

1:35 p.m.

Tuesday, October 15, 1991

[Chairman: Mr. Bogle]

MR. CHAIRMAN: I will now call the meeting to order and note that Tom advises that Derek will be a few moments late. But we should proceed with matters on the agenda, and if there's anything that Tom or anyone else feels should be held until Derek joins us, we'll certainly do that.

Could we first look at the agenda, item 2, Approval of Agenda? I'd like to suggest that item 7, Report on Attendance at COGEL Conference, by Jack and Don, be held over to our next meeting at the request of the two attenders. Are there any other alterations to the agenda? Then could we have a motion to approve the agenda as amended?

MRS. GAGNON: So moved.

MR. CHAIRMAN: Thanks, Yolande. All in favour? Carried unanimously.

Going, then, to item 3, Approval of Committee Meeting Minutes of August 20: pages 1, 2, 3, 4, 5, 6, and 7. Could I have a motion to accept the minutes as presented? Alan. All in favour? Opposed? Carried. Thank you.

I'm back, then, to item 4, Letter of Engagement from Kingston Ross Pasnak. You'll recall that at our last meeting we had invited the firm of Kingston Ross Pasnak to sign an agreement for a stated amount to do the audit of the Auditor General's office, and that was complied with. The firm has responded with a letter of their own, and I think for our purposes the key sentence is at the top of page 2, wherein they do restate their agreement with the fee as previously submitted. Are there any questions or concerns with the letter?

Don.

MR. TANNAS: Just to refer to that sentence, "Our fee for the engagement as Auditors will be based on the estimate we have prepared and submitted," was that estimate in that submission acceptable to us, or would it be amended?

MR. CHAIRMAN: Well, if you'll recall, initially the letter was open-ended. We responded with a firm figure, and they agreed with that.

MR. TANNAS: Okay.

MR. CHAIRMAN: So this follows the format of their letter of engagement. I suppose if our letter had covered all the points contained in this letter of August 20, then there would not have been a need for a second letter, but our letter focused in on the cost to provide the service.

Any further questions on the correspondence? Then a motion to approve. Don. All in favour?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: Carried. Thank you.

Item 5 is the invoice from Kingston Ross Pasnak for audit of the office of the Auditor General for the fiscal year ended March 31, 1991.

Stan.

MR. NELSON: I move that it be paid.

MR. CHAIRMAN: Further discussion? Yolande.

MRS. GAGNON: A question, please. Do we know what the fee was the last time they audited?

MRS. KAMUCHIK: It was the same amount.

MRS. GAGNON: It was the same amount. Okay. We can assume, then, that they spent the same number of hours, used the same number of people, and so on.

MRS. KAMUCHIK: Yes, I think it's safe to assume that.

MRS. GAGNON: Okay.

MR. CHAIRMAN: Any further discussion? Ready for the question? All in favour? Carried.

I think we should wait on item 6, Report on Attendance at Canadian Ombudsman Conference, John, until Derek is here with you so that you can both give a report on that. We want to wait on Ethics Commissioner Position until we have full attendance as well. Can we go down to item 9, Other Business? Anything anyone wishes to raise under Other Business? All right.

Well, the date of our next meeting. That's been set, hasn't it, Louise?

MRS. KAMUCHIK: Yes; it's October 28.

MR. CHAIRMAN: October 28, and the agenda for that meeting: we're going to be dealing in a preliminary way with the budgets of the three officers.

MRS. KAMUCHIK: Yes. The three officers will be attending.

MR. CHAIRMAN: I'm assuming we'll also deal with the Ethics Commissioner position at that time. Did we have that as part of our agenda?

MRS. KAMUCHIK: Not at that time, no.

MR. CHAIRMAN: Is it a given that we will be dealing with it at that time as well?

MR. SIGURDSON: It's going to be old business; I don't see why not.

We've covered number 10. Mr. Chairman, either we adjourn for a short coffee break, or we go to number 11.

MR. NELSON: Why can't we just move along?

MR. CHAIRMAN: Well, I did give an undertaking before we began, Stan, that we would give Derek 10 to 15 minutes, which was requested. So let's do that.

Alan.

MR. HYLAND: If we're getting into budgets, I've got in my book just the 28th blocked off. Did we have the 29th too?

MR. CHAIRMAN: No. Originally we were trying to put together days back to back, and we couldn't do that, so we had the meeting set for today and then the one in two weeks' time. But we could talk about a date after the October date if anyone would like to.

MR. SIGURDSON: I'm just going to see if I can call Derek.

MR. NELSON: I'd like to ask a question.

MR. CHAIRMAN: Go ahead, Stan.

MR. TANNAS: Are we in a break yet?

MR. CHAIRMAN: Well, we aren't.

MR. NELSON: I appreciate that Mr. Fox isn't here, but I just wanted to find out - I was not here at the last meeting. I was somewhere else, I think in Ontario, getting a medal. Is it the understanding, as I read through the *Hansard* minutes of that meeting of August 20, that we're going to pursue the hiring of an Ethics Commissioner fairly quickly, or decide upon the Ombudsman or the Auditor General, or what? Or are we going to carry this through the new year? As I read this thing, there seems to be some concern that when we went through the Ombudsman thing, we did it before Christmas and we were here two days before Christmas and this sort of thing. Are we going to drag this out, or what are we going to do with it?

MR. CHAIRMAN: At our meeting of August 20 there was a series of questions posed, which will be distributed once we go into the agenda item today. The questions deal with whether or not it should be a stand-alone office, whether it might best be merged with one of the existing offices, the staff component: questions which flowed from the report given by both Karen South and Eileen Fedor following their very extensive review of legislation and ethics commissioner offices in other parts of Canada. It's my belief that the first thing we'll need to do today, once we get into that particular item, is determine which way we want to go. We've got to answer the eight questions that were raised at our last meeting. Once we know the direction in which we wish to move, we'll then have a better idea of the time lines, and we can proceed by getting some advice from the PAO as to the process.

So I've tried to fill in some of the pieces, Stan. No firm decisions were made on August 20. A series of questions was asked, and it was our intent to come back and address those questions today and try to get a better understanding and make some decisions so we can move ahead.

Could I have a motion that we have a short coffee break? Tom. All in favour? Great. Carried. Thank you.

[The committee adjourned from 1:45 p.m. to 1:51 p.m.]

MR. CHAIRMAN: We're now ready for item 6, Report on Attendance at Canadian Ombudsman Conference, by both John and Derek. I don't know if you gentlemen have decided how you want to present this.

MR. DROBOT: We have, Mr. Chairman.

MR. CHAIRMAN: All right.

MR. DROBOT: Thank you, Mr. Chairman. The Canadian Ombudsman Conference was held in Winnipeg September 10 through 13. There were 40 to 50 people attending, and it was a very interesting and informative conference. Some of the topics that were dealt with were independent plenary sessions with the Ombudsmen from provinces, et cetera, present, the Ombudsman and access to information, the role of the Ombudsman in adminis-

tration of justice, the Ombudsman and municipal administration, the Ombudsman and children's concerns, the Ombudsman's public relations with the community, a very good panel on the Ombudsman and administration of justice on native issues, as well as many other topics.

An interesting session was highlighted by a lady Ombudsman from the city of Detroit, which has a million and a half people. More and more cities in the U.S.A. are establishing ombudsmen in their municipal governments. Some concern was expressed about the fact that newspapers, baseball commissions, et cetera, are establishing their own so-called ombudsmen, which tends to distract public perception from the original role of the provincial Ombudsman. Perhaps the term "Ombudsman" should have been registered in some way so it could be specifically applied to the official, provincial role of Ombudsman.

I might add that our own provincial Ombudsman is held in very high esteem by his other colleagues. He also had some good hardball questions to ask of the speakers and the panel members, thus stimulating some interesting discussion.

In the ninth plenary session Mr. Ambrose Peddle, former Ombudsman from the province of Newfoundland, spoke of what happened in Newfoundland. He was appointed Ombudsman by Mr. Frank Moores, the then Premier of the province, and cabinet. When Clyde Wells and the Liberal government won the election, they phased out the office of the Ombudsman in Newfoundland. The former Ombudsman stated that the abolishment of the Ombudsman's office was strictly political. Most delegates felt that it was a very backward, regressive step. Many of the representatives at the conference took real exception to that type of policy.

Perhaps that was the reason that Friday's windup conference session was of such interest to the assembly. The final panel had an MLA from the Manitoba Legislature, a government member who is part of the management commission for the province of Manitoba, and he explained how they appoint their Ombudsman. Derek Fox, an opposition party MLA from Alberta, was also on the panel. Mr. Fox spoke on how an all-party committee appoints an Ombudsman in Alberta, which means that the best person for the job is selected, not a political appointment, leaving the Ombudsman free to play his role to the fullest. I might add that Mr. Fox in his comments was like a baseball umpire. He called them as he saw them, which went over very well with the group. He was nonpartisan, nonpolitical, an example of how and why the Ombudsman in Alberta is that unique.

I might add that Harley Johnson, Alberta Ombudsman, is a very articulate speaker, well versed in the Ombudsman Act. I might suggest that if any of us have an opportunity to hear him address a public meeting, such as are sponsored by chambers of commerce, et cetera - and I understand he attends a lot of public meetings - it would really be interesting to do so.

I might add, once again referring to baseball, that I was attending the conference as a pinch hitter for Mr. Stan Nelson, who was unable to attend. Mr. Chairman, I thank you and your committee for giving me that privilege.

MR. CHAIRMAN: Thanks, John.

MR. DROBOT: I also have copies of the sessions if anybody requests one.

MR. CHAIRMAN: Derek, I wonder if you might supplement those remarks, and then we'll take any questions or comments that members of the committee have.

MR. FOX: John did a very thorough job of outlining the conference agenda. I just want to thank the committee for sending me to attend the Canadian Ombudsman Conference. While some

might view traveling to Winnipeg in the middle of September as a perk of office, I think our time there was well spent. I think we contributed to the process and learned a great deal through our involvement. We had an opportunity to work pretty closely not only with the Ombudsman from Alberta but with staff involved in that office. Harley brought some of his staff members along. I think they found it to be a very good learning experience having some contact with other investigators and getting a sense of just where Alberta stacks relative to other offices.

I found the most informative sessions to be the ones dealing with the administration of native justice. Phil Fontaine, who was the runner-up in the recent election for grand chief of the Assembly of First Nations, was one of the guest speakers. It was a very informative, provocative presentation, part of what I would consider to be just an excellent program, well organized by the office of the Ombudsman in Winnipeg. We had ample opportunity to involve ourselves with the things that are going on in Manitoba with the Speaker of the Assembly, with the Lieutenant Governor, with the Manitoba Legislature through the Deputy Premier, so it was good to be able to share points of view.

Ontario was not represented at this meeting. I think there was some concern or upheaval involved in the office there that required the attention of the Ombudsman, so the Ombudsman herself was not there from Ontario.

As John mentioned, Newfoundland was represented by the recently deposed Ombudsman, Ambrose Peddle. I feel I need to restate the concerns expressed by John and other delegates, because the support for Ambrose Peddle and the office of the Ombudsman, in Newfoundland in particular and anywhere in general, was very strong. It was pointed out on several occasions that while the lights were being turned on elsewhere in the world, with citizens being given more rights, the government in Newfoundland decided to abolish the office of Ombudsman. One of the things that they used as their reasoning was that they felt the MLAs could adequately fulfill that responsibility. That gave me a chance in my presentation as part of the panel, talking about the role of the select committee, to explain, from our point of view in Alberta anyway, that MLAs have some parallel responsibilities in terms of doing casework, investigating within a limited scope, but when you come right down to it, our role is to take sides. Our role is to advocate, and that runs directly contrary to the independent role of Ombudsman.

I want to express again the very important role that the select committee plays in Alberta and how unique it is in Canada. While some Legislatures manage to appoint officers by way of all-party committee – and I think New Brunswick manages to operate with an all-party committee working directly with the Ombudsman, as does Ontario – the other provinces don't, and the process is really suspect. It makes it difficult for the Ombudsmen, all of whom I'm sure have sterling credentials and are independent of government, to maintain the perception of independence and to do their jobs effectively. We've got a good process here, and I was advocating it every step of the way.

Some of the delegates from B.C. expressed concern about what an all-party committee would be like in their situation. Because the atmosphere between the two sides of the House is so thoroughly divisive and partisan, people from B.C. feared that an all-party committee would be just another opportunity for both sides to bash each other. I suppose that possibility exists, but the brighter prospect, I think, is that through working together on an all-party committee trying to actually accomplish something for the good of the people in the province by pooling talents, there may be something more positive that would come out of that situation in other provinces, should it exist.

I just want to close by echoing John's sentiments with respect to our Ombudsman. He carries himself very well; he's well

respected and contributes to the process down there. I think we can feel great confidence in Harley and his staff from the work they're doing for Albertans. I would urge other members who have contact with the governments that may be on side – certainly I'll talk to Saskatchewan and B.C. should we prove victorious in those elections – to try and encourage the extension of the all-party committee process in other jurisdictions. I think it's a really positive thing that we need to work on and expand in the province of Alberta.

2:01

MR. CHAIRMAN: Yes, Yolande.

MRS. GAGNON: I have a question to either John or Derek. Was there a report from the world Ombudsman effort? Last year it was brought up several times, the work being done to establish something of an association worldwide. No update on that?

MR. FOX: No. There wasn't much discussion about that other than talking about a future international Ombudsman conference.

I should have mentioned that the Ombudsman from Quebec was not there either because he was in Africa working towards the establishment of some Ombudsman offices there. He was represented by the deputy Ombudsman.

MR. SIGURDSON: I'm wondering if Ambrose Peddle had anything to offer. His office is now shut down. Are the people of Newfoundland missing out not having the office, or are MLAs able to pick up the slack that's come in?

MR. FOX: I think it's still in a state of real flux there. Politics down there are very partisan, in the first instance, and people tend to view it that way as well. I think there's a lot of editorial concern, but the average person in Newfoundland probably just sees it as another squabble between two parties represented in the House. You have to remember that Mr. Peddle, whatever his qualifications, was appointed by a political process, not a nonpartisan process, and people tend to treat the office that way.

MR. SIGURDSON: That's true.

MR. CHAIRMAN: On that same point, I assume there were MLAs from Newfoundland at your conference.

MR. FOX: The only other MLA at the conference was an MLA from the government side in Manitoba who was asked to speak on the same panel that I spoke on. There weren't any other MLAs there. John and I were unique.

MR. SIGURDSON: That was the case the year before when Yolande and I attended in Halifax. There were no other MLAs.

MR. FOX: And I don't know how John could say my presentation was nonpartisan. It was hard-hitting, direct, aggressive.

MR. DROBOT: You're not supposed to say that, but I expected you to.

MR. CHAIRMAN: Any other questions or comments?

Just digressing briefly, when Jack and I were at the auditors general conference in Newfoundland a year ago, at the evening banquet which was sponsored by the Finance minister for the province, the Auditor General learned publicly that he was being relieved of his position. I don't think they abolished the office, but they found a way to remove the gentleman from his position.

MR. ADY: They announced it in a speech.

MR. CHAIRMAN: Are there any other questions or comments to either member? Okay.

Thank you very much, then, for your report. I had indicated before you came in, Derek, that the report by Jack and Don on the COGEL Conference is being deferred until our next meeting.

I think, then, we're able to move on to item 8, Ethics Commissioner Position. Louise is handing out a summary of the questions posed during our meeting of August 20, questions which we should address today so that we can come to some determination as to the process we wish to follow and the procedure we're going to use. Before going into the questions, though, let me ask this question. Do any of you believe we need Karen South back at our meeting today? She's on standby. You recall she gave us the very comprehensive overview with Eileen Fedor at our last meeting. She's standing by if we have further questions we wish to pose to her or information we'd like to obtain from her.

Yes, Yolande.

MRS. GAGNON: I would move that we invite her to come in just to refresh our memories. Also, Stan wasn't at the meeting. It would give him an opportunity to question as well.

MR. NELSON: I don't need that because I've got the *Hansard* here, and that's sufficient.

MR. CHAIRMAN: We'll invite her in. I don't think we need a motion for it. If you'd ask her to join us then, please, Louise. Thank you.

While Louise is going to call Karen . . . Don?

MR. TANNAS: I move that we have another coffee break.

MR. CHAIRMAN: All in favour? Carried.

[The committee adjourned from 2:07 p.m. to 2:17 p.m.]

MR. CHAIRMAN: Karen will be up momentarily. I've had an opportunity to look at the questions which were raised at our last meeting. Is there anyone who would like to lead off with a recommendation or a motion on any of the points?

MR. SIGURDSON: Do you want to take them one at a time, Mr. Chairman?

MR. CHAIRMAN: I'm happy to take them any way members of the committee would like. If you want to go through them as they're listed or if there's something someone feels strongly about and they'd like to address early, I'm prepared to do it either way. Otherwise, we'll go through it one at a time.

All right. Let's go through them one at a time then.

MR. SIGURDSON: Sure.

MR. CHAIRMAN: I'd like to get Karen's input on that first one before we go into it in any detail.

Item 2 and item 3 are very similar in that they recommend that the duties be merged with one of our existing officers. Item 2 suggests that we merge with the Ombudsman's office and item 3 with the Auditor General's. Is there any further thought or discussion on those points?

Yes, Derek.

MR. FOX: Well, I think it's a good starting point to . . . We agreed at the last meeting that the position should be a part-time one. Then the consideration is about whether or not it's combined with someone who already has a position of responsibility that has some parallel to the Ethics Commissioner or if we hire a part-time judge on some sort of contract basis like many other jurisdictions have done.

When I suggested that we at least consider the implications of merging the office with the office of Ombudsman, it was my hope that members would have a chance to think about it since the last meeting. We can just examine whether or not there are potential conflict of interest allegations that could be made there or compromise situations where the Ombudsman, wearing the Ethics Commissioner's hat one moment, would be dealing with a minister or a department and put in a difficult position dealing with that same minister, deputy minister, or department wearing his Ombudsman's hat a few moments later. That's a question to which I have no clear answer.

I raised it as a sort of item of discussion with other delegates, other Ombudsmen at the Ombudsman Conference. I'd have to say that there wasn't much in the way of enthusiastic support for the notion, but I didn't hear any substantive objections to the possibility. It does occur to me that if this legislation is extended in the near future to senior public servants – deputy ministers and board chairs, et cetera – the potential for conflict of interest becomes a little bit greater for the Ombudsman fulfilling a role as Ethics Commissioner, having to deal on the one hand with items of disclosure, perhaps sensitive items of a personal and political nature, with senior government employees one minute and then having to take their department to task the next on behalf of an Alberta citizen. That's about where my assessment stands on that. I do think that if we were to merge it with an office or to recommend that, the Ombudsman's office has more in common with the office of Ethics Commissioner, at least as I envision it, than the Auditor General's.

MR. CHAIRMAN: Thank you.

I've got Alan on the list, then Stan, followed by Yolande.

MR. HYLAND: Thank you, Mr. Chairman. Thinking about a possible merger or joining with one of the other offices, I think I agree with Derek on the aspect that if it is to be merged, the Ombudsman's office would make more sense than the office of the Auditor General just because of the questioning that would go on there. I would wonder if – when we're appointing that and adding that to the Ombudsman's office, that could be so dependent on the person who's in the office and what their background was. If we are to do that, I'd like to see it done in a way that it's not automatically part of an Ombudsman's office when the next Ombudsman may be appointed. We look at the background of our present Ombudsman; something like this would fit. If we look at the background of another person, it might not, or they might not have any desire to have it part of their office. I wonder, if we're going to look at it being joined, if we shouldn't be looking at some way of not necessarily tying it to the office, that it be something that can be added. You know, that could be found out in our interviews with the way we've done interviews in hiring people. We could determine at that time if it should be added, but I would want to be careful in having it automatically part of the Ombudsman's office. I think if the right person is in the job – and I understand what Derek's saying – they can work around that in a diplomatic way. No matter who's the Ombudsman or where it is, those kinds of conflicts could arise anyway, and I think it would be just a matter of working on that.

MR. CHAIRMAN: Thanks, Alan.  
Stan, Yolande, then Tom.

MR. NELSON: Thanks, Mr. Chairman. I had the opportunity to read the discussion that took place on August 20; in fact, some of it more than once. I guess I've been of the view that, in general terms, the office should be separate. The one fear I have, of course, is that someone comes in and tries to set up somehow a little empire that seems to be developed around here occasionally, more often than not. I'm not one that really likes a lot of empire builders, but then what can you do?

I would have some difficulty in even suggesting, as Alan has, that we take and put the ethics situation into the hands of the Ombudsman on one hand and then select another one at some point in time and say, "Well, look; we don't think you can handle this one, so we'll take it away," and do that. So I think you've got to be consistent. If you're going to do it, you've got to consider doing it for the long term, not the mix-and-match situation, moving it around.

I guess the bottom line, really, is that I think it should be a separate position on a part-time basis, and select the best candidate for that position. I don't believe it is a job where anybody really can build an empire – we control the purse strings anyway – but certainly you'd have to ask a lot of questions relevant to that. It's probably a two-person job with some moneys available for investigative opportunities, which would be outside help. But in examining the two questions here, as far as I'm personally concerned, if we come down to the situation where we were to ask the question, I would support a separate office for an Ethics Commissioner rather than dumping it on someone and do what Alan has suggested.

MR. CHAIRMAN: Thanks, Stan.  
Yolande, Tom, and then Don.

2:27

MRS. GAGNON: Thank you. I discussed this aspect of our committee's deliberations with my caucus, and in both cases the consensus was that no, the position should not be merged with an existing position, that it should be stand-alone; and to avoid, you know, maybe the need for a full head-hunting kind of process with a consulting firm being hired and so on, that a supernumerary judge be considered; and that this person, working part-time, would maybe have only one full-time assistant.

But I would like to ask Karen: in your experience, in reviewing all the Acts across the country, was it ever the case that it was attached to another legislative office? I can't recall.

MISS SOUTH: Not of the ones that have a full-time commissioner.

MRS. GAGNON: And those that have part-time? Or are there any part-time commissioners?

MISS SOUTH: I'm not exactly certain of the status of Justice MacIntosh in Nova Scotia, whether he is a sitting member of the bench or whether he is a supernumerary judge. With respect to Ontario and British Columbia, those commissioners are full-time in the sense that the office itself is separate, but Justice Evans, I know, does not come into the office every day. He comes in when he's needed.

MRS. GAGNON: Okay. So it's separate and part-time. I would say that would be the consensus from our caucus.

MR. CHAIRMAN: Thanks, Yolande.

Tom, then Don.

MR. SIGURDSON: Thank you, Mr. Chairman. I've got to ask, for clarification, whether at the last meeting we discussed having the current Ombudsman, Harley Johnson, serve as the Ethics Commissioner or if the position of Ethics Commissioner would be established in the office. I guess I'm a little bit confused by that. If I follow Stan's argument and the concern he has that if you lose the Ombudsman, then you also lose the Ethics Commissioner, I agree that that would be a concern. But if the administrative responsibility of the Ethics Commissioner rests with the office of the Ombudsman, you don't necessarily lose two positions, then, if you lose one person. So I guess I'd like to see that cleared up.

I suppose the reason I still have some degree of support for having it merged with an existing office – and that may increase to some degree the staff complement as well – is that when it's necessary for the office of the Ethics Commissioner to be active, which I would imagine would be immediately following an election, there would be staff already available in the office that could be dedicated to the project, so a project following an election could be done in some good period of time. Whereas if you have a stand-alone office, an Ethics Commissioner, as a single individual with one support person, may have some degree of difficulty collecting all the information from 83 new members or 83 members of the Legislature in a timely fashion.

So I guess I've got some concern about whether the position was necessarily going to be filled by the Ombudsman or if the position was just going to rest in the office, and then the dedication of staff.

MR. CHAIRMAN: All right. Before we go on – we've got Don and Alan on the list – let's clarify that point. Do you understand what Tom is asking, Louise? He wants to know if, at our last meeting, we were talking of tying the position to the current Ombudsman, Harley Johnson, or talking about tying it to the office of the Ombudsman.

MRS. KAMUCHIK: My understanding was that both questions were considered. One was tying it to the Ombudsman's position. As well, the office space was also considered, where it would be an advantage to have it tied to the office for financial matters.

MR. CHAIRMAN: Okay. I think Alan wanted to get in, maybe on this specific point. Alan.

MR. HYLAND: That was what I was trying to outline, Tom, that I would want to see it tied not as the Ombudsman but as the person, even if it's a separate appointment. He could resign as Ombudsman and still stay on, on a part-time basis, as the commissioner. But my concern was that it wouldn't be tied automatically to the Ombudsman. It would be a separate appointment that would rest in the office, all right, but not tied necessarily to the Ombudsman.

MR. NELSON: I had a question on that point.

MR. CHAIRMAN: Okay, on that specific point, and then we're back to Don on the list. Go ahead, Stan.

MR. NELSON: The specific question is: considering that these questions were asked at the last meeting, has anybody asked Harley Johnson, our present Ombudsman, as to how he feels about this?

MR. CHAIRMAN: Well, unless someone took it upon themselves to, the answer would be no.

MRS. GAGNON: It would have been premature.

MR. CHAIRMAN: Yes.

MR. NELSON: Well, I'm sure it was, but considering the meeting was a public meeting . . .

MR. FOX: Please understand that I raised this at the last meeting. I reminded members that I would be at the meeting in Winnipeg, not making representations on behalf of the committee on this issue but I would undertake to find out if any of the existing Ombudsmen perceived any potential conflict of interest with respect to this suggestion. It's just a trial balloon that I was floating here at the last meeting so we would have some discussion.

MR. NELSON: So I'm remembering back to your discussion. Regarding the meeting, we didn't get any real positive feedback from it.

MR. CHAIRMAN: Louise has reminded me that following our last meeting, I asked her to advise both the Auditor General and the Ombudsman that the matter was discussed; no position was taken.

MR. FOX: That's right.

MR. CHAIRMAN: Just advise them that we had discussed it. But in terms of contact, I think Yolande is correct in that it would have been premature to approach the issue in more than a questioning sense.

MR. FOX: Yeah, and I did. I spoke with Ombudsmen, including Harley, at the meeting just in a purely hypothetical way: "This is an idea I had. Can you imagine any potential conflict of interest?" The response from most of the Ombudsmen was lukewarm. I can't speak for Mr. Johnson, how he'd view the possibility. No one seemed to think it was a bad idea, but there wasn't anyone who really thought it was a particularly good idea.

MR. CHAIRMAN: Don.

MR. TANNAS: Thank you. While the idea of being merged or involved with another office might have some initial appeal, I think I would recommend that they be a separate office in the organizational kind of sense of how they are dealt with by us and in how they are dealt with by other offices under our purview. Having said that, there's nothing wrong with them being associated. For instance, in a physical kind of sense you might have a common reception, telephone answering. If you've got only one person as a part-time Ethics Commissioner, that person has to do things like go to the bathroom, eat dinner, be sick, be away, and that kind of thing. So if you had some tie-in with another reception, whether it be the Ombudsman or the Auditor General, they could answer the phone, they could process mail, they could cover for whoever it is that's in there. So I would say that rather than merge, there might be an association, but I'd like to see it as a separate office.

If, in the workings of time, two or three years down the road the Ethics Commissioner wanted to merge with somebody else, they could bring it up at that time. It's a little harder if we put them in together in the first place to then separate it afterwards, so I would like to see them as a separate entity.

MR. CHAIRMAN: Is there anyone else who wishes to express a view or raise a question on this specific matter before we trying to bring it to a conclusion? Yes, Derek.

MR. FOX: I would just say that I raised this as a trial balloon. I think it's obvious that people have thought about it. We've had some good discussion. My reluctance to endorse my own

suggestion I think is based on what I would envision to be the future role of this office, and that is an officer that deals not only with elected members but with senior public servants as well. I believe that over time that would place the Ombudsman in a difficult position in terms of fulfilling the responsibilities of Ethics Commissioner. That being said, it would be my recommendation that we not talk about appointing either the Ombudsman or the Auditor General or some existing position in the government to be Ethics Commissioner but examine other alternatives, which to me seems almost exclusively to be someone who is or has been a judge at some level in the province of Alberta, because that seems to be the established pattern elsewhere in the country.

2:37

MR. CHAIRMAN: The Chair senses that we have a consensus. It may not be unanimous, but there is a consensus that this be a stand-alone position. Is that agreed?

SOME HON. MEMBERS: Agreed.

MR. NELSON: A stand-alone part-time position.

MR. CHAIRMAN: Well, at our last meeting we did have a consensus that it be a part-time position. Is everyone still comfortable with that position?

MR. ADY: I'd like to speak to that.

MR. CHAIRMAN: Yes.

MR. ADY: I'm in favour of it being a part-time position, but I think we have to be really careful of what we might get ourselves into with that, especially when we start talking about having a judge on part-time. It would be really difficult, I think, to find a judge that would take on a contract basis - and that's what it would be - a part-time position at a rate below \$200 or \$300 an hour. If he worked two hours a day or four hours a day, say a half-time position, we would find ourselves paying him \$192,000 a year, if you do the arithmetic on it. We can hire a full-time person that's qualified and give him other work.

Derek takes the position that likely no one would be qualified unless he were a judge. I don't know, and I guess I don't know the facts today, whether a judge would be prepared to come for a lesser fee. If we're talking about working half days, say two and a half days a week, at \$100 an hour, you would get somewhere close to the realm of it being reasonable for a position.

To sum it all up, let's not hang ourselves on a part-time position just for the sake of that. It may end up costing us more money. That's the thing I want to flag.

MR. CHAIRMAN: That's an important qualification to put on it. I think as we get closer to the selection process, we can address that with others who have had experience in recruiting to ensure we don't fall into the trap you've pointed out.

MR. ADY: Just a last comment on that. I assume the reason for considering a part-time position is the economics of it.

MR. CHAIRMAN: No. I took from earlier discussion by members that there was not enough work to keep someone busy full-time. That position, I believe - and, Karen, you may wish to elaborate. It was substantiated by the evidence you found in both British Columbia and Ontario that it is not a full-time job in terms of the amount of work involved.

MR. ADY: Yes.

MR. FOX: There may be times when the responsibilities occupy a person full-time, but those times are infrequent.

MR. ADY: Okay. Just a point.

MR. CHAIRMAN: Alan, and then Derek.

MR. HYLAND: My question is: why does it have to be a judge?

MR. CHAIRMAN: We're not on that now. We're just finishing up on the fact that it's part-time, with the qualifications Jack has put on it.

Are you on that point, Derek?

MR. FOX: Yeah, although one of the things said earlier was that this be a stand-alone office. I think we need to worry about the actual administration and the mechanics of it.

MR. CHAIRMAN: Stand-alone in the sense that it would not be part of the duties of or married to one of the existing officers.

MR. FOX: I'm comfortable with that clarification, but we may find through our discussions that it's appropriate to site the office of the Ethics Commissioner close to an existing office. The consensus we're describing here is that we not consider the existing officers of the Legislature as potential applicants for the office of Ethics Commissioner.

MR. CHAIRMAN: Okay.  
Anyone else?

MR. NELSON: I'm a little disturbed about what Jack is saying. Insofar as I think we all have to concern ourselves with economics – and I always seem to try to do that – there are certainly models around that you can model the office on so you're not going to be paying somebody over \$200,000 a year for a "part-time position." There are models and experiences around, so we can develop an Alberta model to ensure that that doesn't happen. I'm not overly concerned about that. I'm just concerned that we keep it a stand-alone office.

MR. CHAIRMAN: Okay. We'll go back to Alan on the list and then Don.

MR. TANNAS: I was just on Jack's point.

MR. CHAIRMAN: All right. Let's finish on Jack's point first.

MR. TANNAS: It's partly a clarification of my understanding, and I'd ask Karen. It's my understanding that Judge Evans, who is the ethics commissioner for the province of Ontario, is a part-time commissioner but he also takes on contracts for other things. You know, one of them was that he was on the recent U.S.-Canadian trade court case over pork.

MISS SOUTH: I'm not familiar with that. I do know that Mr. Hughes in B.C. did take on work in Manitoba on a judicial inquiry there over the summer. So they do take on other . . .

MRS. GAGNON: It's my guess it's not exclusive, then, to this office.

MR. ADY: Well, from experience do you have some idea, Karen, of what kind of time commitment this office requires on a part-time basis? Is it 25 percent of a person's time, or 50 percent?

MISS SOUTH: I don't know. In talking to Justice Evans' executive assistant, I do know that he gets back very quickly when members phone in with their questions, and he is available by phone if not in the office. He does keep in touch when he's outside the office; he phones in regularly. How much of his time he actually spends in the office: one could ask and get an estimate of the hours he may have put in over the last few months.

MR. CHAIRMAN: Let's do some more work on this, because this is a very important point. Let's do some more work on it in preparation, hopefully, for our next meeting and see what information we can glean from other jurisdictions that have part-time positions.

MR. FOX: You mean about budget and workload?

MR. CHAIRMAN: Workload and costs associated with the position, yes.

Alan, you started to ask a question earlier.

MR. HYLAND: No. I want to talk about: does it need to be a judge or not? That's a different point.

MR. CHAIRMAN: We've completed the discussion on the aspects of Jack's point. I think we're now down to that point. There's nothing in the legislation that precludes anything other than a judge. Derek has made a personal observation on the matter, and it's in order for you to get into it at this point.

MR. HYLAND: Well, Mr. Chairman, I think we should look at someone other than a judge. I say this because of experience when we've had judges do various things associated with the Legislature. They're good people and nice guys, but because of their position they often don't mix with the community because they're afraid that may influence their decisions. They stay within a group, within themselves. I think for this position, because it's so key and so important to so many people, and especially if it is ever expanded to include senior civil servants, we would need somebody that would be moving out in the community and understanding how people feel and hearing what people are saying. If it needs to be someone trained in law – and I'm not sure that's necessary – there are lots of good lawyers out there, and if something like this were there, I'm sure they would retire and apply for a position like this or maybe work part-time and apply for the position. I don't see why a judge, who is a lawyer that's been appointed to the bench, is necessarily any smarter or any dumber than any other lawyer. I think we should have a look at that: if you need legal background, if you don't. If we feel you need legal background, we should look at appointing a lawyer versus a judge to the position.

MR. CHAIRMAN: Jack, on this point.

MR. ADY: To pick up on Alan's point. In our earlier discussions, it seems there wasn't anyone around this table saying we should not merge the two positions because the Ombudsman was not the right person and didn't have the right background. That being the case, if the people in that office today could have been considered to take on that responsibility, then surely there are other people in society that could fulfill the responsibility besides a judge. We have a chartered accountant as our Auditor General. We have Mr. Johnson, who certainly hasn't been a judge. He certainly has some legal training, but he's not a judge. I think we have to open it up beyond that.

2:47

MR. FOX: Just a point of clarification. I understand the sentiments Jack is expressing, but I don't think at any point in this committee we were considering whether or not Harley Johnson or Don Salmon should be appointed Ethics Commissioner. We were talking about whether or not there was a potential conflict of interest or related matters between the Ombudsman or Auditor General in the province of Alberta in fulfilling the responsibility of Ethics Commissioner. It wasn't an endorsement or rejection of either individual or a comment on their relative abilities for this position. I think it was a theoretical discussion about the two officers.



MR. ADY: Well, if you're going to consider them for that office, then that would mean you'd have to fire both of them and put in a judge.

MR. FOX: Oh, we weren't even to that point. The point I'm trying to make is that we just had a theoretical discussion about the applicability or the opportunity to view the positions as one. I think we've moved beyond that now.

MR. CHAIRMAN: Okay.  
Yolande, and then Tom.

MRS. GAGNON: I think I'm the one that brought up the term "supernumerary judge" just as a suggestion of the type of person we envisioned, who works part-time, is actually retired, but has a lot of expertise. It doesn't necessarily have to be a supernumerary judge. No matter who we get, though, we will have to establish some criteria as far as what the requirements for the position are, what kind of background, what kind of education. Maybe we'd do this with the assistance of a consulting firm, I don't know. But regardless of who it is - and I certainly haven't closed my mind to who it would be - I think we need to establish the requirements for the job. It's really quite simple.

MR. SIGURDSON: I agree with Yolande. I think the criteria have to be set up. Given the position, I also think the credibility factor has to be there for those instances that are going to be referred to an Ethics Commissioner; that individual is going to have to judge whether or not there's been a breach. I'm not convinced that just anybody can fall into that position. There's a position of authority that's established already by having a retired judge or a person that's from the bench. They come with a position of authority. I guess I would be leaning towards having a judge fill the position if at all possible. I guess I'm looking at authority and credibility as a couple of factors that are already established with a person that comes from the bench.

MR. CHAIRMAN: Tom, the last part of your comments really intrigued me. Until you said, "if at all possible," I thought you were about to advise us that it must be a judge. Are you leaving the door open for someone other than a judge as a possibility?

MR. SIGURDSON: Yeah. I can't say that it absolutely has to be a judge. My preference is that it would be a judge, in the same way we had with the Electoral Boundaries Commission. Our preference always was that the Chair be a judge. There were other possible factors. I would like to be convinced that we do not need a judge, but at the moment I would prefer that the position be held by a judge.

MR. CHAIRMAN: Stan.

MR. NELSON: Mr. Chairman, before I comment on whether the job should be for a judge or some other person, professional or otherwise, I think we need to develop the terms of reference for the position, at which time you can make a determination as to what qualifications the position may require from an individual. There's a tremendous amount of people with investigative backgrounds in the community that may be just as credible and just as able as a judge or other legal mind in doing the function we need. Many judges do not have any investigative experience. What they're doing is making legal decisions based on written law. Quite frankly, as far as I'm concerned, we've got to leave that gate open until such time as we develop terms of reference here. I reiterate that because it's always been my experience, having been in the employment business for many years in some large corporations, that before you start determining who should get a job, you have to determine what the terms of reference are going to be and what qualifications may be needed to fulfill that

function. Until those are developed, I'm sorry, but the gate's open as to who might be selected for that position.

MR. CHAIRMAN: Is the committee comfortable, then, and beginning to jot down ideas that would be considered under the terms of reference? Yes or no.

MRS. GAGNON: I would like to ask Karen, please, if she could give us the background of those ethics commissioners that exist already in Canada. Do you recall?

MISS SOUTH: Do I recall?

MRS. GAGNON: Yeah.

MISS SOUTH: I'm not certain about Nova Scotia. As I say, I know it's Justice MacIntosh, which would imply that he either has been or is currently a sitting justice. Justice Evans is a retired judge. I'm not as familiar with Mr. Hughes, and that was the question the chairman asked me earlier. It's possible he may have been a Deputy Attorney General, but I'm not certain. I'm following up on that.

MRS. GAGNON: A second question for information, and it just goes back to time for a minute. In all your review of this, do you recall how many hours would be necessary for an ethics commissioner spending time with an individual MLA? You know, it might be two hours for some; it might one; it might be 10. Do you recall?

MISS SOUTH: I don't recall that. I know that in the case of Ontario's commissioner, he did meet with each member as he's required to do, and then there's follow-up work if the completed disclosure statement is not what the commissioner feels is adequate.

MRS. GAGNON: I guess my observation, then, is that maybe we are thinking in terms of a lot more time than will actually be required when we look at 83 MLAs times maybe two hours. But it's speculation at this point anyway.

MR. CHAIRMAN: On that point, there's an outstanding reason that the greatest amount of time would be while each MLA is filling out his or her . . .

MRS. GAGNON: Yeah. Right after an election.

MR. CHAIRMAN: That's when there's going to be more interaction between the commissioner and the MLAs.

MISS SOUTH: The initial disclosure might take more time, right after the election, but there's also the annual updating of the statement.

MR. CHAIRMAN: But I'm assuming the administrative person will be providing a lot of the legwork there as well.  
Yes, Derek.

MR. FOX: Can I suggest, Mr. Chairman, that we take a five-minute coffee break? I neglected to bring a copy of the Act to the meeting with me, but I would feel more comfortable carrying on the discussion with the actual legislation because we have to deal within the confines of the Act.

MR. CHAIRMAN: It's taken as a motion? All in favour.  
Carried. Thank you.

[The committee adjourned from 2:55 p.m. to 3:05 p.m.]



MR. CHAIRMAN: I'll reconvene the meeting. We've now got copies. Derek, have you been able to go through it and find the section you were looking for?

MR. FOX: No, but I do have the Act, and I have all the information presented to us by our advisers last time.

MR. CHAIRMAN: We seem to be coming down to the point where we're recognizing we're going to need some assistance from PAO and possibly others in finalizing our list. Is there a preliminary list that members would like to put together now? Are there some points you'd like to see covered in the criteria for the Ethics Commissioner's position? We're speaking of things that may indeed be covered in the legislation but things you want to ensure are here. Anyone?

Yes, Derek.

MR. FOX: Mr. Chairman, I would suggest that it might be useful for us to discuss time lines. We've come to some agreements, and it seems to me we're starting to fill in blanks without really having a common objective in terms of when we get this done. Whether we look at a judge or someone with qualifications that we outlined in one way or another, I think what we need to be doing is working toward getting this office up and running. The government had the initiative to put this legislation forward, we passed it, and I think there's an expectation from Albertans that we demonstrate some progress. I think we're all committed to that, and I would suggest that maybe we look at some reasonable time lines and we can measure the process against that.

MR. CHAIRMAN: You would rather we move away, then, from looking at the terms of reference to address time lines. We had a start-up time for the office as one of the questions raised at our last meeting. You've raised the subject. Do you have a suggestion you'd like to make?

MR. FOX: Well, I think the sooner we get things going the better, just in a general sense. I think if we prolong the process through sort of trying to reinvent the wheel rather than learning from experiences in other jurisdictions, we may end up with a situation where we don't have an office up and functioning until the beginning of the fiscal year.

MR. CHAIRMAN: Why do you say "prolong the process"? Is there something that's happened that's troubling you?

MR. FOX: No.

MR. CHAIRMAN: Okay.

MR. FOX: No, I'm not suggesting we have. I said if we do try to reinvent the wheel, it may end up that we don't have a person in place until the beginning of the new fiscal year. I sense from the committee that we're all anxious to get on with this, we want to get this done, and maybe we should look at trying to have someone appointed to the position by year-end so the office can be functioning by the beginning of January and begin to take initial statements from members.

MR. CHAIRMAN: All right; targeting year-end.  
Stan, on this point.

MR. NELSON: I wouldn't like to put the cart before the horse. It would be nice to be into the process of interviewing persons now for the position. But until such time as we develop some terms of reference for the position and have some criteria in place, I don't know how we can develop a time line, because a time line would probably depend on developing terms of reference and then going into a search. Now, have we determined whether it's going

to be a national search, a provincial search, or an international search? Again, I can't see anything in here that gives those determinations. My thought for some consideration would be that we get PAO working with Karen. She may have some terms of reference available from other Ombudsmen's offices or from the PAOs in those government offices that were used, and maybe we could ask them to develop some terms of reference, qualifications. I'm not prepared, because I didn't see this piece of paper that actually I was handed today to start writing down terms of reference and what have you. Over the next two weeks I would like to do that. But at the same time, we could ask PAO, working with Karen South and others, to bring back some form of recommendation to us.

I think it would be easier for us to work around those recommendations than try to sit here and develop terms of reference over the next half hour, hour, whatever the case might be. Anybody that's worked in employment knows that it isn't an easy thing to do, in any event, because you can overdo it. Then I guess the determination should be whether it be a national or provincial search, but I think the meeting on October 28, if I may, Mr. Chairman, would probably be the time to make some of those determinations. Then once those determinations are done and assessed, I think we can set a time frame, but not until you've done that. You can set a time frame here all you want, the terms of reference we can develop, but if we don't agree on them, the next thing you know, the time line goes out the window.

I think you have to do these things in a staged process that would ensure that when you go into your search, you know in your own mind what the term of reference is and the qualifications you're looking for. Once you've done that, then you advertise your position nationally, internationally, provincially – whatever the committee considers – then you're better able to start dealing with the applicants that you get. From that point in time, of course, it will depend on when the successful applicant may be available.

There are all kinds of considerations here. We are going to have to be very flexible and take them into consideration before, I think, you start saying, "This is the time line." We have to include these other things first.

MR. CHAIRMAN: Thank you.

Alan, Tom, and then Yolande.

MR. HYLAND: Just to say that by setting the time line, as I remember, isn't it roughly about the same time line – maybe it was even a little longer – when the present Ombudsman search was on and we bumped up against Christmas? Then we knew; we had terms of reference of what we were looking for and it still took that amount of time to put somebody in place. Here we're looking at a time frame, even like year-end, without terms of reference. I don't know how we're going to squeeze it all in.

MR. CHAIRMAN: Thanks.

Tom, Yolande.

MR. SIGURDSON: I thought, given the fact that we were more or less of the opinion that this was going to be a part-time position notwithstanding Jack's concerns, that this would be a provincewide search rather than a national or international, Stan.

MR. NELSON: Has that determination been made by the committee?

MR. SIGURDSON: No, it has not. I thought it was implied. You wouldn't expect somebody to move to Alberta if it's going to be for a part-time position, again keeping in mind Jack's considerations and concerns about the cost. That was consensus, and I drew from that that it would be a provincewide search. If it is a provincewide search, I don't know if we can hit January 1 as a

target date, but I certainly would like to hear other target dates thrown out there.

MR. CHAIRMAN: Thank you.  
Yolande.

MRS. GAGNON: I agree with Stan that we should ask PAO to develop some criteria in terms of reference and draft terms of reference to come back to our next meeting for our discussion and approval, but I also would like to set a target date of January 1. I think it's really important that the person who's considering this kind of employment know when the task begins. You know, if we absolutely couldn't get anybody at all by that date, then we could extend it, but I think it's good to have a target. If, after having accepted terms of reference, we decide to go with a consulting firm, they advertise for a couple of weeks. You know, the usual: they give a couple of weeks for a response; they shortlist. I think we can do it by the end of this year, this fiscal year.

MR. CHAIRMAN: Okay.  
Anyone else? Don.

MR. TANNAS: I'd like to just put in an "or" to indicate maybe April 1. Not that its other name has any significance, but it's the beginning of the financial year. Although we may target January 1 for a selection, we could have a second date in mind that may be more realistic – that is, April 1 – that we would have the person appointed and ready to begin, which then doesn't tie us down to January 1 if the budget isn't in place yet, et cetera. The person's going to have to recruit an executive assistant, or whatever the title would be, and all that kind of thing in order to begin.

MR. DROBOT: Mr. Chairman, there's no doubt in my mind that we have to clarify why and what before we go into when.

MR. CHAIRMAN: Thanks, John.  
Derek.

3:15

MR. FOX: Well, I think in terms of the expenses that may be associated with the operation of the office part at year-end, there is provision in the Act for a special warrant. It seems to me that if the committee incurs expenses in the search and hiring process, we'll have to be making application anyway for this expense, based on the will of the Legislature as per the last session.

When I raised the possibility of setting time lines, I think I'm just looking for some objectives, and I think Stan's points about the potential pitfalls along the way are well taken. As we've learned from other experiences, when you hire the right person, sometimes the right person isn't available at the time you want them and you have to make concessions. I think that if we set a time line and work towards it, then we've got that as a goal. If there are some compelling reasons why we can't make that, then we're in it together. We make these decisions together as a committee.

MR. CHAIRMAN: Are we agreed that we'll ask PAO to work with Karen for our next meeting to develop some draft terms of reference?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: Are you comfortable with that?

MR. FOX: I think that's a good idea. Just to point out to members, we had a very extensive position and person profile developed for our Ombudsman search that perhaps Louise could circulate to members prior to that meeting. We could have a good

look at it because there may be things that we can measure against that.

MR. CHAIRMAN: I do want to point out that the original purpose of the meeting that we've called for the 28th was to review the probable budget requests by our three officers and we've added on, as a result of this meeting, the Ethics Commissioner position. Unless we wish to go into the evening – I'm not sure what people's schedules are like, but I think I have a commitment that evening – we will need another date to go into it in some detail.

MR. HYLAND: Is there something wrong with the following day?

MR. ADY: I have a problem with that day.

MR. CHAIRMAN: You mean the heritage fund meetings, Jack? Do you know what time your heritage fund meeting is?

MR. ADY: Ten.

MR. CHAIRMAN: And how long do you anticipate it will last?

MR. ADY: Ten till 12 and then 2 to 4: two shots for the day.

MR. NELSON: Can't we start earlier in the morning on the 28th, like 9 o'clock or 10 o'clock?

MR. CHAIRMAN: Well, no. I think we were locked in on the 28th for the time, but there's a question of whether we can do something on the 29th.

MR. ADY: The 28th is fine. I don't have a problem with that.

MR. CHAIRMAN: If we started earlier?

MR. ADY: Sure.

MR. FOX: On the 29th. You're confusing the dates.

MR. CHAIRMAN: The 29th, the day of the heritage fund meetings.

MR. FOX: If we start earlier on the 29th, you're okay with that?

MR. ADY: I'm okay.

MR. CHAIRMAN: How early?

MR. NELSON: Eight o'clock?

MR. HYLAND: Eight would give two hours.

MR. CHAIRMAN: Okay. Are we agreed then?

MRS. GAGNON: I'm sorry. The 28th starting earlier?

MR. CHAIRMAN: No, 8 a.m. on the 29th. The Tuesday morning starting at 8, running for two hours, from 8 to 10 or thereabouts, and then heritage fund begins at 10. Okay. So we'd be able to get into the subject on the 28th. That's not a bad idea anyway, in that we can have the terms of reference introduced and then come back to them the next morning.

MR. TANNAS: Some of us will have to fly home Monday the 28th and turn around and fly back.

MR. CHAIRMAN: You have to go to Highwood on the 28th?

MRS. GAGNON: The 28th: that's out.

MR. TANNAS: The evening's out.

MR. CHAIRMAN: All right.

MR. NELSON: Can I make a comment on this time thing?

MR. CHAIRMAN: Go ahead, Stan.

MR. NELSON: Yolande's looking at suggesting January 1, that we should lock that in somehow. I don't think you can do it, quite frankly. Assuming we reach some agreement on the 28th or the 29th of the month as far as terms of reference are concerned, assuming that we're going to limit this to a provincial search, probably the earliest you're going to get an advertisement into the field is going to be at some point in time during the week of November 4, because you're probably going to get some of the dailies as well as the major papers. For that quality of an applicant you're going to have to allow them at least two or three weeks to present their résumés, et cetera. That means you're into the end of November. I would hope you'd get a professional search person to go through those initial résumés and to bring them down to a shortlist so that we're not interviewing a hundred candidates, so right away you're into Christmas. Quite frankly, the earliest possible time you're going to be anywhere close to making any selection is going to be the end of January. Assuming you've got the guy or the woman or whoever is selected based on their ability to commit themselves, you know, you're looking at the end of February, end of March. Realistically, I don't see that we could be putting anybody in place before March 1 at the very earliest.

I appreciate the fact that everybody wants to get this thing rolling as quickly as possible, but I don't think that putting hard time lines in place is going to achieve that. To do it right, we've got to be somewhat flexible, and I think that at our meeting on the 28th and the 29th, once you've developed those terms of reference, then things will flow a lot easier than we may think. But until such time as those terms of reference and where we're going with it are in place, trying to put a time frame on it is just absolutely out of the question.

MR. CHAIRMAN: To this point in time, the Chair has heard target dates, has heard one suggestion of a target date of January 1, one of April 1. Another member has suggested that we've got to ensure we have the why and the what fully in place before we talk about the when. The only caution I'd have for the committee is that we not lock ourselves into something that we find is unrealistic, but clearly we want to move with the process. Chances are that today we would have been dealing with the PAO had it not been for the fact that at our last meeting we were asked by some committee members to examine and think about the possibility of tying the position, merging the position, with one of our other positions. We've done that. We've thought about it, and we've decided collectively that that isn't the way to go. I don't consider that time poorly spent. That's part of the process that we've followed.

MR. NELSON: There's one other consideration, Mr. Chairman, and we're all cognizant of it. Many of us take off January or February or portions thereof, so we'd better take that into consideration too.

MR. CHAIRMAN: Well, what I would hope we would do, if members would bring their calendars with them for our next meeting – as you know, normally this time of year we get into our budget process, and we set aside days for the rest of this calendar year and, indeed, the early part of the next calendar year. Sometimes we find that we don't need all of the days we've set

aside, but at least we've got days that we can lock in. Then we know what opportunities there are.

Is there anything else on the time line or on the request we're going to make of the PAO and Karen? Yes, Derek.

MR. FOX: Well, maybe the best that we can accomplish under the circumstances is to agree – and I think there's consensus here – that we want to do this as quickly as we can, doing a proper job. So if we come to the next meeting committed to advertising as soon as possible, we'll determine what we need in terms of resources to accomplish casting a net, whether it be provincially or federally, and that we just base everything on the recommendations of the PAO in terms of what is the standard. Stan suggested two to three weeks, and that's probably the likely closing date after ads appear, based on the recommendations that Grant Nicol or whoever might make to us. We just make a commitment to expedite the process as much as we possibly can with a view to accomplishing our objective. Maybe it's unreasonable to set a firm deadline. I was just suggesting tentative deadlines. If we come with a commitment to have the ball rolling as of the next meeting, then I think we're doing all that can be expected of us.

3:25

MR. CHAIRMAN: The ball has been rolling all along.

MR. FOX: Please don't get defensive, members of the committee. I'm not implying that it hasn't. I'm just trying to get us agreed, committed, to some time lines here. I've backed off from suggesting that we commit ourselves to January 1, but if we all come here next time with the understanding that out of that meeting will flow ads and a determination of what their scope is, provincial or federal, and whether or not we need to hire expertise . . .

MR. CHAIRMAN: Yes, Yolande.

MRS. GAGNON: Yeah, just quickly. I'm sorry; I'll have to leave. I have to catch a 4 o'clock airbus. I wanted to ask if you had consulted with the Speaker's office. I think one of the things that we had established at our last meeting was that the chairman had to consult with the Speaker. Did you receive any general direction, any opinions, anything that he would favour over other things?

MR. CHAIRMAN: The specific request of the Speaker was that he allow us to work with Karen, to use Karen's time and her work with the other jurisdictions, because we don't have a budget for the work to be done and so on. The Speaker said he'd be as helpful and co-operative as possible to help us through this process.

MRS. GAGNON: But no direction; it's up to us, kind of?

MR. CHAIRMAN: That's correct.

MRS. GAGNON: Okay. Thank you.

MR. CHAIRMAN: Yes, Tom.

MR. SIGURDSON: Mr. Chairman, I didn't realize Yolande had to catch a flight. I'm wondering if we can deal with some future meetings today because our next meeting is 13 days away, and then November will pretty much fill up. Is there any possibility of dealing with some times today?

MR. CHAIRMAN: The difficulty we have is that a number of us didn't bring our calendars along. If you're comfortable, I'll ask Louise to try to co-ordinate something between now and the next meeting, but we need the next meeting to finalize it. We'll work

on some tentative dates and see what we can get established, recognizing that we'll finalize it at the next meeting.

MR. SIGURDSON: Okay.

MRS. GAGNON: Excuse me.

MR. CHAIRMAN: All right. Thanks, Yolande.

Okay. Well, I think the key on an item like this is that we're able to move as quickly as the committee wishes to move. It isn't the kind of thing that you can ramrod through, or should. We're feeling our way through an area that's new for us as a committee. While we want to move as quickly as we can, we also want to be assured that we're doing it in the right way, that we're not overlooking some key points.

Going back to this list, the staff component for the office, with the committee's concurrence I would like to speak with someone in PAO about that myself in terms of how we move in that direction, and then I would be reporting back to the committee at our next meeting. Members are comfortable with that?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: Do you want to go back up to item 1? I think we've pretty well covered the others. Are there any other points you wish to raise? That's the one we wanted to hold for you, Karen, the very first question we had. Is there any further clarification?

MR. ADY: I just want to get in on that subject.

MR. CHAIRMAN: All right.  
Stan.

MR. NELSON: Well, the question is a good question. My own personal view is that if a person is going to seek office, I think they should be able to access and get the best information possible as to what information may be required of them. The best way to do that is to have access to that office, unless you've got everything in print, which doesn't necessarily happen. There are people that may try to seek office but they come in and all of a sudden the rules are different from what they perceived them to be, which may cause them not to seek an elected office. Quite frankly, I think that should be available to a candidate no matter - I don't care what party. It's a matter of making sure that a person is able to seek the best advice in confidence, if that be the case.

The downside, of course, is that it may mean that we get a hundred candidates trying to access the commissioner's office, and then of course that throws everything out of whack as far as maybe budgetary concerns, although maybe the system in there can answer most of the inquiries. At the same time, I think that most people should be able to access that information. For example, we're elected now. All of a sudden we decide to change the rules. Then you say, "Well, I don't like the new rules, so I think I'll quit or I'll not run again." I think we're going to have to be consistent for that next election as far as the new candidates are concerned, that they know what those rules are. I'd like to have access to that office if I was a new candidate.

MR. CHAIRMAN: Tom, on this point.

MR. SIGURDSON: Yeah, I agree with Stan. I think that the office should be able to produce some kind of a paper that's sent out to candidates or potential candidates as a guideline. If they've got further questions, then they can contact the commissioner. The office of the Chief Electoral Officer has that guideline for candidates, and it gives you an idea of what to expect as a candidate. We should certainly have the Ethics Commissioner do the very same for potential candidates, and if anybody has any further questions, or questions that aren't answered by a generic

paper, then they could contact the Ethics Commissioner to find out what else they may have to divulge.

MR. HYLAND: Mr. Chairman, I think the previous two speakers are right, because often various parties have their experts on the Election Act and the Legislative Assembly Act. Then you have the Attorney General, and sometimes the advice coming from those three, all being lawyers, wasn't the same, and it created problems for some people. Not problems that weren't able to be sorted out, but it created some anxious moments for a while because you don't always get the same advice from all three. I think that at least this should be one thing the Ethics Commissioner's office should do, that that's the authority. What they say is supposed to be the rules that you run by. If you can get access to them before you run, any candidate should know what they're getting into. There shouldn't be those anxious moments that sometimes happen after elections to all parties, to all people.

MR. CHAIRMAN: Okay. Thanks.

Jack, and then possibly Karen could sum up.

MR. ADY: I just wanted to speak in favour of it. There are enough surprises that come to people after they get into this thing that we're in without adding that surprise, which may impact on their livelihood and their life-style with this new Act that has come upon us by not making it available to people that are going to get themselves into it. By all means, they have to have access to it.

MR. CHAIRMAN: Thank you.  
Karen.

MISS SOUTH: It's one thing that I did not pursue with either Ontario or B.C., and I'd like to ask the B.C. office whether they have been getting any questions during the current campaign from candidates. I know that in our Act we do have the educational component, and that might be something that is considered as part of his terms of reference.

The other concern that I have, though, is with respect to his giving advice. If our legislation says, "a Member or former Minister may request" advice, and they are protected if the commissioner gives them advice in writing - it protects them from future conflict - I'm wondering whether or not candidates have to be included in that way as well.

MR. CHAIRMAN: Okay. It's something we have to give some consideration to.

All right. Any other matters members wish to address today?

MR. NELSON: I move we adjourn.

MR. CHAIRMAN: Stan moved the adjournment. All in favour? Opposed? Carried.

[The committee adjourned at 3:35 p.m.]