

1:52 p.m.

Monday, September 9, 1991

[Chairman: Mr. Horsman]

MR. CHAIRMAN: Ladies and gentlemen, perhaps we could reassemble. This afternoon we have a number of presenters. For those of you who weren't present this morning, I'll quickly introduce myself. I'm Jim Horsman. I'm the Member of the Legislative Assembly for Medicine Hat, and I am the chairman of this special select committee of the Alberta Legislature.

We have divided our 16-member committee into two panels. This panel is meeting this week; another panel will meet later on this month. We have additional members who are absent momentarily, but I'll start on my far right and ask the individual members to quickly introduce themselves.

MR. BRADLEY: I'm Fred Bradley, the MLA for Pincher Creek-Crowsnest.

MR. ADY: I'm Jack Ady, the MLA for Cardston.

MR. ANDERSON: Dennis Anderson, the MLA for Calgary-Currie.

MS BETKOWSKI: Nancy Betkowski, MLA for Edmonton-Glenora.

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

MRS. GAGNON: Yolande Gagnon, Calgary-McKnight.

MR. CHAIRMAN: Barrie Chivers, the MLA for Edmonton-Strathcona, is temporarily absent, but when he returns, you'll know who he is. On my left is Garry Pocock, who is the secretary.

We've altered our schedule somewhat. Mr. Hurst, who was expecting to be the second presenter, is going to be the first. Is Mr. Hurst here? I'm sorry; Mr. Spencer is going to be the second presenter, right. Mr. Hurst is here and has been here with us this morning. Either microphone, please.

MR. HURST: First of all, thank you very, very much for providing us an opportunity to speak and present our views on Alberta and Canada and our various parts in the new Canada.

At the outset let me say that I have distributed copies of this, which you could use for note purposes more than anything else, because I will depart from it from time to time, I believe.

Let me say that these views will be in support of a strong central government representing a federation of equal provinces and territories. I mention the territories because although responsibilitywise they may not have full provincial status in the way of government functioning, they are representing part of Canada, and they have elected representatives. So I feel that they should be part of the process.

I will stress the two equalities. The first equality is that all citizens will be equal: none superior, none inferior. We will all be equal regardless of where we come from, whether we're aboriginals, whether we're immigrants, or whether we're long-standing stock in the country. None of us would be hyphenated. They will be represented in a parliamentary lower House, in my view. In the vision I see of the new Canada, our Parliament would consist of a lower House, an upper House, and the executive.

The second equality is that all the provinces and the territories would be equal: again, none superior or none inferior. Now, some people may think: am I referring to the distinct society or that sort of thing? Well, I don't quite understand what the distinct society means, but if in any definition or any setup they try to make one province superior to the others by way of representation, by way of powers, or by way of special arrangements with the federal government, then I object to that. I feel that is not the purpose of a federation.

The smallest province or the smallest territory would have equal representation with the largest. It's an equality of the constituents' parts of the federal parliamentary system. I think this arrangement would serve to make our country a true federal state where the individual is represented in the lower House and the province is represented in the upper House. This could balance the demands on equality of the individual versus equity for the province or the territory. Thus perforce all proposed legislation would not likely become law and effected unless it passed the two political tests of meeting a demand on a majority basis of the individuals in Canada and also a demand on a majority basis of the territories of Canada, or the regions or provinces or whatever you want to call them.

The new Canada must be a partnership of equals, provincially and territorially speaking. Selected sovereign rights are relinquished equally from each province in favour of the federal state. The federal state of Canada must be stronger than each or any of its component parts, the provinces and the territories.

I've done considerable reading on this subject as an untrained citizen. I say "untrained"; I've not done these studies at a university for a graduate degree or anything at all. I have studied Malaysia, Australia, the United States of America, Switzerland, Denmark, Germany, and Austria particularly. It's been selective reading. I haven't been to those countries to do my research, so I haven't really followed through too much. I feel that I've learned that the theory and the basis and the fundamental aspect of a federation is that there's an equality. It's a federation of equals. No province or state or whatever can be superior to another or inferior.

Constituent assemblies. I mention this because how do we arrive at this nice thing that I'm talking about? How do we get there? Well, I think we get there by a constituent assembly. I do not mention in here but I should mention to you that I think they would be elected representatives to a constituent assembly. I feel that the provinces, when it's at the provincial level, should supervise and delineate this method of election. It could follow the existing constituency boundaries, provincial boundaries. It should have a plurality to it. There should not be just one representative coming from each constituency. Because there are many people in each constituency that hold different views, there should be at least two, possibly three representatives from each constituency. That kind of election, although it would be costly, should be under the - I believe it's called the preferential vote system. That is one, two, three, not first passed through the gate sort of thing. This, I feel, would permit some representations in some constituencies that have balanced memberships between several parties. You might get some balanced representation that would go to this constituent assembly.

I suggest that a constituent assembly in addition to the provinces' be held for the aboriginal people, that the aboriginal people do this. I believe there are some steps along the way now for that. This would be across Canada for them. That's a pretty big job for them to get together, but they should do somewhat the same. It's going to be their decision though; it won't be ours. But I envisage them deciding somewhat the

same, that their bands in their areas would have plural representation to their constituent assembly.

We have the English-speaking provinces, we have the bilingual province of New Brunswick, and we have the French-speaking province of Quebec. I see them all doing this, every one of them. There may be a consensus developed amongst the English-speaking provinces. They may wish to hold a separate constituent assembly. I see nothing wrong in that, because Quebec will certainly hold its own and would be looking to the rest of Canada for a joint response. They don't want us to be divided and whatnot; they want to have somebody they can deal with directly. So I can see the English-speaking provinces, including the bilingual province of New Brunswick, getting together and deciding upon what is their common aim, common goal, and common understanding for a federal state.

How am I doing timewise? Am I doing all right?

2:02

MR. POCOCK: About five more minutes.

MR. HURST: About five more minutes.

"The triple E Senate would be elected, effective, and equitable." No. I would say that a lot of people are putting that out, that we should have a triple E Senate that is that way, but I say it must be equal, not equitable. When the "equitable" people talk about this, you ask them what equitable means and they'll usually start saying: "Well, it means regionally. There's a western region, there's an Ontario region, there's an Atlantic region, and there's a maritime region." The Atlantic region is Quebec, so to speak, and the maritime region the four Atlantic provinces. Now, I say that that's not right. Equitable won't do. It has to be equal. Each of the provinces must be equal, and the Senate must reflect that. Or the Upper House: it might be called something else. I say a Senate, but it could be called something else.

The example that I put in here is that if the western region is defined as the three prairie provinces plus British Columbia, then you have, perhaps, Ontario with 10 members in this House or Quebec with 10 members. Give them any figure; give them six, five, four, two, one, whatever. Then you multiply that by four western provinces. Let's say Ontario had 10; that would put the western region with 40 representatives. They would be together as a bloc. I feel that's unfair, totally unfair. Some may argue, "Oh, no; the western region would only be 10, like Ontario." Well, surely, surely nobody would argue that, but there are some foolish people that speak that way, or misguided people I should perhaps say.

The Supreme Court. I haven't done a great deal of thinking about that. I can't suggest here how the Supreme Court should be reorganized, but I'm not happy with it the way it is. This is something our constituent assembly would have to look at. The different assemblies should have that on their agenda, looking at the Supreme Court.

The double majority. I think that the aboriginal people and Quebec have some legitimate concerns on this equality thing: language and the Civil Code when we think of Quebec and a number of other issues which the aboriginal people would have to identify for us. This double majority, I think we've all heard about it, but I would like to repeat it here. The double majority means that if the subject before any House is a language subject or a Civil Code subject or one of these aboriginal subjects, it should be carried by a majority of more than 50 percent of the provinces and a majority of more than 50 percent of the members. Let's say it was language or Civil Code from Quebec.

More than 50 percent of those members from Quebec should vote for this; otherwise the measure would be lost.

Canadian versus hyphenated Canadian. That really bothers me. I'm the son of immigrants. My people immigrated to this country, and nearly all of us in some way immigrated to this country. I grew up in the '30s, went to school in the '30s, and my teachers were all direct immigrants, but you couldn't find greater Canadians than my teachers. They instilled in me a love of country, a love of being a Canadian. They were first-generation Canadians themselves. We've lost that. I don't know how we've lost it, but somehow or other we've lost that. I can suggest multiculturalism, which was foisted on us by the government of the day back in the '60s and early '70s because they wanted to divide and conquer, so to speak, I feel. They tried to say that Canada is a mosaic. That has no backing at all. "We must continue to promote this mosaic, promote each individual culture that has been brought and transplanted here from another land." Well, I say that's not the job of the state. If I want to join a group, then as a group or as individuals we can promote and preserve our own culture or those aspects of it that we wish to preserve. Not the government of Canada. I think the government of Canada's role is to encourage and promote those things that we have in common across the country. How do we define what we have in common? Well, those are some of the things that a constituent assembly can look at.

Direct democracy is another area that I would like to see. The term "direct democracy" to me means referendums, and it also means recall of elected representatives and plebiscites, but the constituent assemblies should have it in their terms of reference to examine this. Do they wish to have those types of direct democracy written into our Constitution? I favour them, but it has to be a constituent assembly's . . . We have to ask the people. The people must be asked. Those of us who have made studies of these things then, we're a kind of select group. Let's ask the people.

I would conclude at this point and invite questions.

MR. CHAIRMAN: Thank you very much, Mr. Hurst. You appeared before the committee once before, on June 1. I wasn't present at that particular meeting, and perhaps some of the other members were not as well. I note that really what you're endorsing here in a major way is the position which has already been taken by the Alberta Legislative Assembly on two occasions in favour of a triple E Senate.

MR. HURST: Yes.

MR. CHAIRMAN: We note that.

In your previous submission you made reference to your concern about the Charter of Rights versus the common law. You did not include that in this particular paper, but I assume your views are the same.

MR. HURST: Yes, that's right.

MR. CHAIRMAN: You are concerned about the impact that the Charter has had in terms of the common law.

MR. HURST: Yes, I am.

MR. CHAIRMAN: All right.

Dennis Anderson, Jack Ady.

MR. ANDERSON: Thank you, Mr. Chairman. Mr. Hurst, you talked about this concept of a constituent assembly, which many have suggested and, I think, identified that it's a difficult concept to put details to. Just so I get your proposal straight, you're suggesting two or three elected people per federal riding? In provinces?

MR. HURST: I was thinking of provincial.

MR. ANDERSON: Provincial ridings. So that would be about — we're getting close to 300 people in this province. Across the country that would be several thousand.

MR. HURST: I wouldn't put too much of a point on it; it could be federal.

MR. ANDERSON: It could be federal.

MR. HURST: As long as there's an area where there's an easy organization that can be set up. If it was federal or provincial there are political parties with organizations in those ridings, or those constituencies as the case may be, so I feel they could adapt themselves to either one.

MR. ANDERSON: Okay. Federal or provincial, I suppose to a greater degree if it's federal . . . The breakdown by constituency, of course, is on the traditional representation-by-population basis, which would give the central Canadian provinces the lion's share of the control, as is currently true in the House of Commons. Would that be any concern to you?

MR. HURST: Well, you're thinking, let's say, that Ontario would have three times as many people in their constituent assembly as Alberta would? Something like that?

MR. ANDERSON: Yeah. You're talking about bringing them all together, are you?

2:12

MR. HURST: No. I'm thinking of provincial constituent assemblies. This is provincial constituent assemblies. Ontario would have its constituent assemblies; so would Alberta. Then each constituent assembly would elect from among their numbers, I would presume, or select — if we could put it either way — a team. I would suggest that this team should be equal amongst the provinces. This team would then get together with the other teams of the other provinces. I'm glad you brought that point up.

MR. ANDERSON: Thank you for that clarification.

MR. CHAIRMAN: Thank you.  
Jack Ady and then Bob Hawkesworth.

MR. ADY: Dennis asked one of the questions I had, but my question still has to do with the constituent assembly. It has to do with the political overtones. If you're going to have an election to elect people to a constituent assembly, a lot of the rules that happen in elections will fall into place there. People who want to be part of that constituent assembly are going to have to garner support from people and groups and so on and, lo and behold, you've created a new politician, which you just wouldn't trust to do it 10 minutes before. Now you've got another one that's going to draw up your Constitution. They

may very well run on party lines. They certainly will have party affiliation. I guess I'm having a little trouble wondering just how much of a fix you've done by having the constituent assembly when you've created another politician.

MR. HURST: Well, we distrust our politicians, with all due respect to the table here today. But I don't. I think most politicians, regardless of their party affiliation or their philosophy, are holding their views and offering themselves essentially for the public good. I have no problem with politicians. Under the existing system of government, I think a lot of them are tempted. The existing system of government is such that it creates scoundrels.

Coming back to your basic fear of a politician, that doesn't bother me. However, I think the Legislature of the province should set the ground rules for this. They may well say that people who have held political office are not eligible to sit as a representative in the constituent assembly. I've heard that proposed. I have no problem with that either, because I'm sure there are lots of good people out there. It's going to be the citizens in the riding or the constituency that choose their representatives.

MR. CHAIRMAN: Well, for better or for worse, that's what you've got now.

MR. HURST: That's right.

MR. CHAIRMAN: In any event, thank you very much.  
Bob Hawkesworth.

MR. HAWKESWORTH: Thank you, Mr. Hurst, for your presentation this afternoon. I think most of the proponents of a triple E Senate have restricted their comments to including the provinces. I take it from your presentation that you'd like to expand that and let territories have equal representation?

MR. HURST: Yes, I would.

MR. HAWKESWORTH: What's your thinking behind that? Why should that be open further to the territories?

MR. HURST: I feel that if we don't give them equal representation, we're continuing colonialism, so to speak. We're saying: "Well, you're colonies. You're less. You don't have the acumen or the savvy to really represent yourself." Yeah, we'll say: "You're a big territory up there. You've got lots of this and that, but somehow or other you can't do this."

Now, I can understand a problem when it comes financially. If they do not have the tax base in a territory to provide all their services and if they do not have the infrastructure — the roads, the airports, this, that and the other thing — to properly look after things, then there needs to be a federal presence, and we in the rest of Canada can subsidize through our taxes some assistance to that territorial area. But when it comes to speaking of our Constitution, which is a very vital thing, then I feel the territories certainly should be represented in helping devise our Constitution. Likewise in our Senate. I feel that it's a territorial type thing in the Senate, because they're not well represented by population. They may only have a few members go to Ottawa in the House of Commons, but they should have equal representation. I hope I helped a little there.

MR. CHAIRMAN: Barrie Chivers.

MR. CHIVERS: Yes. Just a short question, Mr. Hurst. I'm a bit confused by your proposition when you state that there's presently an undue preponderance given to highly populated urban centres such as Edmonton and Calgary in terms of electoral representation. I'm just wondering whether you're aware of the demographics of the present representation, which is that two-thirds of the population resides in urban areas but only has 50 percent of the representation.

MR. HURST: Yes, and I think that's a bit of a problem. I think it's sad. I would like to see under rep by pop that Edmonton and Calgary have much more representation, but only if there is a lower and an upper House to balance this. This is really why I see the problem. You've touched on it exactly. There should be a change. I feel that the cities, the urban, should have more representation in the lower House, but we're afraid of that right now because we don't have a balancing act to balance rep by pop against the territory. Horrors, the extra cost of another level of government, but we need something, some kind of upper House in Alberta to represent the Peace River country and represent various outlying areas and balance this, give equity. We're arguing that on the federal picture, aren't we? We're saying let's have triple E federally because we're afraid of the preponderance of the Ontario representation and Quebec representation. I think the same argument goes provincially. The only thing against it is the economics of having another level of government.

MR. CHAIRMAN: Well, thank you very much. We're appreciative of your views. One way I've expressed what you're doing here is that in a true federation the House of Commons or the lower House represents the democratic principle, which is equality of the individual, but the upper House represents the federal principle, which is equality of the participating states. So there are two principles, the democratic principle and the federal principle, if you're to have a true federation.

Thank you very much for your comments.

MR. HURST: Thank you.

MR. CHAIRMAN: Henry Spencer.

MR. SPENCER: Thank you. I found that very interesting.

Well, it's kind of dark in here. I have a wife who's a little tense sometimes at night, and I read her to sleep. About two minutes after I start reading, she goes to sleep. Maybe I should stand up and gesticulate a little bit if I'm going to read this letter to you.

MR. CHAIRMAN: Well, I think you have our attention.

MR. SPENCER: Okay. I'm a mechanical engineer. I run a little plastics plant. My wife is a professor at the university. You've probably met her, Mr. Horsman. She was on the university board for a while. We live in Ms Betkowski's district, so you have to be with me today.

2:22

MS BETKOWSKI: I'm with you.

MR. SPENCER: By the way, she's on her way to an NSERC meeting in Ottawa and couldn't be here today.

We represent a small group of 24 independent, eclectic thinkers from many walks of life and many political loyalties.

Our presentation will attempt, therefore, to be nonpartisan. On May 16 we sent a letter to your group and have been allowed to present the views we have on the Constitution, but since that time there's been a need to rearrange the pattern of our letter and dwell more emphatically on the Quebec question. We have a great opportunity now to build a new and better Canada. We must seize this opportunity with enthusiasm and make it work, and we have to steer the country away from the present course.

On economic grounds alone the separation of Quebec would be disastrous. A global economy is emerging based on knowledge-intensive industries. To compete in the world we need all the intellectual, financial, and marketing resources we have. Losing 15 percent of it would place us below the break-even point. Canada's strengths arise from our broadly based economy and our substantial home market. This includes Quebec as an integral part of our Canadian network. We need Quebec, and economically Quebec needs us whether they admit it or not. Standing in the way of progress toward harmony is our inadequate Constitution. It's of the utmost importance that we conduct constitutional negotiations with goodwill and determination to give us a solid foundation for our future economic strength, our future industrial strength, and our future political strength too. Canada will then be able to give its citizens the kinds of lives and opportunities we value.

Quebec is already a distinct society, but the term needs a legal definition that is acceptable to all. The French are proud of their language and culture, and these are acceptable as part of this distinctiveness. However, since Quebec is the only area in North America where French is the predominant language and the Francophones feel surrounded and threatened by a sea of English, we agree that special measures are necessary to retain their language and culture. Yet we think we should negotiate with them those limitations that have been placed on non-French speakers who live in Quebec. We regard bilingualism as a cultural enrichment and also as an important asset in international trade and commerce. Moreover, it's an important expression of the partnership that makes up Canada and has been enthusiastically embraced across Canada, to judge by the number who are now bilingual or approaching it or sending their kids to bilingual schools. One Canada with two languages is a beneficial concept for our country, but making it legal doesn't go well in the west particularly. Voluntary bilingualism is better. Where it should be legislated is only for the courts and the federal civil service. We don't know much about the French civil law, which was adopted from the Napoleonic Code. It might be worth investigating to see if the Quebec law serves its people as well as the rest of Canadians who are served by our own legal system. This could be a bargaining point.

The rest of our letter addresses other urgent issues. However, before we leave the subject of Quebec, I'd like to quote Laurent Beaudoin, president of Bombardier. He said:

Tensions between Anglophones and Francophones seem terribly empty, outdated and a throwback to another age. He goes on.

The commitment to new federal solutions to Canada's constitutional crisis is shared by the majority of French-speaking leaders of large Quebec companies.

I think that's an important thing to note, that people in Quebec are not all swayed by the media, by their particular flag-wavers.

Other aspects of our letter were not as urgent as the Quebec situation. However, they are still basic to future success.

I'd like to pause here. If anybody has any questions they'd like to ask me about my thoughts on Quebec and my wife's thoughts and our other 24 people's thoughts on Quebec, I'd like to answer them.

MR. CHAIRMAN: Could I just get one point? In your letter you say "losing 15 percent of it." The actual population is 25 percent. If Quebec were to leave, I'm wondering where you got the 15 percent.

MR. SPENCER: Well, I was thinking in terms of their productivity and so on. Probably you're right. I chose 15 percent from ignorance probably.

MR. CHAIRMAN: No, that's fine. I was just curious, because the actual population is about a quarter or a little better than a quarter. If Quebec were to leave, we'd lose a quarter of the population of Canada.

MR. SPENCER: Okay. Let's emphasize that further then.

MR. CHAIRMAN: That's just interesting.

Just a quick comment on this point. We all agree that Quebec is a distinct society, but the term needs a legal definition acceptable to all. I think we would all agree with that. The question is: how do we get to it without making it appear that there is special status? That's the dilemma.

MR. SPENCER: Well, I lived in Quebec for about three years, and I saw little kids sitting in the corner smoking cigarettes; I saw potato chip vendors with their little steam whistles and so on. It's a different kind of society altogether. We really have to understand them. I think it's kind of late now to try to do something about it, but to get more of us out there to see what Quebec's all about and get more of them out here to see what we're all about — it would be a wonderful idea to enlarge on that.

Now, as far as a distinct society is concerned, their terms and their definitions, the word "distinct" in French means something different than in English. In English "distinct" means "standing alone." In French it almost means "distinctive," like a super society, so maybe they have more expectations from it than we have when we talk about distinct. So I think maybe we can come up with a different kind of term to say that they are a French society, of French origin, and therefore have to be treated differently simply because of their laws, their ways of doing things, and their way of life. They want to guard that very carefully, and you can't blame them.

MR. CHAIRMAN: Well, as chairman I don't want to prolong this, but I'd say that you've summed up very nicely in that one sentence a real dilemma which faces us all as Canadians. Now we have to find a solution to that problem, and this committee is part of the process.

Any other comments or questions?

MR. ANDERSON: Mr. Spencer isn't finished, I trust.

MR. CHAIRMAN: No. But on the issue of Quebec, I think he wanted to pause at that point. Okay? Yes.

MRS. GAGNON: Excuse me, Mr. Chairman. I wouldn't mind if Mr. Spencer could expand on using the French civil law as a negotiating tactic. Why should we investigate what they are doing? It sounds a little patronizing.

MR. SPENCER: Maybe I shouldn't be patronizing, but at the same time I have a little business. I go to the bank and tell them: "I deal all across Canada and through the States. How

about lending me some money on my receivables?" So I sign little papers for every one of the provinces except Quebec. The bank will not accept the receivables for Quebec. In other words, they say their civil law is such that they cannot collect. If I went defunct and the bank wanted to collect from one of my receivables, they could not go into Quebec and get it.

MRS. GAGNON: This would be a U.S. bank, not a Canadian bank.

MR. SPENCER: No. This is a Canadian bank. A Canadian bank cannot go into Quebec. There are reasons for it, but the way their law is set up . . . When we lived there, I remember the law was framed to protect the country people. There was a little country wagon going along with hay and straw over the back and extending over the highway and no tail lights and somebody came along and smacked it and got killed. The farmer was not at fault. That's what he did all the time. He didn't have to have a light. There are things like that. I mean, that's a ridiculous example, but there are many things about Quebec law which have grown like Topsy. It's different, and I don't think people in Quebec are getting as good a deal as we are with our law.

MRS. GAGNON: But I'm interested in how you see this would be a bargaining point. We would extend our form of law to them if they would do what?

MR. SPENCER: I think we should have a uniform form of law across the country, something anybody anywhere in the country could feel comfortable with.

MRS. GAGNON: So you don't mean a bargaining point then. It's not something we would give to them and they would give back to us.

MR. SPENCER: In a bargaining way. Let us say that they can learn something from us and that they should not consider themselves superior. Maybe we could do something for them by offering them a different set of laws than they have at present. It might be an advantage. Or they could pattern some of their law changes to match ours.

MRS. GAGNON: Interesting. Thank you.

2:32

MR. CHAIRMAN: Okay. Would you like to continue on with the balance of your letter?

MR. SPENCER: Sure. Well, I've made these others in point form. I think a strong federal government is essential. We're not happy that there's a trend towards increased provincial powers, in spite of the fact that we've got a number of people here who are ministers of various departments. I think power shifting has to be good for the people and not just for the power structures involved.

I think, under that, that commerce throughout Canada has to be free. We have to be able to move people, goods and capital, technology and culture wherever they want to go and wherever they're needed. Regionalism in any form can restrict us. I think there are lots of cases where there is regionalism. We're not going to get into any national energy picture here, but we have to think in terms of a strong federal presence needed in environmental control and in stewardship of all our resources,

even though that's a provincial jurisdiction, including water, power, and fossil fuels. Resulting potential power struggles between federal and provincial governments for tax revenues from resources can be avoided by fair agreements, but I think that's something we should think about.

We need standardization of social programs and benefits throughout the land with due regard to regional differences and needs. Since education is a provincial responsibility, as is health, standardization will mean a federal presence in policy decisions or a close co-operating network of interprovincial administrators.

The second point: the Charter of Rights must hold across the nation. As it is, we have been able to opt out in several places. I don't think we should do that. Aborigines should have their land claims settled soon, quickly, but at the same time they should live by the laws of the land. I don't think separate nations are good. I think they've built prejudice. They don't achieve harmony. Canadianism must be promoted. National institutions need to be fostered and must go on even if there's no money for other things.

A previous letter – I had something on this that I think I should read again. Forgive me for being, in the old-fashioned way, chauvinistic.

Canada is the best place in the world to live. To keep it that way we need to build up the important things that bind Canada together. We must build our common history, morals, mores, and a level of education. We must put more emphasis on the ties that bind: economic, industrial, and spiritual. Instead of regionalism we need to concentrate on the country as a whole. Regions can and should be treated fairly but not at the expense of sacrificing the whole. We should build up and not weaken our Canadian institutions, including or even especially the CBC and National Film Board.

We must make travel inside Canada less expensive, not more expensive than travel to foreign destinations. For example, taxes on fuel are one source of trouble and could be lessened for in-Canada flights. Encouragement of interchanges among different parts of Canada by expansion of various exchange programs and other means would pay handsome dividends. The interchanges need not all be tax funded.

Item 5. Immigrants are appreciated but need to be assimilated rather than allowed to build ghettos. Tolerance of immigrants and their customs must be matched by the immigrants' tolerance for our Canadian ways and mores, customs, and the laws. Multiculturalism should be entirely voluntary.

We trust that these constitutional matters will be considered in view of general principles rather than by a too specific set of rules. Applications can be hammered out in the future. What we need now is a workable set of ideas of what our country needs to be, set out in terms that anyone can understand and be proud of. Reform is an ongoing requirement of any healthy country.

Thanks very much.

MR. CHAIRMAN: Thank you very much, Mr. Spencer, for these additional thoughts and those you presented earlier. Just one question I had was that the process we're into now . . . You've heard the previous speaker suggesting a constituent assembly of a new elected body – it would be about three times the size of our current Legislature – to engage in this process. Did you give any thought to the process, or is the current constitutional process . . .

MR. SPENCER: Well, I have a good deal of faith in our present setup. You know, we're used to it; we can make it work.

I think all we have to do is get together and make it work. Generally speaking, I think people have a tendency to posture a little from a partisan standpoint, but they really are Canadians at heart. I think when we're talking about general principles, there doesn't have to be any partisanship in it. Therefore, I think it doesn't really matter who's in charge. We have to try to trust our politicians. The fact that we've had an opportunity to talk to some of them and to realize their problems as well as pick up their questions and their concerns – for example, I was listening to the questions today, and there weren't any partisan questions, you know, really.

MR. CHAIRMAN: We're trying to behave. This isn't the question period.

MRS. GAGNON: It's not always easy.

MR. CHAIRMAN: It's not always easy.

Any further questions? Yes, Barrie, and then Dennis Anderson.

MR. CHIVERS: I wonder if you could just clarify for us, Mr. Spencer, your comments with respect to the Charter of Rights. You said it must hold across the nation, and I'm wondering if that was a reference to the notwithstanding or the opting out provisions?

MR. SPENCER: Yeah, the notwithstanding part I think is a cop-out. I think if we're going to have a rule, we should apply it. I think it's a fair rule. The Charter of Rights is hammered out by conscientious people, and I don't think we should sort of sneak under the table and do something else because it's more convenient or because, you know, somebody's going to benefit from it.

MR. CHIVERS: The difficulty there, of course, is that the notwithstanding clause originally inserted in the Constitution was a political compromise in order to arrive at a constitutional agreement. I'm wondering whether you would be prepared to see some sort of a notwithstanding clause perhaps modified from its present form?

MR. SPENCER: Well, everything is compromise. You know, when you're negotiating, you have to compromise; that's true. But when it comes to . . . Well, take the English in Quebec. Now they're getting a bad deal, and it's all just emotional stuff; people are emotional about this. In fact, some of the French people get quite violent about the fact that they see an English sign. They've just been charged up by that. The media has done most of it. The French media is wicked, I'll tell you. So I think as far as the notwithstanding clause is concerned, we probably have to have it, but I think the application of it should be such – and I think it is such – that it only has a limited time.

MR. CHAIRMAN: Of course, that is true in the current Constitution, that it only applies for a five-year period and then would have to be renewed. That is in there.

MR. SPENCER: Yeah, right.

MR. CHAIRMAN: We could go on at some length, but Dennis has a question too.

MR. ANDERSON: Two short ones, Mr. Chairman. First, Mr. Spencer, when you indicated the division of powers or this strong federal presence that you believed in in certain areas, you suggested that with education that could mean the provinces getting together on that strong direction. Would you add that alternative, the provinces getting together, to the other areas such as environment and so on?

MR. SPENCER: Well, the wind blows all the way across the country. You know, it blows from Pincher Creek all the way out to Ottawa. I think that if we get pollution, we can get pollution anywhere; the rivers pollute Lake Winnipeg. I don't know. I think we have to have interprovincial agreements at least. I think maybe the federal limitation should be in seeing that the provinces do get together.

2-42

MR. ANDERSON: Okay. Thank you.

The other was in an area you didn't address in your verbal comments but you do have in your brief. With regards to reforms you talk about party discipline may have been carried too far. Have you any suggestions for us with respect to that?

MR. SPENCER: Yeah, in my old letter. Well, you know, there's a sort of a thing going now that people should vote according to their conscience. There's also this thing about having a constituent assembly. I don't know if you've ever been to a Wheat Pool meeting, but everybody's got a different idea, and it just doesn't work. I think maybe it's good to have a party line, as long as it isn't just to serve some friends or something like that. That's what we hate: the service of friends over the public.

MR. CHAIRMAN: Okay. Well, thank you very much for your thoughts and sharing them with us again, and to your group of 24 eclectic thinkers.

MR. HAWKESWORTH: Those meetings would be interesting, I'm sure.

MR. SPENCER: Well, just like acronyms. You know what an acronym is, eh?

MR. CHAIRMAN: Oh, believe me. You've got a real ally right here on acronyms.

MR. SPENCER: Well, we call ourselves the Edmonton Vocational Institute for Loquaciousness.

MR. CHAIRMAN: You've done well.

MR. SPENCER: Thank you, sir. Thank you very much for letting me appear. Goodbye for now.

MR. CHAIRMAN: Thank you.  
Ernie Tyler.

MR. TYLER: Yes, sir.

MR. CHAIRMAN: Welcome.

MR. TYLER: Mr. Chairman, ladies and gentlemen, I thank you for providing this opportunity to address you. I represent myself only. I do not represent any organization or special interest

group, but I think I do represent a significant percentage of that silent majority who don't even bother coming to your meetings. You have a lot of chairs behind me and relatively few people.

I do believe that I have notions similar to a significant percentage of the silent majority who have given this issue much thought. Of course, it's not the most interesting subject for many of our people; they would much rather watch a TV program. Much of what I say will now be motherhood to you. You will have heard it before, but I perhaps might reinforce it in some way.

There was a man named Georges Clemenceau who, around about World War II, said that war is much too serious a thing to be left to the military. I paraphrase him by saying that the making of a Constitution is much too serious to be left to the politicians alone, with great respect. The process in its entirety in my view will be totally flawed, as somebody has already said, if the politicians ignore at any stage now from here on in the public at large. You're doing a superb job in making the opportunity to address the politicians, and we should be appreciative of this. This aspect of the process must continue because the process is far from complete, as I think I can show you and I think you know already.

I urge you to beware of the single-interest groups, who will come before you with one issue only, hoping to have it play far more prominence in our nation's programs than it deserves. I'm sure as politicians you take little notice of the people who call you frequently and tell you that you are not listening. You're not listening, ladies and gentlemen, because you perhaps don't agree with what they're saying. If you don't agree with me, I'll make the same claim and it'll be a lot of nonsense, and I hope you recognize it as such.

We'll do this thing only once in our lifetime, I believe, unless we have a revolution. It therefore demands, in my opinion, the best efforts of a lot of people. A significant number of our citizens, as I say, will not be giving this very much attention, and one particular segment is that which has English not as its first language. I believe that in our province in particular we are not providing information services to the people who have a primary language other than our own. Their English is limited, and they're only comfortable in their own language. So I implore you to continue and to expand information to the public. I trust that not only will your report go to the Legislature but that a descriptive brochure will go out, be made available to the public in several languages, including some southeast Asian languages. The services and people available to do this in a hurry I know are readily available.

The media, electronic and print, cannot be relied upon to report effectively and completely the conclusions you reach, whether you put them on the record in the Legislature or not. I urge you to follow the one solution; that is, to buy time and space and publish your words and not words which contain their biases and their preferences rather than yours. I think our public will be better served if you indeed let them write all the stories they like but you publish the words you want to have the citizen be able to read.

Time is short, but we must know what Albertans think, and you're in this process. The federal government and Quebec must be resisted in attempting to pursue a short timetable. The fast-track approach is unwarranted, and now that it has been really recognized that the public should become involved, I trust that you will fight hard to say, "We will take all the time we need to work on this problem until we have it solved to our mutual satisfaction."



I think you're faced with some five major issues directly or marginally, perhaps, related to the development of a new Constitution. First is Quebec's separation; a new division of powers between the federal and provincial authorities; problems related to the native people; problems related to the Senate; and a question of a constituent assembly.

With respect to Quebec, they have been treated poorly in the past by the national government, not necessarily aided and abetted by the provinces. Quebec has many reasons to complain that they were not allowed to be *maîtres chez nous*, and it was only when they determined to go this route that they started to agitate us and have us concerned particularly with them. We must be prepared to participate actively in the debate which will go on in that province prior to their referendum. We must tell them that Alberta has certain views and we will struggle for them, but we must tell them that they were not a sovereign state nor were we, the provinces. We were not sovereign states with the ability to choose to withdraw. We are not a federation, in a position to give powers to the central authority and withhold those that we choose. We were not created as a federation. Furthermore, at the time of Confederation our province didn't even exist. So let's stop this nonsense of being able to give to the central authority only the power that we choose to give them, but let's tell Quebec the same thing.

2:52

We have many complaints which we share with Quebec, remarkably, as some of you know, for a number of years. Ever since Mr. Lesage we've found many places where the attitudes of Quebec coincided almost totally with ours. I remember reading a presentation by Mr. Lesage and I thought this might be Premier Manning, so similar were the complaints about the central authority.

You will have read, as I have, the Bélanger-Campeau report and the several other reports, or at least summaries of them, that have been done across the country. The Bélanger-Campeau report on the political and constitutional future of Quebec makes some of the most arrogant assumptions respecting the rights of Quebec: that unless Canada agrees, Quebec will separate, and Canada will have to enter into a series of agreements simply because we're contiguous with that country. They did indeed speak with a good cross section of their population, but they seem to have retained preconceived notions and biases and perpetrated them into their report. It may be that their position is just the development of a bargaining posture.

I say again that no province has the right and authority to separate, but it is not difficult to behave in a practical fashion as if you had. Quebec sincerely believes that it has the right. In fact, what would we do if the bottom line were that they were to separate? We would not, I think, do what is happening in Europe at the moment and have the troops running around. We would let them go. But it is very difficult to counter if they are determined – and I think determination is growing in that province – to go their own way.

They are indeed a single and distinct society within Canada, having a distinct culture, language, and legal system. There are, of course, many smaller distinct societies in Canada as well. German, Ukrainian, and the growing southeast Asian community: these are distinct societies. But we don't say, any of us, that that gives them any special privilege. In fact, we go out of our way sometimes to insult them and insist that they don't have any privileges whatsoever. There are many distinct societies in Canada, and those who subscribe to a culture and social mores

different than ours should be urged to carry on, not at our expense I say, as somebody else already made the point.

But should Quebec finally decide to withdraw from Canada, I believe we should be saying: "Godspeed. We want compensation for all of the Canadian assets that sit in Quebec, and none of the Canadian systems will be available. You will have to buy your own." I'm sorry; this will impoverish Quebec for the next 50 years. But the police and the customs and the trade arrangements and so on and so on – I don't believe that we should be blithely prepared to sit down unless we see some significant advantage to ourselves.

You're going to meet M. Parizeau, and when you do, I'm sure you'll recognize that he's a very clever spokesman for the séparatistes. He believes fervently that Quebec should leave Canada. He's a skilled and dangerous adversary, who in my view seeks only power for M. Parizeau.

If the Canadian government is not prepared to make some radical changes, then in my view Quebec will indeed go and should not be criticized. But the real question, ladies and gentlemen, in my view is not a question of a new Constitution or new arrangements; it's a question of power sharing. That's what you have been in business all your lives as politicians to grasp and wield and use for the benefit of our country. I'm not saying it's a bad thing, but the acquisition and operation of power is what politics are all about. We have not been well served by a central government. Powers under the BNA Act and the way they have been manipulated on occasion leaves many citizens today, particularly in the last few years, feeling manipulated. We've lost a significant degree of confidence in our governments. We believe that they will just do what they like if it occurs to them. We've seen some examples of that in the recent past. We were starting in Alberta to achieve our potential for self-direction a few years ago. M. Trudeau at the helm of the central government took care of that with his infamous national energy policy and showed us who indeed is the first among equals. This is the attitude that so often has been taken: we are all equal, but we are the first among equals, and with our tax-gathering authority, we will make sure you know that.

Many problems of the 20th and 21st centuries will not be resolved until the provincial governments have the clear authority to operate and maintain those programs which they believe are in the best interests of the provincial citizen with or without the assistance of the central government. This means a clarification and a rearrangement of the powers contained in the present Constitution. Then I immediately say: well, why would Ontario or the feds choose to transfer power and weaken their domination? Is there a way other than constitutional amendment initiated by the provinces and including Quebec? We could then temporarily forget Ontario and still amend the Constitution. I think that's the only way it's going to happen.

The BNA Act subdivided powers rather than awarding powers to the province. All the powers were really with the colony of Canada at the time. It was intended that the central authority be the strong authority, that the provinces would just deal with those things that distance made it inconvenient for the central government to manage. Of course, the advent of today's communication, transportation, et cetera, as you know, has changed that picture entirely. Canada has not made the major and serious changes constitutionally to accommodate today's situation.

National handling of finances and patronage has been a disgrace to our nation. Some provinces are almost equally at fault. To think that an elected body would do some of the



things that Canada has done with respect to patronage is appalling.

I'm impressed with the recommendations of the Group of 22. I trust that you're familiar with the 22 individuals, prominent Canadians, who met for several months. I am sincerely impressed with their conclusion when they say that we do not need a brand-new Constitution; we need to improve the existing one. By and large, they recommend that the feds vacate those areas into which I say they have encroached and transfer the appropriate taxing value to the provinces, who can most properly manage those programs. Health is the classic example; there are others. Entry into cost-shared programs, encouragement of the provinces and making it the carrot on the end of the stick for them, remaining in those cost-shared programs for several years, and then in some cases, even without discussion, unilaterally withdrawing: this is no way to run a railroad, Mr. Chairman.

3:02

The Group of 22 recommend the development of uniform standards for those systems which cross our boundaries – like environment, like health, like some of the social services – and that the application and the meeting of those standards then be monitored by an independent agency and reported upon by what they suggest, a new house of federation. They suggest the Senate be elected or appointed by provinces and called a house of federation, and its main duties would be much simpler than they are today. They would review federal/provincial relations legislation, not all legislation. They would, with the provinces, attempt to establish – and I use the word "attempt" advisedly – national standards in many areas, monitor and report on the achieving on those standards. They would review appointments to national bodies which are of interest to provinces, and many of them are. They recommend that three-quarters of the members of the Bank of Canada be appointed by the provinces but the chairman continue to be appointed by cabinet. They recommend the present amending formula remain the same: the federal authority, seven provinces covering 50 percent of the population. They make 28 recommendations, and if you haven't taken a look, I urge you to take a look at them because they may well form the basis of Alberta's position.

Mr. Chairman, the native people. When are we going to solve this problem? I've been a Canadian now for 40 years, and slowly but surely that problem has generated and generated, and now, in my opinion, it's a real cancer in the body of our nation. With years of maladministration and great expenditures, the majority of our native people live in Third World conditions. You and I, having no responsibility for them because the feds have the responsibility, should be ashamed that we have allowed it to deteriorate to this position. But today, inspired and encouraged by white professional advisers having no responsibility for their performances and proposals, they have the native people making outrageous demands and creating their native history as they go along. Their spokesmen have become very professional and seem content to parley, at our expense naturally, forever. We stumble from crisis to crisis in native affairs, and the only clear message I get is, "Send more money." It does not improve the reserve, the status of the Indian on the reserve; it does not improve his desperate condition one iota.

Let us now tell the central government and the native people that we want a timetable that specifies when we're going to complete the resolution of the land claims and other financial matters and that if that timetable is not met, a unilateral imposition will be made by an independent body. Those who have an interest in the negotiations going on indefinitely in my

view must be politely told to get lost. After the settlements are reached, I believe that the native people should indeed be given predefined self-government within Canada's laws and Canada's laws amended if necessary. They should be given representation in the House of Commons and in the house of federation. Their individual rights should be the same as all other Canadians'.

There is, of course, essential reform of the Senate. It has been the greatest patronage plum of all. The perquisites are outrageous and shameful. Its influence on the governing of Canada has been absolutely marginal. The concept of it being a house of sober second thought has been a myth. By the same token, Mr. Chairman, an elected, equal, and effective Senate, a triple E Senate, is just a pipe dream. Why would Ontario agree to equal representation in any House? Would it be rep by pop, or rep by percentage of the gross national product produced, or what? A regional basis may be a little better, and when I speak about a constituent assembly, perhaps the same formula could work. But where does the allegiance lie with respect to regional rep? Would a region have veto power? I don't know. I seriously think we should consider a total abolition of the Senate.

A constituent assembly. My view of a constituent assembly is to deal exclusively with the Constitution and have no life longer than dealing with the Constitution, the draft of the Constitution that is provided to them by the federal and provincial drafters of this document. I don't think the membership has to be in the hundreds and hundreds. I think it should be on a national basis, with the country divided into five regions and subregions with 20 representatives from each region, 10 of whom would be elected, 10 of whom would be appointed by a nonpartisan commission to cover those social, economic, religious, ethnic, and academic organizations and others of like kind in our country. That would work out, as I say, with 10 places for our aboriginal people, Indian and Inuit, to bring us to a total, in my counting, of about 100 members, the regions being Quebec, Ontario, the maritimes, the prairies, and British Columbia, with all but British Columbia having 20 delegates and British Columbia having 10.

The role would be to examine the draft of the Constitution clause by clause and recommend its adoption or its rejection. If they were to recommend rejection, they would be obliged to state very clear reasons why and to propose an alternative if that would be appropriate. The federal and provincial authorities should, in my view, be obliged to accept that constituent assembly's recommendations with the right only to modify amendments to clarify. Time frame: reject the fast track. It's an important issue that will take time. I believe that a constituent assembly would need at least three four-week meetings per annum for up to three years. I believe that we should use the national and provincial legislative facilities in between sessions and other services such as the Speaker and his staff, *Hansard*, the translation and information services. It would have a secretariat, mostly from the university, few professional bureaucrats, I would hope. It would have technical advisers, legal and constitutional.

3:12

Funding. I would advocate 50 percent federal, 50 percent the remainder of the provinces by population or GNP. It might be expensive; I expect it to be. Without getting the pencil too sharp, I think in terms of a couple of hundred million per year. In comparison with other programs, this is almost negligible and, in comparison with the import of this program, is warranted. I think it would be worth it to ensure input from all sides and all

the people into the completion of this critical document which is to serve our nation for the next hundred years.

In conclusion, Mr. Chairman, ladies and gentlemen, this has really been but a brief overview, but I believe it's typical of what many Albertans might wish to say if they had the chance to come before you. I believe it's the most important matter in recent history that we have to deal with, and I trust that you will not allow anyone to rush you to your conclusions. I'm sure you await with interest, as I do, Mr. Clark's forthcoming proposals, which I hope will coincide with ours, but we'll see about that.

If there are any questions and time is available, I'd be pleased to try to deal with them.

MR. CHAIRMAN: Well, thank you very much, Mr. Tyler, for your very comprehensive comments and for some specifics as to what a constituent assembly might do by way of responsibilities as well as the composition of one. We've had some interesting thoughts in that respect. I would take it – may I just clarify this? – that you would have the constituent assembly perform by way of public approval what some people are urging by a way of a referendum. You do not call for a referendum; you want the constituent assembly to perform that public endorsement of the ultimate Constitution.

MR. TYLER: I don't really see how a referendum could possibly deal with the matter. There are so many questions that would have to be asked. For instance, with respect to what I think has got to be a fairly lengthy document, the only way I see of dealing with it is by debating it clause by clause, understanding what it means, not necessarily totally because courts will always ultimately have something to say about it. I think it's a matter for debate rather than referendum.

MR. CHAIRMAN: Thank you. Just a brief comment, and then Yolande Gagnon.

If you want to go back and do some further reading, you'll find that Premier Godbout and Premier Aberhart back in the 1930s at a dominion/provincial conference were ad idem on most issues, but then that's just another little historical aside. [interjection] Ad idem: of the same mind. Sorry; I threw in a little legal term there.

Yes, Yolande.

MRS. GAGNON: Thank you. You have definitely given this a lot of thought. I think your presentation adds a lot to our debate, but I would like to ask you about the constituent assembly. To whom would those people be accountable? Are we going to elect them? How are we going to select them? That's the problem. If they're named by somebody, then it could be rife with patronage. If they're elected, where are the politics?

MR. TYLER: Obviously I haven't gone into all of the detail, but I could well imagine that a set of qualifications could be enunciated which would not bar any genuinely concerned individual. One of the qualifications might well be that he not be an elected member already, either at the municipal, federal, or provincial level. It may be like this: that only 50 percent be elected, that 50 percent be appointed by the many organizations that we have in our country who do indeed represent large numbers of people. They would be, just off the top, responsible to perhaps the first ministers' conferences, including the first minister of Canada. They would be reporting, in effect, back to both the federal and the provincial governments, who

heretofore have dealt with these matters at the first ministers' conferences. They would have this vested authority, in my view, so that we can't just have their views dismissed arbitrarily.

MRS. GAGNON: You see, I think that's my problem and the problem of a lot of people. It makes a lot of sense that 100 Canadians would sit down and look at the federal position and debate it, but how do we arrive at those 100 people to make it fair and equal and on and on? You know, that's the difficult question.

MR. TYLER: I'm not too concerned with it being equal in any way. I believe that if people choose to place their names before the citizens of a region and say, "I think I can do this job," and in fact go around talking about it, they convince the people in the region that they're good people to do this job. It's a short-term job; they're not in there till they're 75 like our dear old Senators. They're there to do this one job and then stand down.

MRS. GAGNON: They're elected, so they become politicians in effect; you grant that.

MR. TYLER: I don't quite follow that. I heard that said before. I'm not quite sure that they're politicians. We can have, for example, as I said, the use of Speakers of our Assemblies, and their role would be to ensure that partisan politics are not introduced into the debates in any way. I know that our Speaker could readily do that. I couldn't agree more that if partisan politics is allowed to get into it, it will have defeated the entire purpose. Now, I'm not sure whether the elected person should be barred. Perhaps one would put a percentage on the number of already elected people who could participate.

MR. CHAIRMAN: Well, thank you very much, Mr. Tyler. You've struggled with this, and we all are struggling with knowing how to ensure that whatever the end result will be, it will in fact have the support of at least a majority of the people. I think that's what our concern is. To get unanimity is an impossibility, I would think.

Nancy, did you wish to ask a question?

MS BETKOWSKI: I have two questions. I, too, enjoyed your very thoughtful and very well-informed presentation. On the aboriginal peoples you spoke about self-government being predefined in law and then the process gone through on the land claim issue. My question is: once you've got to that part and self-government has been hopefully established, then what? Are they equal to all other Canadians in terms of their rights however defined in that self-government model? In other words, do you continue to have, for example, a federal department of native affairs?

MR. TYLER: Oh, no. They would be municipalities like our rural municipalities now, on their land with a government similar, I would suppose, to the ones we have at local levels and exercising all the powers, duties, and responsibilities of a local government and having the ability to counsel with and protest to the federal government. I would see them eventually developing as one or more municipalities on their land. Perhaps the one essential difference would be that they would have total control of their land. I would not think that they would be subject to the land authorities of the provincial government. That's for development, mind you; I haven't gone very far into it yet.

MR. CHAIRMAN: Nancy, one more, and then Bob Hawkesworth.

MS BETKOWSKI: One more, just briefly on the Group of 22 and the house of federation proposal, which was really about arbitrating the division of powers. It seems to me, too, if my memory serves me correctly on their proposal, that it also could affect the role of the Senate and the constituent assembly, as you've defined those two.

3:22

MR. TYLER: Oh, yes. They advocated abolition of the Senate as it exists and creating a house of federation with those limited powers, perhaps a few more, but certainly it not being, as somebody suggested, a partner in any way with the elected House of Commons. I believe the elected House of Commons is totally able to conduct its affairs, as I believe are the provincial governments. I fail to see the notion that we need a second body at the provincial level. I appreciate what the chairman said about democracy and federation, but I insist that we're not a federation and have not been. If you don't want that, then I say: okay; let us determine which powers we will segregate to the central government.

MS BETKOWSKI: Thank you.

MR. CHAIRMAN: Thank you very much.  
Bob.

MR. HAWKESWORTH: Thank you, Mr. Chairman. I also would like to add my appreciation to that of my colleagues for your presentation this afternoon. Obviously you've given it a great deal of thought, this whole area. I don't know what your background is, but obviously you've . . .

MR. TYLER: Public servant.

MR. HAWKESWORTH: Okay.

Leave aside for the moment the question of a constituent assembly, whether it is going to be created or not and whether it would be helpful to the process or not; just set that aside for the moment. We've embarked on some kind of a process here in terms of constitutional reform. Can you give me some of your thoughts? We've started it; how do we conclude it? I see a process under way here, but the way ahead is not clear to me in terms of negotiating all of these different issues and bringing the process to some sort of successful conclusion. It's not a question I've asked any of our presenters before, but because of your presentation I just thought I'd like you to maybe think out loud a bit. How do we conclude it?

MR. TYLER: I think you're putting your finger on it. Perhaps the most difficult issue is - I mentioned it obliquely when I said, "Why would Ontario or the government of Canada give up any of its powers?" It's no good saying that the sheer force of logic will do this, because it won't. I wouldn't give up any power that I had unless you offered me a particular benefit or unless I'd lost my constituency. I'm not sure. I think the first ministers, who have to wrestle with this, have a terribly difficult problem because when the bottom line comes along, we have our maritimes saying, "Yeah, we'll go along with the feds otherwise our water will be cut off"; we have Ontario saying, "Well, we don't want any particular change; we're doing all right now"; and Quebec saying, "Well, if you fellows can't see what's wrong,

we're gone." I'm not sure how we get the flexibility. I listen to our Prime Minister on occasion, and I think perhaps his flippant remarks are for the media consumption exclusively. On occasion I worry, and I worry if there's a hidden agenda that he and Mr. Trudeau worked out a long time ago to ensure that Quebec left our Confederation. I'm not sure, and I think that perhaps is a subject for intensive study.

I know our ministers here go to federal/provincial meetings. You know where the power is as you sit around the table, and you know who's getting listened to more than the other man. I've sat alongside ministers when this was happening. As far as I was concerned, we were speaking the most logical and intelligent things in the room, but we knew that our views would be, let's say, heard but they would not be fully accepted.

I believe, as I said, that you've put your finger on perhaps the most important issue of all: how do we negotiate to the point where we believe we have a proper solution? It's not like any other kind of negotiation that you or I are familiar with, and it may well be the special study of - the Constitution has been amended in the past, and we do have a formula if we can persuade Quebec and ourselves and sundry others to go along with us, but we change it unilaterally.

MR. HAWKESWORTH: Thank you.

MR. CHAIRMAN: Well, Mr. Tyler, it's not an easy task. You recall not so long ago when we advanced the formula from Alberta which is now in the Constitution that people said that we would never get it, and we have it.

MR. TYLER: Yeah.

MR. CHAIRMAN: We thought it was logical. Perhaps the concern about the disintegration or the destruction of the nation may be the ultimate bargaining position that will bring people to their senses.

MR. TYLER: I believe so, and I think that the bottom line is that you've got to give some to take some.

MR. CHAIRMAN: Thank you very much.

MR. TYLER: Thank you, sir.

MR. CHAIRMAN: Doug Fulford and George Kovacic. Did I pronounce the names correctly? [interjection]

MR. FULFORD: I'm Doug Fulford, and my associate is George Kovacic.

MR. CHAIRMAN: Yes, gentlemen.

MR. FULFORD: Mr. Chairman, hon. members, thanks for the opportunity to appear today. We appreciate the process where ordinary Canadians are given the opportunity to speak on such complex issues. My associate, George Kovacic, is a fourth year economics student at the University of Alberta, and I have operated a small business for 10 years. We both live in Sherwood Park.

At the outset, we think that Canada is the best country in the world, and if we keep that in mind as we proceed, surely we can ensure that we do remain one country. There are many issues, and we appreciate their complexity. We feel that maybe the main issue is that we have to go back to square one in looking

at where we're at. If we were to sort of outline a mission statement, we would say, "Keep Canada together and make it strong," but to do that, we think we have to have a uniform and precise division of responsibilities for all provinces and regions of Canada. We think that all provinces should be treated equally and that there is no such thing as a distinct society. Each province should have equal powers, and under a new program we would have to clearly state what the provinces control and what the federal government controls. We have picked a few issues that we wanted to talk about.

Go ahead, George.

MR. KOVACIC: I'll deal with the next three issues, beginning with language. On the matter of language we feel that, for example, the federal responsibilities should be dealt with in both English and French. So if the federal government deals with a certain set limit of responsibilities, these responsibilities throughout the entire country should be dealt with in both official languages. However, we feel that with responsibilities that are dealt with by the provincial government, it should be decided by the province of choice; for example, the province may decide to deal with these responsibilities in both official languages or in English or in French, as they prefer.

The next two issues, regions and aboriginal issues, I'll deal with together because our plan kind of compresses both of them together. First of all, we feel that the Northwest Territories and the Yukon Territory should become equal members with the other 10 provinces in Canada. So what we're proposing is 12 provinces in Canada all with equal status. This is important because the Northwest Territories has a majority population which is native, and this would address in some aspects the native issues in Canada. The Yukon doesn't have a majority, but they have a large proportion of native people. Addressing the concerns of the native people, we feel that if they have equal status, they'll be able to go to the provincial meetings such as we already had just a couple of weeks back, they would have more representation in the House of Commons, et cetera. This we'll also deal with later in our Senate proposals.

3:32

On the aboriginal issues, we feel that aboriginal people should be dealt with equally with all our Canadians. This is important because we feel that everybody has to be treated equally in status here. We feel we should do away with the Indian Act and change all reserves into municipalities and that all native people should have the responsibility to deal with their own concerns, et cetera.

I'm a bit tense. I'm running through it a bit too fast here, and I've got a couple or more points I want to raise here.

MR. CHAIRMAN: Take your time.

MR. KOVACIC: Yeah. I haven't done anything like this before.

Basically, the way we understood this is if we give the natives a special status, they're not really being treated equally in this country. They have to be given equal status with everybody else and rely on the same conditions everybody else gets. For example, acceptance at university shouldn't get preferential status. If the average is set at 85 or whatever for every other Canadian, they should be considered to be 85 too, but they should be given every opportunity to reach this goal.

The reserves should be made municipalities, like every other place in Canada, and they should have the exact jurisdiction of

municipalities. Since the reserves were owned by most native people before 1930, they should have the responsibility of having control of their own natural resources, et cetera.

I guess we'll leave that with Doug. Thank you.

MR. FULFORD: The Senate. We think that the present system is not working, and we think that if they would legislate five – or that number could be altered – Senate positions from each province, then there would be equal representation from each region. The Senate positions would be elected, and the Senate elections would be at the same time as the federal elections. Just to summarize that, the Senate would have the power to ensure that regional issues are looked at and looked after by the federal government.

The next is the division of responsibilities. We looked at that, and that certainly is a very complex issue, as to how division of responsibilities would be addressed.

Go ahead, George.

MR. KOVACIC: For the division of responsibilities we feel that the federal government should have certain responsibilities – for example, external affairs, central monetary policies, immigration, defence, international trade issues – which would be a joint concern between the provinces and the federal government. We also believe that for the environment the federal government should be able to set minimum standards, and the federal government should be in control of customs.

We don't want to deregulate federal authority positions so much that we do not have a strong, united Canada. However, we want to revise the responsibilities to make sure this country can stay together. Doing this, we still want the federal government able to have a set number of minimum standards throughout various aspects. For example, if the provincial government is dealing with health care, et cetera, let's say that the minimum health standard, just pulling any number out of a hat, is \$1,000. If the federal government wants to deal with this \$1,000 minimum, they should fund the provinces to provide this \$1,000 minimum. In addition to this, the federal government should be able to set standards in basically any provincial service the provincial government provides.

There are a couple of other points I wanted to raise here. For international trade issues there should be joint concern between any province which should be negotiated in the future.

MR. CHAIRMAN: Just let me clarify. In your paper you say that the province would have all other responsibilities.

MR. KOVACIC: Yeah. With "other responsibilities" we basically mean with "all responsibilities." One reason for looking at it this way is that the federal government has an enormous deficit, and there is duplication of services being done in some areas between the federal government and the provincial government. If we set a precise standard and find out what the provincial government provides and what the federal government provides and move some of the services to the provincial government, maybe we could deal with this problem in a certain more precise way.

MRS. GAGNON: Mr. Chairman, just for clarification of that point too. Dealing, for instance, with health or something like that, if you have the federal standard and the province does not want to live up to that standard, can they opt out and get some kind of compensation? I think this is one of the problems we've had in the past where a province didn't want to go along with a

federal program, so they've asked for the ability to excuse themselves from it, but they wanted compensation if they weren't getting the funds for the program the way it was intended.

MR. KOVACIC: The way we saw this over here is that the federal government provides a certain amount of funding. For example, the federal government provides the \$1,000 or what it costs to provide the minimum service in this area. If they would not provide this service, then the federal government would not send the \$1,000 per person transfer payment over to the provincial government. So it basically would be that the federal government would pay for the first amount of service, which would cost us, for example, \$1,000. If any province in Canada decides that they need more than a thousand dollars for services, say, \$1,200, they can add the extra \$200 on. However, they cannot go under the \$1,000 of service. Providing the \$1,000 of service through all provinces of Canada could also work in a different way. For example, taxes are basically income regressive; the rich pay more and the poor pay less. With having the minimum standard of service being used and being taxed from all over Canada, the poorer provinces would benefit from the richer provinces in this way.

MR. ANDERSON: Mr. Chairman.

MR. CHAIRMAN: Okay. Sorry; we should let the presenters finish their paper, and then we'll come back if we could. You have another point to make. I'm sorry; I caused this interjection.

MR. FULFORD: After the Supreme Court we stopped, but when we say to revoke the present system, we don't mean to revoke the Supreme Court of Canada. We think that it certainly is a strong institution, but we say where there is a vacancy, a name should be submitted from each province and then allow the government in power at that time to make that decision. As it sits, I think the Supreme Court is pretty well regionalized. If I'm correct, there are three out of Quebec and three out of Ontario and three out of the rest of Canada. Surely there could be a very good appointment from the Northwest Territories and B.C. and Manitoba and P.E.I. all at the same time.

MR. CHAIRMAN: All right. Those were the points you finished. I'm sorry; people do want to go back to that other point. Dennis, did you want to follow through?

MR. ANDERSON: Thank you, Mr. Chairman. I'm just wondering with regards to the establishment of these standards. I understand the thousand dollar minimum or the concept that there is enough money to provide basics in the system. Would you consider provinces in concert establishing standards as being as good as the federal government establishing standards? In other words, not having that regional pull from the central Canadian vote by population control that's there? Or do you feel it's essential that the federal government would establish those alone?

MR. FULFORD: Well, it is one country, and I think part of our problem is that we keep setting different standards in different provinces. I think that if we do have some standards set down, those minimum standards that can be agreed upon, then go from there. The same would be with transportation on the Trans-Canada Highway or the Yellowhead. There is a minimum standard of what that highway will be. The federal

government would ensure the minimum standard, and the provinces could go beyond that.

MR. ANDERSON: You said "agreed" minimum standards. Do you mean just agreed within the federal Parliament or agreed between the provinces and the federal government?

MR. FULFORD: Well, I think there would have to be some agreements between the provinces and the federal government, but I think that the federal government would set the minimum standards. Somewhere we have to have minimum standards set.

MR. ANDERSON: Thank you.

MR. CHAIRMAN: Jack Ady, Barrie Chivers.

MR. ADY: I'm on a different point if we're still on the point of minimum standards. [interjection] Okay. Thank you.

I just wanted to ask a question as it pertains to division of responsibilities. What would you recommend doing with the postal service?

MR. FULFORD: Do you mean after you privatize it?

MR. ADY: We're not going to do anything with it. The federal government might, but we're not. No. I just wondered: would you advocate that that's going to be a federal responsibility or that you would give it to the provinces?

MR. FULFORD: Certainly again with the postal service there has to be a minimum standard within the country.

MR. ADY: But who has responsibility? This is my question. Who would be responsible? You have External Affairs and immigration and so on under the federal jurisdiction in your brief, and I just wondered where the postal service would fit in that recommendation.

MR. FULFORD: Well, as it deals with what might be considered federal mail, that could be the federal government's responsibility.

MR. ADY: Who is responsible for the postal service of Canada?

MR. FULFORD: The federal government.

MR. ADY: Thank you. That was really my question.

The other question I had has to do with this central monetary policy. By no means am I recommending or advocating or indicating that I think monetary policy should be set by each province individually, but I see that you're recommending that it remain solely the responsibility of the federal government, yet that hasn't worked so well in Canada. For instance, in recent years we've had a circumstance where our monetary policy was being dictated by a circumstance in Ontario because they had high inflation. Consequently, we had high interest rates. The rest of the country was suffering with those high interest rates, and there didn't seem to be a mechanism to fix it. To just leave it there without some way of addressing that inherent problem that we seem to have always had . . . I wondered what you might have in mind to do with that.

MR. KOVACIC: Well, having the central monetary policy under the federal government is important because, first of all, the monetary policy of most nations has been controlled by the federal government: the dollar, interest rates, et cetera. We cannot have a country with three different types of interest rates, because if we do that, we can't have one Canadian dollar, and without a Canadian dollar we can't really have a country. We can have some certain vision put in by the provincial governments, but in general we're going to have to believe that what the federal government says goes in central monetary policies. We can try to negotiate with them to a point, but then again they have to have an overall status to keep this country together. We're going to have to make sacrifices in certain issues, and the federal government will have to make sacrifices in other issues. Overall in the monetary policy the provinces will make a sacrifice to the federal government in this way.

MR. ADY: So what you're really saying about that is that the policy we presently have is about as good as we can do.

MR. FULFORD: Well, I think so. Something we've seen happen here in Alberta is that when the interest rates skyrocketed, the province in their wisdom came in with – if you want to call it; I hate the word "subsidy" – an interest shielding program.

MR. ADY: At a considerable cost.

MR. FULFORD: Certainly. Nothing is for nothing.

MR. CHAIRMAN: Okay. Thanks very much.  
Barrie.

3:42

MR. CHIVERS: Yes. Gentlemen, I wonder if you could give us some clarification with respect to how you see the power to tax fitting into your scheme of things. I'm assuming that there would be some federal taxation power, at least within the realm of matters within the federal jurisdiction, but you're suggesting that the federal government would have the power to establish minimum standards in certain areas and that collateral to that would be the financial ability to make transfer payments of one sort or another. I'm just wondering how you would deal with taxation jurisdictions.

MR. KOVACIC: For taxation jurisdictions, the way we were looking at it is that, believe it or not, the GST would probably be one of the best taxes we have overall and income taxes, because they both tax the rich more than they tax the poor, which would help the poorer provinces. The federal government could use the tax revenue they collect from these sources as setting minimum standards. We know they will have to go into a deficit some years, but we should try to have financial responsibility and try to use the money wisely. They should try to set a minimum standard with which they can see if they can enforce and give an equal amount of money to the provinces. So if they can see that a minimum standard in medicare is \$1,000 per person per year and if they can afford \$900 that year, they'll have to go into a deficit and pay \$1,000 to that province to set that minimum standard. They should also have the power, like I said, to tax: GST, income tax, et cetera. The provincial government should also have certain ways of taxing, as they do today. Does that answer your question?

MR. CHIVERS: Well, it answers my question. It begs some differences of opinion, but I think perhaps this is not the place to debate those issues.

MR. CHAIRMAN: Thank you. Gentlemen, you haven't addressed the procedural situation. Maybe I could just ask you. We're going through a process here of seeking public opinion. Eventually we'll come forward with a report. We'll meet with the federal committee and other committees throughout the country. Eventually a document will emerge which, hopefully, will have the support of Canadian people. Perhaps you've been listening to some of the suggestions that a new elected body or a new body be constituted. Have you addressed the process at all in your thinking? If you have, do you support the concept of a new body being created, or are you prepared to leave it in the hands of the current elected representatives to somehow or other make the deal come together?

MR. KOVACIC: Are you referring to a referendum?

MR. CHAIRMAN: Well, that's one of the potentials. What about a constituent assembly? Have you thought of that?

MR. KOVACIC: Establishing a constituent assembly to deal with the aspects of Canada? That is a possible way of doing it, but I think we have enough elected people in Canada right now to deal with the problems with Canada and to decide what's happening. Having a task force traveling around Canada and a task force here in Alberta is a great way of dealing with it. I think we should try to take our time and discover what we need but do it with the people we have in power right now.

MR. CHAIRMAN: Okay. Well, thank you very much, then, for your comments and your thoughts.  
Mike Nickel and Scott Day.

MR. NICKEL: It's good to be here, I guess. Running a little late.

MR. CHAIRMAN: I'm sorry we're running a bit late, but it does happen.

MR. NICKEL: Yes. Oh, I know it. I know it.

Well, first of all, both Mr. Day and I would like to thank the committee for the opportunity to speak. We didn't get a chance for the first round. We had other commitments; let's put it that way.

Now, the intention of our submission is not – how would I put it? – like most submissions you've received to date. It does not intend to tell you how to run your committee or what the substance of your findings should be. Instead, it is to shed some light on some of the more fundamental differences in the viewpoints between English Canada and Quebec and the parameters within what I've called the great Canadian debate on the Constitution is about.

Now, no matter what this committee may develop as a contribution to the national process, what matters, I guess, in the final result to the Alberta citizenry are two things: first of all, the Alberta citizenry has to understand the proposals and the intentions of what you're doing, what you come up with in concrete fashion; number two, accept those proposals to be legitimate solutions to the nation's problems. Now, failure in part or in whole of these two criteria could spell, I would argue, utter disaster, not only for those politicians who have a stake in



the output but also dire consequences for the nation as a whole. Therefore, this paper is intended to provide some important perspectives on the context of the great debate. It's our opinion that without a thorough understanding of why this debate is taking place and the restrictions on acceptable options and future proposals, you will meet resistance and you will meet conflict and you will not find a solution simply because this debate is not occurring in a political vacuum.

Now, I'm not going to review the paper at this stage because we are running a little bit behind, but hope that you've read it regardless of that and hopefully you'll have some questions. Instead, what I will offer is several conclusions or suggestions towards which any constitutional proposal for Alberta should be couched in or upon.

The central theme of our presentation is that the political elites in Quebec see it as in their interests to use nationalism and arguments about nationalism to promote their bargaining position. Both Latouche and Gagnon and Montcalm argue that nationalism is not the fundamental driving force behind Quebec's position. That one or the other of Quebec's political parties can mobilize a national sentiment for support is true, we cannot deny that, but this is only for the short term. This has occurred usually in response to a real or perceived wrong – being a matter of perception – committed against Francophone rights, such as the Manitoba/Alberta minority schooling issues or, most obviously, in the rejection of the Meech Lake accord.

3:52

After a time we believe other longer term interests soon reimposed themselves on Quebecers' thoughts. Already Quebecers are worried about the move towards sovereignty. Polls, I think – if you follow those sorts of things; I know some do, some don't – show a reconsideration of this hard sovereignty position. Latouche and Gagnon and Montcalm stressed the reality of the economic individual in Quebec. As Latouche says, from the safety in numbers they are shifting to individual competitiveness. Now, Latouche warns that in the worst case this could develop into some sort of economic nationalism, but a realistic position is to recognize that Quebecers are not so ready to risk their economic position for an unknown sovereignty option.

Premier Bourassa recognizes the concerns of Quebecers on this point and is more likely to negotiate from, "It's our opinion": the Allaire report position. No two things are truer about Robert Bourassa than that he is a pragmatist and that he follows political polls. He is constrained, however, by the Parti Québécois and the majority of the Francophone journalists, the media establishment who support the sovereignty and will take any opportunity to make it difficult for Mr. Bourassa's compromise. We believe Mr. Bourassa wants a compromise, but what we want to say in conclusion is that what it is important for Alberta to consider is the opportunities for negotiations given the context of this debate. In Quebec we should be prepared to seek measures that would promote national unity in exchange for greater recognition of Quebec's distinctiveness.

The problem – and those are my comments – is that the fundamental misunderstanding between Quebec and the rest of Canada deals with Latouche's argument. Quebec perceives in the debate that there are two nations, that there's an English-Canadian nation and that there is a French-Canadian nation. The problem is that English Canada does not readily identify itself as a nation. There are no institutions that are organized in strictly English-Canadian terms; there are no movements organized in strictly English-Canadian terms. This is where the

problem in the debate begins. We are not talking about necessarily the same thing, at least in terms of the masses, at least in terms of the voters and the people who ultimately have to live with this document.

So that's basically what we want to say, and if you have any questions, we're willing and ready.

MR. CHAIRMAN: Thank you very much. You've done extensive reading of Quebec thinking on the subject obviously, and I was very interested to read your brief in advance. I think you have, in some respects, stated the issue well for us, and that's helpful to us, but where we go from here now is another question.

MR. NICKEL: What I wanted to do – just to add to that, we didn't put any concrete suggestions one way or the other. We went over the first two volumes, let's put it that way, of submissions to your committee, and we thought it would have been very helpful indeed if we could have condensed things a little more and put things back, way back when the debate first started. We thought that would be helpful for the committee; we thought that would be helpful to you as individuals given your time commitments and things like that. I'm happy to hear that you agree with that, but the implication of the paper is this: no matter what proposal you come up with, be it the constituency assembly option, be it the reform of the Senate and the whole host of things along with that, you have to couch it in terms of the context of what's happening out there. People will not understand. They have difficulty understanding – let's put it this way – when you speak to an average Albertan about English Canada in the sense that, well, "What does it mean to be an English Canadian?" Now a Quebecer, on the other hand, has a clear definition of that. "I am a Quebecer; I speak French, and I have these associated values."

We wanted just to say that before you make your proposals and give it to the Alberta electorate, for example, you take these notions about the debate in hand and basically shape your commentary to that.

MR. CHAIRMAN: Well, you've given us some thinking here, all right.

Dennis Anderson and Yolande Gagnon, please.

MR. ANDERSON: Thank you, Mr. Chairman. You appropriately said that now we start, and with regards to your background, it's very helpful in terms of identifying some of the realities that exist at present and making us more aware of those realities as they apply to Quebec and to Canada, however you define the latter. I am wondering what your advice is to us on how we get into this national debate. Do you believe that we should be debating the specific issues which Quebec has raised and which we may raise through our hearings, or should we be talking together about a new vehicle for all people in Canada to use when going down this future road regardless of what the past may be, whether it's aboriginal concerns of the past or Quebec concerns of the past or western Canadian concerns of the past? Is there a new starting spot we could use?

MR. NICKEL: Did you want to answer that?

MR. SCOTT DAY: When I'm looking at that question I don't know if the paper makes it as clear as we might have liked. What we're looking to establish is a different perspective on the whole question. This committee is obviously looking at what



Albertans think about this whole issue, and I question whether a good deal of Albertans are as informed of what the Quebec position is on the whole perspective of the country. We don't recognize often that they are any different than any other province. We don't recognize that there are some legitimate places of distinctiveness that we could recognize without jeopardizing our own position of the past or necessarily giving up very many legal rights that currently we have under the Constitution.

I think it's important that any approach that we have as an Alberta position for negotiation understands the debate in Quebec; that is, I think the paper and some of our comments today stress that nationalism is not a fundamental long-term aspect of Quebec thinking even though it is the most visible aspect of their politics. The books we've cited have said that a good deal of the nationalism that has become apparent to Canadians has been created by and promoted by the political parties for political ends. The Gagnon and Montcalm book very much supports the idea that the real underlying interest of Quebecers is in fact economic rather than nationalistic and that when we approach Quebec in this debate, the fundamental unity of what we are looking at will be economic, I think, in many ways, though the main areas of negotiation, main areas of possible compromise will be in areas of culture. I mean, fundamentally it's language, it's culture that Quebecers are wondering about. The unity will come in economics and the compromise on distinctiveness. In exchange for national unity, compromises on their part will perhaps bring about a real solution.

MR. NICKEL: So to add a little more to your question "Is there a place to start anew?", I don't think so. We don't work in a political vacuum. I mean, the past is the past, and we cannot change it, but if you wanted a place, a solid foundation to start, what will work from coast to coast – and I'm afraid this is my political marketing perspective coming out a little bit – will be an economic argument. It will be whether we are stronger together than we are not. I'm afraid culture – and the paper speaks to that – is perceived differently here in Alberta than it is in Quebec, and my advice would be: don't even try arguing it to both populations, because you're just going to cause confusion.

So again it's an economic approach, and it doesn't need to be as crude as that; I mean, we're talking dollars and cents. There are other ways to speak about economics than just speaking dollars, right?

MR. ANDERSON: If I could just follow that briefly, Mr. Chairman. So you're saying, then, that we need to develop arguments which do cross the individual needs of all Canadians . . .

MR. NICKEL: Quite right.

MR. ANDERSON: . . . as opposed to trying to meet specifically the needs of in this case Quebec, but that we could apply that to other groups interested in the Constitution.

MR. NICKEL: There are two ways you can judge the success of this committee. First of all, does this committee find itself and the output of this committee to be fair, just, and all those sorts of things. You yourselves are judges of that. I'm happy with the committee's findings. Now, the other judges out there are the people you are representing, and how are they going to

understand your output. They will understand your output not in terms of the fine details of constitutional arguments; they will understand the output in terms of some quasi abstract one, two, three points in terms of how you're going to present this. That, unfortunately – and maybe I'm being pessimistic here – is just the nature of some of the discourses today in politics.

So I would agree with that statement in the sense that yes, it must transcend the fundamental mechanics, because public tolerance and public understanding is limited in that sense. Even the vehicle, the media establishment in this province is limited to even give that information out. So you're batting under 500 if you're going to try to do that.

4:02

MR. CHAIRMAN: I'm sorry. What was that last point?

MR. NICKEL: About the media establishment?

MR. CHAIRMAN: Yes.

MR. NICKEL: As some of you know, I've just finished an MA thesis on agenda setting between politicians and journalists. I found in my thesis that the media establishment, rightly or wrongly, is not the complete disseminator of fact; it just can't be. There are the market restrictions on time, on space, and things like that. So when we get into detailed debates about mechanics and you want to try to explain to the electorate as a whole about the mechanics, it's going to be a very, very, very difficult enterprise.

MR. CHAIRMAN: Scott, did you want to get in?

MR. SCOTT DAY: Yes. In addition to the problems of communicating with your electorate – you know, what processes led to your decisions as far as your position goes – you are representatives of the population. However, there is, I think, room for leadership, and when you're building a country, when you're looking at a national document that you're wanting to put together, it is important to understand the role of leadership and maybe keeping ahead of your electorate and hoping that over time the Constitution itself will create the understanding of why it turned out that way. What I'm really trying to stress is that leadership is important in this, not just taking the recommendations and also the prejudices of each of us that do come into these things: understanding what the big picture is, the national picture, and the good of the country.

MR. CHAIRMAN: Thank you very much.  
Yolande.

MRS. GAGNON: I couldn't agree with you more that we can't count on the media to deliver the message.

You've said that certain leaders in Quebec are using the you-are-the-victim syndrome in order to gain power. Wouldn't you agree that other leaders across the country are using the same kind of message – you are the victim – and the whole thing is in order to get power?

MR. NICKEL: I'll only speak towards my study of the Quebec case. Be it Taschereau, be it Lévesque, be it Bourassa, we've used nationalism. Quebec has used nationalism as a tool very visibly. Now, that is not the same way they've used that argument, let's say, in British Columbia under Rita Johnston, who's using it for a different aim, an electoral aim. Unfortunately, that's politics, and it will happen. Perhaps it will

happen again. I think nationalism which is passion over reason is always bad. That's a Trudeau argument. I hate to say it, but . . .

MRS. GAGNON: I'm talking not so much about nationalism but about this idea that you have been victimized – your rights have not been recognized; you are powerless – creating this sense of alienation so that people are willing to turn to a demagogue for leadership or whatever. That's my concern, and it's happening everywhere I think.

MR. SCOTT DAY: We can, I suppose, overstate the fact. I mean, nationalism, what we're trying to say, has been a short-term thing in Quebec. It's always faded after awhile. It's always been something that's been brought up by the parties and stressed on the basis of emotion. Now, the source of the party's ability to do this has often been actions in English Canada that they felt were alienating Quebec from the country.

MRS. GAGNON: I'm not saying there were never any reasons, but sometimes they've been overexaggerated.

MR. SCOTT DAY: Definitely. They definitely have been overexaggerated. Mr. Parizeau is the prime proponent of that right now obviously.

MR. CHAIRMAN: Well, we'll hear from him on Friday in Calgary.

Yes, Barrie, and then Bob.

MR. CHIVERS: You've presented a very interesting thesis, gentlemen. I wonder if you could assist me by giving me some indication of how it can be applied to one of the themes that seems to be emerging in Alberta and has to do with the concept of equity between provinces, between regions in terms of the Charter of Rights and the notwithstanding clause. Now, in terms of the political milieu that we find ourselves in, how can we apply your thesis to those circumstances?

MR. NICKEL: Scott may disagree with me on this, but certain things are going to happen. You will have to prioritize what you want to emphasize. Simply, when you introduce the notwithstanding clause, the reform of the Senate – this, this, and this – which are all tremendously large issues that have tremendous implications on each of their own, I would suggest – what was his name? He was about two speakers ago – you'd better take your time on this and think your way through on it. You just will not be able to introduce all of this at once, not if you want it accepted by a wider population. I couldn't tell you how to take the notwithstanding clause and put it in and couch it in an economic argument at this point and say notwithstanding is for the economic prosperity of Alberta – I can't think of something off the top of my head – but if you want to take some other more salient issues about provincial/federal jurisdictions and demonstrate to the people that this exchange will have positive economic benefits for all those around the table, then you're not only talking in terms of their language, you're also inferring some sense of legitimacy because they agree with you, because they understand you. It's as self-evident as that.

MR. CHIVERS: Well, I understand that, but in terms of the saliency of notwithstanding, of all the topics that have been addressed to this committee, that is one of the topics that is most frequently addressed and which people consider a very

salient issue. They feel that they've been poorly served in Alberta by Quebec having the right to opt out of Charter-protected rights and freedoms, and whether we like it or not, that is an issue; it's an issue we must address. I agree with you. I'm not sure how you present that in economic terms, unless you can convince people that the issue is whether or not we're going to hold together as a nation and whether we can convince Albertans that leaving the notwithstanding clause in the constitutional arrangements, the constitutional accord is the price we should be prepared to pay in order to maintain Canada in its present form. But I'm not sure that you can convince Albertans of that necessity on an economic argument.

MR. SCOTT DAY: I can tell there are differences of opinion here, especially with regards to the notwithstanding clause as Alberta was fairly fundamental in the last negotiations for the establishment of that. I think it's a mistake to take a single issue in this and say that this is what has to be done without regard to what other balancing aspects you can get. The notwithstanding clause is something that I think is obviously a large provincial power, whereas taking it out would obviously create a stronger centralizing force in our country. If we were going to allow Quebec, let's say, special powers in terms of culture and language, which they seem to desire, then it would be, I think, incumbent on the Alberta position to look at changes if not – Mike won't necessarily agree with abolishing the notwithstanding clause, but perhaps restricting it from its current too broad coverage.

MR. NICKEL: Simply because . . .

MR. CHAIRMAN: I don't think we can encourage a debate between you two gentlemen at the moment here.

MR. SCOTT DAY: The language law, for example, is obviously the worst aspect of that, although again Quebecers would turn around and say that the Charter also guarantees education rights in minority languages throughout the country, and that likewise has not happened in Alberta nor Manitoba. So there are serious problems with that, and if we are going to give special powers to Quebec, we should also look at strengthening the unifying aspects of the Constitution through perhaps the notwithstanding clause or other measures.

4:12

MR. CHAIRMAN: All right.  
Bob.

MR. HAWKESWORTH: Thanks, Mr. Chairman. I think my question is maybe the other side of this, because it wasn't simply a notwithstanding clause that doomed Meech Lake; it was in conjunction with a notion of a distinct society and special status and different status and different rights depending on where you live. Many of the Albertans who have appeared before this committee have expressed genuine concern about establishing two tiers of citizenship in Canada and two tiers of rights and so on. Without pointing out anybody, the two gentlemen who appeared just before you expressed some of those viewpoints. So there's sort of this bridge that somehow I think is going to be more than just symbolic, but it's highly charged symbolically. It's a question of recognizing Quebec as distinct. However that's worded for Quebec, that's the litmus test. For many of our public in Alberta that's also another kind of litmus test. I think your paper really gets at that in some way. Can you sort of apply what you're saying in the specific context of a distinctive

society clause, and how do we bridge that in terms of political leadership?

MR. NICKEL: Well, Scott may have his own opinion. If I were to make some of these decisions . . . As you have read in the paper, because of the nature of the debate, there are some things we're not going to agree on, but we have to get to a level in all the provinces, and this is where this economic argument comes in that we'll agree to disagree. Right? It is more important to our prosperity and our long-term future for ourselves and our children to keep this show together. Now, when we speak in that way, you have to find a way to override this concern. You understand that I'm looking at it in a broader, more abstract sense, because the way they're going to try to interpret it is in terms of the voter, in terms of their perceptions. For example, if you see on television the burning of the Canadian flag and get no rationale behind why that man's jumping up and down on the Canadian flag and burning it, it just makes you angry as a voter. Then this latent hatred is left over in the voter's mind and moved over to: "Well, now they want a distinct society. There's no way I'm going to give them that after what I've seen them do." There's a major misunderstanding in terms of the debate. So we have to rise above that debate and try to understand it in terms that are from Newfoundland to British Columbia. I believe those broad economic arguments are an important bridge. That's the only argument I can see that's applicable from coast to coast, and it's a coast-to-coast affair, of course.

MR. CHAIRMAN: You've given us some very thoughtful comments. We appreciate the depth of your review of the Quebec psyche on this issue which, as you point out, is not uniform any more than there is such a uniform thing to Quebecers as the rest of Canada.

MR. SCOTT DAY: I know that was a kind of summing up. I'm afraid I'm going to have to jump in with a little bit more.

In terms of the paper talking about Latouche's perspective, I know it's been a sacred cow of a good deal of the approach of English Canada. It's been fairly collective at least in this regard, that we don't want to give any special status to Quebec. I think there may be areas where this can be given, and we shouldn't be looking at it simply as a sacred cow of simple equality. I'm not really talking about economic areas or real jurisdictional areas. I'm talking about recognition of cultural organizations within Quebec and that sort of thing more than anything else. I know Alberta's position has been that equality of the provinces is essential. I think if we counter any weakening measures of the nation – that is, any measures that would give Quebec special powers or special jurisdictions – we could counter by strengthening the national fabric through whatever measures, whether that be the notwithstanding clause or strengthening areas where minority rights are protected within and outside of Quebec, et cetera.

MR. NICKEL: Just as a quick point, Scott is a total centralist. I'm a decentralist, and if we can agree on this . . . We agree on the fundamentals of what Quebec means, but we may not necessarily agree on where the country should go with it.

Thank you.

MR. CHAIRMAN: Thank you very much. I appreciate your views.

MRS. GAGNON: There are only two of you. Think of us and how difficult it's going to be.

MR. CHAIRMAN: Well, thank you very much.  
Charles Denney.

MR. DENNEY: Thank you, Mr. Chairman and ladies and gentlemen. I brought an extra copy for you.

First of all, I'm sorry I'm at the tail end of the day, because I'm sure you're all tired.

MR. CHAIRMAN: We have an evening session to go through yet as well.

MR. DENNEY: Well, I can sympathize with you. But I appreciate the opportunity to speak to you today. I missed the spring session by one day, but what I have to say today will augment and duplicate both.

You've already received some of my submissions. Particularly, I sent you a copy of a letter I wrote to Mr. Bourassa in which I outlined my thoughts about some of the history of Quebec development and their language problems as well as some of their other problems. So I hope you will all have an opportunity to read what I sent. I put a great deal of time and effort into preparing the submissions.

Today, in the limited time available, I'd like to talk about four points in particular. One is official bilingualism and official multiculturalism; another is the powers and responsibilities of the different governments that you've been discussing somewhat today. Then I'd like to deal a bit with the means by which I think disputes over these powers can be resolved, and I hope to give you my thoughts on the Senate's responsibilities and composition.

First of all, with respect to official multiculturalism and official bilingualism, I have the same feelings as some of the folks who have already addressed you today. I see nothing at all wrong with multiculturalism and bilingualism or multilingualism, but I see a great deal wrong with official multiculturalism and official bilingualism. They are quite two different things. I see official bilingualism and official multiculturalism as promoting a disastrous policy of division. We can't have a united nation, a harmonious nation, unless it's homogeneous and we are Canadians and think of ourselves as Canadians at all times. That doesn't mean to say that we can't think of ourselves as Albertans or Ontarians or some other province, but we must think of ourselves as Canadians. I've been sensing in recent years a diminishing national sensibility, a concern. We have hyphenated Canadians all over the place, and I think that's a tragedy. We've been spending money promoting both of those, but whatever funds we have I think should be spent promoting Canada – its history, its language, its literature – and the integration of new cultures into our own culture, making them part of our culture and not cultures separate within a culture.

4:22

I think we should give some special attention to the province of Quebec. My impressions and my studies indicate to me that the people of Quebec have been badly, badly, badly misinformed about who they are and what they are. They don't seem to appreciate at all the benevolent attention they've had from Britain and the rest of the people of Canada. They don't seem to realize that on seven different occasions their language was saved for them, and that I think is important. They don't seem to appreciate that at all. They're even so mixed up about the

subject that they would now have us not speak English at all. Some of the people in Quebec would have us not speak English at all in Quebec, and I think that's a tragedy. In my opinion, it's too bad that in 1763, at the time of the conquest, there was no official schooling – there wasn't even in Britain – for everybody. The result was that schooling was left in the hands of the church, and the church taught what it felt was necessary. If you got an education, you found it on your own. I contend that it's the responsibility of every Canadian to learn English, and that includes the people in Quebec. This became an English country in 1763, and the folk in Quebec seem to have forgotten that. I contend that the French language was guaranteed in certain ways in the BNA Act and that is the extent to which French should be guaranteed.

Coming to distribution of powers, it isn't necessary for me to remind you that the provincial government has from time to time indicated that it wants more powers here or there. I can sympathize with that, I can tell you. B.C. recently announced that it would like to have exclusive jurisdiction over its rivers. I think it may be facetious, but Quebec seems to think it should have exclusive jurisdiction over everything it can think of. Now we have the Indians and the Metis suggesting that the jurisdiction of this country should be turned over to them. I read that in the paper a bit ago. Now, they haven't said what they would like to do with us. The problem, then, is how to determine in a civilized way what powers and responsibilities should be exercised by which level of government. I'm sure that's a matter of great concern to you, as it has been over the many, many years I've been an observer.

Now, provincial committees such as this and spontaneously assembled committees of concerned citizens – you heard mention of that committee of 22 today – and other politically inspired committees are grappling with the problems that face us in Canada. The Liberal Party of Canada has come out with a policy statement which it is proposing to promote for Canada, and now the PCs, under the Hon. Joe Clark, are trying to develop a program too, which they promise to bring forward to us. Their program, like Mr. Chrétien's, for instance, they hope will be able to pacify Quebec and pacify the aboriginals and at the same time keep the rest of us from wanting to secede.

Considering the complexity of the issues and the self-interests involved, not one of the committees we've been speaking of, including this one, can do more than explore the issues. I don't think that's wrong, but that's the limit. They have no validity. We can't do anything except talk. They're really going nowhere. And worse, much worse, the PC government, regardless of what it has been telling us about consulting us and regardless of how it does consult us – and I'm sure they're going to send out a report and we're supposed to react – will have established a position. They've been going through agony now for weeks and weeks and weeks, and when they get all finished, they're going to say, "That's it." I'm sure they are. Then I'm sure they're going to try to sell it to the rest of us, all of us, and they're going to go into the next federal election with that program. I'm sure they're going to use every stratagem and everything they can do to make us accept that policy. You heard Mr. Mulroney shout on August 8 – I'm sure you did – that his enemies are Canada's enemies. Mr. Clark has already been saying, "What's going to happen?" I submit, therefore, that there has to be assembled a nationwide body of people who can examine, debate, and decide all the issues that concern all levels of government as well as the people. I think you should make very, very clear to Mr. Clark and the federal government now that it simply isn't good enough that Mr. Clark and a committee

can sit around the table and decide all the issues, because they're not going to consider all the issues to everybody's satisfaction in Canada. Now, mind you, they'll never do it to everybody's satisfaction anyway, will they? But they're not going to do it in a single political party situation.

So I'm back to the constituent assembly that you've been hearing about today, but I have a different opinion about how it should be constituted. First of all, as you're very much aware, the governments have been scared of a constituent assembly and how you'd get it constituted, but I don't think they should be scared. I haven't any objection to politicians at all. I think there are some politicians, individuals, that we could be sorry about, but by and large I have a high regard for politicians. I feel that if anybody knows the problems that beset us and divide us, it's the politicians. They're the people who have been working on the subject, and they have to deal with divisions and problems day after day after day, province over province and federal government as well.

So I suggest it's a simple thing to establish a constituent assembly without an election or without going outside the political sphere by appointing from each of the following organizations an equal number of representatives to sit in a constituent assembly; for instance, an equal number from each of the registered federal parties. Now, we have federal parties that are not represented in the House of Commons; otherwise, you might say from each of the parties in the House of Commons. I think that we should go beyond that, because the parties that are not represented in the House of Commons still have ideas and still should be able to contribute considerably to a debate. Then from each of the provincial Legislatures – and I would hope that the representatives would reflect the various political opinions within the Legislature – and then from the territorial government and from the Assembly of First Nations. It has become clear in recent times that the Assembly of First Nations, the Indian and aboriginal people, are clamouring for more and more attention and recognition. That doesn't mean to say that I'm convinced they deserve some of the things they're asking for. I'm not sure that they're being so badly abused as some people think. I think that the federal government has spent a tremendous amount of money assisting the native peoples to make themselves unhappy and to do things that aren't helpful for them at all.

4:32

The assembly, again, should be empowered to engage or call expert witnesses on any subject under discussion, and they should be empowered to hear representations. Now, you're hearing representations from us, but you're not in a position to decide. You're going to come up with a report, but it isn't going to be a decisive thing. If we had the constituent assembly that I envision, I'm convinced that they should be able to come up with some pretty definite recommendations, arrived at after considerable debate.

One of the things again: if Quebec refuses to participate in such an assembly or if after everything is debated and there's a general consensus they refuse to go along, then I contend that that body should have the power to decide Quebec's future. I want to point out again, as has been said before by other people, that the federal government, with representatives from Quebec in it, is in no position to deal with the problem of powers for Quebec relative to powers for other people. Any of the elected parties in Ottawa cannot deal with Quebec because they're not dealing at arm's length. So I contend that a constituent assembly, if it comes down to the point, should be in a position

to say to Quebec: "If Canada can be divided, so can Quebec. We're not going to separate the maritime provinces from Ontario and the rest of Canada, and you could perhaps go back to the position you were, the size you were at the time of Confederation, because that's what you brought into Confederation."

One of the things, of course, that I think should very definitely be demanded by Alberta as well as by others – and I know that your position is that we should have a triple E Senate. Some people say that Ontario isn't going to agree and Quebec isn't going to agree, but they're going to want to have other things. I'm satisfied that in a considered debate carried out over a period of time, both Quebec and Ontario for both national and economic reasons are going to be much more agreeable than it appears now. I think that in the elections for the Senate the members should not have any recent political history. It should be as near as possible a neutral body. So I would suggest that any election for Senators be on a very low key politically.

Then, the powers of the Senate. Now, I've been giving some thought to powers of the Senate, and this is one of the things that I noticed today that I missed. One man suggested that maybe they should do away with the Senate. I don't believe that, but I think that the powers of the Senate should be expanded and should be spelled out as much as they can be spelled out.

If I may revert for a moment to the powers, the responsibilities that concern us all, at the time of Confederation, the BNA Act, as I recall it, said that the residual powers would rest in the federal government. I'm sure that you folks have read the BNA Act and the new Constitution and everything, but my recollection is that it said that the residual powers would rest in the federal government. When it came to a pinch, there was no such thing as residual powers. If you're going to talk about water resources and education and agriculture and labour, for goodness' sake, they went over the boundaries of provinces. So they became of concern to the provinces as well as to the federal government.

I think that the Senate should be empowered to initiate legislation, as it does in the United States, other than a Bill to impose taxes. I think it should be prepared to study issues and make recommendations whether it promoted legislation or not. I think it should be able to conduct inquiries into controversial issues, alleged misconduct, and breach of disclosure. We haven't any real body today that is responsible for that sort of thing. It should refuse to approve as presented any legislation passed by the Commons; in other words, it leaves room for compromise with the Commons. It should refuse also to pass even a tax Bill or a money Bill if it would discriminate against or in favour of a region or a province. It should be required to deal expeditiously with a Bill coming from the Commons, and we've seen where the present Senate hasn't done that.

This is perhaps revolutionary. I think that we have to get the appointment of the Governor General and the Lieutenant Governors out of politics. So I suggest that the Senate should be responsible for naming our Governor General and the Lieutenant Governors.

I think the same thing applies to our judges. I think that the Senate should be empowered to select our judges, and I was going to say: except provincial or magistrate judges. I'm not sure that that's right either, because the majority of our judicial decisions are made, as you very well know, in our provincial courts and never get any farther. They should certainly name our citizenship judges. There's a sample out there in the Vancouver area where the citizenship judge knows the language

but doesn't speak it. Because she didn't speak the language, didn't speak English, she turned down a Scotchwoman.

4:42

It should investigate complaints relating to the justice system. We know that there are complaints about the justice system, and they go uncared for. They should have authority to take remedial action. Then, again, they should be able to select the judges, as somebody else has said, from any place they find them. Our judges should be unbiased and their only loyalty should be to Canada, the whole of Canada. There should be no possibility of bias whatsoever in favour of any province or any people.

Now, the Charter of Rights was mentioned two or three times today in my hearing. Some people think it's the most marvelous piece of legislation that was ever produced, and still I have an objection to it. The Charter and the Constitution make the Supreme Court superior over the elected representatives. Now, we elect representatives. We don't elect the judges, and I don't propose that we should. But I find it quite intolerable that the Supreme Court can override the legislation, the work of the legislators that we elect. I suggest, therefore, that the Senate should have the power to review every decision of the Supreme Court, not necessarily that they're going to do anything about it, so that essential legislation does not become inoperative and so that the government is not rendered helpless to pursue a policy.

Recently the Supreme Court threw out the abortion law. That's a case in point. Our federal government worked hard to produce an abortion law that they thought was suitable, but the Supreme Court said no and then even advised how we could have a law that would be suitable. Then the advertising of tobacco products, for instance, and alcoholic drinks: one of the courts has ruled that it infringes on our right to self-expression if we can't advertise tobacco products. The Supreme Court has also ruled that labour unions have the right not only to enforce the payment of dues but also to spend the money so collected on whatever the officers of the day please, including support of political parties. I think that's horrible. Someday some child is going to claim age discrimination when he's denied the vote or a driver's licence, and some older person is going to do the same thing.

Now, you will know that the Senate of the United States as well as the Senate of Australia has many of the powers that have already been named here, but as I remarked, I think the Supreme Court exercises an intolerable use, even an abuse of power. It has in many instances really made our laws; it's doing the making of our laws.

Now, I don't know how I'm doing for time, but I have one other point I would like to make; that is, I think that no government should resign because it lost a vote in the House of Commons. I think that denies the people of Canada the government they deserve, and I think it causes the individual members of the Commons to lose their sense of freedom to vote as they please or as they understand the issues.

Mr. Chairman, I could keep on going, but I thank you very much for the amount of time you've given me so far.

MR. CHAIRMAN: Thank you very much, Mr. Denney. You've previously given us extensive documentation which is all part of our material in addition to this additional document which you've given us today. Though I don't want to come to the defence of the Prime Minister too much, I think what he said is "Canada's enemies are my enemies," not the other way around,

as you have it in your letter. I think, if I may say so, that he was referring to the separatists in Quebec when he said that. So to put in the proper context I just wanted to make that point.

MR. DENNEY: That isn't the way I got it.

MR. CHAIRMAN: That's the way I heard it. Now, maybe I'm mistaken. In any event, this is sometimes how things do get misunderstood. A police officer will tell you, if you have three people observing an accident, you get three different versions.

MR. DENNEY: Exactly.

MR. CHAIRMAN: Do others have any questions or comments? We have one more presenter to hear from this afternoon, and we are running an hour plus behind our original schedule.

Thank you for your considered opinion.

MR. DENNEY: Thank you very much.

MR. CHAIRMAN: Don Currie.

MR. DENNEY: My 90 years have made me a little wobbly.

MR. CHAIRMAN: Well, you've done very well.

MR. CURRIE: I'm only 56, and I can't come up to that I'm afraid.

MR. CHAIRMAN: That's not a bad age.

MR. CURRIE: It must be yours as well, is it?

MR. CHAIRMAN: You got it; that's right. Nineteen thirty-five was a good year.

MR. CURRIE: It certainly was.

Mr. Chairman and members of the committee, my name's Don Currie, and I'm with an organization known as the Alberta Chamber of Resources, which has represented private-sector resource interests in this province for 56 years. That's how I can remember my employer and my age at the same time.

The ACR has 170 corporations that belong to it. They represent the oil sands, heavy oil investment in our province, the coal mines in our province, any minerals activity that takes place – we're trying to promote some of that – the utility corporations that keep the lights on even after 5 o'clock, forest products industry – one member there – and the service and supply sector that supports those operations in the province.

I guess what I have to say is going to be very short and sweet and specific to one part of the subject under discussion and not broad speaking as you've heard in the other presentations this afternoon. Our membership has been frustrated for some time now with increasing jurisdictional regulatory overlap between provincial and federal governments. It's been a frustration of ours for some time, probably since the fall of 1988, when certain things changed, I think, in the relationship between the two governments. It's principally to do with environmental matters.

We as an industry association would suggest that the disentanglement, to use a very long word that may or not be in the dictionary, of their regulatory overlap with subsequent management control of things passed to Albertans should be your recommendation or your course of action in order to help solve

some of the frustration that our members feel. I guess we base this suggestion on the observation that investment and development and resulting job creation differ from one geographic and geological area of the country to the other. Therefore it's difficult to be regulated expeditiously from a remote government several thousand miles away. So we think that the more local you can make the jurisdiction and the regulation, the more sensible it would be, the more understanding the local authorities would have of the situation, and the wiser the decisions would be.

I guess that's the end of the dissertation for now. I'd be pleased to discuss if you wish or we could adjourn, whichever you wish.

MR. CHAIRMAN: No questions or comments? Fred? Nancy?

MR. BRADLEY: Your representation is a point of view that perhaps hasn't been heard that strongly in terms of discussions we've had to date, but you represent a very large number of interested parties in the province. We've heard in terms of environmental jurisdiction that there should be national standards or that it should be turned over to the federal government. I take it that from your perspective and the groups that you represent, you very strongly feel that the provincial or local area should have the paramouncy in environmental matters.

MR. CURRIE: To draw something from earlier presenters, I think someone mentioned common sense. I think it makes common sense that if you're having to make jurisdictional calls on a piece of ground that's going to be put into production for whatever reason, the local authority should be the one that's most knowledgeable and closer to the corporations that are operating in that area. I guess that's where we're coming from.

MR. BRADLEY: One follow-up. The question of national standards has also been brought up in terms of environment. What's your view on that in terms of if there were to be national standards on environmental questions, should they be imposed by the federal level or should it be a joint federal/provincial consultation or by the provincial governments working co-operatively together to establish such standards?

4:52

MR. CURRIE: I think your second choice. I think there should be consultation and co-operation between the two governments, and I think – I'm not sure, and you might be able to help me with this – but in the fall of 1980 . . . Well, I can go to page 10 in your booklet here. In the green box on page 11 you've offered the solution to the problem. I'll just read it.

One solution to questions about the distribution of responsibilities is to clarify the wording of the Constitution. For example, in 1982, the division of responsibilities was amended to clarify provincial jurisdiction over natural resources.

I think there was an agreement in place up until 1988 where the bureaucracies of the two governments worked hand in hand, and a mechanism was put in place where jurisdictional questions could be handled by one or the other depending on who had the right expertise. It worked well. Then, as you know, in 1988 I guess some things changed. What changed for us was Lucien Bouchard hit the scene, and there were agendas there other than co-operation. I may be wrong there, but that was certainly argued. I guess the water got muddied.

I can quote. On your page 9 in the first column about halfway down it says,

The division of responsibilities has become blurred, and can result in competition and conflict between the federal and provincial governments. Conflict and competition are expensive. They're not only expensive for governments, but they're very, very expensive for corporations. What we've seen is a ratcheting up, and only the most wealthy corporations can put in place a parallel bureaucracy to government bureaucracies to track what's going on. Those who are unable to do that aren't a player anymore; they're not an investor anymore. I think we'd like to see investment in Alberta and our standard of living continue in the manner in which it has. I would; I don't know about you guys, but I sure would.

MR. CHAIRMAN: I think what happened was a judgment of the federal court, which in effect negated the agreement which had been in place. [interjection] That's right.

Yes, Yolande.

MRS. GAGNON: I feel almost inadequate asking my question having had the former Minister of Energy here and so on.

MR. CHAIRMAN: Environment.

MRS. GAGNON: Environment; I'm sorry.

Anyway, do you see any place at all for a federal presence in the environmental issues of the day as regards natural resources?

MR. CURRIE: Yeah. Where there's water that runs from one province to the other, where there's air that blows from one province to the other, I think there are some things that we have to co-operate on. The key word is "co-operate." I think we've got to co-operate and do it in a cost-effective, expeditious manner, and I don't think that's happening at the moment. In fact, it isn't happening.

MRS. GAGNON: If ever there is a real dispute, who would have the final say?

MR. CURRIE: I don't think you could come to that. I think you'd have to work it out.

Are you talking about courts?

MRS. GAGNON: Well, say there's a company that wants to do something, and the issue can't be resolved. What kind of appeal would that company finally have? Where would they go to appeal?

MR. CURRIE: They would go to the local authority first, and if it was a matter where there were interjurisdictional things, where there was water running from one jurisdiction to another, then I guess the other jurisdiction would have to be brought into it.

Are you talking about going to the Supreme Court of Canada?

MRS. GAGNON: Well, you know, I'm just wondering what you see as the natural progression if there could not be agreement on a project of some sort.

MR. CURRIE: I think we've got to keep it out of the law courts; that's the first thing. You talk about expense for nothing. I think that's where we've got to keep it open. We've got to act like adults and solve our problems, corporations and governments, and try and do it outside the court system.

MRS. GAGNON: Thank you.

MR. CHAIRMAN: Yeah. Well, we could go into that issue at some length, because it has been terribly frustrating. An agreement was in place which worked perfectly for how many years – three years? – and settled I don't know how many, I forget the precise number of issues, without any recourse to the courts in Alberta at all. Then bingo. Anyway, that's clearly a matter for very real discussion in the future, and we appreciate your comments today.

MR. CURRIE: The bingo, of course, is that investors go elsewhere, and I don't think we want that to happen.

MR. CHAIRMAN: Thank you very much.

MR. CURRIE: I have a copy of the letter here. If you wish it, I'll leave it.

MR. CHAIRMAN: Yes, if you could. Garry Pocock, I'd appreciate your providing us with that information.

Thank you for coming and thank you for waiting. Because of your clarity and brevity we are able to adjourn on time. Thank you kindly.

On this note we shall adjourn now until 7 o'clock. We'd like to assemble sharp at 7. If we could be here a few moments early to make sure we greet our guests. We have this evening, as you see, two, four, five presenters, and I hope that we might be able to constrain the presentation somewhat so that we can conclude early enough since it has been a long day. In my case it was just 12 hours ago that I got up to catch a plane.

[The committee adjourned at 5 p.m.]