

4:02 p.m.

Friday, May 24, 1991

[Deputy Chairman: Mr. Schumacher]

MR. DEPUTY CHAIRMAN: Well, it is past 4 o'clock, and I would like to welcome everybody to the first meeting of the special select committee of the Alberta Legislature on the Constitution. This is committee B. Committee A is presently holding hearings in the city of Edmonton. In order to cover as many spots in the province in the forthcoming week, the committee did divide into two halves, and we are fortunate enough to be in the city of Calgary today.

My name is Stan Schumacher. I'm vice-chairman of the committee which is chaired by the Hon. Jim Horsman, who is in Edmonton. With me today is the Hon. Nancy Betkowski, Minister of Health and MLA for Edmonton-Glenora, to my right. On my left is the Hon. Dennis Anderson, Minister of Consumer and Corporate Affairs and MLA for Calgary-Currie. On my farther right is the MLA for Red Deer-North, Stockwell Day, and on his right the MLA for the constituency where we're presently located, Calgary-Buffalo, Sheldon Chumir. Coming up to the table at the present time is Mr. Bob Hawkesworth, MLA for Calgary-Mountain View, and going to the other side of the table, Mr. Barrie Chivers, MLA for Edmonton-Strathcona, the newest Member of our Legislative Assembly. On his right is Pearl Calahasen, MLA for Lesser Slave Lake. That is your committee.

I want to say we're very pleased with the reception that this process has received in the city of Calgary. We do have a very full schedule to deal with today and tomorrow, and we are going to try to allow as many people as possible to make presentations by unfortunately limiting people to 15 minutes. We hope that in your 15 minutes perhaps you'll leave a minute or two for questions from the committee, but that is your business really. We're primarily here to hear from Albertans as to how they feel about Alberta's place in a new Canada.

With that, I'll invite Shannon Pitts to come to the table to make her presentation. Welcome, Shannon.

MS BETKOWSKI: You're number one. This is an historic event.

MRS. PITTS: Thank you for the opportunity to make this presentation today.

Rather than discussing points of law within the constitutional mandate, I'd like to address the parameters within which constitutional reform should be addressed. Prior to any constitutional reform there must be a solid foundation upon which to build a nation.

Until the Canadian Charter of Rights and Freedoms, section 25, which states that:

the guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and any rights or freedoms

that now exist by way of land claims agreements or may be so acquired, and the numerous treaties with natives are honoured, any legislation, particularly that which relates to land and territorial rights and distribution of powers and responsibilities between various levels of government, would arguably be invalid if prior legal commitments have not been met. Native Canadians have tried to negotiate a just settlement for 200 years now. Canada is a leader internationally in its promotion and

implementation of human rights instruments. It is time our government practised what it preached.

Secondly, the settlement of aboriginal claims may also provide a prototype for addressing regional disparities. If there is anything that exacerbates current regional wrangling, it is the long history Canadian governments have had of playing one region against another or meeting one region's needs at the expense of another region. At the very least, settlement of aboriginal claims may restore some trust in Canadians that their governments are capable of applying and adhering to the principles of social justice. There must be an acknowledgment by our governments that Canada is not just a discrete physical entity or an economic machine. It is first and foremost a highly complex set of human relationships where each and every person involved in the process is a valued and valuable part of this nation.

Canada as a nation exists only as a function of its people, all of them. When our government focuses on that principle, then the achievement of equity and balance will be possible. Healthy nations, like healthy families, provide as best they can for the physical, social, educational, and health needs of each and every member. Healthy nations, like healthy families, provide support and encouragement to each and every person to achieve their full potential as individuals in a manner that is meaningful and rewarding for them. It is incomprehensible to me that this country has an average dropout rate of 30 percent, an adult illiteracy rate of 25 percent, and even though they encourage immigration to bolster the economic pool, yet they do not provide adequate language training or transitional support to ensure full participation in our country. This is a waste of human potential and a waste of our greatest natural resource.

As Canadians it is our responsibility to share as fairly as possible the wealth and opportunities this country offers without prejudice. I feel a deep sense of shame and frustration when I read about 1 million Canadian children living below the poverty line, many in conditions approaching those of Third World countries. I feel that same shame and frustration when I hear about the homeless, the food banks, and the shelters for women and children that must be provided because of the violence in their lives. As a Canadian I don't care where these people live or what words they or others choose to use to define them. I want the government to prove to me that it can address and resolve these disparities in a humane and just manner. If our governments are not capable of redressing these wrongs to individual Canadians, then they certainly are not capable of addressing the more complex questions of regional disparities.

My third point deals with the electoral system. As a long-time community volunteer, I've had the opportunity to work with members of each of the political parties at all levels of government. Within each of these parties I've met people who are intelligent, competent, and compassionate. Between you, you share a vast pool of talent and a wealth of experience that should be harnessed and focused on bringing this province and this country into the 21st century as an equal and valuable partner within the global community. Instead, we get question period, an exercise in one-upmanship and partisan politics which often emasculates even the best of your efforts to provide good government. Neither Alberta nor Canada can afford this incredible waste and inefficiency created by an adversarial system inherent in our governments, our courts, and our social systems. The shifts and changes globally in technology, science, social mores, and in the balance of powers are such that we as a nation cannot afford any longer to quibble over whether an insy or an outsy belly button is best.

We require a government which is future oriented, visionary, and can tell the difference between a calculated risk and insanity. As a long-time volunteer I have worked with other volunteers in my community to encourage my neighbours to become meaningfully involved in the process of decision-making at all levels of government. Party politics are a major obstacle in that process. Most people feel disempowered. The process by which parties govern themselves and choose their leaders is seen by most Canadians as corrupt. The demand that party members adhere to and blindly support party policy is seen as antithetical to the democratic process. Many Albertans have told me that they won't participate even in voting because they may like a candidate but detest the party policies or vice versa. In addition, they must try to decide whether the individual or party will really have the opportunity to make a difference once elected.

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Even though elected, not all representatives have an equal voice. Most people I've spoken with want clearly enunciated guidelines outlining ethical behaviour for both parties and individual representatives, and they want them to have the force of law. Most people I've spoken with want full and honest disclosure of the information surrounding issues that concern them. As a private citizen, I can attest to the fact that this is often nearly impossible in any timely fashion, partly because of the politics within parties.

An effective electoral system must allow individual Canadians the opportunity to be more meaningfully involved at the decision-making level. Most Canadians are not apathetic; they have just given up on the party system. Is there any good reason why ballots could not be issued for individual party candidates as well as for key party policies – for example, economic development, education, health, finances – where proportional representation on committees for each of these areas would be established by popular vote as well?

Parties need to readjust their thinking so that instead of seeing each other as opposites or opponents, they see each other as complements: all equal as individuals but as a group representing the whole spectrum of Canadian society.

Lastly, I wish to speak to the mechanics of constitutional reform. Firstly, all levels of government in Canada must convince Canadians by their actions and their leadership that they uphold and are bound by the laws and policies governing our country. At this point in time it is often apparent that there is one set of rules for the average Canadian and an entirely different set of rules for those in government. If you have noted a lack of confidence and distrust in the whole constitutional reform process, that is why.

At this point in time most of the discussion surrounding the Constitution has dealt with things: economics, discrete tracts of land, and power. None of those things is what truly describes Canada. They arise out of what Canada is first and foremost: a vibrant, constantly evolving, social entity.

The Canadian Charter of Rights and Freedoms, the Alberta IRPA, and the U.N. Declaration of Human Rights and freedoms, to which Canada is signatory, are documents which address the relationships between individual Canadians, Canadians and their governments, and Canada and its neighbours. If those statutes are honoured, then all the Constitution really needs to provide is a framework to facilitate the mechanics of the Canadian social network rather than the prison that many Canadians felt the Meech Lake document described. The framework must set minimum standards which provide for the

financial, educational, physical, and social needs of each and every Canadian wherever they live, without penalizing regions or communities who have the will and can provide the means to address their distinct goals and values for themselves.

In closing, one more observation needs to be made. An Edmontonian, Marshall McLuhan, gave the world the phrase "global village." That is now a reality. It doesn't make any sense for Canada to go in a huddle and decide as a team what they're going to do if they're ignoring what's happening in the world. If we want to be making our own choices as to where we stand in the world and how we react to what's going on, we must see what our position is globally as well as within our own framework.

Thank you.

MR. DEPUTY CHAIRMAN: Thank you.

Any member of the committee? Sheldon.

MR. CHUMIR: If I could start. I'm wondering whether you'd be able to advise the committee as to your views on the battle that is ensuing with respect to centralization versus decentralization of services, particularly whether or not you would favour a continuing role for the federal government in establishing minimum standards for health care and the social programs that are there at present and whether you would subscribe to a federal role in education and the environment as opposed to the alternate view of decentralizing and shifting as many powers as possible to the provinces?

MRS. PITTS: Well, personally and also within the community that I work in, which is quite extensive, the feeling is that there have to be minimum national standards, especially for health, education, and social welfare. We have no objection to there being provincial priorities being involved in that, but at this point in time as a parent working in a school, I can tell you that children moving from school to school within a city often don't see the same goals and standards in the classroom, let alone moving from province to province. It is of major concern. There are areas in Canada where the standards for education are extremely low, not because the province doesn't wish to educate their children well but simply because they do not have the resources. As a Canadian it's my preference that all children be educated as well as they can to the best of their potential.

MR. DEPUTY CHAIRMAN: Dennis.

MR. ANDERSON: Thank you, Mr. Chairman. Shannon, I have two question areas. One of them follows on the question by Mr. Chumir. In terms of establishing national standards for such things as education, do you have any feelings as to whether or not those standards should be established by those who currently have the constitutional authority – in other words, the provinces together establishing set standards that people would meet in different provinces – or whether that should be done by the government operating out of Ottawa? I guess I'll ask that question first, Mr. Chairman, and then I would have a second.

MRS. PITTS: Neither of the above. I would prefer that the stakeholders who are directly involved in education advise and set the parameters for education. That means the school boards, the teachers' associations, business and industry, the social support systems, because at this point in time the schools have become a focal point where almost all the child's needs can and often are met, and it's important that all of those stakeholders

help to address that issue and set the parameters for education. Then I think it's up to the provincial and federal governments to work out an equitable balance. But, again, I think the focus has to be on the child and the best interests of all Canadian children rather than playing this regional game all the time.

MR. ANDERSON: Just for clarification on that, Mr. Chairman. So would I be right in interpreting those comments as being that government should be facilitating, dealing with those who know and understand the problems and issues most in the first instance?

MRS. PITTS: Yes.

MR. ANDERSON: If I could, Mr. Chairman, my second question was really that I was interested in the comments Shannon made with regards to the party system and its effect overall on Canadians. Could we go back to any specific suggestions you have on how you would lessen the party system, which I for one would agree is very tight in our country, more so than in most. Do you have any specific thoughts on how you get around that British parliamentary base we have for operating the country?

MRS. PITTS: Well, it's going to require a little bit of risk-taking, but again what I hear in the community when I'm trying to get people involved is that they would like the opportunity to vote for specific candidates but they would also like to vote on specific issues, especially dealing with things that impact on them daily, like education, health care, social services. I haven't had time to think it completely through, but there doesn't seem to be any reason why you could not have a ballot that gave you the positions of, say, the three parties that were running. Say they were red, green, and orange; you could check off: yes, you support this party's policy on education, this party's policy on social issues, and this party's policy on finances, but that the person you wish to represent you is another person, who may be from any one of the three parties. By looking at the percentage of votes – say there was 50 percent for the yellow party's policies; then 50 percent of the representatives on the committee dealing with those issues would be from the yellow party. Then proportionally you would have representation from the others.

It's not anything that I'm aware is being done anyplace else, but that doesn't mean it can't be tried. The thing is that not many people have any confidence left in the party system as it exists now, so it might be worth the risk to try it.

MR. DEPUTY CHAIRMAN: Thank you.

Barrie. The Chair will say that this will be the last question, because of the time consumed.

MR. CHIVERS: Thank you. I'll try to be very brief. Shannon, you mentioned section 25 in the context of aboriginal rights. I'm just wondering whether you feel that it's necessary to have further constitutional entrenchment of aboriginal rights, recognition of aboriginal self-government.

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MRS. PITTS: Well, as I stated before I think that should be resolved prior to any constitutional reform. This has been going on for 200 years, and as a member of Amnesty International I'd like to point out that in any other place in the world we'd probably have civil war if this had continued for this long. I think we have a moral and a legal obligation to settle that now

and proceed from there. I don't think you can build a country on a foundation that is so unsettled.

MR. CHIVERS: So you would want it in the Constitution.

MRS. PITTS: Well, again, if it's resolved prior to then, I imagine it would become a part of whatever future government you have, based on what's decided now.

MR. CHIVERS: Thank you.

MR. DEPUTY CHAIRMAN: Well, on behalf of the committee, thank you very much, Shannon, for a very thoughtful and well-delivered presentation.

Jean Ferguson. The Chair is particularly happy to welcome you to our midst, Jean. Please have a chair and make yourself comfortable.

MRS. FERGUSON: Good afternoon, hon. gentlemen and ladies.

MR. DEPUTY CHAIRMAN: You may sit down, unless you would rather stand.

MRS. FERGUSON: I'll be better sitting. Thank you.

MR. DEPUTY CHAIRMAN: The Chair was going to say that it is personally acquainted with the present presenter, and it's very nice to have you with us this afternoon.

MRS. FERGUSON: Well, I hope you won't think that what I'm going to say is harsh. It is what a great many people are thinking but will not say. I remember 1967, when we started a new century with a \$19.5 billion national debt and a great future in front of Canada. Today we have something like \$400 billion in debt, and I'm afraid for the future of our young people. I am particularly concerned about the future that young families with children face at this present time. So I'm going to say what I think, and I appreciate the opportunity to air my views impartially. I don't feel that other commissions have done that. I'm going to read what I intend to say, so that I will say what I intend and no more and no less.

Our leaders in Canada, western Canada particularly, need to take a realistic look at unity as defined by Prime Minister Mulroney. That means refusing to be drawn into or condoning the federal Conservative charade. Meech Lake was designed by our Quebecker Prime Minister to give Quebec additional privileges above and beyond what it already enjoys, and Canada at last said no. The Prime Minister created the problem he is now determined to solve by pressuring Canada to honour unity at any cost. Meech Lake and Quebec's Bill 101 have made very evident that multicultural English-speaking Canada and Franco-Quebec are separate entities.

Bilingualism, invented by that other Quebecker Prime Minister, was about power, not language. It was designed to put Franco-Quebeckers at the head of most federal and many provincial departments. Phone for yourself and analyze the spelling of the surname of the head of the department. If the proposed Mulroney-inspired Constitution succeeds, Quebec will continue to exert dominant control on Canada while being, in effect, practically sovereign. Will western Canada be content to remain in the kind of Canada that could create? If we then decide to separate, could we be faced with a civil war? This is

something you have to think about; you have to look at the future frankly.

If Quebeckers, who have never really considered themselves Canadian, are so dissatisfied with Canada, then they should go: without association, off the fence, in or out, equal or separate. In Meech Lake they cried "Wolf!" once too often. If you go back to that old fable about the shepherd boy that tended the sheep, when he got dissatisfied he yelled "Wolf!" and had everybody come running to save him. But he cried once too often; they didn't come, and there really was a wolf. I think that's what's happening in Canada today. We have come to a place where we are making decisions, important ones.

Prime Minister Mulroney, who is entirely prejudiced in favour of Quebec, is not a suitable negotiator for multicultural English-speaking Canada. Neither is Joe Clark. He's more interested in his political career and understanding Quebec than he is in understanding Canada.

Peter Lougheed made an error when he signed Trudeau's Constitution. Mike Pearson, in the *Toronto Sun*, February 19, 1979, said that the Canadian Prime Minister is the nearest thing to a dictator if he so desires; end of quotation. The Prime Minister of Canada has more power than the President of the United States. He appoints the judges who have final voice in all contentious decision-making. He can make laws and carry on government by order in council when the House is not sitting. We the people cannot impeach him.

In the next Constitution, the Prime Minister's power should be curbed. Define a fixed term of office so that MPs can vote their constituents' wishes, except on money Bills. The people should have the right to initiate a referendum on questions of national importance. Our democracy is slipping badly at the present time. A three E Senate. Equality among the provinces, no privileges. It is time that the people have a vote on constitutional matters. I thank the provincial government for giving me this opportunity to air my views. The Spicer commission was a handpicked sounding board interested only in listening to those who would keep Canada together at any cost. Meech Lake proved on TV that Canadians are not prepared to accept the kind of concessions being thrust upon us. Thousands of people phoned and wrote to those people who spoke in opposition. There must be no provincial agreement without a referendum with wording that we find suitable or, much better, a federal election.

The present federal government does not have a mandate to negotiate a new Constitution, because our MPs refuse to respect our wishes.

Thank you.

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MR. DEPUTY CHAIRMAN: Stockwell.

MR. DAY: Thanks, Mr. Chairman. On the question of referendum what would be your suggestion if a referendum was taken – you pick the issue – and the referendum went against the wishes, say, of the majority of people who voted in the referendum in Alberta or western Canada? Would you suggest to us at what point a national referendum becomes binding?

MRS. FERGUSON: Well, I think the referendum should be nationwide, if it's a question of federal concerns.

MR. DAY: Yeah, that's what I'm referring to.

MRS. FERGUSON: I think we need a referendum in Alberta too, but I would suggest that our Constitution needs to put more power back into the hands of the people because I feel today that the good country that we have enjoyed is rapidly slipping away from us.

MR. DEPUTY CHAIRMAN: To further interpret the question that Mr. Day asked, I think he was saying that if a question was put before all Canadians and, say, the large population of Ontario didn't agree with the population of Alberta, how would you feel about that?

MRS. FERGUSON: Well, if we had a three E Senate I suppose . . .

MR. DEPUTY CHAIRMAN: No. We're talking about a referendum now.

MRS. FERGUSON: A referendum. I see. Well, . . .

MR. DAY: That's what I'm referring to. Does it become binding on the entire country? How do you sort that out?

MRS. FERGUSON: Now, that is a great problem. It would take about 3 percent of the population. I think about 300,000 people vote – do they not? – in Canada. No, that's in Alberta. It should be a high enough percentage that only . . .

MR. DAY: If you have any thoughts on that in the future, feel free to write or call us. It's something that is being grappled with, so any insights on that would be appreciated.

Just one other question, Mr. Chairman. You talked, Jean, about Quebec. You said they should go under certain circumstances. If that was to be the case, who would you want to do or who do you suggest would do some of the negotiating? For instance, our grain shipments that have to go through the St. Lawrence Seaway system, which Quebec would have access to, would you want to see the government of Alberta doing that type of negotiating, or should the federal government do that with a separated Quebec? Who does that negotiating?

MRS. FERGUSON: Well, I would think the St. Lawrence Seaway would be an international waterway. It does connect the United States with the outside world as well as Canada. I have some other thoughts on that too.

I don't think Quebec should be permitted to keep the south shore of the St. Lawrence and the Ungava territory as well. I think there is a negotiating point there, because the northern part of Quebec belonged to the Hudson's Bay Company and after that to the British government, and it wasn't ceded or turned over to the government of Quebec. I think it was turned over merely as to be governed rather than to be owned. It was turned over in 1912. That was a dirty deal because the people in that northern area of what is now Quebec spoke their own native languages. The Eskimos and the Indians spoke their own national languages, and enough English to deal with the Hudson's Bay Company. Quebec would deal with them only in French, so they had no way of protecting themselves whatever from the kind of inroads that have been thrust on them.

MR. DEPUTY CHAIRMAN: Mr. Hawkesworth.

MR. HAWKESWORTH: Thank you, Mr. Chairman. Just as a background to my question, I think we could see an example in Canada where there might be a referendum on, say, energy policy, and everybody in Ontario votes one way and Alberta votes another, and the majority can dictate then to the minority what that decision might be. So some people in Alberta, looking at Alberta as a minority, have proposed a triple E Senate as the way for Alberta as a minority to protect its interests at the national level. My question to you is, understanding how Alberta feels, whether you believe Quebec as a minority should have something in place that might help it protect its vital interests at the national level.

MRS. FERGUSON: I think it already does.

MR. HAWKESWORTH: In what way?

MRS. FERGUSON: Well, at the present time, perhaps this may not always be so, but they vote as a block, and they usually get all or most of the things they ask for, far more so than any other part of Canada. Perhaps we need to start voting as a block also. That would be one way open to us, but perhaps a referendum is not the best idea. I don't know. I mean, other people understand more about it than I do, but certainly we need a voice. The people need a voice. The people are really fed up, and perhaps that's one way.

MR. HAWKESWORTH: Their protection seems to be that they vote en bloc in an election, but in terms of constitutional protections do you see there being any at the present time that help Quebec?

MRS. FERGUSON: Yes.

MR. HAWKESWORTH: I'm just wondering.

MRS. FERGUSON: Language laws. Bilingualism is a tremendous hammer for Quebec, and they use it very successfully. It's been tremendously successful.

MR. CHIVERS: Mr. Chairman?

MR. DEPUTY CHAIRMAN: Mr. Chivers.

MR. CHIVERS: Jean, you've suggested that elected representatives should vote their constituents' wishes except on money Bills. I'm wondering if you are proposing some sort of a way in which the wishes of the constituents are to be determined.

MRS. FERGUSON: Well, if we had a set term of office without defeating the government every time a certain Bill is defeated, I don't see any problem.

MR. CHIVERS: Okay. That led to the second point, the elected term of office. What term are you proposing?

MRS. FERGUSON: Well, I suppose four years is about an adequate term. I don't think there's much the matter with the term that we have now except that our MPs go down there, and they're brainwashed and hammered into doing exactly what the Prime Minister wants, and what we want . . . Well, you can see what happened to Kindy when he disagreed.

MR. CHIVERS: So there would be a constitutional requirement for elections every four years?

MRS. FERGUSON: Yes, on a set date without any finagling.

MR. CHIVERS: Thank you.

MRS. FERGUSON: Incidentally, here's a little piece about Parizeau before I go. He claimed that the country of Quebec must support communities with historic links. He was talking about the French community in Alberta. The country of Quebec.

MR. DEPUTY CHAIRMAN: Thank you very much, Jean.

The next presenters are Profs. Cooper and Bercuson. Welcome. It's nice to see you back in these surroundings again Prof. Bercuson. The Chair hasn't had the pleasure of meeting Prof. Cooper I don't think, but it's nice to have you with us.

DR. BERCUSON: Thank you. Should we just begin?

MR. DEPUTY CHAIRMAN: Just begin.

DR. BERCUSON: We're going to do a little dog and pony show here. I'll speak for a few minutes and then Barry for a few minutes, and we'll try to stay within your 15-minute limit.

MR. DEPUTY CHAIRMAN: We're doing pretty well so far.

DR. BERCUSON: Well, the two of us have analyzed the constitutional position that the country is in today. I guess a little commercial plug is that we've written a book which will be issued on July 1, which is going to be called, *Deconfederation: Canada without Quebec*, which I guess gives a bit of a hint of where our position is on this issue.

We look at Meech Lake as a very significant and serious turning point in the history of Canada and Canadian constitutional development – or shall I say the failure of the Meech Lake accord. We do not see what is happening now as preparatory to yet another round of federal/provincial negotiations or another federal/provincial conference such as we've had in this country since the 1920s or actually, in fact, since the late 1880s.

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We think that something very, very different has happened, and it's happened for a variety of reasons, the first being that in the Meech Lake settlement a special constitutional and legal status was proffered to Quebec and then was refused, I suppose, or withdrawn, with the failure of the accord. That, of course, was the culmination of what the governments of Quebec had been seeking since 1960. I mean, every government of Quebec since the beginning of the quiet revolution has sought a special constitutional accord. They were all unsuccessful in getting even close to it, but they were pretty close to it with respect to what was on the table in the Meech Lake accord. It's inconceivable to Barry and myself that any government of Quebec will now settle for anything less than a special constitutional or legal status.

The second thing that has happened is that the process itself, as you know – and I suppose it's one of the reasons why we're all here today – has lost some degree of credibility in the eyes of the people of Canada. We think that's because the people of Canada have now started to realize that the Constitution Act of

1982, for better or for worse, has really transformed this country into a quasi-republican liberal democracy and that the people of Canada really do believe that the people rule in this country as opposed to the Legislatures. Now, that's kind of an arcane point of political science, but I think it's a very, very important one, because you have people constantly coming forward and saying, "Whatever happens in this country in the future, the people are going to have to be the deciding voice." Those of us who have studied Canadian history know that that's a radical departure from the past. I'm not being cynical about this. The fact of the matter is that in the past the Legislatures have made constitutional law in this country, but the people now think that they have a role to play in the making of constitutional law.

The next thing that happened was that there was an orgy of what I call Canada hate which set in in Quebec as a result of the failure of the Meech Lake accord, I think largely as a result of a tremendous ignorance of what's been going on in English-speaking Canada. I think that led directly to the Allaire commission report and the Bélanger-Campeau commission report, both of which have suggested – I won't even call it a restructuring of Canada – basically, a dismantling of anything that one could call a nation state in the proper term. That, I think, has really created in itself a reaction in English-speaking Canada, because I think that English-speaking Canada, by and large, finds the Allaire report or the Bélanger-Campeau commission report, even when divided, let's say, by 10, considerably watered down, to be completely unacceptable.

The other thing that has happened, of course, is that other groups have started to make demands of their own at the table either for room at the table or for some say in the constitutional talks or constitutional negotiations. That, too, is very different than what we have had in the past where it was primarily the levels of government or, in certain instances, the different bureaucracies, federal and provincial, which really got together and negotiated federal/provincial agreements on tax-sharing points, social welfare policy, and so on and so forth. We think, to summarize the opening of this part of our presentation, that Meech Lake was really something very, very different, and the question that we all have to answer is: where do we go from here? Because I don't think the past is any particular road map for the future.

**DR. COOPER:** We have three or four points to make with respect to where we should go from here. I'll make the first one. I expect you'll hear from other people as well. It's concerned chiefly with Senate reform. First of all, I'd like to make the point that it may in fact be too late to do anything in the way of institutional change that will ensure that Quebec stays within the country. Second, I'm not even convinced that Senate reform will be sufficient, and the reason for that is the evidence, at least that we read about in the newspapers, of bureaucratic and political initiatives in the provinces. When politicians, Premiers, and senior bureaucrats get ideas in their head, they're very difficult to stop. What I'd like to suggest is that some of these initiatives may have consequences that none of us, I think, will want to embrace when we have to face those consequences.

I'll give you a couple of examples. The Western Premiers' Conference at Lloydminster last year came up with – at least their press reports said that they came up with – a proposal for health, education, and welfare to be taken over by the western provinces and a suitable tax regime to be put into place that would essentially be a made-in-the-west, blanket policy with the suitable tax regime to go with it. This year it was immigration policy. You people know a lot better than we do how far that

is going and whether or not it was seriously intended. The point that we observed is that it was symptomatic of a general kind of disintegration of the country and that the initiative, the initial impetus for this, came from Quebec a generation ago with the very rapid secularization of health, education, and welfare in that province. As you probably know, education, hospitals, and so on were staffed and operated by the church, and in a very short period of time they were operated by, let's say, nonpriests and nonnuns: secular, ordinary Canadians just like the rest of us. We now call that, of course, the quiet revolution.

As David has just indicated that in our view the whole let's call it sorry business, to call it nothing more extreme, came to a head in Meech Lake. Now, that's fine, I suppose, with respect to Quebec. There may be difficulties for us in Alberta and in western Canada as a whole, and we should wonder why Meech Lake was popular and who it was popular with, and why it was popular with political leaders if not with the citizens of Canada. One of the reasons, I think – and it's an institutional reason; it doesn't have much to do with the motivations and aspirations of provincial political leaders – has to do with the absence of institutional representation of the regions in Ottawa. This has meant that the provinces have had to do a job for which they are in many ways ill equipped, and that is, to represent regional interests. The only institution in Canada that is set up to do this on an ongoing basis, as we all know, is the First Ministers' Conference. It takes place, if not in secret, at least in large measure behind closed doors, and as David said, that helps to delegitimize the entire process. It may be good for governments, it may be good for elected political leaders, but citizens do not consider it to be good for them.

So what's the solution to all of this? What we would propose – and I'm sure you'll hear it from other people as well – is federalism, a genuine federalism. That means, in very simple terms, Senate reform. We are not for a triple E Senate; we're for a kind of two and a half E Senate. We would like it to be elected, to be equal, and to be not perhaps as effective as the House of Commons. Specifically, we would not want the Senate to have the power to vote supply. We would, however, want there to be a one-year power to block all other legislation. I mean, we can go into the details for this, why we believe this would be better than having an equal Senate, but I suppose we can leave that for later.

**DR. BERCUSON:** Okay. Thank you. Of course, another major issue that you're going to deal with and which a lot of people are talking about is the distribution of powers. I want to start off by saying that what we have today – just to remind people; I'm sure most of you are aware of the fact – is a distribution of powers which is largely based on the British North America Act of 1867 as interpreted by the judicial committee of the Privy Council, and then, finally, of course, there were some changes made with respect to the distribution of powers, although not a great deal, when the Constitution Act of 1982 was brought into effect.

Prof. Cooper and I basically believe that the distribution of powers, as it stands now and as it has evolved, is basically okay as is. We certainly would not want to see anything like any radical kind of decentralization as is being mooted in certain quarters. We also believe that a great deal of this talk about overlap and duplication and the elimination thereof is really a panacea. I think a lot of people are blowing smoke, because frankly I have seen very little solid evidence that there is overlap and duplication. Even in areas such as agriculture where it is claimed that there is overlap and duplication, what one finds

upon examining the situation is that in many instances one level of government is taking care of one aspect of that area of power and the other level of government is taking care of some other aspect of that area of power. But in most other areas of power which are listed in sections 91 and 92 of the Constitution Act 1867, there's almost no overlap whatsoever. So I think that a lot of this talk about overlap and duplication is essentially talked by people that do not really understand the way the system functions.

4:52

We do think, however, that there's probably some room for a little bit of shifting or shuffling of powers, and what we would like to see happen is the following. We think the federal government should definitely continue to maintain the standards for social policy in this country. We think the federal government should have some additional say in the area of education over what it now has, because it does have some say today with respect to postsecondary education in that the federal granting agencies are the major source of research funds in the country, where there ought to be, in our opinion, a national educational strategy. This strategy should be the result of negotiation between the federal government and the provinces, but the provinces up to now, in my opinion as an educator, haven't done a very good job of establishing national standards or preparing Canadians for the 21st century. This is a point, of course, that I made appearing before the predecessor of this committee.

We also think the federal government should have the pre-eminent role in the area of environmental protection, because the federal government is the only government capable of taking care of damage to the environment, the effects of which are felt across provincial boundaries. We think the provinces should have the pre-eminent role in language policy and in cultural policy. We think that the rule of thumb should be that which was used by good old John A. Macdonald way back in the mid-1860s. I mean, it's pretty obvious to anybody who studies these matters which are of local concern - "local" can of course mean provincial - and which are not. Those which are not should remain with the federal government, and I think any effort to try to define national concerns as local or provincial concerns, as we have seen, is going to create a disaster and a great deal of resistance on the part of the people of Canada.

DR. COOPER: The last thing that we want to bring to your attention is what Canada should do and certainly what Alberta should do with respect to Quebec's demands: how to meet or not meet Quebec's demands. The first principle we would urge upon virtually anyone who wants to think about this is that there's nothing to be gained by giving in to threats and that separatism, if it is a threat, is a threat that can be ignored. As one of the foremost sociologists in Quebec has said - Hubert Guindon is the guy's name - it can only be a goal.

So then the question is: does Quebec stay or go? There are two ways of answering it. If Quebec stays, that's fine, but it can stay, we would argue in any case, without any special legal and constitutional status. No province deserves special legal and constitutional status, which does not mean there are not ways of accommodating social and political realities, but there's a difference between accommodating social and political realities through the normal process of negotiation and enshrining them in the Constitution. If Quebec is going to stay, a sound and prudent negotiating position for Canada would be that you stay on terms acceptable to Canada, some of which we've just tried to outline. If you are prepared to go, then go, and we wish you

well, but be prepared to negotiate several major issues. I'll just outline two or three.

First, of course, is the debt. I understand there's a conference in Edmonton today by a bunch of economists who are discussing this exact problem. Second, there's a problem of fixed assets and property that Canada owns currently in Quebec. There's the problem of trade and monetary relations. All of these things, I think, can be accommodated through the normal negotiating process that was undertaken so successfully in the free trade agreement, something like that, between Canada and the U.S.

The other area of contention, however, I think is a little more sensitive, and that has to do with boundaries. The previous speaker mentioned some of the difficulties. If you wish, I can go into them in more detail. I think we should all be prepared for some extreme statements coming from Quebec with respect to the amount of territory that the province can or cannot leave Canada with.

Finally, let me just say that judging from today's *Herald*, the statements of M. Parizeau, who will be in town very shortly . . . Either he's been smoking something other than cigarettes, or he doesn't believe his own words, and quite frankly I think it's probably the latter. His statements regarding the co-operation that he expects to see between Canada and Quebec: I think he couldn't possibly believe that, in which case they are to be understood by all Canadians as essentially political moves rather than an accurate statement of what he really expects.

I don't think we should kid ourselves. If Quebec is going to leave, it's going to be a lot of hard and difficult negotiations on the part of Canada to defend Canada's national interests, because we do have a rather vital national interest, as the Americans call it, with respect to the south shore, with respect to the former territory of Rupert's Land, and also with respect to ordinary trade between what's essentially Montreal and the rest of the country.

MR. DEPUTY CHAIRMAN: Sheldon.

MR. CHUMIR: Thank you. You seem to have come out very strongly in support of a strong national government and against extreme decentralization. If I heard you correctly, you've suggested that it's important that we maintain the existing federal role in social services and presumably health. At the present time it's suggested that health and social services in fact are within provincial responsibility and that the federal government has been interloping through its spending powers. I'm wondering whether you would then subscribe to entrenching in any constitutional changes at least the existing role for the federal government in health and social services. Finally, on a related topic, do you favour transferring greater immigration powers to the provinces?

DR. BERCUSON: I guess I have to respectfully disagree with the very first part of your statement. I don't think I would say that I was in favour of strong national government, because I don't think what we have now is a strong national government, and I'm not trying to be funny about that. I think the government of Canada, in terms of the federal government . . . This is one of the most decentralized federations in the world. I think that the bureaucrats in Ottawa who have been studying this problem for the last three or four months under Mr. Spector have discovered that, and historians and political scientists could have told him that a long time ago. When I say I'm in favour of maintaining what we've got today pretty well as it is, I don't

want to see the federal government grab a whole bunch of powers over other than what it now has with the exceptions of what I've talked about.

Yeah, the federal government to a degree is an interloper in these areas, but it's a necessary interloper, if I can call it that, because I think – and I'm not a lawyer here; you are, and a lot of other people at this table – the decisions of the JCPC, as they were handed down in the 1920s and 1930s, were fundamentally wrong and resulted from a misunderstanding of what this country is all about. I think that British notions of regional autonomy within the U.K. were imposed on a Canadian pattern, and I think that what has happened as a result is that it was necessary for Ottawa and the provinces to find ways around the constitutional restraints that were placed on this country, because it was patently absurd to attempt to create, let's say, an unemployment insurance scheme or a medicare scheme under the constraints that were imposed by the JCPC. I think what we've seen is that the Supreme Court's decisions have largely moved away from that, because they realize what the Canadian realities are. I don't think I would like to see anything entrenched in the Constitution, because I think we've done a fairly good job up to this point in time in negotiating the kinds of agreements that we've needed in this country. I have perfect faith that the political leaders in the future will be able to do just as good a job when the time demands it and when the people require it.

DR. COOPER: With respect to immigration I think when people come to Canada, they come to Canada; they don't come to one of the provinces. Last weekend I was talking to one of your colleagues, Fred Bradley, who set me straight on what the provincial position was on immigration. I said to him that basically you can have negotiations; that's one thing. But to have legal responsibilities is something else. The reason why there is a demand for legal responsibilities has nothing really to do with the implementation of immigration policy outside of Quebec. It's Quebec that is demanding legal control over immigration. It seems to me that once one province does it, for whatever reasons, the other provinces stand in line and say "Me too" and that is the recipe for disintegration that we're concerned with.

5:02

MR. DEPUTY CHAIRMAN: Dennis, followed by Pearl.

MR. ANDERSON: Thank you, Mr. Chairman. In the conversation thus far we've gone around the question of distribution of powers. I appreciated the correction to Mr. Chumir's question on you not wanting to decentralize them further, yet I am somewhat confused because you did indicate in the initial remarks that you felt there should be a role in education, a role in social services, and I don't know if that meant by implication in some other areas such as health care or not. I wonder if you could address that role further.

It seems to me that decentralization in the nation that we have, the largest free nation in the world, is meant in part to allow those people who live in a given area to determine the priorities and the directions and respond to the sensitivities of that part of the country. Where does the majority of the population, controlled from the central Canadian powers in our case, become paramount or more important or more effective than the decisions made in education, social services, et cetera, in the regions or the parts of the nation?

DR. BERCUSON: Let me address the three issues that I raised, and I'll get to education the last, because I think that forms the heart of what your question is.

With respect to social services and medicare, what we're really talking about is the preservation of the status quo, because what the federal government does at the present time is establish those national standards. In the legislation that we have with respect to the Canada Health Act of 1964, it established certain standards, and then they amended it in 1984 and so on and so forth. What we're really talking about is a maintenance of a current situation, not any additional accretion of powers to the federal government.

When we talk about the federal government having pre-eminence in the area of the environment, what we're really talking about is that the provinces should certainly play a local role because environmental concerns have to be responsive also to local needs. But in the end someone has to act as the policeman, if province X or municipality Y is not doing what needs to be done, in order to protect the environment. As I say, I'm no lawyer, but frankly when this issue does get to the courts – because let's remember the word "environment" does not appear in the Constitution Act 1982 – I think the courts will give that power to the federal government, as they did give authority over broadcasting and air transport to the federal government and for much the same reasons. So I think it's only a matter of time before that happens, unless somebody deliberately excludes the federal government from a role in the Constitution, and I don't think that's going to happen.

Let's get to education. I think what we need to remember is this: the way the educational clauses of the Constitution were written in the 1860s was that it was believed, as a result of the social and economic and political conditions of the time, that control over the schools should be solely and totally and completely local. I think that was a good response to the realities of the day. I think what we're talking about today, when we have to compete against the industrial giants, against the Japanese and the South Koreans and the Germans, because Germany will emerge as a major giant industrial power once it cleans up East Germany, and on and on and on, is that there have to be some additional factors to add to that local control which have to be factors in which the Canadian people, who are the people who will participate in the Canadian economy and benefit from the Canadian economy, need to be able to say through their political leaders, "We want our children to grow up and to be able to challenge the best that the Japanese and the Germans and the Poles and whatever have to offer." We can't simply leave it any longer to local school boards or provinces to decide this issue. There has to be a national interest in education in the future because of the kind of world we're entering. You know, the news came today about the fast-tracking of the free trade agreement with Mexico and the United States, and I could go on and on and on, but I think the point is made.

MR. ANDERSON: I know you've got a list, Mr. Chairman, but just one supplementary on that. If Dr. Bercuson is then saying that there need to be national standards, I wouldn't disagree with that. Do they need to be determined by a national government, or are they required to be established by those with the current constitutional authority which you suggest you want to maintain, by the provinces themselves?

DR. BERCUSON: Well, I think there has to be both. I guess that's the difference. I would not like to see a situation, for example . . . I mean, I'm disturbed by the fact that Ontario



pulls out of these national tests. They can do that now because the whole process is totally voluntary, and I would like to see something else there. We have not had the time in preparing for this to try to describe some kind of mechanism. I don't know where we would get to if we talked about spending, for example, and should there be room for federal grants to secondary and elementary education in the way there are federal grants for postsecondary education? I mean, these are the kinds of things that need to be discussed, but I think there needs to be some role - I think it's going to be a neat trick to figure out how you maintain local control over the schools for the most part but also bring in some national voice establishing some national interest in education. The fact of the matter is that the nation has an interest in how my kids are educated today just as my community does and just as I do, and that wasn't the case in 1865.

MR. DEPUTY CHAIRMAN: Were you pre-empted, Pearl?

MS CALAHASEN: Yeah. Actually, some of the questions I had were asked by the hon. Mr. Anderson.

One other question just to follow up on that, if I may, Mr. Chairman. You stated that shifting and shuffling would have to occur, regarding some of the questions that Mr. Anderson brought up. Yet I'm not sure exactly what you mean by the shifting and shuffling, particularly when you're looking at some of the issues you've discussed - education, environmental protection, the language policy, cultural policy - which are now presently under the Constitution. You're talking about the shift from the local to the provincial to the national versus the national to the provincial to the local?

DR. BERCUSON: Yeah, what we're talking about is some shift of powers from the provinces to the federal government in some of those areas and some shift of powers from the federal government to the provinces in the areas that we mentioned, namely culture and language.

MS CALAHASEN: Basically, you're saying, then, that culture and language should be shifted to the provinces and then education and environmental protection shifted to the national level?

DR. BERCUSON: No, no; not shifted to the national level, but the national government has a role to play, in our opinion.

MS CALAHASEN: What role would you see Albertans playing or Alberta as a province playing in those specific ones?

DR. BERCUSON: In which areas?

MS CALAHASEN: In education as well as environmental protection.

DR. BERCUSON: I think the same role that all the other provinces would play, in terms of some kind of co-ordination of the establishment of national standards or a national strategy.

MS CALAHASEN: A second question to follow up on some of these others. I think it was you, Dr. Cooper, who stated that no province should get any specific legal or special legal kind of constitutional status. When we're dealing with a number of issues which directly affect Albertans or westerners and it's totally alien or at least not akin to the eastern provinces, how do

we deal with that particular issue when we have to deal with that, when there's a vote that comes through?

DR. COOPER: Let me say, first of all, that I am as strong a defender of Alberta's interests as you're likely to find, but it seems to me that the best mechanism for doing that is not through the provincial government. It's within the federal government, and I don't mean the House of Commons; I mean a genuine Senate reform. You're going to hear from other people, I'm sure, about this, but what we're talking about here are institutional changes that in our view are necessary in light of the historical development that Canada has gone through in not just the last 10 years but the last 50 years. It seems to both of us that you have to have regional representation in Ottawa in order to defend regional interests, that the provinces are just not sufficiently equipped to do it.

MS CALAHASEN: So we've got to change it somehow so that we do have that particular equipment to be able to deal with it on a national level?

DR. COOPER: That's right. Just one further. Premier Lougheed was particularly good at that because of, I think, his personal style of leadership, but we can't count on that. I mean, that's what institutions are for.

MS CALAHASEN: So the regional disparities will be taken care of under that particular kind of regional . . .

DR. COOPER: They'll be better safeguarded, I think.

MS CALAHASEN: Thank you.

MR. DEPUTY CHAIRMAN: Nancy.

MS BETKOWSKI: I have a couple of questions. I wouldn't mind your thoughts on referenda, as a general comment, national referenda, and your comments with respect to developing a broader consensus and what the model is for that. I notice you used the word "national" as opposed to "federal." Is there room in a broader consensus, for example, for provinces coming together to develop national consensus, as opposed to a top-down model, which we seem to be contemplating with respect to education, for example, where they would define it?

5:12

DR. BERCUSON: Okay. I'll try the first one. Do you want to go after the other one? It's the hard one.

I don't have much faith in referenda, nor do I have much faith in the notion of constituent assembly. First of all, I don't want to be the historian too much here, but we've had two plebiscites in Canadian history, one in the 1890s over booze and the other in 1942 over conscription. The first question I would ask is: what kind of a question is appropriate for a national referendum in a federal structure like we have today? I mean, some of the problems that occur when you think about national referenda and what Mr. Schumacher was asking the previous witness about are the kinds of problems that immediately occur to me. If we're talking about a national referendum in an area which directly affects the people of Alberta wherein the Alberta government would have jurisdiction, why should the existence of national referendum machinery give the people in Ontario the right to override the interests of the people of Alberta?

I'm also sort of interested in the fact that this has now become very much talked about amongst people who are trying to make accommodation with Quebec, because there's nothing that's going to drive Quebec out of Canada faster than adopting a referendum mechanism. I mean, they have a long memory when it comes to what happened in the conscription plebiscite in 1942. So I think, frankly, it's a panacea, and I think a lot of people don't want to face the facts that we seem to be dealing with some pretty fundamental contradictions between English-speaking Canada and Quebec, and sooner or later we're going to have to deal with them one way or the other. I think what's happening is that a lot of people are trying to look at ways in which we can fudge the issues, and maybe a referendum and maybe a plebiscite and maybe we won't be able to deal with . . . It's almost as if they want to sort of get around dealing with the Allaire report: "So we have to figure out some way not to deal with the Allaire report. We'll just do this and this and this, and we won't deal with the Allaire report. Hopefully, by then Quebecers will be so scared about the prospect of leaving Canada that they won't even remember it." I think that's whistling in the graveyard. It's just not going to happen.

DR. COOPER: Well, with respect to the top-down business, I think that depends on the policy. I mean, it's not a rule that we think that Ottawa should have pre-eminence in initiating new changes. In some areas that David mentioned, I think there's room for an increased role for Ottawa, and I don't think I would want to go much further than that.

The role of the province in all of this: that's part of the difficulty. You people who are doing this in your daily life have to deal with what you're handed, and what we're handed are the first ministers' meetings and everything that flows from that, the bureaucratic negotiations and so on. The difficulty there is that it's not a particularly public or flexible mechanism, and that's the problem, it seems to us. I mean, that's the institutional problem, that there is no mechanism that works properly.

Now, the final thing I would like to say specifically with respect to that is that the current constitutional crisis, precipitated and focused on Quebec, is also an opportunity to alter these kinds of institutional arrangements in the rest of the country, particularly if Quebec is in favour of separation.

MS BETKOWSKI: Thank you.

MR. DEPUTY CHAIRMAN: Mr. Day, did you . . .

MR. DAY: Yeah, just on that jurisdiction end, especially as related to education. I agree with what you're saying in regards to realities, day-to-day, and wanting our children to be equipped to deal with international competition, et cetera. I'm just curious as to how you can help me understand your faith in the federal government holding the hammer there as being able to better equip our children, given the fact that we could have a provincial government – we'll use Alberta – reflecting, let's say, a majority view of the people embracing a free trade type of philosophy and needing that, yet at the same time having a federal government which would be, for lack of a better word, more socialistic in philosophy, more centralized, more against that, more isolationist, and therefore that would govern their educational view. How does putting more of the hammer in the federal hand in terms of education equip our kids better? What inherently is there there?

DR. BERCUSON: Well, that question, of course, could apply to any federal/provincial interrelationship. The federal government is moving in one direction, the province in another, and of course that's what you had in the 1960s. You had a Liberal government in the early '60s that was a really left Liberal government – I'm talking about the Pearson government – and you had a lot of provincial governments at the time that were leaning the other way. That's why there was very little participation in medicare at the very beginning, but sooner or later they all fell into line. It could be a problem, but I think ideology, at least in the party sense, tends to have less meaning in this country than it does in a lot of others.

I'm not especially worried about it in the educational sense, because we're not talking about values; we're talking about goals. For example, you had the Prime Minister talking about how we would like to see more scientists. Nobody knows better than me that we need to have more science education in this country. The point is that under the current situation all it is from the Prime Minister is jawboning. The federal government can do absolutely nothing about it, because for the most part students will have decided by the time they reach university what sort of stream they're going in. They will have decided what they're suited for. They will know where the money is, and on and on and on. Even in university the federal government really has absolutely no control over what goes on on a day-to-day basis. The feds can say, "On the basis of what we see 10 years down the road, we need more people to work in the area of, let's say, survey engineering or electrical engineering or biophysics or whatever." They have no way whatsoever of having any say in the end product.

What Barry and I are saying is that that's an anachronism. That maintains a degree of community control and local control that was suitable for the 19th century and is not suitable for the 21st. If we are going to be competitive at the high end of the job scale – and neither one of us is especially worried about losing \$5-an-hour jobs to Mexico, I'm sorry to say, because these are the least productive jobs that add the least value to the product and which will do the least amount to get the Canadian standard of living up to where it ought to be. It's the other jobs that we need. The only way we're going to get those jobs in competition against some of these other societies is if we prepare our children for it. We have to start looking at it in a global sense and not simply a local sense.

MR. DAY: Yeah, I agree. I just don't understand where the federal jurisdiction grants that. But I appreciate that.

DR. BERCUSON: They have to co-ordinate it.

MR. DAY: Yup.

MR. DEPUTY CHAIRMAN: The Chair has been very lenient in the time. We seem to have sort of escaped our 15 minutes. Bob, would you like to briefly wind up?

MR. HAWKESWORTH: I'm just wondering if, between the two of you, you would in any way support any accommodation to what Quebec conceives or sees as its vital interests in the interest of keeping Canada together?

DR. BERCUSON: We think the Constitution Act 1982 contains adequate guarantees and protections for the language, culture, and distinctiveness of Quebec. We think the history of Quebec

since 1960 proves that it has all the tools it needs to do what it needs to do, not only for survival but for a flourishing society.

MR. HAWKESWORTH: So our job is to convince Quebec, who's not yet convinced, of that, isn't it?

DR. BERCUSON: I think that's rather not going to be possible. I think our job is to maintain the position that we have to have a country here, and in order to have a country, certain elements need to be in that country; you're asking us to give up the possibility of having a country in order to make accommodation to your requirements, and we can't do that any longer. That's what our job is.

MR. DEPUTY CHAIRMAN: Thank you very much.

Robin Westin, please. Welcome. Sorry to be late having you start.

MR. WESTIN: I don't think you remember me, but I met you one time when I was about 15. My mother and I were at a constituency meeting, I think in Acme, quite a long time ago.

MR. DEPUTY CHAIRMAN: My goodness; that was 1968, 23 years ago.

MR. WESTIN: It's too long ago, I'd say.

What I'd like to talk about are three issues, three issues which I feel summarize my feelings about the kind of country I'd like to live in, which I think a Constitution should try to reflect.

Those three issues are, first of all, division of powers; secondly, bilingualism; and third, tolerance towards minorities.

Regarding the division of powers, I believe the issue has become: how much decentralization can this country take and still be a country? Now, I didn't originate that phrase. I read it somewhere, but I thought it hit the nail on the head. You hear of Jean Chretien and Brian Mulroney saying they're going to give extra powers to Quebec and extra powers to the provinces and Alberta. So I think that's what the issue has become, but I think the issue should be something different. I think it should be how to allocate the powers and keep both levels of government both vibrant and viable in those discussions of allocation. I'll talk about how I think that should be done in a minute.

5:22

The rationale for decentralization, I believe, is to get the government closer to the people, closer to the regions, closer to the needs of those people, but I think that is becoming less and less a reality today than it was, say, 100 years ago when we were a little bit different in the country. I believe that decentralization is in effect a power grab by the provinces. If that's not true, have you ever seen a provincial government offer any significant concessions to the federal government in the last 20 years during the times that they've had federal/provincial conferences? I believe that in this constitutional crisis we're having, we're not only in danger of losing Quebec; we're in danger of losing the federal government as well, in my view.

Also in regards to decentralization I have a little bit of distrust for provinces; for example, Quebec's language laws outlawing the use of the English language in Quebec. On the other hand, I'm a little concerned that the province of Alberta will not allow French-speaking MLAs to speak French in the Legislature. I also believe that decentralization counters the central notion of the BNA Act, which Prof. Bercuson, quite rightly in my view,

alluded to. The central notion is that issues of local concern are dealt with by a province, and issues that go beyond a province's borders or go internationally fall under the jurisdiction of the national government. That's how the BNA Act was set up. For example, oil and gas energy in Alberta was given to the provinces I think in the 1930s, or given to Alberta anyway. So the province of Alberta can produce that gas, ship it within the province, set the price at any price they want, but as soon as it leaves the province, the federal government then legitimately has a right to look into it and to be involved in the setting of prices, setting of volumes, because it now is a national concern; it's beyond Alberta's interest only.

I believe how to make the allocation of powers equitable and make the provinces and the federal government viable and vibrant is to have a genuine negotiation. For example, if Quebec really wants a distinct society, I might as Prime Minister agree to the distinct society in the preamble to the Constitution provided they give me back the notwithstanding clause out of the Charter of Rights. That might be something there. I might give the rest of the provinces, if they want, some limited powers over appointments to the Supreme Court, but nothing like what was mentioned in Meech Lake, in return for their giving up the notwithstanding clause of the Charter of Rights. The implication there is that the federal government gets something in return for giving something to the provinces, which I don't see as happening in Meech Lake. I don't see it happening with the present federal government.

My last thought on the division of powers is in regards to the so-called energy wars of the 1970s. I don't recall reading very much about a conflict between Colorado and Texas and the consuming states like California and New York. It may be because the states have a lot less power in the United States than the provinces here in Canada. There is no issue; any windfall profits went to the federal government in the United States. So perhaps we're going the wrong way; perhaps we should be taking some power away from the provinces.

On the issue of bilingualism, I'd like to quote a statistic that should be in everyone's mind by now but may not be. People were asked in a *Globe* poll, I believe, about whether this language status as it now stands, which is bilingualism, should remain, and 59 percent of the people in English-speaking parts of the country believed that the status quo of our language should remain and 75 percent of French-speaking people said the status quo should remain, should be allowed to exist. For someone who believes in bilingualism like I do, I believe that's very encouraging. The more we can get that message out the better, in my view.

The reason I'm discussing bilingualism in this context of the Constitution is because I believe some people can negotiate it away, and Prime Minister Mulroney has alluded to that: giving language rights to the provinces and not having anything to do with it from the federal government's point of view. I believe that's wrong. I think someone's position on bilingualism depends probably on how they think about Canada. If they think Canada is an English-speaking country, then probably they are going to oppose bilingualism.

In growing up in Alberta, I found it very easy to think of this country as English speaking, at least as a young person. I don't believe it anymore, but I believed it as a young person. For example, I remember the red trucks driving up and down the roadways with Royal Mail attached across the top. There used to be the Royal Canadian Air Force. We still have the Royal Canadian Mounted Police. We used to have the Dominion Bureau of Statistics, which is now Statistics Canada. We still

have an English queen as our head of state; it used to be an English king at the time of the war. We had no French counterpart; we had no French queens and kings coming over here. So it was very easy for me to believe this was an English-speaking country and that in Quebec, well, they spoke a different language; they spoke a foreign language. In fact, when I went to school, we learned English, of course, but we had an option to learn a foreign language. What were those languages? Well, it could be French; it could be German, Spanish. But French was lumped in as a foreign language. Well, I believe that we would be making a profound error in historical interpretation if we thought this country was only English.

Lower Canada, which is now Quebec, was not forced to join Confederation. They came in as equal partners with the English. Even though they were ruled by the British and were part of the British dominion, they were not forced to join Canada. To me that means they gave up nothing to come in. They came in because the English wanted to have a Canada and the French Canadians wanted to have a Canada as well. We got the Constitution out of it, but it came from a position of equality.

I also believe that section 133 of the BNA Act contemplated a bilingual nature of Canada. I think it would be appropriate to read a little bit out of that section because I was quite astonished when I read it. Section 133 of the BNA says:

Either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those Languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person . . . in . . . any Court of Canada . . . and in or from any of the Courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those Languages.

You know, it seems to me that French and English were at that time paramount languages and paramount language groups, and I believe they still are today. Only the English-speaking people and the French-speaking people can break this country apart. That's how paramount they both are. Therefore, I believe it's an absolute insult to lump French as a language in with other languages like German or Spanish or Swedish, which is my background. I think it's an insult to French Canadians, and as a Canadian as I define it, as I think of it, it's an insult.

5:32

It seems pretty clear to me that if Canada is French and English, then the federal government has a responsibility to promote French in the rest of Canada outside of Quebec and to promote English inside Quebec, which is bilingualism. I believe this is not ramming French down the throats of English-speaking people, as has been so widely spoken of in the past 20 years or so, but I suggest that it's living up to the original agreement called Confederation. This is a French and English country, to leave aside for the moment ethnic people and aboriginal people, which I would talk about later, if you wish.

My third topic: tolerance towards minorities. I'd like to start off by saying what I think tolerance is not. It's not the melting pot. It's not the United States' way of swearing allegiance to the flag, slapping you on the back, and then all of a sudden you become a good old boy. I believe tolerance is, at the very least, putting up with differences, differences in lifestyle, attitudes, beliefs, and values, and at its best, tolerance is actively promoting in a positive way those differences as a society. I'm not suggesting that every person in a society has to promote those differences, but as a group, as shared values we should.

I'm discussing this particular topic today as well because there are certain political movements today that would like to hide those differences, and I'm speaking specifically of the Reform Party. They love the melting pot concept. I believe they would like French Canadians to go and leave Canada, and then they can hide all those other differences, pretend that we're not different, pretend that we're not black or brown or yellow or white. We can't hide those things, and I don't believe we should hide those things. We should let people live as human beings. I also think that the French and English conflict is a test of our tolerance. If we can't put up with the French Canadians as Albertans, are we going to put up with the aboriginals as Albertans or any other minority that comes in, perhaps Sikhs from India? I don't know where this particular quote comes from, but I remember it, and it goes like this: a democracy is measured by its treatment of minorities. And I believe that.

In conclusion, which won't be that short, I don't think Canada should be primarily a product of geography. I call it geography because there are couple of forms of this thing that I'd like to talk about. One of them is regionalism. The Reform Party, again, is hot on having each of the regions equal. Joe Clark came out a long time ago with a concept of Canada called community of communities, where one community in Quebec is different and separate from a community in B.C., and we're all just happy being separate.

Well, all we've got to do is look at history to see where that gets us. World War I is a prime example of ethnic strife causing a great conflagration. Do I need to mention Indian today? Maybe I don't have to; it's all fresh in our memories. Let's talk about India at the time of its independence. Mahatma Gandhi wanted to have a united subcontinent where Hindus and Moslems could live together in one state, but they didn't. They fought each other trying to get from one major group to another, the minorities trying to leave the other group. There was bloodshed like you wouldn't believe. They're not the only ones. The Soviet Union today is another prime example of a lot of ethnic strife. People just can't seem to live under one government. That's what the geographic concept of a country gets us.

I believe Canada should be a product of the mind, a product of ideals: the ideal of bilingualism, the ideal of tolerance. That concept allows us to have turbans in the RCMP. It allows us to appoint Jewish people as chief justice of the Supreme Court of Canada. I believe a French-Canadian Prime Minister did that for the first time in our history. Canada as a product of our mind allows us to present ourselves to the world as a bilingual country even though every nook and cranny is not speaking French or English or both.

I'd finally like to say that I believe in a strong federal government, I believe in a strong commitment to bilingualism, and I believe in a strong commitment to tolerance towards the minorities. That's the kind of country I'd like to see develop, the kind of country I'd like to leave my kids.

Thank you.

MR. DEPUTY CHAIRMAN: Barrie.

MR. CHIVERS: Thank you. That's a very eloquent statement of your belief of what constitutes Canada. I'm wondering if you would briefly flesh out for us your feeling with respect to the role of aboriginal peoples.

MR. WESTIN: Well, I think I had a major turning point in my political views when I happened to be watching Prime Minister

Trudeau conduct his final federal/provincial conference in 1984 regarding the aboriginal issues. He was trying to get the provinces to entrench in the Constitution self-government for natives. I had gone into watching that particular conference over two or three days believing what everybody believes: that the Indians should assimilate. When I listened to Prime Minister Trudeau talk about what he thought, I changed my mind. I believe self-government should be entrenched in the Constitution, and I believe the federal government should take a leading role to start twisting some provincial arms to make this issue happen so the natives can take some control over their own lives.

MR. DEPUTY CHAIRMAN: Stockwell.

MR. DAY: Thanks, Mr. Chairman. Just a couple of questions, Robin. You mentioned that the federal government should be able to control gas energy product once it leaves the provincial borders. Are you just saying that to energy products, or are you saying that would be everything; that is, beef, secondary wood products, potatoes in Prince Edward Island, lobster in Newfoundland? Does the federal government control all product leaving the provincial boundaries, and if so, on what basis do you see that being effective?

MR. WESTIN: Well, I was using that as an example of an issue that was perceived to be only a provincial concern yet had significant national consequences. I don't believe potatoes have a national consequence, but that doesn't mean they won't become so at some point in the future. I was trying to make the point that something that is obviously a local concern should probably stay within the provincial jurisdiction, but as soon as something becomes of national concern or involves more than one province or involves a province with another nation, another country, then the federal government should be involved. That doesn't mean it has to be involved in everything. If something does become that significant, such as education, which was talked about here this afternoon - I believe the federal government should be involved in education, for example, to set those national standards in order to have Canada develop a national competitiveness.

MR. DAY: So it would be the federal government that would make the decision, then, on which products have national significance.

MR. WESTIN: Yes, I believe it basically would. A lot of these things come about because of a Prime Minister or a federal government that's identifying it as a national issue. I mean, you just have to go and talk to people in one province and then in another and you can get two different views on that same issue. There has to be some arbitrator in those issues, and I think the federal government is the only place where that can lie.

5:42

MR. DEPUTY CHAIRMAN: Dennis, would you like to conclude?

MR. ANDERSON: Yes. Robin, you had a very strong point of view with respect to central powers versus a more diversified power base. I'd like you to consider and respond to two dimensions there. First of all, do you not feel in the world today, when change is taking place so rapidly, that it is difficult if not impossible for any group of people at one central part, no

matter how altruistic, to know what's best for those several thousand miles away? Since my other is related, I'll throw them both at you at once. Do you not have any concern in a nation as large, as vast, as ours and with as great a percentage of the population in the centre that the population in the centre, which naturally will control the national government, will establish priorities which best suit that part of the country and which, because of a lack of understanding if not of personal gain themselves, would not have the same effect in other parts of the nation? Don't you have any concern in those two areas? If so, how would you balance those concerns with the positive points that you've raised regarding national standards, national control, national directions?

MR. WESTIN: Well, I think I remember the last question first. I believe that the provinces do have significant power to protect regional concerns. All you have to do is look at the energy problem this country had in the 1970s to see that they did have significant power. So even though it is true that Ontario as the centre of the population group does run roughshod over the rest of the people in the country, I believe the provinces have enough power to overcome that.

MR. ANDERSON: Maybe just to clarify, Mr. Chairman. Certainly in that case it's true and in others where the provinces have exclusive constitutional jurisdiction, although I think we'd all agree that the federal government has used its taxing power to influence those provincial directions in health care and education. If you're advocating more constitutional authority for the federal government, where would the provinces get that ability? How would they maintain it? Where would it happen? If there is to be more federal control, where would that balance be? If we hadn't transferred resources in 1930 by Constitution, how could the province have done that then?

MR. WESTIN: Well, supposing the provinces didn't get that transfer of power in the 1930s on oil and gas, then I would be in Ottawa arguing that we should tolerate some interests in Alberta. I would be fighting to try to get Alberta to have a bigger share of the pie because that's where it's coming from. I mean, I think part of the problem in this constitutional process is that we're trying to delineate all these powers, then we set it down, and that's it; we run with the ball. But that never happens. I mean, if you read about constitutional things, you find that personalities always enter into it, politics enter into it, and there's a tug of war. Sometimes it goes one way; sometimes it goes another.

MR. ANDERSON: So I'm misreading you if I'm thinking that you want to give the federal government more authority in education and in health care?

MR. WESTIN: Yes, you are. I'm not saying give them more. I'm basically saying: let's keep the Constitution as it is, the division of powers. The federal government can use it more in one way, and the provinces can use it more in another way, but in the end you have to negotiate. You want to give something up to get something of more value to you. I mean, that's the process in our free market system. Everybody's supposed to give something up, but in the end it's win-win, not win-lose, and in the last eight years or so it's been win on the provinces and lose on the federal government, which I disagree with.

MS CALAHASEN: That sort of waters down, then, the national scene in terms of what's happening throughout the country.

MR. WESTIN: I don't understand.

MS CALAHASEN: The powers then are being taken away from the federal government, you're saying, and watering down the federal powers in jurisdictions.

MR. WESTIN: Yes. I'm thinking specifically of Meech Lake. I'm thinking specifically of the man who is about to redefine or negotiate our Constitution again, who originated Meech Lake, and that's Brian Mulroney. He gave up powers over the Senate, powers over the Supreme Court. He gave up powers of a distinct society not just in the preamble to the Constitution but right in the interpretive clauses. He would say one thing in Quebec, saying, "You know, you guys are going to get this distinct society clause in the Constitution, and it'll mean something," and he'd come out to the west and say, "Oh, it doesn't mean anything; it's just recognizing Quebec as a distinct society." That's not true once it's in an interpretive clause.

What I'm suggesting is that the federal government should maintain its proactiveness. On the other hand, the provinces should be proactive as well, and out of it you get a resolution.

MR. DEPUTY CHAIRMAN: Thank you very much, Robin.

MR. WESTIN: Thank you.

MR. DEPUTY CHAIRMAN: I'm sorry we have to conclude it now.

The next presenter is Mike Beaton. We really must tighten things up now. Sorry, Mike.

MR. BEATON: Not at all. I figured this might happen. I promise to be as succinct as possible. I actually produced my presentation in written form as well as oral, so I will quickly gloss over the speech and let you read it at your leisure, if that's more convenient.

MR. DEPUTY CHAIRMAN: It'll form part of the record.

MR. BEATON: I can't tell you how happy I am that I didn't have to immediately follow my former professors, Bercuson and Cooper. It's a tough act to follow.

MR. DEPUTY CHAIRMAN: That might have been very interesting.

MS BETKOWSKI: They might have marked you.

MR. BEATON: First of all, I'd just like to start out by saying that I recognize we're in a very gloomy situation in this country. We're in a crisis, but it doesn't have to be as bad, I think, as it may seem.

Drs. Bercuson and Cooper seemed to take a position in favour of a Canada constituted much the way it is with the exception of Quebec being gone in the future and the remaining nine provinces together in a fairly strong federation. I take a fairly different view from that. I see 10 provinces in a united Canada in the future but in a more loosely confederated nation.

Much as I would like to touch every element and aspect of the Constitution and the government and so on, I think I would

quickly like to focus on three areas. First of all, the process by which we amend the Constitution, I think, has to be the immediate focus of any government in going into the next round of negotiations, because the fact is that at the moment we don't have a process. We have a formula for amending the Constitution built in, the 7 out of 10 with 50 percent formula, but unfortunately we don't have a process. It was always left up to the evolution of executive federalism. I think Meech Lake has resulted in the total loss of executive federalism as a means of negotiating constitutional change. I don't think Canadians are willing to stand any longer for 11 first ministers going behind closed doors for a weekend and emerging to tell Canada: we've made dramatic changes to the Constitution; it's a seamless web and cannot be altered in any way, so here it is, and we hope you like it. Canadians have very clearly stated that that's no longer satisfactory.

5:52

If that's the case, then how do we go about changing it? I'm not sure that I have the answers to that. Possibly some sort of an amended executive federalism whereby the various governments undertake major public input sessions, like this or whatever form, before going into a first ministers type of conference, negotiating an agreement, and then coming out and putting it to a referendum. I realize again that Profs. Cooper and Bercuson don't have that high an opinion of referenda, but I think that may be a necessary thing because Canadians have demanded active participation in the process. Certainly referenda answer that question. You could put it into some sort of a formula like the one that's built into the Constitution: a referendum would have to be approved by 50 percent of the population in each of seven of 10 provinces and 50 percent across the board. Something like that. I don't know. I don't propose to have the answer. I do, however, feel that that sort of a proposal might answer more questions than some of the others that have been batted around, like a constituent assembly or whatever. I think they need to be defined a little better before we get into them any further.

I guess the bottom line I'm getting at here is that it's a very, very pressing subject, and it's something that has to be resolved very quickly. While I don't endorse buckling under to deadlines set unilaterally by Quebec, the fact is that they will nevertheless go to some sort of referendum in the fall of '92. If there's no progress being made on any sort of renewed federalism for the benefit of all provinces, not just Quebec, they will go to a referendum and they will leave, and I think Canada will be the weaker as a result.

The second thing I'd like to talk about is institutional reform. Certainly, in western Canada anyway, the triple E Senate is a major focus of interest. I think I would agree with Drs. Cooper and Bercuson that the triple E Senate – well, at least a two and a half E Senate, whatever we end up with – is a very important priority of western Canadians, and it should be, but I don't think it's the ultimate answer. I think we have an opportunity in front of us now to make major, sweeping institutional changes to our system of government, and I think it's an opportunity that may never recur. Right now everything is on the table. Not just the Senate but the whole parliamentary system of government that we've used since Confederation is up for negotiation. I think we should certainly very carefully look at the possibility of making some sweeping changes. Whether it's the House of Commons, the civil service, the Supreme Court, or the Charter, the fact is that they all will be on the table in the Canada round of negotiations. I think we will certainly be blowing an opportunity

if we don't look a little harder at some of the other institutions of government.

I would suggest, in going a little further on the triple E Senate subject, that in arguing that, it's not our final solution for western Canadians or for any of the regions of Canada. The reason I believe that is because I think it's too easy to blame central Canada and too easy to blame the federal government for policies that favour central Canada. Our parliamentary system of government is designed so that cabinet makes the decisions, and cabinet tends to make decisions – this may sound a little cynical – that will be for the benefit of those areas of the country which will increase the likelihood of their re-election. I don't think we can fault governments for making those decisions, because that's the way the system is designed. So I think maybe in this next round of negotiations we should, as part of the process of institutional change, look at some of the other models of government and try to decide if maybe the Australian model, which is fairly similar to our own, or the American model, the German model might be a more appropriate system, would be more regionally sensitive and more responsive to the peculiar demographics of Canada.

The division of powers is sort of the third area I'd like to look at. I think we have to really work to streamline the division of powers to make for a more efficient, streamlined Canada if we're going to compete globally. I would like to see a renewed federalism, if I can use the buzzword, in which the central government receives the necessary constitutional authority to preserve and effectively speak for Canada on the international stage: external affairs, international trade, defence, and so on. The central government would also have to exercise control over a central bank, over monetary policy, and the various other economic considerations that are obviously necessary if it were to remain any sort of a unified country.

On the social program front, though, I would like to see more decentralization to the provinces. I believe the closer the service is delivered to the people, the more efficient it is and the more responsive it can be to the particular needs of Albertans, for example, versus the particular needs of Newfoundlanders. So I would see a dramatic shift in power in the area of social spending and social program policy to the provincial governments.

Naturally, because social spending and social policy is by far the lion's share of government expenditure, along with that would have to go power of taxation to the provinces. I'm not sure exactly what form that might take. I'm afraid I haven't had enough time to really look at the economics of the whole thing as carefully as I might, but certainly if the provinces are going to take on more responsibility for delivering social programs, they're going to have to be able to raise the revenue to pay for those programs, and they're going to have to be able to count on revenue rather than having to depend on inconsistent federal government transfers.

I wrote into a conclusion here a comment – a couple of comments, actually – that Matthew Barrett, who is chairman of the Bank of Montreal, made in Toronto. As a westerner I tend to shrink from quoting the eastern Canadian banks on anything, but he did really, I think, hit the heart of the situation. He said:

Looking at the realities of our situation as dispassionately as possible, I see not a set of interlocking, intractable problems, but a unique opportunity, an historic chance, to rework the Canadian miracle, a chance to renew and revitalize what I believe could well become the most dynamic and envied country in the world.

I think the opportunity is there too. It looks very gloomy at the moment, but I think if the political will is there, and I believe it

is, there is certainly every opportunity to come out of the whole Canada round of negotiations with not necessarily a stronger Canada but certainly a more unified and more efficient Canada, more prepared to compete in the 21st century.

I haven't really talked about Quebec at all, and I would have liked too, but given the time constraints, I think I'll refrain.

MR. DEPUTY CHAIRMAN: Thank you very much, Michael Sheldon, followed by Stockwell.

MR. CHUMIR: I'm very interested, Mike, in your statement that the provincial governments would assume responsibility for delivery of most if not all social programs and services. I'd like to suggest that they already deliver these programs, but the fact is that there are many different forms of medicare and social services, for example, throughout the country. I guess the issue for Canadians is: is there to be a continuing role for the federal government in establishing standards such as universality and affordability of medicare so you can go to each province and have the comprehensiveness? Do you foresee a continuing role of that nature, or do you think that's totally counterproductive and every province should just set its own standards?

MR. BEATON: I certainly have no difficulty with national standards; I have a difficulty with federal standards. I believe there was an earlier speaker who touched on that as well, or it was raised, at any rate. I think there is a big difference there. I think national standards can be established, but they can be established by negotiation of the various provinces among themselves in setting those standards. I don't think they necessarily have to be dictated by the federal government. That may be idealistic. I don't know if it's possible or not, but that would be the route I would prefer to see. I certainly realize that the provinces already deliver most social programs, but they don't necessarily pay for them, and the question of paying for them I think has got to come hand in hand with the delivery. I think control over the revenue has to reside with the particular jurisdiction that's delivering the service, and right now I don't think that's the case.

MR. DEPUTY CHAIRMAN: Nancy, then Stock.

MS BETKOWSKI: I bumped the line.

MR. DEPUTY CHAIRMAN: Go ahead.

MS BETKOWSKI: You talk about Meech being the end of executive federalism as we know it because the process was too closed, if I'm paraphrasing you properly. Correct me. Do you think there is a Canadian value beyond a simple consensus? In other words, the voice of the people is heard by referendum, whatever. Is there a value-added component to what is Canada beyond simply consensus? Is that a fair question?

6:02

MR. BEATON: It's a tough one. First of all, I don't suggest that executive federalism is a means, as has been in the past, of the leaders ignoring the will of the people in any way at all. I think our system was set up so the elected officials – in the case of executive federalism, the Premiers and the Prime Minister – go into a negotiation with an understanding of what Canadians want from them. So I mourn the death of executive federalism because I think it worked. It was an efficient system if nothing else, and it was a good means of solving constitutional or

program problems the country was facing. But I think the will of the people, which I guess in theory was translated through negotiated positions in the boardroom at the First Ministers' Conference, has now determined that that is no longer the case, that the will of the people is not being heard there. So perhaps a new system where, you know, there's some sort of further public input, value-added input, has to be determined. I don't propose to have the perfect solution for that. I don't know what it is, because I don't think there is a better solution than executive federalism.

MR. DEPUTY CHAIRMAN: Stockwell.

MR. DAY: Mike, you talked about realizing the dream – and you agree with Mr. Barrett's comments here – of a confederation that keeps us one country while allowing our peoples and regions to shape their collective destinies. Do you see the provinces in that looser confederacy having equal constitutional powers? The reason I ask that is because on page 7 you talk about recognizing the claims for greater constitutional authority for Quebec. Do you mean greater than other provinces or greater than they have now?

MR. BEATON: No. I think what I am referring to is a sort of Meech approach to a quality. In the Meech Lake agreement there was an attempt to reconcile Quebec's demands with the desire for all provinces to remain equal, and that resulted in the unanimity clause in which all provinces had the veto; it wasn't just one that had the veto. So I see a more loosely confederated country, with all provinces more or less sharing the same responsibilities across the board, within which Quebec can realize their own particular aspirations. I'm not sure that they don't have that now. As Dr. Bercuson said, I'm not sure that they don't have that already. But they certainly don't perceive the fact that they have that ability now. So I think it should be possible to reconcile the goals of Quebec and the need for Quebec to protect its Francophone culture and heritage within a more loosely confederated community of provinces, to paraphrase Joe Clark.

MR. DEPUTY CHAIRMAN: Dennis.

MR. ANDERSON: Mr. Chairman, I was asked by Ms Calahasen to ask a question – she had to catch a plane – and that essentially is: do you have a position, Mike, on native self-government, and if so, do you have a definition of what that would mean?

MR. BEATON: Well, that's the \$50,000 question, isn't it? My view is that the native people of Canada have been given a raw deal for the most part, and I personally support the whole concept of self-government. The difficulty I've always perceived with negotiating self-government is that, first of all, the native people have to have a unified idea of what that is and what it is they want, because on a microcosm in Alberta with the Lubicon debate, there were factions within the Lubicon nation themselves that were proposing different definitions of what they thought they deserved from the government. As far as I'm concerned, it's almost impossible to try to determine what native self-government is across the country until the natives themselves have a unified idea of exactly what that is. If they can come up with their unified idea of native self-government, then certainly it's something that should be pursued, because I think they have

the same right as Quebec to preserve their culture and their heritage.

MR. DEPUTY CHAIRMAN: Barrie.

MR. CHIVERS: Yes. Mike, you've indicated that in terms of division of powers you would see the federal government having responsibility for things such as defence, external relations, international trade, currency, bank and monetary policy. I'm just wondering: where would you place something such as environmental protection?

MR. BEATON: Okay, the environment is kind of the odd one out on the table of federal versus provincial. You can talk about social programs; they can be neatly gathered together under the provincial umbrella. Fiscal and international relations can be neatly gathered together under the federal umbrella. But it's more difficult when talking about the environment because both governments really do have a stake in it. If push came to shove, though, I would be inclined to leave authority for the environment with the federal government rather than the provincial governments simply because I don't think a river that flows through three provinces is anything that necessarily can be effectively protected or policed by three individual governments. It's difficult because on principle it sort of contradicts the idea of various governments policing their own health care systems or their own education systems to a certain extent, but I think the environment is something that has to require national attention and national protection.

MR. CHIVERS: So if there was an extraprovincial dimension to a question of where power should repose, you would resolve that in favour of the federal government.

MR. BEATON: I don't know if I would leave open a residual powers clause in the Constitution the way the original BNA Act did, but then again it obviously was impossible in 1867 to perceive all the possible future policy requirements of government in 1990. It's equally impossible in 1990 to perceive all the problems that might arise by 2090, so perhaps some sort of residual powers clause is in order that would leave matters with the federal government. But I'm certainly not necessarily in favour or opposed to something like that.

MR. CHIVERS: Thank you.

MR. DEPUTY CHAIRMAN: Thank you very much. We appreciate your presentation.

Martin West.

MR. WEST: Hi. I'll read, and I'll try and be brief.

I'm here today as a Canadian, not an Albertan although I work here, not a westerner although I have lived here all my life, not as an English-Canadian or a French-Canadian or a Polish-Canadian or a German-Canadian or any other kind of hyphenated Canadian. I simply am a Canadian. My culture begins and ends with this country, and for that I consider myself one of the most fortunate people in the world.

It's beyond my comprehension why some would wish to destroy this country, and I must say here and now that I deeply regret the actions of both the Alberta and the Quebec provincial governments. They appear to be using this constitutional crisis as little more than a thinly veiled disguise to reallocate powers to the provinces. I am opposed to any province, region, or



district being given any more power, authority, or legal preference that would weaken the federal government or bring an even greater imbalance between the provinces. A strong government inside a well-centralized federal system is needed to ensure a united Canada on the international stage on issues of environment, national security, finance, immigration, employment, and the existence of Canada itself.

Canada remains without a doubt the greatest nation in the world in which to live, and if Canada is to survive, we must work together as Canadians and not apart as provinces. I can foresee only disaster arising out of allocating more powers to provincial governments who choose to proceed with large industrial projects without first completing environmental assessments, as the Alberta and Saskatchewan governments have done, or who frequently change park boundaries with only an order in council to allow mining and logging, as the B.C. government has done. I can foresee only a deeper schism developing between the provinces if a department of immigration were handed over to provincial control. How exactly would the provinces enforce immigration, except if they were to disallow new Canadians to cross provincial boundaries? This not only would be a violation of the mobility clause but would draw the provinces even further apart. Perhaps some regional powers would be better off in federal hands.

#### 6:12

Many Canadians have argued for national standards in education, and I believe this to be a good idea. If Canada is to survive and compete in the high-tech 21st century, we must ensure that our children, which are our greatest resource, are given uniformly high education.

In the public document Alberta in a New Canada the question was asked: should Quebec or Alberta or any other province be given special powers? The answer I believe is obvious. In an egalitarian, democratic nation such as Canada all people must be equal before the law and provinces must remain equal before the Constitution. This is one of the most important principles of any western democracy. To assign extra or special rights to some because of their geographic location is to destroy the egalitarian principle of this country, and I fear it would send us quite literally back into medieval political times.

This brings us to one of the questions which was also asked in the document: how has the Constitution worked? Do we have more rights now or before the Constitution? The answer, I believe, is that the Constitution has worked well. The Constitution protects Canadians from governments and other administrative and enforcement bodies regardless of how well intentioned these bodies may be. It is essential that a strong Constitution be entrenched and maintained in this country to ensure the rights of mobility, freedom of expression, and fair judicial process. One does not have to go far to realize that governments will attempt to limit free expression, as the Mulroney government has tried to do with its censorship Bills, and the police agencies and the courts are not always vigilant with individual rights. I would add at this point that I in fact work for an enforcement agency, so I have a little bias.

If anything, some sections of the Charter have been badly underwritten. The description of free expression, for example, is currently undefined and vague. Many Albertans, including myself, believe that a consensual act of communication between two people is a basic right in a free society and governments have no business interfering in this. Yet until Parliament defines free expression in our Constitution, we are vulnerable to the whims of contemporary and many times parochial politicians.

All Canadians today must unfortunately turn their attention to another question that was asked in the document Alberta in a New Canada: should provinces be allowed to secede from Confederation? The answer must be a qualified yes. In a democratic society secession is a natural part of political evolution. No government may force a group of people to remain in a society they do not wish to be a part of, and for that matter, why would we want to force them? Provinces, however, were not built on themselves, and if any given province decides to secede, it should not expect to take with it all that is presently in that province.

In the case of Quebec, for example, the boundaries of this province have changed many times over the past 100 years, and they have almost always grown larger than they once were. Likewise, the many hundreds of thousands of people who live in Quebec and wish to keep their homes there and remain Canadian citizens must be given the opportunity to do so. Northern Quebec natives in the Ungava Peninsula and English Montrealers have already given indications that they would prefer to remain within Confederation. The rest of Canada must give these people the support they deserve to fulfill their political ambitions. We must also consider that the larger the portion of Quebec that separates, the more susceptible the rest of Canada will be to continental pressures.

A monumental responsibility has been given to our governments in the area of constitutional reform, and I hope it will be conducted openly and in full view of the public. The amending formula is a difficult one. It should be. Politicians should not be able to alter this document capriciously to suit their desires or their changeable political needs. I urge the government of Alberta to negotiate for an egalitarian liberal democracy within a strong central government.

I thank you for this opportunity.

MR. DEPUTY CHAIRMAN: Thank you.  
Dennis.

MR. ANDERSON: Maybe just one question once again on decentralization or centralization of power. Martin, you alluded to that in your remarks and alluded to some areas which clearly are federal jurisdiction now that should remain that way. Are there areas that you feel the province now has authority over that should be under federal jurisdiction constitutionally?

MR. WEST: Constitutionally? I'm not in favour of making any great alterations to constitutional power. I believe the way they're defined presently, beyond cosmetic change, is appropriate.

Thank you very much.

MR. DEPUTY CHAIRMAN: Thank you.

We'll adjourn until 7 o'clock, if we can get back here in time.

[The committee adjourned at 6:17 p.m.]

