

9:37 a.m.

Wednesday, November 13, 1996

[Mr. Hierath in the Chair]

THE CHAIRMAN: Well, I think maybe we'll get started here. We're on a bit of a tight schedule this morning. I think you all have a copy of the agenda for the meetings today and tomorrow. If I could ask for approval from the committee of the agenda for today and tomorrow.

MR. BRASSARD: I so move.

THE CHAIRMAN: Roy Brassard. Any discussion? All in favour? Opposed? Carried.

Also we have the minutes of the March 20, '96, and April 15, '96, meetings. I need a motion for approval. Ken Kowalski. All those in favour of approving the minutes of those two meetings? Opposed? Carried.

This morning we are talking about the budget estimates for the Ethics Commissioner and the Information and Privacy Commissioner. I'd like to welcome Bob Clark. Bob, do you want to introduce your two people this morning? Welcome to the meeting.

MR. CLARK: Thanks very much, Mr. Chairman. I think you all know Frank Work. Frank is general counsel in the office and also is the director on the information and privacy side of the office.

Leanne Levy, to my left, is the person who does the administrative work in the office for both the information and privacy side and also for the ethics side of the office. She did a lot of the work in the preparation of the budget. I wanted her to come along so she better understands this process.

THE CHAIRMAN: Okay. Then under tab 4 in your binder, ladies and gentlemen, are the budget estimates for the Ethics Commissioner. I'll turn it over to you to walk us through your estimate proposals of your office, Bob, or to whomever you wish.

MR. CLARK: Thank you, Mr. Chairman. There are three documents. One is a one-sheet document; it says IPC committee estimates. The second document is the breakdown by vote. Then the third document and the one that I'll refer to most often is the development plan of '95-97.

What I'd like to do, Mr. Chairman, is just spend a few minutes on the background of the last couple of years and then deal primarily with the budget for this year. I'd just say right at the outset that last year when the committee met, if you go back, you'll notice that I indicated that the estimates for this year would be \$801,000. I'm not sure that it is a good tactic to be saying this, but to be very candid about it, you'll notice that the estimate I'm requesting this year is \$950,000.

In the budget that was approved for last year - this is on this small sheet here - if you go to the bottom of the line for the estimates, we're showing there the whole amount, \$758,000, being spent. Now, Leanne tells me that we may have \$35,000 to \$45,000 to \$50,000 to \$60,000 left over, depending on what happens between now and the end of the year. This is on the information and privacy side.

I wanted to be very up front with you, Mr. Chairman, and say that the amount I'm requesting is close to \$150,000 more than I told you we would be wanting a year ago. I recall you sitting at the end of the table and looking at me rather sternly and, I think, indicating to me that you didn't want to see any significant

increases. We've kept that very much in mind. What I'd like to do in the course of my comments this morning is to point out to you clearly what's happened in the course of the year, why in fact we need that additional amount of money.

We're in basically the second year of our operation. Just at the bottom of the first page of this document are two of the areas that you'll hear me comment about quite often, dealing with the responsibility the office has to "comment on the implications for freedom of information or for protection of . . . privacy of proposed legislative schemes."

In one of the areas we're asking for between \$40,000 and \$50,000 of additional money this year. We have now before us five indications from various government departments of new schemes that they're coming up with from the standpoint of new databases, changing databases, new programs. They have asked us to be involved with them in doing a privacy impact assessment on those programs. They're listed later on in the presentation.

The last bullet on the bottom page there deals with comments "on the implications for protection of personal privacy," and really we refer to that as compliance auditing. Where we have not done this yet, we've now got a plan in place where we'd be able to go to a department at their request or on our initiative and walk through with them the steps they're taking to protect people's privacy as far as private information is concerned. We've put in our budget this need for \$30,000 to \$40,000 in that area. I caution members of the committee that there's no guarantee we're going to spend all that money, but there may very well be a need for it, and it seems to me that the best approach is to be very up front and to tell you that those are needs that I think we're going to have to call upon.

We move over to page 2. You'll notice where it says that "the 1995 complement of the Office consisted of." Then the next section down deals with the staffing in the office now. We continue to share offices with the Ethics Commissioner's office, and as I already indicated to you, reception and administration is handled by IPC people. I would point out to members very quickly that Karen South continues to administer the files under the ethics side. Karen and I are the only two people that have access to those files, and they're filed away in a different area of the office. From the standpoint of receptionist, from the standpoint of day-to-day administration of what goes on in the office, the IPC people pick up that responsibility for us from a budgetary point of view. That allows Karen South, then, the senior administrator on the ethics side, to be the inquiries clerk on the information and privacy side. Our general counsel, Mr. Work, operates on both sides of the office for us.

If I can move over, then, to page 5, under the title "What changed?" Last year we estimated we had something in the vicinity of a dozen orders. That was a conservative estimate. We have something like - would it be 12 or 14 orders to date, Frank?

MR. WORK: About 14 now.

MR. CLARK: And we have eight at various stages in the process now. The inquiries have been held or partially held. As an example, I'm going back to one this afternoon where we've held the first phase of an inquiry in Calgary, the second phase this afternoon. The public body will be meeting with us this afternoon. Then we'll go through the process of doing the order.

I've followed the practice of giving the applicant an opportunity as to whether the inquiry will be public or private, as long as there's no personal information involved, if this is an access request. To be quite frank, ladies and gentlemen, some would say it's a costly process from the standpoint that it likely costs \$4,000

a day for that process when you add the cost of everybody not only from our office but the people from various departments who are there. What it does is allow people who make a request for access to, one, be part of the process, to see the process going on. I think that's really important during this stage so that people understand that they have a chance to talk to the public body and that the public body has a chance to respond to them before a decision is made on what information is going to be made available or not.

I would remind you that there have been about 1,800 requests through the system to date in this first year. Of those requests, over 90 percent have been handled in the various government departments by Public Works, Supply and Services, which is very consistent with Ontario and British Columbia. Ten percent come to our office. In about 80 percent of those, my staff are able to mediate a settlement or, if not a settlement, at least have the applicant understand why the information isn't going to be forthcoming. The applicant, then, doesn't go ahead and request an inquiry.

Of the inquiries to date we have the distinction of going to two judicial reviews. The Department of Justice is taking us to judicial review on an interpretation of the function of the department really, whether it's law or whether it isn't. I've taken the position on a particular case that deals with personnel records that that isn't law enforcement. The department has taken a different approach. Mr. Work is going to be representing us in court on December 6.

One other occasion deals with the records of the tire recycling . . .

9:47

MR. WORK: No. The other judicial review is the Cattle Commission.

MR. CLARK: The Cattle Commission report, yes. That's going to judicial review. When that happens, I don't know. The lawyers are still going around it. Frank, will you bring us up to date there?

MR. WORK: Well, the applicant's lawyer is very confused, to put it bluntly. It has to do with whether or not the commissioner has jurisdiction to tell the head of a public body that something is in the public interest and therefore should be disclosed. The commissioner has said that he does have that. The Act isn't clear; it doesn't say. The commissioner had a hearing this spring in Calgary and said: "Yes, I think I have the jurisdiction to do that. Applicant, now that I have decided I have a jurisdiction, will you please come and tell me what you want me to do with it?" The applicant has said, for whatever reason, "No, I'm not going to do that; I'm going to take you to court," and we're not sure why. We'll have to wait and see what court documents they file and serve on us.

MR. CLARK: So presently we're in a situation where we were having during the fall one inquiry a week. The time from the inquiry being held until we get an order out is about three months, which is fairly consistent with British Columbia. Ontario's time is six or seven months. We don't want that to get any longer, and that's one of the reasons why the other major area where I'm asking for additional money is to take on a person who would work in the preparation and then help with the orders after, so we can maintain that lag time at no more than three months and perhaps cut it down somewhat. That's really the other significant reason why the budget has gone up the amount that I've indicated,

Mr. Chairman. It's a matter of a person who initially may be an additional lawyer to work in the office, where we're including 60 percent of that person's time, and then the compliance area and the privacy impact assessment area.

We have a research position that's open now in the office, but the reason that research position is open is because the person we hired there we moved up to help us in preparation for inquiries. That person had a legal background, so that's worked out nicely.

Moving down to the bottom of page 5, I've already talked about the judicial reviews. We've put an amount of money in our budget as far as judicial reviews. Our plan is to use that as much as we possibly can, to use the office and Mr. Work as much as we possibly can, but we will on occasion have to go out for some outside counsel.

We move over to page 6, commenting on government initiatives. Under section 51 of the Act we are mandated to comment on government initiatives. This is where we've developed the idea of the privacy impact assessment - I think that last year in the committee, Mr. Chairman, I talked to you about that - where we've said that we have a package that we give to a public body who is initiating a new initiative that would have an impact on people's privacy, ask them to do an evaluation of what impact that's going to have. They give that back to us, and then we will look at it ourselves. We may have to go out and acquire some outside people, especially if it's new and changing technology - it seems to be changing all the time - to help us with that assessment.

You'll notice on page 6, partway down the page, the four areas that we've been asked to do already are the Peoplesoft project; the development of career centres in co-operation with the government of Alberta and the government of Canada; thirdly, the pension database; and fourthly, the Family and Social Services information line. The one that isn't there but would likely have the biggest impact is this whole information system as far as the health care system is concerned: the smart cards, that related area. So we've put in the budget \$40,000 to carry on that additional responsibility.

I've already talked about the compliance audits and the \$30,000 there.

If we move over to page 7, going down to 512K, what we're talking about are people in the area of contract services, and that basically is the reason for our increase.

Moving on and looking at next year, Mr. Chairman, I've been asked by the minister of public works to give some recommendations as far as the MUSH sector is concerned, when the MUSH sector would be coming under the legislation. You will recall that the commitment was made that it would be, I think, before the year 2000. The recommendation that I made was that they be phased in as compared to all coming in at once. It just seemed to me far easier to manage that way. In doing that, I suggested that hospitals be first, colleges and universities second, and then local governments, the third group. That was the order that I recommended over a three-year period of time. The status of that, obviously, is of no concern to me other than I'd like to know what's going to happen.

As far as 1997 is concerned, the budget that I presented to you would allow us to keep the process in the office working effectively. It will allow us to have the kinds of resources where we wouldn't fall further than three months behind as far as orders are concerned. It would allow us to get on top of the compliance requests and also to follow up with the responsibility as far as new government initiatives are concerned.

In preparing for next year, Mr. Chairman, as far as the MUSH sector is concerned, we would propose to add one more portfolio

officer once we get a sense of when the first of the MUSH sector is coming along, to prepare for that. My sense now is that we're not going to get any indication of that until well after the first part of the year.

The last comment I'd like to make and urge the members to keep an eye on with us is on the question of this paramountcy project. That's the project that is going on throughout the government now dealing with which legislation is going to be paramount. Will it be the particular legislation of various departments on issues of private information? That rests now in the various legislation in the various departments, but under the legislation as of October 1 of next year if there's no legislation passed, all the legislation in the various departments ceases to exist and all the privacy protection is under the information and privacy legislation in the province.

Now, there's a project going on within the government to get that moving along, but I expect that will be a big undertaking on behalf of our office and certainly on behalf of the government departments when we get to that stage. We're going to have to redirect some of our existing resources in that area to work on that project. My fear as commissioner is that should an election be held and then things were slow to move after that election - I believe it's by October - if this paramountcy legislation hasn't been dealt with, then the whole privacy system kind of falls under our legislation, and I think there would be a number of interesting challenges for all concerned. So I urge you, Mr. Chairman, and the rest of you who are going to be around the table after the next election to please keep an eye on that because that's of utmost importance to us.

Perhaps, Mr. Chairman, on that note I should conclude my comments. Mr. Work, is there something that I should have added that I didn't?

MR. WORK: No, I don't think so.

THE CHAIRMAN: Thanks, Bob.

I will now open it up for questions from committee members.

MR. BRASSARD: You mentioned that the choice between a public or a private review of some of the inquiries is a very expensive project. Do you see that being abused at all?

9:57

MR. CLARK: Not to this date, Mr. Brassard. It's something that I know my staff have raised with me. To date I don't see it being abused, but if I did see it being abused, I would remove that option, because under the legislation it's the commissioner's choice as to what form the inquiry takes.

MR. BRASSARD: I thought it was.

MR. CLARK: One of the big advantages of that approach right now is that I think it gives a variety of special interest groups and others who are going to the process for the early times exposure to the process and an understanding of what's possible and what isn't possible, what's doable and what isn't doable. If we were to see the same people coming back time and time again and it being abused, then it's something that I'd very seriously be looking at.

MR. BRASSARD: I did think you had the option, and I just wanted to make sure that I understood that right.

I think that around the table we all recognize that this is a new portfolio and that there is going to be a period of growth with this whole portfolio. I appreciate you bringing this paramountcy issue

forward, and your notes of caution are well advised. Do you see any other development that is going to increase this office of the Information and Privacy Commissioner other than that?

MR. CLARK: Well, certainly when the MUSH sector comes along.

MR. WORK: If I can add, the Premier's office now has a chief information officer, and he has a council of information officers from other departments. I've been asked, something I very much appreciate, to sit in on their meetings as an observer. There's no doubt, Mr. Brassard, that the demands on government to streamline their services, to offer better services, and to offer their services more efficiently, that is to say more inexpensively, are going to push very hard in the direction of increased automation and increased sharing of information. It's just got to happen I think, and possibly what we'll be looking at next - we're seeing some of that now - will be federal/provincial sharing. I think Mr. Klein deserves some credit for the concept of one-wicket, one-window service. I think in the future we will see even more of that between levels of government: municipal, provincial, and federal.

The implication for the commissioner's office, of course, is that when you start combining these databases on people from a number of different sources, you create a huge resource, but it's a resource that can do a lot of harm and cause a lot of people a lot of problems, and it's a resource that can do a lot of good and streamline things and make things more efficient. I think the commissioner's office is right smack in the middle of that, acting as a bit of a referee and an arbiter saying: "Well, no. There are some things you have to keep separate, there are some things you can't share, and if you are going to share, you have to limit access." You have to have proper security, fire walls, codes, measures in place to protect the movement of the information and so on. It's not something that's easily documented, but it's something that's happening.

You see one right now with the career centres between the feds and the province. In fact, the commissioner just dealt with an issue a week ago with Community Development seniors' programs sharing income tax information with Revenue Canada, and the seniors weren't very happy about how that was done. There was no argument that it needs to be done, because you need to verify, but the seniors are very concerned about the extent to which it was done, the extent of the data that was shared and so on. So I think this is a trend that you'll see increasing more.

MR. BRASSARD: That was going to be my final question: what alliance do you see us establishing with the federal government in this area and what controls and limitations are going to be put on us? So thank you. I appreciate that.

MR. CLARK: Can I elaborate just a little bit on the last example that Frank talked about? We had an inquiry a little over a week ago now that dealt with an application from the Alberta seniors council, and it dealt with a whole range of concerns they had about information that Revenue Canada was sharing with Alberta. There's an agreement in place between Revenue Canada and the province of Alberta for the sharing. One of the challenges is that Revenue Canada was passing on 60 or 70 line items of information to Community Development. They didn't need near that much information, but because of the system they had in Ottawa, all this information was coming to Alberta. The seniors had some very legitimate concerns about how that information was being handled. How was it being stored? Where was it?

Just what happened was the two groups got together early in the morning and removed five or six of the items off the table before the inquiry started. Then they came with a rather odd request to the inquiry. If my office would set up a task force and if one of our portfolio officers would chair it, they felt that between themselves they could resolve the four or five remaining issues between Community Development and the seniors. So we somewhat, I guess, reluctantly took on that responsibility. There was only a five-week kind of period to get that done, and both groups agreed that at the end of the day for those items that couldn't be resolved, they'd look to the commissioner to say, "We think you should do this," or "We think we should do that." I'm not sure that really is the role some people see this office assuming, but it seemed to be the practical role that both sides would buy into and that both the public body and the Alberta council on seniors were agreeable to.

The other thing that I've undertaken to do is satisfy our office that the 1993 and 1994 data from Revenue Canada has been erased from the mainframe computers over at PWSS. There was a period of time when that information was kept over in PWSS after it was no longer needed by Community Development.

That's an example of one of the kinds of areas we find ourselves getting involved in from the standpoint of people's privacy. This was discussed, I think, in the House. It came as a complaint. Someone had said: no, you can't get my information from Revenue Canada. Somehow their information got to Community Development, and this person lodged a complaint with me. There's no question that their privacy had been breached inappropriately. That really led to more investigation by the seniors, and then things have moved along as we've indicated.

MR. WORK: It was very impressive, by the way, the way Community Development handled that. They sent their deputy minister, which is a little unusual, to deal with the seniors face to face that morning in our office. I wouldn't say Community Development seniors' programs and the seniors are good buddies right now, but I think they won a lot of trust that morning. That's why this task force that Bob mentioned where they've agreed to try to resolve it together has gotten off the ground. So it was a good exercise.

THE CHAIRMAN: Any further questions?

MR. KOWALSKI: Mr. Chairman, again only coincidentally because the gentleman who sits across the table from me serves two functions - my question basically I guess could be asked later in the day or now, but I'm going to ask it now. That's the combination of the two offices: the office of the Information and Privacy Commissioner and that of the Ethics Commissioner. You've had some experience now in dealing with both of them. I'm sure that this is a very unfair question.

MR. CLARK: But you'll ask anyway.

MR. KOWALSKI: Yes, indeed I will, because I think there's a principle involved here that I want to reiterate once again. It's the combination of the two offices. You can be subjective or objective in your response. How's it working out?

MR. CLARK: I think it's working well. That is a view that I notice from time to time is not held by everyone, but it is a view that I hold. Despite the fact that on the information and privacy side it's a decision-making responsibility that I have in the orders, on the ethics side I really am a consultant to the Legislative

Assembly. I do an investigation. I give advice to members. I give advice to the Legislature. The Legislature is the decision-making body on the ethics side once a report goes to the Legislative Assembly.

There are three things that I think work very, very well in the office. An advantage to the information and privacy side is that because senior officials come to me to go through their disclosure also, it's an excellent opportunity once a year to sit down and talk to those senior officials not only about the things on the ethics side, but also it's an opportunity to talk about how things are going on the information and privacy side. What concerns do you have? How could we do things better? What are you doing? What isn't being done? There's a real plus there that frankly I hadn't anticipated earlier.

The second advantage would be, quite frankly, ladies and gentlemen, that the ethics side - you'd never believe this today - for large portions of time is very, very quiet. When we're doing the disclosure documents, that's a hectic time, or when an investigation is under way, that's a hectic period of time. Other than that it's very much like this. We're getting something like two to three requests a week from members or senior officials for advice. I guess that's why no other province in Canada has a full-time conflict of interest or Ethics Commissioner.

10:07

Saskatchewan has lumped the two together. Newfoundland has. The integrity commissioner in Ontario is stepping down at the end of this calendar year, and I don't know how that's going to be resolved as to what they're going to do there. In British Columbia Mr. Hughes is stepping down very shortly. I don't know what they're going to do in British Columbia, whether they're going to combine offices or whether they're going to have two stand-alone offices.

My own sense is that there's a saving to the taxpayer certainly from the point of view that we're able to have counsel on both sides of the office. As far as Karen South is concerned, she's able to be actively involved all the time on both sides of the office. From the standpoint of administrative costs and reception, I indicated to you earlier the administrative work that Leanne does is a significant saving to the offices.

The ethics or conflict of interest offices in other provinces: their budgets are between \$200,000 to \$250,000 a year. Ours is in the vicinity of \$150,000 a year. So there's a saving there too. On principle, I think that it works well. If I didn't think it worked well, quite frankly I'd be coming to the committee and saying that I think you should separate the two.

MR. KOWALSKI: Okay. I'm not sure whether the response that you've given me was subjective or objective, so I'll let that one go.

MR. CLARK: Pretty straightforward, I think.

MR. KOWALSKI: Yes. Okay. Well, we still have to sort out whether it was subjective or objective.

Now, the next question has to do with: are there any parameters or any venues in which you may have perceived there was a conflict of interest serving both of these functions?

MR. CLARK: Yes. You'll recall a situation earlier this year when I asked that an arbitrator be appointed by the minister of public works to deal with documents on the Premier's trip to China that FIGA had chosen to withhold. I felt that it would be inappropriate for me to deal with that because I didn't know what

the information was. I chose to err on the side of asking that an arbitrator be appointed.

MR. KOWALSKI: And the legislation provides for that?

MR. CLARK: Yes, it does.

MR. KOWALSKI: Who selects the arbitrator?

MR. WORK: The Lieutenant Governor in Council.

MR. KOWALSKI: The Lieutenant Governor in Council selects the arbitrator?

MR. WORK: That's right.

MR. CLARK: Who was selected?

MR. WORK: Justice Cairns, Court of Queen's Bench.

MR. KOWALSKI: That was the one occasion for you to make that decision, only one, and no other perceived conflict of interest situations? That was one that was obvious. You made that decision on that one. But were there other times when you said in your head, "Well, I'm not sure"?

MR. WORK: No. That's not to say that others haven't . . .

MR. KOWALSKI: No, I'm not worried about others. I'm worried about you, within your minds.

MR. WORK: Then the answer would be no.

MR. KOWALSKI: The only salability or equity you have in your job is your reputation. You have nothing else. If your reputation is under question, that takes away the job completely. There's no other equity you can build in to it. Unless you in your own head feel totally secure and comfortable in the decision-making, then you can't function. So I guess you've answered my question: there was only one time.

MR. CLARK: Quite frankly, the most valuable thing a person has is his reputation, and I'm not interested in being involved if I don't feel I can do the job the way I feel it has to be done.

MR. WORK: I might add that the freedom of information and privacy Act does give the Commissioner an out in terms of requesting an arbitrator; the Conflicts of Interest Act doesn't. In our view, the commissioner is the only person who can act under the Conflicts of Interest Act. That's not surprising since, as Bob said, the Ethics Commissioner is primarily an adviser to the Legislative Assembly. So just bear that distinction in mind: under information and privacy the commissioner can ask for an out, an arbitrator. We don't feel he can do it under the conflicts Act.

MR. KOWALSKI: Can I ask one more, Mr. Chairman?

THE CHAIRMAN: Sure.

MR. KOWALSKI: Again a philosophical one. You've now had some experience in both of these positions. In your head are you completely independent? Is there anything that can be done or must be done to in fact ensure that these two offices are even more independent than they are right now, whether or not it be

legislative initiatives or some other type of initiative? Or is the protection there in place now?

MR. CLARK: I think the protection is there in place. I check with the other commissioners across Canada. I returned not long ago from a meeting with the other conflict of interest commissioners from across Canada. Many of my colleagues wish they had a legislative committee like this to deal with their budgets, to deal with the appointments. That's not true in other jurisdictions. In Ontario and British Columbia right now there is a real question as to how they're going to make their appointments. Certainly in Saskatchewan and the federal information and privacy people, they cannot make decisions. They seem to make recommendations, in Saskatchewan's case, to cabinet and then the federal government's case to cabinet. I think the information and privacy job would be very, very difficult under those circumstances if you didn't have decision-making power. I believe the independence is there. It's up to the commissioner to exert that independence. I think I've done that.

THE CHAIRMAN: Okay. We are going to go through the ethics commission budget, too, by 10:30, so I'd just like to try to get back to the dollars and cents thing to some extent, if I could.

DR. MASSEY: Two questions. One follows up on what Ken said. What's your assessment of the damage done to the office, if any, by the Multi-Corp investigation?

MR. CLARK: When you deal with the Premier, anyone high profile like that, I think there's always a lust out there for blood, to put it really frankly to you, Don. I think that when the commissioner doesn't choose to do that, there are those people who will be critical of the commissioner and the office. Those are the very same people, when the commissioner gives a letter to your former leader about action that he was taking on Mount Royal College in Calgary - and I sanctioned that - that rather quickly forget. I'm involved in a court case right now with Mr. Trynchy as a result of a decision I made earlier. I think that you have to balance those things. There's no question that in some people's minds there was damage done to the office during that issue. No commissioner can make decisions based on who's going to criticize you. You have to do what you think is right. That's what I've done, and I think the office will stand the test of time.

DR. MASSEY: If I could just follow up completely different and refer to the MUSH sector. That still irks me.

MR. CLARK: Sorry about that.

DR. MASSEY: Is there any kind of advance preparation that can be given in terms of reviewing the bylaws and the operations in preparation for coming under the Act?

MR. CLARK: Yes. The people in Public Works, Supply and Services have done a lot of work in that area already in preparation for that day, while I'm a consultant to attempt to get things up to speed there, an institution that you know very well has already gone through their procedures and, as I understand it, is virtually ready to move on that whenever the government moves ahead.

I try to get out and speak to a number of different groups. I spoke to a group in Grande Prairie two weeks ago for the registrars of all the colleges and universities and so on, and they

were there. I wouldn't say that they're enthusiastic, because they're asked to do more with less, but they're prepared. I would say that the colleges and universities are likely the best prepared.

THE CHAIRMAN: I myself just wanted to ask a question of Bob here, if I could. On your development plan on page 7 you are stating that a 5 percent increase in permanent salaried employees has been requested for this year. In the information and privacy side of things most of these employees are new employees. Or are they not new employees to you? Why would you want to hire them and then a year later give them a 5 percent increase?

10:17

MR. CLARK: Why did we do that?

MR. WORK: Everyone that we hired was hired at a certain wage level less the 5 percent cut that the civil service as a whole, the bargaining units, took. The reason for the inclusion of the 5 percent is, as I understand it, that the bargaining unit by agreement gets their 5 percent back on April 1. As usual, we will follow government's lead with respect to how they treat non bargaining unit members. If government gives the 5 percent back to non bargaining unit members, we would like to be able to give the 5 percent back to our employees, because we took it away from them the day they started work.

MR. CLARK: I should say, Mr. Chairman, too, that all the people who are on permanent arrangement in the office are former employees of various government departments.

THE CHAIRMAN: Are your employees AUPE?

MR. CLARK: No, no. We're all exempt.

THE CHAIRMAN: But again, further, these people were not being employed by you a year ago.

MR. CLARK: Right.

THE CHAIRMAN: So they came in to employment being somewhat satisfied with the wages offered.

MR. CLARK: Well, Leanne came from economic development. Karen came from the Legislative Assembly. Tom Thackeray came from environment. John Ennis came from personnel.

MR. WORK: What we did when these people came was say: "Okay, your job description justifies a salary of \$50,000. That is your salary. However, you have to take a 5 percent cut off that, so we will pay you \$47,250." Even though we hired them at \$50,000, we took the 5 percent from them the day they started work. So the reason for the request is to be in a position where if government as a whole gives the 5 percent back, we're able to follow suit, because we did reduce their salaries as they came on. Rather than hiring them at a lower salary, we hired them at this salary and then said, "You have to come down 5 percent or however the equation worked out with the holidays."

THE CHAIRMAN: Sounds like government then.

MR. WORK: You're right.

MR. SEVERTSON: Well, if there's no further discussion, I would move that the Standing Committee on Leg. Offices approve

the 1997-98 estimate of the Office of the Information and Privacy Commissioner.

THE CHAIRMAN: I think you have to put in a total expenditure.

MR. SEVERTSON: Totaling \$950,429.

THE CHAIRMAN: Any discussion on that motion? Ken.

MR. KOWALSKI: Well, Mr. Chairman, I think it's really incumbent upon Mr. Clark to explain to us this rather significant 137 percent increase in contract services, from \$119,000 to \$282,000. I'm not sure what the guidelines of the government are going to be before too long, but they're going to be applicable to every department and every agency of the government. In this case we're looking at a 25.3 percent increase request, and while it may very well be nice to have heard the initial explanation from the distinguished Information and Privacy Commissioner, a whopping 137 percent increase is very significant. Perhaps there could be some explanation of that. You've given us a presumed one in the sense that you may need to hire a bunch more people to do a bunch more things. But where's the actual fact of that?

MR. CLARK: The actual fact - if you could turn to page 6 in the . . .

MR. KOWALSKI: I've got that down.

MR. CLARK: Okay. If the government doesn't go ahead with a PeopleSoft project or the Canada/Alberta career centres or the change in the pension program and rejigging the pension database and Family and Social Services information - if those things don't go ahead and nothing happens in the area of health care smart cards as far as an information system, then we could very quickly take \$40,000 or \$50,000 out of our budget there.

MR. KOWALSKI: So that brings it down to \$240,000 then.

MR. CLARK: That's right.

MR. KOWALSKI: Okay.

MR. CLARK: And if you don't think the compliance portion of the legislation . . .

MR. KOWALSKI: Hey, hey. Hold on. It's not me thinking one way or the other. My job is to ask the questions.

MR. CLARK: I appreciate that.

MR. KOWALSKI: Okay; we'll work on that basis.

MR. CLARK: The Legislature has given us a mandate to do compliance audits. That's to check to see if people's privacy is being protected in a number of program areas. When we get a complaint like we got in the area of seniors, we follow it up. We've included \$30,000 in that particular area there. The third area is for an additional person with a legal background and training so that we don't get further than three months behind in our orders and we're able to continue the existing practice of holding inquiries in public when the applicant wants. Those are the three major reasons for the increase.

MR. KOWALSKI: And that amounts to what is \$160,000 in those areas?

MR. CLARK: That's \$140,000 of it.

MR. KOWALSKI: Okay. And the other contract services for the other \$20,000?

MR. CLARK: In the other contract services a portion of it will be dealing with the paramountcy project. Once again we have to go through that process prior to October 1 of next year. Also, the possibility of - if the government moves ahead in my sector, it would allow us to hire someone close to the end of next year so that we can be up to speed as far as the universities and colleges, health institutions, municipal governments, and school boards.

MR. KOWALSKI: And when you exercise these contracts, do you exercise them on a fee-for-service basis or a term contract?

MR. CLARK: Fee-for-service.

MR. KOWALSKI: A fee-for-service basis. So there are no additional benefits attached to any of these operators that you've hired then? If they're on a fee-for-service basis, you're doing it for a onetime job and that's that, and they're not staying on anybody's permanent payroll.

MR. WORK: That's correct. We have two people on fee-for-service now, and that's because our researcher analyst position is empty. That's some of the money we'll probably be turning back, as a result of that. That may be a fee-for-service arrangement as well.

MR. KOWALSKI: To ensure the maximum independence of the office, what criteria do you use in selecting these individuals? Do you ask the Law Society of Alberta to recommend certain people if you're dealing with people who have required or needed legal backgrounds? Or do you just use your own good offices and your own backgrounds and your network of connections to select these individuals?

MR. CLARK: Well, the only time we've used outside legal counsel, we consulted with representatives of the Alberta Law Society before we made the contact, and we ended up selecting David Jones of de Villars Jones.

MR. KOWALSKI: The name of the individual is unimportant to me. It's the process that is. So it is through the Law Society of Alberta or some other . . .

MR. CLARK: We asked the Law Society and a number of other practitioners in the field because we wanted to be sure to get someone who was respected but also independent and didn't do work for a number of corporations or for government.

MR. KOWALSKI: Okay.

The number of permanent employees you currently have in the office of Information and Privacy Commissioner is indicated where?

MR. WORK: Under permanent, the bottom of page 2. The present complement consists of - I'm sorry; there's not a bottom line total. It's 10.

MR. KOWALSKI: That's 1996-97?

MR. WORK: Correct.

MR. KOWALSKI: Then under this proposed new budget for next year it would go to what?

MR. WORK: Well, two for sure and a third if government goes ahead with the MASH/MUSH sector in this coming year. So three, depending on government's decision, two otherwise: one full-time, one 60 percent of those two. The other lawyer for inquiries would be a 60 percent FTE, the researcher would be full-time, and then the additional portfolio officer, as I said, depending on what government decides with respect to municipalities, universities, schools, and hospitals. If they don't bring them in this fiscal year, we won't need the body.

MR. KOWALSKI: But under the estimates you're assuming that they will be needed, and that's why you're asking for the dollars.

10:27

MR. WORK: Yes, sir. We simply don't know.

MR. KOWALSKI: But you're asking us to approve the dollars even though you don't know?

MR. WORK: That's right.

MR. KOWALSKI: That's an interesting approach.

THE CHAIRMAN: Are you done, Ken?

MR. KOWALSKI: Yes.

MR. BRASSARD: I'd like to thank Mr. Kowalski for raising the questions he did. I think it's fair to say, however, that this has been a learning process for us all, certainly not the least of you and your officers. When I look at the dollar, the end result, I think we're well within the guidelines compared to other jurisdictions. So I, too, support the motion and would call the question.

THE CHAIRMAN: The question has been called. All those in favour of Gary Severtson's motion? Opposed? Carried.

We will now turn to the ethics side of Bob's budget. There's a pink page in there just after that front page in that same tab. Do you want to walk us through the Ethics Commissioner budget, Bob?

MR. CLARK: Mr. Chairman, as far as the upcoming year is concerned, the first thing I'd raise is that it's our plan to have a new set of disclosure documents for members who are returning. I've got some samples here. Basically what they're doing: for members who are re-elected after the next election, it would be a matter of the member indicating on the form that there's been no change, there's been no change, there's been no change. I tell you that because a number of members on both sides of the House have asked if we can't change that. I'll leave these with you, Mr. Chairman, and any suggestions that you've got - I'll be looking at them - will be gratefully received.

We're going to continue to do the *Ethics Bulletin* on a quarterly basis. I would suggest that this is entering the fifth year of the office and it may be an appropriate time to look at the legislation. I don't know what's happening as far as the Tupper report is concerned, but I think sometime during the next year it would be appropriate to look at the legislation, after five years of operation.

The Canadian Conflict of Interest Network - that's the commissions across Canada - is going to be coming to Alberta in September as a part of the conference that Mr. Whelan success-

fully invited here. Alberta will be hosting that particular group.

As far as any other new initiatives in the office are concerned, basically it's very much a status quo year as far as the Ethics Commissioner's office is concerned. You'll notice that the budget is very close to what it was last year. I don't really have any other comment other than to say that under contract services – that's where we use outside legal counsel – I've indicated to you earlier that we have a potential of that moving up. Other than that, I see no reason why this budget won't meet our needs again. We'll have a few thousand dollars to pass back. It will frankly depend on how much we use that outside contract service between now and the end of the fiscal year.

THE CHAIRMAN: Any questions from any of the committee members? Gary Severtson.

MR. SEVERTSON: Yes, Mr. Chairman. Is the 5 percent in salaries and employer contributions the same explanation as the previous?

MR. WORK: Yes. The commissioner and the administrator both took the 5 percent cut commensurate with government departments.

MR. CLARK: And legislative officers too.

MR. SEVERTSON: Yeah. I figured that was it, but I did want to double-check on that.

MR. WORK: That's correct.

THE CHAIRMAN: Any other questions of Bob on the ethics budget?

DR. MASSEY: In terms of the forms, Bob, is there no way they can be put on computer for the members?

MR. CLARK: Yes, if you want them. Adam Germain used them every year. So if you'd just let us know, Karen's got a disk. Yes. No problem. Thanks for raising that.

THE CHAIRMAN: If there are no other questions, would someone like to make the motion with regards to acceptance so we can vote on it? Don. It's the \$168,490.

DR. MASSEY: I move that the committee approve the \$168,490 for the office of the Ethics Commissioner.

THE CHAIRMAN: You've heard the motion. If there's no further discussion, all those in favour?

MR. BRUSEKER: Just one question before we go on, on the Justice Cairns freedom of information COI request there. What was that funded out of, the Justice Cairns inquiry that occurred back in June of this year?

MR. WORK: The government's paid for it so far. We haven't been handed a bill, so we're assuming that . . .

MR. BRUSEKER: Should it not be included under one or the other of these departments, given that it was developed out of this department, if you will?

MR. CLARK: It would come out of the information and privacy side of it.

MR. BRUSEKER: Okay, but I didn't see anything there either.

MR. CLARK: No, there isn't, because we asked the minister of public works to appoint an arbitrator, and then that was done by order in council. We have not paid for it.

MR. BRUSEKER: I'm just wondering, with the move to reflect everything back to the originating source, like you were saying with rentals and telephones in particular, if that's going to come along and if that should not be included?

MR. CLARK: It's something, to be very frank, Mr. Bruseker, I hadn't pondered and didn't follow up.

MR. WORK: Technically he who appoints pays. So if cabinet appointed Mr. Justice Cairns, cabinet would be handed the bill, outside of any arrangement, as you say, Mr. Bruseker, to fund that back. We've had no discussion whatsoever with cabinet on that.

MR. CLARK: Or the Justice department.

THE CHAIRMAN: Any further discussion on Don's motion? All those in favour? Opposed? Carried.

Thank you, Bob, and your staff.

MR. CLARK: Thank you very much.

MR. WORK: Thank you.

THE CHAIRMAN: Now we'll take a short break. Dermot Whelan is supposed to come in in a few minutes.

[The committee adjourned from 10:34 a.m. to 10:37 a.m.]

THE CHAIRMAN: Okay. I think we'll reconvene the meeting. I would like to welcome Derm Whelan and Bill Sage to our budget deliberations of our committee this morning. If the members would turn to tab 5, I believe, in your binder.

I think I'll turn it over to you, Derm, to walk us through the budgetary process this morning.

MR. WHELAN: Okay. The summary page presents the figures from the base year, '92-93, through the forecast for this fiscal year and to the estimates for 1997-1998. The 1997-98 estimates include funds for conducting a general election prior to March 31, 1998. Should this event not occur in the 1997-1998 fiscal year, I suppose it's the same situation. We don't know when the election is going to be held, so when do you pay for it? Do you pay for it with funds allocated this year? Well, you can't after the 1st of April or the 31st of March; it would have to be in funds again allocated next year. So the bottom line is that you'll see in the summary that the same amount is forecast for 1996-97 and '97-98 for an election. The point is: only one amount will be used. One amount in either year will revert back to the Treasurer, but because we can't get special warrants and we don't know when the election will be called, it has to be planned that way.

To go on to the election office element in the budget, you'll note that the total requested for administration is \$400,200, which is \$6,000 more than last year. The reason for that is that we have to participate in the accounts payable and payroll system that has been privatized. The actual cost of that for our office is going to be \$30,000, which we feel can be amortized over five years at

\$6,000 a year. That increases the general amount that we would spend under contract services under 712K from \$4,210 to \$10,210. So the increase of \$6,000 is accounted for because of that change in the computer process.

I can go through each of these in detail, Mr. Chairman, if you wish me to do that.

THE CHAIRMAN: Well, maybe if you hit what you think will be the high points, Derm, please.

MR. WHELAN: Very well, yes. With respect to the election office element, page A that you have, the only change from last year is the increase of \$6,000 for the purpose that I have just described.

If we look next at the election element and the note at the bottom, I will say this again: we're presenting the same amount in the budget for both years. That's this fiscal year and also for the estimate year. If the election is called and completed before the 31st of March in this fiscal year - that is, before March 31, '97 - then we have sufficient funds to pay for the election in this year's money. If it is called after April 1, then it will have to come out of next year's money. We have to essentially budget the same amount, which is 4 and a half million dollars. There's really nothing more to be said. Special warrants are no longer available, so we have to plan it this way. Again, the point is that both amounts are not going to be spent. One will revert back, whichever year it is not used.

Finally, the register of electors element, which was formerly known as the enumeration element. I think that with respect to this I should take you through in a little bit more detail. This particular element or segment of the budget contains the funding required to conduct three special enumerations during the 1997-1998 fiscal year. That keeps us in touch with our ordinary planning methodology, whereby we generally try to have funds available for three by-elections. The register project will not be completed next year, so we cannot with certainty say that special enumerations for a by-election will not be needed. Again, bearing in mind that we can't get special warrants, we have to plan for the funding required for three by-elections.

It also includes the funds required to prepare and produce the register of electors. The estimated cost is \$1,146,000 and includes the following. The hardware and software which are required is a one-time charge, the computer networks and servers and stations that are required. We know, because we've had some quotes on this, that they purely reflect an earlier document that is \$560,000, but it will be a one-time charge. In our annual operating costs with respect to the register, because it's the first year and we're still in the building phase, instead of taking the 10-year average, we've taken 1.5 years and applied it here. Maintenance and replacement of computer software and hardware is an ongoing thing, and that's reflected in the \$560,000. To supply copies of the list of electors both in an electronic format on an annual basis and also in a paper format to all the political parties and members of the Legislature we estimate will cost us \$25,000.

So I'm giving you a thumbnail sketch of this, but because it's new, maybe I'll go through it in a little bit more detail. Wages: these are nonpermanent positions. We think we'll have a need for \$15,000 following the work on the general enumeration this year. It's really cleanup work that will be required to get the data in shape for the building of the register. Employer contributions: well, of course, that's the accidental death and disability insurance, CPP, unemployment insurance, workers' compensation. Travel expenses for the electoral office, for returning officers, for enumeration officials: some of that will carry over into the early

part of next year; some will be required if we do have by-elections and we need to do enumerations. Advertising by the returning officer: we're budgeting \$2,000. Freight and postage: well, these small amounts are sort of insignificant.

The important one is 712K, which deals with contract services and is primarily related to building the register. Returning officers' fees and honorariums: we feel that as we go on building the register, there will still be a need for returning officers in the field to be involved with respect to particular districts. To cover off the eventuality of target enumerations or collecting data that may be needed to perfect or complete the register, an amount of \$25,000 should be allowed. Also, this amount is designed to cover off the possible need to do three enumerations for by-elections. The enumerators' fees: again, that would only be used if there were enumerations for by-elections.

I guess the first part of the building of that \$1,297,000 under contract services has to do with the possible three enumerations. We had to resupply our forms, of course, and we're dealing with the acquisition, as I've said, of the software and the hardware. We anticipate that our total costs to build the register during the next year will be in the order of \$1,297,000. That will decrease next year by approximately \$400,000, and by the third year that the register is up and going, we should be running the register for around \$500,000 a year, which is a lot less than enumerations would cost if they were ongoing. Enumerations cost around 4 and a half million dollars every three to four years right now.

The data-processing costs and materials and supplies again are not great figures.

So it gives you sort of an overview, and as I've said, supplying the list of electors in good electronic format and in traceable signed format as well as on paper will cost at least \$25,000.

That accounts for most of the line items in the register of electors element in the budget.

In an earlier document, which I think was included in the cost-benefit analysis, we estimated that over the next decade our costs would be in the order of \$4 million, or approximately \$400,000 a year on average, to maintain the register. I think we can meet that target. It certainly will improve if Bill 63 is ratified by the House of Commons and we get Elections Canada sharing the cost of the list.

Mr. Chairman, if there are questions, I can try and answer them.

10:47

THE CHAIRMAN: Okay. I have Frank on the list so far. Frank.

MR. BRUSEKER: Yeah. Just on that register of electors element, line 712K, when I look at '92-93, the actual figure you've got listed is \$264,000 and change. Now, that reflects the three by-elections we had that year. Is that correct?

MR. WHELAN: I'd have to defer to Bill. That was a base amount. That was the year taken by the province for the building of budgets, whatever you spent that year. What it is actually comprised of in terms of expenditure I don't really know.

MR. SAGE: It would include some of the special enumerations costs from that year because there were a number of them in that time frame, but it also would be the building towards the '93 general enumeration in April of '93. So it would be kind of a combination of both of those.

MR. BRUSEKER: Okay. Now, the '96-97 figure of \$4 million,

the forecast: that's basically the enumeration that is occurring as we speak; correct?

MR. WHELAN: That's correct.

MR. BRUSEKER: So I guess I can understand that figure. I'm still not clear, Derm, on the \$1.297 million figure for next year because as I heard you describing it, it sounded like if we have this election completed before the end of this fiscal year - I guess I'm not clear on what you would need that amount of money for in the following year because typically, even under our current legislation, there is no need for an enumeration. At this point Bill C-63, the federal Bill, hasn't been put in place yet to worry, I guess in a sense, about the ongoing list of electors. So I'm not clear on why that \$1.3 million figure, rounding it off, is there. I wonder if you could just sort of run that by me again, because I didn't understand it.

MR. WHELAN: Well, we are required by the new legislation to build a register of electors. The register of electors will mean that there will be involvement in the foundation, or the buildup, of the register. Also, its maintenance, keeping that up to date so that Alberta will have a register, that will cost money in nonelection years, nonenumeration years. It won't cost the \$4 million that you see budgeted for the enumeration that's already under way. So what I'm saying here is that the election being finished and the enumeration being finished, we would begin then to put the register in place, to enter into our arrangements with the various agencies that might supply data. We'd begin to encourage people to change their register information and so on. So the building of the register is going to cost some money each year.

In the cost-benefit analysis that was completed last year, we estimated that over the next 10 years building the register would cost, say, \$4 million. The average cost would be, then, over 10 years, \$400,000 a year. That's the average cost. Now, remember that the start-up costs will require the purchase of computer hardware and software, so now there's \$560,000.

MR. BRUSEKER: Is that the note down at the bottom of the page, then, that talks about hardware and software purchases?

MR. WHELAN: Yes.

MR. BRUSEKER: Is that included in that \$1.3 million?

MR. WHELAN: Oh, yes, of course. And that's a one-time cost.

MR. BRUSEKER: That's the plus part. Okay.

MR. WHELAN: Once we have it in place, the only thing we'd be thinking of is the annual maintenance and replacement costs of the computer and software.

MR. BRUSEKER: Now, at the bottom of page C you refer to annual operating costs of \$505,000, yet on the next page you talk about an average cost per year of \$400,000. I wonder if you could explain that difference of \$100,000 to me.

MR. WHELAN: We're still planning for three special enumerations next year. The register won't be up and built to the point where the list for a by-election can be taken from it, so we have to account for three enumerations and three possible by-elections. The cost of these will be very close to a hundred thousand dollars. As a matter of fact, it will be dead on \$101,000 if we allow

\$25,000 for our returning officers' fees and honorariums, \$75,000 for the enumerators, and \$1,000 for support staff. That's the difference between the \$505,000 and the \$400,000.

MR. BRUSEKER: Okay.

Just one final question, Mr. Chairman, if I may. You mentioned ongoing need for returning officers in the field. Now, my understanding is that under the current legislation 60 days after the election returning officers' positions are terminated until the next general election, until the appointment of new returning officers. So I'm not sure that I understood your comment there. Is that just again pertaining only to special enumerations in the event of by-elections?

MR. WHELAN: Well, the thinking is that there will have to be some contact in each particular district to maintain the register properly. For example, if there's a huge housing growth in a community like Brooks, we would have to have some contact person who would be able to do work for us. Now, we're referring to that person as the returning officer. Very likely we would use the person last appointed even though that person's appointment would have expired in respect of an election. That's the concept. In the field we need to have a key person to deal with these special situations and also to help us with any problems that may arise with respect to any particular district.

MR. BRUSEKER: Is that allowed for under the current legislation, or is that an option?

MR. WHELAN: I suppose we could hire whoever we want to build the register. I suppose also that we could have put in here field staff fees and honorarium instead of returning officer, but I think the person who did the last enumeration and the last election, looking into the future, would very likely be the person with whom we would want to deal to build the register properly and keep it accurate.

MR. BRUSEKER: Is that person also responsible for the production of maps for that riding?

MR. WHELAN: Mainly correcting maps. The mapping will be done jointly by Elections Canada and Elections Alberta. You know, maps that we draw in Edmonton or that are drawn in Ottawa have to be ratified and corrected and sort of proved in the field. For that reason, because there are always changes, we have to have a reference. We have to be able to go back to a district and say: "Is this accurate? Are we missing something? How do we keep this up to date?" We're trying to avoid as soon as possible the necessity for doing enumerations.

MR. BRUSEKER: Thank you.

THE CHAIRMAN: Okay.

Gary, and then Roy.

MR. SEVERTSON: Thanks, Mr. Chairman. To Derm, just to get me straight a little bit. Mr. Bruseker was talking about the \$505,000, the annual operating cost. Once we get the permanent election list onstream, then is that annual operating cost going to get down?

MR. WHELAN: Yes. We say it will go down to \$392,602 precisely, but let's say \$400,000. If that cost is shared by the federal government, that should be cut in half. That's the

objective: to try and bring the maintenance costs down for the province of Alberta, at least, in the order of those dollars.

MR. SEVERTSON: I'm not calling it maintenance; I'm talking annual operating costs. You've got a maintenance cost of \$56,000 there. It's on page C.

MR. WHELAN: Well, I'm looking at a different page. Okay. Well, the annual operating costs this year are one and a half times the average for the 10 years. This amount of money will be used to enter into the relationships with the data suppliers to keep the register up to date.

MR. SEVERTSON: So you're expecting that \$505,000 to stay there for the next 10 years?

MR. WHELAN: No. It will be reduced. The front-end load is in there. We're just building the register. We're expecting the net will decrease to \$300,000 a year, which may decrease even further with the participation of the federal government.

10:57

MR. SEVERTSON: When you were talking to Frank, you mentioned \$101,000 for three by-elections. So that's \$303,000.

MR. WHELAN: The \$100,000 for by-elections is entirely separate. It has nothing to do with the register. It's a plan in case there are three. Each year we've been historically planning for three by-elections. The by-elections next year, if the register is not ready, will require the ordinary kind of door knocking enumeration. So that's what that \$100,000 is for.

MR. SEVERTSON: So once we get it operating, we'll take the \$300,000 out of the by-election cost, and the annual costs will be what?

MR. WHELAN: Well, our estimate of the costs on average per year over the next decade will be approximately \$390,000 to, we'll say, \$400,000. But remember that if the cost is shared by the federal jurisdiction, then the cost to the taxpayers of Alberta will be cut in half. That's where we're going with it.

MR. SEVERTSON: Where do you put in the cost for the people you said you have to hire to update maps and keep up the list if we have a growth area? Where does that budget show up?

MR. WHELAN: Well, that's in the annual operating costs.

MR. SEVERTSON: That's included.

MR. WHELAN: Yeah, that's included there also.

MR. SEVERTSON: Okay.

Then, Mr. Chairman, I go to page B, the bottom note. You said that there would be a decrease of more than \$3 million if the election is held before the end of this fiscal year. In your budget on the first page you've got four and a half million if the election's called. So that's about a million and a half difference.

MR. WHELAN: I'm sorry. I don't think I follow you.

MR. SEVERTSON: This is on the bottom of page B in your note. "If an election is called and completed before March 31/97, then our 97/98 requirements would be reduced significantly, . . . 3

million dollars." Why wouldn't it be reduced by \$4.5 million if an election is held?

MR. WHELAN: Okay; I understand. Well, the concept is that we cannot obtain money through a special warrant, so we have to allow in this fiscal year enough money to totally pay for an election.

MR. SEVERTSON: I understand that.

MR. WHELAN: We don't know if next year all of the election will be paid for out of next year's funds. More than likely, if it's a spring election, it will be a hybrid: it will be some money from this year and some from next year. So what the note is saying is that if an election is called after April 1, then a significant portion of this year's dollars wouldn't be required. We would have expended between \$3 million and \$4 million of this year's funds, and we would only need the balance from next year's. So I guess the bottom line is that if you put the two years together with respect to election funding, this year and next year, the maximum amount that can be spent, according to this budget and the estimates, is 4 and a half million dollars.

MR. SEVERTSON: You say, "If an election is called and completed before March 31/97, then our 97/98 requirements would be reduced significantly, likely . . . more than 3 million dollars." I'm asking: why wouldn't it be reduced by \$4.5 million?

MR. WHELAN: Well, it might be.

MR. SEVERTSON: You've stated that you're going to keep \$1.5 million if it's completed. I know that the problem is which year you're going in.

MR. WHELAN: Yeah.

MR. SEVERTSON: That statement says that if you have it completed this year, you're only going to reduce the budget by . . .

MR. BRASSARD: Why would you need any of it next year if you have the election this year?

MR. SEVERTSON: Why do you need the \$1.5 million that you're asking for? You want to ask for \$4.5 million.

MR. WHELAN: I suppose that's what the whole note is saying, you know. If the election is paid for this year, we won't need the money next year. If it's half paid for this year and partly paid for next year, it'll have to be adjusted.

MR. SEVERTSON: It's in that one sense completed, and you're only going to reduce the budget for '97-98 by \$3 million, and you've put \$4.5 million in for next year if we have an election. So you're leaving \$1.5 million if it is completed. That's what you're saying in this footnote: you're going to leave \$1.5 million in next year's budget if the election is completed this year. I don't argue the point if it spills over or if it's not even called. Then we can talk about the \$4.5 million for the election. That footnote says that if it's completed this year, you want to leave \$1.5 million in next year's budget.

MR. WHELAN: Well, I guess the point is that if the election has

to be paid for after April 1, it may cost as much as \$4.5 million, because after the 31st of March we're not able to spend any of the funds available this year.

MR. BRASSARD: That's not what Gary is saying. Gary is saying that if you spend the \$4.5 million this year on an election prior to March, why do you need anything?

MR. SEVERTSON: If it's completed. Your statement says here: if it's completed by the end of the year.

MR. BRASSARD: If you've done the election, why do you need anything for an election next year?

MR. SEVERTSON: Maybe just the footnote has to be corrected.

MR. BRUSEKER: There would still be some small amount for a contingency plan for by-elections.

MR. WHELAN: That's right. There are by-elections in there.

MR. SEVERTSON: Well, that's \$1.5 million. That's 50 percent of the cost of a general election.

MR. SAGE: If I can just maybe interject here, we say "a decrease of more than \$3 million." We're not necessarily saying that \$1.5 million is the final figure that you are going to see. Even if we do complete it by March 31 of '97, there are still costs that go on into the next fiscal year. Under the Election Finances and Contributions Disclosure Act we have to run provincewide ads telling what every candidate spent. Your candidate's statement is filed four months after polling day, and then we have 30 days after we finally accept the statement, so you're probably talking six months into the new year. There's \$100,000 there. By-elections would be another 200,000-plus dollars or whatever it happens to be.

So I don't think you're necessarily looking at a figure of \$1.5 million that you would see next year. I mean, we may be a little vague in here, saying a savings of more than \$3 million.

MR. SEVERTSON: In other words, what you're saying is that it can't be completed. It's already impossible to complete it by the end of this year if it's six months.

MR. WHELAN: That's accurate.

MR. SEVERTSON: I don't like the way the statement reads, because it says "completed," and then you reduce it.

MR. SAGE: I think what we're trying to let you know is that there will be a decrease in it but not a decrease of \$4.5 million.

MR. WHELAN: The way I see it is that since there is a commitment not to use special warrants, there's no opportunity to go and look for money that's in shortfall, so you had to be sure that you had enough money in each of these two fiscal years to cover the cost of an election. I don't know how much precisely we'll spend out of this year's money for a 1997-98 election. Conversely, I'm not even sure precisely what the overlap would be. You can't ask for extra money, so you have to be very sure that you have enough to cover the costs of a general election, all of the costs, including the financial reporting, the advertising, and so on.

So I apologize that this is a little bit muddy, but actually the note was added to make things clearer. I guess we totally failed in that, Gary, at least as far as you see it.

MR. SEVERTSON: Well, I know what you're saying, so I won't go on anymore.

MR. WHELAN: You know my point. We can't be short of money because where would we go to get it?

MR. BRASSARD: Well, I had the same question as Gary, and I realize that there are some expenses postelection. If the election were called on December 1, you're saying that the \$4.5 million would be enough to do that and also to give the postelection results. If it were May 1, then the \$4.5 million would be sufficient to do that.

MR. WHELAN: Yes, to cover the money aspects.

MR. BRASSARD: I think Gary's point is that both those figures logically would include the postelection reporting, so in both cases you need one or the other. I don't see where you need one plus a third of another. So I raise the same objection to that, and I don't want to dwell on it because Gary has made the point very well.

11:07

MR. WHELAN: Of course, you know, we will not need one budgeted amount plus a third in the other year. I mean, it will not exceed 4 and a half million dollars.

MR. BRASSARD: Well, then one of these is wrong.

MR. WHELAN: The problem is the timing, you know, and the timing of the expenditures. If things are paid for after April 1, it's 1997-1998 dollars. If there are items that can be paid for in '96-97, then it's a part of the 4 and a half million dollars allocated this year.

MR. BRASSARD: I don't want to dwell on this, but I think that's a very ambiguous statement here, and I agree with the concern about that \$3 million in the footnote.

THE CHAIRMAN: It had nothing to do with the budget thing up here.

MR. BRASSARD: Anyway, I'd like to move on to the register of electors element. It was my understanding, in talking to the Chief Electoral Officer for Canada, that this was a fairly well done deal and that there was a commitment to share equipment, to certainly offer a share of the cost of enumeration and so on. Is this still up in the air?

MR. WHELAN: Well, we're using their equipment for the production of the list of electors.

MR. BRASSARD: But they were going to share the cost, and you said that if our legislation went through, this would reduce it significantly. Is this still as positive sounding as it was when we talked about it before?

MR. WHELAN: Well, that's what we're told, but of course who knows what the House of Commons will decide. The indicators I had are that this Bill will pass with the necessary apparatus to make the sharing of the register possible.

MR. BRASSARD: Certainly I'm as committed to the permanency of a registry as ever. I guess I had really hoped that at least some

of the consideration was based on this cost sharing, and I regret that that's still up in the air. Anyway, I guess that's beyond your control.

MR. WHELAN: Roy, I should tell you that it's really not up in the air. I mean, we are actually using Elections Canada maps, polling division maps. We have an agreement, and we have the maps. They had to be revised and corrected in some instances, but basically the total cost for these was spent by the federal government. They didn't cost the province of Alberta anything.

MR. BRASSARD: I see.

MR. WHELAN: All the computer equipment for all the local area entries and the computers that we'll use for the data entry are all really being given to us free of charge by Elections Canada. Our only cost in this project to this point is the cost of a special type of adaptation of the software to suit the needs of Alberta. We have a very good agreement. We're hoping that the legislation will pass and that we'll be able to put our signatures to a document that will save us what we want to save over the next decade and a half.

MR. BRASSARD: Good. Super. That's great.

THE CHAIRMAN: So are you saying, Derm, that the 4 and a half million dollar cost for enumeration for this budget year that we're in right now will be less than what was predicted a year ago?

MR. WHELAN: We're hoping to accomplish that. Until the final dollars are in, I don't want to go out on a limb, but we're hoping it will be significantly less.

Remember, that figure last year was before the legislation amending the Election Act was passed. That figure already includes two enumerators for every polling subdivision. We're only using one, so there is - I don't know - close to a million dollars in savings there. I honestly don't know precisely what we will have spent by the end of the enumeration, but I don't believe for a moment that we will spend that full amount, the \$4.6 million.

THE CHAIRMAN: Any further questions?

MR. WHELAN: I want you to know clearly now that this will result in enormous savings to the Alberta taxpayer, and it's already beginning to come to fruition. The mapping, the computer software, the co-operation has been generally extremely positive. The only fly in the ointment is, you know, they still have to get their law through the same as we had to get ours through, but all the indicators are extremely positive.

THE CHAIRMAN: Any further questions on Derm's budget presentation? Go ahead, Roy.

MR. BRASSARD: I move acceptance of the estimates of the Chief Electoral Officer in the amount of - and I say this tentatively because of the uncertainty of the timing of the election - the tentative estimate of \$6,265,770 for the year 1997-98.

THE CHAIRMAN: Is there any discussion on Roy's motion? All those in favour? Opposed? Carried.

Thanks, Derm.

MR. WHELAN: Thank you.

I think you have lunch now. Is it an early lunch?

THE CHAIRMAN: Yeah. We're going to be back here at 1:30.

[The committee adjourned from 11:13 a.m. to 1:32 p.m.]

THE CHAIRMAN: Okay. I think we'll call the meeting back to order this afternoon. I would draw to the attention of the members that we're on item 6 on the agenda, the budget estimates for the Ombudsman. Harley Johnson and Dixie Watson, welcome. Welcome to our budget deliberations this afternoon, and I think I'll turn it over to you, Harley.

MR. JOHNSON: Well, thank you, Mr. Chairman. The budget that we're presenting this year - if I could refer you to the spreadsheet that was sent to you in advance, it's probably the easiest way to explain where we're coming from and where we're going to and what we're going to attempt to do within the next year.

The base salary I've got in the second column from the left. The first column on the left is the approved budget from last year, giving you the starting point. The 1997-98 base is where we're starting, looking towards '97-98 final estimates, which you'll see in the third column from the right on the sheet.

The base shows an increase over last year, and there are a couple of reasons for that increase. The increase is based on the classification system for investigators, the classification system for all support staff where merit increases are required. That's why it shows an increase of \$11,000 in terms of salaries and the subsequent benefits, the allowances and benefits and employer contributions.

We are basically going to present to you the same budget as last year with the exception of, number one, compulsory charges, shown in the third column from the left. That will show charges that we have no choice over, compulsory charges by government which are in addition to the base budget.

The first one is in insurance for \$1,000. It was transferred into our budget. Last year we were able to cover off many of the cross-government charges, but I pointed out to this committee last year that I didn't know how long we'd be able to do it. This year we cannot continue to just find the moneys within the budget to cover all of them. So the \$1,000 in insurance is an increase we really have no choice in.

Freight and postage is going to be a \$200 increase, but you'll notice that we were able to decrease our actual request from \$5,300 in the approved last year. Our base goes to \$4,700, but with the increase it's back up to \$4,900.

Telephone and communication goes up \$1,600. That's based on a number of cross-government charges in terms of our telephone costs, where we are now paying. Public works used to pay for many of our charges. It's being off-loaded back to the departments.

Likewise in data-processing services. Many of the data-processing services that were supplied before are in fact being charged back to our budget. This is just under the cross-government column itself. I'll get to PeopleSoft in a minute.

The other is under other purchased services, where it's just an increase of \$100. Not a major increase there.

PeopleSoft, however, is a program that you're probably aware is a cross-government program. The current system that's in place for our expenditures and any financial issues is sufficient for our needs. We don't need this, but it's a charge that - the government has decided they're going to cancel that program and

bring in PeopleSoft, based on contracting out. We have a one-time cost, and it's reflected in the \$14,000, under data processing of \$10,000 plus \$4,000 that we have no choice but to pay, and \$8,000 under materials and supplies.

We did look at alternatives. An alternative we looked at was whether or not we could do the service ourselves. It would be more expensive than what this would be. The second choice was under Legislative Offices. They have their own program and are running it. Our percentage of costs would be more than this, so I've made the decision that this is the most cost-benefit efficient way to go in terms of our budget. So it's \$22,000 total operating for PeopleSoft alone, which is quite significant.

Having said that on the compulsory charges, I do have four very specific priorities I would like to address. I addressed them in my letter to you, but I can briefly go over them. Priority number 1: the administrative staff in Calgary. Last year this committee authorized me to maintain a one-third support staff position in Calgary. We couldn't do it. I have now filled that position to a full-time wage position. However, I've paid for it out of Yukon moneys. Therefore, I did not have to come back to this committee and get more money to pay for that other two-thirds of the position. I'm now requesting that that two-thirds of the position be covered in the 1997-98 budget. I won't be in the Yukon next year; we won't have contract moneys that I can use to fill that position. So that's my number one priority. That two-thirds of the position represents \$22,100, and there are employer contributions of \$2,000 that are also added to that.

The second priority that I have is an investigator in the Edmonton office. As you know, when we cut back 20 percent in line with all of government, we lost an investigator both in Calgary and Edmonton, and this is the one position where I'm now asking for a replacement. The problem that I've got is that we rearranged the work in the Edmonton office so that my personal secretary is in fact doing investigator intake work. That takes her away from doing my work and causes other people to have to pick up her work, which has a ripple effect all the way through the full staff.

Secondly, the backup person for her when she's on holidays, annual leave, or sick time is another support staff, which means it adds to the workload in a ripple effect all the way down. I've increased the time frame to complete investigations to 120 days on average. That is not ideal at all. We were at 90 days prior to the cuts. We've had to increase the time frame. I would like to move back towards that 90 days on average to complete investigations. In my opinion, that will take one investigative position to do so. I'm not asking consideration to go back to where we were prior to the cuts, but this is one position that was one too many, in my opinion.

Public presentations: priority number 3. I have not made a public presentation since the cuts. We have not had the ability to advertise for those types of presentations. In any travel that I have done around the province, where I have still made myself available to all the organizational speaking commitments that I can, I have not met with the public in the last two and a half years, and I think that's unfortunate. A comment was made - and Mr. Brassard and I talked about it when we were at our last conference - about whether you advertise for work or whether you in fact make people aware of the services, and as I say, I have not been able to do that in the last two and a half years. I think it's absolutely necessary. Speaking engagements that I'm doing now basically are to people who belong to organizations who are capable of sitting through the presentation and listening to what we can and cannot provide.

The majority of people that actually come to our office, though,

are not people who belong to organizations. They are basically the disadvantaged members of our communities, and they aren't able to hear many of the services that we can or cannot provide or ask questions directly of me. Sometimes they're just not able to pick up the phone and talk with an investigator. The public presentations in my opinion were one way to provide that service. As you know from previous presentations I've made to this committee, all electoral boundaries got a public presentation in my first two and a half to three years in office. While I think that was maybe a little bit too quick, I would like to start the public presentations again as a necessity.

Priority number 4: staff training. Staff training has been canceled for the last three years. We can't continue, in my opinion, to expect people to keep themselves totally up to speed when I can't provide them even the basics of training. Specifically in the area of mediation skills, arbitration skills, those types of skills, I want to continue to upgrade staff. From my perspective it's only \$4,800, realizing it is an increase to the budget and my budget request, but staff training is something I don't think we can leave on the side forever.

1:42

My final estimate, then, is in the third column from the right, showing \$1,175,400. That is a 12 percent increase over the '96-97 approved budget. I anticipated that question, so I thought I'd throw it in in advance. The increases, in my opinion, are necessary. I've got a couple of situations within the investigative staff - and I'll talk in a few minutes on my management classification plan - where stresses are starting to show on the system. Stresses are bulging out that in fact will undermine my ability in the long run to do the job that you've hired me to do.

So, Mr. Chairman, the final estimate is, as I've pointed out, \$1.175 million.

THE CHAIRMAN: Okay. The management classification plan doesn't have a budget implication.

MR. JOHNSON: Not in this particular budget.

THE CHAIRMAN: So we'll talk about that after, Harley?

MR. JOHNSON: That's correct.

THE CHAIRMAN: Are there any questions from committee members? Frank.

MR. BRUSEKER: Just on your priority 2, Harley, I'm not sure if I understood what you were saying. You're asking for an additional I guess it's about \$42,000 total there. Now, were you wanting to replace a person who has left, or is this an additional person you feel you need in the office?

MR. JOHNSON: When we cut 20 percent of our budget in line with the rest of government, I lost four positions. I made a number of priority changes in the office. The most significant, in my opinion, was that we took the average time to complete investigations from 90 days to 120 days to allow it to happen. Secondly, I've got support staff now filling in for investigative intake work, which to me is wrong. The person is doing it, and it has a ripple effect throughout the whole organization. So it's a replacement of one of the four positions I lost on downsizing. It's not a replacement of somebody who has left, to answer your question directly.

MR. BRUSEKER: Thanks. That clears it up.

THE CHAIRMAN: Is it also your wish, Harley, to discuss your own salary at this time?

MR. JOHNSON: No. I think that should be in addition to.

THE CHAIRMAN: Okay. It will affect this.

MR. JOHNSON: It may affect this.

MR. BRASSARD: Just very briefly before we get into it, could you clarify the base budget as opposed to the approved budget of '96-97?

MR. JOHNSON: There is an increase. Number one, merit increases are still authorized and in fact directed from the Public Service Commission.

MR. BRASSARD: So that's the \$9,300 in 711C, wages.

MR. JOHNSON: That was authorized last year for the one-third position in Calgary.

MR. BRASSARD: So this base was, in essence, preauthorized?

MR. JOHNSON: That's right. Preauthorized or required, sir, because the Public Service Commission has established pay scales, and for merit increases you have no choice but to give those merit increases.

MR. BRASSARD: Yeah, but I'd consider that preauthorized.

MR. JOHNSON: Okay. Fair enough.

THE CHAIRMAN: Yes, but the '97-98 base. The committee only approves the budgets, in reality, one year in advance, so we're approving '97-98 here now. The only one we approved before this was '96-97.

MR. BRASSARD: So that base may or may not have been approved; is that what you're saying?

THE CHAIRMAN: It wasn't approved.

MR. BRASSARD: It wasn't approved?

THE CHAIRMAN: Not by the committee. You use three-year business plans, so some of the officers are giving us '98-99 budget plan estimates, but we only approve one year in advance.

MR. BRASSARD: So this \$30,000, just so it's clear in my mind, involved in the base over and above the '96-97 approved budget: as you say, it wasn't preapproved?

THE CHAIRMAN: It wasn't.

MR. BRASSARD: But it was mandatory from your perspective?

MR. JOHNSON: It's mandatory from our perspective; that's correct.

MR. BRASSARD: Just so long as it's clear in my mind.

MR. JOHNSON: That also just gave you the starting point from where I started my calculations.

MR. BRUSEKER: I just want to come back to operating. Under the heading of manpower, you've got sections A, C, and D dealing with salaries, wages, and payments to contract employees. How many employees in total are there?

MR. JOHNSON: Sixteen.

MR. BRUSEKER: Between both offices?

MR. JOHNSON: Yes.

MR. BRUSEKER: Okay. Now, just going back to your Edmonton investigator. You want to put an Edmonton investigator under a contract employee position. Are some of the investigators under permanent positions?

MR. JOHNSON: Yes. In fact, all of them are now.

MR. BRUSEKER: Is that just, then, a management technique that you have some on permanent and some under contract?

MR. JOHNSON: From a contract perspective, what we've done in the past is that people coming in go under contract for the first year. Then they're given the option of whether they wish to go permanent or not. The salary of \$38,000 includes, as I've pointed out just above that, 9 percent in lieu of a number of benefits. We still are required to provide some benefits to contract employees but not all of the benefits, and there's another 9 percent included in that. It's about a \$34,000 salaried position, and then 9 percent in lieu comes to the \$38,000.

MR. BRUSEKER: Okay; that's fine.

MR. JOHNSON: From a management technique perspective, I like the idea of contract employees in my office. If the workload goes down, it's simply easy to not renew a contract, whereas with a permanent wage employee it's a much more difficult situation.

MR. BRUSEKER: So do you have with the \$98,000, in that ballpark, about three individuals, and you're looking to add a fourth under that?

MR. JOHNSON: Sorry; that \$98,000 is my salary. I'm under contract to this committee. That reference is my salary and benefits.

MR. BRUSEKER: Oh, I thought your salary was the \$656,000.

MR. JOHNSON: Oh, don't I wish.

MR. BRUSEKER: So at the moment you're the only contract employee then, and all of the rest are permanent positions.

MR. JOHNSON: That's correct.

MR. BRUSEKER: Thank you.

THE CHAIRMAN: Any further questions from the committee members?

MRS. FRITZ: I just have a question of clarification with the

Yukon contract. You were saying that it's complete in the next few months.

MR. JOHNSON: March 31 of '97.

MRS. FRITZ: Okay. How often are you gone from the province now?

MR. JOHNSON: It's on average one week a month.

MRS. FRITZ: So 25 percent of your time in the past year has been away from the province. I'm just interested in how that's affected your office.

MR. JOHNSON: It's caused more personal workload than it has an office workload. I do have people who are capable of performing in the Acting Ombudsman role. I'm paying for them to do that role while I'm out of the province, and it's basically paid for by the Yukon moneys. On the Yukon money situation, as well, I'm using that money to pay for two-thirds of a position in Calgary. We will at the end of the year have a surplus of Yukon moneys, unspent Yukon moneys.

MRS. FRITZ: What was the total contract?

MR. JOHNSON: It was \$55,000.

MRS. FRITZ: Okay. Then what you'll have left over is - how much?

MR. JOHNSON: Well, we're projecting right now \$23,000.

MRS. FRITZ: Okay. Then just also for clarification, just to refresh my memory from last year. I had understood last year that this one-third staff position in Calgary for the secretary was going to be co-ordinated with - was it the Auditor?

MR. JOHNSON: The Auditor General, the Chief Electoral Officer, and the Ethics Commissioner, and we were all going to put in moneys for one position.

MRS. FRITZ: Right, because that was a new position; wasn't it?

MR. JOHNSON: It was going to be transferred from one of the laid-off positions, but in effect it was a new position. It would be a receptionist front end for all of the offices. That was the intent. In fact, when we got down to the nitty-gritties of putting it into place, it was not going to work. The type of people that I get through the office are not necessarily the type of people that are quiet and would in effect undermine many of the operations of the other officers. A decision was made in Calgary not to go that route. But you're right: the one-third position would have allowed that. Instead, I paid for the one-third of the position, and then two-thirds of the position was paid out of Yukon moneys. That was an operational decision at the time.

MRS. FRITZ: But it was a new position last year. I guess what I'm asking is if we put a third into each budget last year to pay for that position.

MR. JOHNSON: You put into three budgets one-third of one position, yes.

MRS. FRITZ: So this position, though, was funded in total because of the plans that you had?

MR. JOHNSON: No, because we never did put those plans into practice.

MRS. FRITZ: It was still put into the budget.

MR. JOHNSON: One-third was put into my budget.

MRS. FRITZ: One-third was put into your colleagues'.

MR. JOHNSON: Two other Leg. officers' budgets; that's correct.

MRS. FRITZ: So for the position, then, the moneys really are in place. As far as we're concerned, as a committee we didn't fund the whole position. I'm just clarifying because of what I remember from last year.

MR. JOHNSON: The only thing is that I have no control over the expenditures of the other Leg. officers.

MRS. FRITZ: So I guess my question, Mr. Chairman, is: are moneys like that, when we know we funded a position to be transferred from other budgets, transferred back into this budget from the other two budgets?

THE CHAIRMAN: I can't answer that for you. I'm not exactly sure what you're looking for, Yvonne.

1:52

MRS. FRITZ: Well, I understood that it was a new position last year, and what was presented to us was that you were working together as a team in Calgary and that it was a new position. We as a committee funded it, but we were told that it was prudent to divide it into thirds. Now what I'm hearing, though, is that you paid the two-thirds out of contract money from the Yukon.

MR. JOHNSON: That's right, but only for my office. The other two-thirds positions funded by this committee still went to the other budgets and were spent on a person at the front end of their office. We never did amalgamate our office operations in Calgary.

MRS. FRITZ: We were led to believe that last year. But if we hadn't done that last year, you required that position anyway?

MR. JOHNSON: If I did not have the Yukon moneys, I would have only operated with a one-third position.

MRS. FRITZ: And it would have been new?

MR. JOHNSON: Actually, no. I had the position.

MRS. FRITZ: That's right. That's what I recall.

MR. JOHNSON: Okay. The position is a numbered position with PAO that was going to be used. That position in my office still had a one-third person in it. Two-thirds of that person was paid for out of Yukon moneys. The other two-thirds that you're talking about is in other people's budgets. I'm assuming they spent that on a receptionist for the final amalgamation of offices. We made a decision that it was inappropriate, given the clientele that I was getting, to amalgamate fully the operations of the offices down there. It was also cheaper to stay where I was. We would have had to put out more money. They ended up going into the Energy Resources Conservation Board offices. I maintained with public works the office space I had.

MRS. FRITZ: Okay.

The other question I had. Last year we were discussing this issue, and I'm just interested in how it affected your office overall, having you gone 25 percent of the time. I know I harped on that, Harley, but it still concerns me. I read here in priority 2 that the workload has increased for investigators, and perhaps that's not related at all, you know, to your being away or to your personal secretary taking on an increased workload. I also hear on the other side when you come to the committee that you would like to take on positions. For example, I think what you brought to us before was human rights or children's services advocate, and now I'm reading a bit about health care, the Yukon as well. Maybe the other committee members don't hear it the same way I do, but when you talk to us about it, I hear you often say that you can do this extra workload with your current staff and with your current budget and you wouldn't require an increase. But then I see before us - and I don't want to harp on this, Mr. Chairman; it's just my thoughts on it - this 12 percent increase. I'm not quite comfortable with this secretarial position that we funded in a different way and I'm hearing differently about it now. Can I ask you just to comment on that?

MR. JOHNSON: First off, the Yukon was one of those that was in fact done with no increase in staff. When you go back to the Human Rights Commission, that was an amalgamation of two offices. There was never an indication that that could be done without staff. That would be taking two offices and combining them and thereby saving some staff positions, but it would not be the same as doing it with no staff increases.

The current thing that you're hearing in terms of the regional health authorities - and the latest one is that all the health care professions are being considered to be jurisdictional to my office, or at least considerations. That will all come with a resource cost tag to it. Those cannot be accommodated within our current resources.

The investigative position has no impact whatsoever on what I did by going to the Yukon. What happened was that I was working an awful lot longer hours and my four managers were putting in the time. They were compensated for it. The managers were compensated for that. So I have no problem there. It was accomplished with no extra staff.

MRS. FRITZ: Okay. Thank you, Mr. Chairman.

THE CHAIRMAN: Okay.

I have Gary.

MR. SEVERTSON: Yes. When you said that the decision was not to share, was that the decision of the other officers?

MR. JOHNSON: The three of us met, and basically it was my decision based on the fact that we would just not be compatible.

MR. SEVERTSON: It wasn't the other officers that said that your clientele . . .

MR. JOHNSON: We all met. It was my decision, knowing what had been happening. This is going into *Hansard*, and I'd be a little bit cautious about saying some of the issues that came out, except to say that we have a number of people attending our offices who are quite dissatisfied with government. There are some specific incidents that led to my decision not to amalgamate with the other officers in the Calgary office. They are based on people who are coming into the office. They would be totally disruptive to all office operations.

MR. SEVERTSON: Following that question, how many calls do you have coming to your Calgary office? Have you got a number that come in a week?

MR. JOHNSON: They come in daily. We have somebody on duty to intake every day.

MR. SEVERTSON: So they sound pretty well fairly busy then.

MR. JOHNSON: All the time. Yes.

MR. SEVERTSON: Okay.

My second question. On your priority 2, contract of another investigator. I notice you estimate the backlog - what would it be now? It's about 120 days this . . .

MR. JOHNSON: One hundred and twenty days to complete an investigation. I don't consider that a backlog per se. It will turn into a backlog if we continue the way we're going. I also have each investigator assigned approximately 30 files at any one time. I have one investigator now that's approaching 50 investigative files. That adds to the time frame to complete. So it's not a backlog position yet, but it is an extended time frame to complete investigations, yes.

MR. SEVERTSON: If this position weren't approved, what's your estimate of time before completion?

MR. JOHNSON: We're still at 120 days. We will start working towards an actual backlog like the Human Rights Commission. I don't want to keep throwing that out, but the Human Rights Commission got into a situation where they did not have the staff to handle the workload. They got into a backlog situation of up to a year before they even got to open the files. I'm not at that stage. We're still opening files five days after we receive a complaint and I make a decision that it's jurisdictional. We're still opening; we're just not completing the investigations yet. They got to a point where they could not even get to the file to open it for a full 12 months after they got the complaint. I don't ever want to get to that point.

MR. SEVERTSON: No. I just wanted to know what your estimate would be.

MR. JOHNSON: It's 120 days. We would still be able to maintain that 120 days but not get back to what I think is an appropriate operating standard, and that is 90 days on average to complete a file.

MR. SEVERTSON: And that was before the cuts were made.

MR. JOHNSON: That was before the cuts: 90 days. Some years we missed it by a few days, but on average we were pretty close to that 90 days.

MR. SEVERTSON: But you still open the file within five days.

MR. JOHNSON: We're still opening the files within five days, assuming that everything is there and all the inquiries prove it's jurisdictional and all the appeals have been exhausted. We still have some checks to make, but we're opening in five days.

MR. SEVERTSON: Okay. Thanks, Mr. Chairman.

THE CHAIRMAN: Roy, you had a question.

MR. BRASSARD: It's my understanding that a number of departments were going to set up a form of ombudsmanship to kind of head off problems or at least deal with the problems. Is this reducing the workload? Is it improving it?

MR. JOHNSON: It's basically maintaining. Our numbers have gone down slightly, but what we are finding is that the complexity of the actual investigations and the complaints are more. For instance, under the voluntary separation, when that program came in, I expected just a ton of complaints. We didn't get anywhere near as many as we thought, but what we did get were quite complex, specifically where managers were making decisions: who was allowed to get on voluntary separation and who wasn't. Two of you are sitting side by each, you apply for the program, and the person sitting next to you gets the program and you're denied. Both of them were coming to my office complaining about the management decision. They had to be investigated. Those became quite complex because you're getting into managerial discretion as opposed to straight administrative fairness principles.

MR. BRASSARD: So would you say that this is something that should be stepped up? Or is it not effective in the sense that it is not going to reduce your workload or head off or at least make the departments more aware of the Ombudsman's responsibility in their own area?

2:02

MR. JOHNSON: Well, the departments have complaint mechanisms in place, but people still come to us at the end. In fact, they have to go through those department complaints. For instance, the Workers' Compensation Board must go through the Claims Services Review Committee and then the Appeals Commission before they can come to me.

MR. BRASSARD: But it's not reducing your workload.

MR. JOHNSON: It's not reducing my workload at all. What it's doing is handling some of the problems, and I think a significant number, but many of those people that come out of the system at the end are still dissatisfied and request and complain.

MR. BRASSARD: Is that a lack of expertise within the department handling the complaint?

MR. JOHNSON: I don't think so. An awful lot of it is based on the fact that some people are never going to walk away happy regardless, and they want somebody independent to look at it.

MR. BRASSARD: They would never walk away from your office happy either.

MR. JOHNSON: Some do; some don't. It'd be lying to say that everybody walked away from my office happy.

MR. BRASSARD: I'm just thinking that you'd be limited to a degree to the same restrictions that a department would have. So if you come to the department and I can't help you and I don't help you and they go to you, you're bound by the same set of circumstances, so to speak. Your public relations may be a little bit better, and they may see you as the final authority. I guess what I'm getting at is it seems to be a repetition that is perhaps

costly and not working without better training or something.

The other thing that I'm concerned about, Mr. Chairman, is that I see three sets, basically, of increases. I see the base net increase is almost \$23,000. Compulsory charges, which we appear to be forced into for both of those categories: another \$27,600. So we're looking at \$50,600 that appears to be basically compulsory and on top of that the priority categories. I guess I'm concerned with the significance of a \$129,000 increase. I just make that observation without sitting in judgment of any of these because you discussed them. Anyway, I had hoped that with the kind of lead role you've been able to play - as a department I would rather be able to head off some of the complaints before they got to you and resolve them myself, whether it's social services or whatever. If my ombudsman role, if I can call it that, within the department were effective - and I'd want it to be - then we should have been cutting down on your workload. To hear that it's not changed or that indeed the ones you're getting are more complex, that we could in some ways be adding to it, it just seems to me that it's not achieving the results that I would have hoped.

MR. JOHNSON: Do you mean the department complaints system?

MR. BRASSARD: The department complaints system, yes, dealing with it, and it's not an ombudsman's role. Yes, their complaint mechanism. If there was any training to be done, I would like to see it done in the departments so that we can resolve the complaints before they ever get past that. Anyway, that's just an observation.

THE CHAIRMAN: I've got a question, Harley, on your manpower operating costs. You explain the priority system here and having a contract employee as an investigator in Edmonton. The permanent salary positions in your budget increase from \$656,000 to \$665,000. That's a \$91,000 increase over '96-97; right?

MR. JOHNSON: Sorry?

THE CHAIRMAN: Oh, \$9,000. Sorry. That's what I meant. Are those increment payments?

MR. JOHNSON: Yes.

THE CHAIRMAN: To the employees?

MR. JOHNSON: Yes.

THE CHAIRMAN: Okay.

MR. JOHNSON: Where is my actual? Do you need any more information? I can get right down to specifics.

THE CHAIRMAN: No. I was just wondering whether there was a percentage increase on full-time equivalents there, too, or not.

MR. JOHNSON: What's happened is that up to they received LSI, or long-service increments, they are required within the contracts to receive a merit increase. Eleven positions get some form of merit increase every year until such time as they reach LSI. Once they've reached LSI, then they are stopped from going any further unless there's a general pay increase throughout government.

DR. MASSEY: Just a fast one. In terms of them deciding what you'll be charged for by other departments, how do they arrive at these partial figures like telephone and communication? Yours is \$9,900, and \$1,600 is the compulsory charge.

MR. JOHNSON: We're talking about 712H?

DR. MASSEY: Yes. How did they come up with apportioning those costs? Are you involved in that?

MR. JOHNSON: We're involved basically on the other end. They have been providing those costs as a centralized service, and they keep downloading to the operating departments. This is a continual process. They also are under the gun to cut back on their costs, so many of the departments are going through their budgets and identifying if they can off-load those costs to the user departments. I have no problem with that in philosophy. It just means that I have to come and argue that we need those costs that used to be provided by somebody else. For instance, we never used to get charged for many of the telephone directories throughout the province, for the name of the Ombudsman and the phone number you can contact. We're now charged \$1,000. That used to be paid for by somebody else; it's now being paid for directly by us. Those are cross-government charges.

DR. MASSEY: That's a good example. Thank you.

MR. BRUSEKER: Harley, just a follow-up on priority 3 here, the \$5,000 for education and travel. You said that you felt there was a bit of a void, that you haven't been able to do that since the cutbacks have been occurring. Can you quantify that at all? Have people been calling and asking you to come out and you've had to respond and say: "No, I can't. There's no money for that"?

MR. JOHNSON: No. If it's a specific request, I have been covering it and doing it under the travel budget, but I've not been having public presentations where the full public is invited. For instance, let's assume we go to Grande Prairie, that there's a number of complaints coming in from there, that I feel it's time for a public presentation to let people know what we can do, what we can't do. I have to advertise for that. If somebody like a service club, the Lions Club, are holding a meeting and want a guest speaker, I can cover that under travel. This is for the public presentation portion, those where we invite people from the public. Anybody can come and listen to what the role is. Then they sit and we go through any specific complaints they might have. Some of those are very short; we're out by 10 or 11 o'clock at night. Other times we've gone until 1 or 2 in the morning.

MR. BRUSEKER: When you did have the budget and you were doing that, what kind of response were you getting from the public? Were you getting well-attended meetings, or were they meetings with you and two other people, that kind of thing?

MR. JOHNSON: I've gone from zero to 300 and all points in between. Of all places, at Grouard I had 300 people in a high school gymnasium one night in a public invitation.

MR. BRUSEKER: That's in Barrhead; isn't it?

MR. KOWALSKI: No, but in Grouard doughnuts would go over well with coffee.

MR. JOHNSON: And I didn't provide the doughnuts.

Then I turned around and went to Fort McMurray. It just happened to be on the same night that the Newfoundland band was in town, and I had zero.

THE CHAIRMAN: Hometown band.

MR. JOHNSON: And all points in between.

In Calgary I had 40 to 50 people at one presentation; in Edmonton I had 200. You just go around the province and you could pick it off. Sometimes I had one show up; sometimes I've had 40, 50.

MR. BRUSEKER: Did you ever keep track of the total at the end of the year of how many people you had? Do you have any idea what that was?

MR. JOHNSON: Not right at this moment, but we can get that for you. Yes, I've kept track of the numbers.

MR. BRUSEKER: It was probably up in the thousands by the time all was said and done.

MR. JOHNSON: Oh, absolutely.

THE CHAIRMAN: Are there any further questions on the budget proposal?

If there is no further discussion, we likely would entertain a motion of some sort.

MR. BRUSEKER: Mr. Chairman, I will make the motion, then, that we accept the budget as presented by the Ombudsman for the 1997-98 fiscal year of \$1,175,400.

THE CHAIRMAN: Is there any discussion on the motion?

MR. SEVERTSON: Okay. I would speak on the motion. I would personally just like to see at this time priority 1 done and for priority 2 see if the caseloads do build. We're not that far behind now, and we're assuming it's going to grow by 20 percent, I guess, because we've got four positions now. You would add one more. Have you got four investigators now?

MR. JOHNSON: No, sir.

MR. SEVERTSON: How many investigators?

MR. JOHNSON: I've got eight investigators and three part-time investigators. My management staff carry a one-third investigative load.

MR. SEVERTSON: Okay. I was wrong on that then.

MR. JOHNSON: I think where you were off base is that there were four positions cut on the 20 percent cut.

MR. SEVERTSON: Oh, okay. That's where I had it. That's right.

MR. JOHNSON: One of the problems, if I could speak back to that comment, is that I've got support staff doing an investigator's role. When my secretary is doing the intake and some of the investigative components that somebody else should be doing, somebody has to pick up her workload. When that other support

staff picks up her workload, then somebody has to pick up – you know, it has a ripple effect all the way down. The stresses and strains in the office now are suggesting to me that we should be back to the one investigator. I'm not recommending at this point we go back to four more people, but I am saying that we need one more person from where we stand now.

2:12

MR. SEVERTSON: Could I just ask a question back then? Comparing '95-96 to last year, by what percentage have the number of inquiries increased?

MR. JOHNSON: The orals or verbals, telephone inquiries or walk-ins, are reduced. The actual investigations have remained the same. I don't have an actual percentage right now on the numbers. I can get that number for you.

MR. SEVERTSON: So the workload, in other words, stayed the same from '95-96 to '96-97.

MR. JOHNSON: The investigative workload stayed the same. The telephone workload went down. The inquiries, the walk-ins, went down.

MR. SEVERTSON: But by the same token, you're saying that for the last two years you've managed, and you want an increase of one investigator.

MR. JOHNSON: Yes. I've managed because we've been giving job functions to people that shouldn't have them.

MR. SEVERTSON: Okay.

THE CHAIRMAN: Any further discussion on Frank's motion? All those in favour? Opposed? Carried.

MR. JOHNSON: Thank you.

THE CHAIRMAN: Next on our agenda is the management classification plan. That is under tab 7 for members. Do you want to say a few words about that, Harley?

MR. JOHNSON: Just a brief history. I did outline this in my memo to you on page 2. In 1988 the then standing committee agreed with my predecessor that in fact investigative salaries and management salaries were low. The term used was shamefully low, which I passed on to you. The Ombudsman of the day, Alex Trawick, then put his resources together and came up with a classification plan for investigators. That investigative classification plan was accepted both by this committee, or your predecessors, and by the Public Service Commission and was implemented. However, due to circumstances, Alex left office before the management classification plan could be dealt with.

In 1991 all managers' salaries were frozen. Investigative staff and other positions within government were not, because they had this merit increase component. I've now faced a situation where my managers and the investigative staff have been compressed in their salaries, in the difference between the two salary components.

The other situation is that the system that is within the Public Service Commission for classifying managers is designed for large departments, not small departments. It's not flexible. In order for me to move people into their proper positions, I then have to reclassify, going back to the Public Service Commission with

justification. An awful lot of that has been devolved to managers such as myself or to deputy minister level, but it still is not fitting for the office. In other words, I have to classify manager I, II, or III; senior manager I, II, or III; or executive manager I, II, or III. I can move people within that component, but there is no flexibility. I have to then try and mesh the duties of my people with the duties consistent with larger departments.

To try and offset that, the Public Service Commission developed what's called the Hay plan and brought in a new classification system for managers. They tried to bring in an equity issue. They tried to bring in something that was easily understandable, accommodating to work-change environments and organizational cultures, and compatible with alternate compensation options. But the problem with the Hay plan is that it just exaggerates the classification plan as it is not applicable to the smaller offices. Last year the Auditor General came to this committee and said basically the same thing, and this committee authorized the Auditor General to develop a classification plan specific to the Auditor General's office.

What I'm proposing is to establish a broad band of managers, period, and based on their workload, the work output, and the duties that I assign, to put them within that classification plan and to compensate them within that classification plan, which is separate from the Public Service Commission plan, or the Hay plan, that they're now bringing in within the Public Service Commission itself. The salary range at the bottom of page 2 is not inconsistent with the salary range of the Hay plan and the current classification plan for managers. It's the same basic salary range, but it would give me the flexibility of putting people into the position and paying them according to what I feel they're worth as opposed to trying to push them into a classification band established for a large department. So it's strictly giving me the flexibility to move my managers into where I feel they should be.

THE CHAIRMAN: Do any of the committee members have questions on this proposal by Harley?

MR. KOWALSKI: Just so I really, really have this down pat and thoroughly understand it, this piece of paper that was just circulated covers the salary ranges of your current people.

THE CHAIRMAN: Harley hasn't seen that, Ken. That came from Diane and Cheryl Scarlett in personnel, just a little added information. So that's where that came from. Harley hadn't seen that up to this point.

MR. JOHNSON: But I understand where the question is coming from. Yes, of course, these are the current ranges.

MR. KOWALSKI: Which ones of these are the current ranges of your current people: Ombudsman investigator I and II at the top of the sheet or at the bottom of the sheet?

MR. JOHNSON: We're talking managers right now, sir, if we can. We're not talking investigator specifically. You'll notice at the top of the sheet, though, if you wish to bring in the investigator, you can see that . . .

MR. KOWALSKI: No, no. We'll just talk about the requests that you've got in here for management classification.

MR. JOHNSON: Okay.

MR. KOWALSKI: What are the ranges of your current managers?

MR. JOHNSON: Thirty-nine. The current range for my senior manager III is not on this sheet and is inappropriate. This sheet is incorrect in that one of my managers is in fact a lawyer. The top of their salary range is \$78,000, not \$71,000 as shown on this sheet that's been circulated by the committee.

MR. SEVERTSON: He's already at \$78,000?

MR. JOHNSON: No. That's the top of the range.

MR. KOWALSKI: Well, let's just forget about this one then, and I'll take you to the bottom of the page.

MR. JOHNSON: This is not accurate totally.

MR. KOWALSKI: Then to just go back to your base on these comments, your request says: with a salary range of \$51,000 to \$74,000. What is the range that your people are currently in?

MR. JOHNSON: It's \$39,000 to \$78,000.

MR. KOWALSKI: Thirty-nine thousand to \$78,000. So you're saying that the base should go up but that the max should go down.

MR. JOHNSON: Yes.

MR. KOWALSKI: Thirty-nine thousand to \$78,000.

MR. JOHNSON: Now, we talked of compression. If you take a look at my investigator above, investigator level II is at \$38,000 to \$47,000 already. That's the compression that's a concern.

MR. KOWALSKI: But that's not atypical of any system, so we'll just focus on this one in here.

MR. JOHNSON: Fair enough.

MR. KOWALSKI: You have three of these individuals.

MR. JOHNSON: Four. One in Calgary, three in Edmonton.

MR. KOWALSKI: So presumably one of these four is not currently at \$39,000.

MR. JOHNSON: None of them are at \$39,000.

MR. KOWALSKI: Is anybody below \$51,000?

MR. JOHNSON: No.

2:22

MR. KOWALSKI: Nobody is below \$51,000?

MR. JOHNSON: No. They're within that range that I've provided to you.

MR. KOWALSKI: The current range. The four of them are between \$51,000 and \$74,000 in terms of current salary?

MR. JOHNSON: That's correct.

MR. BRUSEKER: Is there any room for growth at the top end then, or is somebody already at \$74,000?

MR. JOHNSON: No.

MR. BRUSEKER: So there is some flexibility.

MR. JOHNSON: Without getting into very specifics, we're talking a \$10,000 difference probably.

MR. BRUSEKER: So it does leave you some flexibility in there.

The other question I would have, Mr. Chairman, if I may: this would have no increase impact on your budget? It wouldn't result in your budget going up?

MR. JOHNSON: On my current budget. That's correct.

MR. BRUSEKER: Okay. So the budget we have just passed then: you can live with that regardless of whether you get this new system or you retain the old system?

MR. JOHNSON: That's correct. It just gives me the flexibility to move people where I believe they should be. I'm forcing people into slots that they should not be in.

MR. KOWALSKI: With no additional dollars.

MR. JOHNSON: With no additional dollars.

MR. KOWALSKI: So it becomes then an ego thing.

MR. JOHNSON: I think it's more than that. I'm not asking for additional dollars within the budget to cover it off.

MR. KOWALSKI: No. But I mean for these employees to feel that they have a home.

MR. JOHNSON: Well, that they have a home, yeah.

MR. KOWALSKI: The length that you're in government is very significant. Like the size of an office and the colour of your carpet: the rest of the world doesn't spend much time dealing with this, but we sure do a lot of the time in government. What you're saying is that for morale rather than ego then, having the more appropriate title makes them more productive?

MR. JOHNSON: I think the title is one thing within government - you're absolutely correct - but it's more than just an ego thing. I'm taking a manager - I don't like to use specifics, but she's sitting here with me - the director of finance and administration, and I'm trying to slot her into a category that a big department can use through the current plan and the Hay plan. It just doesn't make sense for a very small office.

MR. KOWALSKI: So when she talks to somebody in another department, they know their sort of equivalent standings if they have equivalent title?

MR. JOHNSON: And equivalent salaries. Of course, right now the position is that many of them are paid \$15,000 under what somebody else is paid in another department. It just makes it easier for me to manage.

THE CHAIRMAN: Yvonne, Roy, and then Don.

MRS. FRITZ: Thank you. I just wondered where the salaries overlap when it says that the result has been a compression

problem: "the salary range for investigative staff overlaps the salary . . . of management."

MR. JOHNSON: If you go to the top, you'll see that for Ombudsman investigator I or II the top range is now \$47,832. I have people at the top range. They could have started at, say, \$40,000, but because I had to give them merit increases if they were doing a good job because of the PAO policies, they are now at \$47,000, and my senior managers are starting at a lower rate. In 1991 senior managers were frozen; investigators were not frozen. So there is a compression factor.

MRS. FRITZ: But you said that none of your senior managers overlap right now.

MR. JOHNSON: That's right.

MRS. FRITZ: They don't overlap?

MR. JOHNSON: They do not overlap in actual salary dollars - that's correct - but they have been compressed. If we had somebody at \$51,000 in 1990, they're still at \$51,000. If we had somebody at \$40,000 in 1991, they're now at \$47,000. There's only a \$4,000 difference. That's only an example. That's not specific.

MRS. FRITZ: When you said that you don't require any further funds in this budget, what are you anticipating that you'll require next year?

MR. JOHNSON: I don't know that I will require any next year. I may or may not, depending on whether we can find more efficiencies in the system than we currently have.

MRS. FRITZ: But you must have an idea what this change would mean for your next year's budget.

MR. JOHNSON: I'm saying right now that I think I can fit people in and properly slot them. I may or may not be coming back for an increase in the management level. I'm not coming for one right now. I'm looking for a system that gives me flexibility.

MRS. FRITZ: But I find - and I go back to even the previous budget - that you're very creative in how positions are changed or created, reclassifications and where people fit on the grid. So I'm looking for next year, Harley, what it is that - but you're not willing to answer that. That's okay.

MR. JOHNSON: It's not that I'm not willing. I don't know if I can right now.

MRS. FRITZ: Okay.

MR. JOHNSON: To be very honest, I don't know if I can.

MRS. FRITZ: Thank you, Mr. Chairman.

MR. BRASSARD: Well, I'd like to pick up where Ken left off. Basically, I see this as giving a title, if you will. It's maybe more of an ego thing, but it's a title that can be compared to other departments. That's all relative if the job function is identical to other departments, but there is a ripple effect. Every time we have got in to this kind of discussion, there's been a ripple effect that spreads right through the rest of the organization, and I'm not

sure that we're actually giving you more flexibility. Perhaps we're giving clearer guidelines, and from that standpoint there's some merit to it. But I don't know that you have any more or less flexibility with the system you've got right now as opposed to giving a designation from manager I to executive manager II. It seems to me that doesn't add any flexibility to it at all. In fact, if anything, it regiments it more.

MR. JOHNSON: Well, first of all, I cannot on my own make an executive manager I. I have to have approval to move somebody up to that executive manager system.

MR. BRASSARD: But this designation, then, would automatically mean that moving through this would incur the same kinds of cost factors or increases that you're talking about, you know.

MR. JOHNSON: If I came to you and said that I wanted a stepping stone and absolutely every year managers would go up on a scale based on merit, then I think that . . .

MR. BRASSARD: A grid system.

MR. JOHNSON: Yeah, a grid system. They aren't on a grid system. Investigators are on a grid system, and people that are under contract, the public service contract, are on a grid system. The managers are not. They're lumped into a ballpark . . .

MR. BRASSARD: But this would give you a grid system for your management.

MR. JOHNSON: I'm not asking for a grid system at all. The grid system is more in line with this. I'm just saying that this doesn't give me the flexibility that I feel I need for my managers; that's all.

THE CHAIRMAN: Are you finished?

MR. BRASSARD: I'm finished.

DR. MASSEY: I'm still unclear, Harley, as to what the impact is down the road.

MR. JOHNSON: You're coming back to Yvonne's question in terms of actual dollars on this one. If I came to you with a grid system, I could tell you an exact dollar figure, but I have not come to you with a grid system. I've just said that here is the ballpark figure, here is the range that I want to play with, to work with, with my managers. If I don't have the money, I can't give them a raise. There's no question about that.

DR. MASSEY: I guess I'm not clear on how the problem is being resolved by doing what we're doing here.

MR. JOHNSON: I'm taking a job description within my own office and I'm trying to force it into somebody else's office, into somebody else's system.

MR. SEVERTSON: I guess I'm the same way. You were saying earlier that you've got positions that maybe you'd like to rename and do your reclassifications, which I have no problem with. Then I think you said earlier that you've got one that maybe is underpaid by \$15,000. Now, if you're going to reclassify and give him half that \$15,000 shortage, where does that \$7,000 come from? Does it come off somebody else's salary? You said you

don't need any more budget; that's where I'm having a hard time. If you're reclassifying - I'm not saying you shouldn't, but I'm just wondering where the dollars are. I think, Harley, you mentioned this \$15,000 that you underpay. So say you went up to that classification. Where does that \$15,000 come from?

MR. JOHNSON: But I'm not saying I'm going to raise them in pay. What I'm saying is that here's a system I want to use to properly categorize my managers. I'm not saying that they should get a \$15,000 raise immediately at all.

MR. SEVERTSON: But down the road what's the point of reclassifying them and putting it up, and they're under the classification by \$15,000 for one, two, three years or whatever? They stay where they were anyway in salary. What's the advantage? I just don't know what the advantage is of a reclassification if you have no money to play with.

2:32

MR. JOHNSON: I have to come back to the concept that I'm taking a job description or a classification system that is being used by a large department. So if I wish to pay my senior manager I \$42,000 to \$63,000, whatever it is within that range scale, I then have to develop a job description that is consistent with indicators or comparables in other departments, but I may not have that comparable. For instance, a director of Family and Social Services may have within their scope 200 people that they supervise. I don't have 200 people for my managers to supervise. One of their criteria may be that they supervise X amount of employees. My managers don't have that capability of being classified as a senior manager 1, if in fact that's the classification.

MR. SEVERTSON: I can understand why you want the classification here, and it makes sense. When you were making comments earlier, you said they are underfunded by \$15,000. That's what really triggered this discussion. Because if you reclassify and if you feel that some are \$15,000 under, then how are you going to solve that?

MR. JOHNSON: I'm not going to solve that problem this year. All I want is one category of managers. We can call them, say, director rather than senior manager I, where they have to supervise 50 people. If they supervise 75 . . .

MR. SEVERTSON: That's what bothers me, when you use that \$15,000. How does that really solve this if there's no money in your proposal for the next two years?

MR. JOHNSON: I'm saying that if I can make the efficiencies in my budget, then I can pay them. If I can't make the efficiencies, I can't. The onus is back on me.

MR. SEVERTSON: Okay.

THE CHAIRMAN: Okay.

Roy, and then maybe we'll close discussion.

MR. BRASSARD: Well, I'm concerned that we're setting up a category system that is going to really just set the stage for future increases, if not present ones. We've just increased the budget by almost \$130,000.

I would like to move that we unfortunately at this time do not accept this proposal.

THE CHAIRMAN: Is that a motion?

MR. BRASSARD: It's a motion.

THE CHAIRMAN: Is there any discussion on Roy's motion? Don.

DR. MASSEY: I would like some more information about the proposal and some of the future implications, some of the detail from the department.

MR. JOHNSON: Would this committee be more comfortable if I came back with a grid? I personally don't like grids, but that would, I think, satisfy many of the questions that are around the table on what the end costs are.

MR. BRASSARD: I don't think Don's suggestion changes my motion at all, except that perhaps I don't see anything wrong with getting more information and more detail. Perhaps this is the wrong time to be even considering this, during a budget debate when we're setting the stage for other budget considerations.

THE CHAIRMAN: Well, we've passed his budget.

MR. BRASSARD: Oh, yes. I know that.

THE CHAIRMAN: Any further discussion on Roy's motion?

MR. BRUSEKER: The motion is to not accept this?

THE CHAIRMAN: Right.

All those in favour of Roy's motion? Opposed? Carried.

MR. JOHNSON: Okay. Thank you.

THE CHAIRMAN: Harley, item 8 on our agenda is some other issues that you'd like to bring forth to the committee.

MR. BRUSEKER: That's pretty easy. I move we accept it as presented.

THE CHAIRMAN: Oh, that's the empty tab you're talking about.

MR. BRUSEKER: Exactly.

MR. JOHNSON: With all due respect I would request an in camera session as I have two issues that are personnel related.

THE CHAIRMAN: Is that acceptable, to move in camera, to the committee?

MR. BRASSARD: I think it appropriate when you're dealing with personnel issues, personal issues.

THE CHAIRMAN: Okay. Do you want to vote on that? Gary made a motion. We'll just go in camera; okay? All agreed?

HON. MEMBERS: Agreed.

[The committee met in camera from 2:37 p.m. to 3:17 p.m.]

THE CHAIRMAN: Okay. We'll call the meeting back to order. Harley, you have a few comments.

MR. JOHNSON: On changes to the Ombudsman Act, Mr. Chairman. I would like consideration for five. I attempted to bring these five changes to this committee with actual legislation, my recommended legislation for it. However, I was told that Parliamentary Counsel will not do any work on it unless this committee gives them direction that they support those things. I've got five that I wish consideration for. We've talked about them all before.

Number one. Many of the clauses now have final and binding clauses within different pieces of legislation. Some departments are coming back to me now saying: "Okay; we accept that even though there's a final and binding clause, the Ombudsman can investigate. But even if the Ombudsman investigates and comes with recommendations, we cannot implement because it's final and binding." There is a legislative solution, and that is to indicate that a department can implement the Ombudsman recommendation, notwithstanding final and binding clauses.

The second that I'm having some difficulties with is confidential or privacy clauses in some of the Acts, specifically in areas such as maintenance enforcement, where they are precluding the Ombudsman from reviewing certain pieces of information because they've got confidential provisions within their Act and that would violate the privacy Act. I've gone to Bob Clark's people and have a letter now, which has gone back to individual departments, indicating that the Privacy Commissioner has no concern with information being shared with the Ombudsman. I believe there should be a legislative solution, and that is for the Ombudsman to be allowed access to information, notwithstanding confidentiality or secret provisions of the other Acts. It's turning into a constant dog fight in trying to get my job done, which the Ombudsman Act allows and that you've hired me to do. I spend too much time fighting over this type of issue rather than doing the investigations.

The third problem I'm facing right now is that some departments are trying to restrict my investigation to process only. There is a court case out of Ontario where the Ombudsman has access to both process and merits of a decision. With some of the departments, especially lately, some new draft laws are trying to restrict the Ombudsman only to process, whereas I have always reserved the right to look at merits in the past. To me there's a legislative solution. It's to clarify that the Ombudsman looks at both process and merits of decisions of tribunals. The most recent example of that came when we talked about some of the changes they want me to look at for jurisdiction in the health care professions. They only want me to look at process, not the merits of decisions. The legislative solution is to ensure the paramountcy of the Ombudsman Act when it comes to investigation of complaints.

The fifth issue, which I've talked about before with this committee, is protection of the name "Ombudsman." There's a legislative solution in my opinion: to prohibit the use of "Ombudsman" without written permission of the Ombudsman. This clause has been incorporated in numerous pieces of legislation around the world. I'm asking this committee to consider approving in principle those changes. I would then go back to Parliamentary Counsel and have proper wording developed and then brought back to this committee for final approval.

THE CHAIRMAN: Sorry, Harley. I was reading during the last few sentences that you were saying.

MR. JOHNSON: What I would like to do is have Parliamentary Counsel or the drafting people within Parliamentary Counsel now put together clauses that incorporate these concerns that I have for changes in legislation. I require this committee's direction or approval to go back to them to have this done, and then I would bring it back to this committee for discussion and approval or changes or rejection of the recommendations.

THE CHAIRMAN: Last December we talked at length about a comprehensive review of the Ombudsman Act. From my going over *Hansards* of that meeting, you were going to come back to the committee with recommendations for change. Now you're thinking that Parliamentary Counsel should be involved.

MR. JOHNSON: When I came back to this committee - and I think it was Mr. Brassard that raised it - he wanted a dollar figure to be included basically within a budget component and how much it is going to cost for the type of review that I looked at. It came out to around \$98,000. My position is that this committee would not be approving that type. So on that basis I'm now suggesting that these minor changes, which would not be a full, comprehensive review of the role of the Ombudsman in the province of Alberta, will allow me to do my job properly.

THE CHAIRMAN: Okay. We will as a committee, then, meet with Parliamentary Counsel and ask them to be involved in this. Or are you going to ask them directly?

MR. JOHNSON: I would ask them directly if this committee agrees in principle that they now develop laws that can be brought back to this committee for its proper and full review, based on these five issues that I've just raised with you.

THE CHAIRMAN: Is that okay with the committee? I see heads nodding. Is anyone opposed to that? Then good, Harley.

MR. JOHNSON: Thank you very much. That's it for my agenda.

THE CHAIRMAN: That's it for mine, too, then. Thank you.

Committee members, we have a few items on the agenda that we would like to complete today, if we can. I think it'll go fairly quickly, so if you want to hang in here for half an hour. We're scheduled to go to 3:30. If we want to, we can cut it off at 3:30, if committee members are busy, and pick it up tomorrow.

MR. KOWALSKI: I have a commitment at 3:30; I agreed to that.

THE CHAIRMAN: So I'll entertain a motion to adjourn, and we can squeeze the rest of it in tomorrow.

MR. BRASSARD: I'll move such a motion.

THE CHAIRMAN: Okay, Roy. All in favour?

HON. MEMBERS: Agreed.

[The committee adjourned at 3:24 p.m.]