

8:01 a.m.

Tuesday, October 29, 1991

[Chairman: Mr. Bogle]

MR. CHAIRMAN: Okay. We'll declare the meeting officially open. Today, first, we're pleased to welcome Grant Nicol from PAO. Most of you - in fact, I think, all of you - who are present at this time worked with Grant on the Ombudsman search. The two members of the committee who weren't involved in that were Tom and myself. Tom is not yet here. He's coming this morning, isn't he?

MR. FOX: Yes.

MR. CHAIRMAN: All right. And you're expecting Yolande this morning?

MRS. KAMUCHIK: Yes.

MR. CHAIRMAN: Okay. And Karen is almost an honorary member of our committee now; we see her quite regularly.

We're here, as you know, to discuss with Grant the terms of reference and other matters related to the Ethics Commissioner's position. We also have from Grant a proposed calendar of events and activities which need to take place between now and April 1, 1992, if we intend to have our commissioner in place by that date, the beginning of our new fiscal year. So we'll spend some considerable time today working on our calendars to identify the necessary dates when the committee must interface with Grant on the competition schedule.

MR. FOX: Don't let Dennis Anderson hear you say "interface."

MR. TANNAS: The late Mr. Sigurdson.

MR. SIGURDSON: Good afternoon, gentlemen, ladies. How are you?

MR. CHAIRMAN: Tom, I don't know if you know Grant Nicol.

MR. SIGURDSON: No.

MR. CHAIRMAN: Tom Sigurdson. Tom is the Member for Edmonton-Belmont.

MR. SIGURDSON: Good to meet you.

MR. NICOL: Hello, Tom. Pleased to meet you.

MR. CHAIRMAN: Grant, I'll turn it over to you at this point. I'm not sure where you'd like to begin on the various documents we have from you, so I'll leave that up to you.

MR. NICOL: Would you like to possibly walk through the process first and then come back to the position and person profiles?

MR. CHAIRMAN: Yes. I think that's a good starting point. I knew there was a reason I turned that over to you and asked you to lead off.

MR. NICOL: To start with, today is October 29, and I guess what we propose to do today is to review the position and person profiles. I have drafted the position and person profiles. The

position profile is a document that will go out to the candidates that apply for the position. The person profile is a confidential document that, in fact, is used by the selection committee and by myself as a yardstick by which to measure all candidates.

The next step would be the preparation of the final position and person profiles and the advertisement for final approval by the committee. I propose that that could take place by November 1 or by the end of this week.

The next step, I guess, would be the setting of the salary and terms and conditions of employment. Really that is something that is up to this committee. I think the chairman had suggested a date around November 13 when you would meet to do that.

The next step would be, the ad having been developed and approved, the placement of the advertisement. I've just suggested the *Edmonton Journal*, *Calgary Herald*, and other major dailies. I imagine that's something that has to be discussed and agreed to by the committee. I would think that we could meet the date of November 9 for placing the ad in all those papers.

Then, the period of the competition being open, the applications received and acknowledged, and the competition closed, I had suggested a period from November 9 to December 3, with the competition closing on December 3.

The next step would be the screening of the competition and the development of screening reports, which would be my responsibility. The first time the committee would meet, then, would be to review the screening reports and after reviewing the screening reports, to decide and select the candidates for preliminary interview by a consultant. I had suggested a date of December 11. That was just a suggestion to show you, you know, the times.

MR. CHAIRMAN: Excuse me, Grant. Rather than dealing with the dates when the committee would be involved, let's go through the process.

MR. NICOL: All right.

MR. CHAIRMAN: We've got a list, and I think I showed that to you earlier today.

MR. NICOL: I've got it, yes.

MR. CHAIRMAN: We'll come back and finalize those dates, see if they're all acceptable to committee members, and then we'll work your schedule around those dates.

MR. NICOL: Good. That's easier, thank you.

The next step would be the review of the screening reports, the selection of candidates for preliminary interview, and then a step where unsuccessful candidates are regretted at that point, those candidates that haven't been selected for preliminary interview.

Then the preliminary interviews and the preparation of interview reports would be conducted by myself. The preliminary interviews usually take two to three hours per candidate, and an in-depth interview report is prepared for the committee members after the preliminary interviews. The next step would be the committee meeting to review the reports and select the candidates for the final interview by committee. The unsuccessful candidates would be regretted at that time, those candidates not selected for final interview. Then the next step would be the conduct of the final interviews by the committee, the unsuccessful candidates regretted, and then references checked on the finalist or finalists. The next step would be the making of the offer to the successful candidate, the chairman negotiating the salary, the terms of employment with the successful candidate.

The next steps I'm not totally sure of, so I may be out to lunch on those. I'm kind of guessing at the process: the announcement made to the Assembly, the appointment by the Lieutenant Governor in Council passed, press release, and then the actual date of commencement.

That's the entire process, then, from beginning to end.

MR. CHAIRMAN: Thanks, Grant. Any questions of Grant, first on the process?

Yolande, you know Grant from your work with the Ombudsman search.

MRS. GAGNON: Hello. How are you?

MR. NICOL: I'm fine.

MR. CHAIRMAN: You've got a copy?

MRS. GAGNON: Yes, I have everything, thanks.

MR. CHAIRMAN: Okay; good.

All right. Can we then go to the suggested meeting dates that we had looked at from November 13 through December 10? Now, have all members got back to Louise with their own suggestions? Okay. If you've got your calendars, we can quickly walk through it.

The first date was November 13. I know that's a Wednesday, Yolande.

MRS. GAGNON: Yeah, we have caucus that day, but if it's the only day, that's fine.

MR. CHAIRMAN: Your caucus meetings are here?

MRS. GAGNON: Yes.

MR. CHAIRMAN: So if there's something . . .

MRS. GAGNON: I could run back and forth. We start at 10 anyway.

MR. CHAIRMAN: All right.

Is everyone else all right on that?

MR. ADY: I have heritage fund hearings that day.

MR. CHAIRMAN: How long?

MR. ADY: Morning and afternoon, 10 till 12 and 2 till 4.

MR. CHAIRMAN: When do heritage fund meetings end?

MR. ADY: Well, for our purposes they have kind of a long recess beginning that day, then we don't sit again until November 26. We have about three days there, and then we're finished.

MR. CHAIRMAN: Okay. Are there some problems with others on the 13th?

MR. TANNAS: Just AAMD and C.

MR. CHAIRMAN: Does that mean the luncheon?

MR. TANNAS: The luncheon, yes.

MR. FOX: The MLA luncheon is that day.

MR. TANNAS: Well, we can work around it; that's all.

MR. FOX: Bob, I'm wondering if it would be appropriate to just go through the suggested agenda to make sure that we understand every step of it and set the time lines and then try and set the dates.

MR. CHAIRMAN: Well, that's why I asked if there were any questions of Grant when he finished his process.

MR. FOX: Oh, okay.

I'm wondering: if we met on November 13, which of these steps would we be hoping to deal with on the 13th?

MR. NICOL: The setting of salary and terms of employment.

MR. CHAIRMAN: I showed this list to Grant in advance, recognizing that we're only going to December 10 and his overview goes through until April 1, just to ensure that we wouldn't be holding up the process in any way.

MR. FOX: Right.

MR. CHAIRMAN: Yes?

MR. ADY: How many hours would you anticipate this meeting would be? A half a day meeting or something like that or a couple of hours?

MR. CHAIRMAN: Well, my thought is that if we can identify days first, we're probably looking at two to three hours. We can always give up time. We've learned that in the past. But if we don't identify the dates in advance, we run into real scheduling problems.

8:11

MRS. GAGNON: How about the 13th at 3? Would your committee be finished by 3?

MR. ADY: We wouldn't be finished at 3, but I think perhaps I could get the vice-chairman to sit for half a day, and I would be there for the other half. I could work it.

MR. HYLAND: What time does your caucus get over?

MRS. GAGNON: It's flexible, but by 3 I can easily leave. Everything that's going to be done has gotten done.

MR. TANNAS: Well, depending on when you go. I've got to be gone for the 5 o'clock flight that night. I've got a meeting that's been set.

MR. CHAIRMAN: Okay. All right; that's 3 o'clock on the 13th.

MR. ADY: I'm sorry; what time?

MR. CHAIRMAN: Three.

We then try to put together two days back to back, November 25 and 26: Monday, Tuesday.

MR. ADY: I have a conflict on the 26th.

MR. CHAIRMAN: For the whole day?

MR. ADY: No, it wouldn't be the whole day. I'll work around it.

MR. NICOL: You don't really need those dates.

MR. CHAIRMAN: We have to meet over other issues.

MR. NICOL: Oh, I'm sorry. I thought you were talking about just this schedule.

MR. CHAIRMAN: No, I'm not.

MR. NICOL: Pardon me.

MR. HYLAND: Then we've got to work them both in.

MR. FOX: You're looking at the budgeting matters for the other offices too.

MR. CHAIRMAN: Jack?

MR. ADY: I'll work around it. I think I can do it.

MRS. GAGNON: I have conflicts as well, but I'll get around them.

MR. CHAIRMAN: You have caucus?

MRS. GAGNON: No. I said I have time conflicts as well. But that's fine; we can rearrange.

MR. CHAIRMAN: Okay. Let's leave it flexible now.
All right. December 2.

MR. NELSON: I can't.

MR. CHAIRMAN: That's not good for you, Stan?
Anyone else have a problem with the 2nd? Yolande?

MRS. GAGNON: Not good for me, no.

MR. ADY: It's the first day of Hanukkah.

MR. CHAIRMAN: Yolande and Tom. Okay; strike that one.
All right. December 3.

MRS. GAGNON: No. I'm gone.

MR. CHAIRMAN: One gone on the 3rd.

MR. ADY: I have a problem with the 3rd.

MR. CHAIRMAN: Okay; scratch that.
How about December 9 and 10?

SOME HON. MEMBERS: That's good; fine.

MR. CHAIRMAN: The 9th and 10th are okay?

MR. NELSON: The 9th is okay; the 10th is no good.

MR. CHAIRMAN: Anyone else on the 10th?

MR. ADY: I'll have to work around that day again.

MR. CHAIRMAN: Good. We'll work on the 9th and 10th then.
Now let's go back, Grant, to your schedule and start filling in pieces. You tell us dates you need after the 10th.

MR. NICOL: We were going to meet on December 13, I had on my tentative schedule, for the review of screening reports and selection of candidates.

MR. CHAIRMAN: Could we move that up to the 10th?

MR. NICOL: Yes. If we do that, I would change the closing date of the competition by a few days to November 29, so that would allow time to prepare the screening reports.

MR. CHAIRMAN: Yes. Okay. Good. So we could do that on the 10th.

MR. NICOL: Yes.

MRS. GAGNON: The 10th is a Sunday.

SOME HON. MEMBERS: December.

MRS. GAGNON: Oh, I'm sorry.

MR. NELSON: What's wrong with working Sunday?

MR. FOX: December 10 is review screening reports. That's what you've got there, Mr. Chairman?

MR. NICOL: Review, the next date, so that December 10 there would be the review of screening reports and selection of candidates for preliminary interview, which would be fine.

MR. CHAIRMAN: Okay.

MR. FOX: Can I ask Grant a question, Mr. Chairman? We looked at November 13 as a meeting to set the salary, terms, and conditions of employment. Is that something that you need prior to placing the ads, or can you place the ads and have that information for candidates when they . . .

MR. NICOL: When we placed the Ombudsman's and the Chief Electoral Officer's ad, we went without salary. I would need that if we were going to put the salary in the ad, but normally for these positions that is not done, so I don't need that information.

MR. FOX: So the ads can go in, and we can do that a few days later, and then we'd have the information whenever anybody gets back to it.

MR. CHAIRMAN: Okay.
Go ahead, Grant.

MR. NICOL: Okay. Then I think the next stage really would be January 29.

MR. NELSON: I won't be here.

MR. CHAIRMAN: January 29 is not good for . . . Well, it's a Wednesday as well.

MR. NELSON: I'm not here all that week. I'm not here that week or this week.

MR. HYLAND: I probably should be home that night. That's our 15th anniversary. If I'm not, it may be our last.

MR. CHAIRMAN: All right. Tell me, if we were looking at February 3 and 4, how are those dates?

MR. FOX: Is there anything between December 10 and February 3, 4, and 5? At what point does the committee meet to review reports and select candidates for final interviews?

MR. NICOL: That was the date of January 29.

MR. FOX: So you think it would take almost a month and a half to get ready for final interviews for that?

MR. NICOL: Probably that could be cut back a bit. It could probably be cut back by a week. We could say it's January 23 or something like that. You have to keep in mind that Christmas is in the middle there, and the problem with that is it's very difficult to schedule people for interviews right around the Christmas break. With experience I've found you can't get them in.

MR. CHAIRMAN: If we free up the month of January, will that take care of everyone's winter break, those who are taking winter breaks? Can we look at February 3 and 4? Okay.

MR. FOX: Do you have any sense, Grant, how many candidates this competition might attract?

MR. NICOL: In a way it's difficult to answer right now until we really, I guess, determine what the qualifications are going to be. If the qualifications are somewhat similar to, say, the qualifications that we went to for the Ombudsman, then we could probably get 150, 200 candidates. We won't be interviewing that many, but I think there were 22 candidates given in-depth interviews on the Ombudsman's competition.

MR. FOX: My sense is that the committee's determined that it's a part-time position. That will reduce substantially the number of applicants.

MR. NICOL: Yes, I think it probably will.

MR. FOX: As well, we've talked, although I don't think we've decided, Mr. Chairman, whether the scope of the search will be limited to the province of Alberta or nationwide. My personal view is that it should be within the province of Alberta.

MR. NICOL: It seemed to be that conclusion.

MR. FOX: I don't think we made a decision about it.

MRS. KAMUCHIK: It was assumed, but it wasn't quite decided yet.

MR. BOGLE: Close to a consensus on it.

MR. FOX: Yes. My sense, anyway, is that we're going to be dealing with a substantially smaller number of prospective applicants, and I'm just wondering, unless people aren't available

at all during the month of January, how long it's really going to take to interview.

MR. CHAIRMAN: You heard Stan say he's not available from the 20th on. You heard Grant talk about Christmas and the problem that gives us. That's why we went to February 3 and 4. We're one week down from the original proposal. So the next question is: if we deal with the selection of candidates for final interview on February 3 and 4, when would you propose the final interviews, Grant?

MR. NICOL: I'll just leave it there. With the time taken to notify candidates, we probably could get them in for February 7 or at the latest February 10.

MR. CHAIRMAN: Let's go to the next week. If we were the 3rd, 4th, 10th, 11th. We probably won't need all this time. We can give time up. Is the 10th, 11th all right? Okay.
All right, Grant.

MR. NICOL: Fine.

I guess the rest of the schedule is probably that February 14 the offer could be made to the successful candidate. I guess the final decision could be made concerning the offer, so the committee could get together on that date if necessary.

8:21

MR. CHAIRMAN: Okay. We'll all be involved in our caucus meetings and so on in preparation for the spring sitting of the Legislature, which will occur sometime in the early part of the year.

MR. FOX: I'm impressed with your confidence.

MR. CHAIRMAN: Got to be an optimist in this business today.

MR. ADY: The 10th and the 11th are the last days that you have calendared so far.

MR. CHAIRMAN: Well, they're the last days we've marked in thus far. Grant was suggesting that Friday the 14th might be . . .

MR. NELSON: Why would we need the 14th?

MR. NICOL: I think we probably wouldn't need the 14th. I think the decision would be made on the final interviews. In case the committee had to get together to wrap some things up or something like that or go over references or something.

MR. NELSON: Can we just put the 12th in? I mean, there's no sense in coming back on the 14th if it can just be concurrent.

MR. NICOL: Sure.

MR. TANNAS: Add the 12th.

MR. NELSON: If we don't need it, we don't use it.

MR. CHAIRMAN: Right. Okay.

MR. FOX: Are those appropriate times for our budgeting too? That's not too late for the three offices?

MR. CHAIRMAN: Well, I think we can work a number of those things around those dates, can't we? The pressure on us comes from the Members' Services Committee, and I'm not aware of when their budgeting meetings would be scheduled. At this point in time we're ahead of them.

All right; anything else, then, on scheduling? Good. That's a good bit of work done. It's always one of the toughest things we do, Grant.

MR. FOX: Can you review the dates, then, Mr. Chairman?

MR. CHAIRMAN: Review the dates? All right. We have November 13 at 3 p.m., and we have November 25, 26.

MR. FOX: Okay. But November 13 is setting the salary, terms, and conditions of employment.

MR. CHAIRMAN: Yes. Then we have November 25, 26.

MR. FOX: And those are dates unrelated to this process.

MR. CHAIRMAN: Yes. Then December 9 and 10.

MR. FOX: Okay. That's to review the screening reports and the selection of candidates for preliminary interviews.

MRS. GAGNON: Would the Monday be all day, like starting at 10?

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

MRS. GAGNON: Or afternoon, maybe, and stay over?

MR. CHAIRMAN: Louise will circulate these dates, and we'll try to bring it down to a point where we're fitting into your calendars. Usually Monday meetings are held in the afternoon to allow out of town members to get in that morning. We'll try to be flexible.

We have December 9 and 10, February 3 and 4, and February 10, 11, and 12.

MR. FOX: Okay. We're looking at the 3rd and 4th as the dates to review reports and select candidates for final interviews?

MR. CHAIRMAN: Yes.

MR. FOX: The 10th, 11th, and 12th for final interviews?

MR. CHAIRMAN: Final interviews.

MR. FOX: Do we have a consensus decision, then, on the scope of the competition?

MR. CHAIRMAN: We'll come to that.

MR. FOX: Oh, okay.

MR. CHAIRMAN: Relative to the information Grant has given us, he has placement of the advertisement, and it's recommended that it be placed in the major dailies. We've used different approaches when advertising. At times it's more limited, and in that sense we use the major dailies only. There are other times when we want to ensure that the entire province is blanketed, and we put the ads in all weeklies as well as the dailies. How many times were you thinking that the ad should be placed?

MR. NICOL: I was thinking just one placement.

MR. CHAIRMAN: One placement.

MR. NICOL: Yes.

MR. FOX: A Saturday placement in the major dailies?

MR. NICOL: Saturday placement in the major dailies.

MR. FOX: In the careers.

MR. CHAIRMAN: Then I would recommend that we include the weeklies as well for one placing. I know there's a considerable cost, but we're advertising a very important position. It would be a shame if someone felt overlooked because they are not a subscriber to a daily. It's surprising, at least in rural areas, how many people do not subscribe to the dailies, whereas the weeklies have almost total penetration because of contracts they have with local municipalities.

MR. FOX: Agreed.

MR. HYLAND: Through that weekly association, one contact can get it into all the weeklies.

MR. CHAIRMAN: Now, back to Derek's point. We also agreed, then, that the advertising will be limited to Alberta. That does not mean that someone cannot apply from outside, but we would not be extending our search beyond the dailies and weeklies in our own province.

MRS. GAGNON: I'd like to hear an argument for that from Derek.

MR. FOX: With the Ombudsman we advertised across Canada, and I think that's a more difficult position to fill than this one. This is a part-time position, and I'm more than confident we can find several qualified applicants in the province of Alberta just in the interests of limiting the time frame and the cost. I mean, if we end up with a prospective applicant from Newfoundland and either that person has to be flown here or Grant has to be flown there to do interviews, it dramatically increases the cost of the search.

MRS. GAGNON: Normally, I would be against that approach, but since it is part time and we're expecting somebody that's maybe doing something else as well and is already here, I guess I can accept that.

MR. FOX: Does that mean you're not going to run a candidate in Vegreville?

MR. HYLAND: I'm not sure the Ombudsman was any more difficult a position to fill. I think the key is the part-time aspect of this position.

MR. CHAIRMAN: We have a consensus that the advertising will be limited to newspapers in Alberta?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: Thank you.

Grant, could we move on then, possibly to the position profile document first? Everyone has a copy of page 1; it has a draft on a position profile.

MR. NICOL: Mr. Chairman, do you just want me to read the section and get comments, or how do you want to do it?

MR. CHAIRMAN: Why not read the section and tell us the key points in it, and then we'll discuss it if members have questions or comments.

MR. NICOL: Okay. Section 1 of the position profile was meant to give a summary of the position. I dealt with the Conflicts of Interest Act there, quoting from the Act the authority for the position, and then tried to summarize from the legislation the Ethics Commissioner's responsibility, and that is in the second paragraph of section 1.

MR. FOX: This is the information that would be mailed to interested candidates and would form . . . Some of the information here would be lifted to make the ad we run.

MR. NICOL: Yes, that is the summary.

MR. FOX: Okay.

MR. CHAIRMAN: Is everyone comfortable with that? I can move on to 2?

MR. NICOL: Number 2 describes the relationship to the Legislative Assembly, the Ethics Commissioner's responsibility with regard to the Assembly. I think in the third paragraph there I have a question. Karen and I had a discussion on this as well, and I think there's a question there. I'll read that if I may.

The Committee will review the annual budget estimates, the reports issued by the Ethics Commissioner, the operation of the office and the salary paid to the Ethics Commissioner.

The question is the next sentence.

Should questions be raised regarding any of these matters, including issues raised on the Ethics Commissioner's special and annual reports, the Chairman of the Select Standing Committee is in a position to advise the elected Members.

I wasn't sure from the legislation, and I guess Karen wasn't either, whether in fact the committee would be reviewing the Ethics Commissioner's special reports.

SOME HON. MEMBERS: No.

MR. NICOL: So that should be out of there.

MR. CHAIRMAN: That's right.

MR. NICOL: So it would suffice to say "issues raised on the Ethics Commissioner's annual report."

MR. CHAIRMAN: Yes.

MRS. GAGNON: In that sense, then, the Ethics Commissioner is an authority unto himself as far as specifics of confidential matters and so on.

MR. CHAIRMAN: Just as the other three officers are, yes. Our role is on policy, on budget.

8:31

MR. FOX: We have no disciplinary role or liaison role with individual members, so the Ethics Commissioner would deal directly with the member with all the concerns. What would you envision happening, Mr. Chairman, if there was a substantial

violation the Ethics Commissioner could not resolve? What happens then?

MRS. GAGNON: And who does he go to?

MR. CHAIRMAN: That he cannot resolve? I'm not sure I understand the point. He draws his authority from the Act. The Act is clear as to the penalties that can be imposed on a member if a member is in violation of the Act. Karen, is it not fairly straightforward?

MISS SOUTH: The commissioner makes the recommendations to the Assembly, and the Assembly can accept, reject, or substitute any penalties. It's the Assembly that determines it.

MR. CHAIRMAN: Thank you. So it goes directly back to the full Assembly. Our committee does not need to become involved in matters like that. Good.

Alan.

MR. HYLAND: The second paragraph. The select committee "comprised of Members appointed from all parties in the Assembly" is the way now, but what if the makeup changes? Or does it matter that this is under the position profile . . . It may be a case where we have four parties and maybe not members of all parties on certain committees.

MR. CHAIRMAN: That's a good point, Alan. You could have a party represented by one member in the Assembly, and that one member obviously cannot sit on all committees. Would you be comfortable if we just took out the word "all" and indicated "comprising members appointed from parties in the Assembly?"

MR. HYLAND: Okay.

MR. CHAIRMAN: All right.

MRS. GAGNON: I don't know about that. I mean, it doesn't seem fair even if there's only one. If this person was duly elected, there should be some . . .

MR. CHAIRMAN: I'm looking at it from the other side. I don't know what happened when Grant Notley was the sole member, but he could not possibly have been on all the standing committees of the Assembly.

MR. SIGURDSON: He met with the Leader of the Opposition, either Clark or Ray Speaker, and was appointed to the committees he wanted to be on. There was never any problem with him getting on a couple of committees, but it was impossible for him to attend all committees.

MRS. GAGNON: I guess my point is that there has to be some arrangement so it's seen to be fair and as open as possible in spite of the limitations.

MR. SIGURDSON: That's the role of the opposition parties. If the government fails to adequately ensure that one or two members of a third or fourth party are not being fairly treated, then the opposition kicks in.

MR. HYLAND: I mean, we have to settle yearly the Whips' percentages, the size of committees. We have that argument with Derek versus the argument with Bettie Hewes. Should you have

one more member on this committee or should you have one less because of the makeup?

MR. FOX: I just want to point out what's written here:

The Select Standing Committee, comprised of Members appointed from all parties in the Assembly, was established in 1978. That's just a historic fact; its not prescribing how the committee shall be appointed in the future.

MR. CHAIRMAN: Then you'd prefer saying "current select standing committee."

MR. FOX: No, because that makes it current. This is just an historical observation: the committee, comprised of members appointed from all parties, was established in 1978. He's not saying anything about the committee now or the committee in the future. He's just saying that the committee was established in 1978 and had members from all parties. That's all it says.

MR. CHAIRMAN: A small point. It is not going to be earthshaking in the year 2010 when they're wrestling with the issue in any event, but with that interpretation, Derek, fine.

MR. FOX: This is not law. This is just a position.

MR. CHAIRMAN: But leave it as is. All right? Are you comfortable with that, with Derek's reassurance?

MRS. GAGNON: Could we go back to the third paragraph in regards to whom the Ethics Commissioner ultimately reports to? If he has been dealing with an individual and determines there's a certain penalty because of noncompliance with the Act or whatever, can he - or she, God willing - go further than that and actually lay a criminal charge? How far can this go?

MISS SOUTH: Are we talking about an investigation?

MRS. GAGNON: Right.

MISS SOUTH: He reports to the Assembly, and it is the Assembly that has the power to decide on the recommendations of the commissioner.

MRS. GAGNON: I guess maybe it's my lack of understanding about this, but if this Assembly has accepted an Act and it's well described and well laid out and so on, if somebody breaches the provisions of that Act, have they committed a crime against society or just against this Legislative Assembly? How far can it go? That's what I'm curious about.

MR. CHAIRMAN: Derek has the Act open.

MR. FOX: Well, the Act is actually fairly silent in that regard, although it states clearly that if a member or former minister has, with respect to advice and recommendations, communicated the facts to the Ethics Commissioner and complied with the recommendations, no proceeding or prosecution can take place. Then it goes on to say . . . Well, it doesn't say what the commissioner does in the event members don't comply, but it does say under the section on the annual report that it shall include

- (a) 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 the full disclosure required.

It would seem to me that would be included in the annual report, and then the ball is in the Assembly's court to determine what to do with that member. The Ethics Commissioner, as I understand it, does not have any power other than to compel a member to report, and if the member doesn't report and disclose, then that forms part of the report to the Legislature. That may be a legislative deficiency in the Bill, if you recall debate.

MR. CHAIRMAN: Thanks.
Karen.

MISS SOUTH: When the commissioner does an investigation, his report to the Assembly sets out the facts found by him or her and recommends sanctions, and he or she is entitled to recommend . . . There are only four listed, and those are

- (a) that the Member be reprimanded;
- (b) that a penalty be imposed . . . in an amount recommended by the Ethics Commissioner;
- (c) that the Member's right to sit and vote . . . be suspended for a stated period . . . ;
- (d) that the Member be expelled.

MR. FOX: Can you tell me where you're finding that?

MISS SOUTH: It's section 25.

MR. FOX: Okay.

MISS SOUTH: He can also say that he thought "the breach was trivial, inadvertent or committed in good faith" and recommend no sanctions. It is the Assembly, though, that decides what sanction to impose.

MRS. GAGNON: What happens next. Okay. Thank you.

MR. CHAIRMAN: On then to section 3, responsibilities.

MR. NICOL: I said that the responsibilities are in separate sections and described them as the major responsibilities. Number 1 was Disclosure to the Commissioner, and that is around the private disclosure statements, et cetera. So if the members would like to read that one and let me know whether they feel that's correct . . .

[Mr. Nelson in the Chair]

MR. DEPUTY CHAIRMAN: Any questions or considerations? Tom.

MR. SIGURDSON: My one concern is the definition of "spouse." Has that been communicated to the appropriate minister? It doesn't cover . . .

MR. HYLAND: A good question. That came up in debate, didn't it?

MR. FOX: Yeah, we dealt with that, I think.

MR. SIGURDSON: I don't know whether it's been communicated or what the response was.

MR. TANNAS: Are we talking about spouse of the third kind?

MRS. GAGNON: Or co-habitation.

MR. SIGURDSON: Co-habitation.

MRS. GAGNON: Significant other.

MR. SIGURDSON: Significant other, same-sex spouse, homosexual relationship.

MR. FOX: Karen, you responded to that query from the committee?

MISS SOUTH: I provided members with definitions contained in various pieces of legislation across the country.

MR. DEPUTY CHAIRMAN: Okay. You've handed us that spouse would mean that if you are co-habiting with an individual, that would be spousal consideration.

MR. SIGURDSON: I don't believe it was an interpretation point; that was the problem.

[Mr. Bogle in the Chair]

MRS. GAGNON: Are the terms in their interpretation an add-on to the Bill? Let's say somebody says "I'm not a spouse" and it's not spelled out that there is a relationship. Like, without spelling it out, this does apply maybe to someone in a common-law relationship or . . .

MR. SIGURDSON: Well, a common-law relationship is covered under this . . .

MRS. GAGNON: It is? Okay.

MR. SIGURDSON: . . . but same-sex relationships are not.

MR. CHAIRMAN: Alan.

MR. HYLAND: Yeah, that's just what I was going to ask, because there are things - I don't know if it's in the Interpretation Act - like the Workers' Compensation Act where common law is covered.

8:41

MR. NELSON: But that's not what Tom is asking.

MR. SIGURDSON: That's not what I'm asking. See, you could have a same-sex partner who is not covered by this Act, and that person then would not be subject to the same kinds of provisions opposite-sex partners and spouses . . .

MR. CHAIRMAN: To my knowledge, there's no recognition in any of our laws for what you're describing, Tom.

MR. SIGURDSON: Okay.

MR. ADY: Mr. Chairman.

MR. CHAIRMAN: Yes.

MR. ADY: On Yolande's point, in most other circumstances common-law relationships are ones people are trying to establish. In this circumstance they're going to be trying to deny it, because it's to their advantage to not be seen to be in a common-law relationship for the purposes of this legislation. Consequently,

she's on a good point: how are we going to define it? If they say, "I am not in a common-law relationship with that person; just because we spend weekends together doesn't mean we're in a common-law relationship," you open up all kinds of things pertaining to this.

MR. HYLAND: Spending weekends together, Jack, could cover all of us. You know what time we get home.

MR. ADY: Yeah, but we stood before the preacher.

But she's on a good point. What I'm getting at is that if they can deny a common-law relationship, put assets in that other person's name and avoid having to make a declaration, it would be to their advantage. Who's going to prove that they are in a common-law relationship?

MR. FOX: In the memorandum sent to members by Karen after we discussed this at our August 20 meeting, she points out the difference in the definition of the word "spouse" in British Columbia and Alberta. I remember her making a similar recommendation in the meeting on August 20. In B.C. spouse means a person who is married to a member or a person who is living with a member. In Alberta spouse includes a party to a relationship between a man and a woman who are living together on a bona fide domestic basis. My suggestion at that time was that we should just say "between people who are living together," but I don't know if that's for this committee to resolve. It may be something the Member for Edmonton-Belmont may want to . . .

MR. CHAIRMAN: I think my response then would be the same as it is right now: that's not the role of this committee.

MR. FOX: Yeah. The Member for Edmonton-Belmont may wish to put an amending Act in the Legislature to deal with that before the Liberals photocopy it.

MRS. GAGNON: I'll give you my Dad's dirty look.

MR. CHAIRMAN: All right.

MR. TANNAS: Do you want anything else on Jack's question?

MR. CHAIRMAN: I'm sorry. If you want to get in, that's fine.

MR. TANNAS: If you have some sort of relationship that may or may not be domestic but is financial, then that's covered in another section under associate, isn't it? You know, a business associate. You can't turn your assets over to somebody in order to hide them without them in fact being a business associate. So you're covered in another way. It's just not called spouse; it's called a business associate.

MR. SIGURDSON: Not necessarily. Currently without the legislation, Cynthia could be in business. I could make a certain communication with her, and as a business associate she wouldn't necessarily have the same . . . Or business associate wouldn't apply in the same way as a spousal relationship would. So you could have . . . I'm not making myself clear, because I don't even understand what the hell I'm saying.

AN HON. MEMBER: This is all recorded.

MR. FOX: God bless *Hansard*.

MR. SIGURDSON: I'll have another coffee. Let *Hansard* note for the record that it's before 9 a.m.

Anyway, not to put my foot in it one more time, spouse and business associate are, I think, mutually exclusive.

MR. TANNAS: I don't disagree. Jack's proposition that what happens if you turn over your assets to an individual and so on – that would seem to me to be, by that act, a business associate.

MR. ADY: Not if it's a gift.

MR. CHAIRMAN: Well, let's have some faith in the commissioner. If there are anomalies identified, they will be brought to the attention of the committee and the House. Then we will have to decide what, if any, changes need to be made to the ground rules; i.e., the legislation.

Anything else on disclosure to the commissioner? Okay, 2, Investigations.

MR. NICOL: Right. This section just describes the responsibility of the commissioner "to investigate a complaint from any person respecting an alleged breach of the Act by a Member." It goes on to indicate where those requests for investigations may come from and the fact that he "has authority to conduct an investigation or an inquiry under the Public Inquiries Act" and he/she may hold an inquiry in public "unless determined by the Commissioner that it should be held in private."

MR. CHAIRMAN: Okay. You're really following through from what is in the legislation.

MR. NICOL: Right.

MR. CHAIRMAN: Anything under Investigations?
Number 3.

MR. NICOL: In 3 I've described his responsibility in the area of information and liaison and there indicated the responsibility of he/she to

promote the understanding by Members of their obligations under the Act by personal discussions with Members and in particular when interviewing them about disclosure statements; commissioning the preparation and dissemination of written information about the obligations of Members; and continuing contact with party caucuses.

I go on to describe that

the Commissioner will maintain regular contact with Ethics Commissioners or their equivalent in other provinces across Canada. The Commissioner will also attend related conferences and meetings such as the Conference on Government Ethics Laws.

I indicate the reporting responsibility of the commissioner

to prepare an annual report of the operations of the Office and reports of investigations undertaken, ceased or refused to be undertaken.

MR. HYLAND: Why would we put "or refused to be undertaken"? None of the other officers do that, do they?

MR. SIGURDSON: If the complaint that's given to the Ombudsman isn't applicable.

MR. HYLAND: But does he list that in his report?

MR. CHAIRMAN: Yes.

MR. HYLAND: Okay. I thought if they made that decision, that was the end of it.

MR. SIGURDSON: No. It's listed.

MR. FOX: This is just an information sheet that's sent out to prospective applicants. It's the Act that governs the operation.

MR. NICOL: Yeah, I think it's under the Act.

Next, if there's no problem with that section, is the Advice and Recommendations section. When I looked at that section, I had a little difficulty with the wording, and Karen helped me out a lot with that as well. There I say:

A Member or former Minister may request the Ethics Commissioner to give advice and recommendations on any matter respecting obligations of the Member or former Minister under the Act. The Commissioner may, in writing, provide the Member or former Minister with advice and recommendations which (a) shall state the material facts either expressly or by incorporating facts stated, (b) shall be based on these facts, and (c) may be based on any other consideration the Commissioner considers appropriate.

Advice and recommendations are confidential until released by or with the Member's or former Minister's consent. The Commissioner may make such inquiries considered appropriate in order to provide advice and recommendations.

It goes on to say:

The advice and recommendations provided by the Commissioner are important in that if a Member or former Minister has communicated the material facts to the Commissioner and complied with any recommendations contained in the advice and recommendations, no proceeding or prosecution shall be taken against the Member or former Minister under the Act.

The Commissioner may give advice and recommendations of general application to Members or former Ministers on matters respecting obligations of Members and former Ministers under the Act.

MR. NELSON: I have a couple of questions. First of all, under this particular section – and even as I go back to the previous section, under Investigations – we're talking about a member or former minister. Now, are we identifying a current minister as a member?

MR. NICOL: Yes.

MR. NELSON: Okay. So in essence . . .

8:51

MRS. GAGNON: And a former member is not subject to this Act, just a former cabinet minister.

MR. CHAIRMAN: No; the former minister.

MR. NELSON: Then that may just answer my questions. Okay; that answers my questions on the two parts.

MR. CHAIRMAN: Okay.
Alan.

MR. HYLAND: This number 4, Advice and Recommendations. Grant, did you have a copy of Karen's letter from the B.C. Ombudsman when this was written, and would that letter change anything in here after he's replied to you?

MISS SOUTH: With respect to his advice to candidates?

MR. HYLAND: Yeah, and that sort of stuff. I know that should be included in the position profile; i.e., candidates coming to him before they're members.

MISS SOUTH: Both Mr. Hughes and Justice Evans have said that they would be willing to give advice to candidates, and obviously Mr. Hughes did, in fact, give advice to candidates.

MRS. GAGNON: It would be nominated candidates, though, not people seeking nomination. Okay.

MISS SOUTH: What the committee may want to consider, though, as was mentioned at the last meeting, was whether the protection that applies to members and former ministers would also apply to candidates where they've sought his advice and acted opposite.

MR. HYLAND: But I'm just wondering. It suggests all through here "members and former ministers." It doesn't suggest that other people may be coming to talk, too, that are outside before they become part of the political system.

MRS. GAGNON: Just to clarify, Karen. You're saying if a candidate is found to be in conflict or has some conflict, they would not necessarily be immune from publicity even if they've given the information. I mean, is that what you're concerned about, that here if you're co-operative and so on, all of this stays . . .

MISS SOUTH: No. What I'm suggesting is that if members and former ministers go to the commissioner for advice and recommendations on a particular matter and fully disclose the matter to the commissioner and then act on his advice and recommendations, they are protected from any proceedings after that.

MR. NELSON: As long as it's in writing.

MISS SOUTH: As long as it's all in writing.

MRS. GAGNON: But a candidate, not having been elected, is not subject . . .

MISS SOUTH: A candidate is not included in the legislation.

MR. CHAIRMAN: No, and my understanding was that the basis of the question was to ensure that the candidate understands all of the requirements before the election.

MR. HYLAND: He may not be able to get advice, but he can understand the requirements.

MR. CHAIRMAN: So they're very different.

MISS SOUTH: In fact, the candidates are not included in Ontario's or B.C.'s legislation, but the commissioners have said, "Certainly I'll talk to them."

MR. HYLAND: If it's not included in our legislation, though, we can't put it in the position profile.

MR. CHAIRMAN: Well, is there anything precluding us from having one line under Advice and Recommendations that nominated candidates may seek information from the Ethics Commissioner?

MR. FOX: That's good; that says it.

MRS. GAGNON: What about people seeking nomination? I mean, if you know you've got this major, huge personal conflict, you might not seek nomination if you knew. So are we going to have a well-known, well-published guideline of what the rules are?

MR. FOX: They did that in B.C. How about your suggestion, Bob, just to say that the commissioner would be in a position to provide information to Albertans about the Act?

MR. HYLAND: Or seeking candidates.

MR. FOX: We don't even have to specify. If someone wants to know, "Maybe I'm thinking about running; is this a problem?" he'll say, "Well, this is what the Act says," and the person draws their own conclusions. The advice is certainly not binding or protective. Clearly, anyone should be able to get information from the office. In B.C. they put out this little manual, that caveat emptor.

MR. NICOL: Would you say something like: "Nominated candidates may seek information from the commissioner. In addition, the commissioner may provide information to any person."

MR. CHAIRMAN: That's excellent, because it does give nominated candidates . . .

MR. FOX: Information respecting the Act.

MR. NICOL: At a little higher level respecting the Act.

MR. NELSON: We had agreed that that would be the case, anyway, in our last meeting, that the candidates would be able to have access too.

MR. NICOL: Under this section, I wonder whether I could make another suggestion too. This is going to go to members of the public, and of course they will not have seen the legislation or not have knowledge of it. The words "a member or former minister" I think may be a bit confusing. I wonder whether I should define "member" somewhere in this section so that they would realize that member means present ministers that are sitting.

MR. CHAIRMAN: Good. I think that's excellent. Let's do that.

MR. FOX: Or could you just replace "member" with "MLA"? An MLA or former cabinet minister.

MR. NICOL: But then it leaves out the present minister.

MR. FOX: Well, everyone knows they're MLAs, too, don't they?

MR. CHAIRMAN: I think do the definition, Grant.
All right. Item 5.

MR. NICOL: This is the section regarding management of resources, and it says:

The Ethics Commissioner is responsible for the effective and efficient functioning of the Office and for the establishment of processes and procedures necessary to fulfil the duties and functions set out in the Act.

The staff will initially consist of the Commissioner and an administrative assistant. The Commissioner will be allowed to contract for additional support as necessary for specific investigations.

The Commissioner is responsible for the preparation of the office budget.

MR. CHAIRMAN: I'm not sure that at this time we want to identify it as an administrative assistant. Administrative support?

MR. FOX: That may have implications for a certain range or level within the public service. Is that a defined position?

MR. CHAIRMAN: Karen.

MISS SOUTH: No. There actually is a category. The former clerks, clerk-typists, clerk-stenographers are now called administrative support. I'm just wondering, if you say administrative support, if that doesn't define secretary.

MR. CHAIRMAN: We don't want to do that. Are we better with administrative assistant?

MR. TANNAS: Is that a defined position, administrative assistant?

MISS SOUTH: Yes; well, administrative officer, I believe.

MR. NICOL: If you wanted to stay away from that, I suppose you could say that they will consist of a commissioner and another staff person, which makes it very vague. I don't like that very much, actually.

MRS. GAGNON: "And necessary support staff"?

MR. NELSON: I wouldn't put "necessary support staff." The guy might come in and try to build an empire.

MR. NICOL: An administrative assistant, I think, out there to the public will be interpreted just as that, as a person that's going to provide full administrative support.

MR. CHAIRMAN: I'm wondering if in your next sentence it should not be extended: The Commissioner is responsible for the preparation of the office budget, which in turn is presented to the Legislative Offices Committee for approval.

MR. NICOL: May I have that?

MR. CHAIRMAN: Okay.
Item IV, Person.

MR. NICOL: This was, of course, I guess the most difficult part. I borrowed a fair amount from the Ombudsman's position profile in dealing with the qualifications, and also I put in some other qualifications that I felt probably would be necessary. So under personal qualifications, I've got here: wide experience dealing with people; those personal qualities of common sense, maturity, tact, patience, perseverance, fairness, integrity, tolerance, and sound judgment; widely respected within their chosen career and in the community at large; and a strong dedication to the Ethics Commissioner's role.

MR. CHAIRMAN: All right. Number 2.

MR. NICOL: Their technical/managerial knowledge and experience: knowledge of Alberta and its people – that was in the Ombudsman specs – knowledge of conflicts of interest legislation, an understanding of the distinction between natural and legal justice, general knowledge and appreciation of the workings of a parliamentary system, practical knowledge of law and familiarity with investigatory procedures, knowledge of financial investments and trusts, knowledge of sound administrative and management practice. That's under the technical aspect.

MR. CHAIRMAN: Yes, Derek.

MR. FOX: I'm just wondering. The one we inserted in the Ombudsman person profile, "an understanding of the distinction between natural and legal justice," pretty much describes the role of the Ombudsman, because he or she is in a position to say, "Well, I mean, this is what the law may be, but in fairness this is what I think should happen," and here's that ability to discern and understand. Whereas with the Ethics Commissioner, I think this person's dealing with a law that's pretty clear and the procedures are pretty clear.

Farther down we've got practical knowledge of law and familiarity with investigatory procedures, but I'm not sure how understanding the distinction between that and legal justice would apply.

9:01

MR. NICOL: I don't think that section does fit as well. I think that could be taken out.

MR. CHAIRMAN: Okay, we'll take that out.
Alan.

MR. HYLAND: I would argue for it, because when this commissioner stops being new, there's going to be a certain amount that's not exactly on the line that he's going to have to make a decision on. Isn't that natural justice versus straight legal justice? It's a new field. With the Ombudsman we've had 20 years, and we're still finding out new things.

MR. CHAIRMAN: And always will.

MR. HYLAND: And always will, because it's moving. I think this is going to be the same way. It won't be a cut-and-dried, straight decision.

MR. CHAIRMAN: Anyone else?

MRS. GAGNON: Well, I don't know why it wouldn't be quite cut and dried. I mean, we're dealing with facts and figures, business relationships, investments, whatever.

MR. CHAIRMAN: Don.

MR. TANNAS: In talking with Greg Evans, the Ontario commissioner, one of the things that he was emphasizing is that whether you want to call it natural justice or common sense, if you go by the strict – you get into all kinds of funny things. For example, you can't receive a gift in excess, let's say, of \$250. Your next-door neighbour that you have helped, have lived side by side with for 30 years, decides to go into a nursing home, and they want to give you their grand piano, or whatever it is, and it's more. Now, you're in conflict of interest; the strict guidelines say you can't do that. But in an investigation of this sort of thing, common sense

says this is not buying somebody's favour, which is what the rules are trying to say, that somebody would get a governmental advantage by buying the member a gift or something. That's a natural kind of thing.

MR. CHAIRMAN: I think that's an excellent example. We've got to have some faith in the Ethics Commissioner and give him or her some flexibility in situations just like that which have nothing to do with their role as an elected member.

MRS. GAGNON: With all due respect, those are precisely the kinds of issues where the Ethics Commissioner and the member will get into trouble. When it's subject to interpretation, I think you're treading dangerous waters.

MR. CHAIRMAN: They get into trouble if we don't make the distinction between the two.
Yes, Stan.

MR. NELSON: When you talk about the area of interpretation, if you look at all the legislation that's passed in this House, how much of it is subject to interpretation by the courts or a legal mind? Every single one of them. Personally, listening to some of the arguments here, I believe that if we're going to hire someone that we're going to have faith in – and hopefully that will be the case – let's give them the opportunity to have some flexibility in how to deal with the issues of whether it is natural or legal justice. I mean, people do things like this inadvertently sometimes, and it's not of some deliberate intent. It can happen to any one of you, and in a strict legal sense you could put your behind out the door.

However, under another area of, if you want to call it, natural justice or common sense, the issue can be dealt with in a satisfactory manner. If it is dealt with in a satisfactory manner by the party involved, why put that individual through the aggravation because of a very narrow legal situation? To offer the commissioner the same as we do the Ombudsman in the area of natural or legal justice I don't think compromises anything, but it gives the opportunity to use some common sense in dealing with these very difficult issues that may come up.

MR. CHAIRMAN: Thank you.
Grant.

MR. NICOL: Maybe subsection (3), as Karen pointed out to me, refers to that. It says,

If the Ethics Commissioner is of the opinion that the breach was trivial, inadvertent or committed in good faith, the Ethics Commissioner may recommend that no sanction be imposed.

I suppose that would really maybe support leaving that statement in.

MR. FOX: I withdraw my objection. It was not substantial. I mean, we're not writing the Act here. This is just a description.

MR. CHAIRMAN: Yes, Jack.

MR. ADY: I guess I just have to get in on Grant's point. I'm not sure there's a breach in the circumstances that we're talking about here. This legislation is so confining that we've got to leave some leeway for people to even interact among their own families under this gift thing. In the strictest sense I couldn't accept a Christmas present from my son-in-law over \$250, so let's leave some leeway here that we can breathe with.

MR. HYLAND: But, Jack, just think of all this money it's going to save us. We won't have to give Christmas presents that big to them, either, because then we're buying favours.

MR. CHAIRMAN: Anything else on item 2?
Item 3.

MR. NICOL: Item 3 just refers to what we call managerial skills. Communication skills are seen as highly important; analytical ability, very important; decision-making skills; administrative, financial, and human resource management skills; and leadership and personal skills. Personal skills really refers to interpersonal skills, the skills to be able to discuss, relate positively to people.

MR. CHAIRMAN: Grant, could you elaborate a bit on the administration, financial, human resources, and management skills? The reason I raise this particular one, recognizing there is going to be an administrative person with this position, is that I would hate to see us scare off a potential candidate for fear that they had not been involved in a larger company or some larger organization in administrative, financial, and human resources management skills. But I may be reading too much into it. Can you tell us what you mean by that and how limiting it might be?

MR. NICOL: I guess how we define it depends on how limiting we'd want it to be. What I really meant by it is that the person should understand and be able to administer an office; in fact know enough about financial situations to be able to develop a budget, to understand what that's about; and be able to manage and supervise people. I think, really, that's what I meant about that section in terms of they should have the skills to be able to do that. But it's a very small office – there's not a lot of people to manage – so I think probably in terms of a skill, it wouldn't be a factor. I wouldn't be looking at somebody that had in fact managed a multifaceted organization, a complex organization.

MR. CHAIRMAN: Thanks.
Derek.

MR. FOX: Yeah, I think that's fair comment too. We're dealing with someone who's going to have one staff person and perhaps another one or two from time to time or contract services. It's not the same as the other three officers that we deal with who need to have substantial managerial expertise in order to prepare large budgets and manage staff effectively. If there is a concern that this might ward off potential applicants, then I support the chairman in leaving it out. But if we do decide to leave it in, when we do our interviewing, clearly we understand that we might not even need someone who's had any experience at the managerial level because they're managing one staff person, and maybe the staff person has that budgeting expertise.

MR. CHAIRMAN: Good. I'm comfortable with both explanations. Anything else on 3?
Item 4.

MR. NICOL: Academic preparation. I just put that there is no preference for any particular educational background. We went that way with the Ombudsman because I think there was feeling there that we didn't want to say that they must have a law degree or they must have a specific type of qualification, and left that area open. In leaving it open, of course you will get a large number of candidates.

MR. CHAIRMAN: Agreed?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: Thank you.
Item 5.

MR. NICOL: Item 5 is just legislative requirements: Canadian citizenship; the Ethics Commissioner may not be a Member of the Legislative Assembly and may not hold any office or engage in any occupation or business that might cause a conflict with the Ethics Commissioner's duties.

MR. FOX: That's right out of the Act.

MR. NICOL: That's right out of the Act.

MR. NELSON: Can I just ask one question on that?

MR. CHAIRMAN: Go ahead.

MR. NELSON: When you say "may not hold any office," could you put in there "may not hold any elected office"?

MR. HYLAND: It's probably so, but you couldn't double Karen up to do both, for example.

MR. FOX: In the Act there's a whole list of disqualifying offices. I'm not sure what that applies to, though.

MR. NICOL: Isn't the word "office" or "engage in any occupation" linked with conflict? You know, where it says that you may not hold any office that is in conflict.

9:11

MR. ADY: You can't just limit it to elected office because, for instance, we probably have some offices that would be in conflict.

MR. NELSON: Of course, the type of candidate you're going to have applying is going to understand that anyway.

MR. CHAIRMAN: We're agreed?

HON. MEMBERS: Yes.

MR. NICOL: The next one is just that I set up the organizational structure for the Ethics Commissioner.

MR. CHAIRMAN: May we have a motion, then, to approve the position profile with the amendments agreed to this morning? Alan. Further discussion? All in favour? Let the record show it's carried unanimously. Thank you.

We move on, then, to our person profile in the Ethics Commissioner document, which parallels in terms of the headings but the subject matter is the fine tuning.

MR. NICOL: Yes, that describes it exactly. The personal qualifications I believe are mostly the same. It says: wide experience in dealing with people, and the common sense part is the same out of that section; demonstrated achievement in their chosen career; widely respected within their chosen career and in the community at large; and a strong dedication to the Ethics Commissioner's role. I guess the new thought in there, which is a further definition, as indicated, is that we're looking for some-

body who has actually achieved in their chosen career or has been successful. I don't know how important to you that is.

MR. CHAIRMAN: I guess the only question I'd put out to you, Grant, and to the committee is how this might be interpreted. An individual in agriculture today may feel he or she has a hard time showing that they've demonstrated success or achievement in their chosen career. In one sense, I guess you can say that if they're surviving, that's a demonstration in itself. Yet I wouldn't want anyone to shy away from the position for fear that this would be a deciding factor. Now, I may again be reading too much into it.

MR. NICOL: I think really, Mr. Chairman, the statement following, "widely respected within their chosen career," would do it nicely actually. I think that statement really talks about credibility, a person who will have credibility. I think that actually "demonstrated" could be left out, and the other one.

MR. CHAIRMAN: Okay. Do we agree to that?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: All right. Yeah, "widely respected" is out.

MR. NELSON: I'd like to just make a comment on that. I have no difficulty in dealing with "demonstrated achievement." I'm not sure what watering this down a little bit is going to achieve in selecting a candidate. You start pulling some of these kinds of things out, where you're asking for people to have a demonstrated achievement in their chosen career, and most people that you're going to want - well, I think all candidates you're going to want - for a position of this significance, you're going to ask them to show some demonstrated achievement in their careers. I think you should leave that in there because all you're going to do is open a box up for candidates that you're just going to be wasting your own time on and their time in applying in many cases.

MR. CHAIRMAN: Stan, my concern was not with the screening process we apply or Grant applies; it was with the possibility that we might frighten off a potential candidate. It seems to me that you catch your concern under "widely respected within their chosen career and in the community at large," but I'll leave it to others. There are two different points of view on the table.

Tom.

MR. SIGURDSON: I see your point, Mr. Chairman, and I concur with it, that there may be circumstances where a person has in their mind failed to achieve the success they may want and those circumstances were beyond their control, but they may very well be widely respected in their chosen career and community. You know, people that are currently involved in agriculture are not able to set their own prices. If they were able to set their own prices, boy, they'd be judged a success, perhaps by the amount of income they may be able to get off the crop, but because . . .

MR. NELSON: How do you define success?

MR. SIGURDSON: Well, that's the problem, that in many instances it's a self-definition.

MR. CHAIRMAN: Okay. Don, then Yolande and then Jack.

MR. TANNAS: Picking up on your and Tom's point, I'd like to say that there are other people. For instance, we've had quite a

few thousand people laid off in the oil industry in the last little while, many of them at the upper levels. They might be ideal candidates for this. Now, if you've lost your job, is that a demonstrated achievement? True again, just like the farmer, it's no fault of your own; it's just that the company is downsizing and doing it right across the board. So if that would be deemed a factor that would dissuade people from applying, then I'd like to see it removed.

MR. CHAIRMAN: Yolande, Jack, and Alan.

MRS. GAGNON: Yeah, I would like to see it removed too, because I think the concern would be well addressed through the screening. I mean, if your screening is done well and you talk to their references and all this kind of stuff, you get a good feel for this. Whether they've actually achieved or not achieved through some fault of their own, you'll be able to tell that, I think, when you're screening. So it's looked after.

MR. CHAIRMAN: Thank you.
Jack and then Alan.

MR. ADY: I was on the same point that Yolande was on. I think we need to soften it a little bit. There was a time that this would have ruled out Abraham Lincoln from applying for this position. I think we're just being a little too restrictive.

MR. HYLAND: I'm in the minority here; I can see that. Stan and I are. I think that's something in your own mind. If you think you've achieved success, that's what will drive you to apply for this job.

MR. FOX: You need a certain amount of moxie.

MR. HYLAND: Yeah. I don't see where it's a detriment. I've been around long enough to know that we don't have the votes to change it, Stan.

MR. NELSON: Well, it's irrelevant.

MR. CHAIRMAN: Okay. It's agreed then. That's taken out of the personal qualifications.

All right. Can we move on, then, to (B)?

MR. NICOL: That's technical/managerial knowledge and experience. It's the same as the other one, except there's one change, I guess. No, it's the same, I believe. Senior management experience would be an asset and also experience in developing effective relationships with the public and the media: those two are a further elaboration, a further definition of the position profile.

MR. CHAIRMAN: Yes, Derek.

MR. FOX: Okay. I highlighted those two as well, Mr. Chairman. I don't think senior management experience is a necessary qualification. In fact, that may disqualify a judge from applying.

MR. NELSON: It said "an asset."

MR. FOX: Yeah, I know. I mean, we're looking for people with qualifications and background certainly, but I'm not sure that senior management experience lends itself to fulfilling the role of an ethics commissioner. That's my opinion.

The next one. I think we need to talk a little bit about what we see as the liaison role of the Ethics Commissioner with the public and the media. Certainly with the Ombudsman those are more important qualifications than they are, for example, with the Auditor General, because he's not dealing with the media and the public to the same degree the Ombudsman is. I think we need to discuss a little bit in our committee what we envision in that sort of role. Is there an outreach component? I don't think there is at this point.

MR. CHAIRMAN: Good points.
Anyone else? Stan.

9:21

MR. NELSON: I agree with the point on the last one. I think that "relationships with the public and the media" can come out actually. I don't foresee the Ethics Commissioner as being one that needs to have a profile with the public or the media for that matter. I don't have a problem with the previous one though. Having some management experience would be an asset; it doesn't necessarily have to be senior, but management experience would be an asset, and I think that would be . . .

MR. CHAIRMAN: Alan, then Yolande.

MR. HYLAND: Yeah, the experience in developing relationships with the public and the media: I think Derek's right; we've got to think that one carefully, because that could be the one thing that changes this from a part-time job to a full-time job. If you're out there generating something, you could spend all your time doing that and not do the other jobs. Whether "senior" is in there or not, I think the rest has to be there. Management experience would be an asset; maybe we'll drop "senior," but the other.

MR. CHAIRMAN: Okay. Yolande.

MRS. GAGNON: Yeah. I was concerned about this as well when we talked about demonstrated achievement, and my concern has to do with the fact that it looks as if we're looking for someone who's 45 or over. When you say "senior management" or "demonstrated achievement" - and I know it's gone - it still rules out anybody probably under 40, and we're not trying to do that here, I'm sure. So I would leave out "senior." I think there has to be some experience in dealing with the media and the public, but maybe there's a way of writing this so that that is assumed as a very minor part of this position. Obviously the person has to know how to talk to the media once in a while, and that's all you were asking for, I'm sure.

MR. NICOL: Yes.

MRS. GAGNON: So if we could just make that seem a much smaller part of the job.

MR. FOX: With respect to Stan's comments earlier about demonstrated achievement and stuff like that, I think that clearly when we're interviewing people, we're looking for someone with moxie. I mean, dealing with elected members and cabinet ministers on sensitive issues is not an easy job, and it's going to require someone that can do that in a thoughtful and yet confident sort of way. But with respect to "senior management experience" here, I think that's sufficiently described three lines before, where it says:

Knowledge of sound administrative . . . human resource and management practice in the public and/or private sector is desirable. This is a little bit redundant. It makes it unnecessarily exclusive, I think, by saying "senior management experience would be an asset," and I think it should be dropped.

MR. NICOL: Just "management experience would be an asset"?

MR. FOX: Well, I think it's covered. I mean, we say "knowledge of" these administrative practices and such. Again, looking at the farmer from Taber, who may be the most ethical, wise, astute, experienced person in the world, he's going to look at this and say, "Senior management experience": well, I've run a farm with my wife and kids and done a good job, but I've never managed a company."

MR. HYLAND: But if you dropped "senior," then he would qualify.

MR. CHAIRMAN: Yeah. I hear a number of people suggest that that section would be all right if you dropped the word "senior." Alan and then Don.

MR. HYLAND: The way I look at it, I don't look at the management of the office. I look at a knowledge of management sufficient to put this whole thing together; i.e., to understand what the member's done as much as the ability to manage the office, because you've got somebody else to do that. I look at more of an understanding - you know, maybe I've got the wrong idea - versus the management of the office. That's the way I look at it.

MR. CHAIRMAN: Are we comfortable with the section if we drop the word "senior," so that it would just be "management experience would be an asset"?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: All right. So we drop the word "senior." Now, on the last section, with the exception of Yolande who suggested that it be watered down, others who spoke suggested that it be dropped entirely.

MR. NICOL: May I comment on that, Mr. Chairman?

MR. CHAIRMAN: Yes.

MR. NICOL: I guess when I saw that section and read the Act, I saw that this person would be very open to the public; that the public, in fact, were free to launch a complaint. He also has an information role with members and with the public, and I felt you would want to look at somebody who had some experience in dealing with the public and in dealing with various parties before in terms of establishing effective relationships with the various parties, that that would be a skill you'd want the person to have or some evidence they had the ability to do that.

MR. CHAIRMAN: Anyone? Yes, Don.

MR. TANNAS: I'd like to put in there "able to develop effective relationships" rather than "experience." The farmer is not going to have met the media.

MR. CHAIRMAN: Okay. How does "able to develop" sound?

AN HON. MEMBER: Sure; it's better.

MR. FOX: Good.

MR. CHAIRMAN: Effective relationships with the public and the media.

All right; (C), managerial/personal skills.

MR. NICOL: These are all the personal qualities of the person. I've got communication skills to begin with, and I've broken that down to the speaking ability, the listening ability, writing, reading. The candidate would be measured, I guess, in my interview in terms of his ability in each of those four subsections of communication.

AN HON. MEMBER: Agreed.

MR. CHAIRMAN: Agreed? I'm sorry, Don. You had your hand up.

MR. TANNAS: I was just going to say that in my other life I'm a schoolteacher. There are tests for all of these. Are you actually going to give them a writing test? I'm mean, somebody can draft up the best résumé in the world and that kind of thing and have it all done professionally. Are you going to test them in any way?

MR. NICOL: No.

MR. TANNAS: Okay.

MR. CHAIRMAN: Decision-making skills.

MR. NICOL: Decision-making skills measure analytical ability, judgment ability, and decisiveness, the readiness to make decisions.

MR. CHAIRMAN: Agreed?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: Number 3, administrative skills.

MR. NICOL: That refers to the person's ability to be organized within herself/himself and be effective, and have the ability to plan and organize their own work and also direct and assist others in planning and organizing their work. I suppose that refers to the work of the Ethics Commissioner not just in his office but also when he's contracting with other people who carry out investigations.

MR. CHAIRMAN: Agreed?

HON. MEMBERS: Agreed.

MR. NICOL: Delegation is, I imagine, not that important. I think it should be looked at.

Ability to delegate tasks in a manner conducive to efficiency, effectiveness and subordinate development. Because there's probably only going to be one subordinate and the other people would be contracted as needed, that's not such an important aspect, but I think it should be just touched on lightly.

MR. CHAIRMAN: Yeah. Agreed?

HON. MEMBERS: Agreed.

MR. NICOL: Control also is not that important because it's not a large organization so that elaborate administrative controls would be needed for him or her to keep on top of what's happening in the organization. So again this would be in there but touched on lightly.

MR. CHAIRMAN: Agreed?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: All right. We'll move on to the leadership/personal skills.

MR. NICOL: Leadership/personal skills. Ability to motivate others and ability in bringing a group or individual to effectively accomplish a task I guess just refer to that person's talent to lead, to be able to show some leadership. Probably in this position it's not overly important. There will be some aspect of it there, but again touched on more lightly. It's not a big leadership challenge.

Flexibility: I guess that could be quarreled with.

Ability to modify approach and behaviour as needed I guess just refers to the degree that the person can be flexible when it is appropriate to be flexible, and I guess the other part of this is an individual who is not rigid and overly set in their own ways.

MR. CHAIRMAN: Okay.

HON. MEMBERS: Agreed.

MR. NICOL: Interpersonal sensitivity I think is very important for this one, and probably it could be starred.

An awareness and consideration of the needs and feelings of others: a feeling as to how to treat people and how to react to people and how to handle people.

MR. CHAIRMAN: All right.

MR. NICOL: Initiative I guess goes without any further comment.

Tolerance to stress. I don't know much about the stress level in this position. I suspect there will be some stress. I think it's important the person can handle the heat.

MR. FOX: You should change that to "tolerance to elected members."

MR. NELSON: I'm a nice guy.

MR. CHAIRMAN: You're both nice guys. Now let's move on.

MR. NICOL: Public orientation is a general statement that talks about perceiving and showing positive reactions to the expectations of the public.

Assertiveness: the ability to be firm and confident in their actions.

MRS. GAGNON: I just said to Tom: where do we have "ability to withstand bullying"? I guess I see it right there: assertiveness.

9:31

MR. NELSON: Well, just don't bully everybody, Yolande.

MR. CHAIRMAN: When you've got the act we have to back you up, you've got lots of support.

MR. NICOL: The academic preparation and legislative requirements are exactly the same as in the position profile.

MR. CHAIRMAN: Grant, the one thing we haven't dealt with is residence. Now, this is a part-time position, and I'm assuming that a successful candidate might indeed be a resident of Calgary or Fort McMurray or wherever as long as they are prepared to come in and spend the necessary time with members or others regarding investigations or other duties they have. Is that in keeping with the thoughts of committee members? If so, how are we going to deal with it in the information we're circulating so it's clearly understood that a person would not have to uproot themselves and their family in order to take this part-time position?

MR. NELSON: It may be useful on that point to put something in here that would indicate that travel to and from Edmonton may be required depending on the successful candidate, maybe with some part-time accommodation. It's either that or you should place in here that the successful candidate does not necessarily have to reside in Edmonton, and that may cover it.

MR. CHAIRMAN: Alan, then Derek.

MR. HYLAND: Mr. Chairman, if we assume that the person doesn't have to live in Edmonton, then we're automatically tying ourselves into paying traveling expenses and accommodation expenses. Or are we saying - I forget the phrase sometimes used; something to the effect that the place of business is X, but if you don't live there, you make your own way there versus having all your expenses covered?

MR. CHAIRMAN: Are you making that case?

MR. HYLAND: No. I'm just asking the question. Are you tying yourself into it unless you say residence may not necessarily be . . .

MR. CHAIRMAN: Just before Derek speaks. I at least have been going on the assumption that the administrative office would be located in Edmonton. Okay? So the support is here because the capital is here and members are here.

Now, does anyone want to make the case that the part-time position should automatically be located here? Derek.

MR. FOX: I don't think we need to say anything about that. We're advertising across the province for this position, and these are the sorts of considerations we get into when we're dealing with a shortlist applicant sort of thing. But I do share Alan's concern. I think the office needs to be in Edmonton. Whether the officer needs to reside in Edmonton is something we need to look at, because if the officer doesn't, there could be a substantial increase in the annual operating cost of the office. Maybe we need to know that before we deal with it and balance that with the fact that it's a part-time position; you don't want to make too stringent a requirement of people. But it seems to me that this is all negotiable after the fact.

MR. CHAIRMAN: It seems to me that we as a committee should know before we begin the process, because it's a very important question. Some potential applicants may well want to know before they submit an application just what the ground rules are.

MR. NICOL: They will, yes.

MR. CHAIRMAN: Stan and then Jack.

MR. NELSON: Firstly, I'm assuming the office will be right here in Edmonton.

MR. CHAIRMAN: Let's make sure we're agreed on that, Stan.

MR. NELSON: Okay.

MR. CHAIRMAN: Are we agreed on that?

SOME HON. MEMBERS: Agreed.

MR. FOX: Let's ask a question about that then. Okay? You're opening a thing for discussion?

MR. CHAIRMAN: Okay.

MR. FOX: What are the physical resources of the Ombudsman's office in Calgary, for example? I don't know what's available there. Maybe there's all kinds of excess space an officer could conduct business from in Calgary. I don't know that. Has anyone been to the Ombudsman's office?

MR. NELSON: Yes. I don't know that they have a lot of excess space.

MR. FOX: I'm just using that as an example of a government office in Calgary. It may be that for the purpose of taking statements from members, trips to Edmonton once in a while would suffice. It's worth thinking about.

MR. CHAIRMAN: Is there anyone else who wants to make the case that the office might be located anyplace other than Edmonton?

MR. ADY: I would make it in opposition: that it be in Edmonton.

MR. CHAIRMAN: Okay. Are we agreed that it be in Edmonton?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: All right. Thank you.
Stan.

MR. NELSON: Grant, you're the professional and experienced person, and recognizing that this is a unique type of a situation, what is your best advice as far as placing something into an ad or otherwise, that the candidate may not necessarily live in Edmonton but other places and transport himself or herself back and forth from their residence to Edmonton?

MR. NICOL: Maybe something like the words "the successful candidate must be available to members in the Edmonton office as required," which would suggest that you've got to be there, but it doesn't suggest that you have to live here.

MR. CHAIRMAN: That might be a nice way around it.
Jack.

MR. ADY: Well, I just believe we have to be clear that they are available in Edmonton, and perhaps some clause saying they're within commuting distance of Edmonton. But through all this we

have to make it very clear that it's at their own expense; that the office is here.

MR. CHAIRMAN: I question that. We as MLAs are allowed to travel 52 times a year from our constituencies to Edmonton. We're reimbursed for that, and there are 83 MLAs.

MR. ADY: I understand what you're saying, but our job is in our constituency, and our constituency sends us here.

MR. CHAIRMAN: Part of our job is in our constituency; part of it is here.

MR. ADY: But it's our constituency, our office, that sends us here. We won our seat there; this office is here. Consequently, that person has a responsibility to make themselves available.

MR. CHAIRMAN: Then you're automatically giving an advantage to someone applying for this part-time position who lives in or very close to Edmonton. I'm just questioning why we would want to do that.

Yolande.

MRS. GAGNON: My understanding is that this person would be extremely busy just prior to and probably six months after a provincial election. There'd always be need for the office to be open part-time and so on on an ongoing basis, but there will be times when it's extremely busy and times when it won't be. To me that says that the person does not have to reside here but has to be available here when necessary. I like that wording. I'd accept that.

MR. CHAIRMAN: But the question was on cost; whether or not you're reimbursed for the travel.

MRS. GAGNON: Of course. We pay for the Ombudsman's travel; I'm sure we pay for everybody's travel.

MR. CHAIRMAN: That's why we were discussing this. Jack was proposing that it be at the person's expense.

Anyone else on this point? Yes, Derek, and then Don.

MR. FOX: I agree with your point of view on that, Mr. Chairman, but when we are making the final selection, if we have two candidates, equal qualifications, and we can't make a decision, if one of them comes from Fort Chipewyan and has to take three flights to get to Edmonton and the cost of running the office will be increased by \$50,000 a year because of that and the other candidate indicates a willingness to move to within easier commuting distance of Edmonton, that may be a factor, all other things being equal.

MRS. GAGNON: Would you have to pay moving costs? I can't believe you said that.

MR. FOX: Those are later considerations, it seems to me. But in terms of anyone applying for the job, I guess I agree. I don't see living in Edmonton or the greater metropolitan areas being a requirement.

MR. CHAIRMAN: Okay.
Don.

MR. TANNAS: To tack onto the end of Grant's comment there, I would put: "A modest travel and accommodation allowance . . ."

MR. CHAIRMAN: Or "reasonable."

MR. TANNAS: Yeah. Okay; reasonable.

MR. CHAIRMAN: That clearly covers it, then, so that a prospective applicant from wherever realizes that he or she may submit an application. They could still ask, I guess, for more clarification on what "reasonable" means, and we could deal with that in due course.

9:41

MRS. GAGNON: I would not agree with Don that that be added. This person has every right to exactly the same travel and accommodation allowance that every other officer has. I can't see why we would have to spell it out as reasonable. Aren't the others reasonable?

MR. CHAIRMAN: The others are full-time positions in Edmonton. They are Edmonton positions. This is a part-time position, and we're agreeing that the person can reside anywhere within the province. I think you're correct in that we have to come back and address it in more detail as we go through the process, but in terms of getting the ad ready, a general statement . . .

MRS. GAGNON: My point is just that the person has to be treated fairly and in the same way, consistent with other officers.

MR. CHAIRMAN: That's a good point. You keep an eye on that fellow across the table from you - Jack - who doesn't want to give him any help.

MR. ADY: You've got that right.

MRS. GAGNON: And this guy doesn't want anybody from outside.

MR. FOX: I didn't say that.

MRS. GAGNON: A rural MLA? I'm shocked.

MR. FOX: I didn't say that. Shame on you. Liberal distortions.

MR. CHAIRMAN: Grant, would you read back what you've got now, please.

MR. NICOL: I suggested the wording be that the successful candidate will be available to members in the Edmonton office as required.

MR. CHAIRMAN: And then in a reference to Don's point.

MR. NICOL: Oh, as required. Okay. On that one I think he went on to say: a reasonable accommodation allowance.

MR. CHAIRMAN: Travel and accommodation.

MR. NICOL: Travel and accommodation allowance, yes. I'm really wondering whether that statement might be made as sort of a blanket statement at the end of the ad that talks about, you know, fringe benefits.

MR. CHAIRMAN: I think we can leave the placement up to you. It's the concept we're discussing.

MR. NICOL: Right.

MR. CHAIRMAN: So that someone does not feel precluded by its omission.
We're agreed?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: Stan, did you want to make a comment? You look perplexed.

MR. NELSON: I'm troubled a little bit. I'm just trying to think of why I'm troubled.

MRS. GAGNON: We could tell you.

MR. FOX: We are leaving salaries out of the ad. We didn't talk about salaries and benefits, and in some senses travel allowances are subject to negotiation, and it's a matter of the benefits. I appreciate your bringing it up, because I think we've clarified a few things as a result.

MR. NICOL: I would suggest that in the ad there's going to be the word "part-time," the reference that the position is part-time.

MR. CHAIRMAN: Yes, part-time.
All right. Anything else?

MR. NICOL: I guess the only question is: when the ad is prepared, how is that ad approved? Would I send that ad for approval to the chairman?

MR. CHAIRMAN: Okay. Agreed on that?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: Okay; thank you.

Grant, on behalf of the committee I'd like to express our sincere appreciation for the work you've put into this. You've been able, by reviewing the legislation, by looking at our past minutes of the discussions we've had, by working with Louise and Karen and others, to really get a sense of what we've been trying to put together. You've saved us numerous hours of work, and we're very thankful.

MR. FOX: Mr. Chairman, I concur with your comments about Grant's work; I appreciate that.

Can I raise one thing regarding the ad deadline? You're planning on advertising in the dailies on Saturday, November 9. Just to point out that a lot of weeklies in the province have an ad deadline which would be noon on the Friday, but because this is Remembrance Day weekend, that would be advanced a day, so you may need to have the ad ready, approved by the Chair, and in the hands of the Alberta Weekly Newspapers Association by November 7. Maybe you should inquire with them to find out, because it would be a shame if we missed that deadline and then people out there didn't find out about it till a week before closing.

MR. NICOL: Yes. Okay. I think we can also get ahold of them right away, even before the ad is approved, to indicate that the ad is coming and to reserve space and that kind of thing.

MR. FOX: Yeah, find out what their deadlines are.

MR. CHAIRMAN: Thanks, Grant.

The second position we should review now is the senior administrative position, office of the Ethics Commissioner. We've prepared for you administrative responsibility, responsibility related to members, supervisory responsibility, and financial responsibility. I take it from our past discussions – and if I'm reading more into this than I should, I know members will correct me – that it was our intent to complete the selection process for the senior administrative position while we are looking for our Ethics Commissioner so that the office is indeed up and running as quickly as possible, and our target date is April 1 of 1992. With that in mind, with Louise's assistance I've prepared this two-page document. It would be my further recommendation that the advertising for this position be in-house, through our *Bulletin*, not circulated outside the public service, and that we would move with filling this administrative position in concert with the selection of our Ethics Commissioner. Now, is that in keeping with thoughts other members of the committee have?

MRS. GAGNON: I have two questions. First of all, it's understood this is a full-time position, as opposed to the other one.

MR. CHAIRMAN: It's understood this is a full-time position.

MRS. GAGNON: Okay. The office is open full-time.

Secondly, why would you limit advertising to within the civil service? Why just the *Bulletin*?

MR. CHAIRMAN: I guess for time and so we don't have to go through the much broader and more expensive process. Now, that's why I'm raising it with you. If I've misunderstood the intent of the committee . . .

MR. NELSON: I'd agree.

MR. CHAIRMAN: Okay.
Don.

MR. TANNAS: In the situation in Ontario, as I would understand it, Lynn Harris is the executive assistant to the commissioner. When he was a full-time judge, she was his executive assistant. It seems that they have a good working relationship, where she is the full-time person.

MRS. GAGNON: So he brought her along? Maybe he had more say.

MR. TANNAS: I couldn't tie all that down, but certainly she worked with him as a judge, so he at some point hired her. Now, whether he brought her along in the sense that he got the job and said that she must come, I don't know. Certainly she worked with him before.

MRS. GAGNON: See, that raises the possibility that the Ethics Commissioner should have the privilege of choosing his or her own assistant, which we do in our offices, for instance. We need somebody we can trust and that we know well, that kind of stuff.

MR. CHAIRMAN: That's correct. I took it, based on our earlier discussions, our desire to get the committee up and running, that that's something we as a committee would do. If indeed the Ethics Commissioner finds over time that he or she wants a change, then that's something they can address.

MRS. GAGNON: I don't recall the discussion, but it might have happened after I left the last meeting. I don't recall discussing this at all about the assistant.

MR. CHAIRMAN: Well, if you want to wait, if you'd rather see the office start up sometime later, let's look at that.

MR. TANNAS: Certainly from a point of view of wanting to get the office up and going, then what you're proposing is the logical thing. So is there any merit to saying a temporary position . . .

MR. CHAIRMAN: No, no, no.

MR. TANNAS: . . . where somebody would be taken in for six months or something? Second them, and then come back.

MR. CHAIRMAN: Well, let's give that some thought. I think you're asking a lot of someone to come in. I think we either do it or we wait. But let's hear other members.

MR. SIGURDSON: I was just going to suggest that perhaps we could find somebody that we could loan to the office for a very short period of time to set it up so that the Ethics Commissioner could come in. But it would be understood by the person that's setting up the office that it would be an on-loan position.

MR. CHAIRMAN: Okay.
Yes, Derek.

MR. FOX: Yeah, I would say that we're agreed we want to get the office up and running as quickly as possible, and for a variety of reasons we're now looking at the beginning of the fiscal year. But according to the time line we laid out, the successful applicant will be known to us and may or may not have accepted an offer six weeks prior to the beginning of that fiscal year.

I worry about two things. Tying the hands of the Ethics Commissioner: I think clearly that person should be responsible for the hiring decision based on accepted public service practice, however those things are handled. We have to balance that with wanting things to get going. I think Tom's idea is a good one if we can find someone with experience to second to the office for a period of time and let the Ethics Commissioner determine how that position is filled on a full-time basis.

The other I'd just like to say is that I don't know what you had in mind, Mr. Chairman, but I don't feel comfortable with our committee determining an administrative position or doing interviewing for that sort of thing. It seems to me we would ask the officer to deal with it. Maybe you can tell me what you had in mind.

9:51

MR. CHAIRMAN: Yeah, well, let's do the coffee break, but just before we do, the thought was that Grant Nicol would go through the same process but it would be in-house. It would be running parallel to the selection of the Ethics Commissioner. Grant would be doing the administrative legwork on it.

MR. FOX: Your understanding wasn't that we would be interviewing prospective applicants and making the final hiring decision but that that would be done through PAO.

MR. CHAIRMAN: Well, I hadn't thought of that part, whether we do that or whether Grant does that.

Anyway, a suggestion of a quick coffee break.

[The committee adjourned from 9:52 a.m. to 9:54 a.m.]

MR. CHAIRMAN: We're dealing now with the question of whether the position should be filled on a temporary basis, on a permanent basis, or whether we should wait until the commission is in place and then the commission would, indeed, fill the position. So there are three options. Any further thoughts?

MR. ADY: Well, Mr. Chairman, the committee's done a lot of work in an effort to get, first of all – well, we didn't do the legislation. The legislation was in place. We're moving as quickly as we can to get the office up and running, and now consideration is being given to delaying this thing while a commissioner in one scenario could spend up to 45 to 60 days to get his staff in place, which would delay us way into perhaps June before this thing is up and running. I think we're shooting ourselves in the foot with what we're trying to accomplish. I favour the scenario that you put forth earlier that for the purposes of getting this office up and running, we move ahead and circulate it in the manner you described and get the man in place. The other scenario, of seconding someone: I think it's really difficult for them to try to set up a new office and procedure and then vacate it for someone else who's going to have to try and pick it up.

I favour the original suggestion, and I would so move.

MR. CHAIRMAN: Anyone speaking to the motion?

MRS. GAGNON: I would speak against that. I think one of the basic rules is that an officer or a manager can choose his or her own executive assistant, and for that reason I would support the idea of secondment for six months of someone who is experienced, already works within a governmental environment, knows the ropes, and so on. I'd have to speak against the motion of going ahead. I just can't see it. To me that's taking on a role that belongs to the officer in charge.

MR. CHAIRMAN: Okay.
Tom.

MR. SIGURDSON: I concur with Yolande. I guess my concern is twofold. First off is that I think we can get somebody in there to set up an office and get all the necessary equipment in there, and then the commissioner could come along and select. Because it's only probably going to be a two-person office, the working relationship between the commissioner and the support staff is going to be rather close. If there's a personality conflict, if the commissioner we hire has a conflict with their support staff – I know, Mr. Chairman, that you said that problem could be worked out at a later date, and normally that means by termination. I would hate for us to then face a wrongful dismissal problem that I don't think is at all necessary, and I would imagine that if you have the commissioner coming on board having to terminate, for whatever reason, their administrative support staff, they're going to have to hire new support staff, and you may very well have a wrongful dismissal charge that I don't think is at all necessary. I would much prefer to see somebody come in, set up the office, the commissioner come on board – and perhaps that person would fit in, but perhaps not – and then go through the *Bulletin* or whatever necessary outreach one has to do in order to bring a person on board that works well with the commission.

MR. CHAIRMAN: Thank you.
Derek.

MR. FOX: I think we have to recognize that officers that we've hired before come into established offices, and there are staff people there, and there's a certain amount of give-and-take. I provide that as background, which maybe conflicts somewhat with what my colleagues have been saying. We need to find a balance there between providing all the resources necessary for the Ethics Commissioner to get this office operational in a successful way and not tying his or her hands. It just seems to me that we should at least investigate the possibility of secondment. There may be that kind of sharing opportunity available, maybe from another office that we supervise, maybe from elsewhere in government.

This is not going to be a difficult position to fill, I submit, and it's not going to take very long to fill it with in-house advertising. People in the public service are well versed in these sorts of matters. They'll know if they're interested and want to apply, and PAO can handle the hiring. We may even decide that we hire a person to fill this job full-time from February 1, perhaps, so that a lot of the groundwork and preparation can be done. When the eventual Ethics Commissioner assumes office, they're not starting from ground zero but the understanding that it would be up to the Ethics Commissioner to find a suitable full-time person. First on the list would likely be the seconded person.

MR. CHAIRMAN: Thank you.
Alan.

MR. HYLAND: Mr. Chairman, I don't think this is going to be an easy position to fill. I think there are a lot of people out there that may be qualified, but it's going to be different than a lot of other administrative positions. There's going to be probably more pressure than a lot of administrative positions, because that person with the setup that we've developed in the profile this morning will have a fair amount of responsibility on him. I think it's going to be one that we have to be careful with the people in it because of confidentiality and all that sort of stuff, which is in other administrative positions, but this still is not the same thing.

I think we should go ahead with the motion and, although there's always that chance you'll get a conflict of personality, if we pick the right person for both positions, people doing those kinds of jobs will get along because they've been trained to do so. I don't see a problem.

MR. CHAIRMAN: Are you ready for the question?

SOME HON. MEMBERS: Question.

MR. CHAIRMAN: The question's been called. All in favour?

MR. FOX: Can we understand clearly what the question is?

MRS. KAMUCHIK: The motion was that the committee go ahead with hiring the senior administrative manager.

MRS. GAGNON: Could I just clarify? Derek said something about the other officers walking into an established staff. True enough, but I'm sure that when that staff was hired, it was hired by the officer in charge. So to be consistent, we have to stick with that idea, if I understood you right.

MR. FOX: There's no prescription in this motion about when we envision the start-up date for this position.

MR. CHAIRMAN: No; we're dealing with the principle that we hire the individual.

All in favour? Opposed? Do you wish a recorded vote?

MR. SIGURDSON: I do.

MR. CHAIRMAN: Let the record show that the motion was supported by the mover, Jack, and by Stan, Alan, John, and Don, and opposed by Yolande, Tom, and Derek.

Might I suggest, as this meeting was scheduled to run until 10 o'clock, that we hold the two-page document which I used in my opening comments on this position until our next meeting with Grant, that we review the ideas with Grant, and then identify the time frame for our next moves and other matters that need to be addressed relative to the position. Agreed?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: Okay.

A motion to adjourn. Tom. All in favour? Thank you. Carried.

[The committee adjourned at 10:03 a.m.]

