

1:05 p.m.

Thursday, May 30, 1991

[Chairman: Mr. Horsman]

MR. CHAIRMAN: Ladies and gentlemen, I'd like to commence the meeting. We have three members of the panel who have yet to arrive, but I think in order to start relatively on time, since we have a large number of presentations to receive this afternoon, I'd like to go on so that the people who are making their presentations will have the necessary amount of time to do so.

This is one of the panels of the select special committee of the Alberta Legislature which has been established to consult with Albertans on the subject of Canada's Constitution, the constitutional future of Canada. There are 16 members on the panel: eight are here in Lethbridge today; the other eight are in Red Deer. That way we're covering twice as much territory. We commenced our hearings last week in Edmonton and Calgary, and we'll conclude with the panels reversing their locations this coming Friday and Saturday in Edmonton and Calgary as well. We have been hearing some very interesting views – not all the same, and that would not surprise anyone – about how the future of this country should unfold relative to its constitutional relationship with the other provinces and with the federal government.

When you make your presentations, we are asking that you do so within a 15-minute time frame in order to allow all of the presenters to make their views known. We want to, obviously, have some time for questions from members of the panel, and that should be included in your 15 minutes. At the end of 10 minutes a bell will ring to alert you to the end of that period, another five-minute bell will sound, and then we would ask that you would conclude as quickly as possible to allow your fellow presenters to have their opportunity.

I'm Jim Horsman. I'm the MLA for Medicine Hat. In addition to my colleagues who are on the panel, all of whom have now joined us, I'd like to welcome in particular our good friend and colleague the Hon. John Gogo, the MLA for Lethbridge-West, in whose constituency we are now ensconced. Right, John?

MR. GOGO: You betcha.

MR. CHAIRMAN: Thank you very much for coming.

I'll ask each of my colleagues now to introduce themselves.

MRS. GAGNON: I'm Yolande Gagnon, the MLA for Calgary-McKnight. I'm John Gogo's critic in the Legislature, but we're good friends anyhow.

MR. HAWKESWORTH: Bob Hawkesworth, MLA for Calgary-Mountain View.

MR. ADY: Jack Ady, MLA for Cardston.

MR. SEVERTSON: Gary Severtson, MLA for Innisfail.

MR. BRADLEY: Fred Bradley, MLA for Pincher Creek-Crowsnest.

MS BARRETT: Pam Barrett, MLA for Edmonton-Highlands.

MR. ROSTAD: Ken Rostad, MLA for Camrose.

MR. CHAIRMAN: On my left is Garry Pocock, who is the secretary of the committee and who is an official with the Department of Federal and Intergovernmental Affairs.

Well, it's now 10 after 1. There are a few more seats in the room, so please come in.

The first presenters are the Lethbridge Catholic school board. Donat Demers is the chairman, and I see he has some strong supporters with him.

MR. DEMERS: I have a brief here.

If any of you are less nervous than I am, you could read that to me, and I'll give you a little critique of it.

MR. CHAIRMAN: Well, please don't be nervous. None of us have bitten any of the presenters so far, and we've heard from 115 people.

MS BARRETT: And we've all been tested for rabies. You're safe.

MR. CHAIRMAN: Yes. Although the temptation has been there from time to time, we have avoided it. Please feel relaxed and comfortable.

MR. DEMERS: I'm worried that in a room of this size you and I can reach across the table and grab one another's ties.

As a member of the Catholic school board, I speak on behalf of the board and the community in Lethbridge in which the board is elected. Our district bears the official title of the Lethbridge Roman Catholic school district No. 9. Presently Catholic schools enroll 2,600 children, ECS to grade 12 in eight schools, about a quarter of the school population in Lethbridge. It employs 155 teachers and almost 125 full- and part-time support staff. The district has operated in Lethbridge since 1889.

The board of trustees aims to tell you of the value that it and the community it represents place on the minority rights for education of its youth as they exist in the present statutes. These rights are deeply embedded in the history of the Canadian Constitution. Each major development of the Canadian Constitution has reaffirmed these rights: the British North America Act of 1867, the *Ordinances of the North-West Territories* of 1901, the Alberta School Act section 17(1), and the Charter of Rights and Freedoms section 29. In addition, the School Act of Alberta of 1988 makes clear the declaration in its preamble:

Whereas there is one publicly funded system of education in Alberta whose primary mandate is to provide education programs to students through its two dimensions, the public schools and the separate schools.

In another place the School Act explains that the separate school dimension comes into being because of the wishes of the minority religious group, either Catholic or Protestant.

A brief reference to two documents to guide the work of Catholic schools in Lethbridge illustrates the influence of the religious commitment. Given the circumstances of our argument before the select committee, these brief references must suffice. First, the Lethbridge Catholic school board recognizes the dual nature of its mandate. Its mission statement, developed by a committee of parents in the community, states its obligations to the wishes of the minority, as the School Act uses the term, and it clearly states its obligations to the requirements of Alberta education. Second, the statement of ideals for teachers in the Catholic schools in Lethbridge, developed by the teaching staff and adopted by the board of trustees, declares the commitment

of Catholic schools to carry out their mission within the context of Christian teaching as explained in the Catholic tradition.

The select special committee has a part to play in the important task of developing the constitutional arguments for the new Canada. We hope and pray for an enlightened disclosure during the study and an outcome that will pay due regard to the traditions and practices that have made Canada a world leader in its concern for tolerance and understanding. To this end, we recommend that the Select Special Committee on Constitutional Reform ensure that Alberta's participation in the process of review of the Canadian Constitution include initiatives for the protection of rights to minority education presently afforded under the Canada Act of 1982, section 93. We believe, too, that the history of education in Alberta, especially in recent years, demonstrates a broad measure of support for this recommendation.

Yours truly, Donat Demers, chairman of the board.

MR. CHAIRMAN: Thank you very much. You've attached your ideals and commitments, right?

MR. DEMERS: We've tried to give you as much material to back up anything that we've stated . . .

MR. CHAIRMAN: Thank you. Well, thank you very much. Members of the panel? Yes, Yolande Gagnon.

MRS. GAGNON: Thank you, Don. Yesterday in Edmonton we had a very erudite lady – I believe she knew a lot about the Constitution – indicate that there should be no minority rights of any kind. She was referring to language as she began, but then when asked, I think by Bob, whether that would include religious rights, she indicated that in a new Canada we should not have any groups who are different from any other groups, no matter what the tradition had been or what the Constitution said. How would you respond to people who see minority rights as a special right?

1:15

MR. DEMERS: Having been born and raised in the province of Alberta, although I went to college in the United States so had a close look at both forms of government, the biggest pride that I have in Canada is the fact that we recognize minorities. If we were to gloss everything over and become a melting pot, there is no Canada. I think our strength is in our diversity. Whether it be in education, whether it be religion, whether it be other traditions, I think our strength lies in the protection of everybody's rights to be individuals.

MRS. GAGNON: Okay. Supplementary. Also earlier this week we received a presentation from the Edmonton Catholic school board chairman, and he indicated that all students should have equality in education. I pushed it a little and asked if that meant equal funding for private schools. He spoke for himself, not on behalf of his board, and said yes. How would you feel about that, or how does your board feel about that if you're talking equality of opportunity?

MR. DEMERS: I cannot speak on behalf of my board, but on behalf of myself I can't see how we can differentiate. That is why – when I mentioned separate schools, in some areas a separate school is a Protestant school. If you give the rights to one individual, which we already have, I do not see how you can block rights to somebody else. I do not attack any part of

the public education system. Do not get me wrong. I don't want to see public education go down the drain, but if you give rights, and we have rights under separate education, does it make any difference if the separate school is a Protestant school? Does it make any difference if it's a Catholic school? Does it make any difference if it's a Dutch Reformed school? We all have rights. As a minority I can't deny other minorities their rights, nor would I ever consider denying them their rights. Catholic schools exist for one reason, and it's the promotion of our religion. To sit in this group and not say the Christian thing – we cannot dissolve anybody from it; we cannot deny anybody from it.

MRS. GAGNON: Thank you.

MR. CHAIRMAN: Thank you very much, Don.

During the course of our hearings and as part of the issue of how we must look at a new structure if we're going to have a change, one of the issues of course is the division of responsibilities between the federal government and the provincial governments. Section 93, which you mentioned in your brief, provides that education is the exclusive responsibility of the provinces. At the same time, we've been hearing a concern that there should be some uniform standards across Canada so that students who are educated in one part of Canada could have access to education in other parts of Canada as a result of the mobility that Canadians in fact experience. Some people have suggested that that means that the federal government should have a greater role to play than is presently provided for in the Constitution. What would be your view of that proposal?

MR. DEMERS: Could I ask you to repeat the question so I could formulate my answer?

MR. CHAIRMAN: Well, the real question is . . .

MR. DEMERS: Okay. No; I understand the question. I think we have already invented the wheel. I think in our look at the Constitution we should be working to make it roll better. I think we should build on what we have. I'm an advocate. I don't know – I'd like to know – who quoted it, but good government is close to the people, and if you move it further away, how do you get the basis of the response of the people? I mean, how do they understand 2,000 miles away the feelings or the conditions that exist? Albertans are Albertans. They are not Saskatchewanites and they are not B.C.-ites. We are different, even though we border together and we intermingle together. I do not think you could run such a thing. I think it should firmly be a responsibility of the province. I can see no harm in having some kind of guideposts to measure one another against. I have a lot more confidence in the fact of how well the students that I work for will perform than in my ability to speak. I at no time think we offer a lesser education than anybody else in Canada or North America. I'm very proud of our students. I know they are achievers. I only wish that when I was in grade 12, I was as well prepared as the students that we are turning out now.

I don't know if I really answered your question.

MR. CHAIRMAN: No; you answered the question.

In the most recent throne speech by the federal government they make the allegation that four out of 10 Canadians are functionally illiterate. If that is the case, that's rather a damning

indictment of our educational systems in this country, is it not? How do you react to that particular type of statistic?

MR. DEMERS: There's only one short, sweet expression I'd lay to that: I think it's a bunch of horsefeathers. Because you do not turn out a student that will do exactly one specific job does not make him illiterate. That's a broad statement. How would you ever judge how that statement applies to different areas, to different forms of education? I am concerned at the amount of students we lose. If you took the kids in grade 6 and found out how many we lose, 30 percent looks pretty good. I'm worried about it. I saw it myself as I progressed from grade 9 into high school, how many of my buddies were gone. They didn't even get to the statistics of them turning out at grade 12. I wish we had some kind of more of a support group – family, expanded family – to help these kids when they come into the system so that they would have a backup group. We need a backup group. We cannot cure all the ills in school. If you spend the first six years trying to discipline somebody or to get them to respond in a group situation, it doesn't leave much time for education.

MR. CHAIRMAN: Well, thank you. Are there other questions from members of the panel?

Well, thank you very much for your presentation, and may I on behalf of the panel extend to you our thanks as a volunteer servant of the people of your constituency for the work you do on behalf of those people and the young people of this community.

MR. DEMERS: Thank you very much for having me.

MR. CHAIRMAN: Joyce Green. I apologize for the size of the room. When I walked in here, I couldn't believe it was quite so small. We are moving this evening's sittings to the ballroom. We just couldn't get in there for this afternoon. I am sorry for the crowded nature of the room. My guess is that unless we open the windows a little bit, by the end of the afternoon this is going to be a hot room. So perhaps my colleagues or somebody could just crack the window open a little bit and get some fresh air.

MS GREEN: Am I on the mike now?

MR. CHAIRMAN: Yes. Please go ahead. I'm sorry; just a moment. We are not amplifying the sound, so you'll have to speak up so the people in the back can hear you as well.

MS GREEN: Well, thank you very much for being here. One of the grievous lacks in our constitutional discourse to date has been the fact that it's been conducted primarily by politicians and technicians behind closed doors, and consequently we the public have felt alienated and silenced and ignored. I'm just thrilled to have a chance to speak my piece before some politicians who are apparently willing to listen. Thank you very much.

There has been a marked discourse on constitutional matters since the 1982 patriation of the old British North America Act. The tensions surrounding Quebec's sense of grievance around patriation and its continuing alienation from the rest of Canada, combined with the failure of the four subsequent First Ministers' Conferences on self-government in the Constitution, the continuing alienation of the west and the north, and the sense of outrage felt by many Canadians around the handling of constitutional matters have focused, I think, an inordinate

amount of energy on our differences and exacerbated our cleavages. We are now, I think, a nation comprised of regions which see their own sense of nationalism to the region or to the ethnonational community rather than to the nation as a whole.

1:25

The Constitution is a rather complex set of documents and conventions, and I won't attempt to deal with it in its entirety. I think perhaps it might be most useful if I focus my remarks in three areas: I'll take a look at the premises on which the Canadian federation was designed and comment on how well that's working for us now, I'll look at the national and international obligations the country has assumed, and I'll look at the priority of matters that should be on the political agenda as predicated by these national stresses.

The constitutional debate is really about a fundamental examination of the way we Canadians see our country and our society and the restructuring we need for a chosen path of national evolution. Therefore, the deliberations have to include Canadians. I cannot overemphasize the importance of public participation in these matters for two reasons: the first is that we Canadians know best what we want and need from our country, and the second is that without the authenticity conferred by our participation, any subsequent political arrangements will be irrelevant to us. Therefore, it's important that as a society we come together and make these thoughtful and informed choices.

The Canadian universalistic ideology increasingly denies both regional and ethnonational particularities. For a comprehensive discussion of the differences, then, I'm referring you to Vernon van Dyke and Michael Asch, 1980, 1984, and 1990 respectively, and that will save you my lecture on the subject. Nevertheless, it is important that we acknowledge the diversities that are real in the country and stop trying to paper them over with the notion that we are really just one people. This drive for mass assimilation is really intended to support the myth that we are one people that have come together to form a country. In fact, this is not true. The sooner we recognize the realities on which this country is founded – that is, of several contributing nations and particularly the aboriginal First Nations – the sooner we will be able to deal with the regional stresses that are now tearing us apart.

The challenge for Canada in abandoning our universalistic ideology is that we have to also legitimize our national origins and the consequent land theft and cultural degradation of aboriginal nations. Consociation, which is I think probably our best option now, would acknowledge this and provide a framework for addressing the very difficult logical consequences of abandoning our mythological origins.

A vision of Canada will of necessity go beyond the administrative division of powers in the Constitution Act of 1867. A contemporary Constitution for this country will require accords on the economy, the environment, the First Nations, social policies, and the structures on which our political system operates. In my view, these are essential elements of a dialogue on national reconciliation and future constitutional development.

The matters of regional factionalism, Quebec's alienation, and aboriginal nationalism fall into the category of disunity. The factors are real. Provincial governments have a responsibility to work co-operatively and collaboratively with the federal government in securing equitable solutions to these matters. Where the rights of citizens are affected, section 52 of the Constitution Act of 1982 requires that protection of our rights be paramount.

Both orders of government have a pressing obligation to deal with the reality of evolving aboriginal governments and their requirement for a land base, for economic resourcing and infrastructure, and for a constitutionally recognized base of power. Aboriginal governments in their turn will only succeed within the context of the Canadian polity. Shared jurisdictions predicated by our federal structure call for enormous political empathy and goodwill, which has been notoriously lacking in the First Ministers' Conference round. Perhaps there has been too much competitiveness and a overweening emphasis on the hording of power to the two existing jurisdictions.

Canadians need to consider constitutional amendments and processes in light of the following questions: what is our collective vision; how can we co-operatively achieve it; is there a national will or merely competing regional wills; what political and structural options present themselves to deal with cultural, economic, gender, and aboriginal tensions? A thorough public dialogue would be most helpful for us in clarifying how our society could function. This is not a fast process, but the price of denying it is evident in the current fractures. Elijah Harper's slaying of the Meech Lake dragon served notice to the first ministers that their past constitutional sins of exclusion and manipulation require political atonement. The public does insist on involvement in these matters, and any appearance of political elitism will be suicidal for federal or provincial politicians.

On the matter of economic issues, then, we need to examine the impact of the free trade deal currently signed with the U.S.A. and proposed to include Mexico on regional economies, national programs and initiatives, and labour. Our Constitution should articulate economic principles that affirm the first-order interests of the Canadian population in economic development and sustainability. The right of people to work in a safe work environment with adequate remuneration are already present in article 23 of the UN declaration of human rights and the corresponding covenants on economic, social, and cultural rights, articles 7 and 11. Canada is signatory to these instruments; therefore, we have already accepted the principle of protection of the workplace, the workers, and the economy for our own benefit. There is no practical or philosophical barrier to their explicit incorporation in the Charter.

On the matter of an environmental accord, we need to explicitly make environmental considerations a highest priority in dealing with the exercise of constitutional powers; such as, for example, the development and sale of natural resources. We need to consider environmental questions ranging from the real cost of specific industries to alternative technologies to development of sustainable, nondamaging, stable state economies. Our Constitution must affirm the first-order interests of Canadians in and our commitment to environmental integrity. Flowing from this will be codified rights to clean air and water, to safe land use, to a statement of obligation to preserve our land with its diverse ecosystems for other species and for ourselves. It will include a statement of our collective responsibility to a program of economic and social development compatible with our environmental accord. [A bell sounded]

May I continue?

MR. CHAIRMAN: Yes. That's the 10-minute bell. You have another five minutes.

MS GREEN: I've got about another 10 minutes, but I'll hurry.

On the matter of political structure, then, despite the misnomer of Confederation, Canada is a federation. The decentralizing forces currently evident call for a more confederal struc-

ture. We need to take a careful look at the consequences of this before we go rushing into it.

I won't bother you – many of you are more familiar with the Constitution than I am – with the particularities of the wisdom of a strong central government and the necessity for regional governments dealing with local matters. However, the fact of the matter is that the model doesn't quite meet the realpolitik in Canada, and a variety of informal mechanisms and conventions have been developed to deal with jurisdictional overlap and so on.

One of the means that has been developed is the use of executive federalism and the use of the First Ministers' Conference. There is a danger in this insofar as it removes political debate from the political arena where the public can participate and puts it into a hothouse environment of technocrats and elite politicians. For many of us, this is bewildering and illegitimate. First Ministers' Conferences should never be used to take constitutional matters behind closed doors beyond the purview of the Legislature where at least we have an appearance of public debate on matters.

1:35

Senate revision has been touted as one of the possible ways to handle the structural problems of our federal process. Proportionate representation in either or both the upper and lower Houses has been suggested. Appointment should no longer be the process by which Senate seats are filled. It is an illegitimate process seen to be incompatible with democracy. The Senate's ability to veto certain Bills will have to be limited to certain kinds of legislation, perhaps constitutional amendments, in order to ensure that the lower House is not frustrated. Suspense of powers could be tied to a time frame to permit the Senate to exercise its constitutional authority without frustrating the will of the elected House currently sitting.

I will argue for the importance of a strong central government for all Canadians and for the importance of regional governments which are not empowered to subvert the national good.

On structure and process reforms, then, the following principles might provide a statement of vision for our practice of the specific policy mechanisms. I'll enumerate these briefly: a commitment to international peace through common economic and political security pursuant to our international obligations; an independent foreign policy and internal economic and social policy as a responsibility of the federal government; a commitment to creating truly democratic institutions which ensure the public's ability to participate in the decisions that fundamentally affect our nation; recognition of the evolving political development in the northern territories including the special potential for aboriginal governments; admission of the territorial governments with both voice and vote to the first ministers' club.

On the matter of the Charter, then, I recommend the following amendments and inclusions. These would be taken in order to implement at home the international obligations we have assumed through the Universal Declaration of Human Rights and the covenants on economic, social, and cultural rights and on civil and political rights. These should be immune to the notwithstanding clause, section 33. They are, enumerated: a commitment to full employment and the elimination of poverty through national and regional co-operative and collective processes; a commitment to aboriginal self-government, to decolonization, and to internal self-determination, and section 35 should be amended to reflect this; a commitment to Quebec's historic right as a distinct society, including acceptance, if necessary, of its possible future decision to pursue self-deter-

mination; a commitment to the advancement of women with the goal of achieving economic, political, and social equality; a commitment to the protection of the physical autonomy, security, and reproductive freedom of women; a commitment to the rights of children to a safe, secure, and nurturing family environment; the immediate entrenchment of sexual orientation as a prohibited ground of discrimination, an addition to section 15; the elimination of the two founding nations notion in favour of a statement recognizing two immigrant cultures' primacy and the aboriginal nations' contribution together with our current multicultural communities' contributions. Finally, the Constitution should guarantee the security of the family by ensuring economic autonomy for the primary care giver.

Thank you.

MR. CHAIRMAN: Thank you very much. Well, unfortunately, that doesn't leave us much time for questions, but if there are a couple of brief questions . . .

Yes. Ken Rostad.

MR. ROSTAD: Yes, Mr. Chairman. You mentioned that aboriginals need a constitutional base of power. Can you expand a bit? How do you see that? Are they a nation within a nation?

MS GREEN: Well, no. As an order of government additional to the current two orders of government, which would require substantial constitutional revision and all the complexities of the interjurisdictional conflicts. It is my view that it is, in fact, the legitimate claim of the First Nations that any exploration of our history and of our international obligations provides us with a moral obligation to get on with this as quickly as possible. There seems to be no real barrier to sharing power in this country. Certainly the status quo that we've used to date has not worked for aboriginal people or for Canada. I would see it as providing a land base, an economic base, and a portion of power – you may call it like a section 93, if you wish – which would recognize legitimacy within certain geographical boundaries for aboriginal governments.

MR. CHAIRMAN: There are several hundred bands in Canada. Would you conceive of each of them having that same right, or would there have to be some kind of amalgamation among them?

MS GREEN: Amalgamation seems reasonable. It can be done by cultural groupings, by treaty groupings, or by other kinds of voluntary political associations.

MR. BRADLEY: I have a question relating to the theme that you were developing regarding the environment and including as part of the environment the development and sale of natural resources. In the 1982 Constitution Albertans felt very strongly that because of the action of the national energy program, we had to strengthen Albertans' ownership and management rights regarding natural resources. What is your view regarding those natural resource rights which have been strengthened in the '82 Constitution?

MS GREEN: Well, I wouldn't challenge the province's right to own and sell within Canada its natural resources. What I'm suggesting is that this has to be congruent with our commitment to our environmental future, so no province, for example, could be permitted to engage in resource exploitation and sale that would damage the environment for future generations. For

example, we can take a look at the James Bay 3 development, which arguably is going to have a significant environmental impact. Perhaps Quebec needs to reflect on the interests of other peoples and other generations before rushing ahead with this.

MR. CHAIRMAN: Thank you.

Bob Hawkesworth.

MR. HAWKESWORTH: Thanks. Joyce, first of all, you've covered an awful lot of ground. I hope we're going to get a copy of your presentation. Whether we could have you leave it with us so we can . . .

MS GREEN: You're getting a copy.

MR. HAWKESWORTH: Okay, good. I've heard of confederation, I've heard of sovereignty association, but I think you used a term I'm not really too familiar with: consociation. I wonder if you could just describe it or explain it.

MS GREEN: Well, there are people more authoritative than me for this; nevertheless, consociation is a constitutional and political recognition of the integrity of an ethnonational or regional unit or units which come together for the purpose of a national objective. Belgium provides us with an example of consociational democracy. Switzerland provides us with a little bit of a different example. So there are models in the international community which suggest that the rights of ethnonational or regional particularities can be incorporated without fragmenting the nation-state.

MR. CHAIRMAN: Thank you very much. One quick . . . Sorry, Bob. I had written down that word with a question mark myself, so I'm glad you asked the question.

MR. HAWKESWORTH: Maybe just as a follow up to that, you also mentioned a Charter amendment recognizing Quebec's right to self-determination. Do you see that as being a right to secede from Confederation, and if so, would that be something any province could have? How would you see that working?

MS GREEN: Well, arguably and logically the right to secede exists for any member that has chosen to join Confederation. I hate that term; it's not appropriate. Nevertheless, I want to put it on the record that I'm hoping Quebec will not choose this option. I think we should find ways to make it possible for them not to choose this option. Having said that, I believe that article 1 of both the international covenants attached to the universal declaration – and Canada is signatory to these – require us to respect the choice of self-determination for any valid constituency within our borders. Now, I know the dangers of this, because then arguably, for example, the Kootenay Nation or the Blood Nation could say, "Screw you, boys; we're going," and take the land base with it. I don't believe that's a practical solution, but it is a logical and legal conclusion to the obligations we have voluntarily assumed.

MR. CHAIRMAN: Well, thank you very much for your thoughts. We will share, by the way, not only your presentation but any others we receive with the other panel, which, as I mentioned earlier, is now in Red Deer doing exactly what we're doing but I hope in a larger room to accommodate the people who have come forward.

Greg Ranger.

MR. RANGER: Thank you very much for the opportunity to address you this afternoon. I only plan on taking a very brief period of time, hopefully something light and refreshing in your day. I'd like to bring it from a perspective of somebody who is politically active but is not associated with a specific party so that you can get that perspective in your cross section as well.

1:45

It is my firm belief that the political leaders in this country are creating great confusion over the subject of constitutional reform, not to mention the constant barrage of media following this wandering trail of inept verbiage. In order to reach a successful conclusion to this dilemma, it is necessary to step back from the confusion and analyze the situation. First of all, the majority of Canadians, in my opinion, are proud to be citizens of this country and given the chance will work toward greater unity. The era of political inequality among provinces and territories is drawing to a close. The right to veto should be given to all regions on an equal basis, and this must be reflected by the structure and the composition of the Senate. The key to constitutional alignment hinges on the need for additional rights or powers to be given to the provinces and the co-operation of the federal government in this process. Some of the ideas are reflected in the following editorial, which stresses the need for Quebec's political leaders to help their citizens. It is entitled Quebec: One of Twelve Geographical Nations in Canada. I chose the title because Quebec plays much on their nation within a nation.

What differentiates the Yukon from the rest of Canada? Is it the Inuit culture? Is it the lack of political power in the Canadian parliamentary system or perhaps the historical struggle to become a recognized governing body? In short, the unique attributes which distinguish the Yukon from the rest of Canada have as much inherent value as those which forge the cultural, moral, and political fabric of all the geographical nations in this country. For Quebec the struggle to retain language and culture amidst the growing influence of English North America and the harness of federalism has created political frustration and division. This struggle has been directed inward for such a long time that Quebec has neglected to look above the fight for unique status and additional rights for self-government to seek allies.

The problems that confront Quebec are as real in the other provinces and territories, though some of the titles may not be the same. Each province and territory of Canada is a geographical nation unto itself and deserves its own special or unique status and the political esteem, rights, and vetoes that are inherent in this designation. It is the composition of this great country that makes Canada what it is: the hearty Newfoundlander, the friendly Manitoban, the charming Quebecois. It is time for Quebec to rise above the fight to seek the allies it needs to win the battle and let the silent majority of its people feel the pride of being Canadian and the freedom of new status.

MR. CHAIRMAN: Thank you very much, Greg, for your brief presentation.

Questions or comments? Fred Bradley, Bob Hawkesworth.

MR. HAWKESWORTH: Thank you.

MR. CHAIRMAN: Fred first – I'm sorry – and then Bob.

MR. BRADLEY: Thank you for your presentation. In the third or fourth paragraph of your presentation you talk about

two things: the right to veto should be given to all regions on an equal basis, and then you talk about the structure and composition of the Senate. I wanted to ask you about the first one, that the right to veto should be given to all regions on an equal basis. In which areas would you provide this veto? The current Constitution provides for seven out of 10 provinces representing 50 percent of the people in terms of the amending formula, and it's specifically put that way so that no single region by itself could have a veto. There are some parts of the Constitution where all provinces would have a veto. Could you elaborate on that?

MR. RANGER: Essentially, the important thing that I'm trying to stress is to allow areas that have minority populations the right or the ability to have their political views made known. Without getting into the intricacies of the present constitutional rights as they are, I would say that this is something that must be taken under strategic review, and they should analyze and consider which areas might be stressful in terms of a political situation. I think that some of the areas presently perhaps are lacking. I have not been afforded the opportunity to, you know, study this in detail. However, from what I've been hearing and seeing, I feel that there is a definite lack of feeling on the part of individual provinces that they are having a political say in what's happening.

MR. BRADLEY: Okay. The second area I wanted to ask you about that you talked about: you should look at the structure and composition of the Senate. Did you have any time to think about the triple E proposal, which I believe was unanimously endorsed by the Alberta Legislature? A number of people think it is the right way to go in terms of the Senate. Is that something which you would support, or do you have other ideas on the Senate?

MR. RANGER: No. As a matter of fact, I'm pleased with the presentation that has been brought forth by the province of Alberta with respect to the triple E Senate. I had the opportunity to do some studies on this particular subject in university. It is my belief that we need an upper Chamber that equally distributes the vote in this country, that has the ability to be elected by the people, and that comprehends all the ins and outs of the triple E Senate. I think it's a very sound proposal, and I would support it.

MR. BRADLEY: Thank you.

MR. CHAIRMAN: Bob Hawkesworth.

MR. HAWKESWORTH: Thank you, Mr. Chairman. Thank you for your presentation, Mr. Ranger. As you know, there's jurisdiction differentiation within the Constitution. Some powers are exclusively federal, some exclusively provincial, and then there's an overlap in others. I kind of take from your presentation this afternoon that you have a lot of sympathy for the proposal put forward by the Allaire report in Quebec that there would be a fairly massive decentralization of powers to the provinces and that the federal government should vacate its areas of shared jurisdiction. Now, that's just my impression from your presentation, so I'm sort of asking you the question: do you have some sympathy for the proposal from Quebec, and if so, do you have some thoughts about where the dividing line should be in terms of the two levels of government?

MR. RANGER: Yes, thank you, a very good question. Indeed, I do have some specific ideas with respect to this. In my opinion, they have gone somewhat in the right direction in seeking additional powers to be given to provinces. However, I don't totally agree with the extent to which they have sought additional powers. In order to maintain a solid federal government, it is necessary that certain jurisdictions remain within the power of the federal government in order to govern the nation. However, I think Quebec is playing too heavily on this subject. I think if they look at the general majority of their people, they are happy to be Canadians. However, there is a need within Quebec for them to feel that they are unique, which indeed they are in their own way. But we also as Canadians in other provinces have that same need to feel unique because we are, and I think the major fault with the Quebec government is their lack of recognition of other provinces as unique.

MR. HAWKESWORTH: If we had stronger provincial governments, would you feel the same need or pressure for a reformed Senate in order to provide that regional voice at the federal centre?

MR. RANGER: I still feel that the triple E Senate would be an effective means of a second House. In my opinion, it is necessary that the Senate itself is composed in a different fashion. The first House has representation by population and does not have an equal representation of voices within the government itself. I feel that we need a more equal representation within the second House, as it is there for reflective sober thought and second opinion. However, I am not sure to what extent any additional powers should be given to the Senate. I think that requires careful reflection.

MR. HAWKESWORTH: Okay. Thank you.

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MR. CHAIRMAN: Thank you. Well, on that particular point, having chaired the Canadian committee on behalf of the Premiers looking at Senate reform and talking about the triple E Senate, the most difficult E was going to be the "effective" E. That's the point you've really touched on just at that moment. Thank you very much.

I want to just ask you to give a thought to doing this. You mention a change in the distribution of powers and rights. I wonder if you would mind just thinking that through a little more and dropping us a line. If you gave us your views as to where the line should be, it would be helpful to us. One of the presenters we had in Camrose did just that, and it was quite an interesting diagram that we received from that particular presentation. So please don't consider this to be your last opportunity to give us your advice.

MR. RANGER: No. I thank you very much, and I will take the opportunity to study those lines and send you something, and hopefully it will be helpful to you.

MR. CHAIRMAN: Yes, it's very useful to do that, and I know it's tough to do that in a 15-minute presentation but please – and anybody in the audience for that matter – this is not the end of the consultative process.

Thank you very much, Greg.

MR. RANGER: Thank you.

MR. CHAIRMAN: Ian McKenna.

MR. McKENNA: Thank you, Mr. Chairman. I am here as an individual on behalf of no one other than myself. I had a copy of my paper given to the secretary. It's a very short one, and it will be available to you.

My recommendation is that the Constitution of Canada be amended to entrench certain rights of Canadians in the workplace. I recommend this for the following reasons. Perhaps the most obvious one is that work is not only an important activity in itself, but it's the whole basis of many other economic and social benefits in our society and should get special treatment. Secondly, it's a reality in Canada that in spite of the political democratization of Canadian society over the past century, the workplace remains by and large undemocratic, imprisoned, in my view, in the obsolete ideologies of Frederick Taylor and the management rights doctrine. This is illustrated by the following quotation. I'll give you the quotation, and you can guess who said it: we complain about government involved in business, we stress the advantages of free enterprise, we complain about the totalitarian state, but in our individual organizations we have created more or less of a totalitarian system in industry, particularly in large industry. Now, is that a radical raving of Karl Marx or even Ralph Nader or Bob White? No; it's from the former chairman of the board of Sears, Roebuck, no less, General Robert E. Wood.

I would submit to you that that totalitarian state does exist vis-à-vis workers, not only in big business but in big government. It seems to me that big government bureaucracies treat their workers in the same undemocratic way. The result of this is that many Canadian workers, including unionized workers, have no protection against unfair dismissal – you know, you wear the wrong colour of shoes and you can be out the door – are subject to intolerable levels of stress and risks of injury and actual injury; are still not paid equal pay for work of equal value in Alberta and other provinces, but not all; can still be mandatorily retired in some provinces. But this time Alberta is, in my view, on side on this and has changed its legislation, but in many other provinces – Ontario, for example – mandatory retirement: you can be out the door just because of your age. Many workers are still discriminated against by reason of their sexual orientation in most Canadian jurisdictions, and so on.

It must be noted here that the Charter of Rights and Freedoms as it stands now has proved particularly ineffective in entrenching the rights of workers outlined above and many more. It has been virtually a nonevent, more or less the way the Bill of Rights was perhaps in its own day just a nonevent.

Now, the absence of such protection of basic rights for many Canadian workers is particularly reprehensible in my view when we consider that Canada is a signatory to the Universal Declaration of Human Rights and a host of International Labour Organisation conventions and protocols, et cetera. We sign them and we even take a lead in getting them signed. These, as the committee is well aware, represent obligations of Canada in international law, but as things stand, they confer no rights on Canadian workers until they are entrenched in domestic law. This is particularly problematical in Canada at the present time, where international treaty-making is a federal jurisdiction but employment matters are by and large a provincial responsibility. The result is that there is no effective way in translating the theoretical rights of workers as acknowledged in international law into tangible rights under provincial employment legislation.

I'd like to give just three brief illustrations of this reality that

we can't easily translate these international rights into domestic law. Recently the International Labour Organisation declared unlawful Alberta's restrictions on strikes and restrictions on arbitration in the public sector, our Public Service Employee Relations Act. Well, the ILO can declare all it likes, but if the Alberta government chooses not to do anything about it, which it has done – it has done nothing about it – then these Alberta workers are not given the international rights that they're supposed to have.

Secondly, Canada has an international obligation to implement equal pay for work of equal value. I look around at Alberta again, and I find – and this isn't bash the Alberta government day – a refusal to legislate it. It's legislated in most Canadian provinces but not in this one. So to me there is a problem.

Finally, Canada's international obligations require the protection of workers against unfair dismissal. Although Parliament implemented this for workers falling under the Canada Labour Code, the majority of Canadian workers, including Alberta ones, still lack this protection. You get it if you're in a union, of course, because you negotiate it, but the majority of Albertans are not in unions and simply don't have any effective protection. These are examples and are part of my case for change.

As a result of this – I will make this brief, and you may want to ask some questions – I propose the following. First, I propose that Canada does remain at the forefront of developing and promoting the passing of international standards for workers. We've been good at that. Unlike the United States, for example, we signed those things and we try to promote them.

Secondly, I propose that a process of federal/provincial labour and business consultation be undertaken prior to Canada's ratification of such standards. Now, this may go on – I'm sure it does go on behind closed doors – but I'm unaware of it, and I guess what I'm saying is that when we're looking at the area of international standards for protection of the workplace, we should have this kind of public discourse, not behind closed doors but involving business, involving labour, and getting people committed to a process of generating those ever changing standards.

Thirdly, I would propose that the Canadian Constitution provide that once an international standard is ratified by the federal government – and I believe it should continue to be the federal government – both the federal and provincial jurisdictions should have a fixed period, perhaps two or three years, to enact domestic legislation implementing the international standards. We've got to find some way of getting those international standards which we've agreed upon at the international level into domestic law. I would suggest that the provinces should be given two or three years. This would have to be entrenched in our Constitution.

Fourthly, if a province fails to do so, then I would propose that federal legislation would automatically become law. I'm assuming that the federal government will legislate in the area in which they have signed an international treaty. They usually do. If a province doesn't get on side, then that will become the prevailing law automatically written into the province until such time as the province decides it wants to come up with its own legislation.

2-05

Finally, if the federal government and the province fail to enact the appropriate legislation sustaining the international standards, then workers can avail themselves of the protocol attached to the International Covenant on Civil and Political

Rights of suing the governments for failing to meet the covenant's guarantees on those matters. This remedy shall then be upheld pursuant to a constitutional amendment recognizing that this nation state will be bound in such cases. In other words, what I'm saying is that if the federal government decides to sign these international conventions, which I believe it should do, then unless it seriously enacts them, individuals will have a right to bring personal action against the appropriate federal or provincial government.

In conclusion, I would suggest that these are necessary because the international standards are really, in a sense, minimums that we have agreed to as being necessary in a democratic society, and we're not meeting those minimums. The provincial governments particularly fall short of them on many occasions, and I would like a constitutionally protected way of ensuring that these are brought into provincial law.

That's my presentation.

MR. CHAIRMAN: Questions or comments?

Pam Barrett.

MS BARRETT: Yeah. I missed the first minute or two of your presentation. I was outside; I could hear part of it. I just want to ask you one thing. You talked about workers' rights, pay equity, protection against discrimination for sexual orientation, and these other things. Are these currently conventions of the ILO?

MR. McKENNA: Sexual orientation isn't.

MS BARRETT: That's what I thought.

MR. McKENNA: Right. It is not. That was one that I slipped in myself. I would suggest, though, that it be part of this. In fact, my suggestion for that is that Canada take the lead in getting this passed as an international convention. All the others that I gave as examples – unfair dismissal, right to equal pay for work of equal value, and others that I didn't mention, like right to strike, right to arbitration, and so on – we have indeed ratified conventions on all those matters.

MS BARRETT: That would have been my next question. Thank you. You answered two in one.

MR. CHAIRMAN: Do you have a supplementary?

MS BARRETT: No. He answered it. I was going to say: now, did Canada sign for all of these?

MR. McKENNA: Yeah.

MR. CHAIRMAN: Any other questions or comments?

MR. McKENNA: Can I just briefly say that I think it's absolutely vital, particularly in the context of free trade and the way that we see that heading. The United States is a particularly bad example in terms of implementing international standards. It just simply doesn't do it in international labour standards, and I do fear that as we get closer economic union with the United States, there will be greater pressure in Canada to continue to ignore those.

MS BARRETT: Has the U.S. also signed all of these ILO . . .

MR. McKENNA: Very few. The United States is an incredibly bad example of that. It typically doesn't, partly, I think, because of its federal structure and so on. But in labour matters it shouldn't be a problem because labour matters are a federal jurisdiction down there. But I do believe that's important.

MS BARRETT: Interesting. Thanks.

MR. CHAIRMAN: I think it's fair to say that one of the main concerns about the U.S. ever entering into international treaties has been its reluctance to surrender its sovereignty of its nation to international organizations. That, of course, is something that brought about the defeat of the League of Nations after the First World War.

In any event, thank you very much for your presentation.
Jane Schultchen.

MS SCHULTCHEN: Good afternoon. I'd like to thank you for the opportunity of appearing before this committee. I think that one of the good things about this whole Meech Lake debacle and our constitutional crisis is that finally ordinary Canadians are waking up to what's going on in their country and learning about the constitutional process.

Today we are considering Alberta's place in a new Canada. To do this, we must define both what we want this new country to be and where we will fit into it. The task seems daunting, but I believe that if we approach this redefinition with positive attitudes and opened minds, seeking to build rather than destroy, we will succeed in making a better, fairer country. Tolerance and knowledge must become the blocks we use to build our country. As we approach constitutional reform, we must display tolerance and understanding not only to each other but also towards our country.

There are those who talk about Canada strictly in terms of economic gain or loss. There are those who contemplate the breakup of their country, the loss of the pioneers' dream and our children's inheritance without a twinge of regret. It has become somewhat fashionable to slander this country, to simply state "It does not work" instead of asking what we should offer our country and our communities. Canada is more than a series of social programs and subsidies. Whatever its faults, it is our country, a country which for the most part nurtures and protects its people. Yes, this country needs reforms, but the reforms must be done as attempts to reach out to others rather than to erect new borders and customs stations. Cynicism, misunderstanding, and despair threaten to destroy Canada, but we owe it to our children to build and improve their country.

On page 2 of my written text, I mention the tendency of Canadians to feel insecure and doomed to failure, and I mention a book by Dominique Clift, *The Secret Kingdom*. I won't read those quotes here, but there certainly is a vein of pessimism and insecurity in Canadian society. We expect Team Canada to choke in the third period. We're used to watching smart, well-educated people leave to go after the American dream. On a more personal note, we may choke on rage towards politicians that do not seem to understand us, be frustrated in our search for jobs and a decent life, and yet resign ourselves to the inevitability of disappointment. Perhaps we see this sense of national inferiority best in the search for a national identity, which involves evaluating our country by what people in other countries think and includes rigorous self-assessments to discover what makes us different from people in other countries, what traits are pan-Canadian.

But a country need not be uniform to be viable. Differences can breed tolerance, imagination, and flexibility into a country as long as this premise remains: that the nation itself is worthy of respect and tolerance. Our national identity may not be overt, yet Canada exists within each citizen. We need to stop comparing ourselves with other nations and move towards a more positive form of nationalism. We can only accomplish this by choosing to build a country, by making its institutions and economy fair and relevant to all of us. We must fight the despair that comes from being powerless. We must believe we can find new ways of doing things. Unless we believe success is possible, we will not work to achieve it. Start your constitutional position from the premise that we will succeed in not only keeping this country together but also in making it a place where we can live full and satisfying lives. I am offended by those who say, "The future is decided, so let's get on with splitting up our country; let's get the best deal for ourselves that we can." Why should we negotiate our country's destruction when all the options have not yet been explored? Why rush to destroy our country?

Two great obstacles facing Canada are increasing acceptance of intolerance and the movement toward erecting barriers between people in this country. Separatism in all its forms is often used as an excuse to create a society with narrow parameters, one that fits a certain vision and protects those who espouse it from outside influences. This shift towards separate visions of smaller, homogeneous Canadas can be seen in various parts of the country both inside and outside political parties. It expresses itself mildly in the assertion that official bilingualism doesn't work and viciously in the burning of Quebec and Canadian flags.

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As I mention in my written submission, the quest for a homogeneous and therefore more manageable society is dear to the hearts of many politicians in this country. Bilingualism attacks the vision of a homogeneous society, and its benefits lie not so much in the ability to speak two languages but in the ability to know that other points of view exist and perhaps to understand other points of view. Perhaps this is the real reason some people are opposed to bilingualism. Canada challenges us to give up our narrow viewpoints and work toward a better future. There still is common ground among the people of Canada. The exchange that took place recently between the people of Wainwright, Alberta, and Marieville, Quebec, shows that Canadians can understand and reach consensus with each other if they get the chance. Polls such as the CBC/*Globe and Mail* poll of April 23, 1991, illustrate that Canadians are attached to this country and reveal the need to be imaginative and flexible in our approach to constitutional reform. We cannot insist that our individual visions or those of our political parties are the only ones with merit. No one person or group can speak for whole regions of Canada. The self-proclaimed voice of English Canada does not speak for me, and I doubt that Quebec's nationalist politicians speak for everybody there.

Many Canadians are disillusioned with the country as it now exists. The citizens' forum interim report shows that just as there is a concern about the willful destruction of our national symbols, there is a belief that the country must provide more equal opportunities for its citizens, and there is anger, disillusionment, and a desire for fundamental change. We may love our country as it is, but we cannot insist that it remain the same.

A country is a living collective of people, people who create constitutional and economic arrangements with which they can

fulfill their dreams and use their talents. We need a Canada where all regions are strong, where all people have the opportunity to live productive, satisfying lives, where we do not need equalization payments anymore, and where most of the money we now have to spend on unemployment insurance and social assistance can be spent on education and culture. Canada must be a federation that generates surpluses not deficits.

Many national leaders, including Mulroney and Chretien, have accepted the idea of constitutional reform, but it's clear that other changes are necessary too. This country needs industrial restructuring, more research and development, and a revamped education system that will produce both technically skilled employees and astute citizens. Education is crucial to Canada's survival. We can't build a better future for ourselves without a skilled work force, nor can we move to a more grass-roots democracy or ask citizens to decide their country's future without good education and accurate information. We applaud the concept of great democracy, but its benefits won't materialize if misconceptions are not challenged. Populist movements easily go astray and become mob rule if citizens do not have the skills to evaluate what they hear or do not get accurate information. How can Canadians make good decisions about their future if they can neither understand each other nor their own history?

Canadians lack basic facts about their country. For example, a recent poll done for the heritage project found that only 62 percent of those surveyed knew Newfoundland was the last province to enter Confederation. The heritage project may yet become an excellent educational resource for Canada, but I believe we need to completely re-evaluate our education system, and we will need governments to do this. As well as career training we need programs that build tolerance and civic responsibility, that encourage us to get back to our communities, province, and country. We need to inculcate a sense of national pride as opposed to more isolationist and negative forms of nationalism that sprout up in this country. We need a trained, competent work force.

Education is within provincial jurisdiction. I'm aware that provinces are unlikely to give up areas within their jurisdiction in the near future or until hell freezes over. In fact, regional history and economies may best be served by having provincial control of curriculum, but surely voluntary agreements to share resources and voluntary national standards could help produce programs we need to build this nation and give us a more efficient education system. A nation is people. Nation-building involves developing the citizenry far more than it does making laws and dividing up powers, even if the process of making laws and dividing up powers is called constitutional reform. If we work on developing Canadians, Canada itself will be a success. Let's challenge ignorance and intolerance. Let's work to make Canada prosperous.

So, we're back to the original question: Alberta in a new Canada? By all means. The kids are counting on it.

MR. CHAIRMAN: Thank you very much, Jane, for your thoughtful comments today. Your depth of understanding of Canada and the issues facing us is quite remarkable. Just a comment on the process, and then Yolande.

I guess the Constitution of Canada was amended – how many times before 1982 when it was patriated to Canada? Can anybody tell me? I'm not sure, but a multitude of times. And how many times were Canadians in any way consulted on that process? None at all in a process like this. It was always done by the federal Parliament. Sometimes the provinces weren't

even consulted. The federal Parliament passed an Act. It went over to the House of Commons in the United Kingdom and got the amendment they asked for.

So in 1982 it came to Canada. The new amending formula was put into the Constitution, and then we as Canadians had to find a way of going about getting into the process. We're in that process now, and so we're learning about it as we go along. Now, obviously the Meech Lake thing was a failure; the process was a failure in the minds of Canadians. So we're now working through a new process, and part of that process is this type of meeting and discussion with Canadians. So I appreciate you coming forward and being frank. It's exactly that type of exchange that we do need as elected representatives, so we can then move on to get the kind of Constitution that Canadians really want.

Yolande, and then Bob Hawkesworth.

MRS. GAGNON: Thank you. Jane, I think you've presented a very generous vision of Canada, and I think we all know that you're absolutely right that no one province is homogeneous. I mean, Quebec is not made up of people who are all identical any more than any other province is.

You support bilingualism and multiculturalism. I wonder if you could expand a bit on your understanding of multiculturalism. People say they either hate it or like it, but they often don't define what they mean. I wonder what you mean by that.

MS SCHULTCHEN: My vision of multiculturalism assumes that people who come to this country will love this country and respect the right of this country to preserve itself and will work and offer something to their communities. I can't accept a form of multiculturalism – I don't really know if it does exist, but perhaps on the part of some people it does, and it is certainly an appearance that it does exist – where it's just a series of government handouts. I have no problem with the concept of bilingualism – I think that enriches us – or multiculturalism; I think that enriches us too. But where the problem lies is when people in the country start to slander the country and bite the hand that feeds them. That's probably overstating it, but that's basically where I'm coming from there.

2-25

MRS. GAGNON: Thank you.

MR. CHAIRMAN: Bob Hawkesworth.

MR. HAWKESWORTH: I agree with you that if we don't have a wellspring of tolerance within the country, we're probably not going to make it and in fact there would be no basis for a nation anyway. But I think our history has shown that despite our differences and even severe disagreements, that residue of goodwill is there. In our hearings we've heard from many Albertans, certainly a number of them, that everybody should be treated equally in Canada; all citizens should be equal regardless of race, religion, creed, where they come from, language, and so on. I think that's a good principle, but how do we balance that off with our diversity and recognizing differences without maybe creating two different classes of people?

MS SCHULTCHEN: How do we balance equality and fairness? Is that what you're asking?

MR. HAWKESWORTH: I suppose that's another way of putting it, certainly with the diversity.

MS SCHULTCHEN: Okay. I try to treat all my children fairly. I do not treat them equally. The concept of equality does not necessarily mean fairness. I have great problems with the idea of taking away from people rights that already exist, taking away French minority language rights outside the province of Quebec, taking away English language rights within the province of Quebec, not treating Metis and aboriginal people fairly. I'm afraid that at times the concept of equality becomes almost a concept of tyranny. I don't have the wisdom of Solomon, but we have to find a way as a dominant culture of not riding roughshod over the rights of minorities. At the same time, I think if the concept were there among all Canadians that we were contributing to the country, there would be less of a problem.

MR. HAWKESWORTH: I appreciate that. Do you think that in the interests of fairness instead of equality, certain powers might be applied to Quebec or granted to Quebec to recognize its situation that might not necessarily be applied in the rest of the country?

MS SCHULTCHEN: Why don't we sit down and look at it? Why don't we be pragmatic? Whatever works. I've noticed in the political process that there seems to be an attitude of: we'll take a position, they'll take a position, and then we'll sit across the table and butt heads for a while. To me that seems to be entirely the wrong way of going about it. We should take a tentative position and they a tentative position, we should dialogue for a while, go back and continue dialoguing and re-evaluating our position, and we should always be willing to learn. If it turns out that this a necessary thing we will have to do, then perhaps we should consider doing it.

MR. CHAIRMAN: Thank you very much.
Gary Severtson.

MR. SEVERTSON: Yes, Jane. You mentioned that you think we should have a national standard for education. If you had your choice, do you feel it should be under provincial or federal jurisdiction?

MS SCHULTCHEN: Okay. I think it is a co-operative area. I am afraid that a completely national education system would completely obliterate local and provincial history in parts of Canada. This year one of my children spent a large portion of his school year discussing the history of Lethbridge and this province and learning about Hutterites and that thing. I'm afraid that somewhere along the line there does have to be provincial input. Also, the economies of the provinces are different, and more money may be needed to be allocated to different professions in different provinces. Certainly Quebec is never going to accept absolutely the same curriculum as the rest of the country. But there's a lot of work provincial education ministers could do together. I think they could definitely work on something. They could share resources, they could maybe even share textbooks, but there's a lot of work they could do together without forcing anybody to do anything.

MR. SEVERTSON: So more or less have it as a get-together to get a national standard but have provincial . . .

MS SCHULTCHEN: Work together. Change the entire mind-set from this is my power and this is your power. Our job is to serve the people, so let's do the best job we can. If this power is one you should have, then you should have it; if this power is

one the federal government should have, then they should have it.

MR. CHAIRMAN: On that particular point, it may be interesting to you and the members of the audience to know that the Council of Ministers of Education for Canada, which is not a well-known body to people outside educators' circles, meets on a regular basis. John Gogo, as the Minister of Advanced Education in this province, is a member of that council. Quite recently they did agree upon a uniform system of student evaluation for Canadians. Every province agreed to that, and it was led by Quebec and Alberta putting together the process by which student evaluation would be achieved.

Now, Ontario has some qualifications about that yet, so they've sort of withdrawn their support at the moment. We're hoping to persuade them to come back in. But that's a good example of what you're suggesting needs to be done. It's interesting to note that Quebec was very anxious to be part of that and actually took a very lead role in developing the standards for evaluating achievement. So that's an interesting point.

Well, thank you very much for your thoughtful presentation.

MS SCHULTCHEN: Thank you for the opportunity to speak.

MR. CHAIRMAN: Dr. Ernest Mardon. I met Dr. Mardon years ago. I don't see him in the audience today. Is he by any chance . . . If not, Aruna D'Souza.

MS D'SOUZA: Good afternoon. Thank you for the opportunity to speak here today. As Canada the nation it is now continues to search for Canada the nation it will become, many groups and individuals need to speak up to express their particular concerns and interests. In this way the process of Constitution-making may begin to reflect the diversity that characterizes this nation. Our country's Constitution may be seen as our will. These words are an expression of the direction and philosophy we set for Canada. It is necessary, then, that these words reflect the will of the citizens of this country. It is with this in mind that I am pleased to take the opportunity of addressing you on behalf of the Alberta Status of Women Action Committee, Lethbridge branch.

In the case of women, the special needs of this "interest group" will affect this country profoundly. Women represent over 50 percent of the Canadian population and take active part in the social and economic machinery of this country. As primary care givers in the family unit, as 82 percent of lone parents in Canada, and as 44 percent of the total labour force, women will affect Canada to the core of its social framework and its economic activities. This brief will address the topic of health care issues as they affect women, dealing specifically with the potential effects of constitutional reform on women's place in society. It is by no means a technical document, nor does it present desired outcomes of constitutional reform; rather, it will present issues of particular concern to women that should be taken into account when any changes are considered. It should be noted as well that it does not address the special needs of all women. We do not purport to represent the additional special needs of aboriginal women, disabled women, women of a visible minority, or immigrant women, although all the issues presented will affect practically all women.

As primary care givers within the family, the health choices presented to women affect not only themselves but their partners and their children, and health services and access to those

services for the whole family are of paramount concern to women. As well, women and children make up the largest proportion of Canadians living in impoverished conditions. It is in these regards that the first of our issues is raised. It is necessary to preserve a standard level of health care services and access to those services, including and perhaps especially with respect to reproductive health services for all Canadians. This access to safe, adequate, and effective health care should be seen not as a privilege but as a right for all Canadians as part of Canada's commitment to provide the opportunity for every person to achieve an adequate standard of living and a high quality of life. I see those two as sort of separate issues but interrelated. In a broader sense, then, it would seem necessary to include such a commitment as part of our direction for Canada and thus included in our Constitution and Charter. Such a statement of principle may include the promise of our nation to work towards the goals of full employment and the eradication of poverty and the guarantee of access for all Canadians to the economic and social infrastructure of the country regardless of race, creed, religion, sex, disability, age, or sexual orientation.

2:35

This statement of principle is one all Canadians can ascribe to and one women cannot compromise, for it is in this commitment, expressed by all Canadians by including it in their Constitution, that we as a nation may start to work to correct the inequalities that still exist. Why do women and children make up such a large proportion of poverty-stricken Canadians? Why are certain ethnic groups harder hit by unemployment? Why is our aboriginal population living on reserves suffering diseases such as tuberculosis which in any other part of the country would cause a national uproar? Why are certain medical procedures such as abortion available only to women who live in the right part of the country or in the right part of town?

You may have noticed that up to this point I've been using a definition of health that perhaps is broader than usual. I have included physical and economic and social connotations in the definition. This, too, goes back to the original statement of principle. It is in the recognition that health care goes beyond treating a broken leg and that the economic well-being of our families is a form of preventative health care that we come to understand the necessity of ensuring that all Canadians are able to participate in the economic and social life of our country without discrimination. It is in this entrenchment of social and economic rights in the Constitution through the Charter that we take the first step towards equality. The second step comes through the guarantee that no one shall be discriminated against because of race, creed, religion, sex, age, disability, or sexual orientation. This task is almost complete except for the "or sexual orientation" part, which seems to me quite obvious. The result is a theoretical equality of all Canadians in the activities of our society. The Charter guarantees to all the right to life and security of person.

Given these guarantees to women of equality within society and equal access to social and economic aspects of society, the next issue to be raised is this: women as equal members of society should share equal rights with regard to matters of reproductive health. What does this call for reproductive rights mean? It quite simply means that just as a man should not be forced to have a vasectomy given his right to security of person as guaranteed by the Charter, a woman should not be restricted or compelled in her choices when it comes to matters of

reproductive health. Any type of restriction or compulsion would imply that somehow women are less capable of making this decision. The right to make one's own reproductive health decisions is implied in the recognition of equality and the right to security of person. It must not be forgotten in further discussions.

There has been talk of including fetal rights as part of the Charter, and to this we react in horror. The inclusion of the rights of a fertilized egg in the Charter completely undermines the rights of over half the Canadian population. Not only would women then be restricted in making their own health decisions like any other capable, intelligent human being, but this restriction would go beyond the point at which a woman becomes pregnant to the whole period of pregnancy. The inclusion of fetal rights brings up the possibility of monitoring pregnancy and the suppression of rights of women while they are pregnant in order to protect the rights of the fetus. The inclusion of fetal rights would reduce women to being viewed and treated as mere vessels of procreation, period.

If there is a recognition of the rights of women and indeed all Canadians to determine their own reproductive decisions, as implied by the Charter through the proposed changes, then one next must examine access to reproductive health services as part of the guarantee of nondiscriminatory access to Canada's social and economic infrastructure. It is in this respect that the structure of our nation must be taken into account. As part of the current federal spending powers in the realms of social programs and health care, the central government has been able to ensure that some standardization of programs already occurs nationally. These powers have provided leverage in such cases as British Columbia's attempt to arbitrarily deinsure abortion. Because of the federal government's financial involvement in the health care program, they were able to prevent this attempt to override women's rights to universal access to necessary medical procedures. In this way a central government with strong powers in the area of health care or, at the very least, strong co-operative powers with the provincial government is very important. It safeguards women against the smaller, parochial, regional interests that may characterize provincial and local governments as well as provides a national standard in health care that will ensure universal and equal access in reproductive and other health procedures.

This standardization hopefully will go a step further, ensuring that access to a procedure like abortion is not determined by where a woman lives. For example, the number of physicians who perform this medical procedure in the medium-sized rural Conservative community of Lethbridge, with a population of 60,000 people, will be reduced to one as of July. This is not universal access. The reasons for this mainly are two: first, doctors do not feel they are protected under current legislation in performing this procedure, and second, there are few procedures other than abortion in which the morality and religious convictions of the doctors themselves play a part in access to service for Canadian citizens.

If the Charter were to ensure that social and economic rights would be enjoyed by all Canadians, it is felt that a central government with strong powers in these areas would be necessary to ensure that these rights are put into practice, first of all, and, second, that the central government may be able to smooth out regional disparities occurring across the country.

It is the position of the Lethbridge branch of the Alberta Status of Women Action Committee that Canadians must be guaranteed social and economic rights and these rights must be held by all citizens without discrimination. Part of these rights

is access to safe, adequate, and effective health care that is available to everyone, and part of this health care is reproductive health procedures. Whatever changes result from the conversations taking place throughout the country to determine the future of Canada, they should not undermine these rights or the hard-won position of women in our society. This means protecting a health care system to a national standard.

What we as Canadians must remember is that putting these high ideals of equality and respect for every person in the Constitution will by no means have the effect of social justice unless we take the responsibility through our social, economic, and political institutions to ensure that these rights are implemented through these same institutions. By simply stating these ideals as rights of all citizens, however, we are taking the first step.

Thank you.

MR. CHAIRMAN: Thank you very much.

I just want to make a brief comment. I'm always intrigued by the presentations which say there should be national standards which the federal government sets for various fields, be it education or health care, et cetera. I'd like you to respond to me as to how the provinces then can guarantee that the federal government will continue the funding that is necessary to have the provinces or the municipalities or the other agencies carry that out.

MS D'SOUZA: Guarantee the funding to the provinces or the local agencies?

MR. CHAIRMAN: Yes.

MS D'SOUZA: Obviously, part of the question is funding and that perhaps local and provincial governments do not have the funds necessary to make reproductive health services accessible to all people. I think what we have to do then is prioritize, because obviously money is not coming out of our ears, nor am I trying to imply that the federal government has the financial answers to all the problems. But if we as Canadians can say that our goals, through a statement in the Charter of Rights, are to provide social and economic rights to all Canadians, that in turn sets our priorities and our legislative priorities subsequent to that.

So if we're saying that we are deinsuring abortion procedures because the provincial government doesn't have the money to pay for it, well, why in particular are those procedures being deinsured and why are we not looking at the whole health care system? I tend to think that the reasons that problems such as deinsuring abortion come up are not because the province doesn't have money – although obviously everyone's caught in financial worries these days – but because of other factors. A lot of those factors have to do with the position of women in society, and a lot of those factors have to do with what the government sees as valid medical procedures.

2:45

MR. CHAIRMAN: Okay. I wasn't trying to target that particular issue, which is obviously a very controversial one, but the broader issue of the federal government moving into a field which is now in the Constitution for the provinces to carry out. Starting it up with seed funding and then withdrawing the funding, leaving the provinces to fund it: that's a real difficulty. I just wondered how you'd respond to that.

Yolande.

MRS. GAGNON: It's the third time this week that we've heard about the concern that fetal rights might be included in the Constitution. I don't want to get into a big debate about abortion or turn this into that kind of a discussion, but could you clarify for me: is there any point at which the Status of Women Action Committee would recognize that the right to existence of a viable fetus – let's say a six and a half, seven-month, eight-month fetus, someone that could live on its own outside the mother's body – might depend more on whether the mother wants it or not? That's what seems to make this being, this fetus, dependent on being a human being or not: whether the mother wants it or not. If she wants it, it's a human being; if she doesn't, it isn't. So have you really looked at that very, very carefully? I know you're looking at women's rights, and that's a valid thing.

MS D'SOUZA: Right now the current legislation, I believe, is three months. I think that's correct, that abortion of a fetus is legal up to three months. The position that I feel comfortable taking right now is that women have the right to make that decision for themselves right now. I don't know if there's a case of a woman at six months being able to say – I don't even think the medical procedure is viable at that point; you can't do it beyond four months. You actually can't physically perform an abortion after four months, so I don't even know that that's a relevant question.

I mean, what we're talking about as well is a mother who has a child two years old, which she wasn't ever planning to have or expecting to have, saying, "I don't want to have that child." Obviously, the child doesn't exist after that point, but maybe we can work sort of earlier in the steps to hope that that doesn't happen.

MRS. GAGNON: Just to clarify, I think I'm right by saying that right now in Canada there are no laws as to the time in the pregnancy at which one is then prevented from having an abortion. I think it's wide open right to the ninth month. Am I not right? Mr. Rostad, you must know. I'm sorry. But there are no limits right now on when a woman in Canada can have an abortion, are there?

MR. ROSTAD: Not a legal limit; there is a medical. It's at the discretion of the medical practitioners.

MRS. GAGNON: Yeah, but not legal; right. Okay. Thank you.

MR. CHAIRMAN: Well, this is a sensitive issue, not that we're afraid of dealing with sensitive issues, obviously, because we're dealing with the life of the country. But in terms of constitutionalizing issues of this kind, I think that the discussions could become very difficult within the Constitution of the country.

Okay. Well, thank you very kindly.

I think it's time for us all to stretch our legs and have a bit of a coffee break. Then Mr. Dick will be the first presenter after we resume.

[The committee adjourned from 2:49 p.m. to 3:07 p.m.]

MR. CHAIRMAN: Order please. I'd like to resume, and I'd like to ask Henry Dick to give his presentation.

MR. DICK: I'm a semi-retired farmer and an ex-vet from 1942-46. I've served on a number of farm committees and organiza-

tions, so while I'm only speaking for myself, I think I'm qualified to speak for the rural areas of southern Alberta like Vauxhall, Enchant, Hays, Taber, Coaldale, Vulcan. I didn't know what to expect, and I just wrote up a short brief. This is my personal belief, and this is what the people that I have coffee with every day of the week tell me is what they would like to see.

I believe in a strong federal government. A federal government should be in charge of defence, national trade and commerce policies, immigration, and research. It should set equal standards across the country for the environment, health services, schools and universities, but it should be administered by the provinces. There should be no interference by the federal government in the development by the province of natural resources, such as the Oldman River dam. After it's halfway built, they appoint a committee to see if it's any good.

There's got to be a definite change in the parliamentary procedure, such as a free vote without bringing the government down, and an effective triple E Senate. Now, the reason for a triple E Senate is that you've got to get away from handing out political favours to your friends once you look like you're facing defeat.

There should be a change in the Supreme Court as to whether judges are appointed for a five-year period rather than a lifetime. They should be questioned and supported by the parliamentary system like they are in the States, although I don't agree with a lot of things in America.

Immigration should reflect the economic policies of the government and be for the benefit of the country, not for the benefit of the immigrants. Illegal immigrants should have one right, which is to be deported within 24 hours. For example, this fellow in Edmonton; he should have gone back a long time ago.

MR. CHAIRMAN: Sorry, Henry. Which one in Edmonton?

MR. DICK: Well, the killer.

MR. CHAIRMAN: Ng. Oh, I'm sorry.

MR. DICK: Before I go on with the immigrants, I would like to say that I myself came to this country as a boy with my family in 1926 as refugees from Russia, and we lived in southern Alberta most of the time. At that time we came in with the agreement that my father couldn't take any other employment except farming, so there was no way that he could get a job in town and become a welfare case.

Immigrants should not be covered by the charter of human rights until they become citizens of Canada. All Canadian citizens should have equal rights regardless of colour, race, or religion. When you're looking for a job, to get that job should depend on your capability to be able to do it, regardless of who you are or what you are.

I believe the Indian department should be abolished as of today or within the next 10 years, if not sooner. All land and other claims should have been settled a long time ago, and we should get on with it. The natives should have self-government on their own reserves and under Canadian law, after which they should have equal rights and equal responsibilities the same as the rest of us Canadians have, such as paying their own way, their own education and health services, and everything else once they get that way.

I'm opposed to bilingualism because it's something that I can't see working. Allow the French to speak their language in Quebec, and the rest of Canada should have the option to remain English. For example, for the census we got two sets of

forms; one's French and one's English. My wife filled out the English one, so now I'm one of her concubines.

The Constitution should be reformed by appointing three or four prominent citizens from each province to draft a new Constitution or change the one we have here. Then we should have the opportunity to vote on it.

The three major political parties have disqualified themselves from making changes in the present Constitution because they're only concerned about getting elected and their own political gain. They don't give a damn about the country.

Last but not least, I would like to see the Lord's Prayer back in the schools along with the singing of *O Canada*. When you sing *O Canada*, which we did during the war and later on . . . One-third of my rifle squad was French, and when we were killed or wounded or came back, nobody asked us what language we spoke.

When we get down to "What about Quebec?", after all these changes have been made in the Constitution, if Quebec still feels that they want to leave, I think they should have the opportunity to do as they please, but only if they take their share of the national debt with them.

Thank you.

MR. CHAIRMAN: Thank you, Henry. You've engendered a number of questions and some enthusiastic response.

Jack Ady.

MR. ADY: Thank you. I was interested in your comments about federal government control of things like health, education, and other social programs and then your additional comment that the provinces would be called on to administer them. Would you say that in the strictest sense, that they would be in total control and the provinces would be just the people who did nothing more than administer? Would the federal government in turn pay all of the costs of them in that case, or would we still be called on to pay them and they would just set the agenda?

MR. DICK: Well, the way I visualize it, they would set the standards, and then every province would be obligated to try and follow them. As far as paying goes, the province would have the taxation; you would just send less money to Ottawa. They would just set the standards. I mean to say that if you graduate as a doctor, you should be able to operate in all 10 provinces. If you're coming out of grade 9, you should be able to go into any school with grade 10 and carry on with your education. This is what I had in mind. I think it should be administered by the provinces because they're the ones who know how to raise the funds and they know how to administer it and how to pay for it. If you let the federal government pay it all, then it's as a lot of these projects are: "I'm spending federal money and I don't give a damn where it comes from, so I'm all in favour of this." But if I'm going to sit here at home and say, "I want this special thing in my service," I'd better be prepared to pay for it. The people will tell the government what they want, but I think you should have these standards set up. You may not necessarily be able to keep all of them.

MR. ADY: Just a final question. You wouldn't have any concern with the federal government setting standards that more or less met the lowest common denominator of Canada, whatever that might be? Then Alberta, for instance, which has a reasonably high standard of education, would be in some way curtailed.

MR. DICK: Well, no, not the lowest, I wouldn't say, but also it shouldn't be the highest. Everybody knows they'd like to drive a Cadillac, but I drive a small car because - or a small truck; my car isn't that small.

MR. CHAIRMAN: Okay. Pam Barrett, and then I think Fred.

MS BARRETT: Boy, you were thorough and, I might say, fast. Could you repeat, please, the process for constitutional changes that you were recommending? I couldn't catch it.

MR. DICK: Okay. Basically, it's not just me, but everybody I've talked to has lost faith in the three political parties since Meech Lake and time on.

MS BARRETT: Right.

MR. DICK: The only legitimate government that we as Canadians have which is willing to work with us is provincial, like you are doing here. Therefore, I would like to see a committee like this appoint three or four prominent citizens from each province. They would get together and they would recommend changes to the Constitution. Then we would come back and we as a people would vote on it.

MS BARRETT: So a referendum at the bottom line.

MR. DICK: That's right.

MS BARRETT: Thanks.

MR. DICK: Maybe you would have two or three, because I don't know whether you could vote on five or six subjects on one referendum.

MS BARRETT: Thanks. Great.

MR. BRADLEY: I had a question similar to Jack's, and I just wanted to clarify in terms of the responsibility you'd transfer to the federal government in terms of standards. The federal government currently has responsibilities for education and health on our native Indian reserves and for environmental standards in some areas; say, in our national parks, Banff park for example. I can recollect that when I was Minister of the Environment, their standards did not meet Alberta standards. Would you be prepared to transfer this standard setting responsibility to the federal government if in fact it meant a lower quality of service to Albertans in the areas of health, education, and in terms of, say, standards in the environment? Because our current environment standards exceed by far those set down by the federal government in their areas.

MR. DICK: Yes, I realize that. The thing is that the federal government sets the standards; then they collect my income tax. When it comes to paying for some of these services which they insist we have, they withhold their funds. This is what I find trouble with, and that's why I also have trouble with the claw-back on the old age pension. On one hand, they give it to me; on the other hand, they claw it back at the end of the year. They are not transferring payments to the province, so the province has had to cut some of its health care now. But I do think we should have a fairly high standard. We have a high standard of living. Even the people that are only on minimum wage or working for \$10,000 or \$12,000 a year live a heck of lot

better than people that are living on \$25,000 or \$30,000 a year in Europe. I paid \$27 for three scrambled eggs in London last year.

3:17

MR. BRADLEY: I guess I don't believe that the federal government has the fiscal capacity to raise the rest of the country to the high standards that Alberta has. That's why I asked the question: would you be prepared to lower the quality of service and the standards and transfer this responsibility to the federal government?

MR. DICK: I'm not saying that all the provinces should have it, but you should have this standard, and from then on, it should be the responsibility of the provincial governments to develop that standard and even go beyond that. But this is the minimum.

MR. BRADLEY: Okay. The second question I had: you suggested that the appointment of Supreme Court justices should be for a five-year period, and then you suggested, I believe, that there should be some sort of ratification process by Parliament.

MR. DICK: That's right.

MR. BRADLEY: Is that something you would see perhaps a triple E Senate doing?

MR. DICK: Well, I don't know who would review them. But, you know, now a political appointee - and most of them are political appointees, although some are very capable men and women, both; I have nothing against either sex being in there. But these are political appointments. Some of them are not in tune with the rest of the country, and they're in there for life; you can't get them out. For example, when they get appointed to these positions, I think all Supreme Court justices should disclose their financial obligations, their financial status, and also where they're coming from. Then Parliament could question them, and they could make suggestions. Even if it's the ruling party that's in power that is appointing these Supreme Court judges, I'm sure the Prime Minister would be taking suggestions from the rest of the Members of Parliament: "Now, this is not a very good person. We have to have somebody else." This is what I had in mind.

MR. BRADLEY: A parliamentary vote to ratify the appointment.

MR. DICK: That's right.

MR. BRADLEY: Thank you.

MR. DICK: I have nothing against the French. One-third of my outfit was French, and we lost about half of them. They were great guys. I believe the common Frenchman away from Montreal and Quebec is just as hard put as some of us are to make a living. It's just a matter of getting together, and I don't think breaking up the country is the way to do it. I think we can accommodate them, and I think you would find a lot of resentment dropping away, especially in rural Alberta and rural Saskatchewan, if it wasn't required that you take French to get anywhere in the federal field of service.

MR. CHAIRMAN: Henry, there are a number of other questions.

Bob Hawkesworth, Gary Severtson.

MR. HAWKESWORTH: Well, I agree with you. If there's some way we can get the ordinary folks of the country together, I think we will make it. But this question about a referendum to amend the Constitution has some problems associated with it. I wonder if you could give me some of your thoughts on it. If we had a vote, and maybe Ontario and Quebec thought a particular amendment was great, and Alberta and the west voted against it, would we still be in a position to ratify the Constitution even though the west might be left out of that? Alternatively, we might have a referendum where Quebec voted against it and the rest, the majority of English Canada, went for it. Do you see some way of reconciling a referendum with regional votes in approving constitutional reform?

MR. DICK: I don't see how Quebec and Ontario would really be voting against the west.

MR. CHAIRMAN: The referendum on the Constitution. That's the one.

MR. DICK: Okay. What you're saying is: supposing the vote carried and we were all opposed to it.

MR. CHAIRMAN: Henry, you've seen lots of times when the election was over before it hit the Manitoba border.

MR. DICK: Yes, I know.

MR. CHAIRMAN: Okay. So how would you feel about that on a referendum on the Constitution?

MR. DICK: Well, I would feel perfectly safe. I don't think I'd be opposed to it provided a triple E Senate is in effect. To a certain extent we in the minority are always going to be on the outside looking in. If we had an elected Senate on an even basis, they could even smooth out some of the rough lumps.

MR. CHAIRMAN: But, Henry, we aren't going to get this triple E Senate unless it's part of that constitutional package. So this is the difficulty we're in, isn't it?

MR. DICK: I know the difficulty you're in, but I don't think that Albertans, the ones I've talked to, are going to be happy with any referendum if the triple E doesn't get in.

MR. CHAIRMAN: Okay. We're going to have a hard time convincing Quebec and Ontario even to put the triple E in a referendum if we get to that point. If it isn't in the referendum or in the Constitution . . . I'm sorry, Bob, I didn't want to take your question.

MR. HAWKESWORTH: This is exactly my question, and you're doing a great job on it.

MR. CHAIRMAN: But if it isn't in that Constitution that comes out from these experts, and they get a Constitution that doesn't contain a triple E Senate, and they put that to the vote, and the people of Ontario and Quebec say that's fine, and because of their population it's passed, then how are you going

to accept it here? That's the big issue in a referendum, isn't it?

MR. DICK: I understand that, but I think if you had three or four prominent citizens from each province of Canada – and I would hope that we have some people in the communities all over Canada that look further than just political party lines and are willing to compromise and willing to see fairness in this big deal. Canada is a great country, and if we're not careful, it's going to fall all to pieces.

MR. CHAIRMAN: Gary Severtson.

Sorry, Bob. Did you have a supplementary?

MR. HAWKESWORTH: No, no. You did a better job of explaining it than I did. I appreciate that.

MR. SEVERTSON: I was going to get to that part myself in my supplementary. But the first part of my question. You'd like to appoint three or four prominent people to represent Alberta. Well, there are a lot of prominent people throughout all provinces that fully believe, say, in bilingualism, which you said you didn't like. Now, I don't know how you'd feel that three or four prominent appointees would represent the people when they don't go to the people for a vote to reaffirm that. At the same time, when it came to Supreme Court judges, you said they shouldn't be appointed. But when you want to draw up the Constitution, you would like them to be appointed.

MR. DICK: Well, on the Supreme Court, I would think that with all the Members of Parliament together – you've got all three parties or whatever – I'm sure you'd come up with three prominent people that are fair and square all the way through.

UNIDENTIFIED SPEAKER: There are four parties.

MR. DICK: Oh, okay. I'm sorry; four parties.

MRS. GAGNON: There'd actually be 11.

MR. CHAIRMAN: Well, you see the dilemma we're in. When you start appointing people to something rather than electing them to make decisions, it becomes really tough. That's what we're trying to address.

Henry, we've very much appreciated your thoughts.

MR. DICK: On the Supreme Court, I think those are special cases where you will have to appoint people. You can't run an election to elect a Supreme Court judge. I don't think that would be kosher – excuse the word. I do think there should be some check on the people that get in there, that these people will really serve to the benefit of Canadians and the Canadian law.

MR. CHAIRMAN: Henry, thank you. You've certainly outlined and touched on a lot of the concerns that we've got facing us as a committee to come up with some answers for Albertans.

Keith Chief Moon.

3:27

MR. CHIEF MOON: Do you want me to start?

MR. CHAIRMAN: Yes, please. Welcome, and please go right into your presentation. Thank you.

MR. CHIEF MOON: Okay. First of all, I'd like to extend my thanks to you the committee for allowing us to speak on this very important matter.

I guess the discussion that this particular presentation is centred on is the Constitution. In my presentation I have explained what the Constitution is supposedly set out to do. Now, I've made some highlights in reference to producing peace, order, and good government. That's from federal and provincial perspectives. However, the native people of Canada are constantly being ignored. There was a decision, and Lord Denning of the Supreme Court Judicature, Court of Appeal, Civil Division, Royal Courts of Justice, London, England, said:

The aboriginal peoples of Canada shall continue to have all their rights and freedoms as recognized by the Royal Proclamation of 1763.

Lord Denning also said the following:

The Constitution Act 1867 specifically refers to Indians in section 91(24), "Indians, and Lands reserved for the Indians."

I went on to explain what his interpretation was. He said that acting through his representative – and he in turn represented the Queen of England; that is, the Crown – Lord Denning said it was in our constitutional law at the time regarded as one and indivisible. With that you have your BNA Act.

In 1877 Treaty No. 7 was signed, and to date not much progress has been made to deal with the treaty issues that are affecting the native people.

There is a particular section of the Constitution now, section 35, that says:

The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

Then it goes on to say that there's going to be a Constitution dealing with native rights. That has not happened. Several attempts have taken place, but they have all failed.

I am of the opinion that because of the lack of sincerity and the lack of consideration given by the government people . . . In fact, when I talked to the people that drafted section 35, they were all drunk. These are our rights: my rights, my children's, and their children's. They said: "We don't know what the aboriginal rights are." So this is very serious for us. At least while I am here, I want to be able to give direction to the people that are dealing with the Constitution, which is very important to us.

Treaty No. 7 was signed in 1877. Alberta came in in 1905. I have gone on to say that through the generosity of the native people, particularly treaties 6, 7, and 8, Alberta became a province. Now, there has not been too much of a . . . I can't go on to say: "Okay. This is what the province has done for us. This is what's happened." But all in all, the provincial powers are spelled out in section 92 of the BNA Act. They're in black and white. I'm not a Constitution expert. I'm just an Indian. I can read what's in there. You don't have to be an expert to do that.

Anyway, the mechanisms proposed by these hearings are of great interest to us. The questions keep coming back. Why can't native people enjoy the benefits of all the rest of the provincial citizens? Why do the Indians have to lose so much, especially if they are living in urban areas? Here in Lethbridge I'm paying taxes too. Why do I have to lose so much? You look at the unemployment rate. It's ridiculous. The governments get concerned when it reaches a double-digit figure. Well, it's a constant figure of 80 to 90 percent on any given reservation as well as any urban area. You look at the incarceration rate. That's also very high. Why? You look at the third- to fourth-world conditions on the Indian reservations, and

accommodation for native people in the urban areas is ridiculous. Why?

The other thing that has not ever been mentioned is the supposed discovery of the American continent in 1492. There has never been any consideration or acknowledgment of what we have done for the Europeans that came in. So with all due respect to the Canadians, Canada is noted for its stand on human rights. In fact, Canada is one of the world leaders in accepting immigrants, refugees. But why has Canada been convicted of discriminating and violating human rights, particularly native women like Lavell and Bédard? They got convicted; nothing changed for them. Aspirations of native people: the Lubicon band? It's gone complete circle right back to where they were. Milton Born With a Tooth: here was a land claim case; now it's criminalized.

Fourthly, we request that serious discussions begin to take place. The majority of native people can no longer tolerate the oppression that is going on. For too long we have tried to work with the existing governments, and again we have bent backwards to try to accommodate the wishes of the governments. If this does not improve, there will be a mass migration of Indians and urban native people requesting political asylum from the existing tribal councils, the Canadian government, and Alberta.

My presentation is very brief, and I tried to make it to the point.

MR. CHAIRMAN: Thank you very much, Keith.

We have a number of questions. Bob Hawkesworth, Ken Rostad, Yolande.

MR. HAWKESWORTH: Thank you, Mr. Chairman, and thank you, Mr. Chief Moon, for your presentation this afternoon. One of the things that struck me as we've gone around the province on our committee is what I would call a willingness from those Albertans who have come before us generally to do what has to be done to solve the problem. Many of the people who've come before us aren't sure what it is that will solve the problem, but I think there's a real willingness. I've been pleasantly surprised by the number of people who've expressed that willingness.

I guess my question to you this afternoon would be: what is it that has to be done to solve the problem? Is it getting rid of the Indian Act or the department of Indian affairs? Does it mean a larger land base? Is it self-government? What does self-government mean, if that's the answer? I wonder if you could spell out a few of your thoughts about what it is that will sort of put the relationship on a new and better footing.

MR. CHIEF MOON: Okay. I guess on my presentation, according to the law experts, doing away with Indian affairs is not the answer and doing away with the Indian Act is not the answer. In fact, it would be very detrimental if you were to do that.

Land base. In the province of Alberta there are quite a few outstanding land claims. They have not been resolved. One particular one that I'm concerned about is where I am from, the Cardston area. It was through the generosity of my forefathers, my great, great-grandfather, Red Crow – in fact, it was the Mormons that had been chased away from wherever they came from, and my great-grandfather, through generosity to mankind, said, "Okay; you guys can camp here for the winter." We certainly didn't want to see the women, children, and all perish. In fact, they were told that if they went to Calgary, they would be persecuted.

I would like to put in a nutshell what the answer is, but I think we need to start discussions openly, like on treaties. Treaty 7 here is in southern Alberta. We have to look at the terms of what the original intents were. I guess you would say they were done in a bilateral process: you know, nation to nation. The thing is we're saying: "Okay, let's get to the bottom and ratify those treaties and what's in those treaties." I have a treaty number, and I have to go around asking, "What good is my treaty number?" Those are the types of things.

So we have to come to the point of this and say, "Okay; this is what we want." The thing is, as we were sitting here and as I mentioned before, we need to create more discussions, particularly for what's happening today on the Constitution. I think those, some of the things that are spelled in the Constitution have to be addressed.

3:37

MR. HAWKESWORTH: Just very briefly. We're all sitting around the table as elected provincial politicians. As you point out, the Constitution's fairly clear about the exclusive jurisdiction of the federal government. Notwithstanding that, do you think there is a role that the provincial government could be playing in helping to resolve some of these conflicts?

MR. CHIEF MOON: Well, see, we're in a catch-22 situation there. Specifically, we're victimized. We're a political football is what we are. We go ask the federal government, and they say, "No, it's not within our jurisdiction." The province says, "You're not under our jurisdiction." We're caught between two governments. What we're saying is: why does that have to take place? Are we so inferior? Are we that bad that nobody wants us?

MR. CHAIRMAN: No. That's a good question, but may I just jump in and say that one of the problems we've had as a government, Keith, is that section 91(24) says that this is solely a federal responsibility, and because the treaties were entered into between the Crown and the Indian nations, the chief organizations up until just the last little while have been saying to the provinces, "Look, you have no role to play in these discussions at all." So we're kind of in a catch-22 situation as a province. I think we have to get over that, quite frankly. It's not just the Indian people who are in the catch-22. I know the Assembly of First Nations, for example, said to us many times that provinces have no place in these discussions at all. So that's part of the dilemma.

Ken Rostad.

MR. ROSTAD: Yes. Keith, thanks for your presentation. We've had some representations before that self-determination or self-government should be given to the Indian nations. In that context we've had varying ideas, but one of them is that you become separate nations. Do you have a position yourself on whether you would be within the laws of Canada or whether you should be a separate nation unto yourself?

MR. CHIEF MOON: I guess that's why I make reference to this self-determination, self-government, that type of thing. You see, the question is quite simple for us. We try to work with the federal government as well as the province, but we're almost in that situation where we can't. It's coming to the point there that we're being pushed away so far that we're going to one of these days declare ourselves as not Canadians anymore. I don't even know if I am a Canadian, because of the treatment that we've gone through, let alone an Albertan. If we don't talk about

these things openly, there's going to be a point in time – like, the Blood reserve is in a situation that it can become a nation. The land base is there. We can declare ourselves independent from Canada if it gets worse. My concept of self-government is to be able to take care of yourself with your own resources. I'm from the Blood reserve; we practised that before the treaties were signed.

Again, we're saying that we would like to work with you people, but at the rate this is going, we're going to be pushed to the point that we will declare ourselves independent. The thing is that you look at the land base; the land base will eventually become self-sufficient. You look at the other countries across the ocean; the Vatican is a country by itself.

MR. ROSTAD: I take it that you'd like to work within . . .

MR. CHIEF MOON: Yes, we are. We're willing to work with you people. The thing is that we're being, I guess, victimized, so much a political football that it's becoming ridiculous.

MR. CHAIRMAN: Yolande Gagnon.

MRS. GAGNON: Thank you. I noted in your written text that you say that no acknowledgement or appreciation has ever been given to the First Nations for their contributions. I guess I would like to say now that many of us have been asking for curriculum, for instance, in the schools to be improved so that more people are aware of the contributions – spiritual, environmental, and so on – that the native peoples have made for all of us. I just want to start my question with that comment.

One of the other things in your text is the fact that if a native person leaves the reserve and goes to a town or city, they lose their treaty rights and become a nonstatus Indian. Is that one of the basic problems, that you should have mobility, that why is your status dependent on staying on the reserve? Is that the problem?

MR. CHIEF MOON: We don't outrightly lose our status, but somewhere in the pushing for this, what happens is – for myself, I have had to literally fight for my treaty rights as far as medical care. A lot of times we're being double-billed, or the federal government is saying: "Well, because you're living in a city, we cannot look after you. You have to go back to the reservation." The other thing is education, same thing. They say, "Okay, because you're living in a city, there's a bit of a problem there."

MRS. GAGNON: As to who's going to pay.

MR. CHIEF MOON: Yeah. We get caught up in the shift. Those are some of the things, let alone that jurisdiction becomes a problem. You talk about the alcoholism problem that exists. Then you try and get accommodation. Let's say, for example, I was trying to rent a place here in the city and I applied through the low rental. Right off the bat they're going to say, "Well, you have to be living in the city at least six months." But where am I going to get a place if I'm not allowed to stay in the city? They'd say: "Well, you go back to the reservation. There's your housing program." When we go back to the reservation, they say: "The money's all gone. We have no money." It gets to the point that all these factors make a contribution. It gets to the point that you just say, "What can I do?" It's being oppressed, so people are not as strong spiritually, culturally, and they resort to the bottle.

MRS. GAGNON: Also, just quickly, the Assembly of First Nations' election campaign is on. I heard one of the aspiring leaders this morning on the radio indicating that he did not consider himself a Canadian because at no time did anyone make a deal with him kind of thing. Anyway, do you think that after this election and because of the discussion and debate that will take place during the election, some of these things might be sorted out among the First Nations themselves?

MR. CHIEF MOON: Well, for myself, I've watched and monitored. I tried to participate in all the activity. I guess it comes to the point there – this leadership candidate that's running, I didn't quite hear the text of his speech – that we are getting pushed to where we're cornered. So we're almost in a very desperate situation where something has to happen. Again, I guess the incident at Oka is an example and all these other things that happen across Canada. It gets to the point there that we can no longer be shut down. I think a lot of these people have – you know, I don't like to see it, but they may decide to become martyrs.

The other thing that's happening to us is that I've talked to various individuals and they've said, "Okay, maybe we should emigrate from Canada, leave." That would be for the purpose of preserving who we are, the indigenous people of North America. It's getting to that point.

MRS. GAGNON: Thank you.

MR. CHAIRMAN: Thank you very much, Keith, for your presentation. There's no doubt that there's got to be more discussion, but it has to, I still believe, involve all levels of government. It just can't be done, in my view – and the fact that you came forward today to give us your views is very helpful – without the federal government and the provinces and the Indian peoples discussing the matter. I don't think we can do it any other way. Thank you.

The next presenter is Bill Arsene.

MR. CHIEF MOON: Thank you.

3:47

MR. CHAIRMAN: Welcome, Bill.

MR. ARSENE: Thanks very much for letting me come in here to be able to talk to you people. It's something we've never been able to do before. I have some very interesting comments with the native people too, someplace in through here, that I'd like to bring up as what I heard today. The Alberta Constitutional Reform Task Force – round one, two, three, and four – I'd like you to be able to have that there. There are some very good comments in there I didn't want to bring up here today. Can we bring that up so you will have it there? I know you will have it.

I'm a Canadian all my life, born on a farm near Coalhurst, and really an all-out Albertan. Alberta comes first with me, and I hope this group goes along with me for the future of Canada. All I have are clips from papers of what I found that people were saying. Now, "Spicer's Citizens' Forum appears set on leading the witnesses." There's something I'd like to bring up about that, maybe to help.

The forum had been pervaded by unsettling signs from the day it was created last November. Chief among them was the choice of Mr. Spicer as chairman. The former publisher of the *Ottawa Citizen* is an avowed francophile who used to boast that

he had learned his French "in bed." He was Canada's first Commissioner of Official Languages, federal bilingualism's top apologist and enforcer. Three of 11 forum seats had been reserved for francophone Quebecers, when two would have been nearer the statistical mark. The West seemed deliberately shut out of a strong role. Alberta's representative, Felix (Fil) Fraser, is Quebec-born and more concerned with multiculturalism and native rights than bread-and-butter constitutional issues like the Triple-E Senate and the enforced shift of western money eastward through federal equalization formulas. The West's only outspoken representative, Vancouver broadcaster Jack Webster, resigned before it got started.

More recently, Mr. Spicer had appointed a "co-ordinator" of the "moderators" who will host meetings across the country. For this key role he chose a solidly centralist colleague, Laurier LaPierre . . .

I thought he was a great man. I've changed my mind.

. . . a former television journalist and author of *1759: The Battle for Canada*, an account of the . . . conquest that climaxed with the . . . defeat on the Plains of Abraham. However, despite the Quebec-bilingualist reputation of the main players, Mr. Spicer promised the forum would involve "an intimate, grass-roots approach" and a "do-it-yourself flavour." He promised it would solicit the complaints . . .

Well, wait. Maybe I should just hand you this. This is by a girl, Hu. She's going to contest the seat of Turner's in Vancouver, "Participant Hu: Quebec gets half the air time." Should I read it or just hand it to you?

MR. CHAIRMAN: Sure. Why don't you just give it to us, Bill, because you've only got 15 minutes, and maybe you should give us your views about how Alberta should approach the situation rather than how the federal government's doing it on their side.

MR. ARSENE: Okay. Can you send me it back? I've got to go to the Spicer commission yet when I get through with . . .

MR. CHAIRMAN: Sure. We'll give you copies.

MR. ARSENE: Now, I have this in the *Alberta Report* of March 4, and it's just some of the things that I want you to know:

"It is not possible to work for the forum if you believe in letting Quebec go, if you believe in regionalism and 'letting the bastards freeze.'" Spicer Forum organizer Laurier LaPierre, quoted in Toronto's *Globe and Mail*.

This remarkably candid disclosure last week should complete the destruction of the Spicer commissioner's credibility. Do you want that now?

MR. CHAIRMAN: You give us whatever you want.

MR. ARSENE: Well, I'll give you that, but I want it back. I think it'll tell you a lot. We've got a board there that are not going to give us a real answer. I think when it all comes down, Mr. Mulroney will say: "Well, the Spicer commission has done a wonderful job. I think I can go right ahead. I'll give Quebec what they want." I don't agree with that. So I'll just hand you that, and you can have this.

UNIDENTIFIED SPEAKER: It's all in the *Alberta Report*.

MR. ARSENE: That's all right. I don't care.

MR. CHAIRMAN: Order here. We don't need any dialogue with the audience.

MR. ARSENE: Two weeks ago Mr. Mulroney, Quebec's lieutenant, and the industry minister Benoît Bouchard, who voted "out" in Quebec in the 1980 referendum on pursuing sovereignty association with Canada, declared that it is now up to Canada to meet the Quebec aspirations in any future referendum. Mr. Bouchard asserts he would not vote for Quebec sovereignty. Up to one dozen other Quebec MPs, enough to kill the Tory majority, nearly left the PC camp after the failure of the Meech Lake accord last June. Now, with nationalist sentiment stronger than ever, they will doubtlessly demand concessions for Quebec as the price of their loyalty. Prime Minister Mulroney, still trying to curry favour among the Quebec nationalists and keep his caucus together, will not break his tactical alliance with Premier Robert Bourassa, because what's left of Mr. Mulroney's reputation still depends on being the friends of Quebec nationalists. *Tory Globe and Mail* columnist Jeffrey Simpson, last week.

William Johnson concurs. Even if Mulroney were inclined to try to defend the integrity of Canada, his own Quebec caucus would not let him, but this time there's evidence that Quebecers will not get a free ride from Alberta's 22 Tory MPs, I hope. The central power is in such a scheme for Canada to continue to exist at all. There's enough remaining for the central power. The upcoming constitutional negotiations prompted by Quebec might prove a chance to address some western constitutional requirement as well, says a hopeful Scott Thorkelson, MP for Edmonton-Strathcona. But he adds, "I don't want to see the Senate abolished. The amending formula that Quebec wants could allow a group of provinces to overrule the rights of western resource-owning provinces. Can Quebec's demands be filled, leaving us with a post office and the debt? That's about it. The answer is no. Others take issue with Quebec's plan to freeze out the other provinces.

Constitutional renewal, according to the Constitution, requires the approval of all 10 provinces and the House of Commons. Says the Government House Leader Harvie Andre, another Calgarian: "It isn't possible to have a one-on-one talk and exclude the provinces; that's not what the Constitution says." Just before the 1984 election Mr. Mulroney gave a seminal speech in Quebec. He promised Quebec a new constitutional deal to bring Quebecers into Canada with honour and enthusiasm, by which many understood him to mean with extraordinary patronage. The result was dramatic. Quebec's nationalists, who either sat on federal elections or reluctantly cast Liberal votes, flogged to the Tory banner for the first time in three decades. Now, I think that's terrible, but I think we better go along with that. And then, "Mulroney is clearly a lame duck when it comes to representing English Canada interests," says F.L.A. (Ed) Morton, political science at the University of Calgary, after all of this here.

What matters to Quebec is getting more power, not letting more voices into the debate. The Bourassa government certainly wants more control over everything from social policy to the environment. But on close examination all but one of the 22 areas over which Quebec wants full sovereignty are already wholly or partially within provincial jurisdiction. That's what I wanted you to know.

This means that most of the provinces' demands could be met without reopening the Constitution. The single exception is unemployment insurance, and it is not at all clear that the people of Quebec, the workers who face the real prospect of losing their jobs, share their leader's enthusiasm for snatching that program out of Ottawa's hands. I think we understand they would not get the money maybe. He identified the Canadian

[inaudible] as a loss of faith in the country's leader, an unwillingness to give any region or province preferential treatment, and a desire to have cultural symbols, be it the Quebec or the national anthem, in English Canada. The Prime Minister has let it be known that it would be highly inconvenient if both commissions reported to the Prime Minister the values. No political structures are at the root of the Canadian malaise. It would give Mulroney a nasty jolt of his own pulse to take as a question the need for a new round of constitutional negotiation. It would force the country's politicians to ask why they have been pursuing the goal of renewed federalism for the last 10 years if a credible group of Canadians pronounced it was a mirage.

3:57

Serious questions face Canadians in areas other than economics. There is, for example, the question of asymmetrical federalism. This is the name which now conceals the concept once called "special status" or two nations. Behind the camouflage it means something beyond the inequity of provinces; it would lead to the inequity of Canadians. It would mean that Canadians living in one part of the country could not claim the same civil rights guaranteed to someone living in another part.

There are still flaws in the way a democracy works. More Canadians voted against the free trade alternative than voted for it. Because the votes were split between Liberals and NDPs, a minority of votes elected a majority of Parliament and thus prevailed.

The traveling unity commission that the Prime Minister has sent out to talk to Canadians is coming back with a simple message: the problem is not the Constitution. The throne speech: no task is more important in making the Constitution a more faithful reflection of who we are, what we represent as a country, and what we aspire to be as people. What most of the people are saying – the English Canadians – is that the country's in the hands of a man they don't trust.

Senate reform. I think I've heard quite a bit on that, and I'd like the triple E. I know you'll have problems, but I'm an Albertan. I think they fought very hard for it, and I can't see how they'll get it, but I'm still for it. Senate reform as promised in the Constitution proposed by Mr. Clark: elected, equal, and effective. The throne speech made no mention of Senate reform.

The western provinces need a new position with or without Quebec. The Quebec government has made a proposal for a new Canada that essentially means no Canada. English-speaking central Canada – Ontario and Ottawa – continues to assume that the west can be ignored in any negotiations with Quebec. The government is no longer our servant. How much of the economy should lie in the public sector and how much in the private? Today, the split is 50-50, 50 percent and 50 percent. The provinces should have some say in this very drastic spending of central government. Seven years of Mr. Wilson's stories have doubled our deficit. In Canada we have federal Members of Parliament and federal cabinet ministers from Quebec openly advocating and prompting the secession of the province of Quebec from the Canadian federation of provinces, yet they are not being impeached, charged with treason, or even reprimanded. In the 1860s the U.S.A. fought a bloody civil war. In 1867 the U.S.A. bought Alaska from Russia for \$7 million. Perhaps Canada could sell Quebec to the U.S.A. It would eliminate the large transfer payments Quebec receives each year at the expense of Alberta and B.C.

I have something else here. I'd like to talk about the natives. Can I keep on a few minutes?

MR. CHAIRMAN: Well, Bill, your 15 minutes have run out, I'm afraid.

MR. ARSENE: No, it has not.

MR. CHAIRMAN: I'm afraid it has.

MR. ARSENE: I just want to bring this up about the natives.

MR. CHAIRMAN: Well, if you want to quickly make reference to that, why don't you do that?

MR. ARSENE: Yes, I think it's got to be brought up.

The Quebec farm group wants sovereignty: there's a good one, and I'm a farmer.

Now, we have English and French Canadians who pit region against region, each wanting many special concessions or privileges at the expense of others. As long as someone else pays to give it, it's our selfish desire that we all will take as much as we can: "Oh, but each of us is special, so we are entitled to be treated in a special or distinct manner."

We have native Canadians who, because they were here first, claim the special privilege of being supported by treaties which enshrine their right to be supported by the latecomer Canadians. Maybe they weren't here first. Who owned the land before their ancestors immigrated to Canada across the Bering Strait or from wherever they came? Maybe the ancestors of all Canadians were immigrants at one time. Maybe it's time for all native Canadians to assume the responsibility of working in the same manner as other Canadians. We have western Canadians who long have felt exploited by their eastern counterparts whether this is so or not, and the facts tend to support them. I think the Indians too — they have some of the best land in this country. We took in about 35 Hutterite colonies in there. They don't need any money. They put their pumps into the rivers and God knows where, and they've done a wonderful job. I think they have the same alternative. We pay about \$4 billion a year to keep those 430,000-some Indians. Why don't they start doing something on their own just like I did? I started with nothing, and I got to own quite a large farm. They have the same opportunity, but they're waiting for somebody to hand it to them on a platter, and we've done it too long.

It's sad that not all immigrants become real Canadians whose new loyalties put their new country first and foremost over all others. My suggestion to these few is that you should return to whatever country claims your loyalty. Canada sure doesn't need you promoting your treacherous views and trying to change all of our customs and culture. If our country's good enough to accept you, you in turn should be good enough to accept it with your unreserved loyalty and alliance.

A real Canadian, in this frustrated person's opinion, is one who has all the rights and privileges that are available no matter what region, nationality, culture, or background he or she comes from. A real Canadian is no more special or distinct or equal than any other Canadian. A real Canadian assumes the responsibilities that ensure equality for everyone without resorting to threats of separation or forms of blackmail to obtain special selfish concessions. A real Canadian is not a traitor to his or her country, nor does he engage in treacherous acts which promote the destruction of this country. Is it too much to expect our elected officials to be statespersons instead of politicians, to

represent the country and constituents without promoting the destruction of our great country? Their example should include loyalty, service to the country, not of selfish appeasement of personal goals. United we stand, and divided we will fall. No region or part of Canada will ever be as strong separately as they would be united as one great country of real Canadians.

MR. CHAIRMAN: Well, Bill, thank you very much, but you have some fellow citizens waiting to give their points of view in the time available. I think perhaps we had better hear from them, and I know that you . . .

MR. ARSENE: Well, I think I brought out some of what I wanted. I think I told you about the Spicer thing, and I didn't talk about LaPierre yet.

MR. CHAIRMAN: Well, I know we'll be hearing more from you in any event, so thank you very much for coming forward. Thank you very much.

MR. ARSENE: Okay. Thank you. Do we get paid for this?

MR. CHAIRMAN: I thought it was a labour of love, Bill. Ed Toone. Welcome, Ed.

4:07

MR. TOONE: Mr. Chairman, ladies and gentlemen, I don't know whether I should be here or not, but I'm thankful for the opportunity. I've got a few thoughts that I would like to put forth. I haven't prepared a speech like many of them. I am going to leave a lot of this out because a lot of the territory has been covered, but there are two things we should remember in life. We have the privilege of doing what we want to do if we don't infringe on the rights of others. The other one is: a man's no better unless he does better. So I appreciate this opportunity.

Now, we've been sucked in with a crazy thing since the last world war. I'm not pointing my finger to any political party, but the words "liberal, liberalism" to those that might know, I think are scary. You brought up when the flag was changed and nobody voted on it. The miles and whatnot were changed to metric, and we didn't have the opportunity. We could go on. Now they're trying to change the RCMP with the turban. Where is this liberalism going to take us? We've got to have more strength and more power in our provincial governments or we're sunk; there'll be no tomorrow.

Quebec. Why are we wasting time with Quebec? They're no different from B.C. or any other province. Quebec will not separate. That's just a smoke screen, because they are getting and bleeding too much from the rest of Canada.

Free trade. You provincial men get together with other provinces and let's get free trade throughout the Dominion of Canada, and then we can have free trade throughout the rest of the world. But what can we do when our hands are tied by the way we have been overshadowed by our liberalism government? They've got us kind of in their hooks.

Now, a few things in regards to Alberta. The dam: one of the finest things that the government's done. How much money has gone into it? How much money has been given to those few that are bucking it to fight in the courts? Where do we sit? The same thing with Peter Lougheed. Was it settled out of court? Or did you give him enough time to straighten up his affairs?

Cormie . . .

MR. CHAIRMAN: Peter Lougheed?

MR. TOONE: Peter Pocklington. Pardon me. Sorry about that.

The Principal Group. Somebody did a lot of manoeuvring when the Principal Group could have been stopped, and a lot of good Canadians wouldn't have lost their livelihoods.

The GST. Ladies and gentlemen, it's got to go. It's all right on the top level, the guy that gives the raw leather to the guy that makes the boot: 7 percent. The boot that's made goes to the wholesaler: 7 percent. When I buy it from the wholesaler: 7 percent. And they want me to put 7 percent on the women and men that have got a small family and are trying to exist on \$15,000, \$20,000 a year. That alone is going to cripple and break our country.

Now, you MLAs, I'm not pointing a finger at any of you. I think you're trying to do a good job, and I can see it in your faces and your attitude here today. I think this is where a lot of our trouble lies. You get in the government and you think us old fogies, old badgers that have been around, don't know too much and you've got all the brains up there. Well, I'm sorry; you haven't. You'd better come back to your constituencies and listen to them. Now, I've said enough about that. I won't go any further with that.

The onus comes right down to me and every individual. How much are we interested in what our government's trying to do, and how much input are we willing to put in? How much time do I spend to get hold of my MLA? How many meetings do we hold in our community to view our points? Where's our chamber of commerce? Where are our men's clubs, our Rotaries and all? What are we doing? I wouldn't care what party's in line. The three line parties in eastern Canada: it wouldn't matter a hoot which one's in, because this liberalism would control it, and we'd have just the same problem. So the onus comes right back to us.

May I make a suggestion that when we're talking about this Constitution, we go back to the time of Confederation and have that before us and put it to work and pick out the good with the knowledge we have gained since then, and let's love one another.

Thank you.

MR. CHAIRMAN: Thank you very much, Ed, for your obviously heartfelt concerns.

May I just say on the Pocklington issue that that case is in court and is going to be a very difficult one to fight out. There's no question about it. It's going to take a long time, but the government is determined to pursue the case that we have in court against Mr. Pocklington. I'm a lawyer, and there are other lawyers in the room who will tell you that the court system can take a long time to grind out. But I don't think there's any doubt about the determination to pursue the court case that's in place now with respect to Gainers. I just wanted to assure you of that.

Any other questions? Gary.

MR. SEVERTSON: You mentioned the turbans. I don't want to get into that issue in particular, but that basically fell under the Charter of Rights and Freedoms, which was put in the Constitution and which guarantees those. Do you feel that the Charter went too far, or do you think it should go farther? What's your opinion on that?

MR. TOONE: It's plumb out of place. It shouldn't be allowed. About the best thing that we've got in the Dominion of Canada

is our North-West Mounted Police, who are hooked up to the liberals

MR. SEVERTSON: I meant the Charter of Rights, not that issue. But that was one of the reasons.

MR. TOONE: Pretty soon you're going to have everybody – braids in there. You're going to have everyone imaginable.

MR. CHAIRMAN: Okay. Any other questions or comments?

MR. TOONE: Just to add a little on the funny side. One of them walked into my shop, and I thought he was quite a guy. The next time he came in, I said, "I didn't know you were one of those guys." He said, "Oh, yeah." So he stopped and he paid his bill, and I said, "Hey, have you got an extra turban?" "Yeah, I've got an extra turban." "Well," I said, "will you loan it to me?" He said, "Why?" I said, "If I had that turban and put it on with this beard, I could go to the bank and get all the money I wanted."

MR. CHAIRMAN: One thing I want to tell you, Mr. Toone and others, as you leave: I think nobody could agree with you more than we do here that we must obtain – it may not be a constitutional process – free trade in Canada and eliminate interprovincial trade barriers. That is absolutely dead on as far as the future of this country is concerned. Interprovincial trade barriers are very detrimental to the future of this country. I just want to make that point.

MR. TOONE: Thank you.

MR. CHAIRMAN: Jim Penton.

MR. PENTON: Thank you, Mr. Horsman, ladies and gentlemen. It's a real privilege to appear before you, and I thank you for taking the time and going through the agony of listening to all the presentations. I know that presentations vary and you sit for a long time, and I sympathize with you. After hearing several of the last presentations, I was almost tempted to begin my address to you with the words "Monsieur le président, mesdames et messieurs," because I find much of the lack of tolerance that has been expressed here this afternoon to be shocking. My first French-Canadian ancestors came to this country in the 1660s. My first English-speaking ancestors came to this continent in 1682, and I had ancestors here to meet them, and I'm very proud of that. I find the comments which call for a leveling of everybody within some sort of amorphous mass to be offensive in the extreme. I have the greatest tolerance and respect for immigrants of all kinds to this country, and I hope we can treat one another as Canadians with the deepest respect, recognizing the great differences we have.

4:17

I would like to remind all of you of a couple of historical facts. First of all, Canadians live under a number of myths. One of them is that the country was founded by two founding peoples, the deux nations concept. Others have the idea that provinces have something like the sovereignty that was demanded by certain southern American states prior to the Civil War in that country. We were a colony, a series of colonies, and have grown out of a colonial background. One of the things that is terribly wrong with our society is that we have not shed

our colonial past and recognized the significance of democracy and general respect for one another in the way we should.

Collective rights have been recognized constitutionally in this country since the British conquest, and they have been applied to many different peoples both ethnic and religious, sometimes to their detriment, sometimes to their advantage. We must be able to recognize that Canada is a country of great diversity in which there must be individual rights, which ultimately must be paramount, but in which there are also collective rights such as the right to speak English or the right to speak French, and unless we recognize one another with a spirit of toleration, and the same must be said for our native people. I find it incredibly offensive for immigrants to this country to say how the native people should live within the context of Canada. When I say "native people," I refer not only to our treaty Indians but to our Inuit and to the Metis people of whom I speak as a member. We have had specific rights guaranteed to us by the Manitoba Act in much the same way that the native peoples of this country, the Indian people, who claim to be nations were recognized by the Royal Proclamation of 1763. The rights of our people are guaranteed constitutionally, albeit those constitutional rights have been ignored over and over and over again.

We must recognize the legitimate rights of Quebec. Quebec is, after all, already a society which lives under a special status. It has a different Civil Code than the rest of us, and that has existed for a long time. A majority of its citizens speaks French just as a majority in every other province speaks English. We have minorities in this country, and the people who have the most stake in Canada are the French-speaking minority in English Canada and the English-speaking minority in French Canada. It is wrong for us as western Canadians or Albertans to forget the well-being of our fellow Canadians who are minorities living throughout this country.

I can't speak too strongly in the same terms that Jane Schultchen used today. I thought her remarks – remarks of kindness, remarks of respect – were beautiful. This is what we must have. We must have respect in this country for one another. I think it's unfortunate that many political remarks were made here this afternoon. I have very strong feelings politically; I'm a committed New Democrat. But I don't believe that gives me any right to upbraid the Conservative or the Liberal members of this committee. I appreciate the fact that you're here. I appreciate it very much.

Now let me move on quickly to some of the things I would suggest. I believe we need a constitutional assembly. There is a deep suspicion of politicians both federal and provincial. You all know that, as do all of the rest of us. Let's have a constitutional convention elected on the basis of the present federal ridings. In that way we can avoid the role of a Quebec which might attempt to cast a veto. We should add to that number 10 special seats representative of our native peoples, the three aboriginal peoples, Inuit, Metis, and Indian.

Then I would suggest a number of reforms, but these reforms I would simply want to see put forward. I would like to see the Governor General chosen broadly, perhaps by both Houses of Parliament, so the Governor General is no longer a creature of the Prime Minister. I would like to see the Charter of Rights become more predominant and the notwithstanding clause, which I think has been a catastrophe in our constitutional history, removed.

I would like to see reform of the Senate. I believe that a triple E Senate is an impossibility; Quebec and Ontario will never accept it. But I believe in equality of the regions. I believe they would accept this. I think there should be some

native representatives in the Senate as well. I would maintain the powers of the Senate as it exists today, and I think it would become effective as an elected body, but I would add to its powers the power to endorse foreign treaties and to screen appointments to the Supreme Court. It is very wrong to have our judges and justices appointees of politicians without a general screening. That would create a great deal more fairness, and since it would be done at the senatorial level, there would be input of the provincial people as well as the federal government.

I would like to see a reformed House with representation by population, ridings established by an independent commission and varying in population by no more than 5 percent. I would like to see proportional representation, not on the Israeli or the Italian model – these don't work very well – but rather on the West German model, which works particularly well. If we cannot have proportional representation, then we should have runoff elections in any constituency where no candidate obtains 50 percent of the vote.

Finally, I would like to see the term of office of both federal and provincial governments cut back to four years, with specific dates set for elections, except in the case of votes of nonconfidence where there would have to be an election.

I would like to suggest something else in closing, and that is that I would like to see provincial constitutions created within the context of the federal Bill of Rights. It seems to me unacceptable to continue to have the elected dictatorships we have in this country for periods of four and five years, and that's with no reference to any political party. I think it's unfortunate – someone mentioned it here this afternoon – that we have a federal government elected by less than the majority of the people. In no election where the free trade issue was before the public did so many Canadians vote against it as in the last election. I think it's unfortunate that Grant Devine can be in power in Saskatchewan when he got a minority of the votes and the NDP got a majority of the votes in the last provincial election. I think that's outrageous and undemocratic. I think it's unfortunate that Bob Rae could come to power in Ontario with 37 percent of the vote.

Canadians want democracy. We want checks on our politicians, we want checks on our court system, and we want devices which will give the populace more conviction that they really are determining the future of the Canadian nation.

Pardon me for taking a few moments more, Mr. Chairman. I'll stop there.

MR. CHAIRMAN: That's quite all right. I want to pursue just one thing quickly and do a little chairmanship prerogative here, and that's on the Supreme Court of Canada issue. You're one of the few people today who's raised the importance and significance of the role of the Supreme Court of Canada. You've given us a specific as to how you think the Supreme Court of Canada might be chosen better than it is done now. Why do you attach the significance to the Supreme Court of Canada that's inherent in your comment?

4:27

MR. PENTON: Because the Canada Act of 1982 brought into Canada in a very imperfect way the American system of judicial review. We have a Constitution which is neither fish nor fowl nor good red meat, and it's a hodgepodge of nonsense. It's like Topsy; it just "grewed." When Pierre Trudeau brought the Constitution back and the provinces yelled and screamed and kicked and finally got such things as the notwithstanding clause,

nonetheless we got judicial review on the American plan. Now, surely if that's the case, if we're going to borrow that from our American neighbours – and I think it was a good thing; I supported Trudeau on that. But he didn't go far enough. He should have included within the Constitution some provision for breaks on the Prime Minister's office. I wouldn't care who the Prime Minister is; I don't think anybody should have that much power in his hands. I think it should be in a much broader body. And I would like to see also, quite frankly – and I haven't mentioned this – a great deal of input from the legal profession, which has some understanding of what's going on. Right now the appointment of our justices and judges is just a sham, and it's not acceptable. It's so dreadfully undemocratic. We've got to have some checks.

MR. CHAIRMAN: Okay. Well, you've done a very good job of explaining the shift of real power to the courts; in other words, from the elected bodies to the appointed people. That's something perhaps a lot of Canadians haven't yet grasped.

Pam.

MS BARRETT: Thanks. I want to talk on a similar subject, and that is your idea about Senate reform. I missed one point, so my first question is going to be: you added to its powers the screening of Supreme Court appointees and . . .

MR. PENTON: Foreign treaties. I believe foreign treaties such as the free trade agreement and any number of other treaties should have to pass the approval of the Senate in exactly the same way they do in the Senate of the United States. The reason I believe it should be the Senate and not the House is that when we have the Senate doing this, we have representation from the whole nation. I'm firmly committed to the idea of a strong federal government but a strong federal government in which all the regions and the provinces are able to participate fully to protect their rights. So I'm a Canadian first, but I recognize the tremendous diversity not only of ethnic groups and linguistic groups but also of regions. We have to recognize that.

MS BARRETT: Okay. I hate to take the time of the committee because I know I could phone you later, but later is not on the record. I'd like to ask you one more question about the Senate. You said that Triple E may be a nice idea but chances are Quebec and Ontario ain't going to go for it. Maybe you're right. What do you think we can sell to the rest of the country to get a much more accountable and elected Senate?

MR. PENTON: I think Jean Chretien's suggestion is probably the most workable, with 24 seats from the maritimes, 24 from Quebec, 24 from Ontario, 24 from the west, and I would like to see at least one from each of the territories and a couple of native representatives. I might say, too, that I would like to see special seats for native people within the House of Commons on the New Zealand model, because I think – and you saw a perfect example in the feelings that were expressed by Keith Chief Moon this afternoon – our native people are ready to opt out of this country; it's gone that far. I assure you that he was very mild in expressing the bitterness that I hear all the time. I feel some of it too. But gosh, let's bring our native people in with goodwill, and I think some of the suggestions I've made could do that.

MS BARRETT: Thank you.

MR. BRADLEY: The theme I want to explore: you and others who have presented before the committee have suggested we move towards a constituent assembly or else referendum. To legitimize that process, you'd have to have a constitutional amendment under the current amending formula. Others just expect it will happen somehow, that you can go outside the Constitution. I would consider it a revolutionary step if you went outside the Constitution. So would you see a constituent assembly or referendum being legitimized by the current amending formula? If you did go outside it, then you'd be going on a revolutionary process.

MR. PENTON: No. What I would see is this body set up as a purely advisory, consultative body where all the difficulties could be worked out. I think the problem with the present process, with Joe Clark's safaris and the attitude of Quebec and the involvement of all the provinces and Jacques Parizeau coming out here, is that politicians of all kinds have their constituencies and they're locked in, whether at a provincial or a federal level, to speak in particular ways. You're elected and you have to represent your constituencies, and that's reasonable. But what I would like to see is a body elected as, let's call it, a consultative assembly in which the horse trading could be done at a different level, where new ideas could be thrown out. I've thrown out some ideas. I'm sure there are many people who have better ideas than I do. But let's take it out of the realm of confrontation and political head-butting and have this body elected by the people throughout the country. Let the horse trading be done there and then go back and say, "Okay, let's see what the people think of it" if we want a referendum. Have the referendum passed by the regions. If it's a positive document with respect to everybody, I think it would pass popularly, and then we could go to our provincial governments and our federal government and say: "Hey, let's install this thing. Let's get together. Let's live together as Canadians with respect for one another and stop the fighting."

I think you've all heard the story about the elephants, about how the German wrote a 12-volume encyclopedia on an introduction to the elephant, the American wrote how to grow bigger and better elephants, and the Canadian, of course: is the elephant a dominion or a provincial matter?

MR. CHAIRMAN: I've told that story at least a thousand times. You just told it very well.

MR. BRADLEY: Briefly, you would use the current amending formula in the Constitution to effect any constitutional amendment?

MR. PENTON: Oh, yes. We can't do anything that's revolutionary, and we can't steamroll. The idea that we can create a new Constitution without Quebec or without Ontario or without the maritimes or the west or the north or the native people is just absurd. We have to work together not as Albertans, not as westerners, not as Quebecois, not as Ontarians but as Canadians, damn it.

MR. CHAIRMAN: Okay. Thank you. Jack Ady, and then Yolande.

MR. ADY: Very briefly, I have some questions pertaining to the process to put your so-called constituent assembly in place. You're advocating that we follow the present constituency boundaries set up by the federal government plus 10 native

seats. I guess I have trouble seeing where that type of assembly would differ very much in their views from our federal counterparts today as it pertains to setting up, for instance, the reformed Senate. We're going to still have a majority from central Canada on that if Ontario and Quebec would not accept a reformed Senate. As we see it in the west today with what we presently have, that constituent assembly would probably follow the very same lines.

4:37

I would also like to add that when you advocate that they be elected, they're going to have to be elected on a platform from their constituencies. They're going to be out there following the line that their constituents want, and they're going to go to the bargaining table with exactly the same positions the present MPs would follow today if they'd follow the position of their constituents. I don't quite see how that is an advantage that would satisfy the concerns we have with regional disparity in this country.

MR. PENTON: It would be a body with a very different function. It would be a body created to create a document, a new constitutional accord, if you will. The Senate that I've recommended to you would of course have to be recommended by the people of the provinces, but if you take the sheer arithmetic, central Canada would not dominate it. There would be as many seats in the maritimes and the west as there would be in central Canada, and if you take the north and perhaps some natives, you've got a majority outside central Canada.

You're making an assumption which I think is destructive to Canadian society, and that is that because people come from a particular region, they necessarily vote always in the narrow interests of that region. I don't think that's true. I think you're going to get Quebecers voting with the west at times, maritimers voting with Ontario, and all sorts of mix-up the same way you do in the United States. I think the Americans at this level have done a better job than we have.

MR. CHAIRMAN: I don't want to curtail the dialogue too much, but we do have one more presenter. It's been a long afternoon for us. There's one more question from Mrs. Gagnon.

MRS. GAGNON: A facetious comment. You sound more like a Liberal to me than an NDP.

MR. CHAIRMAN: No, I won't say it.

MRS. GAGNON: I know what you were going to say: there's no difference.

You didn't talk about the Charter directly. You indirectly, I think, referred to the Charter of Rights. Would you like to make a brief comment on the Charter? Is it the cornerstone for you?

MR. PENTON: It's very definitely the cornerstone, because above all it protects the rights Canadians must have. I must tell you that I feel very strongly about this. As I've said, on my mother's side my family were Metis. They lost the use of the French language because of the incredible pressures in this province. When my grandmother died, my grandfather said, "Look, we're going to speak English; we're going to separate ourselves from the Metis community because it's not good for you kids." What a horrible thing to happen to people. As a kid, my parents were Jehovah's Witnesses, and I remember the

RCMP tramping through our halls. There were many people in this country – and it's in *Hansard* – who were sent to prison in World War II for having copies of the King James version of the Bible in their homes that were simply printed by the Watch Tower society. I feel incredibly strongly about human rights. I just don't believe we'll be able to live together with the peace and harmony we really need unless we have that protection of the Charter of Rights. I think it's a good thing.

In reference to your comment about my sounding more like a Liberal than an NDP, I've always thought that many of you Liberals were just slow NDP.

MR. CHAIRMAN: Okay. We have been able to manage to avoid too much reference to party affiliations, and I'd like to keep it that way.

A very quick question by Fred Bradley.

MR. BRADLEY: In terms of the makeup of the Senate that you're suggesting, it's not much different in terms of numbers from the current formula.

MR. PENTON: There are many things that we must leave because we're caught by history. Where we must, we must change the factors that are historical with us, but in many cases we must avoid that change. I would love a triple E Senate. I think it's an impossibility. I must say that when Albertans speak very strongly about it and often speak for the west, they forget that Alberta is only one province in the west. I doubt if there's a western Canada as such, except as a geographical factor.

MR. CHAIRMAN: Well, thank you very much for your comments.

For those of you who are here, I should remind you that we shall reconvene this evening at 7, I believe, but we shall reconvene in a larger room. For those of you who wish to return, we will be in the ballroom.

John Boras, our last presenter of the afternoon. Welcome, John.

MR. BORAS: Thank you, Mr. Chairman. Notwithstanding what we've said, I have never been ashamed of my political affiliation. You are looking at a real live Liberal. I may not be that active.

MR. CHAIRMAN: I know that, John.

MR. BORAS: I don't mind telling you, Mr. Chairman, that if this were just your party committee, I would never have appeared. This is the first time that I've dealt with a government – that is, the whole Legislature – rather than: we elect a party, we give them power, and for five years they do as they please.

I've run in this city in 13 elections, so I'm a little bit of a novice in politics. Four elections were for municipal council. Except for the first one, I've been re-elected every time after that. Five times I ran for the school board and got elected every time. One time I ran for the federal Liberals. Of course I lost that because that's a disease around here. Up till now it was. I've run against the Provincial Treasurer three times and against John Landeryou once. So I have a little familiarity with politics.

Because I do, sometimes I get incensed as to what goes on in our so-called democracy. I sit down and say to myself: you know, why don't we think about it? I want you to think about this. I've got four papers: three I will refer to, and the other

one I will just hand to you. The last one I'm going to hand to you was printed as an article here in Lethbridge. It was refused by the *Globe and Mail*. It was refused by the *Edmonton Journal*. Of course, in Edmonton they don't know what Lethbridge wants, and the *Globe and Mail*, I doubt if they know where Lethbridge is. The other three are merely thoughts of mine as I sat thinking about what happens to this country.

We sort of think of this as being a democracy. The *World Book Encyclopedia* says that that means to rule by the people, or, as Abraham Lincoln described it, "government of the people, by the people, for the people." Is Canada a democracy? I ask you, ladies and gentlemen. The head of state: a nonresident Queen, a position held by virtue of birth, not elected. The Queen's representative in Canada: the Governor General, a position held by virtue of appointment by the Prime Minister and approved by the Queen, not elected. Senate: positions held by virtue of appointment by the Prime Minister, not elected, except Stan Waters, but even he had to be appointed by the Prime Minister. The Prime Minister: leadership held by virtue of being elected by the party that leads, not elected by the electorate. The position of Prime Minister is by virtue of being the leader of the party that elects a majority of members to the House of Commons or a Legislature. An exception could be decided otherwise if there's no majority. The cabinet. Are they elected? Not one of them. Every position they have is held by virtue of an appointment by the Prime Minister, and if the Prime Minister or the Premier says, "I don't like what you do," they'll sit around and freeze before they get a cabinet position. As a matter of fact, they might not even belong in the caucus.

Members of the House of Commons. Somebody's got to be elected in this democracy. It's held by virtue of winning an election in a constituency, whoever receives the most votes. It may not be a majority of the votes cast, just more than any other candidate. This applies to all of them: you could have elected a mayor in Calgary with about 11 percent of the votes. Even to admit that the members of the House of Commons are elected democratically by the people for the people, their vote in the passing of legislation is controlled by their party, so they cannot vote either in accordance with their own judgment and/or conscience or as their constituents may wish. I ask you: is this a democracy, or is it a dinosaur? Think about it.

That, ladies and gentlemen, is to say nothing about the judiciary, who interpret all our laws. All appointed; no one is elected. It just goes beyond anybody who would address himself or herself to the idea of having a democracy. In the next paper I cite some of the problems Canada has, and I'll go through this first of all quickly.

4:47

Presently Canada consists of English Canada, so called; French Canada, Quebecois; aboriginals; non-English or non-French Europeans; and visible minorities. It's presently controlled by an English majority, whose legitimacy to their governing is the fact that they were the victors over the French in the battle of the Plains of Abraham, both of whom gained their positions by the rule of might is right, colonials without any regard for the aboriginal peoples who were here before both the English and the French. The non-English and non-French Europeans are expected to be English Canadians. Imagine, ladies and gentlemen. I was born in Yugoslavia three and a half years before I came to this country, and they want me to be an English Canadian. How the hell can I be an English Canadian? I'd love to be a Canadian, but an English Canadian? Forget it. How can I be somebody that loves this when I have to be either

English Canadian or French Canadian? The visible minorities: in addition to being neither of the above, they appear just different enough, especially due to language, colour, culture, that the essential trust required between parties to work together is nonexistent.

The common thread in each of the above facts is that all the relations are based on the outdated idea that might or power is right, in which any form of democracy is first to majority rule without adequate meaningful consideration of the rights of minorities. The problems of all these majorities and minorities are like that. It's a lack of trust between these groups. Only the French Canadians form a real majority in a fairly definable area, and as a result they're the ones that are saying, "We want to be masters in our own house." They've had enough of it. If they separate, well, so they do. Isn't that what we want in a democracy? People should have the right, collectively or individually, to do things. They're prepared to forego their individual rights in favour of their collective rights. That's their first priority; I accept it. Other minorities, because they don't have a majority in a reasonable sized geographic area – that's what we tell the natives: "You're all over the place, so you don't get any rights." We just have to, the rest of us, and that includes women, I might say, Yolande.

We have to somehow figure out how to get along. For the aboriginal people, some form of sovereignty acceptable to them. For the rest of us, an acceptance by whatever majority exists as Canadians, not English Canadians or French Canadians, in every way and without advantage to anyone or any region. If this can be achieved, then the fact that Canada is no longer what it is today but a place where people are people irrespective of their places of origin or the region within which they live would be a greater asset than the retention of Canada as it is today. An agreement by people who are free to enter into agreements will stand. Rule by might or power is right will not stand up.

I've been critical. How about some solutions, a democracy for the 21st century? For a democracy in the 21st century to be viable, I think it has to be perceived as just, equitable, accountable, freely and voluntarily entered into, and belonging to all of them, not belonging to a set few. Regardless of how you do these things, there's one essential thing you have to have: one person, one vote, and this is only altered when you have to prevent the tyranny of a majority or any perceived powerlessness on the part of minorities and the protection of individual rights. All the delegations of power to someone else should only be pursuant to a vote. Any appointed position should be ratified by a vote of some elected body. Power should therefore be exercised by those so authorized by a system of voting that meets the aforementioned criteria.

All legal entities have to have some hierarchical form. We have the head of state: President, Prime Minister, Chairman, Governor General, whatever, with some final stamp of approval. We have an executive: subordinate office holders, cabinet ministers, whatever they are. We have a judiciary; they have to interpret these things. We have a Legislature consisting of elected delegates representing the wishes of the majority and giving minorities a voice. Other elected delegates are selected on some basis other than one person, one vote: minorities or regions.

Notwithstanding that throughout history and even in so-called present-day democracies there are many methods used to achieve democratic results and meet some semblance of acceptance by the population, most are deficient in some ways. Not to rule out any other ideas, this is just an example: the head of state should be elected in some way at large throughout

the country or appointed by the head of the executive, and then the appointment should be ratified. The chief executive officer, Prime Minister, President, Premier, whatever you want to call it, should be elected at large or appointed by the Legislature, which in fact amounts to ratification. The executive, the cabinet, should be appointed from citizens at large by the Prime Minister or President or Premier and not from any elected legislators, thereby avoiding legislators being beholden to whoever appointed them. Appointments should then be ratified by the Legislature.

The judiciary, the final arbitrators. For example, the Supreme Court of Canada and all appeal court judges should be appointed by the Prime Minister, Premier, President, whatever you want, but ratified by the Legislature. However, all first instance trial judges – and you lawyers should know this: we should be judged on fact by our peers. We should elect them. They should be our peers, not somebody someone likes, who belonged to the party, paid the party, and got appointed. All the appeal courts should be appointed, because they're going to deal with law.

The Legislature should be elected for a fixed term of office in constituencies whose borders are drawn up by a commission appointed and ratified by legislators. The elections for legislators should be at a fixed date for all levels of government with a portion of each body elected each time. For example, a Senate could be elected for a six-year term and all the other things you can talk about, fixed date elections, and one-third of them, as in the United States, are elected every two years so you can shift the power. In a Legislature, House of Commons, elect them for four years at a fixed date, no choice by the Premier or the Prime Minister to call an election after two and a half years or wait till five years if the polls are right. None of that. Every two years one-half of the people that are elected every four years would have to be moved in. This would do away with the ideas that you see commonly now: referenda and plebiscites. They're very difficult to handle. If you could force half of your legislators, your Senate, your elected judiciary, or your mayors, councillors to come up for election every two years, then you wouldn't have to have referenda. It would make them shift.

The other thing is that you should have elections that are 50 plus 1 or else some portion or proportional representation. I won't go into that.

There's another thing we should do. We should try and get voters out. We should give an incentive to people to vote. If you pay taxes and you've got a stub that says you voted, you get something off your tax. If you don't pay income tax, you pay property tax. If you're unemployed or if you're an old-age pensioner and you don't pay tax, they take it off if you can't show that. Get out there. We want people to vote. That's the main thing.

This is merely a skeleton, ladies and gentlemen, of what my suggestions might be. I'm open for questions, and I'll pass the fourth one up to you. You've got more money than I have, and you can make copies here. I thank you for the privilege of being here.

MR. CHAIRMAN: Thank you very much, John, for your specific recommendations.

MR. HAWKESWORTH: Do you believe, Mr. Boras, that Americans have been better served by their structure of government than we have by ours?

MR. BORAS: Except for medicare; we've done better that way. Generally speaking, I'll give you an example. No matter where you come from in the States, you know, you go there, and you become an American, boy. An American. I came from Yugoslavia, and I can tell you my father was a bohunk. I was a bohunk for years. I'm not being critical. God, if you came to Yugoslavia where I was and you were English, you'd be ostracized, you know, but that's the majority/minority syndrome, and you've got to make it more democratic. If you noticed my first remark, we don't have a democracy even in the Legislature: these people. I don't know who your House leader is, but he tells you how to vote. He tells them all how to vote. This morning they brought in a gun control law in Ottawa. You know, they had it all packaged, and they're going to go through a sham. They're going to take a vote along party lines. Is that debating an issue? Let's be honest about it. There's no debate. It's a farce. But if they said: "We're going to bring in the budget" or "We're going to debate something," let everybody go in there and don't worry about being kicked out. You've got a fixed state, and you stay there. Those are some of the things.

4:57

MR. CHAIRMAN: Okay. Thank you. John is an eloquent answerer as well as presenter, so let's . . .

MR. HAWKESWORTH: As you've gone through your list of proposals, you basically recreate the American structure, yet when we look at the last presidential election, I think only slightly over 30 percent of Americans actually got out to vote. Over the last 30 years the number of Americans has been decreasing to the point that they're only at about 30 percent, whereas even in our elections a substantially higher number of people are participating, at least in the electoral process. I'm just wondering if part of the problem is simply the political leadership, and we're trying to solve a political leadership problem by generally throwing out the system we've got and replacing it with a brand-new one. Is your sense that our problem in this country is as much political leadership as structures? Aren't there maybe some less dramatic overall changes that could be made to make the current system much more responsive without sort of replacing it with an American one?

MR. BORAS: I should tell you that this country's problem is that they think change is a disease. We shouldn't fear change if it's done for a good reason. You've got to remember that there are two reasons sometimes why you have a low turnout. Maybe people are satisfied. Think about it. It might be; I don't know. That's why I suggested some form of incentive for people to get out there and vote. City council: we have to vote, and sometimes I just about feel like leaving the room because really it's a yes or no, and that's the problem with referenda and plebiscites. It's so easy to answer it yes or no. In this city we had a referendum on Sunday shopping. The no-Sunday shoppers won, and we ended up having Sunday shopping. What did we accomplish?

MR. CHAIRMAN: Well, of course, who drafts the question and puts the wording in? As you know, if you're in the process, it becomes quite a challenge.

Yolande.

MRS. GAGNON: Very, very quickly, two questions. Do you believe in the possibility of a free vote within a party system, or is that a myth?

MR. BORAS: I would like to see a free vote. I have really enjoyed municipal politics. As I told you, I ran provincially and federally. I'm not sure I'd survive there under those rules. I'd tell them to go to h-e-l-l. Am I not an individual? And you're going to carry something over my head and say, "You vote this way"? Mr. Carpenter doesn't tell me how to vote, and I don't tell him how to vote. We function. We have a lot of 4-5, 6-3 votes, and some people say, "What's the matter?" You know what's the matter? They're all so darned conservative, they want 9-0 for everything and don't change anything. Well, life goes on, and either we will deal with change or we will be awakened by it and dread what happens to us. We've got to find some way to comfortably change people's attitudes and what they do.

MR. CHAIRMAN: Fred Bradley.

MR. BRADLEY: I just really had a couple of comments. I was interested in your idea that we have to provide some incentive for people to vote. It used to be that you would treat people; in the old days of politics you would buy them a bottle or a drink, and that was called treating people in terms of getting them out to vote the way you wanted. So we abolished that; that's against the law. You want to bring in this treating on an officially sanctioned basis to get people out to vote.

MR. BORAS: Fred, can I answer that? You get a credit for the amount of people that vote. When you vote federally, you get a credit. If you get X number of votes, you get money back. That's giving you an incentive.

MR. ADY: And a penalty if you don't.

MR. BORAS: And which?

MR. ADY: It's a penalty, though, if you don't vote.

MR. BORAS: It's only a penalty if you didn't exercise your right, I guess.

MR. BRADLEY: The other comment you made was somehow that our House leader tells us how to vote.

MR. BORAS: He does.

MR. BRADLEY: I just want to debunk that. Recently in the Legislature our House leader wanted our members to vote one way. It was a motion which required unanimous consent. A number of our members said, "No," so the motion didn't go forward.

MR. BORAS: I heard about that, and I regret that that happened.

MR. BRADLEY: You're arguing against the thesis you're putting forward. I just wanted to debunk that we vote as the House leader tells us.

MR. BORAS: I'm not looking at Mr. Horsman. The Liberals and the New Democrats have done the same thing.

MR. CHAIRMAN: Anyway, listen, we could get on into . . . Pam Barrett wants to ask a question.

MS BARRETT: Yeah. For the first time since we started these hearings, I do not have a question; I have a comment. I think that not only you but members who listened to you today should know that caucuses do structure themselves democratically. For example, caucus solidarity on a question is determined on the question before the question is put. You should also know that every party in the Assembly . . . And I'm not ordinarily one to defend Conservatives.

MR. BORAS: You're the House leader of the other party, I know.

MS BARRETT: Yeah. Every party in the Assembly has had several – in fact, the NDP is probably the caucus that most commonly splits on votes, even on the floor of the Assembly. I share with you a lot of gripes and all of us do. We're talking now about what we're hearing about the system in general, but I want to make sure that you understand that (a) party Whip is not something that is automatic but is something that is voted on, and (b) caucus solidarity, even on the floor of the Assembly, is not always required. I really think it's important that you and the people here understand that so that they don't go away believing that the Whip is the Whip is the Whip. It's not true.

MR. BORAS: The Whip is the Whip is the Whip. You have the pleasure of being in opposition, so if you split, it doesn't matter a hell of a lot. But if his boss brings in a Bill: "No damn way," he says, "this is going to go." I'm not looking at him. If it was the Liberal or NDP in power, you people had the pleasure of doing that.

MS BARRETT: I don't think you heard what I said.

MR. BORAS: Yes, I did.

MS BARRETT: The Conservatives have split on votes in the House itself.

MR. BORAS: How many times? How many times?

MS BARRETT: Not a lot . . .

MR. BORAS: That's what I was saying.

MS BARRETT: . . . but enough to make my point and to state something accurately that may not show up in the record of *Hansard*.

MR. CHAIRMAN: I've often said that it's too bad that the public is not let in on the debates in our own caucus as we arrive at decisions. If anybody thinks that 59 Conservatives – or 58 because the Speaker doesn't come in to discuss matters of policy. If they think that a minister brings in a Bill and says, "This is the way it is; take it or leave it," it ain't so.

MR. BORAS: But it is within your power to do that if you want to declare your caucus open.

MR. CHAIRMAN: Well, that's worth while thinking about, because I think it might be very . . .

MR. BORAS: So don't tell me your problems.

MR. CHAIRMAN: But don't necessarily throw out the British parliamentary system in favour of the American system.

MR. BORAS: That's the hang-up that some people have: this is it and nothing else. Change: we can't do that; my great-grandfather did it, and my grandfather did. We've got to look at it.

MR. CHAIRMAN: John, we're listening to you. We're listening to you. I'm just saying don't necessarily throw out the British parliamentary system for the American system, which you're by and large advocating.

MR. BORAS: I'm not. You're labeling what I'm saying as American and what I'm opposed to as British. I don't think I said that in my presentation. Mr. Hawkesworth mentioned it. I didn't say it.

MR. CHAIRMAN: Well, I got the impression, John, with respect.

MR. BORAS: I know.

MR. CHAIRMAN: This is perception, I guess. Maybe we should end on this: what is perception and what is reality?

Let me tell you a little story to conclude this discussion. I've told it before, and some people will have heard it. This is a story about a young diplomat on this first posting, to Lima, Peru. On their national day he attended several cocktail parties to celebrate Peruvian independence. When he finally arrived, very much the worse for wear, at the official presidential palace, there was a glittering assemblage and a beautiful hall. As he came into the room, he perceived a vision in scarlet on the other side of the room. As the music struck up, he staggered across the floor and asked for a dance. The answer was: "No. First of all, you're drunk. Secondly, the music is the Peruvian national anthem. And thirdly, I'm the archbishop of Lima." So perception is not necessarily reality.

I think on that note we will adjourn until 7 o'clock.

[The committee adjourned at 5:06 p.m.]

