recall – and I just can't go back to it – when we had the Solicitor General's team here and we were talking about public safety, did they not make mention of the fact that public safety is government business, not necessarily a centre's business? Can you explain the difference between those two, not necessarily in this kind of a situation?

Ms Dean: I believe their concerns were with respect to the wording in the text of the bill that stated "government response." So the petitioner has taken that comment into account; hence the revised section 3.

Ms Calahasen: Thank you.

Mr. Lougheed: I appreciate Neil's comments and the discussion back and forth, but this last little bit that Neil talked about raises in my mind more questions than I had before. I appreciate that an agency or whatever that might be set up through this bill and operating in Canada and even more so here in Alberta, where we have responsibility, has to follow the rules of the country.

This last comment with respect to following the laws: we have a great deal of debate currently about things that have changed since the Charter came along and Charter challenges that exist and the collection of information and the constraints placed upon enforcement agencies. When observing somebody that they think may be engaged in an illegal activity, they cannot even on a hunch do anything to check up on those people. They've got to have weeks, it seems, of court-approved investigation techniques before they go ahead and serve notice. Their hands are tied backwards and forwards.

It seems to me that if this group is going to be checking up on people all over the place, I wonder if they aren't going to be somehow encumbered by Canadian laws. I mean, they're snooping in somebody's e-mail and so on and so forth. You know, we can't have our phone lines tapped, which we all appreciate, nor can they tap the phone lines of the bad guys. This is just an extension of that whole kind of problem. Does this make it better, worse, different?

The Chair: Mr. Cenaiko, did you want to comment on that?

Mr. Cenaiko: Well, I'd just like to say that police officers or law enforcement can't intercept your phone, nor can they go into your e-mail address. It's illegal. So this isn't about law enforcement conducting criminal activity. This is about law enforcement investigating criminal activity. Part VI of the Criminal Code of Canada clearly states the legal authority regarding interception of private communication. What the Criminal Code of Canada doesn't have right now and a lot of other countries don't have is the illegal activity that takes place over the Internet because it's relatively new. Now, there are laws and new laws coming in place regarding child exploitation. As well, the Criminal Code does address issues related to fraud in the fact that if you gain something through a fraudulent purpose, that's a criminal offence.

So this is about seeking out criminal activity and seeking out those that would target those less vulnerable. This isn't about listening to your phone. It's not about intercepting your e-mail. It's about looking for and seeking out sites that are defrauding individuals out of money, individuals that are putting child pornography on the Internet, those that are seeking to lure young children into a relationship. These sites are global. They're not just here in Canada; they're global.

The structure behind this legislation will provide the ability to move forward in developing a centre of excellence, again, tying it in with academia in the fact that research of technology is changing every day. That connection to academia is going to be critical as we move forward.

9:40

Mr. Lougheed: I understand that e-mails cannot be checked, just like phone lines can't be tapped, yet in the last couple of sentences you said that they would be investigating communication between two individuals.

Mr. Cenaiko: Over the Internet you can do that now. You can get into a chat room, and you can observe conversation and/or see conversation between two individuals. In some occasions you can see it. That's done now.

Mr. Lougheed: So it's okay if it's a chat room, but what if it isn't a chat room?

Mr. Cenaiko: Well, then it would be illegal to go into somebody's – put it this way: it would be illegal for me to go into your web mail and start going through your mail or going into your bank account and start transferring funds from your bank account to mine. That's illegal, but there are individuals that do that, and that's who we want to seek out.

Mr. Lougheed: Okay. Right. But without having the proper search warrants or whatever you want to call them, how do they go about that?

Mr. Cenaiko: Obviously, once you've targeted, for example, a site that was displaying child pornography, then you have to get a search warrant. Once you find the location, then you have to get a search warrant from a judge and move that forward that way.

Mr. Lougheed: You're confusing my question, which is not about public sites. I'm talking about private communication. Once somebody is targeted and the communication becomes private – it's not on a website, on a site accessible to anybody. They don't communicate that way. They communicate with private e-mail.

Mr. Cenaiko: Again, if there are private e-mails between individu-

als, that's something that you can't seek out unless there is criminal activity going on and/or a conspiracy to commit a criminal offence.

Mr. Lougheed: You have all sorts of criminal activity taking place today. I can go down, like any of us can, some streets and observe all sorts of criminal activity taking place. The enforcement agencies are helpless to do anything about it. They see things happening, but they have to have a reason to go and apprehend or to check somebody out.

Once this kind of thing has moved into private e-mails back and forth, are they not going to be constrained by the same legislation that constrains police officers from stopping cars coming through from Vancouver to Edmonton? You know, they might say: oh, that guy looks like he might have a load of dope in the car. He can't stop that car.

Mr. Cenaiko: Well, no, he can't. You have to have reasonable grounds to stop a vehicle. You can't just pull one over, unless you're having a checkstop on the side of a highway and you're checking every vehicle that is going through. In order for a police officer to pull a vehicle over, they have to have committed an offence.

The Chair: I think we're a little bit off-topic here. I think that we need to get back on track.

Is everybody ready for the question?

Hon. Members: Question.

The Chair: All in favour of Dr. Brown's amendments?

Hon. Members: Agreed.

The Chair: Opposed? That's passed.

Okay. Is that the only motion we need?

Dr. Brown: Now we need to pass a motion to recommend with the amendments.

An Hon. Member: We did.

The Chair: Okay. It's recommended with the amendments. So we've done it then. Okay. Wonderful.

Then what will happen is that as soon as possible this bill will be reintroduced into the Legislature with our recommendation that it move forward as amended.

Ms Dean: Madam Chair, if I could just clarify the process from here on in. What will happen is that the committee will report through the chair to the Assembly. Then the bill does go through the other stages that regular bills do. It has received first reading, so it will go to second reading, then committee, where these amendments will be formally approved, and then third reading.

The Chair: Thank you very much.

Any other business? Motion to adjourn?

Mr. Rogers: I move that we adjourn.

The Chair: Thank you very much.

Thanks for your patience, and thank you very much for getting involved in the discussion.

[The committee adjourned at 9:46 a.m.]