

## Standing Committee on Legislative Offices

9:07 a.m.

[Chairman: Mr. Hierath]

THE CHAIRMAN: I think we'll start the meeting. There are some members that have another meeting to go to at 10, so we'll do the best we can to accommodate that. I'd like to say good morning to committee members. I'd like to also welcome two new committee members this morning, Ken Kowalski and Gary Severtson.

I think maybe we'll get started. I'd like to have the approval of the agenda.

DR. MASSEY: So moved.

THE CHAIRMAN: Don Massey. Any discussion? All those in favour? Opposed? Carried.

Further, the approval of the committee meeting minutes of February 7, that are under tab 3 of your binder. I'm sure you've all gone over them. If there aren't any questions, I'd entertain a motion to approve the minutes.

MR. BRASSARD: I move.

THE CHAIRMAN: Roy. All those in favour? Opposed? Carried.

Item 4 on our agenda is a discussion regarding the Ombudsman as a screener. I'd like to welcome three people to the meeting this morning: Ron Thumlert from FIGA, Jim Ogilvy from FIGA, and Harley Johnson, our Ombudsman. Welcome, gentlemen. I think maybe I'll turn it over to whoever is going to take the lead in giving us a little bit of an overview on the proposal before us today with regard to a screener from the province of Alberta.

MR. THUMLERT: Okay. Thank you very much, Mr. Chairman and members. This decision we have before you is one small part of the internal trade agreement which all governments signed last July and which one of your members played a very significant role in getting achieved and negotiated. This agreement on internal trade is a new instrument within our Canadian federal system, and really it's now going to set out terms on how the economic union within Canada is going to function. In summary, the agreement sets out how governments are volunteering to exercise their jurisdictional responsibilities in relation to the movement of people, goods, services, and investment.

Now, the agreement itself can't be easily changed or amended, because it would require a unanimous decision to change it, expand it. However, as we all know, governments can change and do change. They change policies and change practices and change laws and regulations. Under the agreement when a government acts in a certain way that would be potentially inconsistent with the agreement, that government is subject to some scrutiny and discipline.

The decision before you relates to the broad need to be responsive to individuals and private parties, to businesses really, when a government is taking action inconsistent with the agreement. Having a mechanism that was responsive to private-sector interests was a high priority for Alberta during the negotiations. We felt strongly that if the agreement and governments were going to have credibility and be effective, businesses and individuals had to have direct access to the dispute settlement process. Now, this was only

acceptable to a number of other governments on the basis that a private party would be screened before they could go directly to the dispute settlement process. So what we have provided to you in this paper is an outline of the dispute settlement process as it relates to the function of the screener and how it will work.

There are really two options that the government can consider: to use the office of the Ombudsman or to contract with a private party outside of government. It could be somebody who is very knowledgeable in the trade area or the legal area. After considering the two options and after discussions with Harley Johnson, the decision was made that we should look at using the Ombudsman or at least providing the ability to use the Ombudsman. The rationale for that is set out on page 2 of the document, where in the four bullets there it says that the Ombudsman meets the requirement to be independent from government. The office of the Ombudsman, and Ombudsman Harley Johnson in particular, "has experience of unmatched depth and breadth in handling complaints against government." Mr. Johnson also "has a long-established record of impartiality and of independent investigation and analysis." There's also the view that there is a strong feeling of trust between the office of the Ombudsman and "credibility with other Parties to the Agreement."

When this was originally conceived, that we would have a screener, most of the ministers who were responsible for the negotiations felt they would like to be looking at using their Ombudsman. If you like, we can provide you with a little background on where other governments are in using theirs, but I think it's fair to say that we're just a little ahead of other governments in doing our homework here.

The final reason in opting for the Ombudsman, which was really an overpowering one, I guess, from our perspective, was economy and the most reasonably priced way of doing it, because there's an existing infrastructure in place and you wouldn't have to duplicate the overhead and other costs if you went to an outside party.

That's the background. That's the rationale.

THE CHAIRMAN: Thank you, Ron.

I've got two people that would like to ask questions: Roy Brassard first, then Don Massey.

MR. BRASSARD: Could you give me some indication of what kind of frequency we are talking about? Do you get a lot of complaints? Do you get a lot of challenges? Is this something that happens all the time?

MR. THUMLERT: Well, the agreement takes effect July 1. When we started this process, there were about 500 identifiable barriers to trade within this country, and they weren't all broad. They cut across the entire country. Some were very regional; some were very parochial.

Now, I really don't have a precise answer. The workload is going to be dependent upon the degree and the extent to which other governments are going to act consistent with the agreement. Then there is a second variable here. An Albertan or an Alberta company originally goes to their government and says: "This government has done something against me which I think deprives me of a benefit that should be there under the internal trade agreement." The government would very likely take the case forward for that Albertan, but they may not. I don't want to prejudge what their reasons may be, but there may be some valid reasons why they would feel the Alberta private sector should go on their own. In that case, the Albertan would go to Harley Johnson and seek a ruling on the merits of his case, only on the merits of his case, and that decision has to be made within 30 days. So you've got the two

variables: how are other governments going to act, and will the screener process actually be triggered?

9:17

MR. BRASSARD: But obviously there's a need for it or we wouldn't be faced with it. So based on that need, you don't have a bunch of people standing in the wings looking to access this service?

MR. THUMLERT: Albertans? Well, you know, there are a lot of Albertans who will be lined up waiting to see what the government of British Columbia is going to do on July 1.

MR. BRASSARD: Okay.

MR. JOHNSON: If I could just add one thing, Roy. I have dealt in the past year with three complaints where people who have been licensed as tradespeople or licensed under some occupation or profession in another province came to me here because their licence has been turned down or they have to go through the whole process again even though they've served 25 years in another province. So from my perspective, I don't see it as a major increase in work for the screener role. I think there's going to be a major increase in department roles.

MR. THUMLERT: Yes.

MR. BRASSARD: Okay. Good. Thank you.

MR. KOWALSKI: Ron, let me get in to answering that, as the former minister who's dealt with this for years and years and years. At every meeting that I ever attended with the business community in the province of Alberta for the last 15 years, somebody would come up and say: what are you going to do about this? We'll just take as an example any contract put out for any purchase by any provincial government in Canada. Virtually all of them have a provincial preference attached to their contract.

If you're an Alberta manufacturer of blue jeans -- and there is one in the city of Edmonton -- and the prison system in Quebec puts out a contract for jeans and says that you've got to have six staples in the back pocket to solidify the patch to the pocket but the way the guy in Alberta runs it, there are four staples and there's a manufacturer in Quebec that has six staples, then the guy in Alberta cannot bid on the contract in Quebec. You write the specifications to what you want.

So the possibility for the business community in the short term, I think, would be rather large until all provinces get into this. Given several years of experience, that should go down if other provinces play the game. But there will be a continuous belief of every provincial jurisdiction and every municipal jurisdiction to beat the system, because in Milk River or in Olds your school board or your town council is going to try and give a local preference for whatever the contract is. There's going to be a tremendous opportunity for a lot of work for a lot of government departments and the Ombudsman's office as well. This is going to become a very, very interesting project for several years until it gets going.

DR. MASSEY: You mentioned that other governments haven't moved yet. Have any of them actually appointed a screener? The second question is: what kind of resources are you anticipating adding to your office to handle this? That was two questions.

MR. JOHNSON: Do you want to answer the first one?

MR. THUMLERT: I'll ask Jim Ogilvy to sort of give you a rundown of what we know of what other governments are doing.

MR. OGILVY: Other governments, on the basis of a survey that was completed yesterday afternoon, a very informal survey in the west anyway, have looked at the Ombudsman. B.C. is putting forward options at the moment without having gone as far forward as we have, and the Ombudsman is their top option. Saskatchewan has the Department of Justice looking into the question, which means that no action has been taken. Manitoba, which has been tied up in an election, has nevertheless taken some action on this and has actually discussed the matter with the Ombudsman, has at the moment decided that there's a preference for other routes to follow. But in fact in yesterday's discussion -- this is something our Ombudsman doesn't know about yet -- the official I was speaking to said he thought it would still be a good idea to have the two Ombudsmen speaking after it had been determined what Alberta was going to do. So Manitoba is still clearly considering that. Going further east, Ontario has taken another route. The province of Quebec is moving very quickly but started late, so we don't have any indication there as to what they're doing. Nova Scotia and New Brunswick, as I understand it, are still considering the Ombudsman as a suitable choice.

Again, I think Ron is absolutely right that we are in a position closer to making a decision than any other jurisdiction in Canada. However, it looks as if the reasoning and the paths being followed are very similar to Alberta's but at a somewhat earlier stage in the other provinces.

DR. MASSEY: Can I just follow up? What did Ontario do?

MR. OGILVY: There hasn't been an exact choice yet. What they pretty much decided to do, I believe, was to go in the direction of a set of criteria that would be similar to the criteria established for an Ethics Commissioner, a conflicts of interest commissioner, and so on without having named the role that will be expanded to include the screener's activities or without having named an individual to fill it. So what they've done at this point is pretty much described what they want and set up the framework for it but without putting any individual or any position into the slot.

MR. THUMLERT: I think they've scoped a separate position. I think they're looking at a retired judge doing it for them, but that's not finalized.

MR. JOHNSON: In answer to the second part of your question, from a budget perspective we just don't know. We don't know what the workload is going to be. As Ken pointed out, it could be extensive; it could be very minimal. We're not looking at a major workload within this budget year because there's still an appeal process in advance of coming to the screener, so it still would have to work through. Once it hits my desk, though, I would have, if approved by this committee and then supported by the Leg. Assembly, 30 days to make a decision.

There is a possibility of a conflict of interest as well, and I've been given the right, if this is approved, to pull out on a conflict of interest basis. Supposing that I get a complaint against FIGA or the department turns them down and they feel the turndown has been unfair, as opposed to coming to the screener, then I would have to have a secondary process. That's already been discussed, and options are being explored to have somebody as backup screener so that if there is a conflict of interest, I can walk.

In terms of budget, when I was first approached on this issue approximately a month ago, I said that one of the things I would insist on -- it's doable; it's not in the strict definition of ombudsmanship, but it's doable within the framework of what we're trying to accomplish -- is that I could not take the resources I've got within

my office right now from the investigative side and put them on this type of thing. We can cover the workload off administratively, so there'd be no increase on the administrative side, at least in the short term. So that's within this budget year.

What I suggested to Ron and to Oryssia Lennie, the deputy minister, and subsequently to Jim Ogilvy was the idea of putting within the budget a pot that could only be used for this purpose. It could not be transferred for any other purpose. That may be an option if I need outside resources to go for a short term. If I get five complaints in a row and I've got 30 days to deal with five complaints, I'm going to need some horsepower to go out and do the actual leg work to make a recommendation to me. So that's how we've dealt with the budget issue so far. It has not been solidified, but I've suggested that as an option.

THE CHAIRMAN: Any further discussion or questions? If not, I think what I would like to do is maybe have someone make a motion so that we can have a vote on this.

Roy.

9:27

MR. BRASSARD: Yes, Mr. Chairman. Recognizing that there are some issues to be resolved yet -- the conflict of interest perhaps, and I am also not sure of the workload, the uncertainty surrounding the demands we put on this office. Given that and recognizing what my colleague has said on the necessity for something like this and picking up on what I consider to be the three things in our present Ombudsman's favour -- his independence, his experience, and the trust I have in his ability to do this -- I'd like to move

that the Standing Committee on Legislative Offices recommend to the Legislative Assembly that upon passage of the necessary enabling legislation, the Ombudsman be appointed Alberta's screener under article 1713 in the agreement on internal trade.

THE CHAIRMAN: Do we have any discussion on the motion?

Yvonne.

MRS. FRITZ: Thank you, Mr. Chairman. I'm going to support the motion but with reluctance and hesitancy. I say that because I know that we've discussed in the past within this committee that the Ombudsman's office, and rightfully so, is looking at having the Human Rights Commission under their umbrella as well as, I think, the Children's Advocate, and other requests that have come before the committee. There haven't been any decisions made on those issues. Hearing today of the possible workload that will be created for the Ombudsman and his office, I have some concern about that. I will support the motion, but as I said, it's with a bit of reluctance.

THE CHAIRMAN: Any further discussion on the motion? If not, all those in favour of the motion as presented? Opposed? Carried. Thank you, gentlemen.

[The committee adjourned from 9:29 a.m. to 9:30 a.m.]

THE CHAIRMAN: I think we'll keep rolling here. There are a couple of other items on the agenda. For item 5, with the approval of the committee, I would ask that we go in camera for some things that I would like to say with regards to the subsistence allowance topic. So with the committee's approval . . .

MRS. FRITZ: I'll make that motion, Mr. Chairman, that we move in camera for a personnel item.

THE CHAIRMAN: Thank you, Yvonne. So we now are in camera.

[The committee met in camera from 9:31 a.m. to 9:50 a.m.]

THE CHAIRMAN: The next order of business is the voter registration, in which a subcommittee of Roy Brassard, Frank Bruseker, and Gary Friedel were involved.

Roy, I'll turn it over to you to enlighten the committee a little further on some of the paper in front of us.

MR. BRASSARD: Well, thank you, Mr. Chairman. As you know, we were asked to contact the Chief Electoral Officer and see if there wasn't a more practical way of dealing with voter enumeration and whether or not there weren't some cost savings to be gained by such a procedure change. So we did; that's what this first binder is all about. It's briefing notes that the Chief Electoral Officer and his staff put together, and basically what it is is a compilation of all the various methods used all over for developing enumeration lists.

We met several times, and subsequently I met with the Chief Electoral Officer of Canada. They're also looking for a more current, up-to-date method of dealing with this issue and asked if we couldn't form some kind of an alliance that could be cost saving for both of us. They were quite willing to participate from an equipment and expertise and technology standpoint. They would assist us in every way possible, and it would therefore reduce, I think, cost involved in implementing such a program.

What they did was first of all develop a matrix, a matrix for the most effective enumeration process. They gave it a matrix of 1 to 20 I think it was. Then they developed a corresponding matrix of cost-effectiveness. So what they were trying to do when they brought the two of them together was come up with the most practical and effective method that was also the most cost-effective. The analysis that you have before you is basically a summary of these two documents that were used in the development of those matrices.

Basically what they're saying is that very cost-effectively and from all practical standpoints a very comprehensive and current list can be developed using the information that's already available out there today in the form of driver's licence registrations, health care information, and so on. Basically, it's just a matter of bringing all of those together to not only form a voters list that is a permanent list but also have a very current and up-to-date residency associated with those names.

B.C. has entered into one of these sorts of programs, but it's an extremely expensive program. They intend to use it for all kinds of things, primarily surrounding elections of course, but it would be in by-elections and municipal elections and so on and so forth. I'm not suggesting that we get off the basic premise that we can do things a little better, we can do them more efficiently and effectively by going to a permanent enumeration list.

The final page in that summary kind of capsulizes the whole thing. Number one, the one that comes out with the highest ranking, is to enter into a joint venture with Canada for the development of such an enumeration process. You can see that our cost per elector would be 29 cents. If you'll just go down to number 16, where Alberta status quo right now is \$2.33 per elector, there's quite a savings, a significant savings to be had.

I would recommend to this committee that we have the Chief Electoral Officer come in, brief the committee fully on all of the ramifications and implications of such a move and in the interim have the committee members prepare themselves to ask questions dealing with such issues as confidentiality and so on so that this list won't be used for other than what it was specifically intended. As you know, once you develop a list, it has all kinds of connotations, from selling magazines to whatever. I would think we need to be absolutely certain that there's a confidentiality aspect associated with

this that we're all comfortable with. I think the Chief Electoral Officer can address those issues more fully than I can.

So that's our report, Mr. Chairman. It's been a couple of months. They've done excellent work, I think, in bringing all this information together. I'd be happy to answer any questions.

THE CHAIRMAN: Thanks, Roy.

We have two of the three subcommittee members that aren't here today, so we're just bringing this up more for the committee members, in particular the new committee members. I think that when we have the next regular meeting when the session is over, we will have that on the agenda. Further to that, then, are there any other questions that you'd like to ask Roy today? Good. Okay. Then certainly we will have that as a topic on the agenda at the next regular meeting, which will probably be in late May or June, whenever we get organized after the session.

Next, item 7, to wind down the agenda here, is a conference. Last year we attended two conferences, the Ombudsman conference and the Canadian Conference of Legislative Auditors and Public Accounts. As you can see, there's a conference, the Canadian Conference of Legislative Auditors and the Conference of the Canadian Council of Public Accounts Committees, slated for September 10 to 12 in Ottawa. From what Diane has been kept abreast of, that one may be called off because of provincial elections and Quebec separatist plebiscites, so that one is iffy. Another one, the National Ombudsman Conference, that Yvonne attended last year on the west coast, this year is slated to be more of an international Ombudsmen's conference, to be held in Minneapolis on November 15 to 17.

There was a motion made back in April of '93 by the Legislative Offices Committee that was . . .

MRS. SHUMYLA: By the Members' Services Committee.

THE CHAIRMAN: By the Members' Services Committee; I'm sorry. There was a motion stating that conferences outside of Canada be eliminated from the list of conferences that might be attended by members of our committee. I guess we in our Legislative Offices Committee and maybe with the concurrence of the Members' Services Committee would need to have a motion to attend the Ombudsmen's conference in Minneapolis. It isn't something we have to decide today. Again, we're going to be having a meeting for sure when the session is over, so I'm just putting that in the binder as reference at this time.

Any discussion on that or any other new business?

Okay. The date for the next meeting. I think we would be a little premature in making that because we don't know when the session's going to be over. So with your concurrence I'll ask for a motion to adjourn.

MR. KOWALSKI: Before you do that, how many meetings do you anticipate that this committee is going to have in 1995?

THE CHAIRMAN: My prediction would be a lot less than last year, when we were searching for officers. I would suspect it would probably be five.

MR. KOWALSKI: Okay. And will that schedule be laid out at the next meeting?

THE CHAIRMAN: We would be smart to do that. If we could possibly do it, then I would welcome that, Ken.

Motion to adjourn?

MR. SEVERTSON: I'll so move.

THE CHAIRMAN: Gary Severtson. All those in favour?

HON. MEMBERS: Agreed.

THE CHAIRMAN: Carried. Thank you.

[The committee adjourned at 10 a.m.]