

9:10 a.m.

Friday, September 27, 1991

[Chairman: Mr. Horsman]

MR. CHAIRMAN: Good morning, ladies and gentlemen. I'd like to get under way despite the fact that some of our panel members have not yet arrived. I think we have sufficient numbers on hand to commence the day, and since we have a rather large number of people, we would like to get going.

First of all, I'm Jim Horsman. I'm the MLA for Medicine Hat and chairman of the select special committee. This is the final day of our public hearing process. We'll complete two weeks of hearings this month as well as the eight days of hearings we held in the month of May and early June. We'll have seen several hundred individuals come before the committee to make their views known as well as representatives of various groups and organizations.

I see one of our colleagues is just arriving on the scene, so I'll start on my right and have each of my colleagues introduce themselves briefly.

MR. SEVERTSON: Gary Severtson, MLA for Innisfail.

MR. McINNIS: John McInnis, Edmonton-Jasper Place.

MR. ROSTAD: Ken Rostad, Camrose.

MR. CHUMIR: Sheldon Chumir, Calgary-Buffalo.

MR. CHAIRMAN: The other members of our panel are Pam Barrett, MLA for Edmonton-Highlands - I think the host MLA since this would be in her constituency, I believe - Pearl Calahasen, the MLA for Lesser Slave Lake, and Stockwell Day, MLA for Red Deer-North.

To get right to work, then, I'd like to ask Dr. Brigham Card to come forward and make his presentation. Good morning.

DR. CARD: Is it all right to let my translator sit beside me?

MR. CHAIRMAN: Absolutely.

DR. CARD: All right. Rosella ManyBears from the Indian Association of Alberta and a Blood Indian.

MR. CHAIRMAN: Thank you.

DR. CARD: The Bloods are my neighbours from southern Alberta.

I would like each member of the committee to have before them, as we start, the brief that I've got, and it should be in relation to the figures. Are they available now, or should I distribute a copy for each person?

MR. POCOCK: I have distributed copies of your presentation, sir.

DR. CARD: There are two parts to my presentation. You should have figures to go with them.

MR. CHAIRMAN: Yes, I think we have that material available.

DR. CARD: Okay. Then you just need to add this to them.

MR. CHAIRMAN: All right. Thank you.

DR. CARD: Well, gentlemen, what I have to say will be introduced by my title, and I'll call on Rosella to say the words that I can't say well.

MS MANYBEARS: [remarks in Blackfoot]

DR. CARD: I'm going to try. [remarks in Blackfoot] In French: je compte; nous comptons. I count; we count: the motive suggested from the card for census day shown on the front title. That's the introduction to my brief, and that's the theme that I'll make.

Now, in this brief I am not trying to put anybody in Canada down. I am trying to raise us up to a higher level of thinking and performing. I express appreciation for the privilege of helping here, because what I want to do is to help reconceptualize Canada, its political realm, and its Constitution.

I've already stated my premise that Canadians count and are worth while. Rosella, what does what you have said to us mean in Blackfoot?

MS MANYBEARS: The first one. [remarks in Blackfoot] I count.

DR. CARD: All right. And then: we count. The way I heard it first was that I am worth while, we are worth while. That is the theme that I have in this paper. My fundamental value is life itself, shown on figure 1.

Then we'll flip over to figure 2. The Constitution and Canada need to reflect these processes: order and predictability; exchanging, contesting with internal and external environments; and creating, becoming more complex. Canada is presently correcting its life-threatening forces by striving through creativity for better exchanges, contests, and greater order and predictability. My moral position is that Canada is most fully moral as an integrated, united country rather than as a divided, disunited country. This may seem paradoxical in the rest of the brief, but it is a way to unite Canada in the most effective way that I know, and I express this in my brief. I won't elaborate on that. I've stated my moral position. I'm saying that Canada needs a comparative view of the country and its Constitution. This comparative view then can take place in the perspectives we have on knowledge or what I call knowledges.

Figure 3 enables us to orchestrate the kind of knowledges we call on to produce a united Canada if we feel that a united Canada is our moral purpose.

With these premises and values in mind, I would just say that the Constitution I would like for Canada would be one enriched constantly by comparisons self-consciously, multidimensional to adapt to the geographic and socio-economic realities of Canadian space and peoples, and above all reflexive; that is, willing to examine and consider all aspects of Canadian society and its government both favourable and unfavourable, to learn from them and take a moral position to improve that which needs improving. I'm encouraged by this process. I think it's starting in Canada for the first time. Here I would like to have you take a look at figures 6 and 7 to see where we need to be looking at the levels and at the complexities of life, which should be reflected in our Constitution.

On top of page 4 that word "statue" should be "statute." I didn't get it corrected.

Now, this weekend is the 50th anniversary of the Faculty of Education at the University of Alberta, which prompts me to say that we need, in addition to the kind of Constitution that I've listed, a teachable Constitution that can be taught, learned at an

early age at home as well as in schools and universities or government buildings. With this thought in mind, I propose an additional functional dimension in Canada's Constitution: the evaluative/reflexive. I won't say why it's needed, but I will now go directly into that recommendation.

In order to conserve the momentum of constitutional reform and to better assure a living Canadian Constitution, I propose the creation of a standing commission on Canada to monitor, evaluate, and reflexively consider all aspects of Canada's government, particularly at the federal level, including political party structure and performance, media relations and impact on government, and quality of interaction between federal and other levels of government. The commission would have a rotating membership of three appointed for a three-year term. They would be selected from among the best qualified persons in Canada to fulfill the evaluative/reflexive role in a nonpartisan and effective manner. They would be expected to produce an annual report on all or any aspects of government they choose. The report should be ready for distribution nationwide in June for study by political personnel and citizens. It would be considered in the fall sitting of the federal Houses.

The standing commission on Canada would serve to keep alive an ongoing debate or dialogue on Canadian government and the Constitution. It would be roughly comparable to an Auditor General and to an Ombudsman with respect to Canada's government as a whole, while universities, think tanks, the media, political parties, and government agencies would still have their role to play as evaluators of their own performance and their reflexivity. The standing commission would supplement their efforts and focus on its mandated mission: to examine evaluatively/reflexively government performance as a whole in Canada for its contribution to basic democracy, to sportsmanship and integrity in politics, and to Canadian integration and unity. That is my recommendation.

I might say that there are parallels in the United States for what I'm saying. I have talked this over with political scientists of stature in the United States, and the ones that I've talked with have urged that this be considered seriously. I haven't had time to develop this within Canada, although I think the people I've talked to, who haven't been political scientists, have agreed this is a valuable contribution.

Enough about that. Now we consider the basic structure of Canada's federal and provincial governments with a view to strengthening basic democracy, minimizing overlapping jurisdiction, reducing the asymmetry in the government structure and operations across Canada, lowering the economic and cyclic costs of government in Canada, and hopefully reducing the necessity for partisan rivalry, patronage, and competition bordering on conflict in the pursuit of political power. This is a big order. I offer these constitutional directions for the future to extend the scope and spirit of the recently released *Shaping Canada's Future Together*, which is a document I think is worthy of deep study by everyone in Canada.

My suggestions may be taken as one way to go to offset the dominance of Ontario and Quebec in political life by recognizing them as superprovinces functioning or capable of functioning as regionalist states, something that Quebec essentially seeks and Ontario is ready for. To compensate for their superordinate provincehood, also for an anachronistic legal myth of provincial equality, which is a disservice to Canada, the four provinces, the Atlantic provinces, and the north and aboriginal peoples could combine to form two regionalist state entities in addition to Ontario and Quebec and one equivalent entity combining the north and Canada's aboriginal peoples. This would make in

essence five Canadas: Atlantic, Quebec, Ontario, west, and aboriginal/north. This model, developed by Thomas J. Courchene of Queen's University, would make possible the evolution of federal/central powers to the five Canadas and allow governmental development closer to where Canadians actually are, especially in the west, the Atlantic, the north, and across Canada for aborigines.

9:20

Next, using Switzerland as a model and to a degree the United States and some other governments, one could anticipate a smaller, more streamlined federal government with defined responsibilities, some concurrent with the Canadas. This line of thought serves two purposes: one, a contingency plan for Canada as a whole should the monarchy as an institution cease or no longer be wanted. I could give you documentation on that point. The parliamentary system, based on tight party discipline and constant struggle for power, may be unwanted by any part or all of Canada. I would recall the struggle for one prairie province that went on in the Northwest Territories, 1902-1905. A corollary of this model would be the creation within Canada of political units within Ontario and Quebec, some of the western provinces, similar to cantons, to bring democracy closer to people and allow decentralization of government within present provinces. This is a devolution at the provincial level which is already in progress within Canada's larger provinces for administrative purposes. It invites self-government of a cantonal nature, would readily incorporate into the Swiss model. It would avert the problem of oversized entities such as California or Texas in the United States, one containing a greater population than Canada, the other over half of Canada's population. The ramifications of the above suggestions are still to be worked out as shown in figure 8, and that is a new contribution.

On the basis of this line of thinking, I would recommend that the western provinces and the Atlantic provinces creatively explore greater union among themselves as potential regional estates and that all the larger provinces consider decentralizing their own powers cantonally and, indeed, their own usefulness as provinces of Canada in the future as it moves toward greater decentralization, strives to bring government closer to people, and seeks to improve on the limitations of parliamentary government with its costly and rigid party discipline, great policy swings in government, and abuses of patronage and exclusion of poor and native Canadians from vital political processes.

Brigham Y. Card, emeritus professor, University of Alberta. I call attention to the note and to the acknowledgments.

MR. CHAIRMAN: Well, thank you very much, Dr. Card, for presenting us with this very interesting and, if I may say so, challenging model which you've suggested.

My colleagues may wish to ask you some questions or make some comments on your presentation.

MR. McINNIS: Dr. Card, I do have a question. The proposal to create the five regions within Canada: would that involve doing away with provinces as we now know them? It seemed to me later on that I heard you talk about still having provinces and subregions within provinces as well. Is this an additional layer or instead of provincial government?

DR. CARD: Mind you, we're in a creative mood now, and we're trying to think about alternatives and possibilities and develop a standard against which we can compare our present level of provincial/federal government, which has never been

level of provincial/federal government, which has never been done before in Canada very directly that I know of. I think some parties, like the COR Party and the Western Canada Concept, have been working in their ways, but what I'm using is an extension of the Courchene model, and I'm taking the Swiss model to more of a logical conclusion. I'm doing it to provide a fresh way of thinking on Canada.

You know Ontario and Quebec are divided into large administrative regions. It's a long way from Thunder Bay to Toronto and from the Prime Minister's birthplace to Quebec City. I think we've got some problems related to our size and our space and our geographic obstacles to communication despite modern technology and interaction among people which would make this a valid way to think, if not to go. It would mean that certain provinces, like Alberta, for example - why couldn't we have two Albertas of one kind or another, a north and a south or a central? You have Calgary already set up to be a capital for the southern section and Edmonton here. To make a joke you may have heard, we then could avoid the form of capital punishment where a Calgarian is sent to Edmonton to work.

MR. McINNIS: Where I'm familiar with the concept of regions in the sense that you've outlined it is when it comes time to count votes - for example, a ratification formula or a amendment formula for the Constitution - sometimes it's proposed that the west collectively have a veto balancing the population of Quebec or Ontario. Also, for Senate representation some people suggest that the equality should be calculated on a regional basis. I just wondered if that's what you're referring to.

DR. CARD: Yes. That's what Courchene is working toward too.

MR. McINNIS: That's what I thought.

DR. CARD: The experience we've had in the last three years with Meech Lake shows we need very much a change in our amending formula. The federal government is working on it seriously. If the Atlantic provinces could even come together as provinces with a united stand, with, if there has to be dissenter, a known dissenter but he does it as himself for the united Atlantic provinces and not for all of Canada, that would, I think, add to the process of developing sound constitutional revision.

MR. McINNIS: How do you then deal with the argument that that creates two classes of provinces? Ontario and Quebec effectively would have a veto, but within the west each of the provinces would be part of a regional bloc.

DR. CARD: It depends on how you define, put your qualifiers on that, it seems to me. Now, in Switzerland there are cantons that are bifurcated; they're double cantons, and they each have a vote. It seems to me we can look in this direction to get some inspiration for the way to go in Canada, but I am against one province having a veto power, whether it's Ontario, Quebec, or any other. The reasons for having that veto power right now in Canada I think are anachronistic, and we need to work together as we've never done before to rise to a higher level of organization and thought in terms of the essential regions that we are. That doesn't mean we have to divide Canada, because we are thinking in that direction.

MR. McINNIS: Thank you.

MR. CHAIRMAN: Dr. Card, this would certainly be a very decentralized Canada rather than the centralized Canada which some people are advocating. What powers or responsibilities would the federal government be left with?

DR. CARD: I haven't got time to spell that out in my brief. Courchene touches on it. There's a book that's come out. I've got it here; I'd better show it to you. Let me just say that at this time in the world's history this decentralizing function, process is going on in many countries. It's a challenge to every centralized government that has been developed at this stage in the world's history. This has been picked up by Courchene. It's picked up by Calvin . . . Oh, his name is sitting there on my desk. I forget it here. I know it as well as not. It's in the note.

UNIDENTIFIED SPEAKER: Massey.

DR. CARD: Calvin Massey. There is an off-the-press copy for you saying essentially the same thing from a very theoretical point of view, so it's not a new idea.

The United States is suffering from overcentralization. I've interviewed the people at the Center for the New West in Denver and political scientists on the coast and citizens, and the western United States is becoming restive and has been for the last 12 or 15 years at being a forgotten nation within that country. What I'm trying to set up here is a way that no part of Canada will be a forgotten nation with the centralization we've had since 1867.

9:30

MR. CHAIRMAN: Okay. So you haven't spelled out the responsibilities the federal government would still retain.

DR. CARD: This would be a fruitful task to undertake.

MR. CHAIRMAN: Yes. Any further questions or comments?

Well, thank you very much, Dr. Card, for your very interesting and thought-provoking presentation. The time and effort you put into doing this is indicative of your great love for this country and your concern for its future.

DR. CARD: Je vous en prie. Thank you.

MR. CHAIRMAN: Thank you.

I understand that Leo Coyle is not present. If not, I'd ask Randy Boissonnault of the University of Alberta Students' Union to come forward. How did I do with the pronunciation?

MR. BOISSONNAULT: Well, it's very close.

MR. CHAIRMAN: Okay, thank you.

MR. BOISSONNAULT: Mr. Horsman, hon. members of the committee, thank you very much for listening to a presentation from the University of Alberta Students' Union this morning, and good morning to you all.

The next several months will represent a turning point for Canada. What Canada is, what it provides to its citizens, and what it represents will be debated by councils, committees, and Canadians alike. For this debate to be complete, the needs and desires of postsecondary students must be heard, for we, too, have a stake in the future of our country. It would be presumptuous of us as an organization to suggest to the committee a view on national unity, as we are elected for our expertise in

issues regarding postsecondary education and not national harmony. It is for this reason that this brief will deal with the current situation of postsecondary education in Alberta and changes that it may undergo as we head into deep and meaningful constitutional talks. I am a representative of some 30,000 students who see the current constitutional challenge as a chance for reform. If the country is being restructured, postsecondary education must be a priority, as it represents a solid investment in Canada's future. For this to happen, the current state of our universities, colleges, and technical institutes must improve.

My presentation this morning will consist of three parts: first, a discussion of the relation between postsecondary education and our ability to compete internationally and the state of advanced education in Alberta; second, a summary of the policy-related concerns of the U of A Students' Union which are not directly related to constitutional issues; and finally, the position of the Students' Union on constitutional matters which affect the future of advanced ed in Alberta.

When world economies are compared, the countries that are consistently the most competitive are those with a progressive, extensive postsecondary system. If Canada is to maintain its place in the community of nations, it must provide its citizens with the appropriate opportunities to develop their skills, whether in intellectual, technological, or social fields. Our continued development as a nation is incumbent upon the willingness of governments and industry to view postsecondary education as a priority worthy not only of their attention but of their support. It is not possible for Canada, with its minute population, to compete globally if we do not have the tools at our disposal to do so. Business and industry demand a work force with the job skills necessary to compete not only within Canada but within a more competitive and open world economy.

Postsecondary education is the vehicle through which these job skills are attained. By failing to provide these opportunities to students, we are threatening the future stability of our economy and of our society. Historically, universities in Alberta and Canada have been important contributors to the intellectual and technological development of our nation. Our researchers here in Alberta, for example, have discovered new treatments for high blood pressure, become internationally prominent experts in Elizabethan theatre, and conducted studies into reversing diabetes.

The contribution postsecondary education makes to Canadian society is both diverse and important. Postsecondary education is the essential ingredient that allows Canada to keep its competitive edge. If our schools can continue to produce the minds that develop new technologies, discover cures for diseases, and help find solutions to the world's social problems, then we will have our place in the new era of continentalism. But if we fail in that task, then we will be relegated to the status of a consumer of information and technology rather than a producer.

We are concerned with our ability to remain internationally competitive because postsecondary education in Alberta has been steadily weakened by the fiscal policies of both levels of government over the past five years. The contribution made by government in terms of both operating and capital expenditures has been diminishing even as the demand for higher education has been increasing at every level.

Clearly, when these trends are juxtaposed, one recognizes the need for a consistent policy to be articulated concerning the future of advanced education in Alberta and in Canada. In 1991, for example, the University of Alberta saw 901 core sections canceled from the university registration guide. Insufficient resources meant that, among other things, courses

cannot be taught, students sit on the floor, there is a lack of badly needed contact with professors, and multiple-choice exams are utilized rather than the more comprehensive essay examinations. Programs are threatened or eliminated, and academic development is hindered by obsolete computer and lab equipment, insufficient book and periodical acquisitions by the libraries, and reduced library hours for study and research. Faced with limited resources, the University of Alberta and other postsecondary institutions in this province cannot meet the challenges we face as a province in the 1990s, much less in the 21st century.

As students and taxpayers we recognize that government contributions to advanced education in Alberta are, in total, in excess of \$1 billion per year. Despite this fact, ever increasing numbers of qualified students are turned away from postsecondary institutions each year, and those who are admitted receive an education whose quality is in steady decline. Albertans are justifiably proud of their postsecondary institutions. In fact, we often call our universities world class, but more and more this is proving not to be the case. As our institutions deteriorate and the quality of our educations decline, it would seem that we are trying to convince ourselves that our postsecondary education system is better than it really is.

I would now like to turn to one of the areas in which the challenges facing our advanced education system can be addressed, that of extraconstitutional policy at both the federal and provincial levels. The provisions of our Constitution do not operate in a vacuum. We believe it is important to consider not only the strictly constitutional concerns but the policies which make our Constitution a living, breathing document. At the provincial level we as a students union have a number of concerns. Paramount among these is what we perceive to be the underfunding of postsecondary education, which, as I have just illustrated, led to a significant decline in the quality of education offered in this province.

At the root of this underfunding, though, is not so much the overall amount of money allocated by the government but its relation to our provincial level of participation in postsecondary institutions. While the financial contribution of the government is substantial, we unfortunately have one of the highest rates of participation in the postsecondary system in the country. Thus, when we compare the per student expenditure to grants across the country, we find that we are not spending as much as many other provinces do to educate their students.

It is imperative that Alberta develop a long-range plan for secondary education. Included in this plan must not only be a commitment to funding and support but a commitment to rationalize the provincial system of advanced education institutions. When, for example, a new campus is constructed, it is important that the operating budget for such an institution be forecast so that an attempt to improve accessibility does not financially strain the rest of the system. All institutions in the system must have the security of knowing that the government and the province stand behind their efforts to educate Albertans.

9:40

At the federal policy level the University of Alberta Students' Union opposes the 3 percent guarantee fee on student loans. At the same time, however, we realize the detrimental effect that student loan defaulters have on the entire system. Accordingly, we are in the process of asking the federal government for stiffer penalties for those students who default on their student loans. Securing a commitment to appropriate levels of student financing will continue to be an important issue to the students union.

Differential fees are also an important issue in which the federal role is of interest to students. The U of A Students' Union remains committed to its policy of opposing differential fees of any kind for international students studying at Canadian universities. International students play a particularly vital role not only in enriching campus life but in ensuring our continued competitiveness in many diverse fields of research and teaching. The federal government can do much more to support these students in their efforts to learn in Canada and to contribute to Canada's growth and development.

It is now time to consider the central area in which this committee will make its recommendations, that of constitutional reform. We in Alberta must secure from the federal government a commitment to postsecondary education. In freezing transfer payments last year, the federal government made significant progress in reducing its deficit yet put the squeeze on thousands of students trying to access the postsecondary system and made the process of budgeting infinitely more difficult for the provinces. What, then, is the solution? How is the Alberta government to balance all of its priorities, including postsecondary ed, when the level of federal funding cannot be guaranteed and seems likely to decline in the upcoming years?

It is our position that any solution to the crisis in advanced education should incorporate the three following initiatives. One, postsecondary education must once again become a priority to both governments. If it is clear that our welfare as a nation is dependent on our ability to be competitive, then it is equally clear that this competitiveness can only be secured through an emphasis on programs of advanced education across Canada. The governments of both Alberta and Canada must renew their shared commitment to teaching and research in our universities, colleges, and technical institutes and demonstrate that commitment through the allocation of resources to those institutions. The time has come to consider what the effects of national standards of education would be on our system as a whole and to ensure that both levels of government work cooperatively towards the same goals. Words are no longer a sufficient demonstration of the importance of advanced education to government; resources are required.

Two, federal funding for postsecondary education must be guaranteed. Almost half of the provincial expenditure in this department is federal funds. When these resources are cut back or even suspended, the ramifications over the entire system are enormous. Admittedly, the recent Supreme Court decision on transfer payments does not bode well for have provinces like Alberta. If Canada's Constitution is put on the table, however, then both governments have the opportunity to improve our current situation. Funding for such crucial programs as postsecondary education must be guaranteed to ensure the vitality of the postsecondary system. Though not a popular suggestion from a provincial perspective, we would request that the federal government earmark a percentage of the transfer payment as postsecondary funds, thus removing from the province the responsibility of determining where it falls on its list of priorities.

Three, more funding from the business community for advanced education must also be secured. Private enterprise is a direct benefactor of an educated work force. More importantly, though, corporations in the physical sciences and engineering require graduates who are well trained and ready to enter the work force. In reality, several companies in this province and across the country find themselves having to spend up to a year training their new recruits on machines and in technology that was not available to them at university. If these corporations could see to donating such new equipment to our universities

and technical institutes, they could save money and time and receive capable candidates immediately upon completion of their degrees. Both levels of government have direct links to business, and the encouragement to contribute to the postsecondary system must not come from the institutions and their alumni alone. It should also be noted that these funds must supplement and not replace government funding. The government has both great powers of moral persuasion in this area and the ability to provide matching grants, tax benefits, and other financial incentives to businesses to encourage such contributions. It should not hesitate to use them in shared programs and initiatives to enhance postsecondary education.

In conclusion, then, ladies and gentlemen, both levels of government, indeed all of society, benefit from an educated work force. Canada cannot afford to compromise its international competitiveness for the sake of temporary fiscal benefits. To do so would jeopardize the cumulative efforts of generations of educators, governments, and students. As we have seen, advanced education in Alberta faces serious difficulties in the years ahead as already insufficient resources are stretched further and further. The status quo cannot be permitted to continue if we are truly concerned about providing world-class teaching and research facilities in Alberta and in Canada. Important changes which address these problems can be made by both levels of government in constitutional and extraconstitutional areas.

The most important of these changes is a simple one, however: the return of advanced education as an issue of great priority with governments, one worthy of resources, time, and attention. In one of his first acts as Alberta's founding Premier, Alexander Rutherford took steps to establish a provincial university that would serve the educational needs of a vibrant, growing community of citizens in western Canada. It is our sincere hope that the same foresight which led him to do this in the face of severe financial constraints is emulated by the present-day leaders of Alberta and Canada. The citizens of our nation deserve no less.

Ladies and gentlemen, thank you for your time, and I would like the chance to entertain any questions.

MR. CHAIRMAN: Thank you very much, Randy, for your presentation. As you know, we are addressing the issue of the Constitution and constitutional change rather than the issue of funding, which is a policy issue which has to be determined by governments. Under the current Constitution section 93 provides that education is the sole responsibility of the provinces. Are you suggesting any change to that section, or are you more concerned with securing funding of an adequate level for postsecondary education and ensuring that the federal government continues to make a sufficient commitment in the funding area without having them become involved as constitutionally responsible for the whole system of education?

MR. BOISSONNAULT: The point that I believe we are trying to make, Mr. Horsman, is that if it is constitutionally necessary, if it requires constitutional change to secure an adequate level of funding from the federal government, then that is indeed the way we would like to go. If this has to rely on policy matters which can be changed and altered, that is not what we're seeking. We see this as a golden opportunity for both governments to come out of constitutional talks with not only a renewed commitment to postsecondary education but some very concrete ways to ensure that it continues and helps us to make it into the 21st century.

MR. CHAIRMAN: Okay. Just help me a bit, though, as to how you would amend the Constitution.

MR. BOISSONNAULT: I'm not sure if it's binding, but I would include a clause in the Constitution outlining a percentage of federal transfers, established programs funding. Put it as part of the Constitution. Make part of the funds that come from the federal government earmarked directly to postsecondary education. This way it does not have to enter into your decisions when it comes time to determine your priorities.

MR. CHAIRMAN: Okay. That's clear.
Questions, comments?

9:50

MR. CHUMIR: Thank you for your presentation, much appreciated. You mentioned national standards. We've had some discussion about that during our hearings with respect to perhaps a base curriculum in primary and secondary education with respect to Canada, perhaps some common standards or testing at earlier levels. Do you see any role for the federal government in national standards at the postsecondary level, and how would that work?

MR. BOISSONNAULT: I believe such a discussion, Mr. Chumir, is in an embryonic stage at this point. If the federal government would be willing to undertake national standards in the area of teaching and research in our postsecondary institutions, that could only help the system. If the federal government encourages institutions to have at least a minimum standard for excellence in teaching and research, then students can only benefit from that. That's where I would see right now an avenue for national standards at the postsecondary level to be pursued.

MR. CHAIRMAN: John McInnis.

MR. McINNIS: I can appreciate the frustration of trying to find a way to secure adequate funding for postsecondary education. In some ways it's a war of rhetoric. People talk in government about how many dollars are going in, people at your level obviously talk about the number of classes that have been canceled and the way things are on the ground, and it's sometimes very difficult for the public to sort out what the real facts are and what the impact is going to be. At the present time, I don't believe that the established programs financing procedure is in the Constitution at all. In fact, one of our presenters presented a very excellent argument by a learned legal scholar to the effect that the federal spending power under which all of these arrangements are made is a legal fiction or doesn't exist in our Constitution. I'm wondering, just trying to focus on the Constitution, is it your suggestion that that whole mechanism for the transfer of funds between the federal government and the provinces should be built into the Constitution, that we should write kind of a basic law that says a certain, say, percentage of federal revenue goes into the established programs financing and a certain percentage of that percentage goes into postsecondary? You'd like to see all of that built right into the Constitution Act?

MR. BOISSONNAULT: Admittedly, that is probably a pipe dream, but to head down that avenue would be welcome from our perspective. I think we have the opportunity to entrench new things into our Constitution, and if we can get the federal

government to commit, as you say, that a percentage of their revenue goes to funding to the provinces and then subpercentages go to specific programs, that can only help us to know how much money we have on a yearly basis, where we can go, and help us rationalize how to enhance the system on a provincial level. I think that is an excellent idea.

MR. McINNIS: I just wondered if you would be interested in thinking about it from a different perspective, and that's the idea that rather than putting in the mechanics of how money is raised here and transferred there, what we try to put into our Constitution is that every Canadian child has a right to pursue education based on their abilities, in what's being referred to as a social charter. Put it, you know, as a matter of principle in the Constitution, and then I suppose it would be a matter of litigation to work out the responsibilities of the various governments - whether you'd thought of that approach as opposed to trying to entrench the EPF system in the Constitution.

MR. BOISSONNAULT: Perhaps a balance of the two. I'm not exactly sure, as you said, what type of litigation would come out of putting something in the social charter, and I think it would open up to a field day for Legislatures exactly what was meant by the right to postsecondary education determined on your level of ability. Does that mean, then, that we have a floating percentage to get into our institutions, as we do now, and that as we have more students trying to get into our system, we just keep bumping up the average? I'm not sure if that's how you'd define that. I could see several problems opened up that way, but if it was alluded to in the social charter, then it could accompany that specific delineation of percentages, as you alluded to earlier.

MR. McINNIS: I'm not suggesting it's any easier; I was just curious to know if you'd thought about it. Thank you.

MR. BOISSONNAULT: Right.

MR. CHAIRMAN: Thank you very much, Randy. One thing you said in your brief, and I just wanted to get a clarification from you, and you repeated it. You said that "unfortunately" we have one of the highest provincial per capita rates of participation in the postsecondary system. I would think that is a fortunate thing for Albertans, not an unfortunate thing.

MR. BOISSONNAULT: It is most definitely a fortunate thing for Albertans; it is unfortunate that when we compare to other provinces, we find that we do not have the same level of grants as other provinces do.

MR. CHAIRMAN: So the unfortunate part of it is not that more Albertans are accessing postsecondary education; it's unfortunate there's not enough money, in your view, to pass through to the students.

MR. BOISSONNAULT: Indeed you are right, and it's a stylistic tool to draw attention to that point. I'm glad it worked. I'm encouraged by the level of participation in Alberta, and I think it's wonderful. I hope that the provincial government continues its commitment to that level of participation.

MR. CHAIRMAN: Thank you very much.

MR. BOISSONNAULT: Thank you.

MR. CHAIRMAN: Sorry. Ken Rostad.

MR. ROSTAD: Randy, it really may not focus on the Constitution, but we had a presenter the other night, I think in Hanna, who thought that we should look at advanced education as definitely a priority but look at it on a more regional basis – not regional within the province, but regional beyond the province – and that we should rationalize and not necessarily provide certain faculties at each university. To use medicine as an example, perhaps the U of A should have medicine and Saskatchewan, as an example, or B.C. not have medicine, but perhaps they'll have law, and rationalize the process. Do you have any thoughts on that?

MR. BOISSONNAULT: That is one way to look at the system. I haven't thought of breaking down provincial barriers and thinking of rationalizing. If that is the way postsecondary education develops, there must also be a guarantee to students who want to access these colleges – say if I'm from Alberta and I need to go to Saskatchewan to go to medicine – that levels of fundings, levels of loans, and accessibility are not denied to students due to the distance away. Do you understand my point?

MR. ROSTAD: Uh huh.

MR. BOISSONNAULT: That distance from the institution doesn't inhibit your participation in the system. If that's the way it goes, that must also be thought of.

MR. ROSTAD: Yeah. I would think in regions, because we even have that within our province. If you want to go to the U of A and you live in Cardston, it's a long ways away.

MR. BOISSONNAULT: Indeed it is, and that's why the U of A is encouraging programs in other institutions where you can have degrees, say, in Grande Prairie in terms of education – you can get an education degree at Grande Prairie – to try to keep the people in their area.

MR. CHAIRMAN: If that's the case, you might want to encourage the General Faculties Council at the University of Alberta to be much more generous in their admissions of transfer students from postsecondary institutions outside Edmonton. I just throw that out to you because you have an influential role to play with the GFC, and at the moment it's a very sore point for those of us who live outside Edmonton or Calgary.

MR. BOISSONNAULT: I'll communicate that to GFC, and appreciate the distinction that you realize that I'm not here representing the university per se but the students at the university.

MR. CHAIRMAN: Of course. But, you know, you can talk to us, and that gave me a chance to talk to you as well. Thank you very much.

MR. BOISSONNAULT: Thank you, everyone.

MR. CHAIRMAN: Is George Reid here, please?

Good morning, Mr. Reid. Welcome, and please proceed with your presentation.

10:00

MR. REID: Thank you very much, sir. Mr. Chairman and members of the select special committee, thank you for the opportunity to appear before you this morning. Perhaps I should tell you that I'm a senior citizen who came to Canada as a baby and have lived in Alberta all of my life, in Edmonton since I was seven years of age. I have been in business for myself ever since I was a late teenager, and I still am in business for myself and employ approximately 70 people in Alberta at this time.

I feel I should also tell you that unfortunately times were kind of tough back in previous years, and if Randy wants to know what toughness is, I was unable to even complete a high school education. I have a grade 8 education, and I do hope that the committee will understand if some of my observations seem to be a little on the simplistic side.

I have traveled extensively to every province and territory of Canada. I am greatly concerned for the future of Canada. Over many years I have written literally thousands of letters to Members of Parliament and other politicians suggesting to them improvements in the way they manage our great country. In 1967 I was a recipient of the Canada Centennial Medal, with the accompanying citation which reads:

On the occasion of the one hundredth anniversary of the Confederation of Canada the Centennial Medal is conferred on George C. Reid, Esquire in recognition of valuable service to the nation
July 1, 1967

For your information I am proudly wearing this medal today.

Over the last 25 years or so I have seen Canada's problems multiply greatly. Perhaps one of the main reasons for Canada being so divided is the politically inspired implementation of the Official Languages Act, which very few in Canada really wanted except, of course, the politicians, who, as it turned out, quite wrongly expected this Act to unite Canada. Of course, we all know now that it had the opposite effect. Implementation of the Official Languages Act has cost Canada clearly in divisiveness and debt. We know of the divisiveness, but most Canadians do not know of the debt, and I would suggest that maybe if Randy would pay attention to the little discourse I have here, he would know where he might tap some funds for money.

The government will tell you that the cost to Canadians is about half a billion dollars per year, which is the cost of operating the Commissioner of Official Languages' office, according to the last report. They will not tell you of the costs associated with the nationwide French network of radio and television, CBC. Bilingual costs are buried in the budgets of every government department and agency, like the RCMP, the military, the CNR, the courts, et cetera. The costs to provide computers that operate in two languages are horrendous. The total cost of implementing this politically inspired faux pas easily exceeds \$5 billion per year. Twenty years of bilingualism at \$5 billion per year comes to \$100 billion of debt on which we have to pay interest. Small wonder Canada is nearly bankrupt. The GST would not have been necessary had it not been for enforced, legislated bilingualism.

Twenty years ago I sent the following letter to all of the 282 Members of Parliament at that time. The text of the letter reads as follows:

Re: Official Languages Act

I am writing you because I am concerned for the future of Canada under Bilingualism.

I've got to bring to your attention that this letter was written on May 28, 1973, and that's nearly 20 years ago.

which could be termed a costly, unnecessary, politically inspired faux-pas. It should be repealed!

If Bilingualism is continued Canadians will be guilty of contributing to the further discrimination of an already oppressed rural Quebec because these people will never learn English – and will remain an oppressed, underprivileged minority in North America forever.

Bilingualism has increased the cost of every manufactured or packaged product sold in Canada (bilingual labels, instructions, etc.) thus contributing to inflation.

The cost to the Canadian taxpayer is in excess of 800 Million Dollars per year . . .

Now, I've got to tell you that this was the figure that the federal government at that time claimed they were spending on bilingualism. We all know differently. If you sit down with a pencil and an adding machine and paper, you'll come up with the figure of \$5 billion without any problems. I mentioned here that the \$800 million per year at that time would have been enough money to build an expensive Cultural Centre in 100 centres across Canada each year.

Bilingualism has not achieved unity in Canada – it will only serve to further divide Canada similar to what has happened in Ireland, in Belgium where it recently brought down the Government – even Elliot Lake, Ontario is a small example of what is to come.

It is to be hoped that at the present sitting of the House of Commons, some future "Political Great" will recognize common sense, and give up "political pussy-footing" and press for repeal of the "Official Languages Act", while at the same time, carefully explaining sensible reasoning to French-Quebec – they are not stupid and will buy common sense – presented to them by sincere legislators. I would hope the French-Canadian members of the house would forget about emotionalism for their mother tongue and talk common sense to their constituents.

I consider the Official Languages Act to be discriminating and injurious to the citizens of rural Quebec – they deserve every opportunity to take their rightful place – as citizens of Canada – in the upper echelon of [commerce, et cetera]. Whether it be . . . engineering, aviation . . . the language of communication in all these fields is English. Without English the rural, or any Quebecer is not going anywhere – except maybe to the Federal Civil Service . . .

Please understand I have nothing but warmth and respect for the French people – and their language. I have travelled extensively in Quebec and have many French-Canadian friends whose friendship I cherish dearly – maybe this is why I am concerned!

The French culture and language can be retained in the same manner as the Dutch - German - Italian - Ukrainian - Indian - Eskimo - Chinese - Irish - Scot, etc. With one official language and our multicultural ethnic groups I can foresee a great future for a great country - Canada.

Just for your information, I was out in the hallway, and I tore out page 63 of the current Edmonton Telephones book. That's the listing of the French listings in Edmonton. That sheet costs Canadians \$2,000 plus GST every month. That's \$2,000 plus GST every month.

Canada's problems also stem from mismanagement of the country by big government, excessive bureaucracy, greedy politicians, and bureaucrats who practise patronage and pork-barreling to excessive ends for political purposes. Every department of government seems to have been built up over the years, mostly by senior bureaucrats who are determined to build up their own personal fiefdoms to rule over. I rather doubt if our constitutional faults can be blamed on Confederation, but rather on the expansion by the big spenders. Federal governments move beyond their area of constitutional authority in order to force tough, expensive, and very often counterproduc-

tive policies on every region of the country, whether they are needed or not. The reality is that we are overgoverned and undermanaged. The bureaucracy needs to be cut back in size now, not 10 years from now.

On the Constitution. Our Constitution should be as short and simple as it can possibly be written, using simple words that every Canadian can understand. Perhaps we should go back and look at our original Constitution, written in 1867, known as the BNA Act. If we had followed the original definition of bilingualism, we most certainly would not have been in the mess we are in today, and the COR Party would probably not be the Official Opposition in New Brunswick. Let's go back to bilingualism as it was allowed in the BNA Act.

On Quebec. There is no way we as Albertans can allow Quebec being singled out as a distinct society or a unique society. Both of these descriptions, in my simple mind, give the connotation of better or superior. If Quebec is going to be part of Canada – and I hope they will – then they have to be equal to all the other provinces. I would have no quarrel with them being mentioned as a different society, because they are, and most Canadians would know what it means. Canada has pandered to Quebec too much and too long. If Quebec wants to be part of Canada, then it is time they started flying the Canadian flag. I remember it was Quebec that wanted a distinctive Canadian flag, so Mr. Pearson arranged for this. We even put the Quebec maple leaf on it. Now the Canadian flag is not flown in Quebec except at Canadian legions, federal government buildings, and post offices. This, of course, helps people like me, because the last time I was down in Gatineau, I was looking for the post office. I managed to find a Canadian flag, and I figured that had to be it.

Members of Parliament are supposed to represent their constituents, not be an employee of the Prime Minister to vote the wishes of the inner caucus. The members should be required to learn the wishes of their constituents and to vote their wishes accordingly. There should be a simple method of recall available to the constituents so that MPs can be removed if they blatantly disregard constituents' wishes. By the same token, we need some method of impeaching the Prime Minister should his government be guilty of blatant mismanagement of the country. This credibility gap should be addressed.

10:10

Senate reform. Alberta should be prepared to insist on the implementation of a true triple E Senate. Nothing less should be accepted. The Senate should be truly effective and capable of completely killing any Bill passed by the Commons if it deems it not in the best interests of Canada as a whole.

Aboriginal rights. Now, here is a truly distinct society in Canada. If any group should be described as a distinct society, the aboriginals should. The talk here is of self-government, and while I am not sure what this really means, I presume it would operate much the same as a municipal government and pertain only to government on their own lands with their own school boards, justice system, et cetera. I cannot understand why it would take 10 years to institute self-government. If I remember rightly, the Banff townsite became a self-governing body within a year of a decision to do this. Why can't the aboriginals be treated in the same way? Let's get with it.

The Charter of Rights. I don't know why the Charter of Rights cannot be incorporated in the Constitution in much the same manner as in the United States. I don't know of anyone who has benefited from the Charter of Rights except criminals like Charles Ng and others who want to inflict their customs on

other Canadians by requiring that institutions like the RCMP have to tolerate nonuniform headdress. There should be no mention in the Charter of Rights of any distinct society.

To sum up, get rid of bilingualism, which has divided Canada. Rewrite the Constitution in a short form using simple words so that ordinary people like me will have no problem understanding what it means. On Quebec, no special privileges other than what was allowed in the original BNA Act of 1867. Members of Parliament should be responsible only to their constituents. Senate reform: nothing less than a triple E Senate with powers. Charter of Rights: either abolished completely or greatly simplified as to meaning. Aboriginal rights should be addressed without any delay. Economic union is something I know nothing about. I like the free trade between the provinces portion of it, but if this requires a big, new government bureaucracy, we don't need it; just open up the borders.

Thank you very much.

MR. CHAIRMAN: Thank you, Mr. Reid, for your comments and thoughtfulness in putting together this proposal for our consideration.

Are there questions or comments from members of the panel?

Well, I have one I'd like to just ask you about. This notion of recall, which you have mentioned here, is an interesting one that we've heard from a few people who have come forward. How would you go about determining what would warrant the recall of a member of either a provincial Legislature, presumably, or the federal Parliament?

MR. REID: Well, it would be the same for either place. If we have a Member of Parliament or a member of the Legislature who is not paying attention to his constituents and knows the requirements or wishes of his constituents and votes in a completely opposite direction, then I think it's time for the constituents to be allowed to take up a petition with X number of names on it. This, in effect, would constitute enough evidence to boot the guy out of office.

MR. CHAIRMAN: Okay. It was tried once in Alberta. Are you familiar with that?

MR. REID: Yes, I am, sir.

MR. CHAIRMAN: Mr. Aberhart, when he was faced with recall, recalled the Legislature and repealed the legislation. That is a historical fact of Alberta.

Just one question. What would you do about a Member of Parliament or a member of the Legislature who was elected as a representative of one party and changes parties midstream? Would you require that person to then resubmit to the voters to see whether or not they approve of that course of action?

MR. REID: Well, if you mean hold another election, I don't think it should go that far. But if there were a strong movement within his electorate and enough of a petition taken up, then the thing certainly should be reconsidered.

MR. CHAIRMAN: Then that person could be recalled and a new election take place in that constituency.

MR. REID: That's right.

MR. CHAIRMAN: Sheldon.

MR. CHUMIR: Yes. We seem to have a bit of time, so I might ask about something that's of interest here. You state, Mr. Reid, that you don't know of anyone who has benefited from the Charter of Rights other than criminals like Ng. I'm wondering about the Quebec legislation prohibiting the use of English signs. As no doubt you are aware, that went as far as the Supreme Court of Canada, and the Supreme Court held that that provision in Quebec contravened the Charter of Rights and the Charter protected the right of Anglophones in Quebec to have signs in English. It was only through use of the notwithstanding clause that that was struck down and the legislation was changed. Are you supportive of that type of provision in the Charter to protect the use of English and English signs in Quebec?

MR. REID: I would certainly like to see some provision where the Supreme Court of Canada would have more teeth. I realize there was a notwithstanding clause in there which went right back and allowed Quebec to do what they wanted. If you've been in Quebec lately, you'll realize there are just no English signs to be seen anywhere. I understand that down in the Eastern Townships, here again we have this language situation, the crux of a big fight between the Anglophones and the Francophones. The Francophones actually want the Anglophone signs left as is, but the policemen are down there right now taking pictures and preparing court cases in order to prosecute. If Quebec wants to remain in Canada, there should be definite provision made for both languages. Alberta isn't prohibiting the French from putting up French signs - I've seen several of them around; there are some over on Whyte Avenue - but if this were in Quebec, the provincial government would have their language policemen out there taking those signs down or prosecuting the people involved.

MR. CHUMIR: So your concern in that case, then, would not be with the Charter, which worked well, but with the use of the notwithstanding clause.

MR. REID: Well, the Charter of Rights doesn't seem to be doing anybody any good in that particular case. As I said, the only place I've seen where the Charter of Rights has really done anyone any good is the criminal element in Canada.

MR. CHUMIR: So would you favour removing the notwithstanding clause? Would that be your remedy?

MR. REID: If Quebec, in fact, remains in Canada - and I have some doubt that it will - it should certainly be governed by the laws of Canada insofar as signs and that sort of thing.

MR. CHUMIR: Are you familiar with the 1984 court decision in Alberta in which the courts held that a federal law which would have prohibited most citizens from participating and advertising in federal elections . . . The federal law was going to prohibit that, and the National Citizens' Coalition in fact took the government to court. The Alberta courts held that freedom of expression in the Charter prevented that restriction. Are you aware of that decision?

MR. REID: Yes, I'm aware of that. I'm quite in agreement with the fact that freedom of expression certainly should be something in a Charter of Rights. But I mentioned in there amending the Charter of Rights, making it part of the Constitution and making it much simpler and in simple language.

Certainly that portion of the Charter of Rights could be reworded so we would not have all the kooks in the country taking advantage of it.

MR. CHUMIR: Do you agree with the '84 decision protecting the freedom of expression of Canadians to participate in federal elections?

MR. REID: Well, certainly I do.

MR. CHUMIR: I would assume that we've all benefited to some extent.

MR. REID: Well, yes, we have from that. Yes. But I am saying that a Charter of Rights should be made much simpler so we do not have all the courts of the land... There are probably some lawyers here, many of whom got rich over the Charter of Rights. I think it's time the thing was made in simple language so that every little thing does not have to go to the courts to be decided.

MR. CHAIRMAN: Okay. John McInnis.

10:20

MR. McINNIS: Mr. Reid, one of the most heartening things about this public hearing process is the tremendous goodwill we've experienced towards aboriginal people. A large number of people have mentioned aboriginal issues, and virtually all said that now is the time we try to settle aboriginal issues and, in particular, the constitutional status of aboriginal people. I think your suggestion of recognizing self-government is along those lines. But then we get to the fine print and the asterisks. For the past 10 years this issue has gotten nowhere because governments are looking for a definition acceptable to them of what those rights might be. I noticed in your submission that you suggested it would be much the same as municipal government. I think that may be a problem because, as I understand it, aboriginal people want to evolve their own institutions. They don't necessarily want to take one off the shelf that's been developed by our society, whether it's a municipal model or a county model or what have you. I'm wondering if you feel we should be engaged in essentially the same fruitless exercise for the next 10 years, which is to try to get somebody to come forth with a definition acceptable to all politicians at various levels of government, or should we perhaps undertake something of a leap of faith and allow aboriginal people to establish their own institutions?

MR. REID: I think the aboriginal people should be trusted. They certainly have in this day and age - now, if we go back 30 or 40 years, I don't remember that there were too many aboriginal lawyers and leaders at that time who could express themselves as eloquently as many of them can these days. We have a lot of very highly educated aboriginal people in this country, and certainly insofar as their own lands go, they should be permitted to govern those lands the way they want them governed. Certainly their courts might be completely different from courts as we know them. I think they should be trusted to do this. The sooner we get together with them and get some sort of deal arranged, the sooner we will stop all this bickering and get back to being a happy nation again.

MR. McINNIS: If I can summarize the federal proposal, as I understand it, there would be 10 more years allocated to the

discussion of a definition of self-government, and after the 10 years it would entrenched in the Constitution and the courts would then be left to decide the issues. Do you favour building that 10-year period in?

MR. REID: No, I don't think so. I think we've got to get on with this and get the thing ended. I'd like to see the thing settled before I die, and I'm getting pretty ancient now.

MR. CHAIRMAN: With respect, John, I think you've simplified it too much. The proposal is that during that 10-year period negotiations would be conducted, and as definitions were agreed to from time to time with different groups, they would in fact be constitutionalized. Anything that was then remaining, undealt with at the end of the 10 years, would then go to the courts for definition. I think there's a considerable difference in the interpretation of that particular proposal.

MR. McINNIS: It seems a lot like the last 10 years to me.

MR. CHAIRMAN: Well, as you know, in Alberta we did constitutionalize the Metis Settlements Act. Are you familiar with that, Mr. Reid?

MR. REID: Yes, sir.

MR. CHAIRMAN: One point two million acres constitutionalized for the Metis people of northern Alberta. That's now behind us in Alberta and working quite effectively. We hope it will be the model other people may want to look at in terms of the type of self-government the Metis people themselves negotiated with the government of Alberta in exchange for constitutionalized ownership of the land.

MR. REID: Perhaps, sir, if you were to get together with your other provincial counterparts and urge them to do something similar, that would be a feather in your hat, and I think the Indians would supply it.

MR. CHAIRMAN: Thank you very much, Mr. Reid.

I think we can take a break now. The next presenters are the Metis Nation of Alberta, and they haven't yet arrived. We're just a little ahead of time, so we'll take a bit of a break. Thank you.

[The committee adjourned from 10:24 a.m. to 10:50 a.m.]

MR. CHAIRMAN: Ladies and gentlemen, if I could have everyone back at the table who's supposed to be here, we'd like to get under way again. Unfortunately, it appears that the representatives of the Metis have not arrived. Is Jacquie Kuhl here?

Okay. Since the other presenters are not yet here, Mr. Ronald Meilleur from Red Deer is here and was supposed to be on this afternoon. He's prepared to proceed earlier with his comments, and therefore I'd ask him to come forward. Thank you.

MR. MEILLEUR: I would like to address each and every hon. member present, including the Hon. Ken Rostad. The Constitution and amendments under the federal and provincial powers - the subject that I am going to talk about, which I think is very vital, is the immigration and deportation Act.

I am aware that under the federal government powers and jurisdictions the federal government has all the powers bestowed on them for immigration and deportation, but the provincial governments have not got equal rights. Now, I may be wrong in this summation, but this is the summation I've had passed on to me. What I would like to see is the provincial governments, under the new Constitution, have the same jurisdictional powers and backgrounds that the federal government has. Now, what I'm getting at is this: we cannot work as a government if one government has got all the guidelines, all the powers and jurisdictional powers, and another government hasn't. It's just like putting two pots of coffee on the same stove with one going at high heat and one going at low heat and you expect them to boil both at the same time. It doesn't work.

The solution I have come to is that both federal and provincial governments be given the same powers and that also the Solicitor General of the federal government work in with the solicitors general of each province instead of all the powers being put on one. Let me further stress that it is vital that both the federal and provincial powers and the solicitors general of both governments work in equal.

The thing I'm bringing up is the Charles Ng case. Now, I understand that the federal government just released him recently, where he has been in Canada for the last six and a half years. I think if the provincial government would have had the same powers that the federal government had, he would never have been in Canada six and a half years. He'd have been out of Canada within six months after he got here.

As I've heard a lot of politicians state over television and on radio, why should Canada be a haven for political prisoners? We never were, and we don't intend to be, and this is going to be stressed in the Constitution also, that Canada will never be a haven for political prisoners and mass murderers. Like, I mean to say our judicial system - I've got a lot of respect for our judicial system on the whole, but when we allow political prisoners and mass murderers to come into Canada and live off the taxpayers' money, living the life of Riley and thinking they can turn around and beat the judicial system with one appeal after the other and sit in a remand centre and have better breakfasts and better dinners than the average working man, I don't think it's fair to the justice system whatsoever. Charles Ng, as far as I'm concerned, was making a mockery of our judicial system because he figured that he could come, he could live under our government jurisdictional powers, and the deportation board couldn't do anything because he was living under the provincial government and not under the federal government. In the new Constitution it will have to be implemented that no political prisoner has any rights whatsoever of living in Canada, thinking that they can automatically beat the justice system.

Also, what I believe should be done is that once a prisoner is deported out of the country under the immigration and deportation Act, work together with the Solicitor General and the appeal board to come to a final agreement, but it would be solely the powers of the immigration and deportation board to have the overall say of him being deported. I'll understand, yes, that he might be allowed maybe one or two appeals, but it should be the final and overall say of the Solicitor General and the immigration and deportation board to finally have him deported.

Also, once he is deported out of the country back to his own country, why should he be given the right to think he could come back into Canada as a Canadian citizen? He's going to come back into Canada. We're going to probably welcome him

with open arms, knowing his past and everything else, and I've always maintained that once you're a criminal, you are always a criminal. You'll always go back to the elements of where you were before. If he does come back in, he should come under a probationary period of not less than three years, not more than five years and answer to the immigration and deportation board for any elements of crime that he gets involved in. He should fully answer as to his whereabouts, what he is doing, and if he is found to be in the elements of crime, he could probably be deported a second time. I don't know whether that's possible, being deported a second time, but on the deportation the second time, this is the solution I've come up with. Send him back to his own country and make sure that when he arrives back in his own country, he is stripped of all documents under the immigration and deportation Act - his visa and his passport - so he cannot leave his country whatsoever. This is the solution that I've come to, and this is the only way under the judicial system that we are going to get rid of the elements of mass murderers, mass rapists, and every other type of element, even political terrorists, coming into Canada.

11:00

In conclusion, can anybody define what is the difference between deportation and extradition and have it amended in the Constitution, the difference between deportation and extradition? Because I understand that if some countries do not have what they call capital punishment, they cannot be extradited back. We have extradition treaties with certain countries. When it comes down to mass murderers, mass rapists, or anything else like that, that clause should be taken out of the Constitution. He suffered the crime, and he should be sent back to his own country to serve for the crime. That stipulation should be taken out of the Constitution altogether on the extradition part of it, because if we're going to fight under the new Constitution on extradition treaties, then we're going to be right back to point one because he's going to appeal to the appeal board. "Well, I got extradition rights; you can't send me back, on extradition rights." If the extradition rights were taken out of the Constitution, then he wouldn't have the grounds to stand on. It would have to be the final say whatsoever of the immigration and deportation board and the Solicitor General's office that he goes back to his country irregardless.

I will admit that I am glad the federal government stepped in and finally decided to do something with the Charles Ng case. I was very, very surprised and I was elated when I read about the Ravinder Singh Samra case. That was federal. As far as I could make out from what it said in the paper about it, that was a federal case. The federal government handed it in right now. The one thing I am a little bit puzzled about is: what has the Canadian government done in the decision about allowing Ravinder Singh Samra's family to live in Canada? She stated in the paper just recently that she wanted to be with her husband back in India or Pakistan, wherever he was deported back to. Is the federal government going to allow her to stay in Canada, or is there anything in the near future that she will probably be going back to her own country? Because I figure this: if she has such loyalty to her husband, they should have made the provisions under the federal government for sending her back with her husband to India. Get this thing settled once and for all, instead of the Canadian people saying, "Well, okay, we'll keep you here in Canada," on the facts that he goes back to his country, serves his crime and everything else, and he's going to appeal to come back into Canada.

I say no, because there's another case right there. He's got all the elements of crime going behind him that is probably the length of both my arms going. I've always still maintained that no, he should not be allowed back into Canada either because he gave false information to the immigration and deportation board. From what I read in the paper and everything else, he had murders behind him, child rape, political rallies, doing picket line duties, and everything else. He was involved in traffic accidents where he maimed a person and everything else. No, I don't believe he should be allowed back into Canada either. This is one thing that I would fully like to see stressed in the Constitution, that once a political person, a mass murderer is deported out of the country, he should not be allowed under the immigration and deportation Act to come back into Canada.

MR. CHAIRMAN: Thank you very much. Mr. Rostad wishes to comment, but in terms of the difference between deportation and extradition, it's really quite simple. You can deport somebody from Canada who is illegally in Canada, not here properly, but a person who is being extradited is being sent back to another country to face some form of criminal charge. A person who's being deported may or may not have had any criminal charge facing them in the country from which they originated, but a person who's being extradited is being sent back because he or she has to face a criminal charge in the country from which they came, at the request of the country from which they came.

MR. MEILLEUR: Yeah. But what I . . .

MR. CHAIRMAN: That's the difference. You asked for the difference, and I've told you.

MR. MEILLEUR: You see, what I was getting at was that in the Ravinder Singh Samra case the murder convictions alone – he did that over in his own country. This happened in his own country. This didn't happen in Canada. This happened in his own country, and I was just wondering how they come to the conclusion of the difference between extradition and deportation.

MR. CHAIRMAN: Well, extradition is where the country from which the person came comes to the government of Canada and says, "Send this person back to us; we want to deal with his crime in our own country."

MR. MEILLEUR: Okay. Thanks very much.

MR. ROSTAD: In fact, that was the instance in the Ng case. He came to Canada and allegedly – well, in fact he was convicted for a crime in Calgary and incarcerated for four years. An application was made by the Americans for an extradition of Mr. Ng. There are procedures within our judicial system. First of all, there are procedures to appeal the conviction for a crime in Canada, but our Charter says that you will not be subjected to cruel and unusual punishment. That was the application at the Supreme Court that was adjudicated on and judged yesterday. The Supreme Court said that that provision of the Charter is not available for somebody that is being charged with a crime in their own country; therefore, he has no other recourse, and he should be extradited. That's what happened with the Ng case.

The only thing I'd mention, probably as the Attorney General, is that I make no apologies for the convoluted system of appeals,

et cetera, that has happened in this instance. It's also given a lot of frustration for a lot of people who thought that Mr. Ng should have been gone long, long ago. I might mention, too, that the federal government has tabled a new Extradition Act to streamline the procedures, so there aren't the frustrations. You still protect a person's rights but make it easier to facilitate processing of an application.

MR. MEILLEUR: Well, is this coming under the provincial government too?

MR. ROSTAD: That's the federal government. That's not within the provincial jurisdiction; that's federal jurisdiction. Extradition is a treaty with Canada, not with each province. It's federal.

There's a system of appeals that I think, as the minister of justice for the province, should be there because what that does is protect you and me. If we were ever charged or found to have done something when in fact we didn't do it, there's a series of appeals giving us the opportunity to go before a court and to try and make our case that we in fact did not do it. In this instance, justice has been done. Mr. Ng has been sent back, and his fate is now in the hands of the Americans, where he allegedly committed these crimes. But we have a system of checks and balances within our system to ensure that somebody is not wrongly accused, wrongly convicted. Justice has been done in this instance. There is a streamlining of the process, but I think it behooves all of us to appreciate that our system is there for all of us who may be wrongly accused and gives us the ability to defend ourselves. Eventually you do run out and the ultimate answer comes, and you're either incarcerated or found guilty, but thank God we do have the opportunity to appear and make our case.

11:10

MR. CHAIRMAN: Well, Mr. Meilleur, thank you very much. You indicated to me earlier that you wanted to give me a document which is much more extensive and covers other issues than the one you wished to raise this morning. If you'd like to do that, you can leave it with the secretary, and he will ensure that copies are made and that the original document is returned to you as you requested.

MR. MEILLEUR: I thank you very much.

MR. CHAIRMAN: Thank you very much for appearing this morning.

Is Jacquie Kuhl in the audience? Okay.

Then Duncan McIlraith. Welcome. We got you in just a little ahead of time because some other people didn't show up this morning. So please proceed.

DR. McILRAITH: I'm pleased to be here. I'd like to speak principally about Quebec. I lived in Quebec for the last five years up until January of '91, and I think that relationships with Quebec are a key element of our current constitutional conundrum. First, I'd like to tell you a little bit about my background, a few words about Meech Lake, and then focus on six aspects of our current constitutional crisis. It really is a crisis, I think, that we're facing now.

First, a few words about me. I'm 33 years old. I grew up in Ottawa, and in 1983 I moved to Edmonton. I'm a neurologist, and I was doing some specialty training here. I lived here from '83 to '85, and then from 1985 until December of 1990 I was in

Montreal doing further specialty training. In January of '91 I moved back here, and I've taken up a position with the university and also with the Grey Nuns hospital.

Growing up in Ottawa, Quebec was right next door. I have many wonderful memories of vacations there, friends there. Of course one is exposed to French in Ottawa and the Ottawa-Hull region on the buses, on the signs; you hear it out on the streets. Living in Quebec in particular for the last five years, I think that I have a different perspective than I would have had otherwise.

I wanted to say something about Meech Lake. I think it is important that we put Meech Lake behind us and look ahead in as positive a frame of mind as possible, but it's out of the ashes of Meech Lake that the federal government's current constitutional proposals have arisen. As dismayed as I was with the process of Meech Lake, there were substantive elements of Meech Lake that I had profound concerns about, and I particularly resent being told that my disagreements with the content of Meech Lake were simply as a result of my disgust with the process or that I didn't understand and being told repeatedly to be more tolerant and understanding, that we should all come to an agreement that way. I think it's quite possible to be understanding and still disagree. In particular, after listening to the divergent opinions of experts, tempered by my experiences in Quebec, I had concerns that the distinct society clause would possibly undermine the Charter of Rights, that the Supreme Court would become excessively provincialized, and that the amending formula as proposed in Meech Lake would be too rigid to allow for further constitutional reform.

There are six aspects of the elements of what's on the table now in terms of constitutional negotiations that I wanted to focus on. First, the distinct society clause. I'd like to also speak about the amending formula, the Charter of Rights, Senate reform, distribution of powers, and then finally some words about referenda for future constitutional reform.

I might add at this point, before I forget, that I put in a written submission to this committee last May, and there's nothing in that that I would change now over the last few months apart from some typographical errors that I've noticed.

The distinct society clause. Certainly, again from my direct experiences living in Quebec, Quebec is different and distinct, principally with respect to language, culture, and the civil code, which didn't enter into my day-to-day life there very much, but it was quite evident living there. People have a really different perspective. I have no problems whatsoever with recognition of Quebec as a distinct society within the Constitution so long as it does not undermine the Charter of Rights and, secondly, that it doesn't provide for a blanket transfer that is used as a smoke screen or a cloud or a justification for a transfer of powers to Quebec.

Certainly during the last round of constitutional talks, during Meech Lake, I think that the distinct society clause was marketed differently in Canada outside of Quebec and in Quebec. Again, living there and listening to the radio and reading the newspapers, both English and French, I think that the people who were negotiating on behalf of Quebec and many people in Quebec thought that the distinct society clause as it was in Meech Lake could be used as a basis for obtaining power over manpower, over immigration, over telecommunications. I heard cabinet ministers in the Bourassa government say as much and Mr. Rémillard saying that if they'd had the distinct society clause, they would not have needed to use the notwithstanding clause to bring in Bill 178, which followed Bill 101, as you know, after the Supreme Court overturned Bill 101.

Concerning the amending formula, I like the current seven and 50 arrangement for certain constitutional reforms. I think this provides for a greater influence of the most populous provinces but at the same time does not allow one province to forever have a veto over further constitutional reform. I think that strikes a good balance. Again, I've heard in the last few days that Quebec is again asking for a veto over certain types of constitutional reform. One thing I've heard, anyway, is the reform of federal institutions. I've heard other politicians from Quebec speak of a veto for Quebec over more widespread types of constitutional reform, and this I find unacceptable. If I were in a position to negotiate over the Constitution, it's something I would argue strongly against. Again, perhaps a veto for Quebec for very explicitly defined issues of language and culture, something very explicit and restricted in that sense, would be acceptable but not a blanket veto.

Concerning the Charter of Rights, I think that the focus should be again to make the Charter very explicit and simple and limited in scope. Its objective should be solely to define the rights of the individual relative to the state. I think we could make provisions elsewhere for protection of aboriginals, of Quebec, of collective rights, and other notions such as this. I see the Charter as being something of the form that says that no matter where you live in Canada, regardless of the prevailing political sentiment, no matter what else, your rights, the rights we all hold to, will be protected and that these rights are part of our commonality as Canadian citizens. In this sense, then, the scope should be very limited and should include things like freedom of religion, freedom of association, and freedom of the press. This is what should be in the Charter of Rights. I think that to bring in more makes it unworkable and very complicated.

11:20

I'd like to see the notwithstanding clause removed. I believe that the federal government in its most recent constitutional proposals has made provisions to make the notwithstanding clause more difficult to implement. Again, whatever the original intentions of the notwithstanding clause, I think recent evidence in Quebec with respect to the language laws has shown potential for abuse, and I just find that unacceptable. There is provision, I believe, in our current Charter of Rights for some flexibility that limits the application of the notwithstanding clause to what would be reasonable in a free and democratic society, and I think that provides sufficient flexibility. I'm not a lawyer. I'm certainly prepared to listen, in fact interested to listen to legal opinions on this and everything I've said.

Concerning Senate reform, I think we should have a triple E Senate, and I really do mean triple E in the sense of having equal representation. That seems to be the point of contention right now with the federal government's most recent set of proposals. But the Senate reformed in this fashion should not be able to override the House of Commons on all types of legislation. Again, I see a reformed Senate as a means of providing provincial input and power on the national scene, not regional. That's reflected through proportional representation in the House of Commons. We don't have strict proportional representation in the House of Commons, but we have something much closer to that. So long as we have a two-tiered system of government, neglecting the municipal level of government for the moment, and division of powers based on provinces rather than on regions, then those provinces should have their input in the national scene.

I must say that I'm much more comfortable having my interests as a citizen of Alberta represented on the national

scene by Preston Manning or David Kilgour or Joe Clark than I am by having them represented by first ministers. I think that too often, at least it's been my perception that the national perspective has been lost and we have first ministers or their cabinet ministers negotiating without a sense of national perspective, too much for what goes on in their own backyard.

Which type of legislation should the Senate be allowed to veto or amend or introduce? That really is a difficult question, and I can't address that at the moment. I think perhaps the principle should be the types of legislation where the interest of one province may be compromised for the national interest. This is now the opportunity for that province to have its say and have some impact on the federal scene.

The devolution of power is the fifth item I want to speak about. In principle I'd like to see as much left in the hands of the federal government and have, then, improved representation of the regions and of the provinces in the centre through parliamentary reform, through Senate reform, through relaxation of party discipline in the House of Commons, but I'm quite open and flexible in this regard. I think this should be dealt with on a department-by-department basis or a portfolio-by-portfolio basis. Let's look at education and see what elements of education are best handled by the federal government and what elements are best handled by the provincial governments. Let's look at that one in isolation and study it well and make things as explicit as possible and then after that move on to the next area, health, and then from there on to manpower or on to unemployment. Treat each item individually, because I think the implications are quite different, rather than a big power grab where many areas are transferred over all at once.

I have one principle concern with devolution of powers, especially if those powers are devolved optionally, as has been proposed by some; for example, a province would have the option of becoming sovereign with respect to certain areas, and other provinces perhaps might not choose to exercise that option and leave those areas in the hands of the central government. I find it quite unfair that a province could opt out in certain areas. Opt out is perhaps not the best phrase; become sovereign, take over sole power for certain areas, yet still have full representation in the House of Commons and be able to legislate in affairs affecting the rest of the country where they have taken over power for themselves. People have suggested that perhaps when legislation such as that comes before the House of Commons, members from that province would not vote on such legislation or they would not ask questions; they would leave the House. But it goes beyond that because members are elected from those provinces. They form the government; they play a role in forming policy. I just can't see this being workable. It seems quite unfair.

A corollary to that is special status for aboriginals. One proposal has been that aboriginals should have their own elected members in the House of Commons, I assume voted for or elected solely by aboriginals, however defined. I think that's fine, but then those aboriginals should not also be able to vote for our traditional Members of Parliament which run in geographically defined ridings. If you're an aboriginal and you choose to vote for an aboriginal representative, then you do not vote in whatever riding you are geographically located in.

Finally, a few words about referenda and a constituent assembly in the preparation of future constitutional reforms. I don't like the idea of a constituent assembly. I'm just afraid that this will be railroaded by prevailing political concerns and that it's not particularly closer to the people. We need more direct public input, and we have Members of Parliament at the federal

level and members of provincial Legislatures who are there to act as a liaison, our representatives in the various levels of government, and they serve that purpose.

I would like to see a referendum. There's a difficulty with that, though, and that is that Quebec will always have the potential to be outvoted by the rest of Canada. I can certainly appreciate a sense of vulnerability that arises from that. I don't know how to get around that. I think that instead perhaps we should make a requirement at least for future constitutional reform that public hearings be held first off, which was not the case in Meech Lake, that they be held over a reasonable period of time, and that before any legislation is introduced to the provincial Legislatures, nonbinding referenda be held in each province so that there is an opportunity for full public input before members in provincial Legislatures or in the House of Commons vote. At that point, members vote against public opinion at their peril.

I haven't said very much about aboriginals, and that is a prominent issue now. I purposefully left that out. I find it difficult to, again, understand what aboriginals are shooting for. I certainly heard different views during Oka. I was living in Montreal at the time, and I heard some saying: "We are not Canadians. We do not respect the laws of Canada. We are not bound by them. We are a sovereign nation here, just like Belgium or France or Italy, and we should not be bound." That may be one concept of self-government, and of course there are other concepts of self-government that differ in degree. I don't have any objection at this point to some recognition of a right for aboriginals to self-government, details of which would be negotiated later, provided there is some assurance that this doesn't constitute, again, a blank cheque for aboriginals to retain powers that would be to the detriment of the country as a whole.

I'd just like to close with a few words from my written submission, the last paragraph, that I think underline my sentiment, and certainly my sentiments run deeply through everything I've said and things that I haven't said with respect to these matters. My identity is with Canada. I've spoken principally of Quebec. My attachment to Quebec is life long and runs deep; it's part of me. But the Canada I love is grounded on principles which may be irreconcilable with the aspirations of Quebec, and in this case I opt for Canada. National unity should be seen as a means of securing the greatest prosperity for all citizens but not at the expense of those principles which make us Canadian and not as an end in itself.

That's all I have to say for now.

MR. CHAIRMAN: Thank you. Well, you have a number of points you've raised. I have a couple of questions that I'll reserve until . . .

Yes, Sheldon.

11:30

MR. CHUMIR: A very thoughtful presentation. I'd be interested if you'd have some observations with respect to the Clark committee proposals that have been tabled by the federal government, which I happen to endorse in many ways, by the way. How does that stand with your vision of Canada?

DR. McILRAITH: Well, I'm generally positive at this point, but of course the Clark proposals just came out a few days ago, although rumours and leaks were out well before that. It seems to me there is going to be some room for flexibility. There's much that's on the table now – it's much more complex than Meech Lake – and much that hasn't been put on the table now.

But just yesterday M. Bourassa called a hasty press conference, in response again to this barrage of media pressure in Quebec, again reiterating Quebec's need or demand or goal – "goal" is the word to use in English – for a veto. I think we're going to run into rough sledding there. I've spoken of my views on a veto for Quebec, and I think that's one major point of contention that hasn't been addressed just yet and I hope will be addressed over the coming months.

The other point is the distinct society clause. Again I've heard this from clips from Quebec – I still get my subscription to the *Gazette* – the distinct society clause must have teeth, says Gil Rémillard. A symbolic representation of Quebec's distinctiveness with respect to language is just not enough. I heard on the television not too long ago the president or chairman of the Chamber of Commerce of Ste-Foy who said, you know, people who think this is a matter of language are quite mistaken; it's gone far beyond that. And that was certainly my impression in Quebec.

Language is one facet and a deeply emotional side of things, but there's a fierce tribal nationalism that is a drive for autonomy within Canada or outside of Canada. Among my French-speaking friends, their government is in Quebec City; Ottawa's a foreign capital where you send delegates to look out for Quebec's interests. My specialty exams in medicine, although recognized everywhere else in Canada, are not recognized in Quebec. My association of interns and residents, which had long since withdrawn from the national association; my *carte soleil*, my Quebec medical card . . . As you may be aware, there were difficulties in western Quebec and eastern Ontario, and physicians treating patients from Quebec would be remunerated only at the Quebec rates, not at the rates of remuneration for their own home province, Ontario in that case, or New Brunswick, the border provinces. Quebec has refused to participate in that.

Now, there are many reasons for that, I'm sure, but you have a really different perspective here. I have to emphasize, if you don't mind, that language and bilingualism – my goodness, it's very simplistic to see things in that restricted light.

MR. CHUMIR: In terms of whether the distinct society has teeth, if the clause has teeth or not, my own personal view is that it does have teeth – that's why it's in there as part of the Charter – and is going to have impact.

DR. McILRAITH: I'm afraid that's how it's going to be sold to people in Quebec. That's what people in Quebec are thinking they're getting, and people elsewhere in Canada are thinking they're getting something else, and this is just postponing problems. We're going to have big problems the next time a case comes before the Supreme Court. There'll be a hue and cry from Quebec or from the other side when things appear not to be going the way they originally thought they were going to be getting them.

MR. CHUMIR: You referred to the medicare system. Would you be in favour of a continuing federal role in setting minimum standards and in using spending power in order to enforce them in the realm of medicare and social services, and if so, should we be trying to put something in the Constitution in respect of that? Because there is a very resounding silence, a total silence, with respect to that issue in Mr. Clark's document.

DR. McILRAITH: I can't argue that in terms of particulars. Again I haven't heard the arguments as to why it should be one way or the other. My sentiment, as I indicated earlier, is my

identity is with Canada. I'd like to be able to think that I can move about this country freely and certain things will remain roughly the same. That includes health care, medicare. So in principle I favour a strong federal presence, but of course there has to be some flexibility there. I can't comment beyond that. I must say there has been some disagreement about the difference between national objectives and national standards, and I would certainly favour the setting of national standards and objectives as perhaps a bit too weak.

MR. CHUMIR: Thank you.

MR. CHAIRMAN: Thank you. You raise an interesting point, one that's bothered me for some time, relative to Meech Lake. I don't want to replot that old ground, but you said you were aware that M. Rémillard – and, it is alleged as well, Mr. Bourassa himself – had said at one point that if they had had distinct society in place, it would not have been necessary to use the notwithstanding clause relative to the sign language law. I have discussed that with both gentlemen directly; both have denied vehemently that they ever said any such thing. Therefore, I am puzzled by your reference to it this morning. Now, it may be that indeed they did say such a thing, but all our research indicates there's no direct quote to that effect in place in any news media report on either one of them. Now, certainly people have said that's what they said, but I'm wondering if you have any direct recollection as to when and where that might have been said.

DR. McILRAITH: That's fair enough. A newspaper clipping. I believe it was from the *Gazette*. I'm not sure if I have it in my file at the back of the room, but it was from a newspaper clipping.

I should add that even if that was not said by M. Rémillard or M. Bourassa, again from my experience living in Quebec and reading the newspapers and speaking with my confrères, there are many who thought this is exactly the sort of thing the distinct society clause would provide and should provide. So again we have a difference in perspective – more than perspective – and a fear on my part that something will be sold in one part of Canada as meaning one thing and in another part of Canada as meaning something else.

MR. CHAIRMAN: Well, I don't want to pursue it and I'm not trying to put you on the spot, but I am very curious as to how that understanding came about. Mr. Bourassa put it to me this way, saying: why would I rely on a vague clause, which would have to undergo another judicial interpretation up to the Supreme Court of Canada, on the sign language law when I had an absolutely clear weapon available to me in the notwithstanding clause of the 1982 Constitution Act? So I'm curious about that.

There's another point I wanted to pursue with you a little. You indicated you wanted to see the Charter limited in its scope in some respects. Could you be a little more precise on that point?

DR. McILRAITH: Well, I think the Charter of Rights should reflect the most simple and basic elements we all hold to as Canadians, and in this respect it should be fairly easy to arrive at some agreement as to its contents. Other things that I think tend to be added on are reflections of prevailing political sentiment from various parties, and perhaps they're best left to the realm of political debate and statutory law legislation

brought in and removed and amended through the course of regular governmental affairs.

MR. CHAIRMAN: So what you're wanting then, I gather, is one which would limit the Charter to the impact governments have on individuals.

DR. McILRAITH: That's right, the relationship of the individual to the state, what we give up by being citizens and what protects us regardless.

MR. CHAIRMAN: I've put it this way to some people: the Charter of Rights tells what governments cannot do to you, and those people who are advocating a social charter, for example, would have it spelled out what governments must do for you. Now, would you agree that that's the differentiation between a social charter, for example, and the Charter of Rights?

11:40

DR. McILRAITH: I don't think that's a useful dichotomy necessarily. I have reservations about the addition of a social charter but not on the grounds of one being a reflection of what government does for you and another, the negative side, being what government may not do for you, on what grounds you are protected. The social charter again, I think, is something that varies according to political sentiment. I don't think those are fundamental rights we all hold to as Canadians.

MR. CHAIRMAN: Okay. There was one other point – do you want to get in too, Pam? – on referendum. You mentioned the concern that Quebec could be outvoted and the views of the rest of Canada imposed upon Quebec as being dangerous. I assume you might hearken back to the referendum on conscription in the Second World War in that respect. There's also a concern – and I think maybe you were trying to deal with it in the refinement of what you suggest in a referendum – that the west could be outvoted, that Alberta could be outvoted as well in any national referendum. We've seen the polls close in Alberta and Saskatchewan; you turn on the television set and the election is over at the border of Manitoba or Saskatchewan. That, I think, has been a real source of frustration to many westerners. How you would overcome that happening in a referendum vote is one that really gives me some pause for concern. I think perhaps you were trying to deal with that in your refinement of the referendum. Is that correct?

DR. McILRAITH: Yeah. I see those as problems with referenda. I mentioned the example of Quebec because that is what's most fresh and striking in my mind. In fact, the conscription crisis is an example of that. What I see as the role of referenda and what I suggest in fact to have done on a province-by-province basis as a guideline, as another means of ensuring public input, is through our 7 and 50 formula where things have to be ratified by provincial Legislatures. They should be subjected to referenda in the provincial domain before – as well as public hearings; you can't have one without the other.

MR. CHAIRMAN: Okay. Well, I won't pursue any more questions, although . . . I do have one on aboriginal self-government. The notion you referred to, the sovereign self-government concept that was referred to during the Oka situation, has been advanced many, many times by native groups. Do you support that concept as opposed to a more municipal type of government concept?

DR. McILRAITH: It is more the latter that I support. Regardless of what historical injustices have been perpetrated, whatever the original arrangement was 100 or 150 years ago with respect to treaties signed and not signed, I think one has to be fair and reasonable yet practical and live in our present situation. You just can't carve up half of Montreal or large sections of Alberta and say these now belong to a foreign country.

MR. CHAIRMAN: Okay. Thank you.
Pam.

MS BARRETT: My question actually is related to stuff that Jim raised. I want to start off by saying that if we could have everything you proposed here, we'd have no problems at all. I mean, you paint a perfect picture in your recommendations. I don't think anybody would disagree with them. The problem is that chances are good we're not going to get everybody to agree with them. So here's one hard-nosed question that you probably don't want, but it's the one we ultimately have to deal with. Let's say we go to provincial referenda. It's a good idea, by the way, a good suggestion, because that way you're talking about guidelines and genuine public sentiments as opposed to being able to outvote each other, the tenor of which is itself ugly and disuniting. Let's say we go to the referendum province by province and you see that the people of Quebec say okay to everything – they tick it all off; they like all the suggestions – except for the distinct society, and they really want it and want it very clearly. I know the argument you're making about how it's interpreted within Quebec and outside Quebec. Then you get to Alberta and they tick off everything, they like them all, but the one thing they don't like is the Senate reform because it didn't quite give them triple E. Okay? Are you prepared as a Canadian – and I note that you say you're a Canadian above all – to do a little trading? In other words, allow that move toward asymmetrical federalism to accommodate the people of Quebec and move a little bit away from a strict interpretation of triple E to a changed Senate, one that wouldn't allow the most populous provinces to predetermine everything, but not quite equal? Are you willing to trade a little bit?

DR. McILRAITH: There are some particulars about referenda which actually I didn't envisage in the way you've laid them out. In fact, there would be more of a yes or no to a package as proposed had it been negotiated before being brought to public hearings rather than ticking off boxes and one item rejected here and one item rejected there. But perhaps that's not quite the point.

There are some things that at this point, even at the risk of Quebec separating – and not for a minute did I believe this was a bluff on the part of Quebec or a means of obtaining leverage during Meech Lake – I would still not compromise on, again at the risk of Quebec separating. Those are, again, that the Charter of Rights is fundamental and applies in the same fashion no matter where you live in Canada, and that includes Quebec, and it is not undermined, compromised, limited, or constrained in any way by the distinct society clause. The amending formula and the veto for Quebec is another item, and the final item, which you raised, is the triple E Senate: does it need to be exactly triple E? At this point I've remained somewhat flexible on that. Well, of course, I remain flexible on everything; it's still early in the game. I'd like to hear more compelling arguments as to why we cannot and should not have equal representation of the provinces in the Senate. Otherwise, we'd just have a

duplication of the House of Commons if it's the least bit imbalanced.

MS BARRETT: No, what they're proposing would not allow a duplication. It would mean that under no circumstances would you be able to have Senators representing the two most populous provinces outvoting the other Senators. That's their minimum anyway.

DR. McILRAITH: You see, our government is set up on the basis of provinces, not regions, now. There are differences between Alberta and Manitoba, and there are differences between Saskatchewan and Alberta. It's that kind of representation that I think we need to see at the federal level. I think we can assuage concerns that this body, which is not proportionally representative, may override the House of Commons by limiting and making quite explicit the types of legislation over which the Senate would have a veto and which types of legislation it would be able to introduce and other types it would be able to amend.

MS BARRETT: Thank you.

MR. CHAIRMAN: Thank you very much.
Pearl.

MS CALAHASEN: Thank you, Mr. Chairman.

You were talking about the process and the formulation of the Constitution. In particular, you're discussing a party campaigning on the basis of a constitutional platform and how they should be taking it out to the general public.

DR. McILRAITH: Yes.

MS CALAHASEN: Are you talking on a provincial level or on a federal level?

DR. McILRAITH: Both. The federal government and the provincial governments have had a role to play and have a role, under our current system, in reforming the Constitution. This is something I mentioned in my brief. I feel that the current federal government and most of the provincial governments do not have a mandate to bring in the types of proposals that are brought in now. I don't remember that this was an issue in the last federal election or certainly when I was living in Quebec that these were matters brought up. Ideally, I'd like to see elections held and one party saying, "We stand for this in our constitutional views," and another party saying, "We stand for that." We then have an opportunity to choose our representatives in that light.

MS CALAHASEN: In terms of continuing with the process, would you say that the provincial governments would then have to go to a voting procedure first, or would you see the federal government going first?

DR. McILRAITH: No, I haven't ever thought about making part of a future amending formula that an election has to be called before. I haven't thought that far ahead. I just think that's a principle of responsible government. These are not, as I've mentioned in my brief, minor pieces of housekeeping legislation that can be turned out at the next election. The implications are too far reaching. My goodness, it's the most basic and decent sense of responsibility that if you're going to do something like this, you don't spring it on the electorate in

midterm when we have no opportunity of having any kind of impact beyond hearings but no impact at the voting level for two years and after the fact.

11:50

MR. CHAIRMAN: Thank you very much, Duncan. We could perhaps pursue this further, but in some respects you were able to give us more of your views because of the fact that other people didn't show up this morning and, therefore, you had more time than many people have had. You've also given us more precision in terms of some of your thoughts than many other people have done. May I say as well that members of your profession have not been forthcoming with their views as individuals. I don't want to be unkind to the medical profession, since my daughter is amongst your profession, but they really haven't given us many of their views. You've given us a unique perspective, having worked in Quebec for a period of time and having had the ability to observe at close hand some of the attitudes prevalent there. Thank you very much for coming forward and for your extensive written document. I'm pleased that while you weren't able to be with us in May, we were able to find time to see you today.

DR. McILRAITH: Well, I'm appreciative of the opportunity. This is part of the way things should be done.

MR. CHAIRMAN: Thank you very much.

We'll adjourn now until 1 o'clock. Thank you all for coming and listening and participating.

[The committee adjourned at 11:51 a.m.]

