

1:33 p.m.

Tuesday, August 20, 1991

[Chairman: Mr. Bogle]

MR. CHAIRMAN: I'd like to call the meeting to order. Derek is going to be joining us, I understand, in about 20 minutes, Tom?

MR. SIGURDSON: Yes.

MR. CHAIRMAN: So I think what we'll do is work on the agenda up to item 7, and if Derek has not joined us by that time, we'll take a short break so that when we do get into our overview on the office of the Ethics Commissioner, all those who are planning to be here today are able to be present. Stan Nelson is not going to be here today, and John Drobot will not be here either today.

So we'll first look at item 2, Approval of Agenda.

MRS. GAGNON: So moved.

MR. CHAIRMAN: As presented? All right. All in favour? Opposed? Carried.

Moving on, then, to item 3, Approval of Committee Meeting Minutes of June 26, 1991, if we can just quickly take a look at the minutes.

MRS. GAGNON: On page 7, regarding the Ethics Commissioner and your meetings with the Speaker, I understand that you would report on that when we get to that item in the agenda.

MR. CHAIRMAN: Yes.

MRS. GAGNON: Thank you.

MR. HYLAND: I move that we accept the minutes.

MR. CHAIRMAN: Alan has moved that we accept the minutes as presented. All in favour? Opposed? Carried.

Item 4, approval of the order of the Auditor General. This really is a result of our last meeting.

Louise.

MRS. KAMUCHIK: As you recall, when the Auditor General met with the committee at the June 26 meeting, the committee asked him to make some revisions to his proposed order. This is a result of the committee's recommendations, and I just need for you to review it to make sure that's been done and approve it and authorize the chairman to sign it.

MR. CHAIRMAN: Could we have a motion to approve the same?

MR. HYLAND: I'll move it.

MR. CHAIRMAN: Alan. Further discussion? All in favour? Opposed? Carried. Thank you.

Item 5 relates to the report on the offer to Kingston Ross Psnak. If you recall, at our last meeting we dealt with the rather open-ended letter we received from the auditors. A motion was passed directing myself to write back to Kingston Ross with a firm dollar figure, and they have since returned the

letter signed. Have all members received a copy of that, Louise? All right.

Anything further on the auditors' report? Okay.

Moving on, then, to Report on Attendance at Public Accounts Conference, which was actually attended by four members of the Assembly. The Public Accounts Committee sent the vice-chairman, Ron Moore, and also Gerry Gibeault, and Alan and I attended the conference on behalf of this committee. The focus of the conference this year was on public accountability with Crown corporations. So most of the sessions centred around speakers who either had knowledge as parts of those Crown corporations or were in either auditing functions or the private sector where they were relating to Crown corporations. So it was a very focused meeting in that sense. As you know, the meeting took place in Winnipeg on the 11th, 12th, and 13th of this month. It was very hot and muggy. The hospitality was quite pleasant.

One of the really interesting aspects of the conference came towards the end, when we dealt with a report by Warren Jestin, senior vice-president and chief economist for Scotiabank. We were into the area of federal/provincial programming and overlaps, deficiencies. One of the observations which was brought down that I wanted to come back and share with the committee was that it was Mr. Jestin's considered opinion that the federal government has no further room to manoeuvre on taxes other than GST and that in terms of downsizing in their own operations, the greatest pressure would continue to be in the area of unloading on provinces. So we would see further reductions in cost-shared programs, whether they be in the area of health or education or possibly social services. I'm sure the decision by the Supreme Court whereby the so-called richer provinces of British Columbia, Ontario, and Alberta are singled out for separate treatment from the other seven provinces - the fact that the court has agreed that that is indeed within the federal government's right - may well add to this process. So the concern Mr. Jestin had was that there will then be pressure on provinces to unload responsibilities to municipalities, that you'd have a chain reaction, not necessarily in the same areas the federal government would be unloading on provinces but that that could well exist.

One other observation was that approximately 15 percent of total federal government costs today are in the area of transfer payments and that we're probably halfway through the reductions which have been made by the federal government. If that is the case, we could expect the unloading to continue and come out with about the same dollar figure we're at now, so they would reduce their total obligations to provinces. Of course, the biggest single one is in health care. Using Alberta as an example, it did not go unnoticed that exactly 20 years ago health care represented 10 percent of our provincial budget and that the figure today is something like 27.8 percent.

Alan, was there anything you wanted to add to that overview?

MR. HYLAND: Just to parts of it. Mid-afternoon of the last day had two speakers: an official from Scotiabank and a professor from the University of Winnipeg, both economists, both doctors of economics. It's the same as hiring a lawyer for an opinion: if you hire two, you're going to get two different opinions. There were two vastly different opinions, probably formed by their background and who they were working for and stuff like that. They agreed on some things, but there were some things that they didn't agree upon. You know, it was probably because one guy had worked within the university circle and had that view, and the other guy had worked outside for a

bank and for other agencies, and he had a different view. They agreed on how governments get to it, but they didn't agree that what they do is the same; i.e., if their deficit is good or if it's bad. There was a difference of opinion on that.

1:43

Our Public Accounts Committee is about twice the size of any other in Canada, including the House of Commons. This is perhaps something that the Whips and the deputy Whips of all the caucuses need to look at because of the size. We are the largest by far.

I think most Public Accounts are chaired by opposition chairmen except Yukon.

MR. CHAIRMAN: That was a recent change.

MR. HYLAND: They recently changed theirs to have a government chairman. They said they had reasons, but they weren't really convincing anybody of the reasons.

MR. SIGURDSON: I'm sure they convinced somebody.

MR. HYLAND: Themselves.

MR. ADY: Who's in office?

MR. HYLAND: Do you want that question answered?

MR. ADY: No. I remember now who's in office.

MR. HYLAND: The Public Accounts Committee is one of the things, at least in my opinion, that no matter which party is in government, it's fair that the other party be the chairman of it.

The one thing I found out that I didn't know is that with ours meeting weekly - and some people have a problem with the effectiveness of ours - we're probably more effective than almost any other in Canada, when you talk to those guys. Manitoba's met two or three times last year, and many of the others: two or three times. They don't meet on a regular basis. B.C.'s hasn't met once in the last year. Some of the public accounts committees only dealt with provincial corporations and that. They didn't deal with Crown corporations. They didn't deal with the regular public accounts; it goes through another committee. In spite of some of the perceived problems with ours, I think it still appears to be one of the better ones. At least it meets regularly, and ours is probably one of the few, if not the only one, where ministers attend. For the others, officials attend and answer problems.

This meeting was carried on at the same time as the auditors general meeting, which I guess is normal. It was interesting that when we were meeting, there was nobody in the rows for Quebec because they didn't attend. But the minute we started the joint meeting with the auditors general, one of our guys got pushed back to the back row so the Quebec guy could have a seat at the front. I will leave it at that.

Along with what Bob said about the amount of money out of the federal budget committed to provinces, it's almost the same split: the 15 percent that's committed to personal payments. I suppose in that would be unemployment insurance, but they said the other things like child tax credits and GST rebates and all that sort of thing. So the break going to the provinces is about the same as what is going to people individually. That's why they thought there was very little movement. When you've got

over 30 percent of it committed in direct payments plus your other operating costs, there wasn't a lot to work with.

I think that's it.

MR. CHAIRMAN: Thank you. Questions or comments?

Tom, followed by Yolande.

MR. SIGURDSON: Just a couple of comments on that. Perhaps in the formal meetings that you may have held, I'm wondering if the new Chair of the Ontario Public Accounts Committee was there and if they see any changes on the horizon to their Public Accounts Committee. I know that when Ed Philip was the Chair of Public Accounts, he had similar complaints about the committee work as I think are universal with all opposition members. I'm just curious to know if the Ontario government is starting to move on the structure of Public Accounts.

MR. HYLAND: I think the answer to that is no, although even the opposition members and the government members that were there thought there was going to be some movement. Whether they went as far as the NDP said they would go if they ever got into government is questionable, but they do see some movement. They really didn't explain to any extent about the movement, because Ron Moore did ask them a question about the paper they presented two years ago and that he would look for an update of a very interesting new way of doing things. Well, there was no update. They never did say what movement they expected, but they expected some change. But whether it goes to the same extent as the proposal or not, I don't know. Is that what you remember?

MR. CHAIRMAN: Yeah.

MR. SIGURDSON: One other question with respect to those provinces that don't meet as often as we do. When they meet, are they able to investigate? Have any of the jurisdictions yet got the power to investigate departmental expenditures as opposed to just review? If you recall, I suggested that that was what was going on in Australia, that they had the power to investigate rather than just review. None of our Canadian jurisdictions have got that.

MR. HYLAND: I don't think so. I sat with the NDP member from Winnipeg at supper that night after we'd talked about that, and he didn't give any indication that they did. Their system is far different. Theirs are not like the rules our committee imposed upon itself: the question and two supplementaries. Once you get recognized, you can keep on going until the chairman cuts you off, and that's part of the problem.

MR. CHAIRMAN: To add to that - and I'm sorry, I can't recall which province it was where they are now at an impasse with the government. They cannot get ministers to attend their meetings, and deputies won't come without their ministers, so they're not getting answers to questions. I think one of the reasons Yukon has a committee that's now chaired by a government member, which is a change from the past, again was because the government was not happy with the person nominated by the opposition to be chairman of the committee, and they wound up at an impasse. It sounds like there are much more hardball politics in other jurisdictions and therefore less effective.

MR. SIGURDSON: Yeah. If there's no statutory requirement for ministers to appear before a committee, then it's not too likely that they're going to go. Here it's almost voluntary as well.

MR. CHAIRMAN: Well, it is, I suggest, more unwritten here. It's part of the practice.

MR. HYLAND: Here it's more of a committee, isn't it? You make the motion, and it passes.

MR. CHAIRMAN: Okay.  
Yolande.

MRS. GAGNON: Thank you. An observation and a question. For those provinces which don't have a Public Accounts Committee that meets as frequently, I guess there is a little up side, and that would be that the committee is less expensive to operate. I'm wondering if you would ever make a recommendation that maybe ours meets too often. There's a lot of value in ours meeting at least twice a month, but weekly: is that necessary?

MR. CHAIRMAN: Of course, it's important to remember that our Public Accounts Committee meets only when the House is sitting.

MRS. GAGNON: During the session. Yeah, I realize that.

MR. CHAIRMAN: So where are the added costs for the committee?

MRS. GAGNON: They don't charge extra for those committee meetings.

MR. CHAIRMAN: There are no travel costs. There are no per diems that are levied.

MRS. GAGNON: Well, they could, but they don't. We don't if we meet during session.

MR. CHAIRMAN: They could, but just in practice committees that meet when the House is sitting don't charge per diem or travel.

MRS. GAGNON: Okay. I know there's such a thing as not meeting often enough, definitely, but from what you heard there, the conversations and so on, do you think maybe ours meets too frequently? Or is it impossible to meet too frequently?

MR. HYLAND: I guess if you asked the chairman of the B.C. committee, she would probably say no because they've never met this year. I guess it's a little over a year that they've never met.

MR. CHAIRMAN: Because the meetings are not at the call of the Chair.

MR. HYLAND: No, they're not at the call of the Chair. In Manitoba it's at the call of the Government House Leader, who also happens to be the Provincial Treasurer, who was grilled in two meetings and just said: that's it; I'm not calling any more meetings.

1:53

MRS. GAGNON: Okay. My question, then, deals with the report you gave, Bob, regarding the guest speaker and the transfer payments between provinces and so on. He indicated, or else you did, that our provincial budget for health care is now 27.8 percent. Would you say that the difference between that figure and what it used to be can all be accounted for by the decrease in federal transfer payments, or is it that costs here have gone up?

MR. CHAIRMAN: Of course costs have gone up. We're an aging society; it's costing much more to run the system today than it did. I think in fairness, federal transfer payments which come into the province flow into our General Revenue Fund, so I think that would be absorbed within the 10 percent of 20 years ago and the 27.8 percent of today. Twenty years ago they were paying much closer to half. I have forgotten the figure today, but it's down considerably.

Anything else, Yolande?

MRS. GAGNON: No, that's fine. Who was this speaker, by the way? Somebody from a bank?

MR. CHAIRMAN: Yes, from the Bank of Nova Scotia. Mr. Warren Jestin, senior vice-president, chief economist of the Bank of Nova Scotia, was one of the two on the panel. The other was . . .

MR. HYLAND: Paul G. Thomas. No, that's not the right one.

MR. SIGURDSON: Some professor.

MR. HYLAND: Professor Fletcher - how do you say that? - Barager.

MR. FOX: Bogle.

MR. CHAIRMAN: It certainly isn't Fox; we know that.

MR. HYLAND: One did have a handout. That wasn't a speech. That was a handout. But when we receive the transcripts, we can certainly circulate them.

MRS. GAGNON: I would appreciate that. Just to follow up. Did either of them indicate that depending on what happens with the powers - you know, the arrangements we will make between provincial and federal . . .

MR. CHAIRMAN: No. Their comments were based on the present situation.

MRS. GAGNON: Not what might happen.

MR. CHAIRMAN: No, and that's a very valid point.

MRS. GAGNON: Thank you.

MR. HYLAND: You see, that thing was just that day or the day before it came down.

MR. CHAIRMAN: Jack.

MR. ADY: My question goes back to the transfer payments. You said that transfer payments make up about 15 percent of the federal budget.

MR. CHAIRMAN: That's the figure we were given, yes.

MR. ADY: And that they have passed off about half as much as they want to.

MR. CHAIRMAN: They've gone about halfway, half as much as they think they dare.

MR. ADY: And that's brought them to what percentage then? Or did they say?

MR. CHAIRMAN: No, they did not.

MR. ADY: Do they want to get to 10 percent or . . .

MR. CHAIRMAN: No. Fifteen percent of the budget today is made up of transfer payments to the provinces. I don't know what the percentage was when they began this process. We expected that they were about halfway. They've only got two places to move: they can raise more money through GST, and they can reduce expenses by transfer payments to the provinces. The moment they reduce their budget in other ways, they're causing hurt by reducing services and programs.

MR. ADY: Okay.

MR. SIGURDSON: Damn Tories, eh, Jack?

MR. ADY: That's right; you've got to watch 'em.

MR. CHAIRMAN: All right. Anyone else?

MR. ADY: The first you know, we'll be putting in a government member as chairman of the Public Accounts.

MR. CHAIRMAN: So we'll move on.

MRS. GAGNON: Remember, there's an up side for you guys. He who pays the piper calls the tune, you know. You're paying; you could have more authority.

MR. CHAIRMAN: We'll move on to item 7, Ethics Commissioner Position. Flowing from the minutes, you'll recall a motion was passed at our last meeting, the meeting of June 26, authorizing myself as chairman to work with the Speaker of the Assembly so that we could get a basis, so that as our committee looks at both the selection of an Ethics Commissioner and the staff component to run the office, we would have a fairly good foundation. In my discussions with David Carter it was agreed that we would ask two individuals to gather information for us so that we could in turn have that material presented at a subsequent meeting, and that meeting is today.

I think you've all had a chance to meet Eileen Fedor. Eileen is a consultant at the present time. She is a past executive director of the Electric Energy Marketing Agency and in that capacity had some considerable experience with streamlining and consolidating the activities of EEMA in working with the three major electric generating entities in the province - TransAlta Utilities, Alberta Power, and the city of Edmonton - and then distributing it at an equalized wholesale rate across the province.

Joining Eileen in this task is Karen South, the Clerk Assistant to our Assembly and no stranger to us. These two individuals divided up their responsibilities. They've worked together, but they've also focused in particular areas.

What we're going to do now is go through a chart. Eileen will be the key mover in taking us through the chart; Karen will supplement where there's information which she feels needs to be injected into it. Once we've gone through the chart - and I would recommend that we go through the material first and hold questions to questions seeking further information rather than comment. Once we've gone through the comparison with all of the jurisdictions, we'll then go back and talk about it in a more detailed way. Of course, as a committee we will not get into reinventing the wheel. We will not, for instance, debate the merits of a six-month cooling-off period versus a year cooling-off period. That's outside the mandate of this committee. If any committee member feels strongly that we should take another look at that, that can be done at a subsequent time, when you'd put a motion forward recommending that this committee recommend back to the Assembly a change, but we're not going to change that here today.

Once we've gone through the chart, Karen is going to give us some specific information on Ontario. Karen went down and visited with the good folk in Ontario. She attempted to do the same in British Columbia and couldn't make contact with Mr. Hughes because of his involvement in Manitoba at the present time, but Karen's got some very good information for us as well as some forms which she's going to hand out just to ensure that we all understand the magnitude of where we are and what we've got. So hopefully by the end of today's meeting we'll all have a much better foundation in not only what's in our legislation and what procedures we may wish to adopt but in a comparison with other jurisdictions to see what they're doing and what's working well for them.

At this time I'd like to turn it over to Eileen and distribute the material we have. By the way, I should mention in terms of the logistics that trying to get comparisons with all of the provinces in a readable way has not been easy. Eileen and Karen have worked long and hard. What they basically have for us are charts which we'll look at in sections. So it'll be important if we can share at the tables, if we can have one chart for every two members, and they'll try to lead us through it. We wanted a large map we could put on the wall, but it just wasn't physically possible in the time available.

Go ahead, Eileen.

MS FEDOR: Thank you, Mr. Chairman. Good afternoon, ladies and gentlemen. It's definitely a privilege to be with you this afternoon, perhaps a formidable privilege but a privilege nonetheless. It's been a privilege as well for me to work with Karen, and I thank her and Louise and Wendy and Ted for their assistance. Certainly I couldn't have gotten to this stage today without a lot of backup support.

It is correct that I was asked to look at the legislation across the country, and Karen, using her contacts, was able to obtain a lot of information for us. We have, therefore, in this binder the legislation as it exists in the various jurisdictions across the country, and we also have a binder on Ontario, I believe, plus of course a lot of things on Alberta. Those could be available to you, I'm sure, either through Karen or myself, and Karen will speak to her volumes in a minute. We don't have anything from Newfoundland. Newfoundland was not able to send us anything by our cutoff date, which was last Friday afternoon at 4, so we still haven't received anything from them.

2-03

In respect of the federal government you probably are aware that Bill C-46, which was going to be legislation to speak directly to conflict of interest, did not get beyond first reading. There is, however, the Parliament of Canada Act. You won't see that on here; the other jurisdictions are on here. Division B in the Parliament of Canada Act deals with conflict of interest, but as I see it, it's primarily related to eligibility to be a member, and therefore everything seems to focus on eligibility or ineligibility in that regard. It includes a reference to receiving prohibited compensation, especially in matters related to influence, in which case conviction would result in a fine and disqualification. Again, it's a question of eligibility, but nothing that would really compare by way of legislation to what exists elsewhere. They have as well some guidelines, and in some of the most recent guidelines made available to us - again, I must say that we were working with material that was made available to us. We apologize if something is not as current as perhaps it should be. Certainly it's the best material made available to us at this time.

A December 1988 document entitled Conflict of Interest and Members of Parliament, which came out of the office of the Law Clerk and Parliamentary Counsel - this is for the federal government - in respect of financial interest stated that at present no legislation exists to enforce the disclosure of a member's financial interests or to prevent a member from using his or her influence; however, there is a standing order which does provide that no member should vote, et cetera. I just say that by way of qualifying why we have not looked at the federal government in the same way as we have some of the other jurisdictions across the country.

Given the extensive background to this Act, previously Bill 40, I was looking at what Alberta had done in comparison to the other jurisdictions. Especially I wanted to get a sense, I wanted to be able to perhaps answer an essential question, and that was: has this legislation been designed to engender trust and public accountability? The reason I say that, too, is because when I looked at the other pieces of legislation, they address conflict of interest in different ways, as you will soon see, and I felt that in fairness, in looking specifically at Alberta primarily and then comparing, I wanted to get a sense as an outsider whether this could be the case.

I thought of a variety of things as I was going over and looking through the legislation, and I was thinking of key words, words that you're all very, very familiar with, having certainly been involved over a great deal of time in the preparation of Bill 40 in the first instance and then in the various debates that ensued; "confidence," for example, "trust," "judgment," "human judgment," "motives," "fair," "right," "honour," "accountability," "public accountability," "sensitive to both the public and the members," "resolve issues," "issues management or confrontation," "education," "enforcement." As these words kept going through my mind, I kept thinking, well, we are dealing with this legislation, with people, and we don't impute motive. We hope that things will be fair. We hope that people will make good human judgment. Ultimately, of course, regardless of what is done, it all comes down to people and the individuals: how an individual will internalize this sort of a document and what they will do, how groups will handle it - a caucus, for example; three caucuses - how a Legislative Assembly . . . But ultimately if we're talking about trust and confidence, that's what it comes down to, as you very well know from your very eloquent debates.

Without further ado, I will, as Mr. Bogle has indicated, pass out to you some very large charts. They're going to be put in front of you to cover everything else, I think, that is in front of

you, because they are in fact very large. We apologize, I suppose in part, because we were being very ambitious: we wanted to present things in a way that would read easily.

Thank you, Karen.

"Big" is the word, and there are three pages stapled together, although it doesn't seem like it.

I should also indicate, as you're preparing to look at this great document, that you will have to take away with you a version of that, inasmuch as you'll have the first panel on the left-hand side, entitled panel one - and Wendy has very nicely put them together in little booklets. So you will have the information to take away, and we'll make that available to you, certainly, at the end. I need to have this also covering my work surface.

So what we have done is that we have entitled this the Administration of Conflict of Interest Legislation, Summary of Comparisons to Alberta Legislation. We did this inasmuch as we best could understand what exists in legislation. We didn't expend money to travel to each province, we didn't do a lot of things that perhaps you would have preferred or maybe you would want at some other point in time, but we did do a lot of reading and a lot of asking questions.

The first question on the left-hand side is: is an office set up to administer the conflict of interest legislation, and if so, how is that identified? As you move from Alberta and then across the country and up to the north, you will see that in Alberta there is in fact, as you know, the Ethics Commissioner, who is an officer of the Legislature and whose appointment is on recommendation of the Assembly, the appointment being by the Lieutenant Governor in Council. That is similar in British Columbia, where there is a commissioner, also an officer of the Assembly. In that instance on Premier's motion in the Legislative Assembly and on recommendation of two-thirds of members present, the Lieutenant Governor in Council shall appoint the person recommended.

Saskatchewan has no separate office; neither does Manitoba. In Ontario, similar again to Alberta and British Columbia, there is a commissioner who is an officer of the Assembly, and that appointment is made on the address of the Assembly, appointed by the Lieutenant Governor in Council.

Quebec has a very short piece of legislation tucked into a larger Act. It has no separate office established, but there is a jurisconsult that can be appointed as required. We'll get into a definition just a little later on, so I won't go into that at the moment. New Brunswick, no separate office. Nova Scotia, no separate office, but again here they have in their legislation what is identified as a designated person, who is a judge, who is in position to enforce the legislation. Prince Edward Island, no separate office, nor in the Yukon. In the Northwest Territories, while there isn't a separate office, there is a Conflict of Interest Commission created to enforce the legislation, and that commission has a minimum of five and a maximum of nine members.

The next question relates to conflict legislation.

MR. HYLAND: Is there any one of these that you've listed that exists as a full-time person, or is it a part-time person?

MS FEDOR: No, there is no full-time person to the best of my knowledge.

The conflict of interest legislation and whether it addresses various types of individuals; for example, all Members of the Legislative Assembly - I'm down on the left-hand side - ministers, public servants, former ministers, and if yes, a cooling-off period, and spouses and dependent children. That reads very easily for you, I would think, perhaps from left to right

across, inasmuch as the legislation in all the jurisdictions we're discussing does impact Members of the Legislative Assembly, ministers mostly, although in Quebec there is no separate reference to ministers. In the Yukon it impacts ministers, and there are some guidelines and an order in council impacting the ministers. Public servants, no, except in Manitoba senior civil servants. In New Brunswick the legislation impacts deputy ministers, heads of Crown corporations, and executive staff of members. Nova Scotia, public servants . . .

**MR. HYLAND:** What would the executive staff mean? Executive assistants? Is that mainly in a minister's office, or like a member's secretary or any one of our secretaries who couldn't find employment elsewhere in the public . . .

**MS FEDOR:** It's at the senior level, and I would have to check the legislation, Mr. Hyland. I'm sorry; at the moment I'm just not sure of the definition. I think Karen will probably be checking; she's so efficient.

2-13

Nova Scotia, yes, and the others, no. But New Brunswick's is fairly comprehensive. It is certainly not all members of the civil service.

Then former ministers. In Alberta, yes, and a cooling-off period of six months. In British Columbia, similarly, but the period is one year. In Manitoba the cooling-off period also impacts not only former ministers but senior public servants, and the time period for both categories is one year. In Ontario, for ministers, 12 months. In Nova Scotia, ministers, members as well, and public employees, for six months. Nothing in P.E.I., Yukon. In the Northwest Territories it's yes, 12 months, and it also applies to the Speaker.

Spouses and dependent children; that is, minor children, children who are below the age of majority. In Alberta, yes; B.C., yes; actually, right across the country except Quebec. We say no because what they do have by way of legislation doesn't say anything at all, doesn't speak to it.

Obligations of members. Here we were looking at - and it's all on one page, so we don't have to flip just yet - the various types of obligations in respect of legislation impacting a member. Again, going down the left-hand side: decisions furthering private interests, influence, insider information, constituency matters, offices and employment. The sixth point there is gifts/benefits from persons other than the Crown; if yes, declaration, value and disposition. Seven, contracts with the Crown, and (8), payments from the Crown.

Again, going across from left to right, you will find that decisions furthering private interests was not clearly identified in Saskatchewan legislation, to the point where we indicated a no. That was the only one on that line.

Influence. Similarly, Saskatchewan and Yukon. Again, some of this could be open to interpretation, so I restate that not being legal advisers but rather someone who has been asked to put this information forth, should you have a concern that would take us into another jurisdiction, we would clearly have to seek such opinion.

Insider information, right across. In Yukon it's for ministers.

Constituency matters. Again, Saskatchewan is a no and Nova Scotia is a no, as well as P.E.I. and Yukon.

Offices and employment. Similarly we have some yeses and some noes across the country. B.C. and Ontario both have no, where Alberta clearly speaks to offices and employment.

Gifts. That is a question where it is also very difficult to glean the entire interpretation perhaps, because when it comes to value, one doesn't know whether one piece of legislation speaking to the cost . . . Is it cost to replace, cost at time of purchase? Is it the value as in the eyes of the beholder? What is it? How do you value some things? Maybe something hasn't had a dollar value ascribed to it for a long, long period of time. So this again you will have to use however you will but with, certainly, that qualification. Invariably, there is more often than not something in legislation elsewhere in the country speaking to the matter of gifts and benefits. The values vary a great deal. In Alberta we have \$200 per calendar year. We look at P.E.I., and they have \$1,000 in the preceding two years. When we get to the Northwest Territories, they have \$100 within a year - that's \$400; I think we've got a typo. I'm sorry; that's my fault. I apologize. The Northwest Territories, where it says, "Yes; Yes; \$100," should be \$400. I'm sorry; I take responsibility as the one who should have proofread. Four hundred "within a year, certain gifts become the property of the Leg. Assembly [or the] Government of Northwest Territories." That was the one I had endeavoured to correct. That was the only one that really spoke to disposition. Other than that, what happens to those gifts is not entirely clear.

Contracts with the Crown and payments from the Crown. Again, you have a variety of responses across the country. More often than not, yes.

If we flip the page, we have the subject heading again for you so that you know what province it is we are speaking of. When you get to the bottom of the page, we ran into a space problem. So the answers are going to carry over slightly, only when we get to the bottom of the page, onto the top of the next page.

We then looked at disclosure statements, and you will note, perhaps, along the left-hand side that we speak to both disclosure statements and a public disclosure statement, inasmuch as in Alberta both are addressed in the legislation. In some jurisdictions you will see that where we have looked at the disclosure statement, that statement in fact is made public. In some places it's private, in which case nothing may be made public. So I think the issues of disclosure statement and public disclosure statement need to be looked at together ultimately, perhaps after we go right through.

Within the context of the disclosure statement we looked at a form. For example, was there a particular form that was to be used? Is that form to be filed with a particular office or with the commissioner? Is that statement reviewed after it has been prepared? Is there going to be a meeting with the member and perhaps with the member's spouse? What is the frequency of filing? Is it somehow scheduled, or is it something that varies? Is that statement private or public, and if it's public, is it available to whom? And is there a charge, because in some places, as we noted, there was and there is a charge.

You'll see that in Alberta the form is provided by the Ethics Commissioner. Going across, B.C. prescribes it by regulations. In Saskatchewan the best we could understand was that it was a report under oath. In Manitoba, a form developed by the Clerk of the Assembly. Ontario, similar to B.C., prescribed by the regulations. In Quebec to the best of our understanding it's a matter of public declaration, meaning that the individual would speak in the Assembly or committees or subcommittees if, in fact, there would appear to be a conflict with something that is going to be discussed or if they have run into a conflict or have come close to it. That is my understanding of what the disclosure would be in the province of Quebec. New Brunswick, under oath in the form provided by regulation. Nova Scotia, the

Governor General in Council may make regulations prescribing forms. P.E.I., prescribed by the regulations; similarly in Yukon. In the Northwest Territories it's established by Management and Services Board. I have a question on who or what is that board, and I don't think I have the answer. I tried to find it in the materials that I have. I don't know whether Karen would have it and be able to provide it; I really don't know. As I look at it again now, it may be a question.

In Alberta we'll have the forms, once they're completed, filed with the Ethics Commissioner. In B.C. similarly the commissioner would get a form; Saskatchewan, the Clerk of the Assembly; Manitoba, similarly; Ontario, the commissioner. In Quebec, if one gets up and speaks publicly, it would appear that (a) there is no form and (b) therefore there is nothing that would be filed, except that I would think if there was a public record, that would stand, but in terms of specifics as defined by us here, no. In New Brunswick the form would be filed with a judge of the Court of Queen's Bench as designated pursuant to direction by the Lieutenant Governor in Council. In Nova Scotia - this is where we get into the definition of the "designated person" - the form would be filed with a designated person who is a judge of the Trial Division of the Supreme Court or a retired or supernumerary judge of the Supreme Court as designated by the Governor in Council in consultation with the Chief Justice of the Trial Division. In P.E.I., the Clerk of the Assembly; similarly for Yukon and the Northwest Territories.

So you can see that there is quite a variance, for sure. I will not interpret that - that's not my job - but suffice it just to say that there is quite a variance.

In Alberta after the form has been filed, the Ethics Commissioner would review it. Similarly in British Columbia and in Ontario; other places, no. But where there is somebody designated to receive, for the most part they will review.

2-23

Meetings with member and spouse. In Alberta, yes, with both. Similarly in B.C. and Ontario, and no, not necessarily, in other jurisdictions.

Frequency of filing. Mostly across the country we could say that initially there is some form of filing, and then annually. In Manitoba, for example, you'll see that it's at the beginning of each session of the Legislature and as changes occur. In New Brunswick, prior to taking office and as changes occur. In P.E.I., at the commencement of each session of the Legislature. Yukon is on or before the 30th of April of each year. A lot of similarity there.

Is the statement at this stage made public, or is it private? Well, in Alberta it's private, inasmuch as it goes on further; that is, as information to a public disclosure. In British Columbia it's private. In Saskatchewan it's public to anyone, essentially, who would pay a fee; similarly in Manitoba. In Ontario it's private; New Brunswick, private. Nova Scotia, public for the members and available to anyone else for a fee, so I would think that the members can review it and the others would have to pay to view. P.E.I., private; Yukon, public; and Northwest Territories, private.

Public disclosure. In Alberta it would be prepared by the Ethics Commissioner; in B.C., the commissioner; and in Ontario, the commissioner. The Clerk of the Assembly would prepare something similar in the Northwest Territories. After the public disclosure statement has been done, it would be filed in Alberta with the Clerk of the Assembly; similarly in British Columbia and Ontario and in the Northwest Territories. Then that particular document would be available in Alberta for anyone to view, and copies would be available for a fee; similarly in British

Columbia, and in Ontario, available to the public for examination. In Prince Edward Island anything that would be prepared there by way of disclosure statements would be available only in regards to meetings, and in that instance there would be a central record prepared for inspection. In Northwest Territories, available for examination by the public.

MR. CHAIRMAN: We have a question. Yes, Yolande.

MRS. GAGNON: Excuse me, please. Under IV and V, IV(6) says that the statement is private, right? Or is it?

MS FEDOR: Yes.

MRS. GAGNON: Yet it says under V that it is public.

MS FEDOR: Yes.

MRS. GAGNON: What is the difference? Do you declare it in private, and then it can be made public by the commissioner?

MS FEDOR: Thank you very much. Are you referring specifically to Alberta in this instance?

MRS. GAGNON: Yes, only Alberta.

MS FEDOR: Only Alberta. Yes, that's correct. In Alberta in the first instance the Ethics Commissioner would, as I understand it, obtain the information from the members, and there would be an opportunity to review that as well. It appears to me that that gives an opportunity for those instances where in fact a judgment may be required other than the individual member's judgment, in which case that would take place. The information that is clearly information to be identified would flow on through into the public disclosure, and it would be prepared by the Ethics Commissioner.

MR. CHAIRMAN: I think Karen might want to supplement that, without getting into some of the forms she's going to share with us, because I think she'll lead us through that.

Karen.

MISS SOUTH: There are in fact two different disclosures.

MRS. GAGNON: Okay, that's what I wanted to know.

MISS SOUTH: There is a public disclosure and there is a private disclosure. Unfortunately, Justice Evans in Ontario did suggest that perhaps the legislation should be a little clearer in saying a private disclosure and a public disclosure. We will do as Ontario and B.C.; we will have both. The information that you provide to the commissioner initially has far more detail than what is released publicly. So you are providing very detailed information, including values of properties and that sort of thing, to the commissioner in your private disclosure. The commissioner then discusses the private disclosure with you and makes sure that everything is correct in that. His office then prepares a public disclosure statement which takes out the values, and that public disclosure statement is then passed on to the Clerk of the Assembly and is then available to anyone who's interested in seeing it.

MRS. GAGNON: Just to follow up. If in this disclosure it is found that you need to mend your ways, for whatever reason -

you know, that something is not being done according to Hoyle – would the Ethics Commissioner, and I may be getting ahead of myself, have the authority to either fine you or penalize you some way if you will not mend your ways? Or does it just become a public knowledge thing and the public deals with you as they will? Or would there be fines under law? You know, that kind of thing.

MISS SOUTH: That's one of the reasons why the commissioner in all three jurisdictions does meet with the member and with the member's spouse if available, to discuss with you exactly what's in it. What has happened in Ontario, and I'll deal with that with respect to my meeting with them, is that a lot of members will discuss with the commissioner before making the statement on whether or not what they have done is correct. Certainly that will be dealt with beforehand and before the statements are made. He has had a couple of investigations this year with respect to matters after the statements have been made public and the suggestions of conflict of interest based on what's in there. As much as possible that is discussed with the members beforehand.

MRS. GAGNON: I guess my point is that the authority of the Ethics Commissioner to either penalize or . . .

MR. CHAIRMAN: I think that's covered in the Act. Derek, you have the Act open.

MR. FOX: Well, what I see in the Act . . . It just says with respect to the annual report  
the Ethics Commissioner shall . . . report in writing to the Speaker of the Legislative Assembly . . .  
and it would be public upon that presentation,  
. . . the names of Members who, in the opinion of the Ethics Commissioner,  
(i) have not filed disclosure statements or returns within the time limited . . . or  
(ii) have not made full disclosure . . .  
or report generally on the affairs . . . So it would seem to me the obligation of the officer would be to identify breaches through the annual report, but I don't see a specific punitive provision.

MISS SOUTH: Our section 13 deals with meeting with the members. The commissioner is required to  
meet with the Member . . . to ensure that the Member has made adequate disclosure and to advise about the Member's obligations under this Act.

MR. ADY: But her question of penalty if there is . . .

MISS SOUTH: Well, if there is a conflict of interest, and I think that has been dealt with more after the fact, after the release of the public, then he has a number of different recommendations that he can make to the Assembly about a penalty if he finds that there is a breach.

MR. FOX: It would become the responsibility of the members.

MS FEDOR: That's correct: of the Assembly. As I understand it, in the event that the member hasn't been attentive to the advice and direction of the Ethics Commissioner and that ultimately an investigation is to ensue, for example, the Ethics Commissioner would make recommendations to the Assembly. It would be they who would take action, including penalties.

MRS. GAGNON: Thank you.

MR. CHAIRMAN: Anyone else? Okay. Go ahead, Eileen.

MS FEDOR: All right.

Filing returns identifying persons directly associated. Alberta seems to be the only one, and of course that legislation I believe came from the Legislative Assembly Act. It's not new to you, I don't think. Similarly with point VII, Provincial Treasurer's report. That in Alberta is a given, and it includes payments made by Crown, names of persons directly associated, and payments to person directly associated. Alberta again is the only jurisdiction that seems, certainly in this piece of legislation, to address it directly.

Then we get into the whole matter of investigation into breaches. This is where I apologize . . . [interjection] I'm sorry.

MR. TANNAS: A person directly associated: is that the spouse?

MR. CHAIRMAN: There is a definition. Karen can give you the definition.

MISS SOUTH: That was taken directly from the Legislative Assembly Act. You are required right now to file the disclosure with respect to your direct associates, and all of that section was taken directly from the Legislative Assembly Act, section 15.

MR. FOX: It's in part 1, section 5, of the Interpretation Act too.

MISS SOUTH: As defining it?

MR. FOX: Yeah. The member's spouse, a corporation, a private corporation, a partnership, et cetera, et cetera. Fairly extensive.

MS FEDOR: Yes. It is in the Act.

MISS SOUTH: Yeah. That has been taken directly from the Leg. Assembly Act. That's not a change as far as any of our members are concerned.

MR. CHAIRMAN: Okay.

MS FEDOR: All right. So when we get into investigations into breaches, I'm again saying that there is some information on the top of the last page that you have.

The first question is requests for investigations. Second is the investigation itself and the inquiry if there's to be one. Third is reporting subsequent to that. Fourth is powers of the Legislative Assembly, and fifth is penalties.

2:33

You'll see that in Alberta a request for investigation could be made in writing essentially by anyone, and it would have to be signed; a member, in writing, with regards to another member; the Legislative Assembly, by resolution, in respect of a member; or Executive Council in respect of a minister. So that is how requests in Alberta would be brought forth to the Ethics Commissioner. In British Columbia it's very similar: a member, in writing, with regards to a member seeking the commissioner's opinion – they call it an opinion there – regarding compliance with the legislation and Executive Council in respect of a

minister. In Saskatchewan no proceeding for an offence shall be instituted except by the Attorney General or a person authorized by him. In Manitoba any voter with \$300 for security for costs up front can apply to the Court of Queen's Bench for authorization of a hearing in respect of violation of the Act. In Ontario, similar actually to Alberta and British Columbia, the commissioner's opinion can be requested by members in writing in respect of a member, the Legislative Assembly by resolution in respect of a member, and Executive Council in respect of a member of Executive Council. Quebec: a member in writing for written opinion of juriconsult. In New Brunswick: any person under oath with sufficient evidence. Similarly in Nova Scotia. In P.E.I. it's restricted to a member in writing to the Clerk with respect to a member or a minister. In Yukon: no identified method. In Northwest Territories any person may file a written complaint with the Clerk of the Assembly.

Now we go to the last page. In Alberta the Ethics Commissioner may investigate with or without inquiry that may or may not be public, with full powers to conduct an inquiry as a commissioner under the Public Inquiries Act. In British Columbia the commissioner may conduct an inquiry, and where the request was made by a member, the commissioner would have the powers of a commissioner under the Inquiry Act. In Saskatchewan and in Manitoba it would be a matter for the courts. Ontario: the commissioner may conduct an inquiry and may elect to exercise certain powers of a commissioner under the Public Inquiries Act in certain instances. In Quebec the juriconsult, as appointed on motion of the Prime Minister – as you know, that would be similar to our Premier – with approval of two thirds of the Members of the National Assembly, would give an opinion in writing. In New Brunswick the designated judge shall inquire, with the powers and everything that goes with it vested in the Court of Queen's Bench regarding witnesses, documents, and so on, and may establish rules of procedure as he considers appropriate. In Nova Scotia the designated person shall inquire, and failure to comply with the designated person's requirement may result in referral to the Trial Division of the Supreme Court. In Prince Edward Island the Clerk refers allegation and relevant information to the appropriate standing committee of the Assembly, and if that committee cannot make a unanimous decision regarding the violation, it directs the Clerk to apply to a judge of the Supreme Court. Nothing that we could gather in the Yukon. In the Northwest Territories the Chief Commissioner investigates complaints and may dismiss the complaint or designate three commissioners. You will recall that there is a panel there. Between five and nine commissioners, maximum, would sit or would be identified as commissioners. In this instance the Chief Commissioner could designate three commissioners to conduct a hearing.

Now, once that has taken place in Alberta, the Ethics Commissioner would report on all investigations and findings where there were no investigations as well. So the Ethics Commissioner reports to the Speaker except where an investigation is held on a matter requested by Executive Council, in which instance the report would be made to the president of Executive Council. In British Columbia, where a member has made the request, the commissioner provides opinion and recommendations in a report to the House if it's in session, in which case the Speaker would lay the report before the Assembly. If the House is not in session, the report would be presented to the Clerk of the Assembly, who would send a copy to all members. You will recall the role of the Attorney General in Saskatchewan. Well, in this instance, if a member is convicted,

the Attorney General immediately notifies the Speaker. In Manitoba after a court judgment, the registrar of the court which delivers the judgment shall in writing certify to the Speaker the decision and any penalty. In Ontario the commissioner would report to the Speaker, who tables the report in the Assembly in cases of a Member. Where the opinion is requested by Executive Council, the report is given to the Clerk of Executive Council. In Quebec the juriconsult may file a report on recommendations, no names, with the President of the Assembly, who is the Speaker. Again it's "may," not "shall." In New Brunswick, Nova Scotia, and P.E.I., because of the matter in respect of investigation and inquiry we felt it would be a court order or judgment that would undoubtedly come out if the matters have gone through the courts. Nothing for the Yukon. In the Northwest Territories the report would be submitted to the Speaker.

Powers of the Legislative Assembly. You'll notice some variations certainly across the country here too. In Alberta they can accept or reject the findings of the Ethics Commissioner. They can also substitute their own findings. In British Columbia they can accept or reject the findings of the commissioner but cannot inquire further nor impose punishment other than as recommended by the commissioner. In Saskatchewan there don't appear to be any specific powers in these regards, nor in Manitoba. In Ontario the Legislative Assembly may order the imposition of the commissioner's recommendation or may reject the recommendation of the commissioner. In Quebec there's none. That runs a bit close to the previous answer. In New Brunswick, Nova Scotia, and P.E.I. again we have a question mark after the "None" because it's not immediately apparent to us except perhaps if one were to study some other legislation. So in the context of what we have, it would appear to be none. In the Northwest Territories the Assembly may order the imposition of the commissioner's recommended punishment or may reject the recommendation.

With respect to penalties – and, Mrs. Gagnon, I guess this comes back to your earlier question too – in Alberta the Ethics Commissioner can make recommendations; however, any penalties are imposed by the Legislative Assembly. Similarly in British Columbia. In Saskatchewan the penalties would be imposed by the court, as is the case in Manitoba. In Ontario they would be ordered by the Legislative Assembly on the recommendation of the commissioner. In Quebec there was nothing specific; it's been left blank. I should have actually put at least an N/S or an N/A or something in there. I didn't. New Brunswick: the designated judge shall direct compliance subsequent to any inquiry he makes, and any finding or order of the designated judge may be appealed to the Court of Appeal. In Nova Scotia the designated person and the Trial Division judge may make orders because of course it could have gone to the Trial Division. Any finding, order, or whatever of either the designated person or the judge may be appealed to the Appeal Division of the Supreme Court. P.E.I.: imposed by the judge. Yukon: N/A. Northwest Territories: the commission may recommend reprimand, fine, restitution be made, compensation for loss, suspension of Member, seat declared vacant, or payment of costs. The Assembly determines the penalty. Some of that is similar, actually, elsewhere. We haven't identified it as specifically as that, but certainly those are the kinds of things that could be made as a recommendation by the appropriate ethics commissioner across the province.

Annual report. In Alberta the Ethics Commissioner will be filing one with the Speaker, who will table it in the Assembly. Similarly in British Columbia. No separate offices in Sas-

katchewan or Manitoba, so there's nothing there. Again, in Ontario the commissioner would make a report to the Speaker, who would table it in the Assembly. In the Northwest Territories the chief commissioner would report to the Speaker, who would table the report in the Assembly.

That pretty much takes us across the country many times and very quickly. I recognize that this is a consolidation. You may also need some time to study it. I would be happy to answer any questions you may have. I know that Karen would enhance any response as well.

2-43

MR. CHAIRMAN: Okay. Let's first go back to the first page of the chart and see if there are now comments or questions that members wish to ask that go beyond seeking information.

Karen.

MISS SOUTH: If I could just answer Mr. Hyland's earlier question about the executive staff member defined in the New Brunswick legislation. It is

such person as may be appointed by a Cabinet Minister to serve him on a full time basis, whether or not of the status of a Deputy Minister, and who is paid out of public funds, but does not include secretarial or other similar staff of a Cabinet Minister.

MR. HYLAND: So it's really executive assistants, then, I suppose. In our case it says chief of research.

MR. CHAIRMAN: Yes, Yolande.

MRS. GAGNON: Thank you. Karen, in Nova Scotia, where they have a designated person and not a distinct office and staff and so on, did you speak with anyone or just do some research to find out if that's satisfactory?

MISS SOUTH: Nova Scotia just passed this legislation this spring. It was given Royal Assent at the end of June.

MRS. GAGNON: So they have no experience.

MISS SOUTH: I spoke very briefly with the Clerk in Nova Scotia, and my understanding is that in both Nova Scotia and New Brunswick the practice has been in past years to give the information to this designated judge, and the information has been kept private.

MRS. GAGNON: But now they've formalized that in the Assembly.

MISS SOUTH: They have formalized it.

MR. CHAIRMAN: But it is still, from my reading and understanding, very much relying on the judicial system to carry out the work.

MRS. GAGNON: Secondly, as regards the amount of time. If it's not full time, how much time is it in the case of Ontario and B.C., whose legislation is similar? Do you know?

MISS SOUTH: I know only that in both cases they are retired judges. Justice Evans is available by phone if not in the office. He certainly makes every effort to reply within a couple of days to any member's inquiry, and the two investigations he conducted this spring were both reported on within a month. He's paid by the hour, so it means a full-time position.

With respect to Mr. Hughes in B.C., obviously he's not in the office this summer. He's conducting an inquiry in Manitoba and has been there quite a number of months already.

MRS. GAGNON: Thank you.

MS FEDOR: There were a few other points that stood out in respect to the Alberta legislation that we didn't put on the charts, again because we would have had a yes and perhaps many noes across the board. In the legislation Alberta addresses the issue of confidentiality, for example, in respect of the commissioner and his staff, so confidentiality is addressed in the legislation. That is not the case elsewhere.

There are many reports of various kinds that have to be prepared, and that in large measure focuses on and is directed to the question of public accountability. For example, the Ethics Commissioner will file at least an annual report and public disclosure statements with the Speaker of the Legislative Assembly. The Provincial Treasurer's report will be there with respect to persons directly related and all the public accounts, of course. The Election Finances and Contributions Disclosure Act will also have a requirement for an annual report to the Speaker, which would be laid before the Legislative Assembly. Those kinds of things just certainly stood out in Alberta.

The role of the caucus as well was something that was almost unique to Alberta, I would think, and the role of the Ethics Commissioner to educate, to work with. From my perspective, again this certainly is to be commended by way of an approach. It would appear that the dignity of the person is primary and that you only use the courts and seek judgment and penalties down the road but that you try a variety of ways to ensure that people understand what it is we're talking about and go that road. Philosophically, it's a very appropriate role, I would think, in respect of the sensitivity to the dignity of the individuals: the fact that nobody wants to make a mistake.

I think that would conclude my part, unless there are some other questions. I know that Karen has . . .

MR. CHAIRMAN: Well, no. Excuse me.

MS FEDOR: I'm sorry.

MR. CHAIRMAN: I want to go through the chart and see if there are other questions members have pertaining to more than just information, if there are other comments.

MS FEDOR: Okay. Thank you.

MR. CHAIRMAN: So anything else on the first page?  
Yes, Yolande.

MRS. GAGNON: If I might. Bob, the whole purpose is strictly for us to understand what the job entails before we set out to maybe provide some kind of guidelines for hiring purposes or a job description. So whether we make comment or not on whether we approve or agree or disagree, that's gone, isn't it? I mean, that happened a long time ago.

MR. CHAIRMAN: Well, no. I thought the last question that you posed was most appropriate. I know we're on a fine line between seeking information and adding a comment or seeking further clarification. I tried to make it clear in my opening comments that we shouldn't go back and debate issues which are firm in legislation. Notwithstanding that, there are other areas

where we may wish to seek further information. For instance, this is a unique committee. Most provinces don't have a Legislative Offices Committee that works with officers who report to the Legislature the way we do. We may want some further clarification. We can see that ultimately it comes back to the Assembly, but do some of them flow through a committee like Leg. Offices, as we do, or not? That was really the purpose.

MRS. GAGNON: Okay.

MR. CHAIRMAN: Anything else on the first page of the set of charts? Okay.

The second set, then, starting with disclosure statement, going down through public disclosure statement, the filing of the return, the Provincial Treasurer's report, and investigations into breaches.

Yes, Don.

MR. TANNAS: Is there anywhere within the legislation in other jurisdictions for malicious reporting or the "I'd like somebody investigated" kind of thing? You know, a fishing expedition kind of thing. There's a couple of them that said "with sufficient evidence," so presumably there's an examination for discovery, where you lay out what it is before it can ever get to be public or anything else.

MS FEDOR: Yes, I recall that there is, Mr. Tannas. Is it that you would like to know from what we have here which ones would have that? I'm prepared, certainly, to look for you. I could say at the moment that I do recall that from my reading. Which jurisdiction I would have to research just quickly for you, unless Karen has it on her papers. But is it elsewhere in the country? Yes, it is addressed. Did you wish me, sir, to find the answer for you?

MR. TANNAS: I don't think so at this time, no.

MS FEDOR: Is that something, Mr. Chairman, that we could get back on?

MR. CHAIRMAN: Yes.

MS FEDOR: Thank you.

MR. SIGURDSON: Did you want to take it back as a recommendation? I just sent Bob a note because I'm looking through the definitions, and under conflict of interest legislation, to whom it applies, it says "Spouse and dependent . . . children." The definition of "spouse" in the legislation is restricted to "a man and a woman" in a relationship; there is nothing there for a homosexual relationship. Therefore, you could have a spouse or partner inside a relationship who is excluded by the Act. I don't know if that would ever go back to pose changes to the legislation, if it needs to go back, but you could conceivably have an individual who is not covered by this, and I think they just ought to be.

MR. CHAIRMAN: Karen, are you familiar or have you had a hand with how other legislation deals with that kind of relationship?

MISS SOUTH: I'm not sure that it would include other than a common-law marriage.

MR. SIGURDSON: Well, it says: "'spouse' includes a party to a relationship between a man and a woman who are living together on a bona fide domestic basis." It doesn't say "legal;" it says "a bona fide domestic basis." To me that means that if two people are living together and sharing a bathroom, a bedroom, and a living room, that is a bona fide domestic relationship.

MR. CHAIRMAN: Let's take that as notice, Tom, so that it can be reviewed relative to other legislation.

MISS SOUTH: My quick answer would probably be no.

MR. SIGURDSON: Okay.

2:53

MR. CHAIRMAN: All right. Anything else on pages 1 or 2 of the chart?

Page 3. We're dealing with investigation and inquiry, Reporting, powers of the Legislative Assembly, penalties, and annual report. Yes, Jack.

MR. ADY: My question has to do with the very last item, annual report. I'm curious as to what's in an annual report. Is it a very brief report, a report by the Ethics Commissioner that's just going to say, "Everyone has filed except two," and then "Everything is in order"? Or is this going to be a report this thick, with everybody's affairs nicely printed off so that people can sit during debate and read them?

MS FEDOR: Mr. Ady, that's section 44 of the Act, and I believe that Karen as well will have some examples from Ontario in terms of what a report looks like, the size and contents. But what is to be included in the report is identified in section 44.

MR. CHAIRMAN: But can we back up? Just lead us through what would happen where there's an allegation made about a member or a member's conduct. Just lead us through how the commissioner would act with that member and the involvement and the reporting back to the member.

MR. ADY: That wouldn't impact on the annual report of the Ethics Commissioner, though, would it?

MISS SOUTH: If I can just answer Mr. Ady's question.

MR. CHAIRMAN: Go ahead, Karen.

MISS SOUTH: The annual report is generally the operations of the commissioner's office. What Justice Evans has done in his two annual reports to date is briefly discuss his mandate and conflict of interest generally. It contains his budget. What he's done that's very useful in his most current annual report is discuss subjects that have been raised with him and discuss examples of what he found to be conflicts of interest and what he found were not conflicts of interest, without identifying any specific member.

MR. CHAIRMAN: So to be clear: the annual report is not like the Auditor General's or the Ombudsman's, where it's really a compilation of what they've done for the year.

MISS SOUTH: It includes the number of inquiries that his office has received during the year and breaks it down as to cabinet ministers or private members.

MR. ADY: So it stays general and not specific.

MISS SOUTH: Exactly.

MR. CHAIRMAN: Okay.

Anyone? Yolande, and then Derek.

MRS. GAGNON: Again in definitions, Karen, the difference between "private" and "confidential." I mean, something can be disclosed in private, which I guess does not necessarily mean it's going to remain private. I'm just wondering what the fine line is there between what is confidential and what remains confidential within a private disclosure, or if anything does.

MISS SOUTH: We do have examples of the forms that are distributed to all MLAs and all the information that you are required to provide to the commissioner. We have a sample of what has been released publicly, so you'll be able to see what is. We certainly don't have the information that is on a private disclosure; it's blank forms. But you can see that there's far more information provided to a commissioner than what is released to the public.

MR. SIGURDSON: I'm just wondering if a private disclosure would be that you have 10,000 shares in X company and a public disclosure would say that you have shares in X company as opposed to specifying the number.

MISS SOUTH: When we get into it, you will notice that you will also declare to the commissioner - at least, in Ontario they declared to the commissioner - how much money you have in each and every one of your bank accounts and how much money you have in your pocket as of the date of the deposition.

MR. CHAIRMAN: In a moment we're going to go through examples of that.

Any other questions on the flow chart? One thing I think would be helpful is if we had a couple of annual reports from B.C. or Ontario circulated to members of the committee just for our information.

MISS SOUTH: Would you like me to have them copied?

MR. CHAIRMAN: Sure.

Other questions or comments? Well, on behalf of the committee, Eileen, a very special thank you for the work you've done in pulling all this together for us so we can see where our legislation stands vis-à-vis other jurisdictions.

MS FEDOR: You're very welcome.

MR. CHAIRMAN: Okay. Now we're going to move on to Karen, who's going to lead us through some of the specifics of Ontario. You know that Karen went down and met with the staff and the commissioner and came back with some really good information on how they operate.

Karen.

MISS SOUTH: At the outset I, too, would like to thank the chairman for asking me to be involved in this process. It was

very fascinating for me to learn the depth and breadth of conflict of interest. It's not as simple as perhaps the title itself means. Working with Eileen has been very good; we've been able to discuss everything that we've been doing along the way, and I think it's been very, very helpful to the process.

As the chairman mentioned, I did go to Ontario on July 18 and spent some time in the morning with some people at Queen's Park: the clerk of the Standing Committee on the Administration of Justice and the researchers to that committee, Lisa Freedman and Susan Swift. They gave me transcripts of all of the meetings that were held this spring to discuss the conflict of interest guidelines that were issued by Premier Rae. The report of the committee is due out in the near future, and we have been promised a copy of that report. In the afternoon I met with Lynn Harris, who is the executive assistant to Justice Evans. Justice Evans, unfortunately, was unavailable on that date, but Lynn gave me the entire afternoon, and it was an incredibly useful discussion.

The first thing in the stack of material is a summary on the office of the Ontario Conflict of Interest Commissioner. The history of that particular legislation in Ontario is that the Bill received Royal Assent in February of 1988. The Hon. John Aird, who was a former Lieutenant Governor, was acting interim commissioner until Justice Evans was appointed on June 29. Some temporary office space was found for him in November of 1988, and it was then made permanent in July of 1989. It's the space that he is presently occupying.

No staff existed in his office when he was appointed. Mr. Aird offered the use of two lawyers in the law firm in which he was then working. Those two lawyers were familiar with the guidelines and therefore assisted Mr. Evans. Lynn Harris was appointed the commissioner's executive assistant in November of 1988. So it was quite a considerable amount of time that he spent without any staff working with him on a full-time basis. She had worked for Justice Evans when he was on the bench, and after he had retired, she had moved on to the Workers' Compensation Appeals Tribunal. From time to time the commissioner has made use of part-time clerical staff, but there is no full-time clerical staff in that office.

3:03

Just by way of information, from my understanding in the B.C. office there is a full-time secretary but no executive assistant, and the part-time commissioner and a full-time secretary make up that office. So in both cases the office has been kept very, very small. It is the opinion of Justice Evans' executive assistant that a large office is not necessary. There are some extra things in the Alberta legislation, where we are allowed to have complaints from the public and where he may have a little stronger educational component in legislation, that might require some additional staffing. But very definitely it was the feeling in Ontario that a large staff was not necessary.

The budget has been reproduced there. All of the budget information is taken from the annual reports. They list both what was budgeted and what has been expended. Ms Harris mentioned that they have budgeted \$50,000 for investigations each year. They have absolutely no idea what an investigation would cost because they have not yet had a full inquiry under the Public Inquiries Act. It was her feeling that if it went above and beyond the \$50,000, it would most likely require a special warrant.

The space utilized by the commissioner is provided by the Legislative Assembly office; that is, the space itself. All of the furnishings and all the equipment come out of the commis-

sioner's budget. It's a fairly standard looking office. It's certainly not large. They have the basic office equipment that any government type of office would have, and all of the furnishings appeared to be the same as what would be issued by a government department. There is a boardroom in the commissioner's office, but it is felt that a full public inquiry could not be held in his office space. There is no provision for any room for people to attend, interested members of the public or the media. The suggestion was made by Ms Harris that perhaps they might be able to use a committee room at Queen's Park. I later discussed that with someone who sits at the table in Ontario, and he suggested that that would be highly unlikely. Their committee rooms are used quite extensively, and I don't think the members there would give up one of the rooms that is designated for simultaneous interpretation and media facilities for the use of the commissioner for an extended period of time for a public inquiry.

The accounting system: all the paycheques are received from the Legislative Assembly office, and the accounts are processed by the commissioner's executive assistant but are paid through the Legislative Assembly office. I just added a note that the Ontario Assembly does have its own cheque-writing capabilities. They do not go through Treasury as we do here. They have a very large finance department within the Legislative Assembly office.

The commissioner, as I think I mentioned earlier, is paid \$200 an hour. That was set out in the order in council which was issued to appoint him to the position. Ms Harris made the comment that Justice Evans is quite comfortable with the sum of money that has been given to him and feels that it's more than adequate.

The executive assistant has a management classification, and she is in the upper range for that classification. Some executive assistants in the Ontario government have slightly higher classifications. She does not have a job description, but she said it is very difficult to develop one because she is the sole person in the office for most of the time, which means she is answering the phones: she is doing all of the work except for what the commissioner does.

The part-time secretarial staff are people usually known to the commissioner or to the executive assistant. They are very careful not to hire any people from agencies, because they are very concerned with the confidentiality of the information that is provided to that office.

The disclosure statements are sent to the members a couple of weeks before the anniversary date for filing. Because the Act was fully proclaimed in September, the anniversary date is September. Members are required to fill out the form completely each year. The commissioner does not want to see statements such as "no changes" or "same as last year." He wants a very detailed accounting each and every year. The statements are received very detailed, and the commissioner then meets with the MPPs and spouses, if available, and will seek further clarification of the items. The meetings are held in his office. His executive assistant is in attendance as well, and they do go over very carefully all of the information that is provided. Quite often it is necessary for members to resubmit a revised statement.

Once a final private disclosure statement has been worked out, the commissioner's executive assistant prepares the public disclosure statement. Approximately two weeks before the commissioner makes the public statements available to the Clerk's office, a copy of the member's public statement is sent to the member for a final check, and the member has that one

last look at what will be made public. It has taken him approximately six months to get the public disclosure statement out to the Clerk once the initial private ones have been sent out and until a final public disclosure statement is made available. He has expressed a concern that it is taking members too long to comply with the legislated time frame for responding to the filing.

One other comment with respect to the public disclosure statements. They are available in the Clerk's office. The Clerk does not make photocopies for anyone. The copies never leave his office. They are available if anybody wants to see them, but if you want to write anything down, you write it down. No photocopies are made at all.

Investigations. The commissioner sends a letter to the member along with a notice of investigation. The member must sign the letter and return it to the commissioner. They aren't always notified that he has received a request for an investigation. In the two investigations that he held this spring, he chose not to hold any hearings under the Public Inquiries Act, and he investigated the matters completely himself.

He did express another concern, that there was no mechanism set out in the legislation describing how it was that he was to report to the Assembly. So he decided to release his report to the member concerned and to the leaders of each of the three parties and the Speaker. I have "a couple of hours." I just read this morning that he did say one hour, at least one hour before the House went in and his report was released publicly. As I mentioned earlier, both investigations were completed within a one-month period. My recollection is that primarily he had the member come into his office and provide all of the information relating to the allegation and in at least one case had him sign an affidavit that this was all of the information that was provided.

The last section is the concerns of the Ontario commissioner. As I just mentioned, he does have a concern, which he does express in his annual report, that his office has been very lenient with the members in allowing them to go beyond the legislated time frame for filing the disclosures. He's not comfortable with that, and he may be stricter in upcoming years. They should be receiving their package of forms right now, so it will be interesting to follow that.

The commissioner appeared this spring on at least two occasions before the Standing Committee on the Administration of Justice. One of the things that committee was considering was the subject of the guidelines which were issued by Premier Rae for cabinet ministers and parliamentary assistants. During those hearings Commissioner Evans made several recommendations, and I've summarized them from a summary that was prepared by the committee's researcher, Mrs. Swift.

### 3:13

Just very quickly going through them, the commissioner has some very substantial concerns regarding divestment, which Premier Rae has asked of his cabinet ministers and parliamentary assistants. He has still expressed some concerns with respect to blind trusts and has also made the suggestion that if they are going to exist, "the costs of administering the trust should be borne by the government." There was some disagreement by the committee members with respect to that. Another suggestion he made: "the business partners [of the members] should also approve of the trustee." You'll see a bit later on that he has also made the suggestion that trustees should also be allowed to ask questions of him, that it shouldn't just be the member; if the trustee has a question about a possible conflict of interest, the trustee should be allowed to talk to him as well.

Another area that the commission feels very strongly about is with respect to constituency work. He believes very much that ministers "should not engage in any activities on behalf of a constituent [in any] agency that falls within the minister's or parliamentary assistant's portfolio." The one area that he has used as an example has been workers' compensation. If the Minister of Labour has a constituent with a workers' compensation problem, he does not think that the commissioner or the minister or the parliamentary assistant should be writing to the board on behalf of the constituent. He believes that the minister should ask another member to handle it for him. He thinks that the minister's name appearing on letterhead could influence the board. That is his concern.

The commissioner does not feel that the court should be involved in conflict of interest. He made mention of the fact that court processes are very long and that an appeal of his decision "would pretty well destroy the . . . office within a very short time."

The commissioner made a number of recommendations with respect to legislation, and one of the areas is very definitely the definitions that are used throughout. There are quite a number of definitions that he thinks are very difficult for him as a commissioner to make decisions on. What constitutes a hardship? What specifically are significant changes in your personal holdings which would require you to file another disclosure statement? He would like to see the legislation extended to include people other than a member of the immediate family. He has said that there should be some legislated description of how gifts should be disposed of. In discussion with his executive assistant, she suggested he has said to members that perhaps they could donate their gifts to charity and just let him know what they did with them. But as Eileen did in her chart, only the Northwest Territories has attempted to put in legislation what might be done with gifts. Those are the main matters. There are a couple of other matters that are related there, such as the trustees being allowed to seek opinions and some kind of penalty for nondivestiture.

I mentioned that the standing committee will be releasing its report in the near future. One of the motions that was made to the committee was that Premier Rae's guidelines be incorporated in legislation, and the motion was carried.

**MR. CHAIRMAN:** Thanks, Karen; that was very comprehensive.

Questions based on this summary of the office of the Ontario Conflict of Interest Commissioner as presented by Karen? You've obviously covered all the bases. Well done.

Okay. We'll go on, then, to the second.

**MISS SOUTH:** The second item was the summary of the responses that I received to questions that were developed by Eileen and myself prior to my going to Ontario. The questions were developed by going through *Hansard* to find out the questions that members asked during the debate at the various reading stages of the Bill, to try to address some of those questions. Unfortunately, the commissioner was not available, so some of the questions weren't discussed in the kind of detail that I would have liked to have done with him. However, his executive assistant is extremely knowledgeable and provided a great deal of the information that we were interested in.

The first several pages relate to the questions on the legislation itself: how it's dealt with, the investigations, how the commissioner relates with the members. I think a lot of it is included in the summary. One of the things Eileen mentioned

was the gifts and the difficulty with the legislation saying a value of X number of dollars. The question "Who determines the value of the gift?" was asked of the commissioner's office, and his executive assistant says that the members are required to provide an estimate of the gift. She did mention that Premier Rae had an appraisal done of the gifts in his office, but certainly the other members have not gone to that extent.

On page 5(E) the commissioner – and he did it in the public hearings, so I've heard it from his executive assistant; it's also in the transcripts. In determining the value, the commissioner gave an example of a member attending a political party function where you're required to pay so much for the ticket to attend the function. In his opinion the amount of the ticket is not the value of the gift, because the party itself is receiving a taxable benefit on the money it's collecting; they're the recipient of the gift, and the member would declare the cost of the meal. That's his opinion of what the value of that gift was.

**MR. HYLAND:** You mean this proposal would get that small – that's really what we're getting into in this – that low?

**MISS SOUTH:** The members are making those kinds of inquiries of the commissioner.

**MR. HYLAND:** That's a little bit too much.

**MR. SIGURDSON:** You have to watch where you go and eat from now on, eh?

**MISS SOUTH:** No. If your estimation of the meal was that it was over \$250, then you would declare it. No, here it's \$200. There's also a sort of oddity at the moment in Ontario where the legislation says \$200 and the Premier's guidelines say \$100. When it gets incorporated in the new legislation, that will be different. The \$100 has dropped it down to the lowest in the country.

**MS FEDOR:** Except I think his guidelines – are they not just for the members?

**MISS SOUTH:** They are only for ministers and parliamentary assistants at the moment, but that was part of the problem raised by opposition members during the committee deliberations. It's going to be incorporated in the new legislation.

Another interesting thing – and I noticed that it's also in the B.C. legislation – is on page 6, where we have Interests in Companies. The Ontario legislation says that "the Commissioner shall ascertain whether any other corporation is an affiliate of the first-named corporation." In practice the commissioner expects the member to provide that information, which seems reasonable. The commissioner's office does not have access to the companies branch and certainly doesn't have the staff to follow up on who's affiliated with what companies for all 103 members, I believe.

With respect to former ministers and members, there is no method of keeping track of the activities of former members. They're not required to let the commissioner know what it is they are doing. He sends them out a letter setting out the provisions in the legislation relating to former ministers and asks them to sign a copy and send it back to him. That is the extent of his involvement with former ministers.

3:23

**MR. CHAIRMAN:** Yolande has a question, I think.

**MRS. GAGNON:** Karen, if I might. Although you have done a lot of background about what Ontario is doing and we know now more or less what our person will have to do, isn't it true that the commissioner will have to almost invent the job as he or she goes along? Dealing with the guidelines and legislation, there's still a leeway of interpretation as to exactly how this is going to work.

**MISS SOUTH:** There's a lot of interpretation. If I do get a chance to pass out the annual report, you will see it's got quite a number of inquiries, and certainly the inquiries are going to vary within the provinces, within members, depending too on how much the public is going to be involved in the Alberta office.

I did ask the executive assistant whether the Ontario commissioner had ever been asked to speak to the public in any kind of forum, and she said no, although he would be willing to. It may be something the Alberta commissioner may get involved in, particularly if he is getting quite a number of requests. It may be because there has been a change in government in Ontario, but very definitely there are a lot of inquiries from the new cabinet ministers, whereas there are perhaps not as many requests from the opposition parties. They have lived under conflict of interest legislation before; they're comfortable with the concept of it. They're not necessarily asking as much of the commissioner as the government is at this time. It may be that after several years it would switch and the opposition would be asking more of the commissioner than the government. But certainly it was made very clear that the members are consulting with the commissioner before they act in a number of areas.

So very definitely the commissioner's job will fluctuate according to how new the government is, what the issues are at the time. Because a lot of this is confidential, you may have the same requests coming from several different people, and they won't know that it's been answered. That's why I think the form they adopted in this year's annual report may be very helpful to a lot of members to give them some kind of an idea, examples of what a conflict of interest is and what is not. He does give several in both cases.

**MRS. GAGNON:** I guess my point is just that whatever person we look for will need to have, for sure, a sense of independence and judgment and that kind of thing to interpret this and make it come to be.

**MISS SOUTH:** Quite considerable.

**MR. CHAIRMAN:** Don.

**MR. TANNAS:** Yes, thank you. Karen, did you run into a discussion of the kind of question that a prospective candidate might ask, somebody who has a business or whatever and came to the commissioner? Or would the commissioner even entertain somebody from outside the elected part asking questions for his/her own sort of decision-making process as to whether they're going to be a candidate?

**MISS SOUTH:** Actually, in the summary one of his concerns was that he would not like to have to answer hypothetical questions. So that's very difficult. What he is mandated to answer is a member saying: "This is my situation. Could you give me your opinion?" Now, in Ontario the request to the commissioner is to be in writing, and the commissioner's response is to be in writing. Their Act does not include the

provision that ours does: if you seek his opinion and receive a written opinion from him, you are protected from any subsequent investigations. Theirs doesn't include that. However, what has happened in Ontario is that when a question has been raised from the opposition in the House about a minister's activities, he's been able to stand up in the House and say: "I sought the opinion of the Ethics Commissioner. This has been his response. He says I'm not in a conflict of interest situation." That has ended any kind of questioning of the minister with respect to that particular activity.

**MR. FOX:** Just to follow up on that, I think it's fair to note that we may want to look closely at whether or not a prospective candidate considering running for the Legislative Assembly of Alberta can make inquiries of the Ethics Commissioner about whether or not they would be in a conflict of interest should they be elected. Whether that's hypothetical or not is something we could look at. The Ontario information you provide does note that he meets with the caucuses at their request to provide information. So it may be that the responsibility for conveying that kind of information would rest with the individual caucuses with respect to candidates applying or who are interested in seeking nominations. They may need to get that information through their own caucus.

**MISS SOUTH:** What also might be useful is the type of brochure that B.C. has issued, which summarizes all of the material.

**MR. FOX:** That's available for anybody.

**MISS SOUTH:** It is available to the public. So that might answer quite a number of questions. I'm sure that would be something the Alberta commissioner would want to undertake, to develop those kinds of materials.

With respect to the commissioner and the caucuses. What happened fairly early on with the commissioner, apparently, was a request from a member, who sent the commissioner just a newspaper clipping and said, "What do you think of this?" The commissioner makes reference in one of his annual reports that he then went to all three parties and said that it would be useful if the parties vetted the requests through their leader or their Whip. So that has been the way requests have now come to the commissioner: the caucus itself decides the type of request that it wants the commissioner to investigate in a full and complete way.

**MR. CHAIRMAN:** Are there any other parts you want to highlight, Karen?

**MISS SOUTH:** I think the only other thing is where we get into the actual administrative part of it, just to make note of the fact that the commissioners in B.C. and Ontario were both appointed by the government with consultation with the opposition. It was not a competition as such.

**MR. CHAIRMAN:** Eileen's had a chance to go back and research responses to a couple of questions which were asked by Don and Tom. Eileen, would you like to give those responses now?

**MS FEDOR:** Thanks very much, yes. In respect of the question related to malicious or vexatious, in Nova Scotia they in fact do speak to that. It states:

Where the designated person determines that an allegation of a contravention of this Act is frivolous or vexatious, the designated person shall dismiss the matter and may order the person who made the allegation to pay costs or damages, or both, to the member, electoral district association, recognized party or public employee, including reimbursement of the actual expenses of the member, electoral district association, recognized party or public employee incurred in responding to the allegation, and grant such other relief as the designated person may determine.

That was the only one I could find as I quickly went through, and that's from Nova Scotia.

In respect of some definitions, in Prince Edward Island in this Act they only define independently Clerk, dependant, member, and minister. However, under the definition of "dependant" it goes on to say that

"dependant" means

- (i) the spouse of a member or minister, including a person who is not married to the member or minister but whom the member or minister represents as his spouse and who resides with the member or minister,
- (ii) any other person whose primary source of financial support is the member or minister.

It's under the umbrella of "dependant" in Prince Edward Island.

In Nova Scotia they do have "dependent child" as a separate entity, and they have:

"spouse" means a person married to another person and, for the purpose of this Act, includes persons who, not being married to each other, live together as spouses and have done so for at least one year.

I didn't go through all the legislation - I read the specific pages - but there are two definitions that vary certainly from what you were reading.

3:33

MR. FOX: Just to follow up on that, what we may need to look at is addressing, both in terms of the definition in this Act and if it appears elsewhere in legislation, changing the words "a man and a woman" to "adults," so that "spouse" includes a party to a relationship between adults who are living together on a bona fide domestic basis." Maybe that's something we can take under advisement and . . .

MR. CHAIRMAN: Well, that's why I asked the question of Karen initially to research other pieces of legislation to see . . .

MR. FOX: Theirs seems to be a little more broad than ours.

MR. CHAIRMAN: Well, maybe. So we'll get that information and report back at a future meeting.

Okay. Anything else?

MS FEDOR: Except to say that where we were referencing the Legislative Assembly Act to indicate the person directly associated, legislation as it exists in the Legislative Assembly Act in fact is sections 23 and 24, which sections were repealed by section 51(2) of the Conflicts of Interest Act. Just to put it in context for you.

That's it. Thank you.

MR. CHAIRMAN: Thank you.

Before we go on to the set of disclosure statements that Karen's going to lead us through, let's take a five-minute stretch break.

[The committee adjourned from 3:34 p.m. to 3:46 p.m.]

MR. CHAIRMAN: Okay, can we reconvene, please.

Karen, would you please lead us through the disclosure statements and forms?

MISS SOUTH: The bundle that has the smaller clip attached to it, with the exception of the very last, form 2, which is what is used for gift disclosure, is what is sent annually to each member to be completed in full each year.

MR. SIGURDSON: Does the ethics commissioner in Ontario then visit with each member? No, they don't?

MISS SOUTH: Yes.

MR. SIGURDSON: Annually?

MISS SOUTH: Annually, to go over in detail the entire disclosure.

MR. CHAIRMAN: So we're clear: the large document is the private . . .

MISS SOUTH: The large document, with the exception of what is at the very back, which is called form 2, is the member's statement of gifts and personal benefits. That particular form is filled out whenever the member feels that he has something to claim.

MR. SIGURDSON: Just a caustic comment. What if you feel a gift is useless and has no value?

MISS SOUTH: The commissioner also gave another example: receiving a painting from a constituent that the constituent had done. His suggestion was that you claim the value of the frame.

MR. SIGURDSON: Well, that's a good suggestion.

MR. TANNAS: Careful.

MR. SIGURDSON: No; that's a worthwhile suggestion, because there are those occasions when somebody offers you something that they think is really important, and it has no value to the member at all.

MR. FOX: You mean like advice?

MR. SIGURDSON: No, something tangible, Derek, unless the advice is written down.

There are times when you are given things that . . .

MISS SOUTH: That comment was made by the commissioner either during the public hearings or in his annual report, as an example.

MR. SIGURDSON: Thank you.

MISS SOUTH: But certainly, if it's a well-known artist, it may be somewhat questionable to say it has no value. I mean, it was suggested this morning that if certain very famous artists give you something - to say that only the frame is . . .

MR. SIGURDSON: If somebody were to give me, you know, *Voice of Fire*, I don't know how I'd be able to appraise it.

MS FEDOR: I don't know that it has a frame either.

MR. SIGURDSON: Yeah. We're talking about the painting with three stripes. How would you put a value on that?

MR. HYLAND: Well, I've got just the place for that. I need something across my garage door for the kids to shoot the puck at.

MR. CHAIRMAN: All right. Anything else on the forms?

MISS SOUTH: If I could just mention the part relating to the children, which is part BI. It has a single sheet, and you'll notice that there's a nice little stapled one behind it. The single sheet was developed because quite often the minor children have nothing to declare. They decided to do a single sheet that simply says that the above-named children do not have any assets, liabilities, or financial interests.

MR. HYLAND: So you would have to take this and, for example, like we do - I guess not all the time but almost all the time - put your family allowance in their bank account for education or whatever, in the future. So you've got to list all that?

MISS SOUTH: I'm not sure whether you do that. We may see more of an example in the one that is released publicly that we'll get to in a minute.

One other comment with respect to the minor children. This was raised by members or members' spouses. Originally, the minor children were listed on the public disclosure statement, and after concerns were expressed by various people, the commissioner now only says minor child 1, minor child 2, as a security for the children.

MR. ADY: There may well be a difference between a minor child and a dependent child, but it doesn't say anything about dependent children. For instance, you could have a child at university that is dependent on you, but not necessarily minor, probably not in fact.

MISS SOUTH: It would be as defined in the Act, and it does make it . . .

MR. ADY: It talks about that.

MS FEDOR: Ontario?

MISS SOUTH: On what is a minor child.

MS FEDOR: They just talk about a "child."

"Child" includes a person whom a member has demonstrated a settled intention to treat as a child of his or her family, except under an arrangement where the child is placed for valuable consideration in a foster home by a person having lawful custody. That's it.

MR. SIGURDSON: And our Act isn't specific at all.

MISS SOUTH: Some other pieces of legislation are clear upon a child, either by age or living at home.

MR. SIGURDSON: Would it come in under the interpretation then?

MR. TANNAS: And to add to Jack's concern, too, there are also people who have severely handicapped children who are . . .

MR. CHAIRMAN: It could be dependent adults. Any others? Karen?

MISS SOUTH: No. We'll just mention that it is on form 1, page 6, where you do list any cash on hand, so it is all-inclusive.

MR. CHAIRMAN: Okay. Anyone else on the forms? Well, thank you very much, Karen. Alan, do you have a comment?

MR. HYLAND: According to our legislation - the forms aren't laid out, so it's up to us to draw up the appropriate . . .

MISS SOUTH: In our legislation it says forms as developed by the commissioner. In Ontario it says that regulations . . .

MR. CHAIRMAN: Anyone else? Last time.

Again, thank you, Karen, for the in-depth work. I think the day you spent in Ontario at Queen's Park was invaluable and very appreciated. And to you, Eileen. I think the two of you have worked together extremely well. You divided the assignments, focused in your own particular areas, and yet are quite complementary. So on behalf of the committee, thank you.

The obvious question now is where we go from here, and I think before we take that formal step there should be an opportunity for some general discussion on observations that you may have based on what's done in other jurisdictions. If you've got some specific thoughts - e.g., the makeup of the office; should we be looking at a small office with, say, one full-time member or two at most; should we be looking at a part-time commissioner; should we be looking at somehow marrying the office up with something else that's already in place; are we automatically looking at a judge or a retired judge for the office: just thoughts that you may have - I think we need to see if there's a consensus first on what it is we're trying to achieve, what it is we would like to see in place before we talk about how we then formally go that next step in the actual selection of the individual or individuals who will be in the office as well as the commissioner. So we'll throw it open.

Derek, Yolande, Tom.

MR. FOX: Well, I think some important information has been gathered in the time that's passed since the Act was debated and passed, and what I'd like to see us do as a committee is set some further objectives in terms of when we would hope to have time lines in terms of the next step and the eventual appointment of a person to fill this important role and be doing the job. I think we all agree on that.

In terms of the job description, the Act gives us the opportunity to view this as either a full-time or a part-time job. Without diminishing the significance of the office, I think it is a part-time responsibility. We've seen that brought to us from the information about the office in other jurisdictions. There are times during the calendar year and during the legislative term that the office of the Ethics Commissioner would be relatively busy, and there are times when the office would not be very busy at all. Hopefully, when things are running smoothly, there'd be very little demand made of the office. So it's not a full-time responsibility, in my view, but it's very important that we get someone with proper background and experience to fulfill the responsibility.

3:56

One thing that I was thinking about, and I'd like to just raise this with members of the committee for consideration, is whether or not it would be feasible or advisable to look at incorporating the Ethics Commissioner with the Ombudsman in the province of Alberta. To some degree an executive officer at that level does a lot of delegating of responsibility, does investigation when required, signing off investigations in direct consultation with deputy ministers in the case of the Ombudsman or with members in the case of the Ethics Commissioner, but it seems to me there may be some opportunity to have the job done in a very responsible way and yet minimize the cost to the public. There is an office established there. There are staff people there, and what may be required if we were to look at doing something like that would be to hire an additional person to provide support service. Maybe there would be the need of legal counsel on retainer or some such arrangement like that to minimize the actual bureaucracy that's generated by this office and the cost of the office.

So I just want to throw that out, Mr. Chairman, for the consideration of members. It's something I've not thought through completely. Tom and I have had some chance to discuss it. There are some pros and cons, but I just throw that out.

MR. CHAIRMAN: I wonder if I might ask, before the other three speakers, whether or not there's a consensus that it should be a part-time position. Is there anyone who'd like to argue we have a full-time Ethics Commissioner? You want to argue whether there should be?

MR. TANNAS: For a period of time.

MR. CHAIRMAN: For a period of time there should be a full-time commissioner. Do you want to make your point?

MR. TANNAS: Well, I would think that in the first year or so they're going to be establishing an office, setting up routines, going and finding out the kind of thing that happens in other jurisdictions, and they have to go for the first time all 83 members. Unless they're prepared to work at a heavy schedule . . . If we said at the outset part-time, then the expectation would be that over time they would be part-time. But at first, whether it's six months or a year, it might be a pretty heavy task. I don't know. Maybe Karen might have a better sense of it. In speaking with the ethics commissioner in Ontario, you might have heard that that office was really swamped at the beginning. I don't know. That's the only part I would argue.

MR. CHAIRMAN: I'm not sure I see what you're saying as full-time or as understanding that whoever applies for the position understands that there will be some considerable work at the beginning, just as there will be considerable work following a general election where you get new members elected. But you're not arguing for a full-time position on a long-term basis?

MR. TANNAS: No. Just so that we don't exclude that at the beginning.

MR. CHAIRMAN: Jack, on this specific point.

MR. ADY: It would seem to me that would be taken care of in the manner that the officer is compensated. I notice in some of them they're compensated by the hour. Perhaps if we did that, he'd be paid for his work, and it would just wind down as the work would wind down. Hopefully, it would wind down.

MR. CHAIRMAN: We're on this specific narrow point. Derek.

MR. FOX: I'm just wondering if in terms of the . . . Let me think this through; I'm not sure if it's okay.

MR. CHAIRMAN: All right. Do we have a consensus that this is a part-time position, recognizing the larger workload in the start-up?

Derek.

MR. FOX: I think this point is relevant, Mr. Chairman. Maybe you're not at liberty to share this information, but during debate the Attorney General did indicate that there may be some companion legislation to this Act that would cover disclosure and a cooling-off period with respect to public servants. I'm wondering: if that did occur, would that be the responsibility of the Ethics Commissioner? What I'm wondering is if we're describing a part-time position now that would sometime in the near future have some additional workload. It seems to me that was referred to in debate at some point by the Attorney General.

MR. CHAIRMAN: I'm not aware, and if something else came up as a proposal, we'd have to deal with it at the time.

MRS. GAGNON: I think I'm next, and I'm on the same point.

MR. CHAIRMAN: You are. On the same point? All right.

MRS. GAGNON: Basically, the mandate we have is to establish the office and select the person. Nowhere does the mandate say that it has to be a separate office, nor does it say that the person has to work in this job exclusively, even though part-time or whatever. I know that my caucus, and I've talked with several of them, really feels that there is no way that 83 people need a full-time Ethics Commissioner to advise and direct and so on. So we would not support full-time whatsoever, nor even necessarily an exclusive job just for us.

I do like Derek's suggestion of maybe incorporating this with the Ombudsman. We could throw that around at our next meeting, because I think it would take a lot of discussion, or maybe as part of some other job that we have, even the Auditor General or something. I think we can look at creative ways of establishing the office which have nothing to do with a single office with a full-time person.

MR. CHAIRMAN: It seems to me that a lot of good ideas are going to come forward during our discussion this afternoon. Why not ask Louise to make sure that she records the various matters which members would like to see considered. I think there seems to be consensus that it's a part-time position. There's been a suggestion that it be merged with the Ombudsman's office. Now there's a suggestion that some consideration be given to the Auditor General's. There may be other points. So let's see what other ideas we're able to bring up today, and then at our next meeting we might be able to bring

them back in a more formal sense and try to deal with them, and then decide our game plan as to where we're needed.

MRS. GAGNON: If I might also add a more global comment, because you asked for that as well. We may not be at this point yet, but once we've established what kind of office we want and so on, I think we'll have to discuss whether we should hire a professional consulting firm to help us find this person, as we did with the Ombudsman. Do we need somebody to hold our hand through the thing? Can we do it ourselves as far as advertising, interviewing, shortlisting, and that kind of thing? That's another agenda item for the next meeting.

MR. CHAIRMAN: Okay, Yolande. Thank you.  
Tom, and then Don.

MR. SIGURDSON: No; that's fine. Thank you, Mr. Chairman.

MR. CHAIRMAN: Don.

MR. TANNAS: No. We actually covered it.

MR. CHAIRMAN: We covered yours? Anyone else?

MR. ADY: We do have agreement in the committee that it's a part-time position?

MR. CHAIRMAN: Well, I sense there is a consensus that it's to be part-time. Then there's the question as to whether it's a stand-alone, whether it's with the Ombudsman or the Auditor General. There's also the question of the staff component.

MRS. GAGNON: Start-up time.

MR. CHAIRMAN: Yeah; the start-up time that's required.  
Alan?

MR. HYLAND: I think we can agree on the part-time, but the stand-alone or whether we can join it with something else may be one thing we should reserve until we get further into examining some of the ideas that are suggested here and some that will come, because what comes forward may change that somewhat. It may not, but it may, and we may be just a little bit premature in saying stand-alone because we will obviously all have to report back to caucuses, as we go down the road, to see if the caucuses are with us. Hopefully, once we get agreement, we won't have leaders of various caucuses disagreeing with what was said here because they may or may not have liked the way their member voted. So we're going to have to steer our way through this, and I think before we can make a decision to tie in or have stand-alone - we're going to be further down the road before we can do that.

MR. CHAIRMAN: All right.  
Yes, Derek.

4:06

MR. FOX: Mr. Chairman, I'm just wondering if we can think ahead about when this person is in place and the office is up and running. What are some of the time lines? The annual report, one would assume, would be timed to coincide with the spring session. That's the way the other officers do it, and it's presented to the Speaker within a certain defined period of time. So that's sometime in March. Between now and then I would

suggest it should be our objective to have the office up and running and have gone through the initial phases of disclosure. Maybe we should discuss whether or not that's a reasonable objective in terms of how long it would take to define the office, the responsibilities of the person, and get someone in the position. Is that a reasonable time line?

MR. CHAIRMAN: Well, I'd like you to hold that thought. I think it's an excellent question, but I think we need to know which way we're going. If we're approaching an existing office with the infrastructure in place, that's one thing that may indeed be a faster track. If we're talking about a freestanding office where we're recruiting both the Ethics Commissioner and the senior staff person who is working in that, that may take a little longer. I think until we decide which of those routes we're going, we can't really answer the second part of your question.

I would like to see us get together again at the earliest opportunity, recognizing that at least two of our members are on the constitutional task force and have a heavy set of meetings coming up soon. I mean, we're not to that point yet, but when we do discuss the date of the next meeting, I would recommend that a motion be made that it be at the call of the Chair, who in turn will consult and try to make sure that everyone's able to attend, because this is vitally important.

Anything else that we want to make note of, so that when we have our next meeting, we have a series of questions that we can address and try to bring this together? Is there anything else you can think of we should put . . .

MRS. GAGNON: I would just like to follow up again on Derek's point. Could we say that possibly by Christmastime we'd have an Ethics Commissioner? If you look at our time lines - October, November, three weeks in December - is that realistic?

MR. CHAIRMAN: I would like the opportunity to talk again with David McNeil on whether we go the route of headhunter. You see, so much of it depends on which of the routes we go and how long it's going to take. I mean, how long did it take those of you who worked on the subcommittee that selected an Ombudsman? I wasn't involved in that.

MRS. GAGNON: A couple of months.

MR. TANNAS: There was a long process.

MR. ADY: It was about three months, I think, by the time we got it done.

MRS. GAGNON: Easily three months.

MR. CHAIRMAN: Now, again I would suggest that if we go the route of the stand-alone and we make a decision that we want someone who's either a judge or a retired judge or someone who has extensive experience in that particular area, we may find that we don't need to go with a headhunter; there may be another way. I don't know. All I know is that we would want more input from David McNeil's shop in Leg. Assembly.

MR. HYLAND: From our experience in the time of the year we did the Ombudsman one, I think that although it didn't hurt, as close to Christmas as we were just made it complicated in trying to select that person.

MR. FOX: It was just about the same time that we started advertising, wasn't it? In September, I think.

MR. HYLAND: And we were interviewing right up to the 21st or the 22nd.

MRS. GAGNON: The 23rd.

MR. CHAIRMAN: That's why it's so critical we decide which path we wish to take, and then we may feel that we'd like to see the Ombudsman assume these additional responsibilities, or the Auditor General. There needs to be some consultation with those two offices; they may not wish to have the added area.

MRS. GAGNON: But I do feel, at least in my mind, that we've clarified something today, which is that this does not have to be a separate, exclusively focused office. You know, when I looked at the legislation and the mandate, I questioned my own previous perceptions, and I think it's been clarified here.

MR. CHAIRMAN: Well, I'm encouraged by the response of the members that we're not looking for a full-time Ethics Commissioner. We need a very capable individual or individuals in the staff to handle day-to-day activities, but the commissioner himself or herself can clearly be part-time, as the duties will be part-time.

Derek.

MR. FOX: Maybe just one other thing for consideration then. Some jurisdictions have opted for judges, and maybe that's what we need to do as well. Perhaps we could put some time to thinking about whether or not the position is defined and, as we understand it, requires a form of legal training. It may be that it does, but it also may be that someone with sort of worldly experience who can access legal expertise would suffice.

MR. CHAIRMAN: Clearly, if we decide to marry it to either the Ombudsman's or the Auditor General's office, based on the occupants of those two positions we're opting for someone who does not have legal training, although both have ready access to legal counsel.

MR. FOX: Yeah.

MR. SIGURDSON: Maybe we could just put those questions to Louise over the course of time before the next meeting, rather than trying to head up a basket of questions today.

MR. CHAIRMAN: Sure, and if a member of the committee thinks of a question following today's meeting, whether it's later today or tomorrow or next week, give Louise a call, and we'll get that question added to the list before our next meeting.

Anything else, then, on item 7, Ethics Commissioner Position? Are you ready to move on to item 8, Other Business?

Derek.

MR. FOX: Yes, Mr. Chairman. I'm representing the committee and the Assembly at the Canadian Ombudsman Conference in Winnipeg, September 11 to 14. Incidentally, that may be a good opportunity for me to raise that issue with Ombudsmen in other jurisdictions and discuss it with our own Ombudsman, just to test reaction from people. But I'm raising that here now because I'm speaking at the conference on the role of the all-party committee. I just want to raise that for members' interest in case there

are things you would like to bring to my attention that I should raise on behalf of our committee at this conference. There may be specific concerns or attributes or things about the functioning of the committee that you think it important that I raise. If so, please bring those up with me prior to September 11, and I'll make sure that I do the best job I can representing the committee there.

MR. HYLAND: Are you going to tell them you're a good guy or the truth?

MR. FOX: Well, let's see; there's a minority opinion on the floor.

MRS. GAGNON: You'll have a terrific time. It's a great group that goes to those, I thought last time. Really good.

MR. CHAIRMAN: With regard to the Ethics Commissioner, you might raise it as something the committee is considering but in a very preliminary way.

MR. FOX: Yeah. I'm not in a position to make requests on behalf of the committee.

MR. CHAIRMAN: Okay.

MR. HYLAND: I think the only thing is that you've been on the committee longer than I have, and so has Jack. This is the way it's operated in the last two and a half, three years through our search, and we've managed to do it by agreeing. We've stayed pretty well out of - you know, haven't had a hard defined line of politics in the committee. When you talk to others, they can't believe it. Maybe we're different here, I don't know. The majority of committees we can all get along. You talk to other jurisdictions, and you wonder how their committee structure even works, because it just seems to be at odds no matter what you're doing. We don't always agree here, but we do get along mostly.

MR. CHAIRMAN: Okay. Item 9, Date of Next Meeting.  
Yolande.

MRS. GAGNON: Mr. Chairman, may I ask you, since it will be at the call of the Chair, that you try to avoid Wednesdays? Those will be our caucus days for the entire fall session.

MR. CHAIRMAN: Well, we need a motion to that effect. What I would propose, if it's agreed, is that we will do our very best to schedule the next meeting so that everyone can be present. Now, if it just is impossible . . .

MRS. GAGNON: Well, that's fine. I understand that.

MR. CHAIRMAN: I think it's imperative on an issue like this that all three caucuses be represented at the meeting and that, if at all possible, everyone who sits on the committee be present.

MR. FOX: Would it be advisable, Mr. Chairman, for members to just submit to Louise dates that we aren't available in the month of October now? We've done that in the past, and it seems to have worked well.

MR. CHAIRMAN: Sure. Good idea, but we need a motion.  
Alan.

MR. HYLAND: I move that the meeting be at the call of the Chair.

MR. CHAIRMAN: Okay. All in favour? Carried.  
Adjournment? Don.

MR. TANNAS: I move that we adjourn.

MR. CHAIRMAN: All in favour? Carried unanimously.

[The committee adjourned at 4:16 p.m.]

