

10:00 a.m.

[Mr. Kowalski in the chair]

THE CHAIRMAN: Well, good morning, ladies and gentlemen. I think the hour is 10 o'clock. I'd like to welcome you back and call us all to order. I hope that you've all had a very busy last number of weeks since the last time the Members' Services Committee had an opportunity to meet.

We have an agenda in front of us, and on the agenda you can see what the items are: item 2, item 3, items 4, 5, 6, and 7. I, at the outset, would like us to add one item to the agenda. It would be noted as item 4(e), and the subject matter would be human resources contingency allocation.

All members will recall that when we built our budget in December, it was based on certain assumptions. Basically, we built in a human resources allocation of I think 2 percent. I think that in looking in terms of what has happened in the last seven weeks and looking out to what may or may not happen in the next several months in terms of a resolution, we've always wanted to have the human resources allocation for the caucus budgets, the manpower – that's the human resources side of it – for the constituency office allocations and the LAO to piggyback in whatever might happen in terms of the greater settlements between the government and its bargaining units. I have some thoughts that I would want to bring to your attention under that particular item.

Would there be other items that members would want to have added to the agenda?

MR. WICKMAN: Mr. Chairman, one of the items that I've brought forward consistently over the last several years – I know eventually we're going to get to it, and I thought maybe it would be on the agenda this time – is the question of the fax machines. Fax machines are not presently part of the normal office equipment package, and it was left at the last meeting that we would have it come back at a later date.

THE CHAIRMAN: I recall, if I'm correct in my recollection, that we said that we would be reviewing during the next fiscal year, starting April 1, 2000, the complete package of services available so that they would be ready beginning April 1, 2001, that we would work on that.

Now, I don't know whose phone that is. [interjections] How can something ring and nobody take any responsibility for the phone?

Okay. Anything else?

MR. GIBBONS: We were just talking about fax machines and everything.

THE CHAIRMAN: Yes.

MR. GIBBONS: Would items like per diems fall in place in that?

THE CHAIRMAN: No.

MR. GIBBONS: Okay. When would something like that be brought up? Next year?

THE CHAIRMAN: You can bring it up at any time. Do you want it added today?

MR. GIBBONS: Yes, please.

THE CHAIRMAN: Item 4(f), per diems.

MRS. SLOAN: Just a question, Mr. Chairman. The human resources contingency allocation item: will that affect the estimates that we approved in December?

THE CHAIRMAN: Yes.

MRS. SLOAN: It will?

THE CHAIRMAN: Yes.

MRS. SLOAN: So when we approve the agenda . . .

THE CHAIRMAN: We're only approving the item on the agenda.

MRS. SLOAN: Pardon me. When we approve the minutes, there have been attached copies of the estimates. Those are the copies of those approved at the December meeting?

THE CHAIRMAN: Sorry?

MRS. SLOAN: Are they copies of the estimates as they were approved at the December meeting?

THE CHAIRMAN: Well, they should be.

MRS. SLOAN: I'm wondering if I could ask if we could have the estimates . . .

THE CHAIRMAN: Just hold on, Mrs. Sloan.

The bottom line is that the approval this committee gave in December to the budget is where we're at today. We had a lot of working paper at that time that's attached to the minutes, but we made decisions on the budget. That's been approved.

MRS. SLOAN: I would like to then ask for the addition of an agenda item that can be identified as the final approved budgets . . .

THE CHAIRMAN: We have that already. We've done it. The final approved budget has already been done.

MRS. SLOAN: . . . for copies of those and any subsequent changes that are made today. I would like that addressed in a separate item on the agenda.

THE CHAIRMAN: That has already been sent to you. You received that.

MRS. SLOAN: That's what is attached?

THE CHAIRMAN: No. A separate note. You have that. I've sent it to everybody.

MRS. SLOAN: Well, what I can indicate is that the copies I received are not complete with the changes. I'm happy to address that under Approval of Minutes. I'm happy to either have it on as a new item on the agenda . . .

THE CHAIRMAN: What we approved in the meeting in December – every member has received a copy of that final approval document.

MRS. SLOAN: Could I please receive another copy, then, of what was sent?

THE CHAIRMAN: Yes. I'm going to raise this at another time, but I'm going to start a new process. I'm going to be delivering this paper to individual members and asking you to sign receipt of them, because this has all been done. So that will be my process in the future. You personally will sign receipt of the documents I send you, and if you're not there, it will not be delivered until we get your signature.

DR. PANNU: Mr. Chairman, is this what you're referring to?

THE CHAIRMAN: Those are the minutes. You've had another one, Dr. Pannu, since then. After that, I gave you the profile. It was sent to you.

MRS. SLOAN: Well, for the record, all I've received further to our discussions on the estimates in December and their approval are the copies attached to the minutes today.

THE CHAIRMAN: You have a memo from me dated December 23, 1999, to all members of the Members' Services Committee re summary of budget estimates 2000-2001. The attached Legislative Assembly of Alberta summary of budget estimates 2000-2001 are the revised estimates as per decisions made at our recent Members' Services meeting December 16, 1999.

These sheets should be inserted in your estimates binder under the tabs Estimates Summary and, number 9, MLA Administration. Now, that was all sent, and it has all been verified by my office that your office has received them. We've done a double check.

MRS. SLOAN: Mr. Chairman, if I may, it has been an occurrence in the past that things have gotten lost in the government courier.

THE CHAIRMAN: No. We've tracked it down, and that's not the case.

MRS. SLOAN: Well, I'm not speaking about any particular instances where you might have sent things, but I am saying that we have had instances where things have not been delivered.

THE CHAIRMAN: Okay; we'll give you another copy. We'll get another copy. Please, Beverly, arrange to have another copy for the members, exactly a duplicate of what we did before.

I am implementing a new policy that correspondence from me to members of Members' Services will have to be signed as received by the member because I've been through this too many times. My girls wasted 25 hours, it seems, in the last 10 days responding to some of these requests. We tracked every one down, and it's there.

MRS. SLOAN: The previous request, for the record, to be clear, was not made by me. Also for the record, if those copies were made available to us, then why are the copies attached to the minutes today the . . .

THE CHAIRMAN: Why don't we wait until we get to item 3, Approval of Minutes, and then we can talk about that. Right now we're just looking at the approval of the agenda.

MRS. SLOAN: May we put that, the finalized estimates, on as an agenda item? If it's not addressed under the minutes, then it can be addressed later in the meeting.

THE CHAIRMAN: Sure.

MRS. SLOAN: Thank you.

THE CHAIRMAN: Okay. Items (a), (e), (f), (g). The final estimates have already been approved.

Additional items to the agenda. So we have an agenda, and we have item (e) added, item (f) added, and item (g) added. Do I take it there's approval of the agenda then?

HON. MEMBERS: Agreed.

THE CHAIRMAN: Then item 3, Approval of Minutes. These are the minutes of Thursday, December 16, 1999. They were all circulated. In addition to the minutes you also had circulated the *Hansard* of the meeting; you have that as well. The minutes, of course, are the conclusions of the meeting with the various attachments we had and all the working papers that were attached and/or changes made to the working papers as we went through the meeting and everything else.

So would there be items arising out of the minutes? Mrs. Sloan.

MRS. SLOAN: Thank you, Mr. Chairman. I have a couple of suggestions for amendments, and I will go through them as they occur in the minutes. On page 2 under the approval of the . . .

THE CHAIRMAN: I'm sorry. Which one?

MRS. SLOAN: Sorry. It's 24.99 under Approval of Agenda. In my review of the transcripts I would like to suggest an amendment to the minutes, following the third paragraph, that reads as follows: Mr. Dickson requested an opportunity to speak to the motion before the committee and to be put on the speakers' list for same.

10:10

THE CHAIRMAN: On page 24.99 we have them all identified according to 99 point something. Which one in particular are you looking at here right now?

MRS. SLOAN: Item 2, Approval of Agenda.

THE CHAIRMAN: Yes.

MRS. SLOAN: Okay. Following the third paragraph . . .

THE CHAIRMAN: That's item 99.73?

MRS. SLOAN: Yes.

THE CHAIRMAN: Okay. The text is there. What are you suggesting?

MRS. SLOAN: So following the second paragraph under 99.73: Mr. Dickson requested an opportunity to speak to the motion to adopt the agenda and be put on the speaking list for same.

THE CHAIRMAN: Fair game, but Mr. Dickson is not a member of the committee. What would be the purpose of that? It's all in *Hansard*.

MRS. SLOAN: Well, the purpose is that his request was made, but it was never granted.

MR. WOLOSHYN: Because he didn't show up in the afternoon.

MRS. SLOAN: No, that's not true. He asked – and the transcripts reflect this – when he was present in the committee to speak to the item that was before the committee and to be put on the speakers' list.

THE CHAIRMAN: Mr. Dickson was recognized.

MRS. SLOAN: No, he was not.

THE CHAIRMAN: I'm sorry. Please. I was there. I chaired the meeting. I recognized. I heard him. We dealt with it. Once something has to be added to the minutes, if Mr. Dickson requested something, so be it. It's an insignificant point.

MRS. SLOAN: And if so, it will be included in the minutes?

THE CHAIRMAN: It's totally insignificant.

MRS. SLOAN: Thank you.

THE CHAIRMAN: What else?

MRS. SLOAN: The second item relates to the attachments to the minutes.

THE CHAIRMAN: What's the number?

MRS. SLOAN: All right. Under 99.129:

The Chairman agreed with Mrs. Sloan that zero budgets for the Standing Committees on Privileges and Elections, Standing Orders and Printing; Standing Committee on Law and Regulations; and the Standing Committee on Public Affairs, should be included in future budget estimate documents.

The budget estimate documents that are attached to the minutes, which are identified as appendix 20, do not reflect Law and Regulations; Privileges and Elections, Standing Orders and Printing; and Public Affairs.

THE CHAIRMAN: Okay. I'll ask the administrative secretary to respond to that, because my own view is that that has already occurred. Go ahead.

MRS. DACYSHYN: Those items that Mrs. Sloan is referring to were sent out with the Speaker's memo dated December 23 to all members of the committee, which we were speaking of a few moments ago.

THE CHAIRMAN: It was circulated.

MRS. SLOAN: But my point is that the minutes are not accurate in that the attachments reflect what was circulated but agreed to be amended at the December 16 meeting.

THE CHAIRMAN: Okay. If the minutes are not accurate, I'll ask the person who conducted the minutes to just make a comment on that.

MRS. DACYSHYN: Mr. Chairman, in my experience with taking minutes for this committee, the decisions of the committee are reflected in the minutes, but the attachments that we attach to the minutes are those which are discussed in the meeting at that time. So the decision is reflected. There is an action item for administration to make that change, but the actual attachment is the material that the committee had before it that day. Then the Speaker sent out the memo afterwards with the corrections to the attachments for the members to insert in their binders.

MRS. SLOAN: Given the fact that the only correction I received was a correction to the transcripts – I believe it was pages 45 to 48 – can someone show me the copy of the approved estimates where the change to the committees has in fact been made and recorded?

THE CHAIRMAN: That will be done.

MRS. SLOAN: Thank you.

THE CHAIRMAN: Anything else?

MRS. SLOAN: That is all.

THE CHAIRMAN: Anything else in the minutes?

Can we have a motion, then, for the approval of the minutes? Mr. Woloshyn. Seconder? Dr. Pannu. Everybody agreed?

HON. MEMBERS: Agreed.

THE CHAIRMAN: Business Arising from the Minutes, item 4(a), Recent Trends in Health Benefit Plans. I'm going to circulate a particular document here to all members. By the way, hon. members, because of the work that's been done on a number of these items, there are going to be several at-table documents this morning, and this will be one of them.

I had advised this committee some time ago of a review that we were undertaking with respect to recent trends in health benefit plans and the movement of the government some time ago with respect to the government's 1st Choice benefits plan within the Legislative Assembly for the members. Because there are 83 of us and the history that's gone into this over the years, we have participated in a variety of plans, whether it's Alberta health care, Blue Cross, and everything else, on the basis of a grouping of 83.

When the move was made some time ago with 1st Choice, it provided a larger unit of 20 some odd thousand in terms of the public service, and because of that grouping certain things were available in it. I indicated that as a result of many, many members advising me of the desire for change in certain areas, we have undertaken a discussion with the administrators of the 1st Choice flexible plan. They agreed that the 83 could basically join with the bigger group, and certain things would then be put in place for us. Those 83 would be able to see certain things happen to them, and there would be no adjustment in cost, but because of the larger critical mass base you'd basically have overall lower administrative costs presumably in the future.

So I brought you a briefing note here this morning: Recent Trends in Health Benefit Plans. Let me just go through it with you.

Information was presented at the last MSC meeting relating to the "1st Choice Flexible Benefits Plan" for the public service.

Some examples of coverage provided through 1st Choice (and not the MLA plans) included vision coverage, on line processing of claims, and non smoker rates for life insurance.

1st Choice also offers participants the opportunity to review and make changes to coverage levels every two years to address changing personal and family needs. This option has been very positively received [within the public service].

In the past, the MLA benefit plans have generally paralleled that of public sector and in most cases, piggybacked on public sector plans. This changed when the public sector switched to 1st Choice.

It has been confirmed that we could now update our current plans to again more closely parallel and piggyback on the public sector 1st Choice plan.

It is recommended that we do so at this time. This modest recommendation would allow us to maintain the status quo related to current benefits yet address those examples just mentioned at no additional cost.

Premiums for total coverage are set based on the experience (usage) of the larger group . . . and have been built into current overall premiums.

However, as in the past, premium rates will continue to be reviewed on a regular basis and adjusted as appropriate.

The public sector plan's benefit year is July to June. I would

propose that we update our plans as presented effective July 1, 2000.

This is an agreed-to administrative thing in terms of our discussions with the people at 1st Choice. What it would mean basically is, again, no change in premiums, but what could be added in terms of the benefits of the health benefit plan because of the greater numbers – vision coverage could be provided. There could now be on-line processing. Currently the 83 of us, if we have to get a prescription, we pay for it at the counter and then we have to file a paper and then a cheque comes back from the insurer at what we're eligible for. Under the 1st Choice program, because of the great numbers they basically have devised a system for on-line processing. Employees are given a card and they go and the thing is just done. There's no exchange of paper. It becomes an administrative thing. For us to separately negotiate on behalf of the 83, this independently has administrative costs attached to it, but on the part of the larger group it doesn't.

10:20

The optional insurance plan that we have, where members can buy insurance because of the group plan for the 83, does not provide for a nonsmoker rate, whereas the 1st Choice plan of the 20 some odd thousand does have, because of the size of it, that option to declare that you are a nonsmoker, and then you pay the rate for nonsmokers. On the basis of the 83 we don't have that option. So they basically said we could deal with that. Some of us would have to declare, I guess, that we are smokers, so presumably our rates would go up in the purchase of this optional insurance, and those of you who are nonsmokers, presumably your rates will go down, depending on age and everything else.

MR. WICKMAN: Smokers would pay the extra out of their own pocket, eh?

THE CHAIRMAN: Yeah. Well, I guess that's the benefit we'll have to pay to be a smoker in today's world. Within the 83, there's this – some of you are helping me, I guess, because I'm a smoker or something like that.

This also allows for a review every two years. Under our plans, after an election or change there's usually a briefing meeting with members, and they're told what's available. You're told that you must sign up now, and if you do not sign up now, you cannot come in later. You have only one choice. Under the 1st Choice plan there's a review every two years, so there's that little bit of flexibility. The bottom line is that it's good piggybacking; it's prudent business management, no costs.

I would like to move forward with this and continue the negotiations with the 1st Choice benefit people and have it implemented on July 1, 2000.

MR. GIBBONS: Do you need a motion?

THE CHAIRMAN: I'd prefer that because I think that it would help.

MR. GIBBONS: I would move that.

THE CHAIRMAN: A motion by Mr. Gibbons in favour of moving this proposal. A seconder? Mr. Herard. All in favour?

SOME HON. MEMBERS: Agreed.

THE CHAIRMAN: Mrs. Sloan, do you agree?

MRS. SLOAN: No. I was asking a question.

THE CHAIRMAN: Okay. A question. We're into discussion.

MRS. SLOAN: We have not had the opportunity to discuss what's been proposed this morning with our caucus, so it needs to be acknowledged that this discussion has not occurred and won't occur if the motion is moved today.

Your commitment is that the premiums will not change for those members who are not smokers.

THE CHAIRMAN: Well, that depends on your age, and it depends on – I mean, that's a separate negotiation in terms of what you choose to buy. You either buy the insurance or you choose not to buy it. That's all optional.

MRS. SLOAN: So the motion is going to reflect that it's optional.

THE CHAIRMAN: Well, it's in the plan now, Mrs. Sloan. It's in the plan now.

By the way, this was discussed in December, and if somebody didn't discuss it with their caucus, that's their concern. I want to read from what happened on December 16.

The Chairman noted that the Government's "1st Choice" flexible benefits plan, currently available for management and non-union employees, offered the following benefits which were not currently available on the MLA plan: vision coverage; on-line processing of prescription costs; non-smoking rates for optional life insurance coverage; and an option to obtain 3 or 4 times coverage on optional life insurance, rather than 1 or 2 times coverage.

All members of the Assembly get copies of *Hansard*, so I don't know what it means when you say that your caucus didn't have a chance to discuss this.

MRS. SLOAN: Well, let me declare that what has been placed before us today, this page, we have not had the ability to take to our caucus, and that's what I'm referring to. The discussion relative to the meeting on the 16th and the briefing of our caucus occurred with respect to all items that occurred in that meeting. So let's not misconstrue the communication that's going back and forth between the caucuses. What has been provided to us today has not been discussed, so I'm just simply seeking clarification that the rates are not going to change.

THE CHAIRMAN: Well, on which subject matter? To answer your question, I have to be very, very specific. The overall rates will not change. Some members buy insurance coverage. I don't know who they are. I have no idea which individual around this table has purchased what level of insurance. I don't know what their age is, and I don't know if they're smokers or nonsmokers.

MRS. SLOAN: Okay. Perhaps this will expedite. What in fact does the motion say?

THE CHAIRMAN: Moved by Mr. Gibbons and seconded by Mr. Herard that

we move forward and join the 1st Choice program.

MR. WICKMAN: There's no reason that caucus would object to it.

DR. PANNU: Mr. Chairman, I just want to put my understanding of this package on the record. First, as this page states, there would be absolutely no added costs to the LAO as to the insurance plan as such.

THE CHAIRMAN: No.

DR. PANNU: The second part of my understanding of this is that if there's any change that will impact us as members covered, it will

arise only with smoker and not nonsmoker rates.

THE CHAIRMAN: Those four areas. Vision coverage and on-line processing . . .

DR. PANNU: Other things being equal, if our coverage remains what it is today, the only element that might impact on changing that package is whether we smoke or not.

THE CHAIRMAN: And that's an individual choice.

DR. PANNU: Yes, that's individual. That being the case, I'm ready to vote on it.

THE CHAIRMAN: All in favour?

HON. MEMBERS: Agreed.

THE CHAIRMAN: Opposed? Thank you very much.

MR. WOLOSHYN: It's unanimous.

THE CHAIRMAN: Yes.

I should point out, hon. members, that in fact as I recall, there are 17 or 18 members that do not participate in even the health care coverage or the Blue Cross coverage, which has always caused an interesting question in my mind, how that happens. But they are not participants.

The next item has to do with a query that was provided to us by the Member for Edmonton-Riverview. It had to do with insurance coverage liability travel, and I believe the question was: if a volunteer went along someplace for a meeting, would there be insurance coverage, and how would this fit in with spouses, family members, or guests, plus volunteers?

So I have a briefing note for the committee and would like to make it available to all who would like one in addition to the members. This was just concluded. I think we were working on it last night as well. This turned out to be a very, very, very interesting investigation of what appeared to be a rather simple question. So I would like to have put into the record what we discovered.

The background.

At the December 16, 1999 Members' Services Committee (MSC) meeting, an issue arose as to whether there is or would be insurance coverage for spouses, family members and guests traveling with a Member. The discussion was related to Transportation Amendment Order (No. 3), that was passed at the same meeting, which provides for the payment of reasonable living and traveling expenses to or on behalf of a Member's spouse, family member or guest who accompanies a Member to or joins a Member in Edmonton or, providing the trip is related to the Member's public or official business, any other part of Alberta, subject to a maximum of 4 round trips in any one fiscal year.

The issue was:

Is there insurance coverage for spouses, family members or guests when traveling with or joining a Member pursuant to the provisions of Transportation Amendment Order (No. 3)?

The brief answer is:

Yes, coverage is available under Special Accident Insurance to a maximum of \$50,000.

But the discussion proves rather interesting.

We are advised by Risk Management and Insurance (RMI) that there is insurance coverage for guests of a Member traveling pursuant to the Transportation Amendment Order (No. 3). This "Special Accident Coverage" includes guests of participants under the Risk Management program. Members are participants in the program by virtue of section 3(2)(f) of Treasury Board Regulation 01/96, the Alberta Risk Management Fund Amendment Regulation. The

amount of coverage is limited to \$50,000 and, according to RMI, is not intended to provide other than minimal financial assistance in the event of death or defined injury. This type of coverage is referred to as "Accidental Death and Dismemberment/Income Replacement."

We are advised by RMI that family members would qualify as guests under this coverage. In order to qualify under the policy, a guest must have received an "expressed or implied invitation" from a Member and must not be an employee or a contractor attending as part of their employment or contract.

We are advised by RMI that the Legislative Assembly Office would need to report an estimate of the number of guests and number of days per year as RMI must advise the private insurance carrier of the exposure.

It should be noted that this type of insurance is a form of voluntary benefit that differs from liability coverage. We are advised by RMI that this coverage is only available when employer-provided coverage specific to the activity is not available.

Let me repeat that: "We are advised by RMI that this coverage is only available when employer-provided coverage specific to the activity is not available." That means that if it is available and you choose not to have it, this doesn't apply.

It should be pointed out that it is difficult to give advice or an opinion concerning insurance coverage in the absence of a specific set of facts. The above is a general discussion but does not replace the advice that should be sought in the event there is a specific incident or accident giving rise to a claim or potential claim.

To my knowledge there has not been a claim in the 20 years that I've been here, and the Clerk advises that to his knowledge he is unaware of any such claim in the past. So it becomes an interesting question.

10:30

The fact of the matter is that the responsibility is on the basis of a person carrying the guest with them. If they're traveling in one of our cars, we have the insurance. It's there. If something happens, that's the case. If we choose not to have the insurance and the person gets injured, they sue us. RMI does not kick in to protect us, because that's something we should have. Nobody can really fathom what the circumstances would be where this might happen, but the short question is: is there coverage available?

MR. WOLOSHYN: Sort of.

THE CHAIRMAN: Yes, in that sense.

Actually our lawyers spent a lot of time working on this. Now, Rob Reynolds, our Parliamentary Counsel, do you have anything further to add to what I've said?

MR. REYNOLDS: Mr. Chairman, I believe you've captured it rather well in reading from the briefing note. The only thing I'd say is that it is just what's known as a voluntary payment in the sense that it doesn't replace liability insurance. It's the sort of thing, you know, for loss, or dismemberment. That's what the coverage is for. It's one of those things that you probably see on policies relating to loss of left foot, loss of hand, death. It's payment for the principal sum. It's sort of gory stuff. But that's the coverage that exists if a guest is injured while being a guest of a Member of the Legislative Assembly.

Thank you.

THE CHAIRMAN: Just remember: all on official business.

MR. REYNOLDS: Well, Mr. Chairman, the assumption here would be that when a member requests or invites someone up to Edmonton, it would probably be on official or public business. Certainly with respect to the remainder of the transportation order a trip to other parts of Alberta has to be on public or official business. The policy

wording that we looked at indicates that there just has to be an express or implied invitation from a member.

THE CHAIRMAN: Okay. This is a briefing note. Are there questions?

MR. HERARD: In any event, as I understand it, there is a premium paid for this coverage. Therefore, this is not an exposure to government in any sense with respect to self-insurance or anything like that. This is something that we buy and we pay a premium for. Is that what I understand? Thank you.

THE CHAIRMAN: Yeah. That's part of the overall package.

MRS. SLOAN: So, in a nutshell, the onus is on the member to carry insurance and liability coverage that would then, in effect, bear the bulk of the responsibility if an accompanying person was injured while they were traveling.

THE CHAIRMAN: Well, I guess the specific answer to your question is yes. I carry insurance on my personal car. If there's a passenger in it, yeah, the onus is on me.

MRS. SLOAN: Would this, in effect, say that if there was a suit, if someone was injured, in essence the Leg. Assembly could not be named in a lawsuit?

THE CHAIRMAN: Well, I'm not going to give a legal opinion. I'm going to ask our Parliamentary Counsel to.

MR. REYNOLDS: Well, thank you. I'm not sure I am either.

Certainly there's nothing that prevents anyone from suing anyone. I mean, if you're in an accident, you can sue whoever you want. Whether the claim would be successful or not is another matter.

You were saying: would we be sued? Who knows? You can't say that we might not be sued. You can never say never. I imagine your question is: would it be successful?

MRS. SLOAN: Is there any onus on the Leg. Assembly, in light of the briefing that you provided to us this morning, for the protection of guests or other individuals accompanying MLAs on business?

MR. REYNOLDS: You've raised an interesting question in the sense that it's slightly different when you talk about accompanying MLAs on business. People who accompany MLAs on business might be employees. Presumably that's what you mean, in which case coverage would exist in the sense of being employees. I mean, it gets a bit difficult because you have to get into the circumstances of the accident and what's happening.

Of course, there is liability coverage for MLAs, which has been discussed considerably in the last meeting and in the Ethics Commissioner's report, et cetera. There is some liability coverage that exists for MLAs, but the specific instances you're talking about, you know, really would require some kind of specific opinion. There is this coverage that exists for guests right now. I'm not entirely sure what you mean about the extra onus.

MR. WICKMAN: Plus liability coverage for passengers in a car per se.

MR. REYNOLDS: Your private insurer, yes, presumably would respond.

MRS. SLOAN: If I may finish. People can ride with MLAs all the time on any variety of personal or professional business. But if there

was an implicit invitation that someone accompany them, what I would like to ask for so that I feel clear, not only for my own purposes but for the purposes of other members in this Assembly, is a formal legal opinion on the liabilities surrounding guests accompanying MLAs on business.

THE CHAIRMAN: By formal you mean as opposed to – what? – an informal one?

MRS. SLOAN: To supplement the briefing that's been provided to us this morning.

THE CHAIRMAN: Okay. We can get another additional view on this, but we're not going to spend a lot of money on it.

MRS. SLOAN: No. I'm just simply asking for a legal opinion. Perhaps there can be even inclusive in that an outline from the insurance carrier what their view is.

THE CHAIRMAN: Mr. Reynolds, do we not already have that, a response from the RMI?

MR. REYNOLDS: We do. I mean, that's what was incorporated into the briefing note with respect to guests. In here it didn't cover the entire panoply of liability problems.

MRS. SLOAN: I'm just wondering if we can have a copy. As fulfillment of part of my request, can we have a copy of the insurance company's response to you?

MR. REYNOLDS: There isn't something from the insurance company's response. It was an interpretation of the policy concerning guests. It's my understanding from your question that what we have isn't responsive to your question, because what we have indicates that there's a \$50,000 maximum coverage for people who are injured. It's my understanding that you're asking for something more about the liability of MLAs in a particular set of circumstances.

MRS. SLOAN: If I may clarify, Mr. Chairman. I am simply asking for a legal opinion to clarify where the bulk of onus rests for individuals accompanying MLAs on business travel in the province.

MR. REYNOLDS: Okay. That was different than what was asked for and what was provided. It's up to the chairman. I can tell you that it's going to be a little difficult, I think, to get an opinion saying where the onus lies if there's no specific set of circumstances as to who's liable, what's the nature of the injury, what's the nature of the reason, et cetera. I mean, there are all those variables which make it a little difficult to give an opinion.

MR. HERARD: Add to that the fact that the member's language with respect to this is essentially: while you're working; in other words, official business. I think what you'd find is that our employer is paying WCB premiums on our behalf. Then you're asking Mr. Reynolds to give you an opinion as to what happens in an accident when, in fact, you could have had an accident with someone else who's also covered under WCB, in which case there is no coverage. It's no-fault. So you're asking for a multitude of things here that will never end because the circumstances are essentially different in every case.

10:40

DR. PANNU: Mr. Chairman, this briefing note addresses an issue that arose from a decision that this Members' Services Committee

made on December 16 to allow coverage for a member's spouse, a family member, or guest. This strictly refers to that change; does it not?

THE CHAIRMAN: Well, on a question of information, yeah.

DR. PANNU: We're absolutely clear, you know, what this refers to. I think this refers to the decision that we made on December 16.

My next query and clarification is about the words, "Yes, coverage is available under Special Accident Insurance to a maximum of \$50,000." It's available but optional, and the member will have to buy it?

THE CHAIRMAN: No, no. This is part of the whole risk management package. It's all part of that. There are multitudes.

DR. PANNU: My last question then. Will it mean additional cost to the public treasury? That's my next question.

THE CHAIRMAN: We'll talk about this the next time. The purchase cost for us to have risk management in all its multitude of things, Mr. Clerk, is – what? – 9,000 and some hundred dollars a year?

DR. McNEIL: For the general liability, \$9,240.

THE CHAIRMAN: Ninety-two hundred and forty. I'll go through this, and it goes up to \$35 million of this and all the rest, so it's infinitesimal. I have no idea. It's all part of the whole package, which is very, very comprehensive.

Other questions? Yes, madam.

MRS. SLOAN: I am wondering, then, if we can put out something, or if simply the committee is satisfied that the briefing note before us today sufficiently advises members about the issues surrounding guests accompanying them on business.

THE CHAIRMAN: Well, we'll ask the committee. Are they happy with the briefing note, or do they want something more?

MR. WOLOSHYN: The briefing note is very good. If you listened to the words and/or read it, it's very clear that any member who operates a vehicle with any passenger, whether on business or not on business, should have adequate insurance as a responsible owner of that vehicle, period.

I think we should move on to other items, because we're going in circles. There was a good question asked about the four trips. As Dr. Pannu pointed out, your briefing note makes it very, very clear that if insurance is not available, if there's a dismemberment or death, in the event that there is no other insurance available, you can get to a maximum of \$50,000. Now, if anybody wants to play with that or go beyond, I don't know. The members should be made aware that they should cover themselves adequately, and that will be the end of the issue.

THE CHAIRMAN: Well, I also want to point out again that there is no record of any claim ever having been made by anybody with respect to this. So it was a question in terms of going through to do the research under all the regulations that are in place, including those of the use of volunteers, and this basically comes under a section known as "Volunteers." It's there.

MRS. SLOAN: I would like to make a motion, then, that the advisers contained within the briefing note before us today on insurance coverage for guests of a member be incorporated into the

Members' Guide.

THE CHAIRMAN: There's a motion. A seconder?

MR. GIBBONS: I'll second it.

THE CHAIRMAN: Discussion?

MR. HERARD: I don't know; maybe I just don't understand. It seems to me that what the briefing note tells us is something similar to what we have in the province with respect to uninsured motorists. There's an unsatisfied judgments fund that takes care of people who get involved in accidents with people who have no insurance. I think what this is telling us is that in the absence of insurance, that we should all be carrying anyway, there is a small amount of coverage. That's all that this is telling us. So I don't know why we need to have a long, drawn-out discussion on this subject.

THE CHAIRMAN: Further discussion? All those in favour of the motion, please say aye.

SOME HON. MEMBERS: Aye.

THE CHAIRMAN: Opposed, please say no.

SOME HON. MEMBERS: No.

THE CHAIRMAN: The motion is defeated.

MRS. SLOAN: Could we have a count on that, please?

THE CHAIRMAN: Okay. All those in favour of the motion, please raise your hand. It shows Dr. Pannu, Mr. Gibbons, Mrs. Sloan, and Mr. Wickman in favour.

All those opposed, please raise your hand. It shows Mr. Woloshyn, Mr. Jacques, Ms Haley, Mr. Herard, and Mr. Clegg opposed.

MRS. SLOAN: For final clarification, Mr. Chairman, is it then the responsibility of each of the caucuses to communicate this brief, or will there be a formal communication of the information contained to members?

THE CHAIRMAN: Well, Mrs. Sloan, I don't know how to respond to your question, because a few minutes ago you said that certain things have gone – actually, I don't know how you operate within your caucus. I don't know how you operate.

MRS. SLOAN: It's not an issue about caucus. It's an issue that . . .

THE CHAIRMAN: Let me answer your question. I don't know how I'm supposed to communicate, because I don't know how you deal with things in your individual caucuses. The minutes of this meeting, the *Hansard* are available to every Member of the Legislative Assembly. These meetings are posted; they're made available. They're even on the Internet. In addition to the minutes that will be circulated, if you want me to then send another memo explaining this, I have no problem doing that. It just adds to an unnecessary – but then I'm not going around and getting 83 MLAs to sign this additional piece of paper. I'm going to send a memo with this, with a brief note to all members saying that this discussion occurred and if you want more information, see *Hansard*.

MRS. SLOAN: Thank you.

MR. WICKMAN: Now let's get on with the meeting.

THE CHAIRMAN: Thank you very much, Mr. Wickman.

Item (c) is Liability Insurance Coverage in other Canadian jurisdictions – Chairman. What you have in your binder is a document. The request was made: can we undertake a review of what goes on in other jurisdictions with respect to general liability coverage? I circulated a flowchart as a result of consultations that we had with the other parliaments in Canada, the consultations that I had with other Speakers and their Clerks in Canada at a recent meeting of presiding officers, and additional research that was done by other staff people. So what we've got is a flowchart of several pages that's available, and if anybody in the audience would like a copy of it, they may have a copy of it as well.

Now, in addition to that, I'm going to pass around two documents a little later, at-table documents on this matter, but first of all what I'd like to do is take you through to deal with the question of what this subject matter is.

We're generally talking about what is available under general liability insurance for members. Basically and usually, there are two kinds of liability that are put in place, depending on the jurisdiction. One deals with bodily injury and the other deals with personal injury. The situation in Alberta – I'll take just a little bit of time going through some of this, and then I'll speed it up as we go through it. Again, we're doing a precis under all the paper you already have and that has been made available to you, which I circulated to all members last fall.

Under bodily injury:

Bodily injury, sickness, illness or disease, including death at any time resulting therefrom, sustained by any person or persons.

Under personal injury:

Personal injury arising out of false arrest, humiliation, mental anguish, mental injury, shock, malicious prosecution, wrongful detention or imprisonment, libel, slander, defamation of character, invasion of privacy, wrongful eviction or wrongful entry, discrimination and any other legal action alleging the foregoing by any other name.

Those are basically words taken right out of the various schedules that are in place. Coverage details in Alberta is \$35 million per occurrence. The \$1 million deductible is self-funded by the risk management policy. In other words, the risk management division, whom we have the contract with and we pay for – if there's a claim of something to the first \$1 million, it comes out of the risk management fund. Risk management then has gone out and had a policy purchased with an insurer, so anything for the next \$34 million is covered by the insurer. The annual premium for us for the year 1999-2000 is \$9,240 and includes liability coverage for MLAs and employees. The insurance is provided by the Alberta Treasury risk management and insurance division. There's a section for deductible and the private insurer for any amount above the deductible.

The decision-maker: the Alberta Treasury risk management and insurance section in consultation with Alberta Justice determines whether coverage is eligible. After a positive assessment – that means it may not necessarily be accepted – the insurer for claims above \$1 million determines the course of action based on the terms of the policy. For defence cost coverage RMI will pay costs associated with the defence and reasonable related expenses including immediate medical relief.

Now, once again, there's not a great history of cases associated with the Legislative Assembly and its employees ever accessing anything under this. In the case of British Columbia, again, they have a bodily injury section, and you can see it there. They have a personal injury section in there. Some of the words are slightly different in terms of this. In British Columbia under personal injury

it says:

False arrest, detention, imprisonment, malicious prosecution, wrongful entry into or eviction of a person from a room, dwelling or premises the person occupies, oral or written publication of material that slanders or libels a person or organization, or oral or written publication of material that violates a person's right to privacy.

10:50

In British Columbia it goes to \$2 million per occurrence. There's no deductible on general liability claims, and the annual premium is approximately \$48,000. In there they have a private-sector insurer as selected by the Legislative Assembly and the same carrier for the constituency office. The decision-maker is the insurer.

Members make claims to and deal directly with the insurer. The Leg. Assembly would only be directly involved if a Member acted on his/her own then wanted reimbursement for costs after the fact. (Speaker decides on small amounts; the Leg. Assembly Mgmt. Cmtee. on large amounts).

Coverage includes all costs (including legal) to the limits set per occurrence.

In Manitoba, again, they have a clause under bodily injury. They have another clause under personal injury. There's one exception they have which apparently is not one of the exceptions we have, that you have a claim against you because of discrimination. Apparently in Manitoba that is an exempt clause. Coverage details:

\$2.0 Million per occurrence (exception, discrimination).

Umbrella liability coverage increases limit to \$50 million per occurrence [under their umbrella coverage] . . .

The current coverage has a deductible of \$250,000, which is treated as a liability that must be paid out . . .

The Insurance and Risk Management Branch assesses a premium to the Legislative Assembly and departments based on criteria like the number of employees and the claims history.

Annual premium for MLAs and employees: approximately \$300,000 (includes 10% brokerage fee).

The insurance provider is a private-sector insurer. Again, the \$250,000 deductible I just talked about. The decision-maker:

The MLA reports any action to the Legislative Assembly Office. The LAO contacts the Insurance and Risk Management Branch of Manitoba Finance. The claim is then assessed to determine whether it is eligible for coverage. Manitoba Justice may be retained to provide legal services. If the matter is not to be handled internally, the insurer is informed and then handles the claim as per the provisions of the policy.

Under legal defence costs: "Legal defence of the claim will be handled by legal counsel appointed by Government or the insurer."

In New Brunswick they have coverage for bodily injury. They have no coverage to date for personal injury. Coverage details:

NB does not provide general liability coverage for MLAs in the case of actions against them. However, as part of Members' constituency office operations, the constituency office allowance may be applied to the cost of insuring rented office space and its contents and for insuring the Member for general liability coverage for persons who sustain bodily injury in the constituency office [coverage similar to what a homeowner or small business may acquire]. Coverage is obtained by individual Members through private sector insurers and the extent of the coverage will depend on the individual Members. Funding comes from the constituency office allowance; no special funding is provided.

In essence, here this is all covered under the LAO for all of our offices.

In New Brunswick each one of us would negotiate with the insurance coverer for our own, and we could get it paid for after the deductible under your constituency office allocation.

Under insurance provider: "Private sector insurer secured by each Member for office, contents, and third party liability. The decision-maker is the insurer.

Under defence costs:

Depends on individual Member's policy.

No experience of civil actions against MLAs in the course of

their duties in this jurisdiction.

Newfoundland. No coverage under bodily injury. No coverage under personal injury. In my discussions with them: no previous experience with respect to this matter.

Northwest Territories. Bodily injury is still unknown. Personal injury: "All causes of action." Five million dollars of coverage, I guess per case, to a total of \$25 million. Private-sector insurer. They have a small risk management insurer and legal division, part of their Department of Justice. Defence costs are covered and are part of the deductible.

Nova Scotia: no coverage; no coverage. In the case of defence costs:

Ministers of the Crown are given legal assistance from government lawyers when in an action as Ministers . . .

MLAs are not provided with legal assistance.

No previous experience in this jurisdiction.

In Ontario they have coverage.

Ontario has indicated that the details of their insurance program are not public information and requests that they are kept confidential.

So we'll abide by the confidentiality as much as that this is all confidential; right?

General liability coverage. Under bodily injury they have:

Arising from operations of Queen's Park Offices and both bodily injury and property damage arising from operations of constituency offices.

Their personal injury includes libel and slander, \$20,000,000 per occurrence.

Coverage includes tenant legal liability, contractual liability, normal off-site activities sponsored by the Member.

The Legislative Assembly does not pay a deductible or any costs associated with the tendering process (i.e. RMIS does not charge the Assembly for its services at this time).

The insurance provider is their risk management and insurance services.

The decision-maker:

Leg. Assembly is notified first by the MLA, and then the Leg. Assembly Office H/R staff work with Risk Management and Insurance Services to determine whether coverage is eligible. After that is established, Risk Mgmt. manages/administers the file, including liaising with the insurer and the Legislative Assembly Office.

What's covered:

Defence costs over and above the limit of insurance.

Whether legal services are handled by the Dept. of the Attorney General or outsourced are determined on a case-by-case basis.

Ontario has had some claims experience. Details are not available due to confidentiality requirements.

Prince Edward Island. Again, they have coverage for bodily injury, but they have no coverage for personal injury. They have \$5 million per occurrence, and \$15 million I guess is their so-called level, top. "The Assembly does not pay any premiums or administrative charges to the department or Fund."

Who is the insurance provider? It's the government of P.E.I. They underwrite this, the primary layer of \$5 million, and they purchase

excess insurance of \$15 million, over and above the fund. The Legislative Assembly does not have any separate or additional policy.

How are the decisions made?

All claims/incidents which might arise are reported to the Risk Management and Insurance Section of the Department of the Provincial Treasury. The manager makes a determination of coverage based on the actual wording of the insurance policy.

What's covered?

Legal costs, adjusting fees and other necessary expense to investigate, litigate and settle claims is paid for by the Fund without the insured having to pay a deductible.

In Quebec

All members, including former Members, are entitled to payment of

defence costs and judicial costs arising out of proceedings brought against them for any act or omission in the performance of their duties of office.

Expenses incurred for counsel are also paid where a Member is summoned to appear at an inquiry, a preliminary inquiry or in judicial or quasi-judicial proceedings in connection with the Member's duties of office.

Coverage details:

No defined limit to cost or expense payment or reimbursement; however, after the jurisconsult . . .

Now, I'm going to explain that in just a second.

. . . reviews a particular situation/claim and advises the Office of the National Assembly, the Office of the National Assembly fixes the maximum amount of defence and judicial costs.

Note: the Office of the National Assembly is a body of Members of the National Assembly analogous to the Board of Internal Economy or Members' Services Committee.

And who is the jurisconsult? Well, the best that I can understand, he's probably fairly closely akin to our Ethics Commissioner, I think.

So who's the insurance provider? It's the "Office of the National Assembly (self-insured)."

Who's the decision-maker?

Office of the National Assembly, on advice of the jurisconsult of National Assembly, makes the initial determination of providing financial assistance.

The jurisconsult is the officer of the National Assembly, who is appointed by the National Assembly, whose duties are to give opinions to Members on situations of incompatible duties and conflicts of interest that a Member may encounter in the performance of duties.

What defence costs are covered? They're included, including expert fees. They're

based on fee schedule in a regulation of the National Assembly.

However: If the Office, after obtaining the advice of the jurisconsult, is of the opinion that the Member or former Member acted in bad faith, then it will not pay the costs or expense and will recover what it has paid.

In Saskatchewan there is "third party liability coverage for the operations of the constituency office." Nothing for personal injury.

No general liability insurance coverage for Members is maintained; however, the LAO does pay the cost of Members' insurance for their constituency office operations including fire, theft and third party liability (covers lap-tops and theft from the Members' cars, etc.)

Under insurance provider:

A Member secures [their] own insurance coverage for office operations.

The Legislative Assembly will pay for premiums and for deductible costs when a claim is made.

Defence costs are covered. They say that they have no experience in this jurisdiction except for a suit filed relative to the passage of a bill. The case was dismissed. The Speaker and the private members were represented by Parliamentary Counsel, and the ministers were represented by lawyers from the Department of Justice.

11:00

In Nunavut, again, they have none for bodily injury, some for personal injury. There, again, almost the same thing as the Northwest Territories with the \$5 million per case and \$25 million cap. Yukon, you can see: no coverage; no coverage.

In the House of Commons of Canada there is no insurance coverage for bodily injury and no insurance coverage for personal injury. However, this is how it works: members may apply to the House of Commons Board of Internal Economy – that is their members' services committee – for reimbursement of expenses post facto related to civil suits directed against them as members. Each amount reimbursed depends on the situation and the decision of the

Board of Internal Economy, which meets in camera always. It never, ever meets in public. The insurance provider: it's within their own confines. The decision maker: it's considered on a case-by-case basis by the Board of Internal Economy. Cases brought before the board are kept confidential; therefore, historic details are unavailable. Defence costs covered: most applications for reimbursement include legal fees. The same applies, essentially, for the Canadian Senate.

Now, there was a lot of work done putting all of this together, and it's very difficult for us to answer questions in other jurisdictions if they're of a greatly specific nature.

Mr. Wickman.

MR. WICKMAN: Thank you, Mr. Chairman. I appreciate the information here. It would be kind of a shame, though, if it was only here for information purposes and we couldn't act upon it.

THE CHAIRMAN: No. I've got some more.

MR. WICKMAN: At the appropriate time, will you consider amendments to some of the details of the coverage?

THE CHAIRMAN: Well, that's totally subjective. This is brought here as a result of a question from members basically saying: what is the situation across the country? That's a separate subject, and I'll be happy to discuss that. Right now we're on this question about risk management, bringing you up to date with it. There was lots of discussion last time and lots of debate with respect to it. We also had in item (d) a motion that still is left over from the other side. So I've got several other documents and bits of information that I want to draw to your attention with respect to this matter, but first of all I'll try and answer any questions with respect to this overview of what exists in Canada.

MR. WICKMAN: Yeah. I'm just trying to point out that it would be nice if at the appropriate time you would accept amendments to the specific details of the coverage.

THE CHAIRMAN: Here in Alberta?

MR. WICKMAN: Uh-huh.

THE CHAIRMAN: Sure, when we get to going through our coverage, the package.

MR. WICKMAN: Good.

THE CHAIRMAN: Any questions on this? Okay.

Since the time we had this discussion in December and as a result of what was discussed in December and what appeared to be a variety of things, we've spent a great deal of time internally and externally looking at a variety of alternatives with respect to this based on what had occurred in 1999 over a particular issue. What I'd like to do now is basically talk to you again further on the information, and then I have one other briefing note that I'm going to give to you, because I want to make a suggestion to you after we go through this next document.

Some people said: well, should the Legislative Assembly be associated with the risk management thing? So I looked at all the possible alternatives that we could think of. In the paper that you have in front of you now, basically the issue is:

What alternatives are available with respect to acquiring and/or administering general liability insurance coverage for Members of the Legislative Assembly of Alberta?

Again, we pay a premium on behalf of Members of the Legislative

Assembly

for general liability insurance coverage in relation to the conduct of their official duties and responsibilities. The coverage is maintained and claims are processed by the Risk Management and Insurance... division of Alberta Treasury... based on applicable legislation and regulations.

You have an attachment in there with all the regulations.

The schedule for liability coverage includes everything. "Whether liability coverage is available" – and I've got to just really repeat this. "Whether liability coverage is available is dependent on the details of each claim." Simply because somebody believes that they should be able to access it, it doesn't mean they will. The insurer in the end will make that decision.

Under the terms of the policy, the decision as to whether coverage is applicable is determined by RMI on a case by case basis. Coverage up to \$1 million is self insured and provided from the province's Risk Management Fund. Coverage above \$1 million is provided through an insurance policy secured by RMI up to the \$35,000,000 limit. In the 1999-2000 fiscal year, the LAO paid the sum of \$9,240 to provide this level of general liability coverage for Members and staff.

Are there alternatives to what we have? Again we were brainstorming here, and we came up with these basic alternatives:

1. Maintain the Current System of Coverage:

This alternative would maintain the current level of coverage and the mechanisms in place to administer this coverage.

That is, as is: not only the current level but the mechanisms.

There are pros that I've outlined there for you.

- Makes use of current expertise and administrative mechanisms in place throughout government for provision of coverage.
- Because the programme is partially self-funded and the risks are spread over the government as a whole, premiums are relatively inexpensive.

But we do have this matter:

- The Ethics Commissioner has expressed a concern that public servants are put in a position of having to make decisions on coverage applying to Members of the Assembly.

The budget impact: nil. Nothing.

A second alternative – and this is one that I will come back to a little later.

2. Implement Consultation and Review Process Prior to Referral to Risk Management for Decision:

Under this option, once the Member becomes aware that he/she may be subject to a legal action, they would advise the Speaker in writing as to the details of the claim. The Speaker would meet with the Member and consult with relevant outside resources including Officers of the Legislature regarding the claim. After reviewing the information and advice provided to the Speaker as a result of the consultative process, the Member would decide as to whether to forward a request for coverage to the RMI division of Alberta Treasury. The RMI division would evaluate the claim and make a decision as to whether coverage is applicable.

Pros

- Provides the Member with the opportunity for advice regarding his/her claim prior to making a decision as to whether to apply for coverage under the general liability policy.
- Formalizes the mechanism for advising the Speaker and Legislative Assembly Office of the fact of a claim.
- Utilizes existing mechanisms for evaluation and processing of claims.
- Does not involve additional costs for provision of insurance coverage.

The con is that in the end

public servants [risk management] would still be required to determine eligibility for Member insurance coverage. Consultation process would assist Member in making more informed decision as to whether to request coverage in particular case.

A third alternative then could be looked at.

3. Engage Independent Third Party Broker to Evaluate and Administer Claims but Retain RMI as Insurer:

This alternative, called "fronting" in the industry, is a service that can be provided by an insurance broker. Using this service the third party broker would administer the general liability component of the Legislative Assembly's insurance coverage for Members . . . Claims would be processed by the broker and they would be responsible for acquiring appropriate legal expertise in determining whether coverage applies. Neither the LAO nor RMI would have input into decisions made by the "fronting" broker regarding applicability of coverage. Defence and settlement costs would be covered by RMI through existing insurance coverage once a decision was made by the broker. The LAO would request competitive bids from the insurance marketplace and pay a yearly fee for this service.

Pros

- Decisions regarding applicability of coverage would be made by experts independent of the LAO and government.

Cons

- This approach would be more costly than the existing method of coverage.
- Amendments to general liability insurance regulations may be required in order to implement.

The budget impact. Well, it would be a minimum of the \$10,000 we pay now but perhaps as high as the \$300,000 or something that exists in Manitoba.

4. Outsource Member Liability Coverage to a Third Party Insurer: Under this alternative, the LAO would select an insurance broker through a competitive process. The broker would be responsible for administering the programme and securing the general liability insurance coverage up to the \$1 million limit with provisions similar to existing coverage. All claims and resulting settlements and costs would be the responsibility of the insurer. The LAO would continue to look to RMI for coverage above the \$1 million level through the existing coverage in place.

Pros

- Decisions on coverage and administration would be made by experts independent of Legislative Assembly and government.

When we talk about experts, we're talking about insurance experts here.

Cons:

- Premiums would be higher than what the LAO presently pays as risk would be spread over a small group of Members and former Members.
- Amendments to regulations may be required for implementation.

Again, we're estimating – well, we don't know.

11:10

Another alternative.

5. Member Acquired Third Party General Liability Coverage:

Under this alternative, Members would acquire general liability insurance with cost being reimbursed by the Assembly,

or, as in some cases, costs coming out of your constituency office allocation.

Pros

- Would provide flexibility to Members in acquiring insurance coverage.

Cons

- Significantly increased cost due to loss of advantage of group insurance.
- Members may not have an appreciation nor the expertise to determine what insurance would be most appropriate for their needs resulting in inadequate and inequitable coverage.

The budget impact: well, either the LAO would pay for that, these 83 individual policies, or we could say that it comes out of your constituency office allocation or something like that.

6. Assembly Self-fund Total Liability Costs with Decisions made by Members' Services Committee on the Advice of Expert Adviser:

This alternative would involve the Assembly referring all claims for coverage to an Expert Adviser who would provide advice to the Members' Services Committee as to whether the Member or Former Member should be provided with support. The Members' Services Committee would make decisions regarding each claim and authorize expenditure of Assembly funds for defence cost or settlement purposes. The Committee would be required to budget contingency funds to cover costs and request additional funds from the Assembly through the normal budgeting processes if funds required. This alternative is similar to the approach presently utilized in Quebec.

Pros

- Assembly would have total control over coverage of Members.

Cons

- Since risk is not being managed through insurance coverage, costs may be extremely high and highly variable from year to year.
- Decision regarding coverage will be made by Members about Members in contrast to decisions being made by experts in relation to other Member coverages (dental, health, etc.).
- Provisions of coverage would be required to be defined in legislation or Members' Services Orders.
- Administration of the program would fall to the staff of the Legislative Assembly Office.

Needless to say, significantly more expensive.

I want to also advise that "insurers would be unlikely to provide coverage under this scenario. Thus the requirement for self-funding." We'd have to have our own insurance funding. Attached to it you've got schedule 1, which, again, has been public for months. Everybody's had this. So that goes to the second level as part of the discussion that comes out of the December meeting.

Again, I repeat, since that time we clearly know what the Ethics Commissioner's report has been in regards to the review prompted on behalf of the Provincial Treasurer. We also received late last week the second of the Ethics Commissioner's reports, and that was respecting an investigation concerning Mr. Sapers, dealing with the two bigger issues that had to do with the whole thing.

I want to give you one more piece of paper. Then I will stop, and we can have a discussion with respect to this.

As Speaker of the Legislative Assembly, as the officer with respect to this matter dealing with making sure that members are informed and dealing with policies with respect to this, I have avoided making any comment with respect to this matter until now. First of all, I wanted to wait to see what the Ethics Commissioner would say with respect to Mr. Day, and I wanted to see what the Ethics Commissioner would say and report with respect to Mr. Sapers.

I'm being very, very clinical about this. I believe very strongly that all private members must be protected, and I believe that we've had in place in Alberta for a long period of time a very, very good system.

Number two. We have no history of members accessing this, so when something does happen, it comes as a great surprise to all members.

Number three. If we extrapolate the personalities involved in the two issues, then I see this as a pretty straightforward matter.

So I'm going to give you another briefing note, and it's called Members' Liability Insurance Claim Process. Quite frankly, if we had not had a Members' Services meeting, it could very well have been that I would have come to introduce such a policy. But I'm doing this in total consultation with the Members' Services Committee, in absolute transparency, as a result of the interest of

members of the Members' Services Committee, this matter having come here in December and this matter being here again.

I want to just take a couple of minutes to go through this.

At the December 16, 1999 Members' Services Committee (MSC) meeting an issue arose as to the process used by Members to submit a claim related to their liability insurance coverage. The issue arose from the Ethics Commissioner's investigation into this matter. In his investigation the Commissioner noted a number of concerns including:

- "government employees making decisions on politicians' legal claims"
- information related to Members' coverage not being readily available for both administration and Members.

Following the release of the Commissioner's report a motion was tabled at the December meeting of the Special Standing Committee on Members' Services (MSC). The motion suggests a number of changes to the Members' Group Plans Order . . . including:

- formalizing Members' General Liability coverage by the MSC
- more involvement by the Speaker in Members' claims.

I have talked to counterparts across the country. I have tried to sit back and look at this again by taking all the personalities out of this, and I'd like to suggest the following as a resolution to anybody's concern with respect to the two items.

To address these and other concerns the following will occur.

"Will" is too strong a term, because I'm consulting with you. "Could" occur is a better word.

- The *Members' Guide* produced by the Speaker's Office will provide specific information as it relates to Members' General Liability coverage.

We currently have in the guide a paragraph, but we don't have a full text. So we would have a full, complete text of everything.

Number two.

- A brochure, outlining Members' Insurance coverage, will be available to all Members at all times and will be provided to them on a regular basis.

Now, the first copy of that went out in December when all members received a personalized document which covered every aspect of what they had signed up for in terms of all of the insurance coverages. The numbers attached to it were personalized to each member. I'm prepared to update that periodically.

Number three.

- A defined process for Members' claims related to general liability coverage will be outlined in the *Members' Guide* and the above noted brochure.

The process that I would like to see would be the following:

- When a Member becomes aware that he/she may be subject to legal action they will notify the Speaker in writing

Not by phone, not verbally, but in writing. A letter to me in writing.

Number two.

- The notification will provide as much detail as possible related to the claim.

Number three.

- Upon receipt of such notification the Speaker will meet with the Member and consult with appropriate resources, including Officers of the Legislature, regarding the claim.

In other words, the Speaker would, depending on the circumstances, deal with this matter with the Ethics Commissioner or the Auditor General or the Chief Electoral Officer or the Ombudsman or outside sources, depending on the nature of it.

- After reviewing the advice obtained by the Speaker during this consultative process . . .

And I would have another meeting with the member and share with them the thoughts, because the onus of responsibility must be on the member.

. . . the Member will determine if a request for coverage should be forwarded to the RMI Division of Alberta Treasury,

the risk management people in Alberta Treasury. But it would be

the individual member making that choice.

- RMI will then evaluate the claim and determine whether coverage is applicable.

It's still the insurer.

The last point.

- If coverage is applicable RMI will manage the claim from that point.

Now, I'm saying this because I believe that this kind of an action could address a number of the points that have arisen with respect to this matter. There certainly would be more disclosure of insurance information to members. There would be more continuity due to the Speaker's involvement. There would be documented evidence of questions related to claims. A higher level of advice would be provided to members in determining whether to proceed with a claim. The advice provided to the member by the Speaker after consultation would be: you should not proceed with the claim, depending on the circumstances of it. But the onus would still be on the member. The member would still have the right to if the member wanted to, and there would be a better defined process for members to follow in the event they become subject to legal action.

11:20

I've said a lot here in terms of the context of the whole thing. It's here before the committee. We have another matter that still is there, and it has to do with a motion. Again, I'm biased in this regard because I do believe very, very strongly that private members must be protected. Now, members of Executive Council are protected, and I'm focusing this discussion on private members and on actions by members in their capacity as private members.

Number two, I do not believe that I or the LAO or Members' Services would have to adjudicate something that a member has with any of our insurers. As an example, we currently have coverage under Alberta health care. We have coverage under Alberta Blue Cross. We have coverage under other things. The member comes to me and says: "Gee, you know, under the Alberta health care insurance premium I have to have a hip replacement, but the only thing they're providing me with is the normal kind of instrument currently in place. I understand there's a new kind of porcelain thing that's available, and I want that, but the policy doesn't permit that. So there's an expectation that I might have to pay something for it. I want LAO to pay for it." I'd say: "No. I'm not going there. Our responsibility is to provide the insurance coverage. Whatever it is, you deal with it."

In the same way, if someone's got a problem with a dentist in terms of what the prescribed thing is, I don't think we should be involved in that, and I most certainly as the Speaker have no desire to be involved with that at all. I'm focusing here on a process to make sure that all private members have something in place, know what the process is, and know where they can go with respect to a matter.

When I look clinically back at what happened in 1999, question number one is that something happened and it happened to be a minister within a department. So somebody said: "Well, okay. Fine. That wasn't very good." Secondly, there was a question of another member saying that he had contacted an office and was told that nothing was available. Well, the Ethics Commissioner dealt with that one. Both of these matters have been dealt with. When I extrapolate those two things, one is formalizing and making sure that members know exactly what it is, and that's why I land with this overview this morning.

I'm now going to stop, and I would invite any and all kinds of questions and any and all kinds of discussion on this, because I think we have to move forward.

MRS. SLOAN: First let me state my thanks for the information

that's been provided to the committee by the Speaker.

Speaking from the overview of other jurisdictions' coverage, would I be correct in concluding that in the majority of the Canadian provinces that offer liability insurance protection for members, the two primary decision-makers or adjudicators in those provinces are either the Legislature as it is activated under the LAO or the insurer?

THE CHAIRMAN: Well, there are 12 examples there, and one can count them all up, but it seems to me that in the majority of the cases they have this insurer. In most cases it's something internally within their government called risk management or something like that.

MRS. SLOAN: In my review of that chart it would appear to me that there is a key place at the onset of activating the coverage where either the Leg. Assembly or the insurer is involved. Now, my question is: how does the resolution today, which I appreciate being provided, address the perception of bias that existed and exists relative to risk management being the primary decision-maker about evaluating and determining whether coverage will apply, risk management being governed under Alberta Treasury, a department of the provincial government?

THE CHAIRMAN: Do you want me to respond to that?

MRS. SLOAN: I'm asking the question as to how the resolution addresses that reality.

THE CHAIRMAN: Well, is the question to me and you want me to respond to it? Is that what it is?

MRS. SLOAN: I'm happy to hear any responses from any members.

THE CHAIRMAN: Okay. Well, you have in the premise of your question several assumptions that may or may not be true. One, as you've said, is perception of bias. I don't know if that's true, and that's a subjective point of view that one can put into that. My conclusion to all of that is that if part of the process would be a consultation by the member with the office, that his view is supposed to be and hopefully is as the neutral nonpartisan office in the institution, then I would hope that that would overcome that.

In the case that I believe the hon. member is talking about, would there have been a perception by anybody if the case in question had not included the minister of a department of which risk management is part? If it would have been somebody else, would there have been a perception in anybody's mind? In this case, in the case that I'm outlining, the individual in question would under the process have been consulting with the Speaker before anything, and he would not be talking to anybody in that department.

MRS. SLOAN: But you qualified also in your comments, Mr. Chairman, that the Speaker will not assume any responsibility for the adjudication of the coverage.

THE CHAIRMAN: Well, no. That's why you have insurers.

MRS. SLOAN: So in essence, then, it still remains that a department of the provincial government would determine, would make the decision about liability coverage for private members.

THE CHAIRMAN: The bottom line is that in the same way our other insurers – Alberta health care is an agency of the government. They make a decision on what kind of health coverage we get, and they're civil servants. Everybody who is an employee of Alberta health care is a civil servant. So the answer is yes.

MRS. SLOAN: If I may, with due respect, just challenge that comparison. When people subscribe to Alberta health care, they clearly know that there is a list of insured services, so if they're going into a hospital, they know those hospital services are covered. People know that private rooms, those kinds of things, are not. In this case, though, private members do not know what their eligibility is for coverage. What we know today is that if it continues the way it is now, that decision rests solely with a department of the provincial government.

THE CHAIRMAN: Well, I'm not going to debate it. I'm just outlining this. Not to prolong a debate in here, I'm going to clarify some things.

Number one, under this process, which I think would really be helpful, in essence there would be a referral to the independent office of the institution.

Number two, I do not believe that 3 million Albertans know exactly what's included in their health care thing, because some drugs are included and some are not. So let's be careful on some of the utilization of the words. In the end the insurer, I believe, must decide. I don't know what the alternative is. You haven't suggested an alternative. If it isn't the insurer, who is it going to be to make the decision?

MRS. SLOAN: Again not to debate it, I think motions were made that suggested an alternative during the December 16 discussions of this committee. I'm simply wanting to establish on the record that the resolution today, while helpful, does not change the reality of who makes the decision.

THE CHAIRMAN: Well, we haven't made a decision. I mean, you may come back and say no, that you want to go to a third-party one or have all 83 MLAs have their own. I don't know.

Mr. Jacques, then Mr. Wickman, and then Dr. Pannu.

11:30

MR. JACQUES: Thank you, Mr. Chairman. I listened to members' comments and questions and also to all the information you provided us with today. Thank you for it.

It seems to me there are two key issues which you identified at the outset in terms of the background. One was with regard to the issue of who makes the decision on a claim, and secondly, information widely available to people, including the public, with regard to what is available in the form of insurance. I think the latter issue, with regard to the coverage, has been set forth very clearly in terms of the intent and recommendation, if you like, with regard to how that should be handled, both in terms of the *Members' Guide* and in terms of a particular brochure outlining insurance coverage. I conclude that hopefully that process or that suggestion would be acceptable to all members with regard to that particular issue.

I think the issue with regard to the fulcrum, if you like, is with regard to who makes the decision. If you go back again to the spreadsheet that Mrs. Sloan was referring to in terms of the specific provinces or jurisdictions that have this and how does it work, it seems that in my review of it, it really comes down to who is the insurer. In other words, if there's a risk management fund or equivalent in a particular province – I'm using Manitoba as an example – then it indeed is a process that is handled by the risk management fund. If you look at the case of British Columbia, which is perhaps the opposite extreme, where it's entirely, as I understand it, a third-party insurer, then indeed this is where the member makes a claim and where, quote, any decision or adjudication occurs.

It seems to me that the key issue in this is the member making an informed decision as to whether or not he or she wishes to proceed

with a claim. It would seem to me that that decision-making is key whether you have a private insurer or whether you have, quote, a self-funded insurer, such as a risk management fund. If I as a member want to make that decision, then I want to get the best information and the best guidance that I can. In other words, I want a process in place that will allow me to do that, notwithstanding who the insurer may be. Whether that's a risk management fund or whether it's a third party then becomes to me incidental. I want the best information, the best guidance that I can achieve.

Now, the process that you have suggested seems to have the characteristics of that; i.e., there would be a formalized process whereby the member would advise the Speaker in writing. I as that member would advise you of all the details and information that I knew at that point in time. You would then take the appropriate steps, consulting not only with the appropriate people within these legislative offices but with "appropriate resources," the term presumably meaning that if you the Speaker in your wisdom or she in her wisdom, as the case may be, wishes to involve third-party advice in the form of lawyers or whatever, then that would be forthcoming. Then once all that information was gathered by the Speaker, the Speaker would provide advice to the member, presumably in writing as well, that would set forth the review that was done by the Speaker: the sources of information, the expressions of opinion. What it would lead up to, then, is the Speaker's recommendation or advice to the member.

As a member of the Legislature the member then has to make a decision as to whether or not he or she wishes to submit a claim to the insurer. In this particular case the insurer for the first million is the risk management fund. If that member then proceeds with the claim, the insurer, which is the risk management fund under Alberta Treasury, would then probably go through a process similar to what the Speaker did. If one proceeds on the assumption that the advice, that was thorough, to the member was that, yes, you have a claim for such and such and this is the reason why, then one would think that the fact-finding mission of risk management in terms of the insurer function would probably come to the same decision.

Conversely, if the Speaker advised the member that he does not believe that the member has the basis for a claim but the member proceeded with that claim to the insurer and the insurer then went through the fact-finding process, the probability factor is that the insurer, the risk management fund in this case, would come to the same conclusion.

It would seem to me that when I try to isolate it into its components, essentially the issue of the best information and the best opinion being rendered in that process would be served very well. I appreciate that one could look at, for example, alternative 2 or alternative 3 in that package, where you get into a third-party adjudicator. As you indicated under pros and cons – and I'm not a lawyer. I suspect that even from a lawyer process, it would raise even a greater question if indeed there was a dispute in terms of an opinion that was not favourable to an MLA in that particular process, that he or she could also then take whatever further action they felt was appropriate under that.

The problem, I guess, to some extent is transparency vis-a-vis the confidentiality to the extent that these issues do involve perhaps personal or private matters or opinion as to what was said and what was written, et cetera. For example, it may not necessarily involve a court action for which one is making an application, but if you make the assumption that it was a court action, then presumably at some point in time, to its logical conclusion of a trial, it would then set forth, if you like, ultimately from the moral point of view whether or not the claim or the action was justified.

I think the real issue that we're dealing with says: is there a process in place where all that information in terms of the coverage is available openly, freely, and not like the other jurisdiction that

keeps it private? Secondly, is the process equitable in terms of trying to provide to the member the best information possible in the most nonpartisan way as to whether he or she should or should not proceed with the claim? To me that's the key issue. Then the insurer, in this case the risk management fund, has to go through a similar process. But, again, it's removed. The member has gotten his advice, and ultimately the final decision is made.

Now, beyond that, I have no idea what legal action is available to a member. Again, I'm not a lawyer, but I guess the sum of it is that your suggestion to me makes a lot of good sense, a lot of common sense. We're using existing resources. It would be handled on a case-by-case basis in terms of that advice. In terms of insurance premiums, we would maintain the low costs that we do today and at the same time provide the maximum benefit available.

Thank you.

11:40

MR. WICKMAN: Mr. Chairman, the resolution is a step in the right direction. However, I don't think it goes far enough. I look at this from the point of view that we as elected representatives have an obligation to be careful of what we say. We don't want to be going overboard. At the same time there are instances where lawsuits are placed maybe just to keep a person dummied up or where somebody is doing it just to make life difficult. So the idea of the coverage does serve a purpose.

When I look at the decision-making process now, I see the way it reads here.

Alberta Treasury – Risk Management and Insurance Section, in consultation with Alberta Justice, determines whether coverage is eligible.

I'd like to see that amended to read: the Members' Services Committee, after extensive review of the circumstances, determines whether coverage is eligible.

The reason I'd do that, Mr. Chairman, is that public perception in politics is everything. When it's done in a committee in the open like this, in this type of process – the media are here; members of the public are here – things are kind of kept aboveboard. There's a perception that things are kept aboveboard, that they're on top of the table, that there's no second-guessing. However, when decisions are made in some Treasury offices – and we have the instance where the link is very, very close, which makes it even that much more troublesome – it can leave a very, very sour taste in the mouths of Albertans who feel that favouritism may be being shown, that a disregard for taxpayers' dollars may be being shown. For whatever reason, I always told myself that if it is done in public, in a public process, that cleans it up considerably from the point of view of public perception.

So at the appropriate time I would like to move that amendment to that part of the policy.

THE CHAIRMAN: But you're not doing it now?

MR. WICKMAN: I'll do it now if you accept it now.

THE CHAIRMAN: Well, we'd accept it anytime. We're just having a discussion. There's no motion for anything.

MR. WICKMAN: But there are other people on the list. If they want to speak, I'm prepared to wait.

THE CHAIRMAN: We have no motion, of course. We're just having a discussion.

Dr. Pannu.

DR. PANNU: Thank you, Mr. Chairman. I want to start by thanking

you for the very earnest effort that you and your office have put into providing us with a survey on what happens in a variety of jurisdictions, across provincial boundaries, and in the national Parliament in regard to the kind of coverage that we are trying to deal with here.

I also want to thank you for your information item, general members' liability insurance coverage, and your attempt to identify six different alternatives and present from your best judgment the pros and cons of each.

Finally, in my introductory remarks I want to thank you for your briefing note on the specific proposal that we have been discussing and that my colleagues have made some comments on.

I just want to reiterate what you said. Yes, it is important that all private members, regardless of party labels, caucus locations or affiliations, must be covered for lawsuits related to our duties as members. I want to make a plea that we keep separate the types of coverage in this discussion. The specific coverage that we're dealing with has to do with when we are exposed to lawsuits for saying or doing things related to what constitutes the substance of what our duties involve, which is political positions that we take, policy comments that we make, events that have political and policy implications, and actions that may be taken by parties outside of the Legislature – by citizens, by corporations, others – and coverage related to our interventions or observations or statements we might make related to those events and developments outside. So that should be the focus of our discussion.

I think we are quite unanimous on the general coverage in terms of physical injuries and so forth, so let's keep that separate. It is the political nature of the duties that really is in question. It's an important question when we are sued for what we may or may not say. Also, I think we'll find no difficulty in agreeing that in cases where we, I or you, as members of the Assembly may be judged to have acted maliciously, there is no coverage. But that's a determination that has to be made by the courts, not by anyone else.

Now I want to move to a brief review of the last year's events which have caused us to revisit the arrangements in place. You mentioned two events yourself, Mr. Chairman: Mr. Day's case, and once that information became public, then Mr. Sapers' case came to attention. So these two issues raised general questions about the public nature of what kind of coverage is available and who gets covered and who doesn't get covered, the transparency of the decision-making process. In my first letter that I wrote to you, I raised questions about these two things. My constituents and Albertans in general were concerned about the lack of transparency and lack of public nature of the decision-making process related to this coverage not made in public.

The third issue that arose as the discussion developed had to do with the Legislature's own authority in the determination of who will be covered and who will not be covered and the Legislature's authority vis-a-vis the bureaucratic authority or the administrative or executive authority here. I'm not interested in laying blame at this point. I think we are all in the same boat. What we need to do is to put in place the best arrangement that we can for the least cost. Again, I guess on this one these are general issues of principle. I think we probably agree on those.

The fourth element in the picture as it unfolded through the last year and over the last week is the Ethics Commissioner's judgment and observations, and you have duly noted one of those observations here. Let me start with his concern about "government employees making decisions on politicians' legal claims." That's one that I'd want to dwell on in a moment. The second part of the ruling that the Ethics Commissioner has made in the case of Mr. Sapers in particular over the last week – I just saw that document I think a few days ago – is one that I want to also address, and I hope we address it. It has to do with whether or not I as an MLA or we as MLAs,

private members to be more specific, have the option of seeking the coverage of defence costs for legal claims outside of RMI, outside of that arrangement. I think the Ethics Commissioner has unequivocally stated in the document that he made on Mr. Sapers' request that that option is not available to us. We cannot go to our respective parties; we cannot go to a citizens' group that may be interested in raising funds to defend us, which leaves no options.

Now I come to Ms Barrett's case. Ms Barrett had assumed that she had the option of not going to this fund because of the variety of questions that were raised about the manner in which the fund was administered and handled and whom the decisions were made by, that sort of thing. She did go to the Ethics Commissioner for his advice, for a ruling, once she decided that she was not going to go to this fund.

11:50

THE CHAIRMAN: Dr. Pannu, you're choosing to do this voluntarily. Nobody here knows anything about what you're talking about. So what you're sharing with respect to Ms Barrett you're sharing with the public on your own volition.

DR. PANNU: This is true, Mr. Chairman.

THE CHAIRMAN: Okay. That's your choice.

DR. PANNU: I appreciate the cautionary note that you're sounding there.

I'm speaking in terms of general principles. It applies to all of us here. No particular person is the object of our discussion; it is the instance we are using to learn from their experience in those cases so that we can now make a decision that's well informed.

Given the fact that in the judgment of the Ethics Commissioner we private members of the Assembly do not have any option other than to go to RMI to seek coverage when we get in trouble, if that happens to us – and it will happen because the nature of our duties is controversial. That's why we are in politics. That's why we are in a sense both entitled and obligated to address issues that others cannot address. It is a special responsibility. It is a public responsibility, and that's why I think we justify the existence of coverage when we are doing these duties in earnest, on the assumption that we are acting exclusively in the performance of our duties. So these are some of the issues.

Now, given this landscape, given what has happened over the last year, given the public concerns about the lack of transparency and the public nature of the way the decision was given, the fact that the issue has been raised vis-a-vis the authority of the Legislature in this matter as opposed to the authority of the provincial bureaucracy in making the decisions, given the Ethics Commissioner's view on these matters, I think you in your proposal attempted to address several of these concerns with the exception of perhaps two. One, the Ethics Commissioner's concern about government employees making decisions on politicians in my view still remains unresolved in your otherwise very sound proposal. Of the five checkmarks on the first page under Resolution the first three I think can be easily almost directly incorporated in the motion that I'm going to bring before the committee with your permission in a moment. I welcome that; I think that's very important. Your involvement in the process is important. The Speaker's office is the most vital office insofar as the life of the Assembly is concerned, the functions of the Assembly are concerned. When we move to the next two, the role of the RMI comes in, and the final determination on eligibility still remains in the hands of the provincial executive. That is my concern, Mr. Chairman.

What I'm trying to do is identify issues where we might quite quickly agree and issues that we might want to resolve by further

debate, you know, in public today. My motion can be amended to include what you have suggested, or we can go in another direction after we have had a chance to look at my motion. My motion, by the way, has been modified since its presentation to this committee on December 16, 1999, in light of the advice that we got from various sources: some academic, some legal, some of our young citizens' concerns and advice. Also, because of my informal consultations with some members of the Assembly in recent weeks, I have included the role of the Speaker's office as a special item in my motion, which with your permission I would like to circulate as soon as other members have spoken on these proposals that you have.

Thank you.

THE CHAIRMAN: Ms Haley.

MS HALEY: Thank you, Mr. Chairman. I guess I'd like to raise a number of different issues with respect to your comments. My recollection of how this originally came about as to become an issue in the public's eye as well – first off, most of us were unaware through our own fault, because there is a paragraph in Members' Services, and clearly we didn't pick up on it or maybe didn't clearly understand it or understand how it would be applied. That was one of the issues for me as an individual MLA, because I had been unaware basically of what risk management insurance did or how it would get to that decision-making point.

The other issue that came to light at that point was a reaction from some of our constituents: "Well, you know, how much is this costing us, and how does it work? Like, if you just go out and say something really stupid, are we going to end up paying that?" A number of other comments came to light as well.

One issue never really gets discussed. When I was involved in running my own business, we had insurance. We had insurance for our employees in case they messed up. We were in the grain trading business. If somebody didn't place a contract correctly, whether it was to be hedged or on the futures market, and that farmer as an individual then took a loss, we had an insurance policy. That's no different, I'm sure, than a radio station that's insuring the people that are working for them on air or off or our newspaper people as well if they misspeak or create a serious problem for somebody in an inaccurate way. So there's no black magic going on here. What risk management allows us is insurance coverage so that in the normal line of our lives as MLAs, if we face a difficulty, we have some type of insurance backup plan that can assist us, if it's at all humanly possible.

I guess further to that I'd like to say that it's been so little used that probably we forgot it was even there for those people who had maybe been around longer or remember the 1989 discussions or when that occurred. I think it's a credit to MLAs that we tend not to get into a lot of difficulty this way. Most of us try very hard to do things in a noncontroversial manner so that we're not going to be inciting people to want to take us to court.

So the issue for me, then, was of not knowing, Mr. Chairman, and I'm very grateful for all of this information and your recommendation or your briefing note on the cost of this scenario. I think it does answer the question on making sure that MLAs are aware of their coverage, and it's absolutely essential for all Members of the Legislative Assembly to know where we're at here.

Number two, with respect to taxpayers' dollars, I have absolutely no desire to see us go out and spend another \$30,000 or \$48,000 or \$300,000 to basically have exactly the same type of coverage we have now. I'm very pleased with the step that says that people must put a claim in writing, that they must deal with your office first. Whether now or five years from now or 10 years from now, this *Members' Guide* will be there clearly stating that. It gives that MLA

an opportunity to have advice not just from you but from outside sources as well or the Attorney General's people or Parliamentary Counsel. Perhaps as an MLA, if I were in a difficult situation, I might not know whom to ask these questions of, so I think that's a really important step.

There are no motions on the floor or anything at this point, but I appreciate very much this work, and I think that it would help to solve some of the issues regarding this situation.

THE CHAIRMAN: Thank you very much.

Well, we've arrived at one or two minutes past noon, and on our agenda we have the meeting going from 10 a.m. to noon and then from 1 o'clock to 4 o'clock. I think we should stop for lunch and reconvene at, say, 1:15. Would that be better, 1:15?

HON. MEMBERS: Agreed.

THE CHAIRMAN: Could the members of the committee just stay here? I just want to share something with you for a couple of minutes. The agenda is closed.

[The committee adjourned from 12:01 p.m. to 1:15 p.m.]

THE CHAIRMAN: Hon. members, may I call the meeting back to order. We were discussing this whole business of liability insurance and the like. We had a speakers' list, and the next on my list – Ms Haley, did you finish? Did you conclude your remarks?

MS HALEY: Yes, Mr. Chairman, I did, but I want to move the motion that we accept your presentation as the recommendation to go forward, and I don't know how to do that.

AN HON. MEMBER: You just did it.

MS HALEY: Did I just do it? I thought I had to wait until we finished the speakers' list.

MR. WICKMAN: Can you just speak up a bit? I didn't hear that.

MS HALEY: I'm sorry. I wanted to move a motion that we accept the proposal as presented by the Speaker on how we would handle risk management down the road.

MR. WICKMAN: Okay. Which proposal?

MS HALEY: The briefing note.

MR. WICKMAN: Just the one-pager?

THE CHAIRMAN: We have a motion. Is there a seconder? Mr. Woloshyn. But we also have a speaking list, and I had Mr. Herard first, then Dr. Pannu, and then Mrs. Sloan.

DR. PANNU: Mr. Chairman, on a point of order here.

THE CHAIRMAN: Okay.

DR. PANNU: On the agenda as approved by the committee this morning, the next item of business on the agenda is the motion which stands under my name, so I suggest that's the one we should deal with first. Then we certainly in the meantime receive your report and come back to it after we have closed up my motion.

THE CHAIRMAN: Well, of course at any time during the agenda a

motion on a particular item can be put forward. So there's a little procedural thing here; let's try to deal with it with some understanding. Is there any difference between the two of them? We haven't got to your motion yet.

DR. PANNU: My motion is ready. I brought it for this because that's what I expected would be dealt with. The difference is only, Mr. Chairman, that my motion, the draft motion, has been recorded as having been circulated. I did undertake to bring it back here today in its final form. It's on the agenda. So why don't we deal with it and then go back? Because there is no other motion at this moment.

THE CHAIRMAN: There is. We just had one.

DR. PANNU: I understand this, but that in a sense pre-empts the agenda and the order of the agenda that we had voted on.

THE CHAIRMAN: Unfortunately, it doesn't pre-empt anything. The little procedural dilemma we have here is simply that I don't know what is going to transpire until we get to the other motion. All I know is that right now we have a motion before the committee, and we've got to dispense with it or deal with it.

DR. PANNU: That's why I raise the point of order, Mr. Chairman. Precisely, I understand the dilemma, but I think it can be resolved if we move in the direction that I've suggested. I have indicated earlier in my remarks that I find elements in your proposal which are exceedingly good, and they can be incorporated in it. Thus if we discuss my motion first, it gives us the opportunity to attempt to incorporate some of the things that you're suggesting.

THE CHAIRMAN: Well, fair game. So you're debating on the motion in here. There is a debate going on in the motion put forward by Ms Haley. We've got to dispense with it and see what happens. It may very well be that it will be dispensed with and we'll get to yours. I don't know.

MS HALEY: That's why I said I wasn't sure when the appropriate time to raise this was, Mr. Chairman. I wasn't trying to pre-empt anybody.

THE CHAIRMAN: Okay. Are you prepared to withdraw it at this time?

MS HALEY: Sure. I'll withdraw it.

THE CHAIRMAN: The seconder was Mr. Woloshyn.

MR. WOLOSHYN: Well, sure.

THE CHAIRMAN: All in favour?

HON. MEMBERS: Agreed.

THE CHAIRMAN: So we've dispensed with it. But I do have a speaking list, and it's Mr. Herard who is on this matter first. Then I had Dr. Pannu and then Mr. Wickman.

MR. HERARD: Thank you, Mr. Chairman. I'm having a great deal of difficulty with this whole concept, because what is being proposed by some of the people who have participated in this debate so far is that we have a two-tiered system for handling potential applications for insurance coverage. I don't understand why it is, if you are a person who is elected to this Legislative Assembly or if

you are a person who is an employee of the government, that there should be a difference in how we treat this particular problem. I think we're all human beings, and whether or not you got to where you are by virtue of employment or through election shouldn't make a darn bit of difference. I really think it's time that we start treating each other as human beings and have the same privileges as everybody else, even though we may be here by virtue of having been elected.

Now, what's being proposed here is that in every occurrence a private matter would be brought before a public process. Until such time as a document has been filed in a court, it is a private matter. It's nobody else's business. To have this kind of a process, where every time a person gets a letter threatening a lawsuit or whatever they come before a committee that through long-standing tradition has always been held in public and with a public record and with *Hansard*, I think is truly an abuse of our rights, because until such time as something has been filed in the courts, it is a private matter. I think we would be setting a precedent here that is unsustainable by any principle of law or privacy that I've ever heard of.

Quite frankly, Mr. Chairman, the proposal that you've put before us and the examples that were used by Mr. Jacques I think make it very clear that the process you have here is a process that is workable and a process that does not violate our rights as human beings. That's what we are first and foremost. What's the difference between myself and all of you or someone who is here by virtue of employment? Why should we be treated differently? So I think this is ridiculous, and I will be in support of what you've proposed.

Thank you.

THE CHAIRMAN: Dr. Pannu, then Mr. Wickman, then Mrs. Sloan.

DR. PANNU: Mr. Chairman, I sought your permission to speak in order to introduce my motion, and I seek your guidance now if it's appropriate to move it.

THE CHAIRMAN: Well, okay. Now we have the flip of what we just talked about five minutes ago. We are currently on a point dealing with the briefing overview of this whole thing. The only way we'll move off this agenda item to the next one which is on the agenda is if I can clear the deck of the people who want to participate in this overview, and then we can move to the next one. So you've had your point.

Mr. Wickman, then Mrs. Sloan.

MR. WICKMAN: Mr. Chairman, my difficulty with the process you're suggesting and, with all due respect to Ms Haley there, the resolution you have brought forward is that it would make my particular motion redundant, because your motion is . . .

THE CHAIRMAN: Sorry. What motion do you have?

MR. WICKMAN: Well, my motion is . . .

THE CHAIRMAN: Sorry. I don't know what your motion is. You're telling us you want to bring a motion forward?

MR. WICKMAN: Yeah. I read it out earlier. I'll read it out again. "The Members' Services Committee, after extensive review of the circumstances, determines whether coverage is eligible." That would replace . . .

THE CHAIRMAN: I think, Mr. Wickman, you said you were going to give notice of a motion. You never put it on the record or else we would have dispensed with it.

MR. WICKMAN: No, no. I'm sorry. No, no. I meant I didn't necessarily want to proceed at that particular moment. I was preparing to listen to people speak. Linda pointed out to me that there were people on the speakers' list, and she was correct. There were people on the speakers' list. But the difficulty I have – again I have to state it – is that if we adopt the resolution brought forward by you, which deals specifically with the Alberta Treasury branch and such, then mine becomes totally redundant.

THE CHAIRMAN: The Alberta Treasury branch?

MR. WICKMAN: Not the branch: Alberta Treasury. The Treasury Department.

THE CHAIRMAN: Well, I brought mine as a suggestion. So far the only motion was put forward by Ms Haley, and it's been withdrawn, so we have no motion.

MR. WICKMAN: Can I put mine on the table at this time?

THE CHAIRMAN: Absolutely, but then we'll deal with it in this order. We'll deal with the motion from Dr. Pannu. Then we'll deal with a proposed motion from Ms Haley if she chooses to proceed with it. Then we'll deal with the motion from you if you choose to proceed.

MR. WICKMAN: Okay. I'll hold off till Raj Pannu has his motion brought forward because his motion may be very similar to mine.

THE CHAIRMAN: Who knows? So now we'll recognize Mrs. Sloan. On this subject matter; okay?

1:25

MRS. SLOAN: Yes. I have several comments with respect to the proposals made by the Speaker, and I have made my acknowledgments about the fact that they've been provided today and are appreciated. But with both the briefing note about the members' liability insurance claim process and the contained resolution proposed by the Speaker and the information item titled Member General Liability Insurance Coverage, which lays out a number of options, the reality is that neither of those documents was circulated prior to the commencement of this meeting. So as members of this committee we are in a position today of debating things which we have absolutely no mandate to discuss.

Now, it may be that certain members of the committee have had discussions if they were involved in a claim that's proceeding at this very moment. They may have had some ability to think about or discuss these options, but speaking as members of the Official Opposition, we had not seen these prior to this meeting. It would be premature, in our opinion, to have any concluding debate or any motions directing that these become permanent policy on behalf of members of this province.

I have to speak as well in response to the comments made by Mr. Herard inferring that the resolution proposed by the Speaker is a public process.

MR. HERARD: A point of order.

MRS. SLOAN: There is nothing, as I read that resolution, that compels risk management or Alberta Treasury to convene a public hearing to adjudicate a claim, and that component of that process is most certainly not public. So I think it's misleading to suggest that what we have before us is going to increase transparency on this matter.

I agree with Mr. Herard that all members should be treated equally

and we should be treated as human beings. But in this instance, as we heard this morning, there were three different instances where this fund was accessed or had the possibility of being accessed in the last year, and in each of those instances the application was different. Now, it was I guess a matter of circumstance that each of the applying individuals happened to be representing different political parties. But it is curious to me that given that recent history, we would submit today that somehow this process, which really is no different than what has been accessible to members from time immemorial – it's no different – increases our rights or increases the fairness by which we will be dealt with. That in my opinion, with due respect, misleads not only the members of this Assembly but the general public.

THE CHAIRMAN: A point of order, Mr. Herard?

MR. HERARD: I'll pass on that point of order.

THE CHAIRMAN: Any other comments with respect to this overall subject?

Then can we move on to item 4? Item 4 was a motion re members' group plans. That was moved and was held at the table by Dr. Pannu. It's in your binder: December 16, 1999, minute 99.151. That's what you moved at the last meeting. Dr. Pannu, the floor is yours.

DR. PANNU: Thank you, Mr. Chairman. At the outset I want to thank you and thank in particular Ms Haley and the hon. member seconding Ms Haley's motion for ceding to my request that their motion be dealt with after mine has been dealt with. I really appreciate this courtesy. Thank you kindly.

I have the amended motion, Mr. Chairman, for circulation to members of the committee and which is presently being circulated.

THE CHAIRMAN: So what you're saying is that you want to amend your own motion?

DR. PANNU: Yes.

THE CHAIRMAN: Well, the first page has nothing to do with it.

DR. PANNU: Pardon?

THE CHAIRMAN: The first page . . .

DR. PANNU: Oh, no. Sorry. The next one, the second page.

THE CHAIRMAN: Okay. Let's circulate it so that all members can see it.

DR. PANNU: Mr. Chairman, I want to draw the attention of members of the committee to the intent of the motion and what purposes I think it will serve and serve well for all of the private Members of the Legislative Assembly of this province. The motion really amends . . .

THE CHAIRMAN: Dr. Pannu, again, not to become too pedantic about some of these things, I think where we left the motion that you had in December was that it was tabled. How about, for the sake of clarity and the sake of brevity, we just leave your tabled motion there? In other words, it dies.

DR. PANNU: Yes.

THE CHAIRMAN: Instead of talking about an amendment motion,

you just talk about this one as the motion.

DR. PANNU: Thank you, Mr. Chairman.

THE CHAIRMAN: Would that clarify things?

DR. PANNU: I think it will.

THE CHAIRMAN: So we're talking about a new motion. The other one, from December, is tabled. I'm not addressing it. We're now dealing with this one.

DR. PANNU: I am accepting, Mr. Chairman, your ruling on it and your guidance on it. I was trying to see how to deal with it. I wasn't being pedantic.

THE CHAIRMAN: I was.

DR. PANNU: I'm sorry if I was unclear. I think what you suggest is very helpful.

I just want to say, Mr. Chairman, what this motion will do. It will, first of all, bring this committee into the process in the course of making a decision about whether or not a member is eligible for coverage by RMI. It will bring your office in a vital way into the process. Also, on page 2 the very last point, point (8), will ensure that part of the substance of your proposal will be attended to. I'd be very happy to incorporate the first three points of your proposal under (8) to elaborate the process, as you have tried to do and rightly so.

Mr. Chairman, it's a motion which addresses the issue of transparency, of the public nature of the decision-making process, and it restores control and authority to the Legislature on the decision-making with respect to who is going to be covered and who is not going to be covered. It also spells out on page 1 under point (3), under (a) and (b), the various coverages that we will, when sued, be entitled to seek.

It provides my last concern. One important concern was the Speaker's office. Today you occupy it. Tomorrow it could be Ms Haley, Mrs. Sloan, someone else. It is the issue of the officeholder of your position – I'm not directing it to you personally – that the Speaker be protected and the independence of the Speaker be respected in the process. While we cannot dispense with the critical role that a Speaker will play, the Speaker must be seen to be impartial and independent in this regard. That is why I have in this motion included the fact that the Speaker will receive the advice of Parliamentary Counsel. I would say here that your proposal adds something to it, and I'll be willing to have that included here. That is that you will not be limited to legal advice only from Parliamentary Counsel, but you could go outside as well, because you will carry as Speaker enormous responsibility in this regard. You need to be free to seek legal advice wherever you see fit and wherever that expertise is available because of the uniqueness of each case that may come before this committee and to you.

Those are my introductory remarks, Mr. Chairman. I'd be very happy to elaborate.

1:35

THE CHAIRMAN: Well, I think first of all we should move it by your reading it into the record, because the only way we can have it in *Hansard* is by your doing that. So if you choose to move your motion, please proceed.

DR. PANNU: Mr. Chairman, I move the following motion. Be it resolved that the Members' Group Plans Order (RMSC 1992, c. M-4) be amended by striking out section 9 and substituting the

following:

- 9(1) The Legislative Assembly Office shall participate in a plan administered by the Risk Management Fund or offered by another insurer to provide general liability coverage to the Office of the Speaker and the Legislative Assembly Office, to the same extent and on the same basis that the Crown insures the risks of Government Departments generally.
- (2) Members, employees of the Speaker's Office and employees of the Legislative Assembly Office shall be provided general liability coverage related to the performance of their duties to the same extent and on the same basis that the Crown insures the risks of Government employees generally.
- (3) The Members Services Committee may by resolution extend coverage for legal expenses, court costs, and damages incurred by a Member related to the performance of his or her duties, on such terms or with such limitations as it reasonably determines, where:
 - (a) the Member is identified as a potential or co-defendant in a proposed civil action or is named as a defendant or co-defendant in a filed civil action seeking damages against the Member for something alleged to have been done or said by the Member inside the Chamber or in any other circumstance where the Member's privileges would apply, or
 - (b) the Member is identified as a potential defendant or co-defendant in a proposed civil action or is named as a defendant or co-defendant in a filed civil action seeking damages against the Member for something alleged to have been done or said by the Member, where the Member is not protected by privilege and the Speaker, on the advice of the Clerk and Parliamentary Counsel, recommends coverage to the Members Services Committee after having been satisfied that
 - (i) the Member did not maliciously or deliberately intend to cause damage to the intended plaintiff(s) or the plaintiff(s), and
 - (ii) the Member's alleged conduct occurred in the course of the Member's duties.
- (4) Coverage for legal expenses provided for in subsection (3) shall apply to a Member's expenses on a solicitor-and-own client basis.
- (5) Coverage for legal expenses and court costs provided for in subsection (3) shall apply to all steps in the proceedings, including any appeals.
- (6) Coverage for any award, court order, or settlement for damages and interest, shall be determined by the Members' Services Committee on the recommendation of the Speaker.
- (7) Payment for legal expenses, court costs, damages and/or interest provided pursuant to section 9 shall be paid by the Legislative Assembly on behalf of Members.
- (8) Application for coverage provided for in subsection (3) shall be made in writing to the Speaker.

So that's the end of the motion, Mr. Chairman. There are some subnotes underneath: "Section 9 of the Members' Group Plans Order currently reads" as follows. Should that go on the record as well?

THE CHAIRMAN: Well, we're dealing with your motion. Right after that are comments associated with it.

DR. PANNU: So that's the motion, Mr. Chairman, as it stands today.

THE CHAIRMAN: Mr. Herard, then Mr. Wickman.

MR. HERARD: Thank you, Mr. Chairman. I guess I seek your advice on this. I don't know how this committee, that is a committee of the Legislature, can deal with something that has been ordered by government as a way of indemnifying and defending against legal actions that could take place as a result of things that were done or things that were omitted. I don't know how we can actually deal

with that in this instance, because what I read here with respect to what Dr. Pannu has proposed essentially makes terms and conditions and modifies the terms and conditions that the government may have in place with respect to their insurer. How can we do that from this committee? I seek your advice on that.

The second thing that I have a big problem with. I don't want to go through the whole speech again with respect to being treated the same as anyone else, but certainly this doesn't do that.

The third thing that I have a problem with is that we're now talking about linking places where we have parliamentary privilege with places where we don't. Now, to me you can't do that. That's a very dangerous precedent. You know, there are 800 years of parliamentary practice that provide certain privileges to members, and this member is proposing that we change that here in this committee. I'm sorry; that's not on the table as far as I'm concerned.

I have a few others, but I'll leave them till later if necessary.

MR. WICKMAN: Mr. Chairman, I actually have a question of the mover on section (6). It's a relatively similar motion to one that was presented at the last meeting by a member of this caucus on behalf of the Member for Calgary-Buffalo. However, one little note of difference here on point (6).

Coverage for any award, court order, or settlement for damages and interest, shall be determined by the Members' Services Committee on the recommendation of the Speaker.

To Dr. Pannu: what do you mean exactly by "on the recommendation of the Speaker"?

DR. PANNU: Mr. Chairman, on this clarification. Percy, the Speaker's role in processing the request from a member for coverage is quite central here. If you look at a previous clause, (3)(b) on page 1, the very last paragraph there, the role of the Speaker is quite clear.

The Member is identified as a potential defendant . . . for something alleged to have been done or said by the Member, where the Member is not protected by privilege and the Speaker, on the advice of the Clerk and Parliamentary Counsel, recommends coverage.

MR. WICKMAN: So you're saying that it's just basically tradition that it be worded in that particular fashion but that the Speaker of course would be obligated to concur with the decisions of this committee when it came to awarding damages, settlements, whatever.

DR. PANNU: Yes. The Speaker makes a recommendation. The decision is made by the committee.

MR. WICKMAN: Yeah. I can support this motion because this motion really is the intent of the motion I had indicated I was prepared to serve earlier, although I could do that as well by just some amendments to the motion which the Member for Airdrie-Rocky View brought forward. It does meet the intent of what we were attempting to accomplish at the last Members' Services meeting.

THE CHAIRMAN: Mrs. Sloan, then Mr. Jacques.

MRS. SLOAN: Thank you, Mr. Chairman. A couple of clarifications and questions.

Firstly, the motion to which the hon. Member for Edmonton-Rutherford refers was actually one part of a sequential motion that was made at the December 16 meeting of this committee, and the section that Dr. Pannu's motion addresses today was one part of that sequential motion. I'm wondering if I could just ask Dr. Pannu: would you agree that really the only difference between the motion

you made or that you expressed your intent of making on December 16 and the motion you've made today is point (8)? That is that "application for coverage provided for in subsection (3) shall be made in writing to the Speaker."

1:45

DR. PANNU: The difference between the motion that I tabled and this?

MRS. SLOAN: Yes.

DR. PANNU: The substantive difference is point (8), yes. The other is clarification, just simplification of the language.

MRS. SLOAN: All right. My second question. I'm wondering if you could share with the committee if there is any difference of intent between your motion today and the motion that in fact I moved on December 16? Is there any difference in intent?

DR. PANNU: Mr. Chairman, this is not the time to go back to what was discussed a month ago. There is a motion before this committee, and I'd be very happy to answer questions on the content of this motion, the substance of it, and the underlying principles. It serves no point for me to be interrogated on whether or not this motion is similar to something that this committee dealt with at some other time.

MRS. SLOAN: Let me reassure Dr. Pannu, Mr. Chairman, that I'm not intending to interrogate him.

THE CHAIRMAN: Okay. Let's just conclude the remarks, and then we'll move on. We have a speakers' list.

MRS. SLOAN: I would like to point out, though, that in the motion made today, I believe – and Dr. Pannu can look at this – that under point 3(a) in fact his intent in this section is that if a "Member is identified as a potential [defendant]" – which is not there; I'm inserting that word. If they're "identified as a potential [defendant] or co-defendant in a proposed civil action," therefore these things would occur. That word I think was omitted. Is that correct?

DR. PANNU: It was not there before.

THE CHAIRMAN: Okay. We're going to go through the chair. I've got a speakers' list; okay?

Mr. Jacques, then Mr. Woloshyn.

MRS. SLOAN: Well, actually, I wanted one other point.

THE CHAIRMAN: Well, make the point, and then let's go on.

MRS. SLOAN: So then in fact that would be inserted: "defendant" under 3(a)?

THE CHAIRMAN: Don't look at me. It's not my motion. If you want to make an amendment, that's a different thing.

MRS. SLOAN: No, it's not an amendment. It's really a point of clarification.

My final comment is that in conjunction with the comments I had made previously about all of the business before this committee today around risk management, the documentation submitted, which we had not seen until the commencement of the meeting today and have not had an opportunity to share with our caucus, I am in a

position of not wanting to further move motions on this area of business until I can fully share the material that has been brought forward and consult with caucus. It may be that their direction is that Dr. Pannu's motion is the best one, or they may choose from the options outlined by the chairman, that they'd like to explore those. So my general position is that there is information here that has not been disseminated or discussed with the members and it should be before this committee determines its final action.

THE CHAIRMAN: Mr. Jacques and then Mr. Woloshyn.

MR. JACQUES: Thank you. Just a couple of comments, but more specifically I had some questions, if Dr. Pannu wouldn't mind maybe clarifying, with regard to his motion.

Mr. Herard indicated earlier in his observation that your point 3(a) specifically was subject to the Members' Services Committee "by resolution," which is the opening part of your section 3. So I was wondering if you could just clarify what you meant by section (a), particularly as it relates to "something alleged to have been done or said by the Member inside the Chamber" with regards to the issue of members' privileges inside the Chamber.

Secondly, the thrust, as I see it here, under your section (3) and under section (6). Both of them refer to determination by the Members' Services Committee on the recommendations of the Speaker. I would like to know, just for clarification, the difference in terms of section (3), which speaks of "damages incurred by a Member related to the performance," et cetera, or "court costs," et cetera, as distinct from section (6), which seems to speak of "any award, court order, or settlement."

My interpretation when I read this: it seems like a two-phase process. Number one is the determination whether or not there is, quote, a reason for liability. Secondly, then it looks like there is another decision, if I read this correctly, required by Members' Services as to whether or not or to what extent damages or awards or court orders would be recognized. I'm having some problem understanding why there would be kind of a distinction in that area.

The last question I have is with regard to the entire process of Members' Services. To the best of my knowledge – and maybe this can be clarified – Members' Services always meets publicly. I would ask you: that being a given, how would you protect or not prejudice the position of the member, in terms of the information that would be discussed publicly at Members' Services, to come to that decision which in some way would not prejudice his or her position either as a potential defendant or, equally important, as a defendant in a named action that has occurred at that point in time?

Thank you, Mr. Chairman.

THE CHAIRMAN: Mr. Woloshyn.

MR. WOLOSHYN: Thank you, Mr. Chairman. I have to commend the intent of Dr. Pannu. I also have to agree with Mrs. Sloan's concern of how this issue is growing and our caucuses haven't had much of an opportunity to discuss it on the merits of where we're going.

After reviewing the very excellent survey that you passed around, I noticed an interesting thing that comes out of it. With the exception of Quebec, virtually everything goes either through one department or another into the risk management criteria, whether it be insurer, whatever. There isn't any Members' Services involvement to speak of, other than in British Columbia where the Speaker has the authority to pay minimal out-of-pocket expenses. So I guess if we involved Members' Services to the extent that Dr. Pannu's motion indicates, we would be going out on some ground that is pretty touchy. Some other members have alluded to: how do we handle confidentiality? And I'm sure there's a host of other things. That's the bigger, if you want, philosophical picture we may

want to address.

The current issue we have on hand, which you did a very, very good background on and I won't reiterate, is a matter of how the current risk management is being applied and how it's being accessed and allegations that in fact some members were unaware of it and some members did not know the process for accessing it. What you have presented – and I might at this point ask you to confirm this: your recommended solutions. If you so choose, your resolution doesn't need a motion. You can just go ahead and speak; you have the authority as an administrator to follow that practice. I want that made clear. So you really don't need anything from this group.

So what I would recommend is that we either defeat Dr. Pannu's motion in good faith, understanding the bigger picture going on, and endorse through a motion or otherwise something that you have taken administratively to address the current problem. That's ensuring (a) that all members are aware of what coverage they have and that (b) there is some valid counsel to a member who may wish to access this fund. Then it takes off from there. That fits in quite well, as a matter of fact better than looking at the surveys of what you get with most other jurisdictions.

I think we have Members' Services Committee coming up probably after the session sometime, and if Dr. Pannu or Mrs. Sloan or any other member would like to bring back a broader motion on behalf of their caucuses, so be it. At this particular juncture I think the most prudent thing that we can do is to endorse your resolution for a solution and move on. On that basis, Dr. Pannu, although I don't question the intent of your motion whatsoever, I can't support it.

THE CHAIRMAN: Would anyone else like to participate before I call on Dr. Pannu to do a summary?

Dr. Pannu to conclude.

DR. PANNU: Mr. Chairman, first of all, Mrs. Sloan's amendment. I think she picked out an important typing error in 3(a) in the first line. After "potential" the word "defendant" is missing. I think Linda drew attention to that.

THE CHAIRMAN: I'm sorry; what was the word again?

DR. PANNU: Defendant.

THE CHAIRMAN: Yeah. Okay. We consider that a friendly amendment.

1:55

DR. PANNU: A friendly amendment. I certainly accept that and thank Mrs. Sloan for it.

She raised the other important issue of the fact that her caucus has not had a chance to look at this motion, and she thinks it is important that she should have the opportunity to take it back to her caucus for their consideration before it's voted on here. On that one, although I'm in sympathy that since these things apply to all of us, we should all have perhaps some knowledge of what's being decided, I just draw the attention of Mrs. Sloan to the fact that her motion brought before us on December 16 didn't entertain a similar chance of being read by members of either of the other two caucuses beforehand and we voted on it. She certainly was the mover of that motion at the time. So although I see some merit in principle in what she's asking for, I just wanted to draw attention to the fact that that concern wasn't expressed at the time. It wasn't taken into account at the time of the last meeting. I leave it to the committee to make that decision.

I have had this motion in more or less the same form, with the exception of point (8), on record since December 16, and I had

assumed that all caucuses, all private members, had had the opportunity to look at that motion in draft form at least. So I did what I could to bring it before the members of the House in its draft form, and it has been there.

Now, there were some questions raised by my colleague sitting across the table, Mr. Herard. What we are trying to do here is simply improve upon what's been taken as given, that as elected legislators we have special obligations and duties in the public arena, and this motion deals specifically with only those acts of ours that are in the public arena. That's why at the very beginning the motion tries to define in (3), for example, "performance of his or her duties," not performance of any actions but the member's duties. Member is defined here as an elected MLA, and the matters that are addressed here are having to do with the performance of members' duties, not our duties as human beings, which we do have.

We do have special duties, and we need to recognize this. One of those duties is, of course, to intervene in debate on controversial issues of a social, public, political nature. Those we do address, whether we like it or not. Some people won't like what we say; others would approve of it. In that context we all need to make clear that we have certain obligations as well as rights to be heard and to be able to speak. Otherwise, we risk being gagged. We risk being silenced in fear that we'll be sued. That's where I think we are different from ordinary citizens. Citizens have put on us a particular obligation to speak out on certain issues; otherwise, we wouldn't be here.

So here we are not violating or seeking a privilege, a special privilege, vis-a-vis our constituents. On the contrary, for us to be able to discharge our obligations in good faith to our constituents, we should be able to speak and be accountable for what we say. By accountability I mean that as elected members we have to speak on things on which people disagree with us, and there is no doubt we all do this. The only time we cannot seek exception from ordinary citizens is where we deliberately, maliciously defame someone else. There we are no different from any other citizen, and that's where I think I have explicitly excluded any coverage for that kind of conduct.

The issue of the public nature of the Members' Services Committee has been raised by two of my colleagues at this end of the table, and that's an important one. I agree with you. Our Parliament in Ottawa has a committee of Parliament which deals with similar issues, the same sort of issues, yet it makes no decisions in camera. I am cognizant of the fact. I know this dilemma is there.

So, Mr. Chairman, while I am seeking a higher degree of public accountability and transparency in the way decisions are made, I am sympathetic to the position that's being taken by my colleagues on this committee, and I am certainly willing to be guided and to be flexible on it. If there are amendments by which we can serve both purposes, maintain whatever degree of transparency and public accountability we can and at the same time address some of the legal issues that you have raised, then I would be happy to accept amendments, certainly friendly amendments, or be guided in any other way that you consider reasonable.

I've dealt with the issue of in camera or in public. That was, I think, the question raised. The other has to do with an issue to clarify. You had some question about the duplication, I think, in (3)(a) and (6). Was that one of the questions, that there was a redundancy there?

MR. JACQUES: If I may, Mr. Chairman. No. My question was that as I read it, there were two separate resolutions required by Members' Services that (3) dealt with, and then (6) came in and said specifically that coverage with regard to "any award, court order, or settlement for damages ... shall be determined." I didn't understand whether that was a two-step process. I need clarification.

DR. PANNU: I understand. The chairman's own proposal I think identifies that there is indeed a two-step process. The first step is to determine whether or not a request that's made by a member is eligible for coverage. So (3)(a) and (3)(b) deal with that eligibility issue. Item (6) deals with the consequences of the lawsuit. That's really the decision having to do with making payments, and that's the second stage. You're right. The first is one of eligibility. The second, once the suit is concluded, is who and how those damages are covered.

MR. JACQUES: Thank you.

THE CHAIRMAN: Okay. We have a motion before the committee moved by Dr. Pannu. Would all those in favour of the motion please raise a hand? All opposed? The motion is defeated.

Now, Ms Haley.

MS HALEY: Would this be the appropriate time?

THE CHAIRMAN: It would be.

MS HALEY: I would like to propose – prior to doing that, Mr. Chairman, I would like to say that I agree with my colleague Stan that in fact this is an administrative function by you and does not require a motion by this body to make it happen. I would, however, like to recommend that we look at passing a motion to endorse your briefing report and the protocol you have outlined in that as a way of dealing with this issue and ensuring that there is some sincerity behind the desire to have this process change.

THE CHAIRMAN: Mr. Wickman.

MR. WICKMAN: Yes. I'd like to make a slight amendment to the motion as presented that's in front of us. On the fourth checkmark down, it would then read:

After reviewing the advice obtained by the Speaker during this consultative process, the Member will determine if a request for coverage should be forwarded to the Members' Services Committee, who will then evaluate the claim and determine whether coverage is applicable.

In other words, we are removing the "RMI Division of Alberta Treasury" and replacing that with "Members' Services Committee."

Speaking to it very briefly, because this will now be the third go-around, the motions that were here on December 16, the similar motion by the Member for Edmonton-Strathcona, and this particular amendment all attempt to do the same thing: to get that matter dealt with in this particular arena rather than behind the closed doors of a government department.

On that note I'll conclude, Mr. Chairman, because enough has been said on the matter.

2:05

THE CHAIRMAN: Okay. We have an amendment. I just want to make it very, very clear, though it's probably unnecessary, Mr. Wickman, that the Speaker's office is not a government department.

MR. WICKMAN: No, no. I wasn't referring to the Speaker's office. I was referring to Alberta Treasury.

THE CHAIRMAN: Okay. Fair game.

MR. WICKMAN: Oh, no. I would never say that about the Speaker's office.

THE CHAIRMAN: Thank you very much.

We have an amendment. Mr. Herard, you're on the amendment: referral to the Members' Services Committee.

MR. HERARD: Yes. I can't support the amendment because essentially it does exactly what I was so frustrated about in my initial comments with respect to this, that until such time as there's an action before a court, it is a private matter. What this amendment will do is that every time someone receives a letter or anything that says, "I'm taking you to court because you did this," said that, whatever, you are going to subject the member to this process. Whether a suit ever ensues afterwards or not doesn't matter; we're going to go through this process.

Just think about it for a minute. This process is out there now; okay? Let's assume it got approved. I think we could ask – I don't know if there are any left here – our friends from the media how many times they get letters threatening suits, and perhaps there's one out of 10 or one out of 20 that results in a suit. But can you imagine how many times we'd convene this thing if people out there decided to threaten us with a suit, had us go through this whole process, and then "Well, gee, you know, I'm not going to proceed with it." Come on, folks. We don't need that as elected members of the Legislature. I really can't support this.

THE CHAIRMAN: On the amendment to the motion. Dr. Pannu, on the amendment. We're on the amendment.

DR. PANNU: Mr. Chairman, I'm going to support the amendment to the motion proposed by Mr. Wickman.

I think it's important for us to amend your proposal by way of this proposed amendment in order to ensure that the Legislature, as distinct from the executive, maintains and exercises and practises control over these matters. Having said that, I'm willing to seek another addition, perhaps, to your proposal which says that these matters covered herein by this proposal be dealt with by this committee in camera if the committee so desires. So we leave it to the determination of the committee whether or not the matters that it debates related to the arrangement proposed here are to be debated in public or in camera. I respect the concern of members on the issue of making public issues which may later end up in court, and we might, by discussing them in public, complicate the legal proceedings of the judicial process.

So I'm speaking in favour of the amendment proposed by Mr. Wickman on this.

THE CHAIRMAN: On the amendment put forward by Mr. Wickman, would those in favour of the amendment please raise a hand? One, two, three.

MRS. SLOAN: Why are we having a hand or visual vote versus a verbal?

THE CHAIRMAN: I don't want to make any mistakes.

MRS. SLOAN: Our practice has been to have verbal votes.

THE CHAIRMAN: No, no. The practice is that it's the call of the chair, depending on the circumstances.

MRS. SLOAN: A point of order, Mr. Chairman.

THE CHAIRMAN: There is no point of order. We've got to vote.

MRS. SLOAN: Can you indicate to me why on this vote you're deciding to do a raising of hands?

THE CHAIRMAN: I did it on the previous one just five minutes ago.

MRS. SLOAN: The previous ones we were doing just verbally.

THE CHAIRMAN: No, no. I just did it. Please.

All those in favour of the amendment, please raise your hand. One, two, three. All those opposed, please raise your hand. One, two, three, four, five. Okay. It's defeated. Any further discussion?

MRS. SLOAN: Any abstentions?

THE CHAIRMAN: You can't abstain in the Legislative Assembly of Alberta. You cannot. It's against the rules to do that. You can't do that. It's against our rules to be abstaining.

MRS. SLOAN: That's fine. Then I can be recorded as not voting.

MS HALEY: I guess we are now. It's in *Hansard*. Moving right along.

THE CHAIRMAN: Moving right along, we have a motion on the table. Any further discussion on the motion?

MRS. SLOAN: Well, in essence what we have before us in terms of your resolution, not disputing its good intent, is no different than the process any member could utilize today or any member utilized in the course of the last year in attempting to establish whether or not legal liability coverage exists in Alberta and how it applies. To me the motion to adopt this resolution is redundant because it really changes nothing. It doesn't provide any greater clarity as to how risk management and the government's employees in Treasury would adjudicate claims made by members of this Assembly. So we can go through the procedural discussion, debate and vote on the motion, but the reality is that it does not fulfill or provide any greater transparency or clarity about this issue for members currently serving in this province or in future sessions of the Legislature.

THE CHAIRMAN: Further discussion?

DR. PANNU: Mr. Chairman, as much as I would want to have something in place which is an improvement over what we have now – and this would be, if we did that – I'm reminded by your own introductory remarks and also draw your attention to the Ethics Commissioner's concern about government employees making decisions on politicians' legal claims. I take that concern of the Ethics Commissioner very seriously, and unfortunately this proposal fails to address that concern. So I would find it very difficult to support this motion before us on that ground.

MR. WICKMAN: Mr. Chairman, I too must oppose the motion without the amendment being included. It's been said before. It's been said by the Member for Edmonton-Riverview and it's been said by others here before that it is simply putting a process in place. It's been further pointed out that it really isn't necessary for you to even bring this forward, that as an administrator you would have that right to put a process in place to accommodate something that is already there.

Basically we went from (a) to all over and ended up right back at (a). So I can't say that I feel any comfort that we've actually made any gains during the many hours of debate on this particular matter.

THE CHAIRMAN: Mr. Herard. We're on the motion now.

MR. HERARD: Yes. Essentially the reasons for nonsupport of the

motion that I'm hearing across the way ignore what Mr. Woloshyn said, and that is that this is something that can at least establish the knowledge that this thing in fact exists for private members. It will inform everyone as to what to do if something comes up. That doesn't mean to say that Dr. Pannu's motion or Mr. Wickman's motion or something else can't come up in the future. But at this point in time – it was the arguments made by you folks across the way that said: you know, we haven't talked to our caucus about this. Well, fine. Let's agree to do this. If you feel like you must bring something forward in the future, it's your right to do so.

MR. GIBBONS: I would thank the chairman for bringing this forward, but it still goes back to the fact that without the amendments, I object to pushing it through. We as elected people should be monitoring what we are saying, and we're going round and round the table. So I would just suggest to the chairman that we go ahead with the motion and call the vote.

THE CHAIRMAN: Ms Haley to summarize and conclude.

MS HALEY: Mr. Chairman, I guess maybe I look at things in a different way; I don't know. I have gone through this document, and I listened very carefully to the comments that you made when you described each and every province or government in Canada and what occurs. We have a system in place, and from my perspective the biggest problem with it was that we didn't clearly understand how it worked. I believe that the recommendations in the back-grounder document that you've given us clarify the situation. I don't believe that the process is broken. The initial concern we had was that the Members of the Legislative Assembly of Alberta need to clearly understand, number one, that they always have to be very careful in what they say and how they say it, that if there's an instance where they have a problem, there is in fact the ability to go to an insurance coverage to help them deal with the difficult situation. We needed to ensure that the *Members' Guide* clearly outlined that process. This change will do that.

2:15

We needed to insert in there the ability for you in your capacity as Speaker or for the next Speaker to have handed to him a letter outlining the problem. We need the Speaker to have the ability to consult with outside counsel, with the Ethics Commissioner, or with the internal legal system of the government, and that's been outlined.

Considering that we have a policy to deal with this and that our costs are \$9,200 versus upwards of \$300,000 in other provinces, I think we have a very good system. I don't want to throw our system out. I want to enhance it and make sure that members know how it works and how to access it, and I believe that this does that.

THE CHAIRMAN: Those were the concluding remarks in this section. I asked for other speakers before and for Ms Haley to summarize the concluding remarks.

MRS. SLOAN: I just have a simple question, and that is: how does this resolution address the concerns expressed by the Ethics Commissioner?

THE CHAIRMAN: I'm in a dilemma. I can answer that question, but if I answer the question, I may skew the vote. I wanted to avoid participating in the debate because there's a motion before us, but I'll answer that question. I will skew it, presumably, by answering that question. Do you want me to answer it now or after the vote?

MR. WOLOSHYN: After.

MRS. SLOAN: I'm wondering if you could provide us with some verification or elaboration as to why you think it would skew the vote.

THE CHAIRMAN: My word is my verification.

Could we have the vote? I'm calling the vote. Would all those in favour of the motion put forward by Ms Haley please raise a hand? One, two, three, four, five. All opposed, please raise a hand. One, two, three, four. It's carried.

Now that this is finished, consultation did occur with the Ethics Commissioner with respect to this. It occurred after the report that he provided last week with respect to another member of the Assembly. A discussion was held with him in terms of: what did he really mean in terms of government employees making decisions on politicians' legal claims? A question was made to the Ethics Commissioner: does the Ethics Commissioner view himself as a government employee, because he makes decisions on members all the time? He basically responded: of course. He responded that he was a servant of the Legislative Assembly, of the Legislative Assembly in the greater context, not of government meaning Executive Council but the big, big picture of government. I discussed this whole process with him, and he thought that this would be very, very appropriate.

Well, as I said, I didn't want to skew anybody's vote in respect to that.

The next item on the agenda is item (e), Human Resources Contingency Allocation. Hon. members, when we dealt with the budget in December, we dealt with human resources; that is, the manpower allocation in the Legislative Assembly. Mrs. Alenius, I have a one-page document, the one with the salary variance analysis, that I would just like to circulate and draw members' attention to. In the budget that this committee looked at and approved, by drawing out the numbers, for the human resources component in the Legislative Assembly it's rather easy to do. The caucus allocations were approved, the constituency office allowances, and there was a total number of \$11,594,638 in salary contingencies.

We made our decisions on a day in December when the anticipation was 2 percent overall in terms of the negotiation going on between the negotiators on behalf of the government and those on behalf of the various agencies that dealt with the government. The next day a press release came out and basically said that there was an offer on the table. It was higher than what we had talked about the day before. Now, presumably if that would have come out the day before we had the meeting, one would have said: well, let's build in whatever number that was.

So I believe it's very prudent and responsible management on my part to come to this committee not knowing where the state of the negotiations is. I've not consulted with the government bargaining people. I have not consulted with the bargaining people on behalf of the AUPE or any other group bargaining with the government. I have not done that. I have simply observed the press releases put out by both sides, and my conclusion is that should there be a resolution sometime between now and the future or into the fiscal year 2000-2001, it will be, presumably, above what we have already built into our budget.

I've given you a graph there with what the human resource component is, and above that I've pointed out that if there was to be a 1 percent variance to that figure we've already come in with, it would be \$115,946. Then I've given you four scenarios there, of 1 percent, 2 percent, 3 percent, 4 percent. I'm asking for this committee to approve a request from me, from a management point of view, that we have built into the Legislative Assembly budget, highlighted on a one-line item called human resources contingency, the amount of \$347,839. Again, that's simply a human resources contingency. That would give us the flexibility to meet the human

resources demands of the employees of the Legislative Assembly, the caucuses, and those in the constituency offices should there be a settlement in the fiscal year in question.

Unfortunately, if we don't have that in our budget and if there is a settlement above what we have instituted, I would either have to come back to this committee sometime and say, "Well, look; the only way this can be dealt with is through what used to be called a special warrant or a supplementary budget," or it couldn't be dealt with at all in the fiscal year. We would have to deal with it next year, in the fiscal year 2001-2002, not in a dissimilar manner to how it was dealt with in 1996-97, when there was a year's slippage in there and all kinds of questions and confusions and what have you.

The simplest, easiest way is to accept a recommendation from me that we adjust our budget by \$347,839 on the one line that says human resources contingency fund.

MR. WICKMAN: Just one question, Mr. Chairman. This is the possibility of addition on top of what we originally built into the budget, if I understand it correctly.

THE CHAIRMAN: Yes.

MR. WICKMAN: And you're saying that at the very, very outside, you'd anticipate no more than 4 percent.

THE CHAIRMAN: No, I'm not saying that at all. I'm just giving the range. I have no idea what it would be. If there was a 27 percent wage increase negotiated, well, of course we don't have it.

MR. WICKMAN: It makes sense to me. You have to have the provision in there because we don't know how these settlements end up.

MRS. SLOAN: Just a procedural clarification then. If we were to approve today an increase in the allocation, it subverts any need for LAO to go for a supplementary estimate in the next budget year.

THE CHAIRMAN: I will refuse on a point of principle as the Speaker to request a supplementary estimate for the Legislative Assembly estimates, as previous Speakers have as well, because there's a question there of the independence of the Legislative Assembly Office as appearing hand in hand asking for that. It has much to do with the historical tradition of the independence.

MRS. SLOAN: So let's say that the settlement ends up being 2 percent but we've approved 5 percent.

THE CHAIRMAN: I'm sorry. What do you mean?

MRS. SLOAN: What we approved in December . . .

THE CHAIRMAN: What we have built into our budget in December?

MRS. SLOAN: Yes.

THE CHAIRMAN: We built in 2 percent.

2:25

MRS. SLOAN: Yes. We approved at this committee 2 percent. So if the settlement were to be 2 percent but today we approved a greater amount, where would that money end up?

THE CHAIRMAN: It would be returned to the general revenue fund of the province of Alberta at the conclusion of the fiscal year, being

unexpended. It would not be touched.

DR. PANNU: Mr. Chairman, I am ready to put your recommendation in the form of a motion so that the committee can proceed on this.

THE CHAIRMAN: Proceed, if you wish, with a motion. You did put in a motion?

DR. PANNU: Yes.

THE CHAIRMAN: Okay. That we allocate the figure of \$347,839 under human resources contingency fund.

DR. PANNU: Correct.

THE CHAIRMAN: Discussion? All those in favour, please raise your hand. All those opposed, please raise your hand. It's carried unanimously. Thank you very much.

Mr. Gibbons, you had an item called per diem.

MR. GIBBONS: Thank you, Mr. Chairman, for the chance to put this on the agenda. I'd like to move at this time that we as the Members' Services Committee direct you as the chair to direct the LAO to review travel for private members and report back to the committee in appropriate time for the 2001-2002 budget estimate review.

THE CHAIRMAN: Just give me the words again.

MR. GIBBONS: My words are that I'd like to move at this time that we as the Members' Services Committee direct you to direct the LAO to review the travel of private members and report back to the committee in appropriate time for the 2001-2002 budget estimate review.

That's, for example, the per diem for travel, travel time of members up into the large constituencies in the north and so on, and the list goes on.

THE CHAIRMAN: Okay. There's a motion. Further discussion?

MR. HERARD: Could you perhaps explain where you're coming from on this? I'm not sure that I understand what you want.

MR. GIBBONS: Okay. For example, for members from Calgary coming up here on travel per day or ourselves going throughout the province. I can go up into the north and for \$100 a day can get a couple of nights' stay. If I go into Calgary, it doesn't cover anything more than just the hotel room. It's just something I'd like to see a review on and see if the \$100 is the correct figure. If that's the correct figure and it comes back here as reviewed, I will accept it.

THE CHAIRMAN: You're asking for the review of the per diem.

MR. GIBBONS: Yes.

THE CHAIRMAN: Any other discussion? All those in favour, raise your hand. All opposed, raise your hand. It's carried.

Now, final estimates. Mrs. Sloan, you mentioned that you wanted to have a discussion with respect to the final estimates.

MRS. SLOAN: Yes.

THE CHAIRMAN: Okay.

MRS. SLOAN: In light of announcements this week and citing the eligibilities afforded to particular parties and Members of the Legislative Assembly, I want to ask whether or not the LAO has had any discussion about changes to respective caucus budgets, given the announcement of resignation of a member, and also if the LAO has discussed the implications for the House leaders' agreement and the status of the House leaders in light of those recent announcements.

THE CHAIRMAN: Well, the House leaders talk among themselves. They choose to get the Speaker involved from time to time, or they choose not to get the Speaker involved from time to time. Several times a year I put out a notice to all three House leaders that I'm available to meet with them anytime they should wish to come and meet with me. To this point in time two House leaders have come and talked to me about all kinds of things. One has never come. I understand that from time to time there are meetings between the three House leaders. One of them is here in the room. I'm not a participant in those meetings. I have no idea where they are on any particular item, and I don't know what in the House leaders' agreement you would want to raise here today.

MRS. SLOAN: Well, I'm wondering in light of section 48 and the allowances proposed to recognized opposition parties and, I guess, the validity of House leader status and how that is defined, if in one case it's defined that one member is entitled to be a House leader or be recognized as House leader, and in another case one member does not have that same standing.

THE CHAIRMAN: Well, you're going to have to help me now and become a lot more specific than where you are right now. You're referring to section 48(1) of the Legislative Assembly Act?

MRS. SLOAN: Page 23.

THE CHAIRMAN: Of what?

MRS. SLOAN: Part 3 under remuneration of members.

THE CHAIRMAN: I'm sorry. Again, please help me. What are you referring to? The statute?

MRS. SLOAN: The statute, yeah.

THE CHAIRMAN: Okay. Section 48 of the Legislative Assembly Act?

MRS. SLOAN: It's under part 3, section 48. I'm just wondering whether or not the LAO has had any discussions about changes in that particular area with respect to caucus budgets or the status of House leaders in light of announcements.

THE CHAIRMAN: Well, section 48 is the Legislative Assembly Act. The LAO does not get involved. Those are acts of the Legislature. The Speaker does not bring amendments before the Legislature. Section 48 says:

"recognized opposition party" means a party that

- (a) is represented in the Assembly by at least 4 Members, and
- (b) received at least 5% of the popular vote in the general election . . .

There shall be paid to a Member who is the leader of a recognized opposition party . . . an allowance.

That's what it says.

We have no recognition in this committee under this section. There is no allocation made to the leader of the third party as leader.

MRS. SLOAN: Well, actually, in November of '97 we did deliberate about this particular section. I was a member of the committee at that time.

THE CHAIRMAN: Yeah, may have been.

MRS. SLOAN: I'm just wondering whether the LAO has discussed, given recent announcements, changes to the status of House leaders, the status of recognized official parties in the province, and the financial entitlements to ensure, whether there's a caucus of one or a caucus of 16 or a caucus of 60, that there are equitable and fair allocations and provisions.

THE CHAIRMAN: Well, the answer to your question is that our standing policy kicks in. Section 48(1) of the Legislative Assembly Act says that if an opposition party has "at least 4 Members" and has "received 5% of the popular vote," then the leader of that party would receive a salary. The salary would be half of the allocation provided to the Leader of the Official Opposition, and the third party leader allowance in our *Members' Guide* would be \$20,914.50. Because the third party does not have four members, its leader gets zero dollars. The leader of the third party has never received a stipend. That's what section 48 refers to.

MRS. SLOAN: The decision made, however, at the November 1997 meeting of the Members' Services Committee made special provisions that did in essence alter that.

THE CHAIRMAN: No. What decisions did it make?

MRS. SLOAN: Well, we can refer to the minutes.

THE CHAIRMAN: No, no. Well, please do, because it's very important. What decisions were then made?

MRS. SLOAN: I'm just wondering: has the LAO discussed this?

THE CHAIRMAN: Well, I'm the Speaker. You're looking at the LAO.

MRS. SLOAN: There's been no discussion?

THE CHAIRMAN: Yes, we do this every day. But in answer to the question, there has never been an allocation made to the leader of the third party.

MRS. SLOAN: I'm just wondering if there are any changes.

THE CHAIRMAN: Well, do you want me to give the new leader of the ND Party an allocation?

MRS. SLOAN: I'm just asking.

THE CHAIRMAN: They get nothing now.

DR. PANNU: I won't accept it.

THE CHAIRMAN: Well, of course. I deal with this all the time.

DR. PANNU: Yeah, even if they offered it.

THE CHAIRMAN: I deal with this all the time.

AN HON. MEMBER: I vote for Raj.

DR. PANNU: That's right.

MRS. SLOAN: I'm simply seeking some clarification, Mr. Chairman.

2:35

THE CHAIRMAN: Well, the clarification is very clear. When Mr. Mitchell left as Leader of the Official Opposition, we dealt with it within a matter of minutes. When Mrs. MacBeth became the Leader of the Official Opposition, we dealt with it at that time. When Mr. Zwodzesky left and moved, we dealt with it. When Mr. Yankowsky left and moved, we dealt with it. When Ms Paul left and moved, we dealt with it. Ms Barrett left yesterday, and we've been dealing with it.

MRS. SLOAN: So I am correct, then, in interpreting that one-member caucuses in this province will be treated exactly the same and financed exactly the same?

THE CHAIRMAN: No. You're dealing at an entirely different level now. This committee made a decision to fund a party. One independent member is not a party. This committee made that decision. I cannot change that decision.

MRS. SLOAN: Actually, the decision that was made previously was not on the basis of a one-member party.

THE CHAIRMAN: Look; bring in a motion to this committee. Ask the committee to do whatever it is you want to do. It's not me who makes that decision.

MRS. SLOAN: Well, I'm not really clear on how one-member caucuses are treated, so I'm simply seeking, Mr. Chairman, that you provide that clarification.

THE CHAIRMAN: Well, I will right now. Just listen then. This committee has built in a budget for the Official Opposition, and it also built in a budget for the third party in the House. During the debate this committee made motions. These were motions by members of this committee, not recommendations by the Speaker or the chairman of the committee. This committee made it. It basically said that there would be a budget allocated to the Leader of the Official Opposition, which you participated in. I don't know why I'm playing this all over again, but I'll bring you up to date again.

In December there was a budget allocation to the Leader of the Official Opposition, and in addition there would be an allocation given to the Official Opposition, an allocation for some money for an office in Calgary, whatever it is. You can pull it out for me again. Then in addition to that, there would be an allocation given to the Official Opposition equal to the number of members in that particular caucus. So the Official Opposition, we agreed, would get \$1,083,922. I think that's what we've got in there; right?

Then it also said, in terms of the third party, that they would provide to each member an allocation of the same \$45,382. In the case of the New Democrat opposition that would be \$90,764 beginning April 1, and there would be an office allocated to the leader. It's \$154,335. Everybody voted on it, and it came out to \$245,099. That's the budget that we had.

In addition to that, our *Members' Guide*, consolidated services, says that there will be paid to the leader of a third party \$20,914.50 provided the third party had four members. In this case it doesn't, so the leader of the third party doesn't get it.

However, in the case of the Opposition House Leader they get \$10,000 a year. In the case of the third party House leader they get

\$8,000 a year. In the case of the Government House Leader they get zero dollars.

So as we sit today, I'm assuming that the interim leader of the third party is also the third party House leader. I'm assuming that because it's a one-party caucus. That's a party, a registered political party. To my knowledge there is no other representation in the Alberta Legislative Assembly by a registered political party.

MRS. SLOAN: Well, I appreciate those clarifications, Mr. Chairman. I've had some cause in recent weeks to look at the Leg. Assembly Act, the *Members' Guide*, and other appropriate statutes around the responsibilities of members. It would seem to me in the reading of those statutes and their applied interpretations that one member carries the same responsibilities and expectations and must fulfill the same responsibilities as another individual member. I believe what I am hearing you say today is that a one-member caucus of an official party in Alberta is going to be afforded different funding than a one-member caucus that is in fact an independent.

THE CHAIRMAN: You made that decision. You made that decision as a member of this committee.

MRS. SLOAN: No, I'm not making the decision.

THE CHAIRMAN: You are. You voted on that as a member of this committee. You made that decision. So look at yourselves. You made that decision.

MRS. SLOAN: I don't recall that I made that decision.

THE CHAIRMAN: Well, you voted on it. [interjection] Mrs. Sloan, please. Come on. Come on.

MRS. SLOAN: But anyway, I appreciate . . .

THE CHAIRMAN: No, no, no. Enough of this silliness; okay? You vote on these allocations, not me. Look at yourselves. If you want to reduce the NDP, if that's what this is all about, put a motion on the floor. I'm not debating with you in this matter. If you want to have a debate here among the members, go ahead.

MRS. SLOAN: I respectfully asked for clarification, simply nothing more. I'm trying to establish whether we treat one-member caucuses the same from an administrative point of view, i.e. through the House leader, and financially through the allocations made in the estimates. And with due respect the decisions that . . .

THE CHAIRMAN: Well, no, we do not. We do not.

MRS. SLOAN: With due respect, the decisions that we made in December, the allocations that we approved in December – the representations in the various caucuses and with the independent have changed since those decisions were made. So that's my final submission on the matter. It's clear that it's not clear.

MS HALEY: Motion to adjourn.

[The committee adjourned at 2:41 p.m.]

