

9 a.m.

Saturday, May 25, 1991

[Deputy Chairman: Mr. Schumacher]

MR. DEPUTY CHAIRMAN: Could the committee come to order, please? We have nine presenters to deal with before lunch, and as we found yesterday, time really flies when you're having fun. In order to accommodate what we've tried to commit to in hearing Albertans on this important subject, I think it's important that we at least start promptly.

I'd like to welcome you all for participating in this process. Just quickly I'll introduce the members of the committee who are here this morning. On my right is the Hon. Nancy Betkowski, the MLA for Edmonton-Glenora. On her right, Stockwell Day, the MLA for Red Deer-North, and on his right, as I said yesterday, our host for the meetings here in Calgary, the MLA for this constituency, Calgary-Buffalo, Sheldon Chumir. Across from Sheldon is our newest Member of the Legislative Assembly, Mr. Barrie Chivers for Edmonton-Strathcona, and on my left, the Hon. Dennis Anderson, the MLA for Calgary-Currie.

Our first presenter this morning is Dr. David Elton on behalf of the Canada West Foundation. I'd say welcome and invite Dr. Elton to come forward for his presentation.

DR. ELTON: Thank you very much.

MR. DEPUTY CHAIRMAN: I should say, I guess, that I'm Stan Schumacher, the chairman, and I'm the MLA for Drumheller.

DR. ELTON: I have some notes for the presentation that I wish to make that I'd like to give to the committee, and they can follow them as they see fit.

I guess I would like to begin by thanking the committee for holding these hearings. I appeared before the previous Conservative Party committee that met on this same subject before Christmas, and I'm most impressed that they have established an all-party committee. I understand that party discipline will not hold with regards to your undertakings, and I encourage you to follow that right through to the last dot on the last page of the report. It will, of course, remain to be seen whether or not that is the case.

I would like to begin by saying that for someone who played basketball as a child in this gymnasium, I think it has been improved considerably.

MR. DEPUTY CHAIRMAN: That's what Mr. Chumir said. He said he attended grades 6, 7, and 8 in this building, and he said he thought the surroundings looked a little better now.

DR. ELTON: Well, if we can do as good a job with the Canadian Constitution as you've done with this room, we will have done a great service for Canada. I'm convinced of that.

I would like to simply quickly review with you the activities of the organization with which I am associated over the last two decades, really, with regards to this issue, with regards to constitutional reform. We have been discussing and debating process, institutional reform, and jurisdictional issues for well over a decade and a half in sum and have produced well over a dozen reports that we have made available to members of the Legislature and to the public. These reports have dealt with everything from a house of the provinces idea back in the 1970s

to an elected Senate to interprovincial trade to constituent assemblies.

Our current activity as an organization is that we have struck a regionwide task force consisting of four prominent individuals from across western Canada, from each one of the four western provinces. We are currently working very diligently on a wide range of projects, a number of reports that we will be making available to this committee between now and September.

What I am going to say to you today are my personal comments. They are not necessarily those of the foundation or of the task force of which I am a member. Those reports will be forthcoming within the weeks and months to follow and hopefully will culminate in a meaningful national meeting that we are holding in Banff on September 26 and 28, when we will bring together 200 people from across western Canada to debate this very issue. We're doing this because it is basically a way of having a nongovernment organization have input into constitutional change. One of the real concerns that Canadians have had for a long time is that when one talks about changing the Constitution or reforming government, it always tends to be the government themselves that do it, and this can cause some problems, as you will see in my presentation.

With those introductory remarks being made, I'd like to go to my formal set of introductory remarks, which are as follows. I would like to stress again that because of the preliminary nature of this presentation these are my opinions and not necessarily those of the task force of which I am a member.

In our Constitution we describe ourselves as a free and democratic society, but in fact our operationalization of democracy has been very tentative and limited. The reluctance of our endorsement of democratic principles in Canada in the form of an appointed Senate explicitly designed to check the shortsighted popular enthusiasm and sentiment is as moribund and obsolete as the upper Chamber in which it is embodied in Ottawa.

We still elect governments for four years, a virtual autocracy helplessly marking time until the term runs out and our politicians return to solicit our retroactive approval. Our MPs or MLAs, once elected, enjoy a truly splendid independence from our wishes and instructions as electors. They can loyally tow the party line or cross the floor, assiduously attend every sitting of Parliament, courageously participate in public hearings, as this committee's members are doing this morning, or they can go golfing. Some MPs and MLAs faithfully and frequently report to their constituents; others virtually disappear for months at a time. There is nothing citizens can do about it until the Prime Minister or Premier decides it is time to send us back to the ballot box to enjoy our split second of citizen power. Suggestions for a more extensive citizen empowerment such as the recall or the referendum or the initiative are inevitably deflected with the same empty and self-serving rejoinder: they would be contrary to the Canadian political experience and incompatible with the centralization of political initiative in the federal and provincial cabinet.

These traditional reactions are no longer appropriate, not for the day-to-day operations of a modern Canadian government and even less so for a process by which we are to rewrite the Constitution that will carry us into the 21st century. If there is any respect in which our Constitution has dated itself, it is the attitude towards its own citizens: the grudging and reluctant concessions to a democratic impulse that is seen as impetuous and dangerous.

The 1990s are, as the 1860s were not, a democratic age. A wealth of social, economic, and technological changes support the contemporary potential for a truly democratic polity. Note

the word "potential." In the 1990s Canadians enjoy far more formal education than they did in the 1870s. Literacy is all but universal as is access to enormous amounts of information. We are effectively members of a global village. If anything happens anywhere in the world, we hear about it in minutes and see pictures within hours. Our children represent the first truly computer literate generation, completely comfortable with the world of electronic magic that our own generation still finds mysterious and strange. The traditional deference to established authority has been replaced by a large degree of skepticism, even cynicism, which while being disquieting to the politicians who once enjoyed greater and more silent respect, is a dramatic step towards democratic citizen empowerment.

The 1982 Charter of Rights and Freedoms provided Canadians with a guarantee of certain rights and freedoms that even governments cannot intrude upon, and the Charter is only the thin edge of the wedge. The political institutions of the next century will be more participatory, more democratic, more deeply based on responsiveness to change than those under whose authority we now live. The end and the means, however, must be related. An open and democratic polity must be achieved by an open and democratic participation of its citizens, of which this meeting is of course a good beginning.

9:10

I am constantly struck, however, by the irony of the present constitutional debate in which we are told over and over again that we are in a crisis without parallel in Canadian history. We hear it time and again. Yet the very established institutions and practices that have brought us to this situation are perfectly capable of resolving it in spite of the fact that it was the failure of precisely these selfsame institutions and practices that has created the present dilemma, an oxymoron of the first order.

We need a new start. We need to open the doors and widen the agenda. We need to involve citizens directly in planning the society of the future. In practice this means a constituent assembly, the clearest possible statement that the doors are open, the table is clear, the agenda is unrestricted, and the citizens are in charge.

If a constituent assembly is the how, the reform of our national institutions has to be part of the what. I take it for granted that the modernization and clarification of federal/provincial responsibilities will be part of the final package in the interest of efficiency and economy. However, reassigning powers can never carry all the load. If there is to be a Canada worth talking about, then there will still be a national government exercising significant powers in a number of areas affecting the lives of all of its citizens. We must ensure that for the first time in our existence as a nation those national institutions have fairness built into their structures and their operations. This means a whole package of reforms: the electoral system, procedures and practices in the House of Commons, and the Senate.

Meech Lake was a national trauma and a historic tragedy in some ways. In other ways it was a very successful endeavour and indeed has created an opportunity. So if we are to accomplish something for western Canada such as Senate reform, a triple E Senate in particular, then we have to make sure that it stays high on the national agenda, because it has been earned by historic grievances and problems that we have all suffered through and would like to resolve. The high-water mark was not achieved without considerable effort – and I'm referring now to establishing Senate reform as an issue on the agenda – and a certain amount of political embarrassment for this government and for

others. We must not let these sacrifices slip away and become meaningless.

Now, the rest of my presentation is in point form, and I see that I only have a couple of minutes left, so I'll go over it very quickly for you. The point I would like to make is that government is part of the problem. Public satisfaction with governments is at an all-time low with regards to provincial governments as well as the national government. Never in our history have governments had a satisfaction rating below 20 percent, yet this government in this province, the national government, governments throughout Canada are suffering that embarrassment.

Why is it? Well, in part it's because government has a spending addiction. We have indeed spent ourselves into a situation where government can no longer provide the goods and services that citizens think they are paying for. Indeed, what they really are paying for is an interest on a debt for goods and services already consumed, for much of the tax dollars that they pay into the system at the present time. We have archaic and debilitating institutions. The parliamentary system in many ways is as antiquated as a buggy whip when you're trying to start an automobile. The Senate is an anachronism that affronts common sense, and we have numerous insensitive regulatory bodies such as the Bank of Canada. There are byzantine jurisdictional disputes going on all the time where one government claims jurisdiction over an area because fish swim up a stream that has a dry riverbed or because people are supposed to be able to convey themselves down these rivers when there's no water in them.

We have interprovincial trade, which in the Constitution of 1867 was guaranteed but in fact has never taken place. So in some ways all we need to do is practice the existing Constitution to resolve some of our problems. We have environmental issues, the jurisdiction over which threatens to establish in Canada the dominance of the central government over the rest of the country like interstate trade in the United States did to the national government in that country. We have duplication of services such as student loans and job creation for summer employment. The Nielsen task force report went on volume after volume identifying this. We have in Quebec a self-serving separatist government and/or opposition party which sees itself in some ways as preferring to govern a weaker national government than a strong provincial government.

With regards to the participation process in this constitutional change, we have in this country clearly a leader-controlled democracy. We could have a more direct democracy and a good mix of it. This committee is in the process of going in the direction of more direct citizen participation, but as you can see from my pyramid on public participation, it's a long ways to go.

With regards to the constituent assembly idea, I have listed the advantages and disadvantages, which I will go over should the committee choose to ask questions about it. I have also attached a list of the current proponents of constituent assemblies and the opponents of constituent assemblies. You can see from that list that while there is a healthy, useful debate about the pros and cons of the use of this idea, I think in balance one has to look very favourably at the need in this country for a constituent assembly to be struck to resolve the constitutional issues that are facing us.

Thank you.

MR. DEPUTY CHAIRMAN: Thank you very much, Dr. Elton. Who would like to be first?

Before I do that, the Chair is remiss in not introducing Mr. Bob Hawkesworth, the MLA for Calgary-Mountain View, who has joined us.

Dennis.

MR. ANDERSON: Thank you, Mr. Chairman. David, your analysis, as always, is succinct and I think applicable to the problems we face today. My questions on the constituent assembly deal with how you bring together such a body, how you make it representative and still have some change from the now representative elected assemblies that we have responsible for changing the Constitution but, as you say, have not been successful in recent years in gaining the faith and the support of the public in doing that.

DR. ELTON: One of the things that plagues the constitutional debate is this interesting notion that nothing should ever be done for the first time. Now, if you think about that, what would this building currently look like? We're talking about provincial Legislatures and the federal Legislature. The Prime Minister has made it clear that the best constituent assembly in this country is the House of Commons. He just happens to have neglected that none of the members of the House of Commons were elected for the specific purpose of restructuring the Constitution of this country. Indeed, when they were elected, this issue was debated hardly at all. If it was an item on the election agenda, it was number 103 out of 100.

So this is not a constituent assembly. It is a misuse of the name "constituent assembly" to refer to an existing Legislature or an existing parliament as a constituent assembly. Those individuals were elected to govern and to regulate the current system using the existing Constitution, and they have every right to do that. It does not mean that they do not have a responsibility to revise that Constitution and to reform it in part when needed to meet the current circumstances of the day.

But we're not talking about the current circumstances of the day. We are talking about a fundamental change in the structure and makeup of this country. We are talking about a threat to the very existence of this country. We therefore need a group of people who are elected with the sole purpose of putting it back together. Not that those people will do it themselves, not that they won't seek the advice of the existing governments and the existing public servants and the existing experts: of course they would do all of that. But we need this fresh look. Quite often when we decide to establish a regulatory body or we want to change a certain function within a government's program, what do we do? We go to outside consultants. We bring someone in from the outside, from the OECD or from the World Bank or from someplace, to say to us: "Here's another way of looking at this situation. You've got yourself in a bind. Here's a way out of it." Well, what we're saying is that the Canadian Constitution must be made by Canadians, but it needs to be made by Canadians who have only one job to do. To ask the existing Members of Parliament and MLAs to also write a new Constitution while they are governing, while they are heading up departments such as some of the people around this table are, is very much like asking a goalie to score goals, play defence, and act at the face-off and then blame him for not doing a good job of net minding. You've got to share these functions around. To think that you can load them all onto the existing elected representatives is in my view folly.

9:20

MR. ANDERSON: Mr. Chairman, if I could just follow that. Could Dr. Elton indicate how one has this Assembly? In other words, is it an election of the sort that there was to elect members of this Assembly? If that's not the case, are you looking at the Philadelphia-style formula, where the Legislatures in fact appoint individuals who will achieve this end? I'm still trying to follow that through to how those decisions are then made. We do have a constitutional framework and requirement that Legislatures and the federal government be involved, which until that itself changes is the only mechanism we do have for change.

DR. ELTON: I'm not suggesting a change in the rule of law. If you look at this public participation pyramid which I've provided to you, you can see the various gradations. What we've done is moved from the Meech Lake approach, which is First Ministers' Conferences, with this committee, to using legislative committees as an input to make recommendations as to how the Constitution can be changed. We could go the next step, and I would argue we should, which is to establish what most people refer to as a constitutional convention, which is a group of people appointed to deal with constitutional reform. The Bélanger-Campeau commission was a type of constitutional convention. Whether one agrees with what it came up with or not, it was one step removed from having only legislators deal with the issue. You can then go to the next step, which has been advocated by many people in the last six months, and the list of them on the last page is very long, which is a mixture of appointed individuals and elected individuals based in part on representation by region, based in part on representation by population. You can then go to the most democratic, most open process, which is the election of these individuals.

Now, how would their recommendations be factored into the existing constitutional procedure for changing the Constitution? Very much the same way as this committee's recommendations fit into that process. You are going to meet, listen to a lot of different Albertans, make up a report, and hand it back to the Legislature, who may decide to put it on the shelf with a thank you very much, may decide to take three out of your 47 recommendations, or may decide to take all 47 of them. I would see a constituent assembly basically the same way, with a wrinkle. If we strike an elected constituent assembly, they are now elected by the people of Canada to do a specific job. They would then make their set of recommendations and hand them over to the governments for consideration. The first ministers could meet, the Legislatures could debate it and hand back their recommendations to the constituent assembly, who would then make whatever amendments they thought appropriate and then submit it to the ultimate authority in a democratic society, the people, in a referendum. The referendum would be held and could only be passed if there were majority support among the electorate of a majority of the provinces based on the 7, 50 rule in the current Constitution. If it passed that hurdle, it would then become the new Constitution of Canada. A fairly simple process, really, when you think about it. Now, that would look after all of those contingencies. What would be left, then, would be for the governments, because of the existing Constitution, to formally ratify what the people had already told them that they wanted to have done.

MR. ANDERSON: Dr. Elton, I assume that, as always, we can look forward to the Canada West Foundation giving us some of

the details on how this would operate.

DR. ELTON: This whole process will be spelled out in much more detail.

MR. ANDERSON: Thank you.

MR. DEPUTY CHAIRMAN: Mr. Day.

MR. DAY: Thanks, Mr. Chairman. I just need to explore this a little further. I'm intrigued by the idea of a constituent assembly. I've had questions put to me already on it, and not having the answers, I'll just deflect them to you, Dr. Elton.

The process we're going through right now you've already described in some detail. The presentations that are being made here today, around the province, are all going to be factored into a map, I guess, showing who's saying what and how many people are saying it. Also, you may be interested to know there have been several thousand phone calls already to the task force, many with recommendations which, again, are all being recorded, and there have been several hundred written ones. Also, as individual MLAs we're doing this type of thing in our constituencies. All this information is going to be collated, and we'll have an opportunity to see: this is what the people of Alberta are saying in these percentages of numbers.

Now, what has been tossed to me as I've talked about a constituent assembly is: why would we layer on another layer of people that would be seen as a buffer zone in what's happening now? People have asked me: what would make that elected person any different than any other elected person once they are elected? Can you give me some answers back on that?

DR. ELTON: Yes. You would have probably a very different type of person running, plus some of the current people who are running for public office, because they would have but one purpose. They wouldn't be there as part of a career or career planning or part of a long-term objective; they would be there to make their best effort in terms of a constitutional reform package. We are not short of ideas in this country as to how to reform the system. Those ideas have been out there, and there are some excellent ones. The report that Mr. Anderson chaired and presented here six or seven years ago was an excellent report. The ideas for fundamentally changing the party discipline problem in this country have been out there for a long time in terms of reform of the House of Commons, but it has never happened. The ideas are there.

What we need is a decision-making body, one that is independent of the current process. However well meaning, those who are currently members of Legislatures, members of political parties, or public servants who advise those individuals have a vested interest in perpetuating the status quo. It is in a real sense a tyranny of the status quo. We're all caught up in it. You're caught up in it; I'm caught up in a tyranny of the status quo. The purpose of a constituent assembly is to break through the Gordian knot that is holding us all back from achieving our highest potential as a country, as a group of people who live in communities one with another. So that's the idea of a constituent assembly.

It would be very different because it would have one purpose, and once having accomplished that purpose, it would dissolve. It may fail, but we shouldn't look at that as being something that should stop us from doing it. If failure is what keeps us from doing something, then we should never again hold a First Ministers' Conference. They have failed more often, on bigger

issues, than any group I know of, yet I'm a strong supporter of First Ministers' Conferences, not because they don't fail from time to time, not because they don't cause problems, but because from time to time they also do it right. From time to time they also get it right. So I'm saying that we need to try this process. What if it fails? If it doesn't work, then you go back to the process that we've got. But if we just continue to perpetuate the status quo, we continue to perpetuate the tyranny of that status quo and its unsatisfactory solutions to our problems.

MR. CHUMIR: David, you state that if there is to be a Canada worth talking about, then there will still be a national government exercising significant powers. There's been some suggestion that the provinces should exercise all jurisdiction and eliminate any federal role in health care and the social services area. I'm wondering what your view would be with respect to a continuing role for the federal government, at least to the extent of setting minimum national standards in that area.

I'd also like, if I could, to get your views on immigration power and whether or not there should be a reduced federal role and an enhanced provincial role as is being proposed.

9:30

DR. ELTON: Let me start first with the federal government. I didn't mention it, because we didn't have time. We're talking about a government that uses almost all of the money that you and I pay on a monthly basis in income taxes, whether it's \$500 or \$2,000, to simply pay the interest on their addiction. That's what they're doing currently. If one looks at established programs funding and how they're planning on tailing off on providing that funding, they have already abrogated their right and responsibility to establish national standards in that regard because they have in the past established a set of national standards that they can't come close to funding. So they're living in a dream world. When we look at a national government that tells us in their budget a few months ago that within five or seven years they will almost be completely out of health care, what right do they then have to come back and establish the very same standards that have basically bankrupted the country already because they haven't been able to make the adaptations? I do not buy the argument that simply because a national government makes a decision, it's necessarily a better decision, and I don't buy the argument that simply because a provincial government makes a decision, it's necessarily a better decision. There needs to be a sharing both ways.

We do have a national identity. I am a strong, committed Canadian. I'm also a very strong, committed Albertan, and I see no inconsistency in those two things. That's what makes us Canadian. So we've got to have that strong national government, but when they have proven their ineptness, why would we want to perpetuate it?

Now, that means there's going to have to be some adjustments, and there are ways of doing that. Our Constitution currently was written in the 1860s, when governments did relatively little. I would argue that we've gone too far and that governments indeed need to downsize considerably at both levels. But in the process of doing that, surely we can rationalize the programs so they meet the needs of Canadians in a way in which they can afford it. Currently who's paying for our health care? Part of it is being paid for by Japanese banks; part of it is being paid for by New York bankers, who at a given point in time are going to say, "Pay up or else," and the "or else" has now come home to roost in Ontario. It means: or else you pay

higher interest rates; or else we'll quit investing in your country and we'll quit facilitating your role and your ability to play an active role in the world economy. That's what's happening in this country. We are in a very real crisis because this national government has set standards that we can't afford. It isn't that we don't like them; it's that we can't afford them. We've got to rationalize that.

How do you do it, quickly? I would argue that you move more towards the whole idea of concurrency; not that you try and separate once and for all which government's going to look after what, but that you establish some type of concurrency where the governments share the decision-making based on some rational delivery of a service that can be afforded, some type of limitation on government's ability to spend us into bankruptcy. That would therefore have a concurrency in some areas with provincial paramountcy, in other areas with federal paramountcy. Immigration is a good example of that. Immigration is something which I think provinces will play a role in because they're involved in economic development. In the final analysis, that's what drives immigration.

I'll stop there.

MR. DEPUTY CHAIRMAN: Thank you. I think we've just used up the coffee break, but it was well worth it, Dr. Elton. Thank you very much for your presentation.

The next presenter is Tom Bateman of the Citizens for Public Justice. Good morning.

MR. BATEMAN: Good morning. Well, I guess I've got Andy Warhol's 15 minutes before you, so I'll try and make it . . .

MR. DEPUTY CHAIRMAN: They tend to get a little elastic, but at the end of the morning we're going to . . . We'll try to do the best we can, Tom.

MR. BATEMAN: Great.

I would like to concentrate on one subject this morning since there's very little time. I'll just note that the remarks I'm going to make are based on a paper I wrote for Citizens for Public Justice which was submitted to you earlier. The paper's entitled *Toward a New Canada: Building Bridges Across Borders*. It's kind of a complicated paper, because it intricately discusses the concepts of identity, individual identity and communal identity. One of the salient features of the constitutional debate in this country is that we are looking at a kind of political diversity which involves differences among individuals as individuals but also differences among individuals who consider themselves members of communities. I would say that our political system is fairly well set up to deal with diversity among individuals. We can look to the Charter of Rights, for example. But many of our problems have to do with how our political and constitutional system deals with communities, with people whose identities are communally defined. It's awkward, and in some ways the thinking that we have on this is just not coming up with very good answers.

One of the ways in which our system deals with diversity is by trying to package diversity in provincial boxes. In other words, we want to define diversity in regional or territorial or provincial terms, and if we can only understand diversity that way, then we can solve the problems. For example, when we had what was essentially a linguistic, ethnic, and religious diversity at the beginning of Canada between what is now Quebec and the rest of English-speaking Canada, we said: "Let's package it as a regional question. Let's understand this kind of diversity in

regional terms, and then we can use federalism as a solution to it." That has not done us too badly over the years, but I think it's proving a little bit inadequate for many kinds of diversity that now exist in Canada.

Now, I'm going to just leave that and focus on one aspect of the paper that I wrote, and that is electoral reform. As you've just heard, democracy and the relationship of representatives to voters is a difficult issue. It's really very much at the centre of the debate right now in Canada, yet electoral reform is not something which is discussed very much. Why? Well, we have the habit of again packaging everything in terms of federalism, and so much of our debate is focused on the division of powers. I would like to suggest that electoral reform would help to reflect more of the kind of diversity that Canada presently contains, because the more we focus on regional diversity and the more we try to package a nonterritorial kind of diversity in regional terms, the more short we come up, the less representative our politicians are, and the more likely it is that diversity is going to be expressed outside of the parliamentary arena. I'm not sure that's good for the political system as a whole. I'll come back to that in a minute. I'll just say right off the bat as well, of course, that there's a lot of resistance to electoral reform, because all of you around the table here are the beneficiaries of the present system. So I acknowledge that there might be just a little bit of resistance there. However, as Mr. Elton has said, the more we are tied to the status quo, the sooner this country is going to sort of fragment in our hands. So we have to take some serious looks at some serious reform.

Three major problems, I think, exist with the current electoral system, and by the current system I mean the single-member constituency plurality system. The first major problem is that it aggravates regional conflict in this country, and it does so in the following way: it encourages electoral success among minor parties whose support is regionally concentrated. If you look at all the electoral data throughout Canadian history, we find that parties whose electoral support is perhaps substantial but yet diffusely distributed across ridings in Canada are very under-rewarded in terms of the seats they get in Legislative Assemblies. We also know that, historically, major parties have been shut out of certain regions despite significant electoral support in the regions in which they have few or no seats at all.

What this means is that if someone is considering how they can make a dent in Canadian politics, how they can be active in Canadian politics, the electoral system forces them seriously to consider phrasing their ambitions, their concerns, and their issues in regional terms rather than nonregional terms. That way the likelihood of electoral success for them increases. So what we have, then, is an electoral system in this country which exacerbates regional conflict rather than — it represents regional conflict among all the other kinds of conflicts or cleavages that do exist. That's a significant problem, because we always, you know, whine about how regional problems are at the centre of the Canadian debate. Well, we have some mechanisms which perhaps make these conflicts more important, more salient than they really are.

9:40

The second major problem flows from the first, and that is that the electoral system stifles parliamentary representation of political diversity. Here the converse of the first point is also true, that minor parties with diffuse electoral support across all constituencies have very little chance. For example, if a party that runs nationally in an election has 20 percent electoral support across the whole country and if that 20 percent of

electoral support is distributed evenly across all 295 constituencies such that candidates in each riding get 20 percent of the vote in each riding, how many seats will that party get? Zero. Certainly it will get zero seats, and the primary arena in which political diversity ought to be represented – namely, the Legislative Assemblies or Parliament in Ottawa – does not actually have political diversity in the country represented in it. What that means, I think, is that diversity doesn't go away as a consequence; it just gets expressed in different ways.

For example, I would suggest that the proliferation of interest group politics in this country is a consequence of the failure of the electoral system to reflect the diversity of Canadians in the parliamentary arenas designed for that purpose. I would also suggest that people are more inclined now to use litigation, particularly of Charter rights, as a way to express diversity and to seek recognition of diversity, because their chances in the electoral arena are marginal. I would also suggest that one of the reasons for calls for Senate reform has to do with the inadequacy of the electoral process in representing diversity as well. It may very well be that interest group politics, an increasingly litigious political culture, and perhaps even some of the arguments for Senate reform are not the most efficient ways to go about accommodating diversity in this country. Let's have a hard look at electoral reform.

The third major problem with the electoral system is that it tends to produce cynicism among electors. You're probably blue in the face now after hearing about all the cynicism of the electorate in this province and in this country. I'm sure you've just had earfuls last night, and you're probably going to get a lot more as you travel around. That, I think, also has a root, at least in part, in the inadequacy of the current electoral system. The problem is that when people look at the distribution of seats in the Legislative Assemblies, they say, "Gee, that sure doesn't reflect my sense of public opinion in this province or in this country." They also see, when they compare the popular vote a party might get to the number of seats, the percentage of seats that party gets in the House, that, "Gee, there just isn't a link between the voter and the party." That's, I think, a very difficult problem.

If we look, for example, at how many times a majority of electors actually voted for the majority party in a federal election, it only happened three times in this country since 1921. That's not a very good record. On all other occasions a minority of the electors actually voted for the winning party in the House of Commons. If we look at this province in its elections, we also see that the winning party has consistently been overrewarded in terms of the percentage of seats over its percentage of votes. Probably the most extreme example of this phenomenon occurred in 1982, in which the Progressive Conservative Party garnered 62 percent of the vote across this province but managed to win 95 percent of seats. The consequence was that other parties got significant percentages of the votes but, in some cases, a very small percentage of the seats or, in some cases again, no seats at all. Eventually, these kinds of consequences will percolate somehow, and what they will do, I think, is diminish the legitimacy of the Legislative Assembly in the eyes of voters. That's a consequence we cannot afford to perpetuate.

I'd also mention just one point about your discussion paper, and that is that a question actually is asked about electoral reform, and I think that's good, because it shows some thoughtfulness on the government's part. On the other hand, proportional representation is associated with government instability, so the suggestion is that the current system, for all its foibles, produces stable governments, stable majority governments, which

is a requirement for parliamentary democracy, and that proportional representation is associated with instability in parliamentary government. Well, as it happens, between 1957 and the present, in federal politics anyway, there have been 12 general elections; six of them have produced minority governments. So we cannot associate the current system so obviously with stable majority government and the alternative with unstable government. Proportional representation is used in many countries, and it's working just fine, thank you very much. Furthermore, it's possible that a move toward proportional representation doesn't mean we have to throw out the current system altogether. Many highly regarded commissions have suggested electoral reform which would mix some measure of proportional representation with the current system. Pepin-Robarts is the national report of 1978 that comes to my mind on this point.

So it can happen, and the beauty of proportional representation for this country, of course, is that it means that no one's vote is wasted, so everyone's votes get reflected. It also means that if we have a significant percentage of votes for a party in a region which is otherwise shut out in terms of seats, a PR scheme of some kind will ensure that a representative will sit in the House of Commons from that region just because of the percentage of votes that party got there.

I don't want to talk too much about the mechanics of proportional representation, because it's highly complex. I think I read somewhere at one time that there are about a thousand different variations on the PR scheme, so let's not get into that. But what I would like to impress upon you is that the electoral system requires your attention. The book is open on the Constitution in this country, and you're being asked to consider just about everything under the sun. My appeal is that you don't forget about the electoral system in the process. It's going to require some courage, I think, on your part. Why? Well, because you're the beneficiaries of the current system, but a little courage never hurt.

MR. DEPUTY CHAIRMAN: Thank you.

Dennis.

MR. ANDERSON: Mr. Chairman, Tom, you've outlined very articulately many of the benefits of a proportional representation system. As you say, there are many throughout the world, and some united with single transferable ballot mechanisms. The aspects that you didn't deal with that maybe I could ask you to speak to, though, are . . . During these hearings, as short as they've been to date, we've heard complaints about the party control system and more of a desire for individuals to be able to speak on behalf of constituents. At least by most systems of proportional representation, you would have, the way I understand it, more control by the parties and therefore less by individuals. Also, you would move away from the representative of the riding per se and into representatives of the parties on a more provincial or national basis. Do those aspects concern you at all?

9:50

MR. BATEMAN: Yeah. Good questions. I think the problem is not party discipline; the problem is the nature of parties to which discipline is required. There's no question that proportional representation in many schemes does help to solidify the element of party discipline. For example, in a common mechanism, the list system, in fact it's the party that draws up the list of candidates in ranked order in a multimember constituency, and people vote for the party, not for a representative. So that's a

pretty strong relationship between the representative and the party.

I don't think that's a bad thing. Government has to be workable, and party discipline is, I think, a necessity in a parliamentary system of government. But the beauty of PR, you see, is that it allows for the development of different parties reflecting different views of things. It's very responsive even to small degrees of support for a political agenda. For example, if regional concern was salient, then PR would accommodate a party with a regional agenda. On the other hand, if a party, for example, submitted a list of candidates in an election which voters did not regard very highly, chances are that party would not garner the number of votes that it would otherwise if it had a more palatable list of candidates put up. So the connection between the candidates and the electors is not severed by any means in a PR system. Also, I think in the Canadian context a mix of the current system with PR ensures that the link between the elector and the representative also is not linked. It's an add-on to correct some of the problems of the current scheme.

Direct democracy, you see, is a beautiful slogan, and we can talk about referenda, and it all just sounds so great, but actually that is not a panacea in my view at all. Who writes the questions for referenda? When are the questions asked? What kind of information should electors have at their disposal when they're asked questions? You see, referenda sound beautiful: more power to the people, the flowering of democracy and all that kind of stuff. The reality is, I think, quite to the contrary. If we look at California, for example, and if we look to electoral participation rates in the United States – which is mechanically one of the most democratic countries because you can practically vote for your dogcatcher in many places in the United States – they have incredibly low participation rates. People don't vote. You know, when you get information this thick for the different propositions that voters vote on in California referenda . . . I don't think referenda are a panacea by any means, particularly with the complexity and the interrelatedness of issues that our governments deal with these days.

MR. DEPUTY CHAIRMAN: Our questioners list has exploded. Would you kindly keep these tight, please?
Sheldon.

MR. CHUMIR: Tom, you referred in your paper here to a need for a minimum level of services for all Canadians, regardless of province of residence, as being just and entirely in keeping with a sense of political community. I'm interested in this centralization versus decentralization, particularly with respect to medicare and social programs. I'm wondering: are you supportive of a continuing federal role with respect to minimum standards?

MR. BATEMAN: Well, I certainly would not support the emasculatation of the federal government in the constitutional changes that are upcoming in this country. Some kind of constitutional reform along the lines of the Allaire report, for example, would be a balkanization of this country. Health care and shared-cost programs in general are difficult because we know historically that some very positive innovations in the field of social programs have occurred at the provincial level. There is that experimental side of things, which is useful to have. It's useful to keep some of the opportunities for that experimentation alive, and by doing so, you preserve provincial jurisdiction along that front, but some minimum level, some minimum national standard I think is required. Some minimum degree of

portability is required in order for Canada to remain a political community. I'm not interested in overweening federal dominance, but some minimum standard, I think, is perfectly in keeping with Canadianism.

MR. CHUMIR: Do you see this being done by the federal government as opposed to a voluntary co-ordination between provinces?

MR. BATEMAN: Well, in some ways that's a false distinction, because federal intransigence and coercion on these things – it doesn't work, actually, and there will have to be co-ordination.

MR. DEPUTY CHAIRMAN: Barrie.

MR. CHIVERS: Tom, in your brief you spoke of support for the concept of aboriginal self-government. I'm wondering how you see that concept integrating with proportional representation.

MR. BATEMAN: Yes. Another excellent question. I haven't thought that one completely through, actually, and in fact the whole concept of self-government, as you're aware, is very complex and requires a lot more discussion than can be encompassed in one paper. How it would work with native communities is not crystal clear, but what I can say in general terms is that if nothing else is done on behalf of native people in this country, the PR scheme certainly would allow for a party, for example, to emerge with justice for native people as its primary agenda. That possibility does not exist with the current system. So that kind of thing is possible, everything else aside. I know that some provinces are talking about setting aside a certain number of seats for representatives of native peoples so that they would overlay like another level of constituencies over the existing level of constituencies, but this new level of constituencies would be for the election of native representatives by native peoples themselves. I think New Brunswick is thinking of something along that line; that's aside from the PR question. I don't know enough, actually, about that subject to comment on it.

MR. CHIVERS: If you would like to submit further comments on it, please do in writing later on.

MR. BATEMAN: Okay.

MR. DEPUTY CHAIRMAN: Bob.

MR. HAWKESWORTH: Thanks. I appreciated your comments about proportional representation. I think it's fair to say the practical result of that would be perpetual minority government in Canada. By adopting . . .

MR. BATEMAN: Well, we're going to get that anyway, you know. If things continue as they appear to be going now in Canadian politics, with the Reform Party out west, Bloc Québécois in Quebec, we're heading in that direction anyway.

10:00

MR. HAWKESWORTH: Well, one thing I've learned is that you can't predict the future particularly well in politics in terms of electoral success. The question I have: given the likelihood of this structural change you're proposing, this perpetual minority government, what's the role of the Senate in all this?

Is it abolished? What happens to it? You could have basically a hung Parliament forever if you're not careful.

MR. BATEMAN: Sure. Okay, let me just comment on your premise. It's really quite startling to think that in Canada since 1957 we've had six Parliaments out of 12 with minority governments. The reason it's surprising is because we associate minority government with instability. We had a little bit of that between 1979 and '80, but actually a minority government doesn't necessarily mean hung Parliament. It doesn't work that way necessarily. We've had examples of minority governments in Manitoba and Ontario recently. Those were not wholly objectionable forms of government. You see, the thing about proportional representation and the possibility for a minority government is that it doesn't present a false veneer of consensus or homogeneity. It reflects the diversity that is out there; if you like, it takes it seriously, it makes it public, and it puts the diversity in the arena, in the forum best designed to accommodate it. So what we have then are representatives of parties who say, "Gee, we've got some differences, and if we don't conciliate them for the purposes of this budget, this set of policies, we're going to have to just dissolve Parliament again and go through another election and perhaps perpetuate the same results." These are strong incentives to say, "We've got differences, we have to recognize them, and yet we have to work together in spite of them and move on."

MR. DEPUTY CHAIRMAN: With that I think we're going to have to move on. We've now done two presenters when we should have done five, and it is now 10 o'clock, so we'll thank Tom Bateman and ask Harry Palmer to come forward.

Good morning. Welcome.

MR. PALMER: Good morning, Mr. Chairman, ladies and gentlemen.

MR. DEPUTY CHAIRMAN: Proceed. Time is running.

MR. PALMER: Okay. All right. Some time ago I made a presentation to the Alberta task force on constitutional reform and submitted a 30-page paper, and that paper was entitled Canada's Future and Constitutional Reform. Subsequently, I'm now speaking on behalf of a very embryonic organization called Canada Ensemble, and this paper I'm going to speak from today is an updated and very small piece of my original 30-page paper. The paper today addresses a special elected assembly for rewriting the Constitution of Canada.

Now, I guess when you start out on these things you always want to make sure you ask lots of whys: why this, why this, and so on. Of course, the first question is: why write a new Constitution? The country is full of people now who are wanting to change the Constitution. I am certainly one of those that believes in the idea of at least, shall we say, cleaning off the blackboard and looking at what alternatives are available to us, recognizing that in the realities of political science, political life, we'll eventually get whatever we get. The thing is that the starting point is: let's clear it off now. We've got this big dilemma; there is a crisis; let's look at what hopefully are the ideal solutions.

Coming back to the question of why a new Constitution, I'm going to put one question or one point to you, and that is that I would guess there wouldn't be 2 percent of ordinary Canadians at the most who have ever read the Canadian Constitution. This is not a statistical analysis, by the way; it is only my estimate.

But I would guess that of the 2 percent that have read it there may be only 2 percent that may have some understanding of what the Canadian Constitution is.

Now, I guess we know that it doesn't matter how simply and how concisely a Constitution is written; eventually the lawyers, the politicians, and the judges will take whatever document we have and it will be interpreted on the existing words. The point I'm trying to make here, though, is that ordinary people just have no real sense of what our Constitution is about. So that's the focus I want to put on here right now, as to why instead of the Constitution Act from 1982, the Constitution Act of 1867, and - I don't know - something like 26 attachments to the Constitution Act of 1982, we should have a new Constitution, one document, complete, concise, and understandable to the people.

MR. DEPUTY CHAIRMAN: As our colleague here who favours writing things in plain English, that's what you'd like to see, a new document in plain English.

MR. PALMER: Yes, exactly, so the ordinary people could get some sense of it.

MR. DEPUTY CHAIRMAN: I should say "plain language."

MR. PALMER: Yeah. It could be in English and in French.

All right. So that's the focal point at the moment. In my 30-page brief earlier, there were a lot of changes I'd proposed, but there's no time to address those things today.

The next thing is: why do we need a special elected assembly? I want to read these off. The first is that Parliament and the provincial Legislatures are twisted up and distracted with constitutional matters to the detriment of other necessary national and provincial business. We're spending a lot of time on that and not necessarily being able to spend our time - when I say "our time" I'm talking about you people - on the other very important parts of running the government as it exists.

Another reason for this assembly would be to protect the process from destruction caused by changes of government at the federal and provincial levels. You know, that's part of what caused the failure in the Meech Lake accord. There were many reasons obviously, but one reason was that there were changes of government as the process was ongoing, so when people thought they had agreement they lost it. You can see the same thing is going to happen again if we're going the same route; the timing of the changes of government is going to foul us up again.

The other reason for the assembly is to have a more collegial, nonpartisan forum to develop a consensus from all parts of the nation, and I think there's a way of getting a collegial, nonpartisan forum.

Also, the assembly would, I think, be the most credible way to override the existing amending formula in the event that proposed changes would be subject to the unanimity portion of the formula.

I realize that there's only part of it that is subject to unanimity, but if we have an assembly going, I would suspect they'd want to be able to deal with everything. They could very well run into unanimity. Unanimity has been achieved before, but it's again terribly difficult.

10:10

Finally, the credibility of the process legally and politically I believe will come from the fact that it is elected and there is a

ratification process at the end of it. The referendum comes at the end, not at the beginning. The purpose, then, is to serve Canada while recognizing the distinct characteristics of each province. As I said earlier, I guess we want to be sure the Constitution ends up as a single document complete, concise, and understandable to the public. The process has got to provide all Canadians a fair opportunity to participate in that change. I'm not proposing that day by day somebody has to respond to whatever is going on in the assembly, but from time to time when the assembly itself has, shall we say, bits of consensus, they should be able to lay it out and give the public a chance to digest it. When I use that expression "digest," I realize in terms of timing an assembly itself, because of its small numbers and working together, could probably rewrite a Constitution relatively quickly. I'm talking now a matter of months. That is not where the time is going to be required. The time is going to be required in the digestion of what they find and sharing it with the public and getting it understood and eventually agreed.

Now, in terms of representation, I'm proposing a representation that's equal for all provinces, the territories, and the aboriginals resident in the provinces. I'll speak to that particular component. Specifically I'm looking at aboriginals as having land. They have more land than the smallest province; let's put it that way. They have more people than the smallest province. So I'm looking at them in the context that they're a little bit like a province. They're not governed like a province, but they are represented like a province in the sense that they represent land and people and they have enough significance there that I think that's the way they should be represented. I speak to them as representing aboriginals resident in the provinces, not in the territories, because in the territories – certainly in the Northwest Territories and partly in the Yukon – there is a strong aboriginal component in the government in the first place. In a sense they are represented there.

The election of representatives. I guess probably you've heard the expression – I think it was Boss Tweed, one of those machine bosses, I think, in New York, who said: I really don't care who does the electing as long as I do the nominating. Of course, that's always the dilemma people have. I mean, even under current situations people say they don't really have a choice, and of course they don't have a choice if they didn't get involved with a party and help select nominees. Anyway, that's obviously one of the dilemmas in forming a constituent assembly. How do you get the nominees? The trick, of course, is to find people who are nonpartisan, who are relatively arm's length, if you will, from the current incumbent political situation. In this proposal the incumbent politicians would be ineligible. Again, I'll use an analogy. They're a little bit in the position of the farmer trying to pick up the bale of hay he's standing on; you can't do it. I think Dr. Elton perhaps spoke more eloquently than I did on that subject. But because of the very nature of the Constitution, I think in today's Canada and today's perception of our representatives – what they do, what they can do, and what the people want – it would be very important that the assembly be elected from another group. It needs to be elected, though, to help the credibility of the end result. You get that credibility and the end result from the election at the beginning and the ratification at the end.

In the paper here I propose two ways of selecting the nominees. One method is to use the current parliamentary committee that traveled around Canada and listened to people representing the questions of the amending formula. It was a multiparty committee, and they had the experience of meeting a lot of

people across Canada who presumably had some experience in constitutional affairs. Probably one of the problems with that method of selection is the fact that they were dealing maybe more with experts than with what we necessarily would need to write a new Constitution. Again, experts can be called upon, but we really need people with wisdom and depth and different points of view.

The other method I've suggested here, is one that uses the Order of Canada. As you well know, there are about 2,100 living members of the Order of Canada today. They exist in all the provinces. They've been selected over a long period of years. They are unpaid. They have their position, and it's an honorary position. They get a medal, maybe the only tangible thing they get. They normally are never involved directly as members of the Order of Canada, but this again comes to the question of maybe it's the first time. What I'm calling for or suggesting is that the members of the order in each province would form a nominating slate of seven, and then their committee would shut down. The nominating slate would go to work and spend at least a month selecting nominees. I was looking at six representatives from each province, and I'm suggesting a selection of 12 people who would be nominees to be elected to the special assembly.

MR. DEPUTY CHAIRMAN: Mr. Chivers.

MR. CHIVERS: Yes, I just wanted to pick up on that last point that, from reading your brief, is indeed your proposal: six from each province, six from each territory, and six for aboriginal people. Now, that's exclusively representation by region. It takes no account of representation by population. Don't you see some difficulty there? Dr. Elton in his submission suggested that it should be a combination of representation by region and representation by population. Would you agree with that?

10-20

MR. PALMER: No. I think representation by combination of territory and the representatives of that territory is appropriate. When you go down the line it may be that's where a compromise comes. But my position is: why compromise to begin with? Why don't you start with what you think is right? What I think is right is equal representation.

MR. CHIVERS: Thank you.

MR. DEPUTY CHAIRMAN: Mr. Day.

MR. DAY: Just quickly, what you're asking, Harry, if I follow you on this nomination process for the constituent assembly, is that you have first one layer of people who are not elected, the Order of Canada; a nonelected layer nominates another nonelected layer which would be the nominating committee, who then would select candidates. So you would be presenting to the electorate a third layer of nonelected . . . You've gone through three layers of appointed people, not elected. You're asking them to be nonpartisan, and then you're asking the people to vote. I need some help with that. How would people have any sense of how these people they're going to elect are going to pull together something like centralized government vis-à-vis decentralized government, that type of thing?

MR. PALMER: Well, I think the nominators will have to lay out statements of why they chose. What are the credentials of these people? Not only what are their historic credentials, but

why are they being selected to do this job? That should be a statement laid out so everyone would know why the selection was made.

MR. DEPUTY CHAIRMAN: Mr. Anderson.

MR. ANDERSON: Mr. Chairman, my question follows on Mr. Day's. An interesting approach and some unique thoughts there, and we certainly need all of those that we can get. The use of the Order of Canada: I don't know that those individuals have any particular understanding of constitutional needs that wouldn't be in any other group. They've been chosen because of their particular dedication to Canada in different respects or achievements in science and health or . . .

MR. PALMER: Sports.

MR. ANDERSON: . . . exceptional bravery or many others.

MR. PALMER: Politics and business.

MR. ANDERSON: Some in politics and business. But I don't know that the public would see them as a group representing the public in making those kinds of choices. That's of course the problem we get into: who decides what? Right now we have people elected by an electoral process supposedly to make decisions with regard to the country and the province. Finding another mechanism for that is a challenge, and making sure that in finding the mechanism we aren't losing all the information that would go into creating this new Canada or new Constitution is another challenge. We could discuss that aspect for some time and probably will over the next few months.

The portion dealing with native representation: I didn't quite understand how that would work. We have native people from a variety of different backgrounds in different circumstances across the country who don't necessarily agree one with the other on the direction that should take place any more than many of us in Alberta don't agree one with the other. How is that choice going to take place? Could you just define that a bit more?

MR. PALMER: Well, I think obviously we would have to get advice from the leadership of the aboriginals resident in the provinces. There are structures there now where they could speak to that. I certainly wouldn't pretend that I could choose that, but I think they could.

MR. ANDERSON: Okay. Thank you.

MR. DEPUTY CHAIRMAN: Thank you very much, Mr. Palmer.

I'd ask Dr. Karen Taylor-Browne to come forward on behalf of the Council of Canadians of Calgary. Welcome.

DR. TAYLOR-BROWNE: Mr. Chairman, lady and gentlemen, my very brief submission to you today will certainly advance the speed of your process.

The Council of Canadians is a national organization which represents approximately 20,000 individual Canadians who live in all regions of the country including Quebec. Its goal is to contribute to Canada's democratic development and to the enhancement of its political, cultural, social, and economic sovereignty. Its individual members are dedicated to safeguarding our rich national heritage through preserving and enhancing

our distinct identities and our sovereignty. We believe that as Canadians we must take our destiny into our hands so Canada can continue to play a constructive and respected role in the community of interdependent nations.

In pursuit of these objectives, the Calgary chapter of the Council of Canadians has become actively involved in the current constitutional debate. Our exclusively volunteer executive has organized meetings where our own members as well as the general public were able to meet commissioners from the Citizen's Forum on Canada's Future. We've obtained copies of the discussion paper produced by the Constitutional Reform Task Force of Alberta and distributed them to our members. We've encouraged our members to read the transcripts of the task force round table discussions. However, unlike organizations such as the Business Council on National Issues, we have not been able to sponsor symposia where our members could obtain the information we believe we need to have in order to answer the questions posed in the discussion paper Alberta in a New Canada. We sincerely regret this, and we hope that in the future we shall be able to remedy this situation so we will be able to develop a coherent and well-articulated position on the Constitution that has the support of all our members.

This brings us to the substance of our present brief. The Calgary chapter of the Council of Canadians has asked to appear before the Constitutional Reform Task Force of Alberta in order to express to you our concerns about the process the government of Alberta has chosen to use in developing an Alberta position on constitutional reform. Our observations about the substance of the constitutional position will be rather limited and general since we believe in having a democratic process and having participation and agreement of all our members, and we don't believe that's been able to occur in the limited time we've had available to us.

In the preface of the transcribed proceedings of the round table discussions of the Constitutional Reform Task Force of Alberta held last November, the mandate of the task force and the process it would follow were described in the following way:

The government of Alberta established a Constitutional Reform Task Force to examine the province's future in Confederation. As a first step in the process, the Task Force is holding roundtable discussions with constitutional experts on the changing nature of federalism.

As a second step, a discussion paper . . . on the roundtable meetings will be issued to Albertans. Thirdly, full public hearings will be held throughout Alberta in order to develop an Alberta position on constitutional reform.

Finally, recommendations will be submitted to the Legislature for full public debate by all parties.

In the introduction to the first of the round table discussions, the Hon. James Horsman elaborated on this process and suggested that

Once that discussion paper has been prepared for consideration by Albertans, I hope that we will at the same time have devised some fundamental questions we'll try to have . . . posed.

We have the following observations to make on this process. To begin, we believe that the publicity concerning the task force and its purposes has been far too limited. The discussion paper developed by the task force does not appear to have been circulated as broadly as possible so that all Alberta households will have the opportunity of responding to the questions.

More importantly, Albertans have not been provided with the information they need to answer the question posed in that document. Although average Albertans were not prevented from attending the original round table discussions, they were certainly not encouraged to participate. The meetings were held at times when few people would be able to attend. The

locations where the meetings were held would not necessarily accommodate large numbers of observers, and the individuals who did attend could not become directly involved in the discussion on the questions they presented in writing, even when those were misinterpreted by members of the task force or the expert contributors. We believe that if the government were truly interested in involving average Albertans in the articulation of a constitutional position, they would have held well-advertised public forums so that people would become better informed about the issues. We also believe that they would have included at least one more step in their deliberation process.

10:30

Based on the outline of the process it appears to us that once the present hearings have been concluded, Albertans will have no further opportunity to participate directly in the involvement of the province's constitutional position. We find this unacceptable since it means that we will be unable to scrutinize in detail the final position adopted either by the government of Alberta or the government of Canada or other governments besides Quebec. Our government could once again go behind closed doors to reach a constitutional agreement we find unacceptable.

We believe that if the government had been truly serious about having its citizens participate in the constitutional process, it would have provided for an ongoing constitutional process, and we would like to see it commit itself to doing so in the future. As it is, we can at very best try to guess what type of position the government is likely to take once the hearings are concluded. If past performance provides a reliable guide, we believe that the position will not be one with which the Council of Canadians will agree.

In keeping with our organization's objectives the Calgary chapter of the Council of Canadians believes Canada's integrity as a sovereign nation can best be achieved by having a strong central government. Although we share with many other Canadians a profound dissatisfaction with many policies developed by the federal government, we are not convinced that our provincial governments will necessarily do a better job. Without radical reform to our system, which we believe may not be possible in the time constraints that are facing us between now and 1992, we believe there needs to be a continued series of checks and balances provided by the distribution of powers that are currently in place.

We do not believe that in the current world of rapid transportation and communications Canadians need to have more regional identification. In fact, we believe we have more in common with one another now than we have ever had in the past. Furthermore, the high mobility of our population would suggest that Canadians are becoming less attached to specific regional interests. Relationships between Canadians across the country have been formulated within and without the constitutional provisions of the Charter of Rights and Freedoms. We believe that the guarantee of mobility included in the Charter of Rights and Freedoms will contribute to that as well and will ensure that the level of this mobility will continue to increase.

We would note in this regard that as one of the provinces that has been a net receiver of migrants from other provinces, Alberta has a particular interest in ensuring that the standards of education and manpower training remain high and uniform across the country. We might wish you to consider the fact that when we complain about the level of contribution Alberta makes to the national equalization schemes, we may well profit indirectly from those schemes.

MR. HAWKESWORTH: Could we have a copy of your presentation?

DR. TAYLOR-BROWNE: I'll bring you a copy of my presentation this afternoon. I'm also presenting something on my position in my own right.

MS BETKOWSKI: Firstly, on the process, we don't rule out the possibility of more hearings, and 1992 is not a deadline that we've imposed. I think part of what we've heard here is: this is urgent; this is not urgent. But the process is going on, and we're certainly looking at how we might improve that process. So I don't want to rule that out, in terms of your comments.

When you spoke of the objectives of the Council of Canadians, you used language like "distinct identities" and "sovereignty." I was struck by the words, because one of the things we're hearing is that some of those words have a very different impact on people, especially the word "distinct" if we simply harken back to Meech. Yet you talk about people being less attached to specific regional interests. I'm just trying to understand the link between those two points of view.

DR. TAYLOR-BROWNE: The current position that the national council of the Council of Canadians is taking has been to use outreach through individual organizations that have interests that span national boundaries and even international boundaries. We believe that in doing so, we have been able to reach and we are being able to reach people in Quebec who share with us some of the same problems that are found anywhere in the country. Consequently, we do not believe that emphasizing regional differences, emphasizing of provincial integrity is necessarily going to solve the problems, that it is an alienating process for many Canadians.

MS BETKOWSKI: So if I can just understand, the distinctness of which you talk is not geographic. Or the sovereignty is not geographic; it's more in terms of interests and issues of individuals.

DR. TAYLOR-BROWNE: We believe that's the case.

MS BETKOWSKI: Thank you.

MR. DAY: I really appreciate your concerns with the process, so I want to ask honestly and sincerely, first, to give you some background and then say "What more can we do to improve?" Because with the whole Meech Lake situation we are very concerned about the participatory democracy aspect of this and want to make sure all Albertans have input.

The first phase of the hearings, as you already indicated, was advertised. Turnouts were low. It was televised. I don't know how many watched it when you have other exciting things to watch. The response to this brochure that's gone out has been in the thousands in terms of people phoning in, and already there've been hundreds of submissions come in. As individual MLAs, of which there are 83, most of us have questionnaires in our own constituencies more or less based on some of these questions. An average response should put it somewhere in the 50,000 range around the province coming in on those.

So I'm asking in all sincerity: please tell me what more we could do to improve the process.

DR. TAYLOR-BROWNE: The main misgiving we have is that the document you have provided is extremely general. It does

not provide any direction. Consequently, anybody who is not an expert on some of these points of view will be voicing opinions that are reasonably uninformed. We have attempted to gather enough information amongst our own membership to be able to disseminate information, but this is not something that is easily done by a volunteer organization with limited funds.

MR. DAY: Do you feel, then, that we were too conservative, if I can use that word? In putting out the brochure, we didn't want to ever be accused of leading people, so we made it general. Were we too conservative?

DR. TAYLOR-BROWNE: Not necessarily, but I think the document in and of itself, without the support of forums where people could go and be exposed to experts in these areas – that they are articulating positions that may be prejudiced and may not have any foundation and any real knowledge.

MR. DAY: Okay. Thanks.

MR. DEPUTY CHAIRMAN: Thank you very much.

Our next presenter is Clive Mallory of the Riverside Exchange, which I understand is a Liberal Party policy-making group.

MR. DAY: They're not leaving you, are they?

MS BETKOWSKI: The only Liberal on the committee is leaving.

MR. MALLORY: They all know what I'm saying.

MR. DEPUTY CHAIRMAN: Welcome.

MR. MALLORY: Thank you. Would you like me to read or introduce myself or what?

MR. DEPUTY CHAIRMAN: Well, the forum is yours, Clive.

MR. MALLORY: Okay. I've been a Liberal for the last innumerable years. I am an antipoverty advocate in this city. I facilitate the Calgary poverty focus group, and I'm on the executive committee of the National Anti-Poverty Organization. Some people say that my political persuasion should be further to the left, but for historic, philosophic, and pragmatic reasons it continues to be Liberal.

On behalf of the Riverside Exchange I would like to thank you for this opportunity to make this submission to the Alberta select committee on constitutional reform. The Riverside Exchange is an informal policy development group of Calgary Liberals. We meet regularly and provide input to the Alberta Liberal Party and the Liberal Party of Canada on policy matters affecting Alberta.

One, we believe that no government in Canada presently has a mandate to alter the Constitution. The results of the constitutional reform attempts of the last few years have clearly indicated how disaffected many Canadians were with the process of Constitution building, a process that excluded the public. All Canadians should be afforded the opportunity to choose their view of Canada. Be it in a general election or through a more direct vote, let the people decide.

10:40

Two, we believe that an overly decentralized system of government is unstable and ill serves the people of Canada. The tests of history and common sense have shown the dangers of balkanization. Some of the constitutionally decentralizing proposals that have been recently forthcoming would result in a Canada that would be a fraud on its citizenry. Canada would become a country without the attributes of a nation. We would have a country without a national government capable of governing. We cannot be a country unless we behave as a country.

Three, in order to maintain a Canadian integrity and sovereignty, we must have a strong but representative national government. In order for the national government to be strong, it must have adequate jurisdictional capabilities in the areas of national defence, the environment, and the economy. The national government must be truly representative, more so than the present central government, in order that its strength in these areas of jurisdiction is utilized for the whole country, not simply for vested interests or powerful elites.

Four, the only way to resolve our current debt and deficit situations is through a central government that has the economic tools to effect change. To its existing jurisdiction over the fiscal and monetary policy the national government must add a rationalized if not increased jurisdiction over interprovincial trade and commerce in both goods and services. Many of the existing nontariff barriers to interprovincial trade are plainly and simply detrimental to the interests of all Canadians.

Five, the only way to meet the challenge of creativity in business, the challenge of efficiency of administration and planning for the future in health care, education, and social services, and the challenge of sustaining our environment is by way of a strong central government.

Six, Canada was created with the historical promise to protect the French language and culture. We must honour that promise because it was a promise made to individual Canadians and because it was a promise affecting their rights. It was not a promise made to any government, and we must honour that promise without sacrificing our viability as a nation. Bilingualism in practice has its flaws, but bilingualism as a national policy is honourable, equitable, and workable. Let those who argue otherwise prove their case with facts, not platitudes.

Seven, it is folly to make radical changes to the Constitution without radical reasons for doing so. While the Canadian Constitution is in need of revision, we as Canadians are excessively naive in recognizing our accomplishments and our achievements. We must better understand ourselves and our institutions before we discard either. We should not do away with the current constitutional arrangements for the sake of constitutional wording that is imprecise and designed to obfuscate and paper over the very real differences among Canadians.

Vive le Canada.

MR. DEPUTY CHAIRMAN: Thank you.

Mr. Day.

MR. DAY: Thanks, Mr. Chairman, and thank you, Clive. Your comments about the only way to reduce debt would be to have a strong central government: as we saw, the debt really hit the spiral in 1969 under Mr. Trudeau's reign. It can be argued that it hasn't significantly dissipated under Mr. Mulroney's reign. The criticism that we hear is that those particular reigns were very strong; as a matter of fact, an order in council type of

directive, strong executive federalism. So are you saying that even though we had a massive debt increase, the problem then was that the central government wasn't strong enough, didn't have enough power?

MR. MALLORY: Well, I think it's a question of perspective. We tend to view people in this country as an expense item, whether it's on a corporate balance sheet or in a social program, rather than as an asset and an investment. We look at spending money on corporate structures in this country as an investment, but we tend to penalize people who need to be invested in. I think we need to have a real turnaround in how we look at those things. There needs to be a better look at how these programs can be more balanced in their financing. One of the things that has happened, for example, over the years since unemployment insurance was implemented: the Diefenbaker regime extended the groups that would receive benefits from the unemployment insurance fund but did not at the same time adjust how these payouts were to be balanced off by premiums and so on. It's been a downhill obligation since then.

From the perspective of national standards and a variety of other reasons, these types of programs should be there and have a proper financial structure built into them. With the fact that there are disparities in the economy in the country, a strong central government can more directly handle the disparities in the financing of these programs.

MR. DAY: Stronger than we've had, you mean? I'm trying to get a grasp on your suggestions of what we need to make stronger in the federal government, given the fact that the debt increased rather reduced. What particular areas?

MR. MALLORY: As I say, the way in which we look at these programs and set up the financing for them has to be changed. When people are taking away from the federal government, they want to see various aspects decentralized. That on balance destabilizes – that's the word I'm looking for – very much the power of the central government to maintain a standard and to invoke adequate revenue standards for these programs.

MR. DAY: Thank you.

MR. DEPUTY CHAIRMAN: Barrie.

MR. CHIVERS: Yes. Many of the presenters that we've heard from thus far have expressed to varying degree some support for the concept of aboriginal self-government and in some cases constitutional enshrinement of it. I'm wondering, firstly, whether you have a view on aboriginal self-government: what does it mean? If so, do you feel that there is a need for a constitutional enshrinement of it?

MR. MALLORY: I have great empathy and sympathy for the aboriginal situation in this country. One of the problems, as you point out, is an actual definition of what self-government and empowerment mean. I think that they do need some protection, some guarantees at the beginning. As I mentioned in my presentation, there were certain guarantees made to the Francophone population of this country. It is recognized in certain aspects of our present Constitution as it stands, and there needs to be a similar provision in any updated Constitution, as I see it.

MR. ANDERSON: Clive, you've hit dead-on the question of a centralized, stronger federal government versus others, probably more so than others who've discussed the issue over the last couple of days. So I guess this is an appropriate place to see how you feel about the differences in that philosophy.

An argument can be made that today, unlike a hundred years ago, we are a nation with evolving economies to meet the different needs of people in different parts of the country. We are a people who've evolved social systems in different parts of the country by constitutional authority that are different than in other parts of the country, and at the speed that the world is moving, it requires in fact increasing ability to have sensitivity to those changes at the level that's closest to the people. You would seem to be on the opposite side of that philosophy. I'm wondering how you'd answer to such things as the effect of the national energy program out of Ottawa on Alberta and the fact that we went downhill during that period. During this period, when the rest of the country is being perhaps curtailed by some of the national directions, from the GST on through to the interest rates – although that's improving – our ability to operate locally and to tailor our government directions for that has allowed us some buoyancy in this province which doesn't exist elsewhere. Is the centralization that you're talking about – the control in economy, environment, social services, health, education – going against the current trends of needing to meet those rapid changes in the area that's closest to people?

10:50

MR. MALLORY: Well, I think it's a danger in any sort of change we're going through to look at things in terms of polarized absolutes. My area is more in the area of social programs. Kenneth Dye in his last report talked about the Canada assistance plan, for example, and one of the problems with that is that there were not particular outcomes that were looked to. What are we as a nation doing? Are we looking at band-aids to look at immediate social situations or industrial policy or whatever, to favour a particular circumstance or group of people? I think there has to be more coming together and looking at what we want to achieve.

Unfortunately, needs assessment, to use another social term – every group has their own needs. Politicians have their needs to be re-elected every four years. Corporate structures need to meet the next balance sheet. I think we have to look down the road and say, "Where do we want to be 20 years from now? What adjustment programs do we have to build in?" and that sort of thing. How are tax initiatives today – whether we just throw them out, lay on stuff to solve a current recession, if you will – going to lead into where we want to be 20 years from now? I think that's the basic problem that we have in this country: we're not taking enough of an extended horizon view of all of these things. Also, the mutual impact: how does industrial policy impact on social policy and vice versa? That probably doesn't answer your question, but to me, in looking at a broader view, we have to do that.

MR. ANDERSON: No question that they're all inexorably intertwined. The question that we face now, one of the great questions, I think, in this discussion, is: do we want a vehicle of government which allows for the broadest possible variations in different parts of the country so they can meet the various needs, or do we need the strong central government to try and make all adhere to a general direction? The latter perspective I haven't

been convinced is in keeping with the rapid changes we need. I believe in the early days of Canada it was.

MR. MALLORY: Well, it's neither one nor the other, because each region has particular circumstances, as you indicate, but there are certain basic needs for sustainable development and the maintenance of human dignity and that sort of thing which are basic across the country regardless of where you are. Now, there are different aspects of that, as to what emphasis would be put on it and so on, so there has to be provision between people of goodwill. I'm not sure that provincial politicians and federal politicians always come together with goodwill, because they're trying to say that they are doing the best for their constituents in each case. I think we have to try and get over that and say, "All right; we have certain common needs in this country, but in X region or Y region there are these things which make it more difficult to achieve," or whatever. We have to have mechanisms for those kinds of input. As I say again, it's not a question of one or the other. We have to come to a consensus on these issues, much more so than we have in the past.

MR. HAWKESWORTH: I'm just wondering, Clive. I appreciate your presentation this morning. The Quebec Liberal government seems to be indicating that those areas of jurisdiction that are identified in the Constitution as provincial jurisdiction should be vacated by the federal government and areas of shared jurisdiction should be vacated as well. I don't know, if it ever comes down to negotiations, whether that will be the bottom line or not. Given sort of your point of view here about strengthening the role of the federal government, what, if any, do you see being the nature of an offer that might be made to Quebec as far as constitutional renewal is concerned? Given their stated point of view, where do you see us heading with negotiations between French and English Canada?

MR. MALLORY: Well, I am a Quebecker. I was on the front lines of the referendum in 1980. I think that one of the difficult problems in this country is that we see it either your way or my way or no way or whatever and both – I hate to use the term "both sides," but that's the way it comes out sometimes – tend to look at things that way. We use semantics and so on, and there are subtleties in translation and so on which make things more difficult. We also have the political realities involved, with different groups vying for ascendancy and that sort of thing.

As far as the recognition of local needs, I think it's a question of style, how these things are presented. I think there are certain basic standards that can be required and also leave considerable latitude for regional differences. One of the tragic things in this country, I think, is the lack of understanding of Canada in the last 350 or 400 years that it's existed. When I grew up and went to school in Quebec, the history of Canada that we learned was minimal enough, but my French peers were learning history, and we could have been learning the history of two different planets. I think we have to be very concerned about that, because both solitudes have a very different view of what this country is all about and what nation building is all about. I think that's one of the things that we have to deal with alongside of trying to come to terms with what regional differences there are in this country and attitudes.

That doesn't answer your question, Bob. I know that.

MR. HAWKESWORTH: That's fair enough. I share some sympathies with your presentation here. What I think we're grappling with is: what's that next step? How do we reconcile

those two differences, or are they so deep and so different that they are irreconcilable at this point? I don't know. I'm just wondering if you can give us some thoughts about how we bridge those two solitudes in the new Confederation.

MR. MALLORY: The differences in many situations are in many cases political rather than real, if I may be crude about it. I think the trends of people who are Quebec-watchers would say that the issue of sovereignty and separateness is declining and that the basic issues of economic viability and so on are in the ascendancy there. There is no question that the current structure cannot stand the way it is and the way it's interpreted. We have to first of all agree with each other as to what, in fact, each other is saying, because I think this is a barrier too. Sometimes it's a dialogue of the deaf.

11:00

MR. DEPUTY CHAIRMAN: Sheldon?

MR. CHUMIR: That's fine.

MR. DEPUTY CHAIRMAN: Pass?

Well, thank you very much, Clive.

The next presenter is Bill Stuart of the United Mine Workers. It's nice to have you with us, Bill.

MR. STUART: He's not going to question me, is he?

MR. DEPUTY CHAIRMAN: You know how to handle him.

MR. STUART: I wrote a very hasty report yesterday, and it's not worded quite the way that I would like. I know you're short of time, so I'm just going to highlight it anyway, and I'll give you a copy of it.

In 1987 during the Meech Lake negotiations – and since then but especially in 1987 – I made a much similar submission to the Official Opposition's hearings, and I've written other submissions to other hearings. What I've heard since from many people who made submissions to those hearings is that they'd had hearings, but they didn't listen, so I hope that this round of hearings will be a little bit different. Politics is like economics: it shifts back and forth like a pendulum. Since 1980 it seems that all politicians from all political persuasions and all levels of government are attempting to grab the constitutional pendulum and stop it where it will most suit their own benefit or their own purpose.

As I said, I'm going to highlight this, so if you're trying to follow, you're not going to be able to.

Canada is one country made up of many acceptable minorities, diverse regions, 10 provinces, two territories, 295 federal ridings. It's not just 10 provinces. It's not just a federal government. More than anything else, it's one Canada, and I think we have to remember that.

For my submission there are four areas that I would like to touch on: one, determining who the minorities are and what special status or privileges they should be granted; structure, involving patronage and political appointments; the amending formula; and who's in, who's out, and who decides.

First of all, on the minorities. I think for the purpose of this constitutional debate the term "minority" must be defined as any group who because of its natural or distinct difference from the rest would be precluded from mounting a successful political campaign to protect its existence from the majority. Canada must then determine what minorities are acceptable for that consideration. For that reason, I will not address women's

issues, women's rights, trade union rights, the environment, or economic or national objectives. They should be dealt with through the political debate and determined by the elected representatives who are subject to that debate.

The Constitution should be designed to incorporate the accepted minority factions to bring them under the shelter of the constitutional umbrella and to allow for the differences of those minorities that are acceptable to the majority to exist within that framework. What I'm saying is that we're finding that everybody wants to operate outside of the Constitution instead of finding ways to allow the minorities to work within it. I think that's important. There must be a vision by the political establishment throughout Canada at all levels to see Canada as one.

On the structure, I'm just going to go right to the resolutions quickly. For my money I think the Senate should be abolished. It's not a democratic institution. A triple E Senate would not be any more democratic. In fact, it would be less. To me a democracy is based on the constituents, the numbers of people, and if in Alberta we happen to fall short on the numbers, we don't have the right to direct the majority. Having said that, I think the Senate, the triple E or as it is today, would be absolutely useless. If it must be and it is appointed, then I would suggest that article 25 of the Constitution should be amended to read:

Be it resolved that Article 25(2) include the following addition:

Such submissions must be made to the Queen's Privy Council for Canada and be made public knowledge at least 180 days prior to acceptance by the Queen's Privy Council for Canada. Names submitted by a province may be withdrawn or reconsidered during that 180 day period.

What I'm saying is that what Turner did after his defeat in 1984 was a disgrace. Under this idea he would have 180 days. He could have made nominations, and the incoming government could have reviewed those to find out if that's really what this country wanted to do. In the same case, Mulroney's appointments for the GST would have taken 180 days of consideration before they could have been made.

Supreme Court appointments. I really have a problem with the Constitution as it appoints Supreme Court justices. They must be members of the Bar Association. I wish my union was as strong as the lawyers' union. If it were, the United Mine Workers would appoint the mine inspectors. The Cattlemen's Association could appoint the meat inspectors. There is no electoral body that actually governs what that organization does and what the court system does. If a politician does attempt to bring the views of his constituents to a judge, then he's asked to resign because he did it. There must some control, some mechanism for the electorate to oversee what the court system and the Bar Association are doing if they have that power.

I suggest there be a lay committee appointed by Members of Parliament to hear grievances of the legal system. In the same vein I propose the same resolution of a 180-day appointment period for judges as well as Senators to allow for reconsideration after elections.

The important part of what I want to talk to you about is the amending formula. The question of patronage, the power of a politically appointed Senate, aboriginal rights, equal rights, and territorial rights to provincial status are all very important concerns in the creation of the Constitution of Canada; however, none alone nor all combined can match the necessity of a properly conceived amending formula. Any future desire for change will certainly meet with some degree of opposition. If it did not, then there would be no need or desire for change.

If the citizens of Canada have no method to change their Constitution or if the rules that are supposed to allow for change are so stringent that change is made impossible, then those who desire change shall have no alternative but armed struggle. If one province has the right to veto the aspirations of the rest of the country, then there are no democratic rights or freedoms in this land. The Constitution must not be viewed today for its effect on today's society, but it must be viewed for its effects on the generations of tomorrow, for any Constitution may be perfect in its creation or may be flawed to the point of being useless, but to stand the test of time it must allow for orderly change that such time will demand. It cannot be perfected if it cannot be changed. When a Prime Minister's weak-kneed capitulation to the provinces on decentralization of power is proven to be disastrous for future Canadians, how will they correct the mistake?

11:10

The amending formula must be changed, and I urge you to demand the following resolution to section 41:

Be it resolved that section 41 include the following addition:

When unanimous consent is denied by three or less of the provinces, by the House of Commons or by the Senate, then the issue shall be determined by a referendum ballot of Canadian voters requiring a two-thirds majority to succeed. Such referendum shall be held in any year ending in a "0" (i.e. 1990, 2000, 2020, etc).

This is not to say that constitutional change should be easy; it should not. In fact, it should be quite difficult and politically exhausting, but it must be possible. Where unanimity is not possible, then ordinary Canadians must be consulted by referendum ballot. I've said that since 1987 when this first came out, and I say it now. I think what Canadians are saying more and more all the time is that it's our Constitution; it belongs to us; we must be consulted.

In conclusion, it is apparent that the most pressing issue regarding the Constitution is who it will cover. Will Quebec remain in Canada? Are Alberta and other predominantly English-speaking provinces prepared to recognize Quebec as an accepted minority with distinct status? Who wants in? Who wants out?

Canada is made up of 295 federal ridings. If there are any referendum ballots to decide participation - who's in and who's out - it should be federal riding by federal riding and a conducted nationwide vote by the federal government. Any riding wanting out should be declared a foreign country immediately, and it should only be allowed to return if accepted by constitutional amendment. I think we're being blackmailed to say: we're going to get out of this country. I speak as a strong supporter of Quebec being in this country, but I do not support each region of this country at any time they choose taking a referendum ballot and saying that we're going to get out if you don't do it our way. I do believe there must be a referendum before there are any more constitutional talks, riding by riding, and say who wants into this country and who wants out. Then for those who want to stay, let's write a Constitution for us.

Thank you.

MR. DEPUTY CHAIRMAN: Mr. Chivers.

MR. CHIVERS: I promise not to cross-examine you. Bill, the first point you addressed was the issue with respect to minorities in Canada. Of course, the vehicle that presently exists for protection and preservation of minority rights and equality rights

is the Charter of Rights and Freedoms. I'm just interested in knowing whether you think we need the rights and freedoms that are guaranteed in the Charter at the present time to be augmented to provide further protections for minority rights.

MR. STUART: Yes. I think the rights and freedoms is probably – if we had a Constitution that worked, it would be the second most important document in our country. Augmented in what way? Strengthened?

MR. CHIVERS: That was the next question that I was going to ask you. In what way would they be?

MR. STUART: We're talking about minority rights. Let me talk about native rights for a minute. When I was a young fellow, I had to go to school, and if I didn't, my parents would be charged with truancy. I grew up very close to the natives in the Morley and Eden Valley areas, and it always surprised me that they didn't have to go to school. As I grew up, I realized they didn't have the right to go to school because nobody said they had to. Now, I think the native children in this country must have a right to attend school, and therefore there must be some rule saying that they must. Rights and freedoms, yes. We need them, but then we must enforce them too.

MR. CHIVERS: Thank you.

MR. DEPUTY CHAIRMAN: Sheldon.

MR. CHUMIR: With reference in your paper, Bill, to the suggestion that decentralization of powers would be proven to be disastrous for the country or for future Canadians, I'd appreciate if you could give us your views as to the role of the federal government in things like medicare, social programs, education.

MR. STUART: Well, I think the power of the provinces, if I can say first of all, is overblown. You could take Alberta and cut it in half and give half to Saskatchewan and half to B.C., and I'd still be a Canadian. It wouldn't matter that much to me. You know, to be an Albertan – I've lived in all three provinces. It doesn't matter that much to me. I'm a Canadian first, and I think most people probably in this room are. That's why they're here.

I think the central government must have the authority to make those decisions and grant certain powers to the provinces. I don't think the provinces have any God-given right to say, "That's our jurisdiction." It's not, not if we're Canadians first. For the sake of making things work better for certain regions, then certain powers must be delegated to those provinces but not simply because they're provinces. You know, you could split Alberta into four provinces, and it wouldn't make a hell of a lot of difference as long as we have that strong central system.

MR. DEPUTY CHAIRMAN: Thank you very much, Bill.
Barbara Baxter, please.

MRS. BAXTER: Good morning, lady and gentlemen. Thank you very much for this opportunity to participate in the political process. I speak to you as a Canadian mother. In my view no one has a greater vested interest in the future of this country than a mother does. I also feel my views represent those of many Canadians and often the majority. Polls are good for something, and I've deduced this from the polls.

I wish to elaborate on the nine points in my outline. Canada has not been seen as a wimp or a yes-man in the eyes of the world, at least until recently. That trading blocs appear to be forming on the world stage at this point in time is no reason for us to lose our sovereignty or hand over economic control to non-Canadians. In fact, the economic hardball predicted is a reason for promoting a strong central government, not a community of shopping centres. The rise of monopolies and multinationals can only be viewed with alarm by those who believe in freedom and democracy and who realize that freedom and democracy depend on a balance of power within a country overseen by a Parliament representing all of the peoples of that country.

The integrity and strength of a central government will not only be important in resisting the economic power wielded by legitimate megabusiness, but it may in future be extremely important in resisting what appears to be the increasing power and increasing political activity of international drug lords. Drug lords are like AIDS. Their potential impact on society is devastating, yet we prefer to ignore their threat because, I suppose, life is less stressful that way. So I speak in favour of a strong central government. As I mentioned in my point number one, I take issue with the title Alberta in a New Canada because it seems to me that the "new" suggested is a decentralized Canada. It is no secret that Mr. Mulroney favours a decentralized government, nor is it any secret that Alberta has historically sought increased provincial powers.

Point two, the present federal government is probably the most unpopular in our history and is certainly the most unpopular in Canadian history since polling began. It is not fitting that such a government guide Canada toward a new definition of Canada and being Canadian because it obviously doesn't know what Canada and being Canadian means to the majority of Canadians.

The Mulroney agenda has been a very destructive one for Canada. To begin with, Mr. Mulroney came to power with the aid of the Parti Québécois. Then Lucien Bouchard, a known separatist, was sent to France as ambassador for this country, for Canada. On his return he was encouraged to enter federal politics and was subsequently given a cabinet position, as were other separatists in federalist clothing. All this was when it was common knowledge that the separatists had decided, following their 1980 referendum failure, to enter federal politics in order to further pursue their separatist ambitions. One would then expect separatists to have a strong voice in the Mulroney agenda, and if we look at the Mulroney agenda, it certainly is compatible with the interests of separatists. The free trade agreement is a prime example.

At one time Mr. Mulroney said a free trade agreement would be bad for Canada, but someone changed his mind. If we look at what separatists want more than anything else from Canada in the event of separation, it is guaranteed trade. What better way to encourage postseparation trade than a pre-existing free trade agreement with the United States.

Let us examine briefly what free trade has done for Canada. In 1987, before the agreement, there were 487,000 jobs created. In 1988, 316,000. In the first year of the free trade agreement, there were only 159,000 jobs created, and in the subsequent year, 1990, there were 130,000 jobs lost. In 1991, 151,000 jobs have been lost in January and February alone. It is interesting to note that between 1978 and '85, Canadian-controlled companies created 876,000 jobs in Canada while American-owned companies created 1,400 yet earned over one-third of Canadian corporate profits. If we look at GDP, it grew 4 percent in '87,

4.4 in '88, 3 percent in '89, less than 1 percent in 1990, and in 1991 it's expected to decrease by greater than 1 percent.

11:30

Looking at the energy section of the free trade agreement, it's well known that our commitment to supply the U.S. with our oil and gas is based on the previous 36 months' supply we give to them. What is less well known is that the ratio of light to heavy oil is also a commitment: we must maintain that ratio, and also we must supply this oil and gas at international market rates set by OPEC, not set by our production costs. Both these factors mean that we may be supplying oil to the U.S. at a loss in future. Furthermore, there is the issue of coal gas. At present the U.S. requirements are about 17 trillion cubic feet of gas per year, of which we supply three trillion and the U.S. supplies one trillion from their coal gas reserves. But coal gas is relatively ubiquitous, and at any point in the future they could really supply almost their entire requirement themselves. The free trade agreement does not guarantee they will purchase our oil and gas; it only guarantees that we will provide it. I fail to see how anyone can call this level.

Other destructive policies are the destruction of the Foreign Investment Review Agency and replacing it with Investment Canada, which, according to research done by Mr. Hurtig, encourages foreign ownership and has agents around the world soliciting the sellout of Canadian-owned businesses. From 1985 to 1990 greater than \$80 billion worth of foreign takeovers occurred in Canada. Foreign investments of over \$88 billion were done with only \$14 billion of funds from outside of Canada. The rest of the moneys were provided from inside of Canada for foreign takeovers.

Also destructive to Canada have been the high fiscal policy of high interest rates and the high dollar, felt by many to be part of the free trade agreement. Letting the dollar ride to its true value of between 60 cents and 70 cents could solve the Alberta deficit, could solve unemployment, and could possibly double revenues in the oil and gas industry.

Destructive again has been the curtailing of the regional voice of the CBC, and then quietly last June, during the Meech mess, the elimination of national unity as a mandate of the CBC was a further insult to Canada.

Then there has been the emergency measures Act, passed to replace the War Measures Act a few years ago, and under it a province that calls in the Canadian military is then the final authority for the Canadian military. So now we have the prospect of Mr. Parizeau calling in the Canadian military and being its final authority. How could any government dedicated to Canada have such destructive legislation?

In this strange world it is often said that anything can happen. If so, one day we could have a traitor as Prime Minister. Under today's Constitution we could do nothing to impeach him. Canadians should have the right and the means to impeach their Prime Minister. This should be part of the Constitution. Take note that many submissions to the Spicer commission call for the impeachment of Mr. Mulroney.

Point three, the present federal government has demonstrated the belief that a government once in power is no longer accountable to the people. One would hope, however, that even this government would draw the line at the Constitution. However, it's become obvious that the Mulroney government is preparing a decentralized formula for a new Canada and may well inflict this drastically different vision of Canada on Canadians without a mandate from the electorate. This is the greatest betrayal of trust a democratic government could

contemplate. Mr. Mulroney has now let us know, to some extent, what his new plan is, and I'd like to point out that he still holds all the cards.

If Canada is to be a country in future, it must have power within its own borders. Today, as so often before, money is power. To function as a country, for there to be a continuing Canadian identity, national values felt by Canadians from sea to sea must be expressed in financial powers as well as in the ability to set national standards in economics, education, including R and D, the environment, and medical care. In economic policy we need a strong, patriotic central government to promote Canadian, not foreign, ownership, that will facilitate trade and development, and will show creativity in relating to business and labour.

In education Canada is one of the few western countries that does not have national high school exams. If we are to move forward and rise to future challenges, we must equip our young people with knowledge, and we must promote creativity and problem-solving. Instead of withdrawing from education, as our present federal government is doing by cutting \$3.8 billion from education over the next five years, we need a strong federal direction in education and national standards and national exams to make evaluation possible. We need an independent body between federal government and postsecondary institutions that is responsible for dividing federal funds among the provinces' postsecondary institutions. Provinces in the past have not been accountable for funds received from the federal government for education.

In the area of the environment national standards and national powers are necessary to provide the environmental protection desired by Canadians. At the Supreme Court federal hearings on the Oldman dam on February 19 one lone volunteer lawyer represented the views of thousands and thousands of Albertans. He was faced by this provincial government flanked by the representatives of seven other provincial governments. The attitudes of provincial governments on the environment are unacceptable to Canadians, and we need a strong central authority with power on environmental issues.

Medical care, our dearest social program to many Canadians, is one of the best and most cost-effective in the world. It is the envy of many in the United States, and the concept that the same excellent health care for the rich and poor exists in Canada is what being Canadian is all about.

Number four, a nation is more than a marketplace; it is a group of peoples who share common values, ideals, and aspirations, both individual and national. It's a family of peoples. If this nation does not retain strong central powers, it cannot maintain its integrity as an independent country, the power for self-determination will be lost, and from sea to sea we'll be forced to follow the agenda of non-Canadians.

Six, a Constitution based on the self-interests of member provinces cannot serve the interests of Canada as a whole. The provincial Premiers should not be the key players in determining power shifts in a new Constitution, because their interests are provincial. They are individuals who chose provincial, not federal, politics. They were elected not to represent the interests of Canada but of their province. With Mr. Mulroney functioning, in Mr. Kilgour's words, as the associate Prime Minister of Quebec, Canada has been left undefended.

It is my personal view that the present popularity of the constituent assembly proposal lies in the fact that it would appear to remove power for change from the hands of the Mulroney government. If Canadians had confidence in their elected representatives, I suggest that the expense of a constituent assembly could be avoided. The way to develop this

confidence would be to eliminate rigid party discipline, thus promoting real representative government. And, of course, call an election.

Under Mr. Mulroney's new plan, as I said before, he still holds all the cards, and it looks as though we will have another Meech in March. Several years ago Mr. Mulroney spoke of his vision of a nation without elaborating. It is now obvious that his vision is the disembowelled and castrated Canada Eugene Forsey spoke of when asked what would happen to Canada had Meech Lake gone through.

Point eight, a new Constitution should include provision for a province to leave Canada. It should not be easy, however, and I propose that three consecutive "yes" referenda spanning a period of 10 years be required in order for a province to separate. Terms of separation would include a transportation corridor free of any form of taxation, direct or indirect, in perpetuity.

Nine, sovereignty association is not acceptable; confederal states are unstable. Asymmetrical federalism, with limited extra powers for Quebec in the areas of law, language, and education, is the only viable option. Senate reform is necessary: elected, effective, and equal by region or province.

11:30

In conclusion, I feel it is time to reach out to the people of Quebec, but it is time especially to get tough with Quebec politicians. Mr. Parizeau wants Quebec to have its own laws, taxes, and treaties but to have the benefit of guaranteed trade and the use of Canadian currency. Others mentioned co-operation on the military. This seems rather pointless, as under the Mulroney agenda orchestrated by Mr. Masse there will be virtually nothing left of the Canadian military. But it is time to say no and time to get tough, and the best way to get tough is to abrogate the free trade agreement. Not only would this make separation more painful and threatening to Quebec, but it would also enable our children to be *maîtres chez eux*. That is what I want for Canadian children: that they be masters in their own house, not subservient to some foreign power or multinational. That is why I'm here today stating my case for a strong central government.

MR. DEPUTY CHAIRMAN: Barrie.

MR. CHIVERS: Barbara, I'm wondering if you'd share with us your views on bilingualism.

MRS. BAXTER: I believe in the concept of bilingualism. I think it is a challenge which I enjoy. I'm not bilingual, but I would like to be one day. I see it as opening doors in the global village. I think that perhaps the administration of it could be reviewed.

MR. CHIVERS: Do you think there should be some changes with respect to official languages in Canada at the present time?

MRS. BAXTER: I think changes could be entertained. I don't consider myself an expert. All I can say is that I generally like the policy of bilingualism. I think it's unfortunate that it has caused some distress to some individuals, perhaps particularly in the civil service, but I think it is good for our country, and I think it is good for us, looking at the global village.

MR. CHIVERS: You indicated that you favour asymmetrical federalism. As I understand that concept, it could and would include some sort of special status for Quebec.

MRS. BAXTER: Well, Quebec already has a special status.

MR. CHIVERS: So in that sense you would favour the status quo?

MRS. BAXTER: Perhaps with some minor modifications, but what I favour is a strong central government that will provide some assurances that we will preserve the Quebec language and culture, which I feel we are fortunate to have. I think they're a very rich language and culture, and I feel lucky to have that as part of Canada. But I don't think we can sacrifice Canada to appease the separatists in Quebec.

MR. CHIVERS: Thank you.

MR. DEPUTY CHAIRMAN: Stockwell.

MR. DAY: Thanks, Mr. Chairman. Barbara, the struggle that we hear from people who are presenting is reconciling the whole area of a strong federal government vis-à-vis provincial jurisdictions or things that are important to provinces. You mentioned free trade – let's use that as an example – which has been good for Alberta, which the majority, at the time it went in, supported. Manufacturing exports have doubled. We've got the highest participation in the labour force we've ever had: 107,000 jobs created during that time. But whether it's free trade or whatever the issue is, when you have a situation that a particular province strongly wants and, it could be argued, is good for the province, how do you reconcile a strong central government saying no to that when a province wants it?

MRS. BAXTER: Well, I want to dispute a couple of points with you, and that is that free trade is necessarily good for Alberta. If we look to the future and if we look at the requirement under the free trade agreement that we provide the same ratio of light to heavy oil, what happens in future if our light component decreases, as it well may, and we still have to provide to the States that same ratio? We will then be in a losing scenario financially.

MR. DAY: Those are the elements of the debate, Barbara. What I'm asking, though, is: if a province is saying, "We want this," how do we reconcile a strong federal government saying, "You can't have it"? Or if you talk about the national energy program, which devastated the economy of Alberta, you had the province saying, "We don't want that," and the federal government saying . . . How do you reconcile that?

MRS. BAXTER: Let me say this about that. If the national energy program was in place right now, the oil and gas industry in Alberta would be on more stable ground. I'm not saying that the national energy program was good, but I am saying that it did offer some stability and that it did guarantee a certain minimum price. We are seeing more and more layoffs; they're coming at frightening paces in the oil and gas industry. There are those within the oil and gas industry that feel right now that it's being decimated.

MR. DAY: Again, I just want to . . .

MRS. BAXTER: And also the foreign ownership is increasing.

MR. DAY: I just want to refocus. It's not debating the element; it is: what do you do in a situation? How do we reconcile a strong federal government saying to a province that wants a certain aspect, let's say, of trade, social program — whatever it might be, the province wants it, and the federal government is saying, "You can't have it"?

MRS. BAXTER: Well, if an issue is to be decided by Canadians, then it has to be decided by the country as a whole. There'll be some issues that will be decided at a provincial level and some issues that are decided as a federal level.

MR. DAY: Okay. Thanks.

MR. DEPUTY CHAIRMAN: Thank you.

MRS. BAXTER: Thank you.

MR. DEPUTY CHAIRMAN: I invite Norman Conrad.
Good morning, and welcome.

MR. CONRAD: She had a delightful submission.

My name is Norman Conrad. I've been asked to speak on some of these issues by the Green Party of Canada. I'm a local environmentalist and quite concerned with a number of issues that arise in this respect. This is also a last-minute preparation, so it will be somewhat incoherent in some respects, but there are a number of points that I feel are germane and that ought to be covered.

Some of the green feeling that we hear of these days is a love of land and a love of people and a love of diversity in land and people. We love wilderness issues; we're concerned about those issues. We're also very concerned about aboriginal issues and issues of plurality in society and respect for other cultures and peoples. We're also concerned about future generations and what there will be for those that follow us. That's been a central theme in green thinking. As well, there are concerns about democratic issues and issues of empowering people in terms of making decisions, and a number of those are germane to the constitutional debate.

Now, the constitutional debate that we're involved with presently arises from a series of unfortunate events, but these are events that have occurred in many respects and in similar form since the history of Canada began. We've heard issues of bilingualism and biculturalism under different names at different times. This is a continuing debate, and it will continue for as long as there is Canada. As opposed to thinking it's entirely a negative phenomenon, I think it's entirely a healthy phenomenon. It's important to get these issues out on the table, and it's important that people focus on them and learn what the other people in Canada are about.

The Meech Lake failure was instructive as well. The Meech Lake failure showed politicians in Canada that the people of Canada are concerned about this debate and that there are important issues that affect people; it is not simply a matter of how the politicians divide up the power pie. So from a constitutional point of view you'll probably be hearing a number of submissions that look back in time, pull out old grievances, talk about wrongdoings of the past. I think it's an appropriate time to think about what can be done constructively for the future,

because any Constitution that is crafted in Canada now has future application and not past application. We should dwell on the past only in respect of lessons that can be learned to apply to the future.

Now, one of the issues that is of great concern to a number of people is the democratic bundle of issues. I would urge the commission to recommend that there be attention paid to the issue of freedom of access to information. Democracy does not thrive in ignorance. An electorate that does not have full and complete disclosure of all the relevant acts and deeds of government is an electorate that is not capable or competent to cast an appropriate vote at election time. I think that a fellow traveler of democratic rights must be the right to freedom of information, and that's got to be underscored as a central right in our constitutional discussions.

The issue of how governments are elected must be addressed and thought about in this debate as well. The simple majority concept has some very negative ramifications long term. We have seen in a number of elections, and particularly now that we're in a multiparty system, where something in the order of 40 percent of the population can elect a hundred percent, at least theoretically, of the representatives to government, and effectively that silences in many respects the other 60 percent. It may be a good idea to consider moving to a more representative system, a proportionate system or something like that. Those are thoughts that I would urge you consider and listen closely to in the submissions you hear.

11:40

There is concern as well about how the party system is working. Many Canadians feel that it is not working adequately, that it's a negative manifestation of an aged kind of governing form, that it's adversarial, that it tends to be negative, that it creates good guys and bad guys but not particularly intelligent examination of issues and constructive contribution to new and better policies. It does not create win-win situations. It creates at best win-lose situations, and more frequently lose-lose situations.

There's a feeling that politicians have a moment of accountability and years of nonaccountability. Once they're elected, they go off and do their thing for quite a number of years. There's been talk of plebiscites and those kinds of things. One of the things to think about is perhaps a right of recall so that particularly egregious acts of politicians can be atoned for in the polling booth, thereby making them more accountable in that respect.

There's also a lot of talk in environment circles about the malady of four- or five-year elections. What that does is create a short-term planning horizon for government. Governments think: I have to deliver the goodies within this particular time frame, and I will close my eyes to all subsequent events. We live in times where we're very concerned about the future, and as we look out beyond the four- or five-year horizon, we see very menacing things. There must be some means of developing a decision-making function that looks long term, not short term. It may be an idea to emulate in some respects some of the American model where you have staggered elections, for instance; something to consider.

It has been said a number of times in the prelude to the Meech Lake debacle that the Constitution is not a document for the people, it's a document describing how governments have chopped up power between them. There is some legitimacy, in my view, to that concern, and this may provide a great opportunity for us to constitutionally look at appropriate means of

distributing power in society. Constitutions crystalize a particular structure for a long period of time. We have seen how difficult it is to amend our very Constitutions. So once we have a Constitution, we're stuck with it in the long term. We should perhaps start thinking about using government more as a circuit board to allocate or broker decision-making functions to appropriate levels or appropriate groups rather than seeking to exercise all the powers itself.

We see in this debate that there is a strong struggle, particularly over environmental and resource issues, between the federal government and the provincial governments. The provincial governments say, "We are competent and capable of handling all these matters," and the federal government says, "No, we are." A lot of these issues are global, and it may be time to think about delegating powers above and beyond the nation state to international or multilateral bodies; it also may be a time to look at getting some of these issues down to the local level, where on certain kinds of issues local impact is the predominant impact: starting to have a spectrum of decision-making levels rather than just two or, arguably with municipalities, three.

There has been a lot of talk about the EIA process and a lot of machinations, I understand, with provincial governments to recover and obtain ascendancy in terms of doing environmental impact assessments and making determinations with respect to resource issues. According to my mind-set, my theoretical views, I like the idea of decentralizing those more and more to the provinces, but I, as with many other environmentalists, am extremely concerned that by decentralizing these powers and getting them more into the provinces' hands, there is a tremendous risk. Most of us are extremely unsatisfied with the level and kind of resource and environmental decision-making that has happened provincially – not in Alberta; it's not a partisan thing. It's across the board among the provinces.

There's a concern – whether it comes from our concerns about how decisions are made or whether it's the nature of the beast, I don't know – that provinces are more prone to rape, plunder, and pillage than is the federal government. It may be the supertanker thing. The federal government can see a Canada without an Oldman River dam, but the provincial government cannot. The federal government could say that Al-Pac, in the larger order of things, is not that necessary and the costs are too high, but because of scale within Alberta we may be forced to make those kinds of decisions, and they're not provident decisions.

Several final kinds of comments. We should look at section 7 of the Constitution: the right to life, liberty, and security of the person. Those are areas that are extremely expandable, perhaps not by the courts, but at this point in time we should start to seriously look at enshrining a right to a clean, safe, and secure environment. That should be an attendant right to life and security of the person. I'm not sure what the courts will say if they get an appropriate case on point, but it would be nice to make that clear.

There's also another dimension to it. Canada hopefully will last beyond me and beyond us. I'm sure you'll all live long and prosperous lives, but there is another generation that's coming. It may be that we have an ethical duty to leave as much as good in terms of the quality and quantity of Canada, resources and clean air and water, as that which we got. That's a dimension of constitution-making that should be inspected closely. We have to make sure that we do not rape Canada, that we leave a land that's as strong and beautiful as the Canada that we were born into.

Thank you.

MR. DEPUTY CHAIRMAN: Thank you very much. Barrie.

MR. CHIVERS: Yes. Norman, you began by making some comments about access to information, freedom of information, and I'm wondering if what you're proposing is that there should be some constitutional enshrinement of protection for freedom of information Acts as to information.

MR. CONRAD: From several points of view I think it should be in the Constitution in conjunction with section 3, the democratic rights sections. It's critical in order to cast your vote to have good information. A vote cast out of ignorance is not a vote. So I think in terms of those rights, our democratic rights, but as well from the accountability point of view. If we send representatives to make decisions in decision-making bodies, they have to have full and complete disclosure to those people who send them. That's a fundamental part of accountability. I think that concept has been played with fast and loose too long, and I don't think Canadians want to tolerate it anymore.

MR. CHIVERS: Suggestions have also been made last night to this committee and elsewhere that there should be a constitutional enshrinement of rights protecting the environment. What are your views on that suggestion?

MR. CONRAD: Rights protecting the environment. The way I would turn that is . . .

MR. CHIVERS: A charter of environmental rights, so to speak.

MR. CONRAD: Yes. The right to a clean, safe, and secure environment perspective as well, not just here and now but for the duration of Canada. There are a lot of environmental rights that are talked about that in my view are not, you know, substantive rights. They're a kind of procedural rights. Perhaps they ought not to form part of the Constitution, but there should be substantive rights to a clean, safe, secure environment.

MS BETKOWSKI: Your section 7 was a suggestion of that, wasn't it?

MR. CONRAD: Yes.

MS BETKOWSKI: In other words, that wouldn't be all of the protection.

MR. CONRAD: There would be an addition. That would be an expandable area. I have some doubt that the courts will expand that section as far as I would hope. So why don't we expand it?

11:50

MR. CHIVERS: Finally, Norman, I was interested in . . . Well, I was a bit confused in terms of your suggestion with respect to where the power to protect the environment should propose: provincially or federally or whether it should be a combination of the two. It seems to me that one of the difficulties with leaving that power solely with the province is that you get into a situation where there's competition in terms of jobs and developments and there may well be a tendency for provinces to

compete with each other to have the lowest standards in order to attract developments and jobs.

MR. DEPUTY CHAIRMAN: Well, Norman, if you get your expansion of section 7 of the Charter of Rights and if it's not subject to the notwithstanding clause, then you would have that federal paramountcy, wouldn't you?

MR. CONRAD: Not in terms of resource usage, which is another area of concern. I was born in 1947, when they found Leduc. If I live a long and prosperous life, I'll die, and most of the conventional oil reserves in Alberta are going to be exploited; they're going to be gone. We won't be leaving very much fast and easy wealth for our children. We may be leaving some very difficult to obtain wealth hidden beneath the tar sands up north. So in terms of those issues I don't think that the safe, clean environment addresses that. I think those are very important issues for the future as well, and they may need to be addressed in a separate provision that would address sustainability issues. I would urge that. I don't think the will of Canadians is there yet, but I certainly think it's a worthwhile subject to talk about.

Getting back to your concern, at this point in time the concurrent jurisdictions seem to me to be the best alternative. I am not happy and I think most people environmentally concerned are not happy with the idea of exclusive provincial jurisdiction over resource and environmental issues. The dynamic of the marketplace is such that it tends to move things to the lowest common denominator. If there are two jurisdictions that are regulating, there may be some impetus to lift it to a little higher denominator. For those reasons I would suggest that there should be concurrent jurisdiction on all projects or even policies for programs that threaten substantial environmental impact.

MR. CHIVERS: Thank you.

MR. DEPUTY CHAIRMAN: Sheldon.

MR. CHUMIR: Thank you. Norman, there's a battle going on between forces of decentralization versus maintaining a strong federal government. One view is, for example, that the provincial government should take over total management and standards with respect to medicare and social programs. The other view is that there should be federally mandated minimum standards at the very least. I wonder if you might give us the benefit of your thoughts on that particular issue.

MR. CONRAD: In terms of medicare or . . .

MR. CHUMIR: Medicare or social services. Should we be decentralizing to give exclusive jurisdiction to the provincial governments, or should there be a continuum of a federal role to provide for minimum standards for Canadians across the country?

MR. CONRAD: I find the same argument that I made with Barrie applicable in that situation. Where you have concurrent jurisdictions, there's a tendency to try and maintain higher standards. Where there are not concurrent jurisdictions, where it is in the exclusive jurisdiction of either the province or the federal government – and I think they must play by the same rule – there is a tendency to go to lower standards and trick the people. In terms of those issues I think that concurrency tends

to contribute to higher standards, and I don't know that we should rock the boat.

But there is a point in what I'm trying to say about appropriate levels, and with dynamic situations like this we should be taking a look at the appropriate levels for making all decisions constitutionally. There was an effort in 1867 to do it in terms of sections 92 and 93 and that division of power, but the world has changed radically in the last 120-some-odd whatever it is, in the last century. We have now transnational corporations; we have recently free trade; we have globalization of issues. At the same time, we have a whole bunch of dynamics that tend to localization of issues; we have technology and information and mass communication that should be empowering people. So rather than taking a look at it in terms of just two-power focus, we should be looking at the appropriate spread of it across the spectrum.

MR. DEPUTY CHAIRMAN: Thank you very much.

MS BETKOWSKI: Thank you.

MR. DEPUTY CHAIRMAN: We have run now almost half an hour over time. We do have a full plate this afternoon, so with the consent of the committee I think we should try to finish up our morning's work before we break for lunch. Agreed?

HON. MEMBERS: Agreed.

MR. DEPUTY CHAIRMAN: Bob McCallum, please. It's nice to have you with us, Bob.

MR. McCALLUM: Mr. Chairman and hon. members and ladies and gentlemen, I'm giving a private submission. It is something that I feel very strongly about inasmuch as I'm giving my opinion and it's an individual's, the way I see it. But I will also point out that I unfortunately have been guilty of – although I'm a born Canadian and have always traveled on a Canadian passport, I've been living in England for the last 18 years.

MR. DEPUTY CHAIRMAN: There's been some osmosis there.

MR. McCALLUM: Yes. I've been subjected to various types of democratic process there as well, and it obviously has filtered into the Canadian processes, because we have developed that way through the centuries of utilizing that process of democracy.

I've basically just looked at questions in the booklet which was handed out. It came in the post, I'm sure. Everybody's familiar with it.

MR. DEPUTY CHAIRMAN: Well, Dr. Taylor-Browne didn't think everybody was. She thought there was some problem with distributing that document.

MR. McCALLUM: No. I think every household received one, as much as they may well receive a lot of junk mail these days.

Firstly, I'd like to just look at the question: as an Albertan, how would I design the Constitution for a new Canada? Okay, if we're looking at the situation of developing a new Canada and changing drastically and the political process changing as well, then firstly I'd like to just comment on that. I don't feel we can honestly rely on the federal/provincial governments to go on a fact-finding mission. This issue is so important that to rely solely on the outcome of the countrywide commissions, and these are

orchestrated commissions, by the governments – it would be folly to believe they could resolve the dilemma facing the country today. There would be no impartiality in the outcome since each commission would seek to satisfy the whimsical desires of the government of the day.

I would propose a randomly selected commission consisting of citizens from each province and all backgrounds who would be nonpolitical. Once they conclude their findings, the material would be handed to another randomly selected constitutional committee to evaluate, after which they would rewrite a new Constitution. The new Constitution would be presented to the people of Canada, who would vote on accepting the revised Constitution. This process is fair inasmuch as it doesn't allow politicking to influence the outcome, thus ensuring that the process of democracy prevails. The failure of Meech Lake is a classical example as to why politicians should be kept at a distance in dealing with constitutional affairs.

Going further into the aspect of the choices we have on the types of government and the systems of government, I looked at the unitary system and whether it would meet the needs of Canada, bearing in mind that Canada is quite an immense country and this type of process, which is also being utilized in Britain today, has its inherent flaws. In Britain it's noticed that the advantages are for the people living in the southeast of the country. This is where the population is most concentrated. It would also reflect that this unitary system would be not quite dissimilar in ways in the processes of administration from Ontario or, okay, Ottawa inasmuch as we're talking about the largest percentage of population being in that particular area, so all the policies would favour that region much, much more. The government has divided its responsibilities with the counties in Britain, inasmuch that we have also seen it distributed and the responsibilities being shared here in Canada by the provinces. It couldn't possibly work in Canada because of the immensity of the country and the diversified makeup of each province.

12:00

Looking further at the current federal system and whether it provides enough flexibility for Alberta to succeed as a province or Canada as a nation, it is only fair to say that the form of federalism we have today has been the accepted norm since 1867 and should prevail well into the next century. The only drawback, of course, is that history never repeats itself because times change and, with the passing of time, needs also change. It becomes apparent that we should adjust to these changes. Historical Acts should be revised to reflect our modern values. What was accepted in my grandfather's generation is not consistent with the modern world I live in. The flexibility is there to allow Alberta or any province to succeed, but the provincial governments seem to prefer more autonomous powers in dealing with their affairs. Such ideals are not conducive to the process of federalism or national unity.

I believe the federal government should control defence, currency, health, welfare, education, natural resources, and communication. The provinces should have some controls, of course, urban and rural concerning policing, transportation, a share in education in that the curriculum should be consistent; that is, throughout Canada we have a consistent curriculum, and the marking process and such should be consistent throughout Canada. We should have a share in health and welfare, since it will vary between provinces, and also a share dealing with agriculture and immigration, since both are unique to each province.

Looking at the other question, should the federal government have more or less responsibility, and what about the provinces? Well, as I go back, the current system has been a workable philosophy since Confederation, with some changes. I honestly feel that relinquishing power to the provinces would dilute the process of central government. It can be construed that Canada is too centralized, but I'd say previous governments have decentralized enough of the responsibility to the provinces without creating autonomous regions.

Should all the provinces have the same constitutional responsibilities? Would varying responsibilities represent constitutional equality, or would this be another way of expressing provincial diversity? Under a Constitution, which is another form of contract, those who have committed themselves to it should adhere to the responsibilities set within it. It is clear that variation in these responsibilities would represent constitutional inequality, as we have seen with the favouritism shown Quebec. The result may express provincial diversity, but if it implies that one is more distinct from the other because of its diversity, then maybe we should accept some of the inequalities.

The other question concerning: how would varying constitutional responsibilities affect our ability to implement national, social, and economic policies, and would it alter our sense of citizenship and national identity? Well, any variation in these responsibilities would diminish the ideals of federalism and destroy any hope for uniting the country. The national, social, and economic policies will be diluted to the point of collapse, and the provinces could decide to break away with the possibility of establishing alliances with one another; example, all the western provinces. Should this occur, our sense of citizenship and national identity would certainly alter.

The question concerning Quebec being assigned special powers in certain areas, or even Alberta. I think Quebec's politicians have insisted that Quebec is a distinct society, and this analogy was purported to come from the Quebec Act of 1794, as specified by Mr. Bourassa, I believe it was. All the provinces are equally unique in their own ways: in culture, religion, language, traditions, and the cosmopolitan makeup of each one. It is this uniqueness which makes each province distinct from the other. It is unfair that one region of Canada deems itself more distinct than the others and threatens the unity of the country because of it. Quebec should not be assigned special powers in any area which would be seen as appeasement to keep it in Confederation, bearing in mind that Quebec never officially agreed to be a part of Canada at the time of Confederation. I strongly feel, of course, that Alberta should never seek special powers either.

Just going further into the issue with Quebec, unfortunately, I suppose, like many other Canadians I'm one who has never really visited the province and never really had the opportunity to get to know the people. Unfortunately, I'm one who has to read a lot of press or media releases, and these can be slightly tainted or difficult to comprehend. I have no firsthand knowledge. But what we have to look at in relation to Quebec is that I think it's up to all Canadians to learn to understand what Canada is all about and what it should mean to all of us as citizens of this country and not just let an issue like Quebec destroy or change whatever ideals we have for the future. I could be wrong, but I feel there could be apathy amongst Canadians, or are we just complacent as a nation?

I looked at the situation concerning the triple E Senate reform. I was fortunate to receive a copy of the report from Mr. Anderson. I tried to understand it as fully as I could. I believe the Senate should be elected and not appointed because of the

situation concerning the politics of a Senate: if the Prime Minister can use historic Acts to stack a Senate to pass his legislation, then I think there is no basis for fairness in such a process. I think we should clearly look at an elected Senate, one in which Senators should be nonaffiliated to any political party. That's the way I see it. It shouldn't have any affiliations, because the Senate in some ways is similar to the process of the House of Lords in Britain. It's an upper Chamber allowing for a democratic decision to be made as to whether or not legislation should be passed; it's a stopgap in some ways. I strongly feel that we should have a stopgap and it should be an impartial situation whereby there would be no bias reflected in the decision.

12:10

Further into the executive federalism aspect of the paper, I don't think this is a process we should even embark upon, because after the failure of Meech Lake, it couldn't possibly work. The idea should never be written into the Constitution, because the constitutional foundations have crumbled beneath us since the Meech affair and too much politicking took place bringing about the premature dismantling of Canada. Each participant was seeking to achieve what was good for their province with no overall regard for what would be acceptable to Canada as a whole. If executive federalism means issues being bickered over by misguided bureaucrat idealists, then I definitely don't want it in the Constitution.

That basically covers most of the questions that concern me, although I do have other comments to make with regard to the multicultural Act. I feel in that issue we should be looking at, hopefully, if it's going to enhance an understanding of each other as Canadians, bearing in mind that we are multicultural. We have many people brought in from all parts of the world now being allowed to live here. Then again, unfortunately they've become disillusioned just as much as natural born Canadians as to the process of democracy and the way it should work. So I feel we should learn to understand each other a lot more, and in order to do that, we should educate our children a lot more to understand that there are cultural and traditional differences between us as Canadians. Those are the values these individuals hold close to their hearts, as much as I hold my patriotism to Canada close to mine.

I love being Canadian. That's all I can say.

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

MR. CHIVERS: Bob, I wonder if you could assist us. Many of the presenters to this committee have given us their views with respect to language rights, bilingualism, and matters of that sort. I'm wondering what your views are with respect to official languages, language rights, and bilingualism.

MR. McCALLUM: Well, when it comes to bilingualism, I will admit that when I went to school in Calgary – and I went to Crescent Heights high school by the way – I learned French. I learned French in my junior high years at Stanley Jones as well. Unfortunately, it was a language I was never able to use because I was situated in an English-speaking part of Canada, predominately English by the way, where it became totally useless to me apart from it serving to some advantage in my experience of traveling to France. I was able to make myself understood.

As a country which has developed over the last 100 years and has used a bilingual undertone in its language, I will accept that

bilingualism should prevail. We should all understand the language. But then when you universally travel in the world, you're talking about English being more prevalent than any other language, and business is done in English.

MR. CHIVERS: Thank you.

MR. CHUMIR: Bob, thank you for your excellent presentation. As one who's had his body both in and out of the country, I'd like to ask you about the appropriate level of jurisdiction over immigration. There's a move now by the provinces to get greater jurisdiction over immigration re the selection process, numbers of immigrants, and so on. I would appreciate your views on where you feel this should properly reside: within individual provinces or at a federal level?

MR. McCALLUM: Well, I think it should be federal, but it should be a shared issue, because the provinces will probably want to pick the cream of the crop, so to speak, from the immigrants. I'm sure what Canada has to realize is that this whole country is made up of immigrants. My grandfather wasn't born a Canadian, but he died a Canadian. I'm quite certain of that, because he spent the latter part of his life living here. When we talk about maybe selection and the process of selection, then I think we should look at allowing all sorts of immigrants to come into the country whether they have money or means – okay? – to find a way to survive. The unfortunate part of this part of the world is that if you visit these other countries and ask people why they want to come to the west, Canada or America, they just think it's all glitter and they want to see this, to experience it. They don't realize that we have to work 40 hours a week to earn our money to go and visit their countries, and we have probably saved a lot of money.

So immigration should be a shared issue, and it should be accepted as shared. We shouldn't just decide who we want specifically to come and live in this country, because we have to create a country with a population sufficient, obviously, not to be a strain on the services we have but sufficient to see it – I'm sort of getting myself twisted up here – survive. Our parents and grandparents, who were the original immigrants, were not selected; they just came here because they were looking for new opportunities. So all immigrants would be seeking those same opportunities.

MR. CHUMIR: I just want to ask one brief question on an unrelated matter. That is, would you be supportive of entrenchment of right of access to information for citizens in the Constitution? Do you think that is an important element?

MR. McCALLUM: Yes, I think we should all be able to access information that concerns us as people and as a nation. Nothing should be done behind closed doors.

MR. DEPUTY CHAIRMAN: Thank you very much.

On behalf of the committee, I'd like to express our appreciation to every presenter who appeared this morning, as well as to the audience who helped support those presenters. We hope you found it an interesting and enlightening process and hope you will follow our progress over the next number of months and perhaps become participants in a more active way yourselves. Thank you very much.

[The committee adjourned at 12:18]

