

10:03 a.m.

[Mr. Langevin in the chair]

THE CHAIRMAN: Good morning. I would like to welcome all the members to our first meeting. I'd like to mention that the new members are Pam Barrett, Wayne Jacques, Mary O'Neill, and Howard Sapers. We have members that have served before: Ron Hierath as past chairman, Gary Friedel as deputy chairman. Gary Dickson and Yvonne Fritz also have served on this committee. So we have some newcomers and some with some experience on the Leg. Offices Committee. Welcome, and I'm pleased that you are all able to be here this morning.

Now we'll go right into the meeting. We have a draft agenda for our meeting. I would like to know if there's anything to add or delete. If I could have a motion to approve the agenda of this meeting.

MR. DICKSON: Mr. Chairman, hopefully you received the memo I sent you the other day after seeing this draft agenda being circulated. There were two items that I was suggesting didn't appear on here that perhaps should. I don't know whether you've received that memorandum I sent you.

THE CHAIRMAN: No. I apologize. I haven't seen that memo.

MR. DICKSON: Okay. The two items were these. The first one had to do with a review of the office of the Ombudsman. This is an outstanding matter from pre-election, Mr. Chairman.

Then the second item had to do with a suggested change. This was a proposal that came from the Chief Electoral Officer before the last election that dealt with the appointment of returning officers. The decision had been made pre-election that we'd simply defer that particular issue, and we didn't deal further with it. I thought that now that the election is behind us, this is arguably the best time to deal with some election reform, when there isn't an election on the immediate horizon.

Those two items, Mr. Chairman, I was hoping we could put on the agenda – whether in fact we deal with them and dispose of them today, and perhaps we can't – just to ensure that they get carried forward and we have some process in terms of when we would deal with those.

THE CHAIRMAN: Well, as you know, Gary, we have a fairly lengthy agenda. We only have an hour today, so we possibly won't go through the whole agenda. I appreciate your comments, and we can certainly put them on a future agenda for the next meeting, if that's acceptable to you. They're items that I believe we certainly should look at, but as you know, we have some time constraints.

MR. DICKSON: Sure. Mr. Chairman, with respect to the appointment of returning officers: no question. I mean, that's not time sensitive.

In terms of the Ombudsman, though, given items 6 and 7, I think it is important that we decide whether in fact we're going to deal with what the last Ombudsman had recommended in terms of having a review of his office and the legislation, because once we've recruited for the position, it's a bit academic then if we undertake the kind of exercise that Harley Johnson had suggested.

THE CHAIRMAN: Well, possibly we'll add it at the . . .

MR. DICKSON: My suggestion would be if it could slip in at 5(a). It doesn't have to be a lengthy discussion, Mr. Chairman, but we'd be able to address it and come to some disposition then.

THE CHAIRMAN: Okay. You'll give us your comments then.

MR. DICKSON: Thanks, Mr. Chairman.

THE CHAIRMAN: Thank you very much.

MRS. FRITZ: I'll move approval of the agenda with the amendment 5(a) added to it, Mr. Chairman.

THE CHAIRMAN: Thank you. We have a motion to approve the agenda with the amendment. All those in favour?

HON. MEMBERS: Agreed.

THE CHAIRMAN: It's agreed. Thank you.

You all received your pack of material for this meeting in the form of a binder. If you look at the agenda and you go to tab 4, we have on the agenda item 4, Mandate of the Committee. I guess we just wanted to make sure that all the members serving here are familiar with our mandate. It's fairly simple, as you can read the one page. Is there any discussion on that mandate? This is mostly here for your information.

This is okay, so we'll move on to item 5, the 1997-98 Approved Budget Estimates. As you know, the budget for '97-98 was approved by the committee prior to the election. The main reason it's here is for your information, because we don't have the authority to amend or revise this budget. It's been approved, and it's in the government's budget for this year. Any discussion on this item?

If not, we'll look at item 5(a), which Gary Dickson just brought up. Would you like to give your comments at this time?

MR. DICKSON: Thanks, Mr. Chairman. The recommendation had come forward from Harley Johnson, the former Ombudsman. I think he first advanced this notion at least a year ago. Maybe Mr. Hierath and some of the other former members of the committee can recall specifically when it came to our attention. His position or suggestion to this committee was as follows. The office of the Ombudsman was created, I think, in the late '60s in this province. It's existed for a very long time with very little modification to the governing statute. Since that time there have been lots of issues in terms of the scope of the Ombudsman's office, what it should apply to and its being impacted by privatization, by a number of services formerly provided by the provincial government now being operated by private entities.

He had recommended to this committee, I thought pretty forcefully, that it was appropriate that there be a comprehensive review in terms of whether the office of the Ombudsman is still working, whether it's still illuminating the dark corners of bureaucracy, and the things that had motivated the creation of the office back in the '60s.

He thought it was appropriate that should be undertaken by a group of eminent persons outside the Legislature, so not this committee but somebody independent of the Legislature. Whether it amounts to sort of simply confirming the position that exists and the mandate that exists, whether it means some changes, he thought that was timely and appropriate now. There may be other former members who recall some of the other reasons offered, but it seemed like a good idea at the time, and it seemed to me that I didn't remember any strong opposition to it. It was just sort of a question of timing, when this thing would be undertaken and mechanically how it would happen.

Now we're in a position where we're shortly going to be looking at recruiting for the position of Ombudsman, and if we decide to undertake that kind of review, then surely the review should take place before we recruit and install a new Ombudsman.

THE CHAIRMAN: Thank you. Are there any comments further to Gary's?

MR. HIERATH: Yes, Mr. Chairman. Further to Gary's comments, the problem that we probably are faced with is that we have an Acting Ombudsman that is by legislation only able to act as Ombudsman for an extension of six months, I think. Or is that flexible? Oh, I guess I'm getting him mixed up with the Ethics Commissioner acting as Ethics Commissioner for six months.

The thing is that, you know, a review, with regards to what Gary is saying, is something that's fairly comprehensive and could take quite a bit of time. So I'm of the mind that the committee probably needs to do that and review the mandate or the job of the Ombudsman, what powers and what the job description would be. But I'm not sure, with the timing of an Acting Ombudsman, that we should initiate it at this point, something that probably needs to have a lot of public input. If it delays the hiring of an Ombudsman, maybe we should evaluate that.

10:13

THE CHAIRMAN: Thank you for your comments.

MS BARRETT: Well, I'd just like to concur. What Gary Dickson is proposing is essentially a motion to keep on the Acting Ombudsman while a review takes place, and I'm not sure that's fair to either the Acting Ombudsman or to the people who would be participating in such a review. I suspect that anyone applying for this job could understand quite easily that there may be some flexibility required in terms of a review that would happen down the road.

I speak from experience, Gary, on this. When you get into that kind of review – and I agree with you; I think it's necessary, and I think that Harley was right to suggest it – things get more and more delayed is what happens. The process expands. Even if you don't want it to, it does. I mean, you can create the framework, but you know, things take on a life of their own or they evolve a life of their own, and you just don't know how long that process is going to take, even if you have a target date in mind. So for that reason I would think that what we should do as a committee is agree in principle that that should be done and talk on another occasion about who should be on such a committee, what the limitations are of the work that they should examine, stuff like that, but not delay the procedure for hiring an Ombudsman in the meantime.

THE CHAIRMAN: Yes, Howard.

MR. SAPERS: Thanks, Mr. Chairman. I thought that the timing of this was actually a tremendous opportunity. As I reviewed the recommendation that a review take place, I thought that it might be awkward with a sitting Ombudsman. But the fact is that we've been given an opportunity to seek a new person for that job. I can think of no better time to review the job description. In fact, it might be very, very unfair to recruit somebody for one job description and then do a review and then be in a position where you might be changing a person's job and in a very substantial way.

You know, the role of the Ombudsman right now is very limited, and as government moves to more and more delegated authority, the role of the Ombudsman needs to change. I think that was part of what was underlying the recommendation to do the review. There's

no disagreement with the review, and there's no disagreement with the notion that the Ombudsman's role is going to change.

I think that the time offers itself right now to do that review. It can be time limited. We can rein in the scope and the time in the way that we set up the mandate of the review, and I think that might, in essence, be the fairest thing we could do to whoever it is that is going to serve the people of Alberta in the future as the Ombudsman, instead of recruiting somebody for one job and then having them inherit something perhaps entirely different.

So I would speak strongly in favour of setting up the terms of reference for the review at this point to happen parallel to the recruitment process.

THE CHAIRMAN: Thank you.

MRS. O'NEILL: I guess I'd like to speak to the service that this office gives to the people of Alberta rather than to the individual as Ombudsman. For that reason I would say that I think we should proceed now and then do the review after.

THE CHAIRMAN: Thank you. Any further comments?

As chairman my comment would be that I don't think it's fair to expect Mr. Carver to be acting longer than necessary. I met with Mr. Carver prior to the meeting just to find out his feelings, if he was interested in applying when we do open it up for competition, what his intentions were. He told me that he took on the acting only because of the situation that we were in, to keep that department going. He has no interest in applying for the top job. He's doing it because he's committed to his work in the office. He's looking forward to our appointing somebody permanent. Those were his comments to me.

I feel that if we're going to review the scope – and I think it's good that we do – there's no doubt that the office will remain but with changes to the work. We'd add more responsibility or we would revise the work that they do.

We don't have any power at this time to change the budget or do anything else in conjunction with it. If we're going to do a review, we should take the time to do a good review. When we review the budget next year, even if we have a person hired permanently and if we add a whole bunch of responsibility, at that time we can discuss the effect that might have on his financial reimbursement for the job, and that can be incorporated in the budget for '98-99. I think it would be difficult to come up with a new job description and tie a person down to the old budget, which may not be feasible, because a review might not only be extra work on the Ombudsman but the whole support staff. So there might be a major shift in that budget.

I believe that we should proceed to appoint a person. We can commit to making a review, and we should make this review effective with the new budget so that everything jibes with this.

Mr. Jacques.

MR. JACQUES: Thank you, Mr. Chairman. As a new member of the committee I was just referring back earlier to refresh my memory again on the previous decision and discussion of this committee on the issue of the replacement, and I noted the motion that was moved and carried at the meeting on January 14. As I understand it, at that time there was a request for

the assistance of the [PAO] in inviting applications for the position of Ombudsman and all matters incidental to the invitation of applications in order to assist the committee in recommending an individual for the position of Ombudsman.

My understanding is that effectively, if you like, the beginning of the search process was authorized at that point in time on the understanding that the existing legislation with regard to the Ombudsman was in fact what the committee was acknowledging and

recognizing and hence proceeded with it. I'm a little reluctant to say we're going to stop that process, because I think the previous committee acted in good faith in sending that out and certainly going through the process of receiving applications. I think we should carry through with that.

THE CHAIRMAN: Thank you. This is my first meeting. I'm new on this committee. I understand that about a year ago this was looked into, and the cost of hiring an outside firm to do a full review would be about a hundred thousand dollars. That is again something we don't have in our budget at this time. So that was never done to this day. It refers back to what I said in my initial statement. This would take long-term planning, and we'd have to co-ordinate it with new budgets.

Any further discussion?

MR. DICKSON: Well, I'd just make the observation that I take from the comments of members around that people aren't opposed to the idea of the review but that there's a sense that they don't want it to impede or delay installing a new Ombudsman. I appreciate your comments, Mr. Chairman. I didn't know before in terms of the attitude and the position of the Acting Ombudsman. So that's helpful. I think it's then important – and I guess I'm maybe encroaching a little bit on item 6. It's going to be important, I think, when we recruit a new Ombudsman, that we work from the position, not from an individual. I think it's important that all candidates be advised that the committee is seriously looking at undertaking a review, that there may well be changes that flow from that. I think it would be important to be up-front and candid with any serious applicants for the position, Mr. Chairman.

THE CHAIRMAN: Thank you, Gary.

Another point that we have to remember. If we do a review and we come up with a major change, that might even require a change to the Ombudsman Act. So it's not just a little process of saying, "Here we go," and we make a review. So we'll keep that in mind, Gary. I think it's good information.

At this time maybe we can proceed to item 6, Recruitment of Ombudsman. What has been done in the past – and I understand the same thing will happen now – is that a motion is made in the House to appoint a select special Ombudsman search committee. The House leaders will be meeting and discussing this and will be bringing that forward in the House, so it's not the authority of this committee to appoint its own search committee. I would presume that Howard is familiar with that.

So this will proceed probably very soon here in the House. I don't know if you have any further discussion on this item or if Howard wants to bring something else to the table.

10:23

MR. SAPERS: No. We'll be making the final recommendation today as a result of our caucus meeting. I've committed to Jon Havelock that he'll have a name from our caucus this morning. I understand that his intent is to introduce a motion setting up the committee.

THE CHAIRMAN: We do have a budget for our committee, and we don't have extra dollars for this search committee. This will be looked after through the PAO.

MRS. SHUMYLA: If I can just add to that, the personnel administration office can assist the search committee with the search, but it will be the committee themselves who will establish the budget funds that we require.

THE CHAIRMAN: Thank you very much.

Item 7, compensation to Mr. Brian Carver. If you look at your tab 7, there is a letter here suggesting this from Harley Johnson when he resigned, but this is just a suggestion of a person who served as the Ombudsman. I believe we have an obligation as a committee and as government to give financial compensation to a person who is acting for a while. He may be acting for several months. He started April 1, and it depends how soon we can fill the position. I would like us to think about that and see what we want to do here as a committee.

MRS. FRITZ: Mr. Chairman, can I just ask about the procedure? Do we move in camera when we discuss personnel items like finance?

THE CHAIRMAN: I think that's a good point, because any wage or remuneration or benefits to our employees probably should be handled in camera.

MRS. FRITZ: I'll move the motion that we move in camera.

THE CHAIRMAN: Okay. We have a motion from Yvonne that we move in camera for this discussion. Once we have the discussion, if we make a motion, we'll have to come out of camera to make the motion. Is there any support for that motion? All those in favour? Those opposed? The motion is carried.

[The committee met in camera from 10:26 a.m. to 10:42 a.m.]

THE CHAIRMAN: Okay. We've had our discussion on the remuneration for the Acting Ombudsman. I understand you have a motion.

MRS. FRITZ: Thank you, Mr. Chairman. I'd like to make the motion

that the committee approve a salary adjustment in the amount of \$1,000 per month to Mr. Brian Carver for serving as Acting Ombudsman from April 1, 1997, to the day prior to the date on which a new Ombudsman assumes the office.

THE CHAIRMAN: Is there any discussion on the motion at hand?

MS BARRETT: I'd just like to point out in support of the motion that this salary adjustment would put the Acting Ombudsman's salary in the senior officer range C category, which is the same category that the permanent Ombudsman would be in.

MRS. FRITZ: Thank you.

THE CHAIRMAN: Yes. Thank you. All those in favour of the motion?

HON. MEMBERS: Agreed.

THE CHAIRMAN: Thank you very much. It was carried unanimously.

Now we're going to move on to item 8. As you know, the contract with the Ethics Commissioner and Information and Privacy Commissioner has expired as of March 31. He is now in an acting position. According to the Act, he can be in that acting position for a maximum of a six-month period. That's spelled out in the ethics commissioner Act. So we'll have to review that and open up the discussion.

Gary.

MR. FRIEDEL: Yes, Mr. Chairman. What I'm going to say

probably isn't going to be much of a surprise to those who have been on this committee before. Based on past practice with other legislative officers, it's actually unusual, in my opinion, that we'd consider a formal review of an incumbent if the extension of his contract is being considered unless – and I emphasize “unless” – there is a reason to be dissatisfied. I don't believe that's the case here. I think jobs like these are very visible, and review and opinions are formed as we go along. Certainly in the case of the Ethics Commissioner and freedom of information commissioner there should not be – at least I don't feel there is – any reason why we would consider ourselves dissatisfied with the work he's doing. We just set this arrangement up about two years ago, and the circumstances of the arrangement of both positions hasn't changed materially. In fact, I would suggest it's working quite well.

I think the incumbent is being unfairly placed in a difficult position with him having to work under an extension arrangement. I think it puts pressure on him having to deal with issues, because if he makes a decision in one direction, it may appear as though he's doing it to ensure continuation of the contract. If he's going the other way, then he appears to be slacking off for the opposite reason, it is assumed. I think we have to sort this thing out with, I'm going to suggest, no further delay. I believe we would have to do it in two motions because there are two official part-time positions. Mr. Chairman, I'm going to move

that this committee recommend to the Legislative Assembly, who in turn would recommend to the Lieutenant Governor in Council, that Bob Clark be reappointed as the Ethics Commissioner on the same terms and conditions of his present contract for a five-year term effective April 1, 1997.

Having dealt with that, I would like to move a second motion, dealing with the position of Information and Privacy Commissioner.

THE CHAIRMAN: Okay. We have a motion on the floor. We'll deal with the first motion first. Any discussion on the motion?

MR. DICKSON: Mr. Chairman, similarly, I'll preface my comments with the observation that it will come as no surprise certainly to the returning members of this committee that I continue and I think my caucus continues to have a serious problem not with the individual but with any man or woman holding dual positions: the Ethics Commissioner office and the FOIP commissioner office.

I make that observation for a number of reasons. Back in the spring session in 1995 when the government had amended the Act passed the year before to allow Mr. Clark to wear both hats, there had been, I think, a pretty full debate at the time. I think some of us had suggested that in fact it's going to be a full-time position to be an Information Commissioner, that there was much consideration being given to expanding the role of the Ethics Commissioner to deal with deputy ministers and senior bureaucrats at the very same time that we're looking at expanding freedom of information to include local municipalities, universities, colleges, municipal government, regional health authorities. What we're looking at is a growth in terms of heightened expectations for both offices, considerably more responsibility, and it just doesn't make sense that we would burden or handicap either the Ethics Commissioner or the Information Commissioner by having this dual position.

I might point out a couple of thoughts that in fact had been raised when we discussed this on January 14, 1997. The unanimous recommendation from the all-party committee appointed by the Premier that reported in December 1993 was that the Information Commissioner be a stand-alone position, not a dual appointment. I notice that in the report *Integrity in Government in Alberta* – this was the eminent persons panel appointed by the Premier that produced this, colloquially known as the Tupper report –

recommendation 14 was that consideration should be given to separating the two offices, meaning the Information Commissioner and Ethics Commissioner.

In 1995 in the spring, when the government brought in the Clark amendments, we didn't know exactly how it was going to work. But we've had the experience now of seeing cases where Mr. Clark has been in a conflict of interest position, and the most notable example was the request to him as Information Commissioner for some documents with respect to a trip the Premier had made to Hong Kong. Because he'd already dealt with that in his capacity as Ethics Commissioner, he couldn't deal with it. It had to be referred to the Chief Justice of the Court of Queen's Bench, who then had to appoint a judge to sit in virtually a week-long inquiry at considerable expense to the taxpayers of this province, with considerable delay in getting to that point. Why? Well, because we had in this province allowed one person to hold both positions. I think that experience made it abundantly clear to me and I think to lots of other Albertans that it just doesn't work. The cost saving in terms of having one person wear both hats is minimal; the prejudice to both positions is enormous. I think the positions are too important, Mr. Chairman, to combine them in having one person hold it.

So I'll be voting against the motion. I have enormous respect and, frankly, a great deal of affection for the incumbent, but my position is based solely on the job description, on the principles involved, and for all the reasons I think I'd argued in the spring of 1995 and in fact on January 14, 1997 – I encourage members to take a look at the minutes of that meeting, because there was a very full discussion at that time – I'm opposing the motion, Mr. Chairman.

THE CHAIRMAN: Thank you, Gary, for your comments.

Any other comments on the motion?

10:52

MS BARRETT: Gary raises some good points. I had reason to go and see the freedom of information officer over the CKUA issue and had a good discussion with him. He pointed out, you know, that really his role in FOIP is not that extensive, because each department or division has its own FOIP co-ordinator. It's only when they are at loggerheads that his role in FOIP is activated. I do recognize, however, the importance of the precedent with respect to the Premier's trip. You're absolutely right about that. I'm going to vote in favour of the motion, but what I would suggest is that after the freedom of information Bill, Bill 1, comes into force, maybe a year later, we have a look and see if that has become too demanding for one person to do while also serving as the Ethics Commissioner. I don't think we should anticipate one way or the other prior to his having had that experience.

THE CHAIRMAN: Thanks, Pam.

Ron.

MR. HIERATH: Yes. Picking up a little bit on what Pam was saying about the normal process of freedom of information, the freedom of information officer, Bob Clark, doesn't get involved in the normal process of requests for freedom of information. I think that we've had two years here now that the freedom of information legislation has been in place, and I think that during that time there was a run of some disputes between the department and the person seeking freedom of information, which created some extra work which under normal circumstances in the year after the first year didn't seem to be the case.

I've been over at the office of the freedom of information commissioner on a couple of occasions, and it appears to me that the process that's in place does not put a great deal of burden on the

normal process of people requesting information from departments. I think that Bob Clark has done a good job of trying to make the new Act on freedom of information work in an efficient process, and I support Gary's motion.

THE CHAIRMAN: Thank you.
Howard.

MR. SAPERS: Yeah. I will not be supporting the motion, and there are several reasons why. One part is based on a conversation I had with the incumbent as well, where he indicated to me a number of things, including his expectation that his Information and Privacy Commissioner role will no doubt expand and in fact his suggestion that there will soon be a need for the creation of the position of assistant commissioner in that regard because of the workload. As we see the Act expand in what it covers, bringing in the MUSH sector, and in fact as Albertans get more and more used to using the Act and as departments become more relaxed about the process, the experience certainly from other jurisdictions is that the longer you have this kind of legislation in place, the more frequently it is used. So I can't see there would be any diminishment of the number of freedom of information requests or privacy hearings.

That takes me neatly to my second point. We're about to embark on some huge public policy undertakings dealing with the information that's held by government on Albertans, and one of the roles of the office of course is to do privacy assessments and impacts on things like distribution, collection of health records and a whole bunch of other personal information. We've only begun to scratch the surface on what the role of legislation and regulation will be in terms of privately held information, and this office will have a tremendous role to play in that debate as well. The demands on his time or on that person's time and on the office overall are only going to increase.

Then we get to the point that the government is committed to bringing in changes to the Conflicts of Interest Act. The Government House Leader has made it clear that they intend to bring in new legislation. I can only imagine that this legislation would fit into the Tupper report recommendations, which could only have the effect of creating more of a burden on the Ethics Commissioner's office. The Ethics Commissioner again has indicated publicly that he expects that role to have more demands placed on it. In fact, he's asked for a change of name of the office, that it be known as the conflicts of interest office so that the public has a clearer understanding of what he does. He expects that will perhaps bring increased demands on him and his staff. So when you put all of that together, it seems to me there is a tremendous body of evidence growing that would contradict the notion that one person can do both of these jobs adequately. Having that evidence and that knowledge, it seems to me that Gary's motion is very hard to support.

Certainly before I could support it, I'd want to hear the justifications, other than the very superficial one that it saves money. I'm not even convinced it will, particularly if we get into this position where we're going to be creating assistant commissioner positions and increasing the bureaucracies. So I'm not convinced that it's a good idea. In fact, I'm convinced it's not a good idea.

THE CHAIRMAN: Gary.

MR. FRIEDEL: Yeah. I want to emphasize or get back to one point on this. I know Gary Dickson and I have a relatively long history of disagreeing on the concept we're discussing here. I don't think it would be necessary to go back and repeat many of the things we've said. I'm sure all of you would be bored to death and probably are getting there already. All you have to do is pick up *Hansard*.

It seems to me we're getting hung up a lot on this workload issue. I know that's not the only issue you've raised, Gary, but if there is going to be added workload because of the expansion of some of the duties – and I have no doubt that there will be, particularly with the MUSH sector being brought into this – to me that doesn't mean at all that you have to increase the upper management role. In fact, I'm going to suggest that rather than more management, the most practical and also the most cost-effective way to deal with this is to increase the frontline ability to be able to provide service.

If you do the other, you're going to end up with \$100,000 researchers when you really want people who have the capacity to take the information that's gathered and do the job that is in front of them. You don't need individual people for each issue that's brought up. I think we can very adequately defend – and I don't mean by increasing bureaucracy. If there is justification to provide the services that are necessary out of an office like this, you hire the people that are qualified to do the right work. In most cases it isn't the top manager that provides the additional services. He provides the guidance.

I think we have a situation that we considered very diligently a couple of years ago. I know there is some disagreement on it, but I'm going to challenge people. It is working in fact very well, and I hope that you consider supporting the motion.

THE CHAIRMAN: Yes. Gary Dickson.

MR. DICKSON: Gary's absolutely right. It seems like we've had different perspectives in this House for a long time.

Just a couple of points further to the discussion. Firstly, I recognize that in our Act, I respectfully submit, it really misses the point to say that the commissioner is simply the umpire there when somebody goes to make an information request and they're denied at the proper department. The way the Act has been set up – and Gary Friedel and I and the other members of that committee worked hard to make sure that this person animated the whole process. This information commissioner is supposed to make recommendations, as he did recently on the business with seniors being concerned about some of their personal information from Revenue Canada being used by the Department of Community Development in terms of processing the Alberta seniors' benefit.

This is virtually a leadership role, where this commissioner goes around and offers advice, finds practices that are infringing on people's privacy. This isn't the sort of thing that can easily be delegated. It takes somebody with the stature of the commissioner to be able to undertake some of these investigations, to offer advice. So it's not simply a reactive kind of position.

The second point would be that our Act is modeled very closely after Ontario and B.C. We don't have to wait to see the Alberta experience. We can reasonably accurately predict what's going to happen here when we look at those two jurisdictions, which have included local government.

What I'd do is propose an amendment to the motion that's on the floor, Mr. Chairman. It would be to add the words to that motion, "on the condition that he hold no other legislative office."

11:02

THE CHAIRMAN: Okay. We have an amendment that technically changes the intent of the original motion, because Gary indicated that he had a second motion coming.

MRS. FRITZ: Could you read the motion back, please?

THE CHAIRMAN: Do you want to read the motion that you made, please.

MR. FRIEDEL: You're correct, Mr. Chairman. I did indicate that the intent was that it definitely be followed by a second motion for the other part-time job he holds. The motion would be that the Standing Committee on Legislative Offices recommend that the Legislative Assembly recommend to the Lieutenant Governor in Council that Bob Clark be reappointed as the Ethics Commissioner on the same terms and conditions as his present contract for a five-year term effective April 1, 1997.

THE CHAIRMAN: So you've all heard the original motion. Now we have an amendment that says . . .

MR. DICKSON: "On the condition that he shall hold no other legislative office."

THE CHAIRMAN: Okay. We're going to have to vote on the amendment.

MR. FRIEDEL: I'm going to suggest, Mr. Chairman, on a point of order, that that changes the intent.

THE CHAIRMAN: Yes, I mentioned that.

MR. FRIEDEL: I would ask that you rule that it is an out of order amendment.

THE CHAIRMAN: Yes, Gary.

MR. DICKSON: Is Gary Friedel finished?

MR. FRIEDEL: Yeah.

MR. DICKSON: Mr. Chairman, with respect, it is not. It's fine for Gary to say he has an intention to move another motion, but the reality is that the amendment has to be viewed in terms of the motion on the table. The motion on the table says to appoint a person to this office. An amendment that limits, that makes it an exclusive appointment is, I respectfully submit, entirely in order. I mean, it's of interest what the mover says he's going to do later, but we can only deal with what's on the table. So barring some other advice from Parliamentary Counsel, I think it is in order and we have to deal with it on its merits.

THE CHAIRMAN: I would move that the amendment stands as moved.

MR. DICKSON: Thank you.

MS BARRETT: Can we have the question?

THE CHAIRMAN: Yes. All those in favour of the amendment? Opposed? The amendment is defeated, so we're back to the original motion as proposed by Gary Friedel. All those in favour of the original motion? Those opposed? The motion is carried.

MR. FRIEDEL: Mr. Chairman, then I would like to move a second motion, in effect identical to the first one – I don't know if you want me to read it – but dealing with, instead of the Ethics Commissioner's position, the position of Information and Privacy Commissioner.

THE CHAIRMAN: I wonder for the record of *Hansard* if you shouldn't read the whole motion.

MR. FRIEDEL: Okay. I'll do that.

That the Standing Committee on Legislative Offices recommend that the Legislative Assembly recommend to the Lieutenant Governor in Council that Bob Clark be reappointed as the Information and Privacy Commissioner on the same terms and conditions as his present contract for a five-year term effective April 1, 1997.

MS BARRETT: I don't want to amend this motion, but I really think the comments that were made by Howard and Gary need to be taken into serious consideration. I have found the two times I dropped in to see Bob Clark that he was there and available to see me. It didn't look like he was, you know, overworked. He looked like he was in control and his staff was in control. However, because FOIP is expanding and because we don't know what's going to happen, I would recommend, in supporting this motion, that about a year from now we take a serious review of this and ask him how it's going and also assess – I mean, they monitor their cases, so to speak. We'll have a good handle on what's happening I think a year from now. If everybody else forgets, I'll put it in my diary to a year from now ask Leg. Offices to review the position.

THE CHAIRMAN: Certainly from time to time we can ask the officers of all four Leg. Offices to appear in front of this committee, and at that time we can have that full discussion.

MS BARRETT: Good idea.

THE CHAIRMAN: If it becomes a problem, we'll have to deal with it.

MS BARRETT: Good idea. No, I think we should initiate it, Paul, is what I'm saying.

THE CHAIRMAN: Now that we've had the full discussion on the first motion, this virtually would be the same discussion if we start over again.

MR. SAPERS: Could I have all of my comments read back into the record for this?

Seriously, this issue really does trouble me. Pam was saying that she didn't want to amend the motion, and I am convinced that appointing the same person to both jobs will not serve the public interest. Given the dynamics of the committee, it's fine for me to say; it's probably not going to change the outcome very much. So could we at least take a look at including in the motion a mandatory review of the dual appointment with some very specific questions to be asked? Or would it be acceptable to the mover to include in his motion that the appointment be conditional on the legislation that's before the House now both with Bill 1 and the pending legislation that's coming out of the conflicts of interest report?

MR. FRIEDEL: Mr. Chairman, I'm not prepared to accept any amendments that would encumber the motion if there is going to be some kind of a review. For the record, I don't disagree with what Pam just said, that there should be some kind of an ongoing review. It's not inconsistent with the kind of thing that we would be doing anyway, but I don't believe that it should be part of the official motion that I just read.

THE CHAIRMAN: So you would not consider that a friendly amendment?

MR. FRIEDEL: No.

MR. DICKSON: Mr. Chairman, I'm not going to go through and cover all the things I've said on the previous motion, but I just have to, I guess, express my regret. We have the evidence to show that the current dual appointment is not working satisfactorily. We have the recommendations of the all-party panel from the fall of 1993. We've got the recommendations from the Premier's panel of eminent persons who wrote the Tupper report and suggested a change. We've got the experience, in looking at the two jurisdictions we modeled our Act on, that it doesn't work. In the face of all of that, we're proceeding to either ignore or discount that experience. I just want to express a lament and a regret, and I think we do a disservice to the whole focus on a more transparent and open government.

THE CHAIRMAN: Thank you.

Okay. We're ready for the question on the motion as presented by Gary Friedel. All those in favour of the motion? All those opposed to the motion? The motion is carried.

I know we have some time restraint. Some have a commitment for 11 and are already late, but could we just look at item 9? That would take about half a minute. There was a motion from the previous committee to appoint these auditors. The auditors have drafted a contract. We will need a motion to authorize me to sign it because the motion carried with the old president.

MR. DICKSON: So moved.

THE CHAIRMAN: Moved by Gary. All those in favour of the motion?

HON. MEMBERS: Agreed.

THE CHAIRMAN: Carried. Thank you very much.

Now the other stuff. Items 10 and 11 you can look at as information. For item 12 we'll have to set a date for the next meeting. I'll ask the support staff to do that and contact your offices.

MR. HIERATH: When the session's over.

THE CHAIRMAN: Do you want to make a motion to adjourn?

MR. HIERATH: I so move.

THE CHAIRMAN: Okay. We're adjourned. Thank you very much for coming.

[The committee adjourned at 11:10 a.m.]

