

1:08 p.m.

Friday, September 27, 1991

[Chairman: Mr. Horsman]

MR. CHAIRMAN: Ladies and gentlemen, I'd like to reconvene the panel discussion on the Constitution. Many of you who were here this morning and are back again this afternoon, we welcome you. For those of you who are new, I have a brief introduction. My name is Jim Horsman. I'm the MLA for Medicine Hat and the chairman of the select special committee. My colleagues will introduce themselves briefly.

MR. CHUMIR: Hi. I'm Sheldon Chumir, MLA for Calgary-Buffalo.

MS BARRETT: I'm Pam Barrett, the MLA for the riding you're in right now, Edmonton-Highlands.

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

MR. SEVERTSON: Gary Severtson, Innisfail.

MR. CHAIRMAN: The secretary is Garry Pocock, seated next to me. Other members of the committee are in the hotel somewhere and I expect will be back soon, but we would like to reconvene.

I'd like to invite Keith Alexander, a former colleague in the Alberta Legislative Assembly, to come forward. Welcome, Keith.

MR. ALEXANDER: Thank you. Is there a choice among these microphones here?

MR. CHAIRMAN: Either one.

MR. ALEXANDER: This one's okay.

MR. CHAIRMAN: Sometimes we get more than one person to the table on presentations. That's why there are two microphones.

MR. ALEXANDER: I'll take the one on the right.

MR. CHAIRMAN: Surprise.

MR. ALEXANDER: I'm under a time constraint, I understand.

MR. CHAIRMAN: Yes, we try and keep to 15 minutes, although we do allow flexibility. We hope, though, that . . .

MR. ALEXANDER: It was the 10 minutes that was worrying me, Mr. Chairman. As you know, one of my great strengths has never been brevity.

MR. CHAIRMAN: Uh huh.

MR. ALEXANDER: However, I do welcome the opportunity to address the committee, Mr. Chairman and hon. members. My comments will be based partly on your document Alberta in a New Canada. Let us fondly hope that it's not simply an old Canada with some new wallpaper. The document, I note, contains 10 sections and some 85 questions, which I'd like to have the time to answer but do not. So I propose to comment briefly and in a summary way on the current constitutional

anxieties over the cracks in our national superstructure and suggest an Alberta position. Secondly, I'd like to offer a few comments on what I consider to be the more profound problems: the decaying foundations of a society which is showing signs of collapsing underneath us.

Speaking to the paper *Shaping Canada's Future Together*, released barely four days ago, it's already drawn the kind of Canadian knee-jerk, acceptance/rejection, praise and criticism which was to be expected, which lends some credence to the insight contained in the June issue of *The Economist* magazine: "The glue that holds the place together" - Canada, that is - "is no more adhesive than maple syrup." That may not be altogether true. I detect other adhesives. One may be exhaustion with this constitutional spasm and the interminable grappling with the Quebec question. Another adhesive may be the growing and widespread dislike for politicians, present company excepted, of course.

The Canada paper is a proposal, the beginning of a process which must soon also, I suggest, have an end. The framework of a deal is on the table, and my suspicion is that we need to get it done soon or we won't. Frustration in all camps is not very far below the surface. I had a chance recently to play golf with three Quebecers in Toronto. Afterwards I asked them to help me understand the current mind-set. What would be the result of a referendum held now on the independence question? All three were quick to say, "It depends on the question." So I said, "How should it be phrased?" There was no agreement among them. I asked them about sovereignty association: the same answer. What kind of association? What kind of economic deal would we have?

When that discussion came to no conclusion, I suggested to them that a rational, disinterested third party, perhaps some alien from Saturn or wherever, looking at their current status could not help but conclude that they already had a de facto sovereignty association: sovereignty in their National Assembly, their Prime Minister, their own flag, embassies bigger in some cases than those of Canada, pension funds, the tax system, the stock exchange, banks, language, culture, and civil law added to the right to suppress minorities' rights with impunity. In addition, their native sons have run our country for approximately 30 of the last 40 years. What's left for sovereignty?

The key advantage of the association side of the equation is, of course, ready access to the federal treasury and not much else needs to be said. One of my friends, Gerry Desmarais, expressed frustration at the whole issue, providing me with a key insight. "We are all hostages to our politicians," he said. I suggest we remember that as Mr. Bourassa devises his strategy running up to the fall of 1992, referendum time. Will he have it, or will he short-circuit it in some other way? Mr. Mazankowski said on Tuesday morning that Mr. Bourassa is a great federalist and doesn't want a referendum; he may not get the right answer. I say that he's a political pragmatist and will do what he needs to do in order to win office again.

Here's where I say Alberta should take a position. I think we need an answer. This has gone on long enough. Alberta should insist on adding to the definition of the question here offered terms and conditions - territorial, monetary, fiscal, trade, and other relevant matters - as the framework for the question and then ask that the referendum take place. The question, I think, has come to the point where it transcends the careers of politicians.

Finally, on the constitutional side Alberta should oppose the changes to the notwithstanding clause and, in my view, should use it more. The Supreme Court Charter and constitutional

decisions have drastically altered the fundamental character of Canada to its detriment, in my view, which brings me to the fundamental problems I spoke of, of decaying social foundations.

The court has shown a propensity toward liberal humanism, multiculturalism, radical feminism, and many other aberrations which are undercutting the moral and social fabric of the country and that beyond the reach of legislators. If we are to survive as a viable society, then I feel we must address the major areas of social structure and change some directions. Perhaps this new Canada document presents us with that opportunity.

I believe the first structure we need to address is that of the nuclear family, with an underlining of "nuclear". Two quick quotes if you please. Recently the prominent sociologist Robert Nisbet argued: when the family is a powerful allegiance, the state may reign, but it does not rule; conversely, when the state is powerful, the family is weak and loose. If we allow the state to assume responsibilities that properly rest with the family, church, or school, we risk destruction of the units that provide our ethical core.

George Murdock, another sociologist, commented: in the nuclear family and its constituent relationships, we see assembled four functions fundamental to human social life: the sexual, the economic, the reproductive, and the educational. Without provision for these, society will become extinct. Life could cease; culture would come to an end. The immense social utility of the nuclear family and the basic reason for its universality thus begin to emerge in strong relief.

Education is another area that's critical in this discussion. I say that it must stop undermining the family and family-taught values, especially those of faith. Catholics, of course, have special privileges in this regard: state-supported schools. That's fine by me, but what about us WASPs and other non-Catholics? Alberta could lead the country in rebirth of educational effectiveness by introducing a voucher system. This, of course, would presume a currently outrageous idea that the minds and souls of our children are more important than the bureaucracy, but I think you can handle it.

It's a world of ironies, isn't it? We've been witness to the collapse of Communism and socialism all over the world and the exposure of the bankruptcy of atheistic materialism. You might be interested in knowing some of the things that currently are happening in Russian education. Campus Crusade and Christian Embassy have been devising curricula for Russian teachers. At a republic of Russia convention in May, 852 registered participants came. They viewed a film on the life of Jesus Christ. Said one Leningrad participant: "I will teach my colleagues and students Christianity. Faith in Christ is to redeem us. The convocation raised my interest in God and put an end to my illiteracy." I thought that was a rather interesting term. "It stimulated me to learn more."

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A follow-up meeting in Moscow, Vologda, and Leningrad in subsequent months drew 705 educators, who returned home carrying a 10-lesson curriculum prepared by Campus Crusade. The title of the curriculum: Christian Ethics and Morality, A Foundation for Society. A 1992 lineup of similar conferences potentially will involve 3,200 more Soviet teachers. Can you imagine the reaction if such a curriculum were suggested for Canadian public schools?

I'm running out of time. There are too many issues and they're too deep, but I can't quit, Mr. Chairman, with your indulgence, until I say one brief word about budgets. In the new Canadian paper I gather there is to be some co-operation in this

exercise. For a long time Alberta led the way in prosperity and budget surpluses. We must ask ourselves whether that was just a spike-up in commodity prices, or are we really the responsible managers we claim to be? It's a hard question.

Quebec, ironically enough, is perhaps leading the way if its recent announcement is valid. The Quebec government served notice yesterday that it plans major streamlining of services and personnel to cut expenses and avoid new tax hikes. Commenting on a leaked Liberal caucus report that calls on the government to slash as much as 30 percent from its senior civil servants, Treasury Board's Johnson bluntly agreed that significant cuts are in the offing. We have to look at the fundamentals of government spending, the number of programs, their scope and their financing. I believe that would be a good place for this whole conversation on the federal/provincial level to start, and it's probably a very good place for me to end.

MR. CHAIRMAN: Thank you.

Sheldon.

MR. CHUMIR: Thank you, Mr. Alexander. I must say I find myself maybe a combination of amused and bemused by some of your comments. If I interpreted them correctly, you've been somewhat fed up with the demands of Quebec and are suggesting: let's put them to a referendum. Why I'm amused and bemused is because for the past 15 years I've been listening to the Alberta government describe Quebec as our best friend, and indeed we've been arm in arm and lockstep as allies in attempting to get the federal government out of medicare and social services and a whole range of things. Now we have Meech 2 with a proposed big transfer of powers to the provinces. I'd be interested if perhaps you'd enlighten us as to your response to those proposals and what you don't like about them, if you're not happy with the package that obviously is directed to giving Quebec more power.

MR. ALEXANDER: Mr. Chairman, I find myself bemused and perhaps a little confused about the question, but if I understood it correctly, the document you speak of, Shaping Canada's Future Together, is a constitutional proposal for all provinces which, as I understand it, has received a mixed reaction in Quebec so far, and that discussion will take place. That, I think, is the beginning of the process, as the federal people have described it. I guess my point - and perhaps I didn't describe it very well - is that this document has received the sort of typical reaction in Quebec: Mr. Parizeau says that it's inadequate; Mr. Bourassa has his doubts about it but it's a beginning. What I'm saying is that eventually Quebec has to answer the question as to whether it wants to participate in this Confederation or whether it does not. That's a question that's very separate, as I see it, from the issues you described about Alberta's concerns. I don't think there's any real way to relate something like the NEP and Quebec's aspirations. I was one, for example, who was very interested and always felt that René Lévesque's paper back in 1976, I think it was, Quebec-Canada: A New Deal, was a very viable document, a very viable arrangement, because it was seeking to transfer some federal powers.

If I had to answer the question in brief form, I guess I'd say somewhere between this document, the sovereignty association document, the original one in '76 and this one, which is the new federal one, there should be a deal made. But I think Quebec has exercised a kind of leverage over Ottawa and over the rest of us by always hanging this doubt out there of whether they're going to stay or whether they're going to go. I don't think we

can continue and they don't think we can continue being a viable Confederation as long as that question is hanging out there. It has to be answered, and I don't think that has anything very much to do with Alberta's friendship or nonfriendship with Quebec. I have lots of good friends there, but they need to answer the question, and they want it answered too, I believe.

MR. CHUMIR: As an Albertan would you be able to give us your views on the substance of the package that's been proposed by the federal government in terms of the transfer of powers?

MR. ALEXANDER: Well, I've already given my comment about the notwithstanding clause. I think it's a beginning of the process. It outlines way too many items to sort of comment on. One of the very advantageous suggestions is sort of bringing out on the table the budgetary process, which I think would be a great benefit. I think the secrecy that's taken place in federal budgeting so far is not constructive. The lack of co-operation on the federal/provincial level in lots of places where they could co-operate is not constructive. I think there are ways in which the Bank of Canada could benefit from regional representation. I agree with the comments made by former Premier Lougheed in the paper this morning, that if the Bank of Canada were structured more like the federal reserve board in the U.S., where the regions would have directors who could actually be influential on bank policy, that would be an improvement on what's been suggested. I see that as being potentially possible once the discussion is open and it's on the table. But it's too big a package for me to sort of take a summary run at. As I said, I'm not very good at brevity.

MR. CHAIRMAN: Thank you very much.  
John.

MR. McINNIS: Mr. Alexander, I was a little confused about one thing you'd said regarding the role of the education system in relation to the nuclear family, particularly families of faith, I think was the term you used. You talked about how the Roman Catholics have a school system and asked the question "What about us WASPs?" or something to that effect. Then you went on to refer to an initiative I'm familiar with, the Campus Crusade initiative in the Soviet Union, which to my knowledge is entirely a private initiative, not state sponsored in any sense at all. What was it you were trying to say about state-sponsored education? Do you want to do away with Catholic schools? Do you want to create WASP schools? What is it that you were trying to communicate to us?

MR. ALEXANDER: I want the school system to support and not undermine the faith system the kids go to school with. For the last three generations at least, young children in this country who have been through the public system, particularly in the last couple of generations, have come away with the impression that what they've learned at home or in their churches and so on isn't scientifically so. Many other values their families may have tried to teach them have simply been undermined by what they learn in school and not supported. Frankly, I think that's been a very destructive process. While the Catholic system has been able to maintain to a greater degree that integrity between the family's view and the view expressed at school, others have not unless they enroll their children in private and independent schools. I personally have enrolled a couple of my kids in those schools for precisely this reason. I have more than a little bit of experience in this area, having put six kids through the system, and I think

I know from personal experience about how this process happens. I think the state, if it's going to get in the sponsored school system, should simply stop undermining people's moral integrity.

MR. McINNIS: Well, the difficulty, as I see it, is when you use a phrase like "families of faith." There are quite a number of faiths represented in what we call the public school system. If you use the example of the Catholic school system and private schools which are based on particular religious faiths, are you in fact talking about a system where children are educated only in their own faith or the faith of their parents? Is that really what you mean?

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MR. ALEXANDER: I think that should be a choice; that is a choice currently. There are schools in the system which offer that, and I think they should continue to offer that. My point in suggesting the voucher system is to put on the table the possibility that parents can go to the market and find the kind of education – which doesn't just include faith; it may include a lot of other things – that the parents find to be valuable. That needs to be available on a broader basis than it is now, and I just don't think the public system is serving those purposes. I won't even talk about the literacy problems and the general level of educational values that come out of them. Let's leave that aside.

MR. McINNIS: Thank you.

MR. CHAIRMAN: I'd just follow up on that a little bit. We've been hearing a point of view being put forward that in order to strengthen the educational system in Canada, the federal government should be given a greater role. Now, that is a constitutional issue. Some of the issues you have been mentioning are basically policy issues, which have to be decided now by the provinces because they have the responsibility for education under the Constitution of Canada today. What would your reaction be to transferring some of the responsibility for education to the federal government in a new constitutional arrangement?

MR. ALEXANDER: I think, Mr. Chairman, it would depend entirely on what responsibility. If it's a responsibility for funding, then however the funds flow, as long as they flow through a voucher system and provide the selectivity, I don't care who provides the funding. If they want more influence in terms of curriculum and things like that, then I'd say that's not necessary. If they want to fund more curriculum material and let that rise out of the demand in the system for certain kinds of curriculum material, that's probably harmless enough. But I would want to be careful to delineate how they were going to participate, personally. I don't think they need to participate in the curriculum side.

MR. CHAIRMAN: Well, that, quite frankly, is the crux of the issue, I think, in terms of some of the arguments that are being advanced for greater federal participation in the process.

One other question. There's been a concept advocated of a social charter of rights being put into the Constitution to match, I guess, or to supplement or somehow be in there with the Charter of Rights and Freedoms. How would you react?

MR. ALEXANDER: Negatively.

MR. CHAIRMAN: Why is that?

MR. ALEXANDER: Well, as William Watson says in a very well-stated article in the *Financial Post* this morning on the very subject, we're not all social democrats and we don't want to be required by the Constitution to be so. Frankly, our social arrangements should be a matter of choice. Constitutions are for defining the principles on which policies should be made. That's not a principle; it's a way of executing social policy. Frankly, I simply disagree with the idea.

You know, the United Nations Charter in 1948 started out to define human rights after the mess of World War II. I think they ended up with some 48 of them, which since that period of time have expanded to a multiple of that, perhaps a hundred different human rights, to the point where now the term is virtually meaningless. I mean, you can almost go somewhere and find a jurisdiction where people believe that virtually anything you might pose to them may be a human right and it will be carefully considered. We're at risk of making a lot of very important terms that knit the social fabric together really quite meaningless, and in my view that's just another one of them.

MR. CHAIRMAN: Thank you very much, Keith, for coming forward and giving us your views. As usual, you haven't beat around the bush in giving them to us.

MR. ALEXANDER: That's right. I hope I haven't left you all bemused.

MR. CHAIRMAN: Alex Reed. Welcome, Alex. It looks like you're going to give us some audiovisual to assist our understanding of your point of view. I'm not entirely sure how that might translate into *Hansard*, but let's have a go at it in any event.

MR. REED: Thank you, Mr. Chairman.

MR. CHAIRMAN: We've never had *Hansard* with pictures, so maybe this will be a new . . .

MR. REED: Given that it's a Friday afternoon and a beautiful afternoon at that, I thought it would be appropriate to share with the committee a perspective that I have in terms of our Canada.

Mr. Chairman and hon. members, last June I had the opportunity to participate in the Governor General's study tour program. This program occurs every four years and enables young Canadian leaders from a wide variety of occupations and professions and from geographically diverse parts of the country to come together, not simply to celebrate Canada and being Canadians but rather to define and promote a more powerful Canada, a kind of mini Spicer commission, if you would, but with a major twist.

Our role was to live, breathe, and sleep that region to which we had been assigned. So for three and a half weeks I had the fortunate pleasure and opportunity to be in Quebec City and the Eastern Townships of Quebec. This simply wasn't a visit or an exchange program; it was an intense, 18-hour-a-day immersion into the life and blood of what we know as Quebec. We were challenged by Governor General His Excellency Ray Hnatyshyn to put Canada under a powerful microscope and to carefully examine it. Our role was to go, listen, and learn. We were to

act as the ears, the hands, the mind of the nation and were to seek out the pulse and heart of our country.

I couldn't possibly begin to share with you and the committee what occurred over those three and a half weeks within the few minutes that we have together this afternoon. However, what I wish to share with you are a few impressions that I've gained, and most importantly I hope to touch an emotional cord in each of you.

Canada began as two cultures, French and English, both working hard and long, side by side to build this nation we now call Canada. Because of that, I believe two cultures have the right to survive together. Secondly, I was surprised to discover that the majority of Quebecers were very much like Albertans. For example, they felt that what they had heard in the media had little reflection of reality. The media across the country tend to enhance the negative, focus on the worst case scenarios, and have little idea of what or how the average Canadian in this country really feels.

I found that most Quebecers – and I think you'll find this surprising, Mr. Chairman and the committee – are against multiculturalism and bilingualism. I quickly came to realize that these other Canadians were good people who had similar concerns and problems like you and me. There's one major difference: they have a spiritual, cultural, emotional, and social need to have their language and culture entrenched in the Constitution of Canada by being recognized as a distinct society. This major difference, this need, is the only reason why Quebecers are seriously talking about sovereignty association or an independent Quebec. These other Canadians are so committed to retaining their culture and their language that they are prepared to go it alone out of an act of desperation. What I came to recognize was that most Quebecers desperately want to come to some kind of compromise and agreement with the rest of Canada and be part of this great nation.

The questions we must now ask are: how do we teach people to be tolerant and not to judge? How do we inspire and not impose? How do we inspire people to have mutual respect as opposed to condemnation? How do we generate and deliver fairness? How do we respect the fragile nature of those who do not feel that they have that respect, and how do we persuade those that do to make room for those that don't? How do we accommodate the unique contributions made by all Canadians, and how can we best celebrate those contributions once they've been made?

Our country really is facing a national crisis, one in which the very future of what we grew up knowing as Canada is desperately at stake. Never before has there been such a need for all Canadians to participate in the affairs of our country. If ever there was a time when our country needed a bright, concerned population, alert to risk yet keenly aware of the opportunities, that time is now.

As I discovered, there is more to our nation than a Constitution. Constitutions are just the ties that bind a country together. As Canadians we have ties to history and geography, culture and feelings. Just because cultures are different and solutions are not easily found is no justification for us to give up seeking ways to avoid Quebec's separation. I believe in a modest restructuring of federalism. I believe certain powers must remain at the federal level, and if we are to survive as a country, Canada needs a strong centralized government, an authority to speak for all Canadians, resolve national issues, overcome regional disparity, and fulfill a leadership role with respect to social, economic, and environmental concerns.

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The Governor General's program was an experience that I shall never forget. It helped me to learn how much we can usefully learn when we train ourselves to ask questions and really listen with the intent of learning rather than simply guessing, assessing, pontificating, accepting the media's opinions and commentaries as our own. This program challenged my complacency, and I developed a severe allergy to mediocrity, insensitivity, and indifference. I feel more a servant of our country than I've ever felt before. The fears and aspirations I heard humbled me. The successes, hopes, and optimism encouraged me. They also provoked my passions, taunted my patience, challenged my passivity, but, most importantly, inspired me with an empathy for more understanding of my fellow Canadians, those other Canadians.

My message is simple. Canada has come to a critical watershed in its history. An important responsibility falls to each of us not only to contribute to charting our nation's course harmoniously through these turbulent times but, more importantly, to recognize the need for a deeper understanding of the complexity of our country and develop a clear idea of the bravery that underlines our determination to live with a mosaic in which differences are celebrated and similarities are cherished.

I thank you for the opportunity of being able to share this with you today, and I look forward to responding to your questions.

MR. CHAIRMAN: Thank you very much, Alex. You've had quite an experience, that more Canadians should have the opportunity to enjoy.

Are there questions or comments? Yes, Pearl.

MS CALAHASEN: I have one, Mr. Chairman. On page 2 you were talking about how Canada began as two cultures. As a native Canadian – and as native people have been telling us, they feel very slighted by the fact that they haven't been recognized as a third group who developed Canada. I just wondered what your thoughts were regarding the fact that you say you believe both cultures have the right to survive together. Where would the native people fit in?

MR. REED: Quite clearly there's a difference in terms of what I saw or what I believe were the beginnings of Canada as a country. I think there were nations associated with the native culture in terms of those people who resided in what we now know as North America or Canada. So my term of "Canada" – on page 2, in particular, referring to the two cultures as beginning Canada – refers to simply the fact of that culmination of something that we formally called Canada as a country. Quite clearly I think the native peoples have an important part to play in terms of being able to configure what we believe to be a Constitution, so quite clearly I see their role as being critical. The whole point of my presentation this afternoon is to recognize that there is something unique, there's something distinctive, about the French culture in Quebec, and that's not to mitigate what the natives have in terms of their own rights.

MS CALAHASEN: That's one of the problems that has existed in the history of the development of Canada, not being recognized as part of the Canadian mosaic. I guess that's where multiculturalism comes in. The native peoples don't believe in the word "multiculturalism" because it's based on the tenets of immigrating to Canada. If that's the notion that's being used

here, then I can see where you're coming from, but if it's not, then the problem continually exists in terms of where native people fit into the Constitution.

MR. REED: I agree with what you're saying, Pearl. I think the reason the Quebeckers, at least in my opinion and those that I met, are against multiculturalism and bilingualism as a program is because you don't legislate attitudes. Quite clearly what you're saying is that in terms of the overall scheme of things the natives have to be members of this mosaic as much as any other member of that group.

MS CALAHASEN: Mr. Chairman, if I can?

MR. CHAIRMAN: Yes.

MS CALAHASEN: I just wanted to talk about the distinct society. You're talking about Quebec saying they have a difference in a spiritual, emotional, and social need of language and culture. With the way the definition of "distinct society" is being brought out, do you think that would help Quebec accept the package that has been brought forward?

MR. REED: Yes, I do.

MS CALAHASEN: Do you? Thank you.

MR. CHAIRMAN: Thank you.  
Other questions?

MR. CHUMIR: Thank you for an excellent presentation. You've been very strong in indicating and explaining to us how Quebec feels they need to be recognized as a distinct society in order to recognize our language and culture. There is a tremendous amount of resistance to this in other parts of the country, not so much in terms of recognizing them as a distinct society but in terms of doing it in a way that impacts on the Charter rights of other individuals in Quebec, for example, which would in itself legitimate the sign laws without requiring the notwithstanding clause. There's a tremendous amount of concern about that, particularly compounded by the feeling that Quebec does have a language and a culture which have done very well, which have thrived under the present circumstances, and it's not objectively necessary. I'm wondering whether or not it was your impression that Quebec would be prepared to go along with a symbolic statement in the preamble or something in support of their status as a distinct society, as opposed to requiring it in some substantive portion of the Constitution.

MR. REED: If I understand your question correctly, I might share with you some impressions. One was that quite clearly the immigrant population that is arriving in Montreal – and there is a large immigrant population arriving in Montreal – is being faced with the challenge of determining which language they should receive their formal education and subsequently converse in. That trend is obviously to speak English. That has those Quebeckers residing in Montreal concerned about what the future of their culture and their language and their heritage would mean in terms of that assimilation of these newcomers. I make that point first of all.

Secondly, I think in Canada there tends to be – and I speak from personal experience – a reluctance, maybe a naivety in terms of being able to participate in this formal discussion. People are so concerned about putting clothes on their children's

backs, food on their table, and a shelter over their head that they haven't time to be able to really be concerned about formulating opinion on these types of issues and as such tend to absorb and actually reiterate those things that are provided to them by the media. When I arrived in Quebec, I began to see that there were Quebecers who were concerned about Canadians who, particularly in the Cornwall area, basically had created a confrontational situation in terms of the languages and, you know, stamping on the fleur-de-lis as a flag. We as Albertans, or at least neighbours of mine, felt that Quebecers were doing the same in terms of the Canadian flag. Both of those, though, were extreme ends of the scale.

My presentation is to say that the reality that exists in Quebec, the Quebec that I saw, is quite different from that. There were people who are genuinely concerned about life, about living as a Canadian, as you or I are as Albertans. The problem is that they don't understand and don't appreciate what's occurring in Alberta, as we don't understand and appreciate what's occurring in Quebec.

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So you're right, Mr. Chairman. If there were greater opportunities for our youth and for us as fellow Canadians to be able to have some cross-cultural links and exchanges, it would be ideal, but the reality is that most Canadians head south or to Europe in terms of being able to vacation and broaden their overall experiences. I think that's a shame.

To answer your question directly, I think Quebecers as a whole must and need to feel in a substantive way that their rights in terms of a distinct society are entrenched.

MR. CHUMIR: That means, then, some form of substantive jurisdiction over the Charter of Rights. For example, you mentioned immigration. Immigrants to Canada who've come to Quebec have to send their children to a French school; it's illegal to send them to an English school. They already have that. What more might we be looking for in respect of that key example that you yourself gave forbidding English to be spoken?

MR. REED: Okay. Again the substance of your point is that although it's a law, it's a law that has been invoked by politicians. I think if you talked to those general Quebecers, the average Quebecer, they're not in support of that type of legislation. Again, you can't legislate attitude.

MR. CHAIRMAN: Well, thank you.  
Gary Severtson.

MR. SEVERTSON: Mr. Chairman, that was the question; I wanted to get onto that language law. Alex answered it.

MR. CHAIRMAN: There are a couple of points you raise in your paper which I wish to question you on a little bit: the role of the news media, in particular. This has been a recurring theme throughout our hearings that the media have a role to play, and many people have made quite negative comments towards the news media for their failure to more accurately portray reality, as you put it here. They felt what they had heard in the media had little reflection of reality. We've heard that here quite often. Although it's never been reported, interestingly enough, people have been saying those things. How do you think we can deal with that particular issue?

MR. REED: That's a very good point. In fact you, Mr. Chairman, did an excellent job on CBC the other morning in terms of being able to field those kinds of comments. If we take for an example just this morning's report on Mr. Clark's meeting last night in Quebec, of the 400 or so people that were there there were about 35 to 50 hecklers, but quite clearly the hecklers got front page in terms of the news media and the media in all aspects. There were many numbers of people, those people that I would call the average citizens of that region, the average citizens of Canada, who were overlooked. All this week in terms of the CBC reporting, at least on the radio in the morning – and I'm sure you've had an opportunity to listen to some of those things – there hasn't been one positive story, one positive element, one positive aspect supporting those kinds of constitutional changes or even the work of this committee.

I mean, I work in the postsecondary environment. I know that the schools of journalism today are teaching young journalists to take their personal opinion off the editorial page and spill it all over the rest of the newspaper. For example, I am a father of five. I think it's important for my children to have an understanding of what's going on in the world, but at our household we don't receive any newspapers; we don't watch TV in terms of the news – our only source is CBC radio, which in itself may be a mistake – the point being that I believe the best way and the opportunity of being able to teach my children to make an opinion of things is to get the information that they can from whatever sources and then in some way formulate an opinion. I think the problem we have today is that our journalists are irresponsible in terms of being able to indicate when they're passing judgment in terms of their own particular and personal opinion and when they're actually reporting a story.

MR. CHAIRMAN: Okay. Well, that was one point that I wanted to pursue a little further with you.

On your page 4 you indicate that you believe in a modest restructuring of federalism. Then you go on to say that Canada needs a strong central government, et cetera, to fill a leadership role with respect to social, economic, and environmental concerns. At the moment the Constitution by and large leaves social concerns in the realm of the provinces. Education, health care, welfare: these types of major social programs are the responsibility of the provincial governments. So to give the federal government a greater role in those particular areas would be more than a modest restructuring of federalism.

MR. REED: Point well taken. In terms of clarifying what I was referring to there, I'm talking about equity in terms of social programs for all Canadians, and simply that.

MR. CHAIRMAN: You're talking about establishing through a process basic fundamental levels, minimums really. Is that what you're getting at?

MR. REED: Exactly.

MR. CHAIRMAN: Okay. Thank you very much. You've obviously learned a great deal about Canada that a lot of us would have looked for the opportunity to have. We appreciate your great commitment and sentiment in support of this country and wish you well, and your five children and your wife as well.

MR. REED: Thank you, Mr. Chairman and members.

MR. CHAIRMAN: Margaret Pigeau. Is that correct?

MRS. PIGEAU: Yes. I wish to thank the committee on the Constitution for hearing me. Is this loud enough?

MR. CHAIRMAN: Yes.

MRS. PIGEAU: I have intentionally prepared my presentation in English to be well heard and well understood. I was born 70 years ago in Saskatchewan, smack in the middle of Canada. I am descended of Henry Wolcott, who came to America in 1630, an Empire Loyalist – that's my English ancestry – and Abel Goevjon, a French settler who came from Guines par Calais, France. I feel justified in expressing my views on how a bilingual Canada should learn to get along for the benefit of the three founding nations: the Indians; the French, who settled in the eastern part of Canada in 1534; and the English, who came later and conquered in 1759.

Yes, I would like to see one prosperous Canada from sea to sea governed by a strong federal government, 10 provinces governed by their elected representatives. I would like to see the Senate abolished, for they are such a financial drain on public funds, and its usefulness is questionable. Elect instead one representative from each province accountable to the federal government and the province, empowered with effective representation to both.

We have many problems to overcome to keep Canada one: ignorance of each other, of what makes us tick. We express all kinds of inaccuracies about each other, and we express them as undeniable fact. We are very misinformed and perhaps don't really want to know the truth, for this could situate us in the wrong. There is also a lot of bigotry. Call it like it is. Even when we try to hide our true motives under the guise of the good of the country or some noble reason such as it's fairer to the other, we fear so much that the other will get a little more of what we won't give up in spite of our abundance.

We say that our culture and language are superior to that of others so we are justified in imposing them on those who haven't been lucky enough to inherit them at birth. We believe we are a superior race or nationality so it's all right to beat up on others and lord it over those we feel don't belong. It's a real problem to bring together French Catholics and English Protestants. There is not only a race and nationality aspect here but also a religious one. Unless we try to walk in each other's shoes and experience at least by imagining what it means to bear the losses and burdens we're trying to impose on others, we will lack the goodwill to lick this thing.

1:58

We must discuss our differences frankly if we are to resolve them. When we hear statements or clichés that are a bit off or not quite true, we should clarify them, at least in our minds. Here are a few. To understand each other we should speak only one language, and of course that's English. How would the English people feel if the language of choice were French? Would there be recrimination, and justly so. Still, some English-speaking people think it's all right for the French to give up all that makes them what they are, and that applies especially to the 1 million Francophones outside Quebec. They were born and raised here and they contributed to the good of their country in the province of their choice.

The way to get along is not by speaking one and the same language but by respecting the different cultures, languages, and religious beliefs of others. Who are these bigots who promote the one culture/language solution, and who are they to decide, since they have nothing to lose? To demand that we align

ourselves towards an English only society such as a newly formed party advocates is no better than to be a white supremacist. Both ideologies are unashamed to promote the taking away of people's rights and claiming their own are supreme and impossible on minorities. The voice of D'Alton McCarthy, a Manitoba Member of Parliament of the late 19th century, is still being heard in the corridors of time. He still multiplies his speeches against Catholicism and the French language through those who still share and promote his views and discrimination. He fumed angrily at one of the sessions: will Canada be French or English? To strike a fair deal, Mr. McCarthy, let Canada be neither French or English; let Canada be bilingual and multicultural. Let's get along by letting the other live and prosper, and no more of this nonsense, please.

The news media should take a fair blame for the situation we're in. They contribute by favouring and accenting the anti French Quebec sentiment by their choice of material or their interviews. This spreads hatred against some minorities. Surely in a culture there must be enough positive material to talk about. They interview people who have difficulty expressing themselves in English and make them look ignorant. They dig in the festering points: Quebec wants this or refuses this. The why is what I want to hear about.

French has been forced down our throats. The counterpart is true: English was forced down the Francophones' throats for hundreds of years. We fought to keep our language alive. We sent our children to the separate schools where French would be taught to them while we paid our taxes to the public school system from which we received absolutely no help in educating our children for many years, though we did make representations. We built our schools, kept them up, and paid our teachers. We learned English also to survive in an English environment, and that wasn't so long ago, for this was the situation in British Columbia in 1960. We say it's too costly to translate documents in both languages. If the documents had been translated then, in all fairness, it would have cost much less. The Francophones paid their fair share in having everything drafted in English, so now it's time for the English people to oblige.

We say, "What's wrong with being Canadian?" meaning English-speaking of course. Nothing wrong with that, except your definition of Canadian differs from mine. I am just as much a Canadian when I speak French as when you do. I just happen to have a different culture, language, and religion than you have. We say that Quebecers don't try to speak English. I have found the opposite to be true. Listen to them trying their darndest even when they experience difficulty in expressing themselves and even if they feel embarrassed. They are beginning to be upset that Anglophones don't usually make the similar effort to communicate with them.

Building schools to educate the Francophones is too costly. The student will occupy the space somewhere anyway and will cost X dollars to be educated no matter what school he or she attends. Let those French immersion schools continue the good work they are doing. Promote the learning of the languages of multicultural groups. Let English be well taught. Let the students also be taught by example ethics, tolerance, morals, self-control, good studying habits, understanding of others even if they are different. Let them experience somehow patriotism and love of country. Expand on what bigotry is and expose its ugliness so they can expel it from their thoughts and deeds.

There are a few other areas that I would like to touch upon. We are destroying a great number of members of the generation

to follow by abortions. Medical advances now prove without a doubt that the fetus is not a blob of tissue but a living entity developing at its preset timing into a babe capable of living outside its first home. Because of a word, really a technicality, we continue to destroy precious human beings at an alarming pace. All the stages of pregnancy are necessary to bring forth a complete human being at birth. The favouring of promiscuous living is the cause here, another topic that ties in to this topic. Peep shows, pornography, most videos, much of our films need to be cleaned up in conformity to human decency.

Members of Parliament sitting around the country's financial platter should stop spending the people's money foolishly and lavishly on family trips, substantial raises, and bonuses in a time when restraint is still in order. They refuse one iota of salary increase to their civil servants – hypocrisy. Too much money is spent on entertainment and sports while necessities such as health care, shelter, food allocations are insufficient. Let essentials be covered first.

Other issues such as unemployment, bankruptcies, the state of our education system, our filthy racks and counters I would like to expand on, but I will only touch on one more issue which is really what started me going in the first place: the lot of the Francophones outside Quebec if Quebec separates from the rest of Canada. The lot of the Anglophones in Quebec concerns me too, though I do not think that they were abused in any way. I regretted that sign law, but I know that the English-speaking people in Quebec have their hospitals, their schools, and a lot of social programs. Surely a little compromise either way would help solve all these concerns and problems with the least hurt imposed on those affected. The distinct society clause is not so much a deal when we read it as an assurance that Quebec wants to remain French and not be swamped by the English majority.

I have discussed frankly, openly, even bluntly, and tried to suggest some solutions as I see them. My purpose is not to hurt anyone but to discuss honestly without beating around the bush what disturbs me and many others. I wish to thank the majority of fair-minded Anglophones – and there are many; many of them are friends of mine – for their willingness to support the efforts and struggles of those who wish to be who they are and contribute to the well-being of this country.

This presentation was prepared by a group of nine friends who came over one evening. I thank you for hearing me.

**MR. CHAIRMAN:** Thank you very much, Margaret, and to your friends who gathered together to consider seriously the issues facing Alberta and Canada, we thank you very much.

Are there questions and comments?

I had one that I thought that I would like to touch on, and it relates to your concerns about moral issues. You touched on one or two or three towards the end of your comments, in particular the issue of abortion, pornography, and these concerns. As legislators we have to deal with trying to reflect the views of our constituents, and there is a real debate on that issue. It's influenced to some extent by religious backgrounds, and you made reference to religion in your comments. It's difficult for us, living in a pluralistic society as we do, to try and put a moral code in legislation let alone trying to put it into the Constitution of the country. I'm just wondering what your thinking is in that respect relative to how the Constitution might be altered or changed in that area of moral judgment.

2:08

**MRS. PIGEAU:** Well, I feel it starts with education. The point

was touched before me. I think that schools should teach morals, ethics, justice, tolerance. Those are all values that will help us live as adults a human, decent life. Now, how do you put this in the legislation? That's a little more difficult to resolve, except if the federal government had some say in some areas of education across Canada. I don't know.

**MR. CHAIRMAN:** Okay. I'm not trying to press you beyond the point that you are comfortable in addressing this issue, but it is a dilemma to us as to how we recommend how the Constitution might reflect concerns for moral issues. Originally, of course, when education was made a clear responsibility of the provinces, one of the underlying factors there was that Quebec wished to maintain its Catholic education and the other provinces wished to maintain a Protestant education. That's one of the reasons it was put into the Constitution that the provinces alone would have the responsibility for determining educational policies for the citizens of those provinces and the country.

**MRS. PIGEAU:** That is true, but I believe the first person who presented a brief was mentioning that the public school system needs something to better the moral living of their students, and I know it's a provincial issue.

**MR. CHAIRMAN:** Okay, thank you.  
Sheldon.

**MR. CHUMIR:** With that kind of direction into education there is a question that I'm very interested in. You spoke about being in favour of bilingualism and multiculturalism, and while we initially started off as an English/French community, Protestant/Catholic, native origins, we are becoming increasingly multicultural, not just French and English. There are many different groups who are coming here. The right of the Francophone community to have Francophone schools has been entrenched in the Constitution. I'm concerned with where we go in our society with these many multicultural groups: Oriental groups, East Indians, different Christian denominations. Are we and should we be moving in a direction where every group has its right to its own schools in which our children are segregated? I note that Canadians have told Mr. Spicer and others – they're telling me – that they want to see our policies and institutions bring people together, not divide them. So what would be your vision of how we should be educating people in the future in a country that isn't just French and English? Should Francophone schools be a precedent and model for everyone, or should they be exceptions because of history?

**MRS. PIGEAU:** Well, I think Francophone schools should be a must in most areas except if they are really not numerous enough to warrant. It would become a very costly proposition, but I believe that multicultural groups should also be given some form of education in their own language, again where numbers warrant. I don't think it would cost that much more to educate a child in one language or the other once the facility was established.

**MR. CHUMIR:** It's been suggested that the cost is not really economic; the cost is what happens to your society when you divide people. We have models around the world of people divided. The theory is that children should mix and go to school together in order to know each other, that it's unhealthy to segregate, as we noted in the United States with the move to integrate between blacks and whites.

MRS. PIGEAU: Well, I believe it's a good idea to socialize, but I know a language cannot be learned if you keep them together. I know that some 30 years ago I suggested to school boards to segregate the French people so that they could play games at recess in French, anything that will promote the learning of a language. If I were living in Quebec, I would try and speak English in my home, and I would try and bring English to them. I think some segregation is needed for part of the day to learn a language. If you take all the French-speaking children and they know English and then put one English person there, they're going to speak English. We are famous for obliging, because we want that child to understand what we're saying. I think that groups that are numerous enough should have some attention, some finances given them to promote the learning of their own language, but I would give priority to French because it's an official language.

MR. CHAIRMAN: Thank you very much, Margaret. Would you take back to your friends and neighbours who helped you in this preparation our thanks for your thoughtfulness.

MRS. PIGEAU: Thank you very much.

MR. CHAIRMAN: Bohdan Barabash.

MR. BARABASH: Members of the Legislature, Mr. Chairman, members of the select special committee, on behalf of the Ukrainian Canadian Congress, Edmonton branch, I'd like to thank the committee for the opportunity to appear today. I'm Bohdan Barabash, president of the Edmonton branch of the UCC. I appeared at the first round of hearings on behalf of the Alberta provincial council of the UCC. Most of the submission before you is the original Alberta provincial council brief presented in June and has been included strictly as reference.

I will not be directly addressing that part unless the committee wishes it. However, I would like to turn the committee's attention primarily to the first four full pages. There are two main points here that I wish to address in clarifying our original submission, the first one dealing with the supremacy of human civil rights, including equality. I'm not going to read the entire position, but I would like to underscore a few points, and if you'd like to follow me in it, I'm starting about halfway down the page.

It is antithetical to the spirit and the principles of human and civil rights to maintain any provisions, time limited or otherwise, for parliamentary or legislative suspension, avoidance, abrogation, limitation, or compromise of any or all rights enumerated in the Charter of Rights and Freedoms or the rights retained by the people. It should also be understood that all rights and freedoms must apply equally to all, whether as individuals or as groups, with the collective rights of any group being fully subservient to the rights of the individual. The acceptance of immigrants to Canada and the granting of citizenship to allophone peoples and minorities forever removes any basis to claim exclusive, distinct, protected, or reserved rights for Anglo/Franco societies. To insist otherwise is to institutionalize and constitutionalize discrimination and bigotry; in essence, to effect a 20th and 21st century version of economic, linguistic, and cultural slavery, exclusion, and extinction.

Protection of distinct or exclusive societies is nothing more than the extension of English or French colonialism whereby it is necessary to treat every minority as an enemy of the state or an enemy of the society for whom rights are limited or nonexistent or superseded. The mechanics of this panic and unjustifi-

able protectionism includes the execution of a cultural, linguistic, and economic war on those least able to defend themselves. The only options of survival are to either perish through complete assimilation, to suffer and live clandestinely, or to leave that society.

2:18

Finally, societal protectionism promotes the false assumption that allophone minorities are attempting to establish a small part of their former country or to otherwise corrupt or destroy the Canadian identity. Nothing could be further from the truth. What must be recognized and accepted is that each individual's identity is partly comprised of the culture, the history, and the language of his ancestors. It is part of a living and everyday identity that spans generations, and it is an identity that cannot be separated, suppressed, or destroyed. We are all the offsprings of our forefathers, and we carry that historical identification to our graves. It is an identity that should and does mesh harmoniously and cohesively with being Canadian, and that is a gift we want to give our children.

Thus the supremacy of the Canadian Charter of Rights and Freedoms must be established once and for all, embodying the principle of equality as stated in the original brief presented in June of this year. The Charter must be colour-blind, gender neutral, and ethnically, culturally, and linguistically impartial and indistinguishable. Any results short of these ideals is a travesty and an ineradicable shame.

The following two pages deal with one of the proposals that the federal government recently tabled for discussion: recognizing Quebec's distinctiveness in the Canadian Charter of Rights and Freedoms. The proposal was to include a new interpretive clause within the Charter recognizing Quebec's distinctiveness, and I've got it outlined here. As well, I'm sure every member of the committee has already seen it. It's known as section 25.1. However, currently in existence within the Charter is another interpretive clause, section 27, which states:

This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.

The presence of both of these interpretive clauses is going to present an immediate dilemma and a conflict. Is the Charter to be interpreted according to Quebec's distinct society, the preservation of French-speaking Canadians present throughout Canada, English-speaking Canadians primarily located outside Quebec but also present in Quebec, or is it to be interpreted according to "the preservation and enhancement of the multicultural heritage of Canadians"? Which clause is to have precedence and under what conditions?

It seems readily apparent that within Quebec section 27 would never see the light of day. However, even if by some bizarre circumstance section 27 were given precedence, one can see the freight train of section 33(1), the notwithstanding clause, come roaring down the track to override multicultural heritage. Similarly, the preservation of the English-speaking Canadians provision ensures that section 27 won't see the light of day in the rest of Canada, and if it did, the aforementioned freight train coming out of Quebec will perform its function admirably.

In addition, turning one's attention to section 1 of the Charter, entitled Guarantee of Rights and Freedoms, it states:

The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

One is again faced with the same conflict: interpret this with the distinct society clause or the multicultural clause. The

identical scenario mentioned previously exists. In short, multicultural heritage and the rights of ethnic and visible minorities are about to disappear forever. This, of course, is unacceptable.

I'll end my submission at this point, and I'll be prepared to accept any questions or discussion.

**MR. CHAIRMAN:** Well, just a point that you may wish to note and research a little more is that the notwithstanding clause cannot be applied to section 27, and I think you should note that. The notwithstanding clause does not apply to every aspect of the Charter. Specifically, it cannot impact upon section 27. If I could just quote it to you, it can only operate in respect to "a provision included in section 2 or sections 7 to 15 of this Charter." So that's an important differentiation.

**MR. BARABASH:** Perhaps, Mr. Horsman, if I could just comment on that. Section 2 deals with the fundamental freedoms of all citizens in Canada. Sections 7 to 15 deal with equality provisions, probably the most important provisions of the Charter of Rights.

**MR. CHAIRMAN:** You were making the case, though, that section 33 could apply to section 27.

**MR. BARABASH:** No, I'm sorry. That's not what I meant. What I mean here is that any interpretation of the Charter in which the new section 25.1(1) or section 27 applies to all parts of the Charter immediately involves a conflict. Which of these two clauses is going to have the precedence or take it into consideration?

**MR. CHAIRMAN:** That point I understand, but you go on to say section 33, the notwithstanding clause, would come roaring down the track to override multicultural heritage, which is contained in section 27, and it cannot happen under the current Charter. I'm just making that point to you. I don't want to get into a legalistic quibble here, but that's the fact as the Charter now stands.

**MR. BARABASH:** But if a ruling is made under either section 2 or sections 7 through 15 and interpreted on the basis of section 27, the notwithstanding clause can be applied. Again, sections 2 and 7 through 15 are the most critical aspects of the Charter.

**MR. CHAIRMAN:** That's not the point that you made in your presentation, however, in the second paragraph from the bottom on that particular page, but I won't pursue it unnecessarily.

So what are you going to suggest to us then? That Canadians and Alberta as our government specifically reject this federal proposal as has now been brought forward with respect to defining Quebec's distinct society? Is that the point you're making or the bottom line?

**MR. BARABASH:** The bottom line is that the way section 25.1(1) is presently worded is unacceptable. I'm not opposing identifying or creating a distinct society clause. I'm certainly pointing out, however, that this part of that proposal – and I believe there are two parts in it, to establish a distinct society clause within the Constitution and this provision within the Charter of Rights. I'm only addressing this part of that provision within the Charter of Rights, saying that the way it is being presented or proposed is in tremendous conflict with section 27

and certainly one which we cannot support in any way as it stands right now.

**MR. CHAIRMAN:** Okay.

Other questions or comments?

All right. Thank you very much. You had, as you mentioned earlier, presented earlier, and this is an effort to clarify the situation.

**MR. BARABASH:** Good.

**MR. CHAIRMAN:** I'm sorry. John.

**MR. McINNIS:** I'm a little confused with regard to how this thing operates in practice given the dialogue that you've just had. As I understand it, a concern is that if section 27 is used to interpret the Charter by the courts using the multicultural concept, a Legislature could use the notwithstanding clause to override that court interpretation. That's your point, isn't it?

**MR. BARABASH:** Of Charter sections 2 and 7 through 15, section 2 being the fundamental rights and freedoms of Canadians and sections 7 through 15 being the equality rights.

**MR. McINNIS:** So, in effect, 27 could be overridden not directly but indirectly by using the notwithstanding clause to override the substantive provision. This is an interpretation clause, and I guess that's the difficulty for us: trying to determine how an interpretation clause will be received by the courts and what effect the Legislatures might subsequently have on those interpretations that are made.

**MR. BARABASH:** As mentioned originally in the brief, we're dissatisfied with section 27 being only an interpretive clause already. The evidence that exists of court rulings with respect to section 27 are extremely disappointing. In the original brief we were asking that section 27 be increased to a substantive right and not just an interpretive clause. However, what I'm pointing out is that as things stand today, section 27 being an interpretive clause and now this section 25.1(1) also being introduced as an interpretive clause, there's a direct conflict. How's the court going to decide which of these two clauses is going to have precedent? They are obviously diametrically opposed.

**MR. McINNIS:** If you had your choice, would you rather see the two sections combined to explain which is paramount, or would you rather have them rephrased entirely as substantive clauses rather than interpretation clauses?

**MR. BARABASH:** I'm going to answer that kind of indirectly by making two points. The evidence already shows that the Supreme Court of Canada has made rulings using section 27 to strengthen both French and English rights under multiculturalism. So the Supreme Court of Canada does not differentiate French, English, and multicultural. It considers French, English as part of the multicultural provision. So in that regard the court has already been interpreting on the basis for French and English as well.

The second point is one that I'd just like to reiterate, the conclusion of a section on the supremacy of human and civil rights – and that is simply stating that the Charter must be colour-blind, in other words nonracial; it must be gender neutral;

and it has to be ethnically, culturally, and linguistically impartial and indistinguishable.

2:28

MR. McINNIS: If I could just extend that a little bit further. If your experience is one of, I think, disappointment in terms of how much weight the courts have given to section 27, saying the Constitution has to be interpreted "consistent with the preservation and enhancement of the multicultural heritage," it's possible that the proponents of the distinct society clause might ultimately be disappointed with how much effect that has as well.

MR. BARABASH: I agree that's a very valid point. However, again the main point here is that we have a direct conflict between essentially what appears to be two diametrically opposed ideas. Which one has precedence?

MR. McINNIS: I understand the point. Thank you.

MR. BARABASH: Thank you.

MR. CHAIRMAN: Thank you very much.

Ken Chapman, are you ready to proceed even though it's somewhat earlier than anticipated?

MR. CHAPMAN: Yes, sir.

MR. CHAIRMAN: Thank you.

David Hancock is not appearing, and we heard earlier today from presenter Ronald Meilleur.

Ken.

MR. CHAPMAN: Thanks very much, Jim. Ladies and gentlemen, my name is Ken Chapman. I'm a lawyer in town, but I'm not a constitutional expert. I'm here as an Albertan. I've entitled my presentation *Why Did the Canadian Cross the Road?*

The question is of relevance in our land today. We Canadians have taken a puckish glee in telling jokes and stories about ourselves. A number of years ago Peter Gzowski ran the great Canadian simile contest on his CBC *Morningside* show. Listeners from across the country were asked to finish the sentence "as Canadian as . . ." The winning entry was "as Canadian as can be expected under the circumstances." Another author has said Canada was once described as a *soupe vichyssoise*: cold, partly French, and hard to stir. Bits of Canadian humour like this reflect our tradition as a nation of unassuming, slightly self-deprecating people.

That is now all changing and very significantly. We Canadians are seen by citizens of other countries as friendly, charming, and somewhat quaint. That's good. We have been viewed from abroad, particularly by European and far eastern nations, as something like an American but not quite. That's not so good. Others, many of us included, have not been quite able to put our finger on the difference between a Canadian and an American but knowing all the time that there are fundamental differences. One U.S. comedian recently described a Canadian as "like us, different, sort of American light."

By the way, the usual answer to the question "Why did the Canadian cross the road?" was to get to the middle. The answer today is different. I would suggest an answer which would be just as telling but not so funny. The answer today is serious for the country, its sense of self, and its future. I would suggest the

Canadian crossed the road today because he wanted to go in another direction; he wanted to start anew.

Just over a year ago we were told that Meech Lake was a take it or leave it proposition. It was orchestrated as the beginning for the future of Canada. The country was at the bottom of the ninth and the entire game depended on the next pitch or the next roll of the dice, whichever metaphor you like. We will never know if that was true, because Meech Lake failed because of process, not because of its intent and purpose. Canadians now have dramatically influenced the country's constitutional process and are deeply involved in the shaping of Canada's future. We have not yet determined if we have a future together or not, but we as a country are prepared to confront the issues directly.

I think Alberta has a special and unique role to play in the final determination of the nature and identity of the country. The release of the proposal document *Shaping Canada's Future Together* on September 24 I hope will become a significant date in our history. I believe it marks a turning point in how we Canadians define ourselves as a country and as a people.

I'll comment briefly on some of the document's key provisions from an Albertan's perspective. I consider the proposal document to be an excellent commentary on an appropriate and workable vision for Canada. Before I do that, I want to implore this committee, as well as all other politicians in Alberta, to embrace an open and generous spirit on all the elements in the proposal document. What we have here is a chance to create a grander vision of our country instead of directing our focus merely to being right about a point of debate on any given issue.

I recently read about a Japanese negotiating technique which I think would serve us all well in the challenges and opportunities before us. What usually happens in a western-style negotiation is an adversarial contest of facts, logic, and emotion designed to persuade the other side about a point of view. Too often we find the winner in the negotiation is not necessarily the one in the right. This is because to win such a contest, you do not have to be right; you merely have to prove the other side is wrong. It works so far as it goes. That style does not go far enough to resolve the kind of issues we now have before us. It results in an answer to the issue but not necessarily the best answer. The Japanese technique, on the other hand, is to accept the proposal as it is, praise it for what opportunity it affords, particularly for the proponent. What the Japanese do then is not say yes or no to the idea or try and discredit it. Instead, they say something to the effect: "That idea of yours is perfect. It does everything you want it to. Now let's explore it."

We Albertans must adopt this sense of exploration of the ideas and the concepts and the proposal as opposed to choosing sides in a debate or arguing over the issues. I suggest Canadians want and need a grander vision of their country. Here, too, Alberta can set a tone and a standard in the dialogue. We have a very extensive list of proposals in the *Shaping Canada's Future* document. It is a balanced and a comprehensive compilation of important suggestions for improving and even saving ourselves as a nation. The superficial analyst will say there is something here for everybody and end the discussion there. The ethnocentric analyst will see their issue and look for trade-offs he can make with other ethnocentrics and therefore get his way at least.

The better, more creative, and, I suggest, the only way to view this document is as a whole. Looked on this way one can see a grander vision for Canada and Canadians. It is not so important anymore in Canada to be right about a piece of the picture; we have to feel good about it all. That was the message from the

people after Meech Lake. That was what the citizens' forum heard. That is my message to you today. It does not mean we must get it perfect; I for one will settle for excellent. We must remember that the enemy of the excellent is not the poor effort but the acceptance of the good enough. We need better than an adequate solution here.

I'd like to comment on some of the proposal elements that I think are important for Alberta to understand, support, and if necessary champion. First and foremost in my mind is aboriginal self-government. Alberta is already a leader in this area. We need to deepen our understanding of the sense of the aboriginal people's concept of self-government and facilitate the relationship between the First Nations and the rest of the nation. Alberta must continue this leadership role and should continue to advance the cause of aboriginal people's right to self-government. Other provinces and the federal government must open up to the legitimate aspirations of native peoples in this area. Mainstream Canadians like myself are often too ignorant and too indifferent to the purpose of such rightful aboriginal claims. Alberta must take a supportive and facilitative role in our own borders. We must encourage other jurisdictions to accept that self-government is a historical reality of this country, and it must be honoured and respected.

Number two is distinct society. Anglophones are coming to realize that Quebec's distinct society, as defined in the proposal as language, culture, and civil law, is a fait accompli. It already is. We need not fear it, but rather we should now accept, recognize, and embrace it. Part of our problem with Alberta with this need for Quebec for recognition as a distinct society is our federal government's past approaches to legitimate Quebec aspirations. We have made too many promises to Quebec again and again. We have all too often not kept those promises. As compensation for these shortcomings, Ottawa has thrown money to Quebec. As Albertans we have seen this as lots of money, to the point of giving a preference to Quebec over other regions. As a result, we have reason for suspicion as to what distinct society will mean. Now that it is defined in the proposal, I for one am more than willing to accept the concept as a unique responsibility Quebec has as a distinct society within Canada.

2:38

Thirdly is the Canada clause. As I was growing up as a Canadian, I often wondered what it meant to be Canadian. I did not have a clear and solid sense of the concept. It was like gravity. It was there for all time, and so long as it worked, I could take it for granted. Our constitutional angst has shown us that we can no longer take the concept of Canada for granted. The entrenchment of the Canada clause has received little comment to date. It is early in the process, but I hope people read it carefully and think seriously about the words and ideas that make up the Canada clause. It articulates a quality set of values and principles that I can embrace and call my country. If there is to be a trade-off, I would suggest we keep the Canada clause and give up on any entrenched private property rights and the concept of an entrenched social charter.

Fourthly, Senate reform and economic union. I like the proposals for Senate reform. I think, however, that it is still necessary to have an equal Senate. I feel this is true particularly with the proposal for a strong central economic power that is proposed as part of the economic union idea. I accept there is a need for a strong central government economic force. This is particularly true given the new knowledge-based global economy that is emerging in the entire developed world.

However, here again we have to overcome our history. Albertans will never forget the national energy program. As a result of this and other grievances, we mistrust centralization. Alberta is a very outward-looking economy. We are accomplished, world-class exporters. We can appreciate and understand the need for a strong, competitive economy. The idea of an economic union within Canada is not what causes Albertans concern. We have been promoting the idea of eliminating interprovincial trade barriers for years. What we fear is the kind of mentality that spawned the NEP. We are not opposed to a strong federal government from the centre; what Albertans fear and oppose strongly is a central government that is for the centre. I now think that the economic union idea is going to be harder for Albertans to accept than the concept of a distinct society for Quebec in Canada.

Albertans are going to have to work very hard to develop a comfort level needed to give Ottawa the benefit of the doubt on the section 91 amendments that are proposed. I believe the proposals are generally right and need to be done. However, I think we will need to understand them in much more detail before we can be comfortable with them. The dialogue on the economy has to get beyond centralization versus decentralization. We have to get to the point of designing an effective economic union in Canada that offers us opportunities to continually modernize and revise our economy and to remain relevant in the new world realities. Alberta and Quebec as strong provincial rights jurisdictions will be watched carefully by other provinces on how we react on this point. We must not forget that Alberta has also flirted with the idea of separation because of economic grievances. We have rejected this as an alternative. Alberta must now be cautious, careful, and constructive in the discussions on economic union. In the end, I believe we must have one.

Finally, the economy. In the minds of most Canadians the current economic situation in this country is far more significant than the Canada round of constitutional reform. I think the economy and the kind of Canada we are to have are very much linked, especially at this time. What we must do is not choose only one of these problems to focus our attention on. Both must be resolved together. There is no point in having an economic union without a country, and there is no future for a country without a strong and dynamic economy. We have frittered away our flexibility and our ability to respond to the dramatic economic changes necessary for us to remain competitive in the developed world. By our wanton escalation of public debt we have mortgaged our children's future for our own short-term gratification. We have reduced the productivity and the competitiveness in both our industries and our work forces to the point that our ability to maintain our standard of living in Canada is in serious doubt. In today's reality government deficit spending can only be seen as deferred taxes or reduced programs. I suggest we can no longer raise taxes; therefore, we must rationalize, reduce, and streamline government services and delivery. The federal recommendation of reducing duplication of service areas between Ottawa and the provinces is a good first step in a new and necessary attitude about how government participates in the economy.

In summary, let me say I believe we can accomplish the Canada that is inherent in the proposals of the document *Shaping Canada's Future Together*. When we've done that, we will have matured as a nation. The concomitant step we must take is to grow up as an economy. We must face up to the current realities and move immediately to get out of our public debt. I look to our provincial politicians and the people of

Alberta for a reasoned, rational, and generous approach as we go through the process of defining a new Canada.

Thanks for hearing me out.

MR. CHAIRMAN: Thanks very much, Ken.

Questions or comments? Yes, John.

MR. McINNIS: Mr. Chapman, I recognize yours as the voice I like to argue back against on the radio every Friday morning. It's good to see you in person. Perhaps we'll be able to argue in person some day; we might enjoy that. I don't think this is the day, though. I'm tempted to say that yours is a very excellent submission. It does for you everything you would want it to do; now let's explore it.

In particular, I wonder why you would go so far as you do to embrace the details in the Mulroney proposals at this early date. Some of the things that you've discussed: aboriginal land claims, aboriginal self-government is on another 10-year program until it reaches a point where it's justiciable, to use the term that the Mulroney paper uses. The distinct society clause. I lost a bet with one of our panel members the other day. I, too, thought that the definition limited distinct society, but it doesn't. It merely says it includes certain things, which means perhaps it may include other things. The Canada clause. As much as I find favour with the words that are in it, the paper says very clearly that these are symbolic measures, that they have no legal meaning in terms of being a part of our basic law of our country. If they're values at all, they're symbolic values; they're not legally binding. The economy measures. It's been pointed out that most of them require the approval of seven provinces and 50 percent of the population.

I'm just wondering why you go as far as I thought I heard you go in embracing it as a package. It seems to me that the problem we had with Meech Lake is that it was a package indivisible. It seems to me that what we should be doing in the next several months is tearing this apart, throwing it all over the floor, throwing parts of it away, picking parts up, thrashing it out quite thoroughly. Perhaps I misunderstood.

MR. CHAPMAN: You know, you're a lot like Sheila Greckol; you misunderstood in part.

The economic elements, the economic union. My point is that I don't embrace it in whole; I believe that it's something we have to do. I do not believe it has to be done in a way that takes away from provincial powers. I mean, the Supreme Court of Canada said a 5 percent cap on have provinces is a legitimate exercise of power. A lot of those things may well be there now that we haven't exercised simply because they've been writing cheques and printing money. We can't do that anymore. We have to face those hard realities as a nation. I do not like centralized power. I'm a decentralist for sure, but I also recognize that with free trade agreements, with what's happening in Europe, what's happening in the Pacific Rim, being a member of G-7, we have to make sure that we can maintain a competitive, dynamic, and productive work force. That has to be done with a strategy, I think, that is an economic strategy, that is not driven from the centre but from the centre. We have to have good input into that, and I believe there are some suggestions here that we will do that. I'm nervous about it, but I'm prepared to get into the debate, tear it all up, put it on the floor, and see what we come up with.

As for embracing the other elements at such an early stage, this is a proposal document. Classically, in Canada what we've done is said, "Here's the government's position," and we take

the easy way out and criticize it. In our adversarial political history and tradition, that's your job, to be in opposition. It's very difficult to support things if you perceive that your job is opposition. If your job is more like Jean Chrétien says – "Let's improve this" – then I'm very happy with that, and I think we can improve on this a lot. I think we can understand it a lot better, but it's a wonderful first step.

MR. McINNIS: Well, I've always felt that my job in opposition is to propose alternatives, and I think that's what this is about.

Maybe just a quick question on process. I understand that the federal government is creating an all-party committee which will be holding hearings up until about February, that they will have a report. This committee will be preparing a report from all the discussions we've had with Albertans. Where do you think we go from there? We have all these reports back in February. What would you see as being an appropriate process after February to resolve all of this?

2-48

MR. CHAPMAN: It all depends on how credible you people are as politicians at the end of the day. If you stay with the kind of credibility level you have now, you will see requests for referendum, for more public assemblies and nonrepresentative nature of democracy. You will see the people wanting power directly. If you are credible and if you haven't fallen to partisan positioning on this and you've looked at it honestly and are perceived as doing this sincerely, then representative democracy will thrive and we will go and let you make the decisions. If you don't do it on a credible basis, the population will want to do it instead of you.

MR. McINNIS: Thank you.

MR. CHAIRMAN: Thank you.  
Sheldon Chumir.

MR. CHUMIR: Thank you. Mr. Chapman, I understand your comments to indicate some form of difficulty with what you indicate is a degree of central federal economic power under section 91. If I might just state my perception of what this document does, in large part it transfers a whole range of powers – manpower, culture, and so on – to the provinces, and then it sets up what I call the myth of federal economic power, the mythology that there is some balancing feature. As I look at section 91(a), that you say you have some difficulty with, I see this giving to the Parliament of Canada the right to make laws that it declares to be for the efficient functioning of the economic union, but those are only effective if seven of the provinces agree, and then the other three can opt out for three years. To say that that gives the federal government an economic power would be tantamount to saying that the federal government has the power to amend the Constitution because if it proposes an amendment and if seven provinces agree, we've amended the Constitution. I don't see it as a federal economic power, and I can't understand what all the commotion's about.

MR. CHAPMAN: Well, we've had this document for about 72 hours. I think some of the best minds in the country have shown a great deal of restraint: not jumped into the debate, haven't been baited into the debate either. We have a lot of those learning things to do. I'm saying the old form of central versus decentral dichotomy that we set up in the country is no longer relevant. I don't see that in this document. When I read

it, I'm more in line with what you see. But I still am a captive of the history of this province and how we feel about that, and I use the NEP as only one example. We have to educate people to overcome that kind of knee-jerk reaction that this is a centralist thrust. It can be, but not necessarily. We have to have a Canadian economy which is, I think, the synergy of the 10 provinces and the territories. That's what I would like to see the Canadian economy as, not the Ottawa economy and a bunch of secondary, also-ran economies.

MR. CHUMIR: And this sets up, in fact, a collaborative process rather than a federal government process.

MR. CHAPMAN: Exactly. The other thing really good about it is that it sets up a monitoring process so we can't fudge our numbers between jurisdictions. We all have to work from the same accounting principles and the same definitions so that if we want to compare apples in Ontario to wine in B.C., we can do that.

MR. CHUMIR: Could I ask one other thing? That is that I understood you to suggest that the problem with Meech was a problem of process and not with respect to intent and purpose. We heard someone this morning tell us that they felt insulted when there was a suggestion that they were only concerned with the process and that everything was all well with the substance, in particular the issue of substance of equal rights for all Canadians vis-à-vis the Charter. Did I understand you correctly to say that you think . . .

MR. CHAPMAN: No. When I say processes, we never got to the substance. When Canadians started to understand the implications of Meech Lake, they were appalled by the process, that they were left out of it. The distinct society clause became the focus of attention, but a lot of issues about aboriginal rights and what wasn't in Meech Lake were more important than what was in it for Canadians. This, I think, addresses just about all, if not all, those considerations that were outside Meech Lake that should have been handled as part of the process. You have to remember that Meech Lake failed officially because Elijah Harper simply quietly said no and also the province of Newfoundland said no, but in a more collective manner. We had a lot of promises. We analyzed Meech Lake as we got to understand it. I think Canadians had a lot of problems with it. I think this answers a lot of those problems. I don't think it gives the right answer; I think it addresses those issues. It's a much more comprehensive document. When I say process stopped it, we really never got to look at: is distinct society in that sense what we want or don't want? We rejected the process; we didn't care what the conclusion was.

MR. CHUMIR: We didn't have the other goodies on the table.

MR. CHAPMAN: Exactly.

MR. CHAIRMAN: Thank you for your presentation. I note that you seem to contain in your message a hope that we can avoid an adversarial approach, but it strikes me that while desirable, that is not likely, because you are not going to eliminate conflicting ideologies. It might be very nice if there was not a difference between, let us use the term, left and right in terms of how the economy should be run or how governments should conduct their social and other legislative initiatives. That's going to be there.

MR. CHAPMAN: Can I respond in this way, Mr. Horsman. I'd like to respond the way . . .

MR. CHAIRMAN: And you've already seen it.

MR. CHAPMAN: Yes.

MR. CHAIRMAN: Just in the questioning from my colleagues, there's a difference of ideology shaping up here.

MR. CHAPMAN: Well, my favourite comedian, George Carlin – who's a relatively filthy man, but one of his clean jokes was: some people see the glass as half empty and others see the glass as half full; me, I see the glass as twice as big as it has to be. I think there are other solutions that don't have to be bound in rhetoric and ideology. I think we have to focus on the horizon and the definition of the country. I think it's unhelpful for people on the right to say that the social charter is merely a way of trying to get ideology entrenched in the Constitution as it is unhelpful for people on the left to say that the private property rights or the economic union proposals are simply Tory ideology. I think Joe Clark, in responding to the economic union, said that we're trying to do his through the front door. I think the whole thing has to be done through the front door. We know where people stand; now we want to see if they're of goodwill.

MR. CHAIRMAN: Well, it's a challenge that we're going to have to try and meet in our committee, obviously representing all parties and different political perspectives on major issues. We're going to have to recommend to Albertans from an Alberta perspective a constitutional framework in which governments are able to debate the social policies or the ideological concerns of Canadians and have those issues decided in that format rather than trying to entrench everything in the Constitution, which will settle the issue on one side or the other of competing political ideologies. If you think, by the way – and I'm sure you don't – that it would be so easy to put it to a referendum or whatever and avoid a fierce debate on either side of the issue, that's not going to happen either.

So we're going to work hard to try and come forward with recommendations for a constitutional framework in which governments will be able to relate to each other and in that framework try to resolve issues that will come at us from time to time. That's the role and the challenge we have.

MR. CHAPMAN: Mr. Horsman, I think that if we end up with a referendum, it will be an admission of failure of his process.

MR. CHAIRMAN: Exactly.

MR. CHAPMAN: The process in Alberta, the process across the country, and the process that was started by the proposal from Ottawa. I think that will happen if the process fails, because Canadians want these questions answered. They do not want them deferred any further, and that will be the sense of the failure of our system. I do not endorse a referendum. I would be saddened by it, but I would not be surprised if we fail.

MR. CHAIRMAN: Well, I hope people aren't starting to draft the referendum question just yet.

MR. CHAPMAN: I suggest the question be, "As Canadian as . . ."

MR. CHAIRMAN: Yes; that's what we'd end up with. Thank you very much.

MR. CHAPMAN: Thank you.

MR. CHAIRMAN: When you and my colleague Mr. McInnis meet each other on the airwaves on specific issues, one of these days I'll catch one of those.

Bruce Jackson. Welcome. Would you like to proceed?

2:58

MR. JACKSON: Okay. Thank you Mr. Chairman. My name is Bruce Jackson. I'm a Rhodes scholar in the Canadian political system; I have an MBA from the SHK. I'm an immigrant from rural Alberta. I didn't live in Stettler.

I'd like to thank you for the opportunity of being able to appear before you today. I appreciate the process that you're putting us through, and I appreciate being able to speak. I appreciate having the right to speak, and I also have the responsibility to speak, because as Canadians we have our rights, but in order to have our rights, we also have to accept our responsibilities.

Another reason I am here is I do know that one person can make a difference. You've got Mahatma Gandhi and all these guys around the world, but I'm not in that class yet.

The current situation of constitutional alignment seems to be who can do what to whom how. It reminds me of a group of children on a playground fighting over a box of Smarties. Who gets the yellow ones, who gets the red ones, and who gets the blue ones? And you're all looking for the elephant, because somebody said, "Isn't that where elephants hide when they've got multicoloured toenails?"

Gary, remember back about 1973-74 at Pine Lake we passed a motion at the Innisfail Progressive Conservative association annual meeting? It called for Peter Loughheed to take Alberta out of Confederation. I moved the motion or seconded it, and it was passed. The next day we got our 10 minutes on CHED radio. After that I continued to organize the local Oktoberfest for the Jaycees. What happened is I would phone people, and I'd say, "Gee, you've been on your phone all night; I can't get through to you." I'm sure for six months my phone was tapped. Well, CSIS or the RCMP must have had a real laugh. Perhaps then our overthrow must have been called the Oktoberfest plan or something, part of the revolution. Time and experience have made me and allowed me to laugh at that position now. Having traveled this country from one end to the other, from Inuvik to Prince Edward Island, from the gulf islands of B.C. to Quebec, I love this country.

I want to tell you my Quebec story. I had the privilege and the honour of traveling to Quebec City in 1989 to attend the Canadian Hospital Association meeting when I was serving as a hospital board member. I also was surprised to hear that 60 percent or 70 percent of the delegates at this convention in Quebec City came from Alberta. It was a good convention. Hospital boards paid our way. We all got paid \$100, \$200 a day, being away from home. You know, our hon. minister was there. She was giving one of the keynote addresses. She got up to speak to give her major address on the Saturday morning, and the funny part about this whole thing is everybody stood up and they all ran out to get the translating headphones so they could listen to her speak in French. That's part about being Canadian: being open enough to have a feeling and an understanding of how the other people live.

Understanding: it's an interesting word. Upon recent reflection that's why I'm here today. We've had the opportunity of having young Chinese students living in our basement, escaped from Tiananmen Square. They came to Canada because they believed that they had a chance. When we think about this country, we're all immigrants. For 40,000 years people have been coming to Canada. Some people called it Canada; we don't know what they called it 40,000 years ago when they came across the Bering Strait. Those people were coming to provide an opportunity for themselves and their children to do better. They wanted to come to a place where they could work hard and achieve success. We wanted to come to a country and they're coming today because it's a place that they see as being where everybody is treated equally.

Sometimes equality and status are considered differently. That brings me to another little story. Brian and Mila were having some repairs done at either Stornoway or 24 Sussex Drive, just a little job. They didn't want to bother the PMO or the chief of staff, you know, so they thought they could just handle it themselves. They ran a small classified ad in the *Ottawa Citizen* or one of those newspapers down there. The first guy that showed up at the door was a young immigrant from eastern Europe. He looked at the job and said, "Mr. Prime Minister, I think I can do it for \$900." He said, "Well, how do you figure that?" "Well, \$300 for labour, \$300 for material, and \$300 for me." Well, because we have to have rules and we have to have open access and allow people two or three quotes to make sure this is all fair and equal, he calls the local Canadian company. You know, they've been around two or three generations, a solid Canadian company. The family had been here for, oh, four or five generations. The guy comes in, "Oh, yeah, that looks like about an \$1,800 job." Brian says, "Well, how do you figure that?" "Well, \$600 for material, \$600 for labour, and \$600 for me, for overhead." Well, Brian just wanted to be sure, so he called up Sinclair Stevens' brother-in-law, the contractor. He comes in and says, "Twenty-seven hundred dollars." "Well, how do you figure that?" "Nine hundred for you, \$900 for me, and we get the immigrant to do the work." I think that's what's happening in this country today. There are too many of us sitting around taking our \$900 or our \$2,700 and letting the immigrants do the work.

As time passes, as you go on in history, will Jim Horsman's name be remembered as one of the great constitutional efforts in Canadian history? Will Sheldon Chumir be remembered by anybody? After 10, 20, 30 years we can't even remember our own Prime Ministers. Are any of us going to be remembered?

I listened to Brian and his speech the other morning laying out this new framework. I haven't been able to get ahold of the document because my MP, when I write to him and ask for information, says: oh, due to the financial restraints I'm unable to respond to your inquiries as quickly as possible. That's Mr. Thorkelson; that's a common line in his word processor.

I would suggest as a Canadian that in order for us to have a country where we can live and survive, we have to go back and get our fiscal houses in order. You guys get your fiscal house in order, and I'll let you put new shingles and new siding on it to dress it up, which is our Constitution. If we don't concentrate our effort to allow the little guys to compete fairly, equally, be treated truthfully and with compassion when all else fails, then we won't have a country.

3:08

That's the vision I have for this country. It's a place where Canadians, where people can come and they can be treated

equally, fairly. They can be treated with justice. Oh, yes, we have a great justice system in this country, but with due respect we also have a great legal system, and the two of them aren't the same. Sorry about that, Mr. Chairman. What we do have, though, is self-responsibility. We have rights. As individuals we have rights, but we have our responsibilities. Groups cannot have rights, because groups cannot put back the extra that it requires of groups. Their extra responsibility cannot be given back. They group together, and it's less than times the number in the group that comes back as responsibilities.

We have to start recognizing success rather than promotion of failure. I have been privileged to have been collecting unemployment insurance for the last couple of months. I just found out today after working for a month for a large company in Edmonton that they're not going to pay me. We have to be able to work knowing that we're going to be compensated for our efforts equally, fairly.

If you people fail to take the responsibility of going back and making sure that the little guy is getting what he needs, what will happen in this country is that I will be able to achieve another one of my visions, to be Prime Minister of "West Canucka," because it will be a different country.

Thank you.

MR. CHAIRMAN: Thank you, Bruce. Let me have our secretary give you a copy of the federal document Shaping Canada's Future Together for your consideration. Copies of it are available at our front desk along with Alberta in a New Canada, which has been our discussion paper. We welcome you to take a look at that.

Questions, comments on the presentation?

MR. SEVERTSON: Mr. Chairman, maybe I should make a comment. I do remember back to that meeting that Bruce said. I got voted down. I did not vote for separation.

MR. JACKSON: There weren't any abstainers in the hall. There were only five of us.

MR. CHAIRMAN: I can't remember what would have prompted that.

MR. SEVERTSON: Oh, that was a local PC association meeting that Bruce is referring to.

MR. CHAIRMAN: Yes, I understand, but what was the issue that prompted such a dramatic motion?

MR. SEVERTSON: Maybe he can remember. I can't remember.

MR. JACKSON: We were discussing at the time the energy and the natural resources and whose rights and whose responsibilities they were.

MR. McINNIS: You were kicking the feds off the porch.

MR. CHAIRMAN: That was a little later than 1974, that's all.

Well, listen; I appreciate you coming forward and giving us your views. I note that you opened your comments with a theme which has been recurring with great frequency; that is, if we have rights, we also have responsibilities. Certainly the responsibility of Canadians is to concern themselves with the future of their

country. We appreciate the fact that you've taken your . . . I'm sorry.

MR. McINNIS: This is not really central to your submission, but I heard you say that you had worked for a company for a month and were not being paid. So far as I know, that is the law of our province, and I'm certain that your MLA in Edmonton, whoever that might be, would be quite willing to try to resolve that matter on your behalf.

MR. JACKSON: I'll pass you out my cards. I understand that some of you may be out of a job next month. It's in the life insurance industry, so perhaps I could pass you my cards. Then I would have some income later on.

MR. McINNIS: Okay.

MR. JACKSON: Any other questions while I'm still here?

MR. CHAIRMAN: No, I think that's all. Thank you very much.

I think we'll just take a brief break now. The next presenter is Larry Quinney of the Frog Lake band. He is here, I know, but I think that we'll bring him on at his scheduled time, which is 3:30. So we have about a 15-minute opportunity to stretch, and we'll declare a break now.

[The committee adjourned from 3:13 p.m. to 3:28 p.m.]

MR. CHAIRMAN: Ladies and gentlemen, if you would, please. I'd ask my colleagues to join us again at the table and invite Larry Quinney of the Frog Lake band to come forward. Welcome.

MR. QUINNEY: First of all, I'd like to give thanks to the Great Spirit, who gives us this opportunity to be together to express our thoughts in the process towards betterment.

My name is Larry Quinney from the Frog Lake band, member of the Treaty 6 Nation. When I lift my peace pipe towards the heavenly bodies to speak to our Creator, my thoughts must be pure and my words must be as straight as the pipestem that guides my prayers directly. My strength in my belief in the Great Spirit in all Its creations will have to be as strong as the stone that holds the tobacco offering in its bowl.

Therefore, I come not to criticize but to express my views as to where our paths must cross to find common ground. As diverse as our traditions and cultures may be throughout the country, there's room for a general consensus that can create harmony. The goal of Canada is to establish a Constitution that will address with respect and honour the existence of all people so that all distinct people can participate to address the needs of all Canadians, to share the load as to how we must exist and as to how we must work together with the rest of the world.

Hon. members, I am not a professor of any kind. I don't hold a degree. I'm just a recovered alcoholic from Frog Lake band and now sit on the band council. The historic significance of Treaty 6 is what I'll be referring to.

Going back to 1876, upon three days of exchange and promises the Treaty 6 Nation and the British nation signed and sealed the contents of our treaty. These business transactions were never to be broken by any two-legged human being. Based upon the spirit of the sun, Mother Earth, and the waters, through the stone in the pipestem of the peace pipe raised to the heavens, all promises were sealed with honesty and sincerity

by both nations. No one can break the binding treaty agreement unless the Treaty 6 Nation in unity agrees to have the treaty dismantled.

In accordance with Treaty 6 these were the transactions that occurred. These are verbal translations. According to our tradition it is not written but handed down through repetition and explanation by those who were present at the time of the Treaty 6 signing. I have written them for you as my grandfathers have understood so that you may fill in the empty box that presently protects the existing treaties within the Canadian Constitution. These Treaty 6 promises are learned by myself as told by the elders through many years of listening. They are not from sections, Bills, or clauses passed through legislation but pure, honest interpretation when the Treaty 6 contents were being negotiated.

Two secretaries sat on each side of the decorated Queen's representative, who stood on a platform. A translator who was fluent in Cree and English was available. All was explained and made very clear to the Treaty 6 Nation so that there was no misunderstanding. Most of the talking was done by the Queen's representative, who rarely got off the platform during the three days of talks. These talks were between two peoples: the Indian and white man. The white man said that the Queen Mother shall stretch out her hands so that all will be provided for. No one shall regret it if they agree to the contents of the said treaty as presented.

It was made clear that the Queen's representative came with directives to negotiate for three essential items. Three fingers were held up to make this very clear. With one hand outstretched with the thumb up and two fingers from the other hand outstretched under the other hand, the Queen's representative addressed to the Indian people that this was only how much topsoil his people would require. The Queen's people needed approximately eight inches of topsoil to plant food for their animals and families to survive. The Queen's representative also asked for the grass for his animals to graze upon and also to be cut for winter storage for their animals. He also asked for the evergreen trees so that they could build homes for shelter and make lumber for other purposes.

In return the Queen's representative promised three essential items. You will never have to wish you had the same medicine as is available to our people. It will be made available to you at no cost when you require medication. A medicine chest shall be made available for your use in your own community or in close proximity. If you desire to receive an education for you and your people, it shall be made available for you at no cost. Whatever we teach our people, if any of your people want this education, it shall be made available. If you so desire, schools shall be built upon your lands with teachers provided at no cost under your authority. Your people shall never go hungry. A ration house shall be maintained by our people as your servants to distribute the abundance of the Queen Mother. No one shall ever go hungry.

So the Queen's representative, having exchanged three major items, continued padding the treaty with other promises of major importance to the Indian nation so as to assure agreement. The knowledgeable elders and braves all sat around where the Queen's representative stood. Each elder and brave had recognition by the people to discuss and make decisions for their people. Clearly there was not just one leader of the band, but one learned elder or brave was recognized by its members to stand up depending on the issue being addressed. At this particular bargaining table one who held his head high was given the authority by his people from the Frog Lake area to make the

final decision. The same would apply to the other bands or tribes of Indians of the Treaty 6 Nation.

Promises of the contents of Treaty 6 were made clear point by point. The Queen's representative made it clear that he did not come to bargain for the waters, the birds, or the wild animals. He was only there to negotiate for the three essential items. He told the Indian people that they may continue to hunt, fish, and trap as they did before, that he did not come to bargain for the birds, animals, or fish. Ammunition shall be provided so that you may continue hunting. Fish nets shall be provided so that you can fish. Material for your shelters shall be provided. Annual payments shall be made to everyone. No one shall be missed. Agricultural implements shall be provided. Number 1 seed shall be available to you for fields and gardens.

The chief shall receive a horse and buggy to visit his people. He shall never walk. The chief and the headmen shall be decorated with a uniform. They shall have brass buttons with the crown to recognize that they are authority of their people. The chiefs and headmen shall be recognized as having authority of half of the Canadian law. No white man or anyone shall step inside their territory without the consent of the chief and headmen. The chiefs and headmen shall have half of the power over the RCMP and the Queen shall have the other half. Anyone who breaks the promise of the treaty shall be tried under the laws of the Indian people. The RCMP shall enforce and protect the contents of the treaty. The RCMP shall not overrule the Indian people. The RCMP shall be under authority of the Indian headmen of the tribes. The RCMP shall not disturb the Indian people. Only upon invitation of the headmen shall the RCMP respond.

### 3:38

Land taxes shall be collected by the Queen's representatives. The money shall accumulate in Ottawa. If at any time the Indian desires to do what the white man does, all the Indian people have to do is tell the public servants provided by the Queen who are under the authority of the Indian people to contact Ottawa to send money for the purpose of intent. It was promised that moneys would be provided to the Indian people to achieve whatever they so desire. These moneys will come from the accumulation of land taxes collected. Elders of our people still today inquire about the moneys that stay sitting.

If money shall ever be found upon your lands, you will be looked upon with great respect. The place where you live shall be padded. You will never have to work. You will never be disturbed or tried for hunting and trapping for your animals or for fishing; they are still yours. The way you have lived before shall continue to be respected. You shall receive pigs or cattle each year if you so desire. All agricultural implements shall be provided for the task of farming when requested. You will be given everything that you require to establish a home. You will be given clothing, blankets, and food.

After three days of promises had been made, the elders and the braves from various tribes of the Treaty 6 Nation each took turns presenting their view. Most every headman that spoke was in agreement with the treaty contents. One brave named Striped Gopher was asked to speak. This brave said that he would not shake hands with the Queen's representatives just yet. He said that he would like to tell the Queen's representatives how his mind was set. Striped Gopher stood up and spoke: "The Queen has sent you. If she would have sent you with a red cloth to spread on this flat ground where all of our people could sit, maybe I would feel that this is true what you speak of. If the Queen would have sent her breast milk in a small spoon, if I had

touched the tip of my tongue to the milk, I would then believe that she really wants me to live or survive."

It was then that the other braves jumped up and told Striped Gopher to sit. They told Striped Gopher that his words were confusing. Striped Gopher then concluded and said to the Queen's representatives: "I do not believe that what you have said here will come true. I have spoken my thoughts, but just for the sake of it I will shake your hand." This was one of the braves at the time who did not agree that what was promised would ever be true. He felt that they were lies.

There is so much that needs to be said to conclude our position as treaty Indian people. We welcome the white man with open arms, yet they hold their hands behind their backs. We have understood clearly by the teachings of our people that we have not given up to anyone to govern us. The Queen's representatives spoke of civil servants that would be made available to Indian people. These servants would be ruled by the Indian people so that the treaties would be carried out as promised. These civil servants would be the communicators between Ottawa and the Indian people. The Indian understood that a money man would be available to them. Upon request for financial support this agent would be utilized. An agricultural servant would also be available at all times to teach and help the process of agriculture if the Indian people so desired. The RCMP would be on standby and available if need arose to protect the Indian people and to enforce and safeguard the treaty contents.

Fraud has occurred over the years: the changes that the governments make on paper to try to lessen the original contents of our treaty. Now the government wants to give us self-government. We did not participate in your elections until you said that we shall be involved in your elections to elect a Member of Parliament or the Legislature so that he or she could represent us in destroying the contents and meaning of our treaties. We have never given up the right to be governed or to be a part of your government of Canada. The government of Canada has never lived up to its trust responsibilities to enforce the business transactions that occurred in 1876. We must become a part of the constitutional talks to strengthen Canada and live up to the reality of working together.

Today the federal government still continues to play ignorant as to what transpired in 1876. The true spirit and intent of the treaties remain hidden in the eyes of their people. The Prime Minister of Canada today can stand and say to his people, "We are giving the Indian people free education, free medicare, free everything." This is not so. We have given in exchange something priceless. For as long as the sun shall shine, the rivers shall flow, the grass shall grow, the people who so desire to live in Canada will never finish paying for what we have promised in return.

Canada gives us 10 years to identify our government structure. It is there and has always been in existence. When our forefathers exchanged these major items that were desired by the British Crown, our forefathers established economic security and a life to continue existing as democratic nations to govern ourselves. The white man has tried every channel to destroy this. Today he continues. The laws and stacks of paper keep them covered in a suit of armour. When will they undress and stand in natural form with the native Canadians?

Is it too much to ask for a native park in every province where we can collect our medicines, gather our food, and retreat to feel the warmth of Mother Earth's embrace? It is difficult to have our treaties recognized: no trespassing; you have been charged for hunting; we can take your lands if we so desire for national

interest. We are willing to adopt some of the laws that govern the people of Canada. We must be given that respect. The dominant society must admit the spirit of the treaty contents. We would like to work with the people of Canada. We need to have a place in Canada that is at the same level as the Canadian government. We only wish to have your government recognize our government powers and authorities as always existent.

I do not intend to say bad things about the Canadian people who live among our people. Our forefathers have predicted that the white man is piggy, that everywhere he walks he will poison Mother Earth, that he will even end up poisoning himself, that his tongue is sweet like sugar but split two ways like that of a snake. We wish to sit down with you and help you resolve your problems. Your destruction is visible. The government continues to write down little fraudulent clauses and pass legislation to erode our treaties: the notwithstanding clause, for one time only.

If the white man was honest and really wanted to be a part of Canada, if he had love in his heart, he would have written in honesty and sincerity what was promised in exchange back in 1876 with the Treaty 6 Nation. I speak not only for the Treaty 6 Nation; I speak also for the other nations across Canada. The white man would have printed what was really said and would have distributed the books across Canada for his people to know and be educated as to the treaty contents. The list goes on as to where the government of Canada intends to destroy our rights within our country. No government of Canada has the right to transfer land to another country without the consent of the Indian people of Canada because of the treaty obligations.

Speaking for all Canadians, I conclude that if we intend to remain one country, the Indian people of Canada must be recognized as the governing body of its people. The Indian people will and must work on a bilateral process with the government of Canada. We do not wish to continue to expend money to try to tell you that these treaties are international documents. With honesty among all Canadians we wish to work together so that we can have a place in Canada and be a part of building nations. We do not intend to continue to be suppressed and remain a poverty-stricken people. I'll leave it in your vision. I'll leave it in the vision of the Canadian government and the provincial governments.

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

If there are questions from members of the panel, I would appreciate them posing them to Larry. I'm sure he'll be able to try and respond. Questions or comments?

Sheldon.

MR. CHUMIR: Thank you, Larry. You mentioned native representation, and I wasn't clear from your comments whether you were endorsing the recent federal proposal for native representation in the Senate or perhaps the proposal of the recent committee of the House of Commons which proposed special seats for natives in the House of Commons or, alternatively, whether you'd simply be satisfied with the vote and getting your representation as do the rest of Canadians based on popularity at the ballot box or some other variation perhaps.

3:48

MR. QUINNEY: I don't really understand your question, but my position with the Canadian government and the native people – the status Indians who have treaties believe they should

be recognized on the bilateral process with the Canadian government. I believe they should be on the same level with the Canadian government, and as it is today with the Assembly of First Nations, maybe we could have our own government and vote for our own people to represent us in Parliament.

MR. CHUMIR: Okay.

MR. CHAIRMAN: Thank you.  
Yes, John.

MR. McINNIS: I just want one question. Larry, the account you read to us is from eyewitnesses to what happened in 1876?

MR. QUINNEY: Yes. One of them was my mother's grandfather, my great-grandfather, Simon Gadwa, who was 17 years old at the time of the signing of the treaties. Therefore, Simon Gadwa passed on whatever promises occurred back in 1876 to my mother, which my mother then passed on to me. Also, one of the Treaty 6 pipestems is still held in our reserve. One of our respected elders, J.B. Stanley, holds the original Treaty 6 pipestem used at that time. His grandfather signed the treaty.

MR. McINNIS: I want to thank you for bringing that account to us, because I think it gives us an understanding of what actually happened at that time that we can't get from another source.

I would just like to comment that I took particular note of your comment that you don't need 10 years to identify the form of self-government. It's there; it's always existed. I took note of what you said.

MR. CHAIRMAN: Well, thank you very much.

In one of the points you raised on your final page, 12, you referred to a bilateral process between the Indian people and the government of Canada and you concluded by saying, "I leave it in the vision of the Canadian government and the provincial governments." One of the concerns I've had over the years, of course, is that in 1876 provincial governments were not in existence in this part of Canada, including the lands of various treaties that cover Alberta almost exclusively at the present time. The issue of who the Indian peoples would talk to in terms of dealing with the government has been one of frustration to me for some time. I'm pleased that you came to talk to a provincial government committee of the Legislature. I would take it from your last paragraph that you do want to consult with us – the fact that you're here today indicates that – in this whole process so we can jointly work out the difficulties. Are you saying that?

MR. QUINNEY: Yeah, that's definitely one of the points I make with the artwork that's in front of you. It's pretty hard to penetrate what exists today. It's hard to try and penetrate where you guys are today because of your laws. If I have a bunch of pens and I'm a professor or whatever or I have my law and my doctorate or whatever and I'm a lawyer and I try to represent my Indian people, there's no way I'm going to penetrate. It's your government that makes the laws; they do the legislation. Like Bill C-31: you know where it's at, and they just try and force it upon us. It's pretty hard. I guess there has to be a lot of untwisting done. You have to take off your armour so we can sit together.

MR. CHAIRMAN: The current Canadian Constitution does provide that the federal government is solely responsible for

Indians and Indian lands in terms of how they are dealt with, and there's no responsibility spelled out for the provinces in that area, except that Alberta is obligated as a result of the Natural Resources Transfer Act of 1931 to provide Crown lands for the settlement of land claims that are dealt with.

I'm pleased by what I've been hearing lately from various representatives of Indian communities: that we must all be together in this process of discussing and not separated in coming to a resolution of the concerns you express.

I thank you very much for coming forward.

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

MR. CHAIRMAN: Convey to your fellow councillors and members of the Frog Lake band our appreciation for you having come forward on their behalf today as well. Thank you.

MR. QUINNEY: Thank you very much.

MR. CHAIRMAN: David Parker.

MR. PARKER: I'd like to ask your indulgence in allowing Dr. Harry Garfinkle to share my presentation. He can be much more eloquent than me on the subject of environmentalism, since he's been at it much longer than I have. He was the former leader of the Green Party of Alberta.

I've got my presentation written down here, and I'll give you a copy, but I will try to summarize it and make it as short as possible. I want to try and persuade you that front and foremost in the Constitution we must have an environmental bill of rights. Various people have mentioned it, not the least Mr. Bob Rae of Ontario. I think that with the present situation of our environment, particularly in Alberta, this should be front and foremost. In an effort to convince you of this argument, I've put together a few diagrams of the kinds of growth which can exist to show what is happening in the environment or what could potentially happen if we continue with the kind of growth we have today.

If you look at the piece of paper, the first type of growth is called linear growth. It's not very common in the real world. I just put it there to make up this sort of complete picture. It's common as a theoretical concept in a lot of scientific applications: Ohm's law, Planck's law, spring characteristics, and numerous others. In the real world it doesn't exist; there are always factors that come in to nonlinearize processes and systems. It's characterized by the growth rate being constant. In other words, as things grow from one year to the next, if it were in terms of economics, the number of things we would produce would be exactly the same this year as they would be 10 years from now or they were 10 years ago. So that's that picture.

The second one is called saturable growth. What happens with saturable growth is that the growth rate steadily declines. It's very, very common in all natural phenomena. Human beings grow at quite a rapid rate, but in their late adolescence that growth rate levels off. I think virtually everything else in the natural world grows at that rate if it expects to continue in its existence and become sustainable. As I've mentioned in my presentation, I think that if Gro Harlem Brundtland and the United Nations commission had known about this – perhaps it's a bit scientific – they would have used it as their basis for sustainable development. They came up with a concept of sustainable development, but I think what they were really talking about is saturable growth. In other words, it levels off and things stop growing. In a finite world it's really the only one that can be possible.

The third one, called exponential growth, is on the backside of the paper. You'll notice that the growth rate starts out relatively slowly and continues to increase. Now, exponential growth exists in only a few natural phenomena, as far as I know, which are cancer cells and bacteria and those kinds of phenomena. As you well know, both phenomena destroy themselves by using up all their resources. In terms of cancer cells, the resource is a human body on which they are the host, and of course they use it up.

3:58

As I mentioned in my presentation, a few examples of exponential growth, one from Albert Einstein. If you accelerate a body toward the speed of light – which is something they try to do in these accelerators, the KAON thing they're going to build in British Columbia – if you try to achieve that, what will happen is that the mass will increase exponentially until it reaches infinity at the speed of light. It's absolutely impossible to do. That's one example of where it's impossible.

The second example: taking bacteria which reproduces at a relatively slow rate of once every minute, so it doubles itself every minute. Let's say it requires 60 minutes. I've plagiarized this from Dr. Suzuki, by the way, so forgive me for that. In 60 minutes, let's say, it would fill the test tube. Now, for the first 50 minutes you wouldn't notice anything drastically wrong within the test tube; it's still got a very small amount of bacteria. On the 59th minute of that 60-minute period, the test tube is only half full. On the 60th minute it's full. What we like to do in this society is say: "Well, that's okay. We can live like this but we can have a technological fix. We can produce another test tube." What I'm talking about here is the kind of technological fixes we analogists do. But with exponential growth at this rate, in one more minute the second test tube is full as well.

The last example I've put on here to clear it up is that if you put a grain of sand on the square of a chess board and double it as you go along the chess board and then continue on the next rank, I only went to the fifth rank with my calculator and figured out that there are 16 teragrains on the fifth rank: 16 times  $10^{12}$ . That's also exponential growth. It's clearly not possible in the finite world, which is what we have.

As further evidence that we need an environmental bill of rights, I have put down some examples of where our existing laws, either legislation or moral and ethical laws, have been subverted. Firstly, I've written about the Rafferty and Oldman dams. In both these cases the governments of the provinces have violated the laws brought down by the federal government. They both required environmental impact assessments by law. Mr. Devine had some excuse. He professed to have some kind of agreement with Mr. de Cotret, the former Environment minister. Mr. Getty didn't feel it incumbent upon him to even say that. He just continued to build it and now continues to fill it, with whatever consequences may happen. We don't know because we've not done a thorough environmental impact. It is going on, but who the hell's going to stop it once it's built?

The second example I've used is James Bay 2. It's kind of like pulling hens' teeth. The number of factors that came into play to show that James Bay 2 was going to be a potential disaster are innumerable. It was uneconomical. They were selling electricity to aluminum smelters – this was the intention – at vastly reduced rates. Fortunately the New England states of the United States discovered this, and also there was a big push, using the media, to bring this to light. We've got some respite on the whole thing. So that's the second example.

The third one I've used is dear to my heart. The third one is Daishowa. Encompassing this is the whole deforestation of the north of the province, because the idea that we can reforest that kind of land area after the record of reforestation in this province and British Columbia – I don't personally trust the things they're saying. I take sympathy with the native chap who was here shortly before, because I've been closely following the same plight of the Lubicon band. Bernard Ominayak had to go all the way to Japan to try and get someone to listen to him. His own government would not. In fact, the federal government went to the extent of creating a new band to try and divide and conquer, I suppose the concept is. Being British, I did a bit of history on that. I know what it's like to destroy a person's argument by dividing and conquering.

Not only that; the same company is logging in one of our national parks. I recently went to a presentation by Monty Hummel, the Canadian president of the World Wildlife Fund, to promote the Endangered Spaces campaign. What they're trying to do is get 12 percent – again like the United Nations commission, the Brundtland commission – of every country put aside as wilderness. Presently we have 3.4 percent, but what hope do we have of getting even anything like 12 percent when companies are allowed to go into the national parks and clear-cut log there? The regulations are not even as stringent in the provincial parks. They don't have to reforest to the extent they do on Crown lands in the rest of the province. It's actually a despicable situation.

The last thing – I'm trying to cut it short. I've written two pages on this. I've been absolutely infuriated by the situation with Al-Pac and the Mitsubishi Corporation. I don't want to go through the whole history of it again; you're probably well aware of it. What I can't understand is that if you are well aware of it, why are you allowing it to happen? We had a recommendation from the panel set up by the federal and provincial governments which said no more pulp mills should be built, certainly on that river system – the flow is too small – until the river system study is completed. The river system study has finally gone ahead, I understand, in recent weeks after some foot dragging by the federal government on financing, but we're still building the pulp mill. We don't know what impact it will have. We don't know what the baseline studies are. We don't know what conditions the rivers are in, whether they can handle the kind of effluent that will come from that mill. As you know, we spent a lot of money on the Jaakko Pöyry Oy report, which was totally wasted time; it cost \$400,000. Mitsubishi came up with another recommendation that they would use chlorine dioxide as opposed to chlorine gas; in their words, virtually eliminating dioxins and furans from the effluent stream.

I have a report here which has been put together by a friend of mine, Mr. Mitch Bronaugh, a professor at the University of Alberta, and it's been endorsed by Dr. David Schindler, who in fact won the Nobel prize for water studies for ecology. So it's not a piece of junk, and it should not be ignored. I've sent about – I don't know – 30 or 40 copies, and my colleague Mitch Bronaugh has sent numerous copies to other people. It's been shelved. I don't know why it's not being addressed. It's a critique of the scientific review panel which was the rationale for allowing the thing to go ahead. It will not produce virtually zero dioxins and furans, organochlorines, as it says. This report clearly shows that the science that was used is badly flawed. So I'd like someone to bring this to the attention of someone else who might address it. I'm sorry; I get rather angry when I think about Mitsubishi Corporation. After what they've done in

Sarawak and Borneo and Brazil, we're allowing them in and giving them vast subsidies to do this.

I think I'll leave it there and let Harry have a chance.

**DR. GARFINKLE:** I want to introduce a theoretical concept that builds on what Dave has presented. This is a concept that is known in Italian as the *comitia*, in English *comity*, in French *comité*. It was introduced by Machiavelli to urge the Italian city-states to come together instead of being fragmented and picked off one by one. It was then used by the great Italian writer Ignazio Silone to develop back in 1948 the idea of a European *comity*.

In my presentation I want to elaborate on the various curves of development to deal with the notion of a Canadian *comity* and to deal with the *comity* as a combination of cultures and bioregions, which means there is a need for both a cultural charter and an ecological charter which spells out how Indian, Inuit, French, British, et cetera, and all the immigrant groups that have come in since can work together in a Canada under a social charter. It deals with how all the bioregions of Canada can be seen as developing under an ecological Charter.

4:08

For example, the various cultural groups are all made up of a whole host of different ethnic components, and in each of these ethnic components of the larger groups of peoples there are variations which have to be represented in a Charter, in a Constitution which is fair and equitable to all peoples, which treats Canada as a growing not a fixed-origin society. In terms of the past we have to recognize at least four founding peoples: the Indian, the Inuit, the British, and the French, but if we are to look at Canada as an open society, then we have to appreciate the possible contributions of all the other cultures which are represented in the later immigration to this country. We also have to recognize what it means to put 12 percent of the country's different ecological regions into an exemplary type of treatment. In this province, for example, we have something like 17 different bioregions. The original green plan that was produced by the federal government has maps and charts showing the bioregional development of every part of Canada, and we have to look at a representation of what I'm calling ombuds-stewards, who will be responsible for the maintenance and the sustainability and the regenerability of every one of these bioregions and of all of the different cultural groups that have come into Canada to make it their home. This is the essence of fulfilling the type of growth and development which Dave has opened up.

**MR. CHAIRMAN:** Questions? John.

**MR. McINNIS:** Thank you both for coming forward. One of the greatest difficulties I have in working in the environmental area is trying to square the values that our system espouses and that certainly all of us as elected people espouse. There's nobody who runs for office and says, "Vote for me, and I'll destroy the earth"; I don't think you'll ever hear that.

David, what I thought I heard you say quite clearly is that the idea of exponential growth is fundamentally incompatible with sustainability, that those two are not the same thing.

**MR. PARKER:** In a finite box, which is the earth or the province, without going into a thorough, scientific treatise of it, I think it just lends itself to common sense. Anything, even linear growth – if the unit within the system is finite, then it

must use it all up eventually. I can't answer it more clearly than that, I don't think.

**MR. McINNIS:** Well, I guess what I'm driving at is: do you have a proposal we might put forward in terms of how to separate those two things? Let us say that we as a society want to make a decision in terms of the basic values of our country, and this is really what I think our Constitution ought to be all about: what are our basic values, what are the things that we want to protect. We make a decision that we're going to put our future survival forward as a basic value called sustainability. Ought we not then to leave to somebody other than politicians the decisions on whether a particular project meets that criterion or whether a particular piece of legislation meets that criterion or a particular decision or regulation, law, or what have you?

**MR. PARKER:** Yeah. I think I made it quite clear that in the hands of politicians it's probably the worst possible place it can be. There have only been tentative efforts so far to put it in the hands of experts, and I know this is a difficult area: who are experts; who are people who are arm's length. The best example I can think of is the Al-Pac 1. I mean, those people, contrary to Mr. Getty's appraisal, came up with objective recommendations on the Al-Pac thing. They said, you know, we don't have the information so therefore don't go ahead with it. It's not going to bankrupt the country if some of these megaprojects don't go ahead.

You asked about our fundamental value system, which seems to be, like the rest of the world, growth, productivity. But if we take a look at the kind of society we've created by putting productivity and growth as the fundamental religion, if you like – well, you only need to look at what the results are. If I go to Superstore, for example, and buy a few items, I cannot buy what I want solely. I have to buy tons of packaging; I have to take a whole bunch of stuff which I do not want. As soon as I have got this item home, I will then discard it. I have to have a whole bunch of stuff put in my letter box every day which I don't want, and this is just a manifestation of growth and productivity, taking it to its extreme. You're just given things because they have to be produced because people have to be employed. I think we should be aiming towards a society where we can employ people gainfully without them necessarily doing things which are destructive to future generations, which seems to be what we have going on right now.

**MR. McINNIS:** Thank you. I have a question for Dr. Garfinkle, if I may. The institution of ombuds-steward is not a term that's familiar to me. Could you elaborate just a little on what such people would do and how they would achieve that status of ombuds-steward?

**DR. GARFINKLE:** Well, in the 1920s a Russian scientist, Vernadsky, introduced two terms: the biosphere and the noosphere. The biosphere was the whole sphere that supports life, and the noosphere was the area in which human mind has been extended. So we have to look at Canada in the context of responsible, and a Constitution should indicate what the people of Canada would be doing in terms of their responsibility within the total life support that covers the globe and, by extension, look at the kinds of developments which would be the improvement and the regenerability of what has already been destroyed in terms of the greenhouse effect, in terms of breaching the ozone layer, all of which is affected by the way in which we treat

the resources and the various components that make up the wealth of a country.

MR. McINNIS: Thank you.

MR. CHAIRMAN: Thank you very much, both of you, for your presentation on the notion of an environmental bill of rights. It is one of the issues that has come before us on a few other occasions during the course of the public hearings. Who will appoint the judges, I guess, is a big issue that we are wrestling with: how does one assume or obtain the authority to make judgments. If you're not going to trust the politicians to do it, since they are, as I quote you, the worst of possible hands into which to put decision-making, then are you prepared to trust the people that the politicians appoint: judges or experts? You have quite correctly pointed out the dilemma that we have in terms of coming to grips with that issue.

MR. PARKER: If I could just interrupt, judges generally have been on the side of the environment in various cases by suggesting that Rafferty-Alameda should have a full EIA and so should the Oldman. Environmentalists seem to have one weapon at their disposal, and that is through the legal process plus the media to some extent. So far it seems to have worked to our advantage, if only governments would obey those laws when they come down.

MR. CHAIRMAN: Well, the judges in the federal court are by and large either defeated or retired politicians, which is an interesting situation.

Anyway, thank you very much for coming forward.

Yes, Li-Fan Chen. Welcome.

4:18

MR. CHEN: Yes. Thank you, Mr. Chairman and hon. panel members. On behalf of the Chinese Canadian National Council, Edmonton Chapter, I thank you for allowing us to make our presentation here today.

The Chinese Canadian National Council was formed in 1980 for the purpose of promoting the rights of all individuals, in particular those of Chinese Canadians, and to encourage their full and equal participation in Canadian society. The council has now expanded to cover all areas of the country with 29 chapters and member organizations. The Edmonton chapter was formed also in 1980 and has been active since in the areas of human rights and education. Past accomplishments include co-ordinating the 1982 celebration of 125 years of the Chinese in Canada. Also we have published a book about Chinese Canadian history, *Our Chosen Land*.

This submission is made in association with the Hong Kong Post Secondary Institutes Alumni Association of Edmonton. This association was formed in 1991 with members consisting of graduates of universities and colleges in Hong Kong who since have immigrated to Canada. The purpose of this association is to help integrate the members into Canadian society. That's basically the background of the two associations making the presentation here today. My name is Li-Fan Chen, as I have mentioned already.

As many of the panel members may know, Chinese immigrants started to settle in Canada in 1858. From 1880, thousands of Chinese workers were brought over here to build Canada's national railway, which now serves not only as a major trans-Canada transportation corridor but also has become a national unity symbol. However, soon after the railway was completed,

racial prejudice and discrimination erupted against the Chinese. Beginning in 1885 the Canadian government imposed the head tax against Chinese immigrants. By 1903 each Chinese immigrant would be assessed \$500 for entering this country, which was equal to over two year's wages. Moreover, in some provinces citizens' rights were taken away from Chinese Canadians. At the same time the Canadian government charged Chinese the head tax, European immigrants were subsidized by the government to come and settle in Canada. Then in 1923 Canada closed the door on Chinese immigration completely. Between 1923 and 1947 the government prohibited Chinese immigration altogether with the Chinese Immigration Act, which meant that Canadians of Chinese ancestry were not able to bring their spouses or children to Canada simply because they were Chinese.

This period of 62 years of unique legislated racism against a race in Canadian history has retarded the development of the Chinese community in Canada. However, the situation has been improved since 1947, after World War II, with the improvement of human rights around the world and in Canada. In 1967 a fair, equal immigration policy was implemented, and in the 1980s the promotion of multiculturalism by all levels of government has now fostered among Chinese Canadians a strong sense of belonging and security, a country which for many of us is our chosen land.

Under this context the Chinese Canadian National Council and Hong Kong Post Secondary Institutes Alumni Association of Edmonton feel that it is important for us to participate in the discussion of Canadian constitutional reform for the purpose of promoting harmony and co-operation among all Canadians. CCNC across Canada has submitted briefs before to various government committees about constitutional reform. Basically, we have consistently raised two issues.

First, we want a full Charter of Rights and Freedoms to protect all Canadians regardless of their racial origin, and every facet of the Charter should be examined to make sure that the interests of all Canadians should not be overlooked in any way. After having examined the new proposal made by the federal government which was tabled two days ago, we felt some areas need to be strengthened in order for this proposal to be fully supported by all Canadians of the present and future. We highlight the following areas.

First, multiculturalism. We are concerned that the concept of multiculturalism is not included in this proposal. Not a single reference to multiculturalism is mentioned in this proposal. We are disappointed that no further multiculturalism rights are specified or entrenched in this proposal despite many other rights that are granted to other specific groups of Canadians. We would like to see that a clause on multiculturalism similar to the new section 2.1 be included.

The second area we are concerned with is Quebec distinctiveness, as in section 25.1. As section 25.1 now stands:

This Charter shall be interpreted in a manner consistent with

(a) the preservation and promotion of Quebec as a distinct society within Canada; and

(b) the preservation of the existence of French-speaking Canadians, primarily located in Quebec but also present throughout Canada, and English-speaking Canadians, primarily located outside Quebec but also present in Quebec.

This section clearly excludes those Canadians who cannot speak either of the two official languages. Further, this section is in direct conflict with section 27 of the Charter, which deals with "the preservation and enhancement of the multicultural heritage of Canadians."

Next, in association with the two sections I just mentioned, we also would like to have minority education rights entrenched in this new proposal. As it now stands, we're not quite sure whether, after this proposal becomes law, I will be able to teach my kids in the Chinese language at my home.

There is a new "Canada clause." We are very pleased to know that as mentioned in the Canada clause, equality has been extended to both men and women. However, we would like that equality extended to cover all people without regard to race, colour, creed, physical or mental disability, or cultural background. The current wording of "a commitment to fairness, openness and full participation in Canada's citizenship by all people without regard to race . . ." et cetera, as listed on page 52 of this proposal, is too vague. "Equality" should be the word used.

Second, we also feel strongly that no Canadian should only be tolerated, as mentioned at the top of page 53. We would suggest the wording be changed to: the importance of acceptance of individuals, groups and communities for their distinctiveness.

We like the new clause about economic union because most of our new Chinese Canadians are young professionals and businesspeople. We think economic union will help boost Canadian productivity, reduce costs and waste. Freedoms allow goods and people to move around the country with no or much less barriers now and will only help to make the country and people stronger and united.

#### 4:28

The next area I would like to discuss is fair, equitable representation in government. We fully support that native Canadians be given seats in the Senate for their full participation in governmental affairs. However, we would also like to recommend that representatives of national ethnocultural associations be also allowed some seats for both the House of Commons and the Senate so as to allow effective representation and protection of the interests of minorities.

Regarding section 20, culture, we don't understand what this clause tries to achieve, and we can't understand how each province will be able to determine its culture and definition. We are puzzled about how this will help unify this country of Canada in the future.

Last but not least, as the Chinese Canadian community is still growing, we feel strongly that immigration should be retained as one of the basic federal powers in order to maintain an open, fair, and equal immigration policy. While provincial governments should be consulted for their particular needs and desires to set intake levels, the central government should have the ultimate decision-making power to ensure uniformity and fairness of processing of applications and helping new immigrants settle into Canadian society.

That's the end of my presentation.

MR. CHAIRMAN: Thank you very much for your presentation. Although you didn't read everything into the record relative to the background – if you got everything in, that's fine. But it's important for us to recognize some of the historical facts relative to Chinese immigration and settlement of Canada.

There's just one point that I do wish to raise with you, however. Under section 95 of the current Constitution, agriculture and immigration are concurrent powers of both the federal and provincial Legislatures. It's true that the federal government has the pre-eminent power if there's a conflict between the two, and it's also true that most provinces have not exerted their

constitutional right that's inherent in section 95, other than Quebec. Do I take it from what you're suggesting in your last paragraph that you would want that power of immigration strengthened as a basic federal power rather than a concurrent power, as it now is?

MR. CHEN: Yes, because we feel this proposal was revised from the Meech Lake accord, in which the Quebec government is going to be given the immigration power. Now the federal government probably will give more power to other provinces, which we feel might threaten the fairness of immigration in the future.

MR. CHAIRMAN: Okay. I just wanted to be clear on that point.

Yes, Sheldon.

MR. CHUMIR: Thank you for your presentation, Mr. Chen. I'm wondering: in terms of language, are you satisfied and accepting of having the two official languages in Canada only French and English, or are you wanting some official status for Chinese and other languages?

MR. CHEN: Before Chinese Canadians and most newcomers come here, we know that Canada is a country of bilingualism, with French and English as official languages. We have no arguments about that, but we feel strongly that we be able to have some rights to teach our kids in Chinese if we choose to.

MR. CHUMIR: It's one thing to have the right to teach children in Chinese; it's another thing to state that the community will fund Chinese schools. The concern that is raised with respect to the funding of Chinese schools or Sikh schools or Vietnamese schools or Muslim schools is that if you do that, then we're going to end up with a country in which we have all of our children going to school apart, segregated, rather than together. Ethnic communities that I've talked to have indicated that they prefer their children to go to school together and mix and get to know each other. Are you simply wishing protection for your right if you want to establish your own schools? Do you just want that protection, or are you wanting protection to have the community establish schools for each group and pay for them?

MR. CHEN: I think each community can determine its own policy in this regard. However, I think each individual should be given the right and freedom to educate their kids in their own language or whatever language they choose for their kids. The Edmonton public school board has a bilingual program for almost 10 languages now, but Calgary does not have it. About funding, the federal government has completely cut off the funding of the language schools already, but I have never heard of any language school being closed down because of the cut of federal funding.

MR. CHAIRMAN: John, and then Pam.

MR. McINNIS: Mr. Chen, you're not the first witness to point out the apparent conflict between clause 27 of the Charter, dealing with the multicultural nature of Canada, and the proposed section 25.1, which is a distinct society for Quebec. Both apparently say that the Constitution is to be interpreted in a certain way, and I think it's fairly obvious that those two sections are in conflict. What I'm curious to know is what you'd

see as being the best way of resolving that conflict. Would you like to see one or the other eliminated or both eliminated, because they're both interpretation clauses? I'm just curious to know what you think would be the best way to resolve that conflict.

MR. CHEN: I don't think we like the proposal of section 25.1 at all, because I think they only mention preservation of Quebec and the preservation of the existence of English- and French-speaking Canadians. Now, where are we going to put all parents who cannot speak English but who are Canadians? What kind of guarantee are they going to get? What happens to those refugees who come to this country through the Canadian immigration policy who cannot speak English or French? What kind of protection are we going to offer them?

MR. McINNIS: So I take it that what you're saying is you're opposed to section 25.1 as proposed in the . . .

MR. CHEN: Yes, I would think so.

MR. McINNIS: Thank you.

MR. CHAIRMAN: Pam Barrett.

MS BARRETT: Well, I guess that's getting close to what I wanted to ask you about too. First of all, though, Mr. Chen, I'd like to say that I personally really like your recommendation for rewording the section in the Canada clause where you say that no Canadian should only be tolerated. It's been a bandwagon issue of mine for years, and I think your recommendation for rewriting that section is very, very good. Congratulations to the CCNC.

MR. CHEN: Thank you.

MS BARRETT: I want to go back to what John was talking about, because the political reality is this: one of the tasks that we are faced with is to try to come up with a document that has the general support of Canadians, those living inside Quebec and those living outside of Quebec, and it ain't going to be easy. One of the things that the people inside Quebec really want, at least according to their spokespersons, is an acknowledgement right in the Constitution that they have a distinct society. They want it said. We all know that it's a distinct society. I mean, they do speak French predominantly; they do have their own Civil Code. Now, we've got a really difficult task in front of us and I want to ask you – it might not be easy for you to answer – if you were to get, for example, the request that you have for a new and strong reference to multiculturalism the way you've requested it, if we were to get the minority education rights that you're requesting in a fairly strong way, and I guess your change to the Canada clause, would that give you sufficient security so that we could also proceed with the new section, 25.1?

4:38

MR. CHEN: Well, I think it probably is a political reality to recognize Quebec as a distinct society. However, we don't understand what the (b) is about here, "the preservation of the existence of French-speaking Canadians" and also English-speaking Canadians, which I think is very puzzling. I'm not quite sure what the purpose of the federal government is to have this clause being there. If we want to just say Quebec is a distinct society, as a political reality without referring to English-

speaking Canadians, maybe this is a way we will be willing to consider it.

MS BARRETT: That's not bad. Thank you. Yeah. Good.

MR. CHAIRMAN: Pam has stated the dilemma quite well for us and for all Canadians, I guess, as to just how far we are prepared to go to accommodate the people of Quebec in the constitutional framework. I guess you have concerns, but all of us are going to have to think about those concerns, as to their importance and significance to the whole country, in light of the necessity in the view of many people to preserve the whole of the country.

MR. CHEN: I agree with you. However, if you look in the Canadian demographic data, I think there are the ones that are English – Anglophone – the ones that are French, and the ones that are ethnics. With this 25.1 in there, I'm not quite sure how these other minority rights will be protected. That's one of my questions here on this proposal: if somebody can tell us how we're going to make sure, starting tomorrow, day one after this proposal is implemented, that no police come to my door or to my Chinese school door saying, "Well, you cannot teach Chinese anymore." We just want something entrenched right in there. Since this document has some specificity that says we're going to preserve English-speaking, preserve French-speaking, why can't we have a similar clause to allow us this kind of freedom?

MR. CHAIRMAN: Well, we've been hearing from hundreds of Albertans, in public hearings and in writing and by telephone, that they hope that there will come a day when people refer to themselves as Canadians and not as Chinese Canadians or as English Canadians and so on – just let me finish for a moment, please – and that people will refer to themselves perhaps as Canadians of Chinese origin or Ukrainian origin, keeping intact through their families and through their cultural association ties the fact that they had a past history before they came to Canada. It seems to me that many of the views being put forward by ethnic organizations run counter to this desire on the part of many, many Canadians: to be Canadian. I'm not trying to single you out or make you feel uncomfortable, but it is a dilemma that we are facing as we try and resolve the situation and make recommendations to the Legislature of the province of Alberta. I just leave that concern with you, because it's one that we have had expressed to us many, many times.

MR. CHEN: Yes. We heard many of these kinds of arguments before. However, I think multiculturalism has been greatly misinterpreted and also maybe mistreated by the politicians of this country as well. We have come to this country as immigrants, and we all want to be Canadian. Before we came to this country, we probably had some rough ideas of what Canadians were about. When we came to the country, of course, we had some cultural gap. We learned everything in Chinese, and we came with 5,000 years of history and heritage on our backs. We came to this country, and we are prepared to be absorbed into the Canadian mainstream society. You ought to give us time to understand how this culture works in this society. I think the best way is to allow multiculturalism to coexist with the two main, official cultures and give us time to be greater integrated, to reach the goal of a Canadian.

I don't think that any of these hon. panel members – if you ever decided to immigrate to Britain or Germany tomorrow, you're probably going to start in with the Canadian club of

Berlin tomorrow anyway. I cannot see what the difference is of allowing multiculturalism in the country as part of the citizenship process to integrate new Canadians into the mainstream of society.

MR. CHAIRMAN: Well, it's a dilemma, but I must say that when you make a recommendation that representatives of national ethnocultural associations be also allocated seats for both the House of Commons and the Senate, you are not making Canadians, you're perpetuating differences. I must admit that I have trouble with that recommendation in your proposal, so I thought I'd let you know that.

MR. CHEN: I think from the university comparative politics classes that there are many, many governments in this world – Germany is one or even the Taiwanese government, and that's what I know – all have allowed special seats reserved for women, ethnic minorities, and professional groups to be part of this political process to make sure all the voices will be heard in the decision-making process.

MR. CHAIRMAN: Okay. Well, thank you.

Is Mr. Albert Knowler in the audience? If not, I'd like to ask Carol Hutchings and Rick Stoppel to come forward on behalf of the Elizabeth Fry Society.

MR. STROPPEL: Mr. Chairman, I'd like to take this opportunity to introduce, first of all, Carol Hutchings, who is the executive director of the Elizabeth Fry Society. My name is Rick Stoppel. I am a member of the Social Issues Committee of the society. I'm also a former board member of the society.

Probably most of the members of your committee are familiar in general terms with the Elizabeth Fry Society. The primary focus of our activities is the assistance of women in conflict with the law, and we are also involved in developing a public awareness of the need for change in the criminal justice system generally.

Mr. Chairman, we have decided in our submissions to focus on two particular issues. We would also like in our verbal submissions to focus on the same two issues. First of all, we would like to talk about section 15 of the Charter of Rights, which enshrines equality rights and in particular the right of women to equality in Canadian society. As we point out in our submission, many injustices have occurred in the history of our country, and our justice system has not always been adequate to address and rectify those injustices. Certainly in the area of equality of the sexes there are numerous examples of this.

One example that we would like to cite which we think is a glaring example of inequality is the prison for women in Kingston, Ontario. This has been a problem for women for many, many years in this country. As members of the committee may be aware, there is only one institution in Canada where federally sentenced women are eligible to go, and that is the prison for women in Kingston, Ontario. I think it's notorious that in the criminal justice system in Canada conditions in this prison have been abysmal for many, many years. This is a problem that's been studied many times by numerous boards and committees and task forces. The conclusion has inevitably been that this institution should be shut down and replaced with a series of regional correctional institutions for women.

4:48

Finally, in the recent past after literally decades of protest and concern we see that action is being taken on this issue, and the

federal government has been motivated to finally shut down this institution and replace it. We cannot help but feel that there is some connection between this positive action and the implementation of section 15 of the Charter of Rights, which enshrines the equality of men and women in Canadian society. This is an example of how the Charter works not only through specific issues that are litigated; it shows how the spirit of equality has more or less permeated our justice system. We point to this as an example of the benefit that we've derived from the enshrinement of equality rights in the Charter of Rights. It's certainly something that we support and we feel this committee should be endorsing, whatever other recommendations you make.

The second issue we'd like to address is the division of power in the area of corrections for women. Again we would like to address this issue in the context of a specific example. Up until recently the federal government exercised almost exclusive jurisdiction in the area of corrections, at least with respect to women who receive sentences of two years or more. About five years ago the federal and provincial governments entered into an exchange of services agreement whereby jurisdiction over many areas in corrections is now being shared between the federal and provincial governments. Since that time those of us who are involved in the area of corrections for women have witnessed a very serious lack, in fact almost a total breakdown, in co-operation between the federal and provincial governments in this area.

After the exchange of services agreement was struck, a tripartite committee was formed to co-ordinate activities between the federal government, the provincial government, and non-governmental organizations, like the Elizabeth Fry Society, that are active in the area of corrections. This committee met twice, and over a year ago the committee essentially broke down and stopped meeting. There has essentially been a breakdown in communications in this area. Our feeling is that the reason for the breakdown is a lack of co-operation between the federal and provincial governments.

We feel at this time that there is virtually no communication between the federal and provincial governments in this area. We feel that the ultimate casualties and victims in this breakdown in communications will be the women themselves, who are supposed to be served by both levels of government. We do not intend to take a position with respect to which level of government is better suited or better equipped to exercise jurisdiction in the area of corrections. We feel that due to both constitutional and practical realities, it will probably always be the case that some sharing of jurisdiction is necessary. What we believe has to happen now is this: the jurisdictional turf war that's happening between the provincial and the federal governments has to end, and both branches of government must start putting the women themselves first in their list of priorities.

I pointed out in the beginning of our submission that there are areas of disadvantage for women which have been addressed since the implementation of the Charter. It is also true that there are a number of other areas of injustice that deserve to be addressed in the future, and again I can give several specific examples.

The large numbers of women serving jail time in this province in default of payment of fines is, in our opinion, scandalous. We are told that up to 40 percent of the female jail population in this province consists of women who are in jail because they cannot afford to pay fines. These women are essentially being punished for being poor. The disproportionate numbers of native women and also native men who are convicted and incarcerated in our jurisdiction, in our opinion, is equally a

scandal. The lack of long-term programs for the support and rehabilitation of female offenders in this province is a serious problem. Carol pointed out to me before we came up to make this submission, as an example of this, that there are absolutely no halfway houses for women in the province of Alberta being operated by either the provincial or the federal government.

We believe that these problems deserve to be addressed in the very near future. We believe that these problems can only be addressed if all levels of government rededicate themselves to apply the spirit and the letter of equality in Canadian law. We also feel that these problems can only be successfully addressed if the federal and provincial governments put aside their differences and work together to serve the public in a better way.

Those are all the submissions that we have for the committee this afternoon. Both Carol and myself would be happy to answer any questions you might have.

MR. CHAIRMAN: Pam Barrett.

MS BARRETT: Thank you very much for a very good presentation. One of the things that you didn't mention on the record and I will, mainly for the benefit of the people who are here today, is something that is contained in your written submission which we received some time ago, and that is a reference to native women. The quote is as follows:

We are troubled that 30% of all women appearing in provincial court are native but 60 to 70% of women convicted and sentenced are native.

What the Elizabeth Fry Society is getting at is that the conviction rate for native women is more than twice the rate of being charged. I want to ask you: given some of the things that you just said – and it could be either of you to answer – can you see any constitutional remedy that would bring about a change either to conviction rate or to the way that women are treated by the system? I mean, it's already in the Constitution. It's supposed to be fair already, and it ain't happening. Got any suggestions?

MR. STROPPEL: Well, I think I can make one practical suggestion. I think one thing that has to be examined seriously is the whole policy of incarceration in default of payment of fines. It's quite obvious that this provision is being applied in a disproportionate way and is affecting native people much more so than people of other races, and that in effect could amount to a violation of section 15 in the Charter, but this remains to be litigated in the future.

MS BARRETT: No one's challenged it so far, eh?

MR. STROPPEL: Nobody has challenged it so far.

MS BARRETT: It would be a lot of work.

MR. STROPPEL: Certainly it's something that should be addressed in the future.

MS BARRETT: I see a clear need for policy changes. I mean, there's just no question about that. Speaking as part of the society that had to fight just to get recognized as persons, I also know that we look for a constitutional remedy wherever possible. Is there anything specific in either the constitutional proposals that were presented by the Prime Minister on Tuesday or in anything residual to Meech Lake that you could think of

that could be polished up or perked up so that there's a greater constitutional obligation of the system to treat women, and particularly native women, fairly?

MR. STROPPEL: I guess my answer to that would be, as I've said earlier in my submission, that it's important to respect not only the letter but the spirit of the Charter. When we talk about, for instance, the closing of the prison for women, something one has to wonder is why it's taken so long when we have a situation that's obviously contrary to section 15 of the Charter. We have a situation where women are placed in an extremely disadvantaged position solely by reason of the fact that they're women. It's taken eight years to address the problem and begin to solve it. I guess it's sort of a good news/bad news scenario. The good news is we're finally doing something about it. The bad news is that it's taken eight years to do it. I think the time has come to look at various problems like that and for both levels of government not to simply anticipate litigation but rather, where there's an obvious deficiency and an obvious inequality, to make the changes before it has to be forced through the courts.

4:58

MS BARRETT: Message heard. I would like to just make one comment in conclusion, and that is that you're not the first people, as you probably know, who came to the table to say, "Put down your arms and be serious and fair and negotiate with goodwill." It is probably the most consistent message we have received throughout the hearings, and I think any of us who don't pay attention to that do so at our own peril. Thanks.

MR. CHAIRMAN: I just want to pursue something along a similar line. You mentioned the breakdown between the two governments in what was to be a tripartite discussion of the issue, and you said that it's because the two orders of government are squabbling. I guess that was the term. What is the background of that? Is it a jurisdictional issue, uncertainty of jurisdiction, or is it a money issue?

MR. STROPPEL: I think it's a combination of both. I think there's a problem here that people are more or less falling through the cracks. I talked about the lack of a halfway house for women. That's the sort of thing that can't really be facilitated unless there's co-operation between the provincial and federal governments, because the federal government will be responsible if it's housing women serving sentences of two years or more; the provincial government will be responsible if it's housing women serving sentences of two years or less. Any halfway house is going to have to accept women from both sources, and they're all going to be subject to the provisions of the Parole Act, which is administered by the federal government. This is the kind of area where nothing can happen until there's discussion between the federal and provincial governments.

MR. CHAIRMAN: Well, I'm not familiar with that particular negotiation myself, but it has been clear to us in the provincial area in recent years that the federal government is off-loading some of the financial requirements in areas of their responsibility onto the provinces. I could go on at some length to give you my views about how they have done that or are doing that in the area of Indians, which under the Constitution of Canada is a clear, unmistakable responsibility of the federal government. That works into this concern of yours as well, because native

women are obviously supposed to be dealt with in large measure as Indians by the federal government.

In any event, I just wondered if you felt that money and who was going to supply the money was part of the concern, and I think you answered me.

Yes, Sheldon.

MR. CHUMIR: Thank you. I appreciated the presentation as well, and perhaps just a comment. First, if some of these problems relate to jurisdictional overlap or areas of jurisdictional conflict, where they don't meld appropriately, I think that's something that we should be looking at at this time when we are looking at rationalizing the way in which our levels of government work, because they have to serve the needs of the community. I was interested in your comments with respect to incarceration for payment of fines. It's a thing that's interested me for some period of time. As I recall some of American constitutional law, it has been held to be unconstitutional there.

Now, I've actually spoken about it and I've actually tried to get it researched and I thought I recalled a case about five or six years ago in the maritimes, and we haven't been able to find any trace of it. Why I raise this in this context is this: you mentioned that section 15 is potentially applicable. I find it a mystery and a real problem where you have a problem that is so significant – you talk about 40 percent of women in prison being there for nonpayment of fines – that is not being litigated in our society. Now, this gets to the issue of you can only enforce your rights if you can get to court and afford them. Now, at the federal level there are some programs. There's LEAF, which is involved in some matters; there's a federal program that deals with challenge of federal legislation. What is the problem? Is there a problem in terms of challenging this or dealing with it appropriately? Are there other section 15 rights that are falling through the cracks because of inability to be able to afford to go to court?

MR. STROPPEL: I have an opinion about that. My opinion is it's because of the people, the nature of the disadvantaged group. You're dealing with a group of people who are characteristically not very aggressive, people who are used to simply going through the system and accepting whatever it gives them. I suppose it's incumbent upon the government at some stage to recognize and rectify this obvious injustice rather than waiting for the people themselves, who are somewhat of a passive group, to do it on their own.

MS HUTCHINGS: The 40 percent figure you were referring to, Sheldon, is native women; it's not women in general.

MR. CHAIRMAN: Okay. Well, thank you very much for your presentation. As in many cases, the issues that you've brought to the table are not directly related to constitutional things that we could necessarily solve by changing the Constitution but relate to policy issues that have to be developed by either federal or provincial governments. We're not going to just dismiss those concerns and say, "Well, that's not our responsibility." We are going to make sure that concerns that are raised of a policy issue, a policy nature, are passed on to the appropriate ministries in our government and at the federal government's level as well. So I appreciate the representations you've made this afternoon.

And thank you for your good work. I know how hard you work and how important it is to have volunteers who are supporting you in your efforts as well. It's sometimes a very

thankless task and not at all appreciated by the general public as to what is being done. Thank you.

MR. ROSTAD: Because I have direct interest in this, I wish to apologize that because nature called, I had to be absent when you did it. I'll refer to *Hansard* and get your presentation, because I have a direct and personal interest in your concerns. Thanks.

MR. CHAIRMAN: Thank you.  
Robert Wilson. Welcome.

MR. WILSON: Thank you. I hope I'm not holding up your dinner.

MR. CHAIRMAN: Oh, no. Actually, Mr. Wilson, you're the last presenter of the afternoon, but given the norm that we've experienced in the past – and I'm sorry to have kept you waiting about 20 minutes to make your presentation – normally we go a little bit beyond this before we get to dinner, so we leave some room at the end of the day, expecting that things will go over somewhat.

Go ahead, please.

MR. WILSON: Okay. I'd like to make a few general comments. There is unprecedented public cynicism towards many politicians in power. People are also extremely tired of the constitutional debate and the continuous commissions. Brian Mulroney is the most unpopular Prime Minister since national polling started 50 years ago, and it is a tragedy that even after his disastrous handling of the Meech Lake fiasco he is still playing games with the various regions of the country. Further, our own Premier supported Mr. Mulroney without canvassing the views of Albertans, and both are scarcely trusted to renegotiate the Constitution based on the views of the electors.

The country was extremely fortunate to have a Premier and constitutional expert, Clyde Wells, who pointed out to the country the incredible dangers and special powers Quebec would have attained when they had not even defined the meaning of "distinct society." You do not have to be a lawyer to appreciate that. We have had the Spicer commission to hear the people's views. Many people recommended a constituent assembly and national referenda. Incredibly, Messrs. Mulroney and Clark said: sorry, the politicians will decide. It is abundantly clear that Mulroney will follow his own agenda and then say he did consult the people.

5:08

Let us dispel three myths being propagated by Mr. Mulroney. The first is that English Canada excluded Quebec from the Constitution changes in 1982. The fact is that Quebec refused to attend the constitutional talks, just like Mr. Bourassa refuses to attend the first ministers' conferences today. The second is that Canada today is a federation of two founding nations, French and English. It was partially true historically, but it is not true today. Even Mr. Mulroney, in his introduction speech on Tuesday, stated that Canada was first home to aboriginal peoples, then Europeans arrived nearly five centuries ago, followed by peoples from all over the world. It is an insult to the 9 million Canadians whose origin is neither English nor French to imply that they are perhaps second-class citizens. The third is that if Quebec separates, the rest of the country could not survive as a separate country. There are many countries who are members of the United Nations who have populations

and economic resources much less than the rest of Canada would have, and they are viable. I believe Mr. Mulroney really means that Quebec would have the problems if they separated.

There are three issues I would like to comment on. The first is the recognition of Quebec as a distinct society. If such recognition is symbolic, that could be accepted, but what would be the point? This week Jim Edwards, MP, was quoted as saying that Quebecers don't want to be favoured or pampered; they just want to be recognized as unique. It doesn't mean Alberta is not unique. This is somewhat absurd. If we are all unique, what is Quebec after? It is obvious there is a hidden agenda to placate the Quebec voters and appeal to the Quebec sovereignists. The aim of the distinct society is to give Quebec more special status and more special powers. At present Quebec has special status; for example, preferential rights over immigration. The sign policy in Quebec and the restricted access to English schools is not about the preservation of French but the abolition of English. The new distinct society provisions are draped with the same deceptive reasoning as the old one. It was said then and is said now that we're just asked to recognize reality. Quebec is different; why not say so? Why not, indeed, if that were all that the distinct society involved? But the recognition of difference is linked to different powers. Quebec would be the only province specifically given the power to preserve and promote its distinctiveness.

The government of Canada should be preserving and promoting Canadian culture rather than one or the other of the alleged founding nations. Canada was intended to be a cultural mosaic, not a melting pot, and it was intended to be a cultural mosaic where peoples of different cultures are free to express their own identity. This should include Quebec, where non-French minorities should be free to express their different cultures and, at the very least, in Canada's other official language, as is the case in all other provinces of Canada. The overwhelming consensus in Alberta, I believe, is that all Canadians, regardless of ethnic origin, should be treated equally. Why does Mr. Mulroney not want to preserve the language and culture of the other ethnic groups in Canada by similar procedures? If the Polish or Scottish or Asian or aboriginal languages die out, he's apparently not too concerned. We are not naive. Mr. Mulroney is from Quebec, and he needs their support. Quebec has historically been out of step with mainstream Canada, and appeasement never succeeds. Even Mr. Mulroney refers to the Canadian family, but his family is one where one member is favoured with a different set of rules which in effect excludes non French-speaking Canadians.

The second issue is the triple E Senate. During the last round of talks westerners balked at the special recognition of Quebec. One reason for this was that the deal didn't provide an equal accommodation of regional concerns. It didn't establish an elected, effective, and equal Senate. Incredibly, this package doesn't either. Messrs. Clark and Mazankowski, et cetera, know this, but they are supporting Mr. Mulroney in trying to con us into adopting a watered-down Senate. I believe the majority of Albertans are not prepared to recognize Quebec as a distinct society if Quebec is not even prepared to give Albertans an equal representation in the Senate. We must not compromise on this issue. We were dismissed in the Meech Lake proposal and semidismissed now, and we must insist on a full and complete triple E Senate.

The third issue is official bilingualism. I believe this is an incredible waste of money and time and must be abolished. It is particularly hard to accept when Quebec in its vindictiveness

ignored the Supreme Court of Canada and the Charter of Rights and attempts to eradicate English in the province.

I urge the government of Alberta to express the views of Albertans and not follow the personal view of Mr. Getty, which he expressed in the Meech Lake fiasco. We will not be blackmailed by Quebec, by their threats to separate. We want equality, and this may be our only chance to get it.

That's my submission.

MR. CHAIRMAN: Thank you, Mr. Wilson.

Are there questions or comments? Yes, Gary.

MR. SEVERTSON: Yes, Mr. Wilson. You mentioned that we have to be really tough on the triple E Senate, and you're against the distinct society clause. Would you use that as a trade-off, give the distinct society clause if we got the triple E Senate?

MR. WILSON: Yeah, I think this is the basic issue. If Quebec wants to be recognized as distinct where distinct gives them special powers, then we could well work a trade-off with the triple E Senate. I think my main concern is that we're told that recognizing them as unique, as a distinct society, doesn't give them any powers, but the wording is to allow them to promote their language. Of course, legally those have special meanings which we have to have defined. If it was a question of just saying "the French are unique because they're French," just like the rest of us, our own nationalities, are unique, that's fine. But it's not that simple. There are powers involved in that.

MR. SEVERTSON: Okay. Thank you.

MR. CHAIRMAN: Other questions or comments?

Well, thank you very much, Mr. Wilson. Clearly, the triple E is one we've heard a great deal about in Alberta because it has been officially supported by our Legislature on two occasions, unanimously. The interesting thing that I read the other day is that when the Spicer commission was meeting, one of the commissioners was quoted as saying he didn't hear a great cry in Alberta for a triple E Senate. With the people you've talked to and associated with, is the feeling as strong as I think it is, and you think it is, that we must have a major reform of the upper House in the triple E model?

5:18

MR. WILSON: I think Quebec is so urgently requiring recognition as a distinct society that this is our chance to have an equal, fair trade-off. We're being given a watered-down solution to the Senate, and we're to recognize Quebec. I think if we don't arrange a trade-off, we can say goodbye for a long, long time.

MR. CHAIRMAN: Okay. Thank you very much for coming forward and giving us your views today.

We will now adjourn until 7 o'clock. We'll be back here. The panel will be slightly different in composition because some members are coming and others are going, but we'll ensure that we have good representation here this evening for the presenters who will be here.

We can now adjourn. Thank you.

[The committee adjourned at 5:19 p.m.]