

[Chairman: Mr. Bogle]

[4:18 p.m.]

MR. CHAIRMAN: The first item on the agenda I believe we should postpone until Stock is with us, and that's a full discussion on who will be attending the various association meetings: the AAMDC, the hospital executive, ASTA, and so on. We'll hold 2 as well, Bob, for that discussion.

MR. PRITCHARD: Uh huh. Good.

MR. CHAIRMAN: I wonder if we shouldn't hold our discussion on 3, which deals with activities tomorrow and the next day.

MR. PRITCHARD: Yeah, I think so.

MR. CHAIRMAN: Why don't we go right to a quick presentation using our overhead projector?

MR. PRITCHARD: Well, that's a good idea. I'll do that.

MS BARRETT: This is on the computer-based stuff?

MR. CHAIRMAN: No. This is on information that we may wish to use at the hearings or we may wish to use for presentations, just to educate people on what's facing us.

MS BARRETT: Oh, good. Okay.

By the way, on the Fort McMurray-Slave Lake thing – again, because of not flying, I can drive up. But I wonder, is it easy to drive between the two?

MR. SIGURDSON: No, you can't.

MS BARRETT: I didn't think so.

MR. CHAIRMAN: No, not really.
Go ahead, Robert.

MR. PRITCHARD: Here I am.

MR. CHAIRMAN: The first slide just gives the breakdown of the constituencies on an alphabetical basis and the eligible voters, based on the most recent statistics we have; the enumerated lists of last fall and the updated swearing in of voters at the March 20 election added to that. We've put them in in an order from the largest constituency through to the smallest. If we're going to use these figures, I think we need to be careful and point out the anomaly with the Cardston constituency, the approximately 1,800 Blood Indians who chose not to be enumerated.

MS BARRETT: That's a really useful sheet. Boy, I'd like a copy of that.

MR. PRITCHARD: We're getting those printed.

MS BARRETT: Great. Good.

MR. CHAIRMAN: Yeah. What I wanted to do is go over this material, and if we're agreeable, we'll just add it all in our packages. Using the total number of electors on the list of one and a half million and 83 constituencies, we get a mean population of 18,685, and then you see the plus 25 percent/minus 25

percent and what that means. So we have a high of 23,300 and a low of 14,000. Okay?

Now, again looking at those constituencies that fall outside that range – all of the constituencies above, of course, are from the cities, and all those that fall below are from rural Alberta. Looking at a map of Alberta, you see the impact it has. How many constituencies did we decide we had, Bob? We added them up.

MR. PRITCHARD: It was . . .

MR. CHAIRMAN: Well, it's hard. Don't add them up; I just thought you had them.

MR. PRITCHARD: I think it's 16.

MR. CHAIRMAN: Oh. Thank you.

Let's go on with the other maps. We've got the city of Calgary. Again, those in white are within the range; those in yellow are above. The city of Edmonton – okay? Just stop Bob if there's anything that . . . Lethbridge ridings are both within; white. Medicine Hat is well above; it's almost 30,000. And Red Deer: I asked Bob to draw the outline of the city of Red Deer, because during the last redistribution – and, Tom, you'd know this better than I – in order to create two ridings where there was one, the decision was made to go beyond city limits. So you've taken part of the county of Red Deer. St. Albert: again above.

Now, looking at those constituencies that are out of sync by 35 percent or more; in other words, these constituencies have a . . . You remember the low end was 14,000 electors. Now, if you go down to 12,000 electors or fewer – so each of these ridings has 12,000 voters or fewer. Even more dramatic if you go 50 percent or more, the five ridings listed, all of which are in southern Alberta, are 10,000 or fewer. Okay?

The locations for our hearings and the dates and times. You've got to get that one corrected, Bob: Grande Prairie, 10 a.m.

MR. PRITCHARD: Oh, yeah. Okay. It was corrected on the list but it isn't corrected on here.

The Edmonton and Edson ones are now firmed up. The Edmonton ones: two of them are in the Carillon Room; and the Edson one is in the Edson Provincial Building.

MR. CHAIRMAN: Okay. Good.

And then finally, again looking at those ridings with 12,000 electors or fewer and the hearing locations superimposed on top.

MS BARRETT: Looks good.

MR. CHAIRMAN: Okay? That's the slide presentation part. Are you agreeable we should get that same material made up for members and use this as a basis for any presentations?

MS BARRETT: Absolutely. Yes, I think it's very good.

MR. CHAIRMAN: It's factual.

MS BARRETT: I have one request. I think StatsCan has it. It is very easy to do, and I think it's important for the public as well – you're not going to be able to have it ready by tomorrow daytime – the actual number of people per riding based on

current electoral divisions and the age spread, which becomes particularly important if you're talking about over 65.

MR. PRITCHARD: The population numbers?

MS BARRETT: Yeah.

MR. PRITCHARD: We'll be talking about this a bit later with our computer thing. This is something that Tomislav or the other company that we looked at, Systemhouse – both can access that information. Do it on computer so it's easy to punch that out.

MS BARRETT: Yeah, but what I'm asking for is something that I know StatsCan has – I have it for my own riding, for instance – and AVS has, and that's just the raw data.

MR. CHAIRMAN: Do they have it on a provincial constituency basis?

MS BARRETT: Yeah.

MR. CHAIRMAN: Good. Okay. Bob?

MR. PRITCHARD: I missed that.

MR. CHAIRMAN: Get that information. It'll be very helpful if we have . . . You want it on both ends of the spectrum?

MS BARRETT: Yeah. It becomes important as an indicator for us, but it's absolutely vital to the commission, because one of the things they have to look at, depending on what our recommendation is for how often a commission should be struck, et cetera, one of the things that's very important in determining boundaries is demographic changes and being able to predict four or five years from now if there's going to be a new bulge of electors.

MR. PRITCHARD: What format is that that you have on that? Is it a printed book or is it some pages?

MS BARRETT: No, it's got to be printed.

MR. SIGURDSON: It was sent out by the Legislature Library, I believe.

MS BARRETT: Yeah. The library might have it.

MR. PRITCHARD: It's from StatsCanada. Okay.

MS BARRETT: Yeah. The flight leaves at 11; you might even be able to get some of that by phoning.

MR. PRITCHARD: It's a constituency profile.

MS BARRETT: Yeah. You could phone the library at 8 or 8:30 when they open. They might be able to have it ready for you. Even if you just borrow the book, you could photocopy it somewhere along the line.

MR. SIGURDSON: There are many things also that we're going to have to wrestle with. I only throw it out now – you talked about changing the number of voters. We're changing

demographics based on where the population is going to grow and age, but at some point I think we ought to wrestle with the question: do we represent voters or do we represent everybody? As members of the Legislature we have school boards in our constituencies that have children under the age of 18, and I happen to be of the opinion that I represent them as well.

MR. CHAIRMAN: We want to look at the statistics. You're really talking about whether or not we should stay with the present format of the constituency boundaries being based on the number of electors or whether we should switch over to the number of residents . . .

MR. SIGURDSON: Population.

MR. CHAIRMAN: The population as a whole, whether they're citizens or . . .

MR. SIGURDSON: You know, again you just look at constituencies. You may have two constituencies that have a pretty similar kind of voter population base, but if in that one constituency 50 percent of the people choose not to participate in an election and in another constituency 80 percent of the people choose to participate, you still represent all of those numbers that don't participate as well. God, I've stood up in the Legislature and spoken out on behalf of individuals that I know full well don't vote.

MR. CHAIRMAN: I know. I have too.

MR. SIGURDSON: Yeah.

MR. CHAIRMAN: We have to look at that.

MR. SIGURDSON: When you're talking about, for example, hunger in the schools, those kids don't vote. I represent them. You do as well. They're part of my constituency.

MS BARRETT: Well, what's the relevance?

MR. SIGURDSON: Well, do we represent all Albertans or do we only represent voting Albertans?

MS BARRETT: Oh, I see.

MR. SIGURDSON: What the maps currently show are numbers of voting Albertans, not all Albertans, and it makes a big difference.

MS BARRETT: Right.

MR. SIGURDSON: Rural Alberta is still, I think, largely a family base compared to urban Alberta. I've got half a child a family. Figure that one out. It could make a great deal of difference.

MR. CHAIRMAN: All ready for the 4:30 . . .

MR. PRITCHARD: Okay. Do you want to . . .

MR. CHAIRMAN: I think we'll go right ahead.

MS BARRETT: Sure.

MR. CHAIRMAN: We have Barry Chivers coming in at 5:30. Pat Black is tied up in heritage fund meetings, and Frank is coming from a tourism convention?

MR. PRITCHARD: Yes, he's at a tourism convention at the Chateau Lacombe.

I'll just pass these around; these are just the address of the hangar, in case anyone . . .

MS BARRETT: I don't need it. Bob, you'll have to go in my place.

MR. CHAIRMAN: Bob is not going. I finally convinced him to get some extra part-time help. I came in on Friday afternoon. Bob was trying to sort out material to send up to the northwest quadrant. He was doing it himself. How can you be doing that and setting up all the meetings that you're supposed to be setting up? So I told him to get some help. So he wants to spend tomorrow and the next day. He assures me that he's not getting out of the trip to High Level.

MR. PRITCHARD: I'd been waiting for it all week. Actually, he told me I couldn't go.

MR. CHAIRMAN: He needs to get some other things sorted out, so . . .

MR. PRITCHARD: Some of our budget work needs to be done.

Maybe just before Bill comes, if you want to just take a peek at the package that you've got just behind your agenda. There's a submission in there, this one. It's the one from Tomislav, the fellow that we saw. Right behind it is one from a company called Systemhouse.

[The committee met in camera]

[The committee recessed from 4:39 p.m. to 4:43 p.m.]

MR. CHAIRMAN: I think in light of the time, we'll go back to items 1, 2, and 3, and then we'll have to fill Frank and Stockwell in later on those that we've dealt with.

We first go to item 1, the representation at the various association meetings. We've got the . . .

MS BARRETT: Do we know what time that is on November 8, Bob?

MR. PRITCHARD: Yup, I've written it here. November 8 is 9 to 9:30, and it's close by here. It's at 10008-108th Street. So it's two blocks from here.

MS BARRETT: I feel like I have to volunteer for something, seeing as how I'm missing some of the hearings, you see.

MR. CHAIRMAN: That's the Alberta Hospital Association, and we're making a presentation to the executive only. There will be no opportunity to convince them to get on the full agenda, because they're so heavily booked.

MS BARRETT: Yeah, that's the same for all of them.

MR. CHAIRMAN: No, actually it's not. We're on two. We're

on the school trustees, and we're on the municipal districts and counties.

MS BARRETT: Oh, we got on the MDs. Oh, okay. Because we sure couldn't on AUMA, and they're the much bigger organization.

MR. CHAIRMAN: In terms of the message, I'm glad. You know, if it had to be one or the other only, not both, the AAMDC is good because you're hitting all of the rural.

MS BARRETT: Yeah.

MR. SIGURDSON: I can do the 8th if you want, if you're booked.

MS BARRETT: No, I'm not actually. I mean, I thought I should spell off for you because you're basically filling in for me on the road.

MR. SIGURDSON: Sure.

MR. CHAIRMAN: And we'll check; Stock might be able to. I don't think he's been involved in any of these yet.

MR. SIGURDSON: He's got cabinet that day.

MR. CHAIRMAN: Yes, it is Wednesday. What time is it?

MR. PRITCHARD: It's at 9 till 9:30.

MR. CHAIRMAN: Well, actually that's before cabinet. Cabinet begins at 10. We'll check with Stock.

MR. PRITCHARD: Should I put him down with a question mark?

MR. CHAIRMAN: Put him down with a question mark.

MR. PRITCHARD: Okay. Now, what about the AAMDC. They've specifically asked for the chairman to present. That's at 3:15. It's for half an hour.

MS BARRETT: On what date?

MR. PRITCHARD: It's their general meeting on November 14.

MR. CHAIRMAN: Okay, who else would like to come?

MS BARRETT: I would.

MR. CHAIRMAN: You went to the executive, didn't you?

MS BARRETT: I did. Okay, so what time is that?

MR. PRITCHARD: That's at 3:15. He said they're being very precise about their agenda. That's half an hour. It's at the Terrace Inn on the Calgary Trail.

MR. CHAIRMAN: I think unless Frank feels very strongly about coming, the other person who should come is Mike, as a former councillor. That's the one time the rural members of this committee will outnumber the urban.

MR. PRITCHARD: And Mike attended that with you as well?

MS BARRETT: He did.

Bob, while you're standing there for a second, can you read me out the address for the AHA?

MR. PRITCHARD: Yes. It's 10008-108th Street.

MS BARRETT: Next door, in other words. Great. Okay, thanks.

MR. CHAIRMAN: Okay. Now, that's the Alberta Hospital Association, the MDs and Cs, and the next is . . .

MR. PRITCHARD: Okay, for the ASTA, the delegation from Calgary, 3 to 3:30, we already have Pat, Frank, and Tom down.

MR. CHAIRMAN: That's right.

MR. PRITCHARD: Then there's the general meeting on November 29. If we follow what we've been doing, it would be those three going to that. Oh, wait a minute. Pat Black is unable to attend on the 29th. She's moving.

MR. CHAIRMAN: Well, we'll work around that, but I think our thought was that we're in Calgary on the Monday, Tuesday of that week for meetings anyway.

MR. PRITCHARD: Yeah, you wanted everybody.

MR. CHAIRMAN: As many as can stay over for the ASTA luncheon being available.

MS BARRETT: When do you leave for convention, dollink?

MR. SIGURDSON: Right after. I'm driving.

MS BARRETT: You're driving. So would you be available on the 29th?

MR. SIGURDSON: Oh yes.

MS BARRETT: Okay, because I wouldn't be.

MR. CHAIRMAN: All right. I'll be available on the 29th, so, you know, now we'll leave the presentation with the three we have. The others can be there.

MR. PRITCHARD: Pat can't.

MR. CHAIRMAN: Well, yeah. That's right. Pat can't be there.

MR. PRITCHARD: So we'll need a substitute for Pat.

MR. CHAIRMAN: Anything else in terms of scheduling?

MR. PRITCHARD: No. That's it, basically. The only thing I would like to ask, if I could, because I'm having some difficulty around November 27, November 28, and December 11 and 12: can you tell me what your understanding is that we're doing on those days, the timing? We're going to be doing the two public hearings in Calgary, somewhere on those four dates, a trip to

Hanna, and a trip to Vulcan. Also, we are going to be working in the meeting with ASTA on the 29th. Now, during the course of our discussions, there was some reason we originally went to Calgary on those two days, and it was nothing to do with the public hearings or the ASTA, because we didn't know about them. There were other lunches and other events.

MR. CHAIRMAN: Caucus or something else.

MR. PRITCHARD: So I wanted to get the time of those other lunches and other events so that I can make the schedule work for everybody.

MR. SIGURDSON: The reason we're in Calgary the week of the 11th is that Pam and I have caucus meetings on the 13th and the 14th.

MS BARRETT: That's right.

MR. PRITCHARD: In Calgary.

MR. SIGURDSON: In Calgary.

MR. PRITCHARD: So it was just that it was convenient for the following two days; you didn't have anything on the 11th and 12th?

MR. SIGURDSON: Nothing.

MS BARRETT: When was our caucus?

MR. SIGURDSON: The 13th, 14th.

MS BARRETT: Of December.

MR. SIGURDSON: Yes.

MS BARRETT: Okay, but weren't you also asking about our Calgary meetings in November?

MR. PRITCHARD: Yeah, because we've got November 27 and 28.

MR. CHAIRMAN: And now the 29th.

MR. PRITCHARD: And now the 29th. That was just because of the ASTA.

MR. CHAIRMAN: Right.

MR. PRITCHARD: We're not going to be doing anything with the ASTA on the 27th and 28th, so I can schedule the public hearings and our other hearings and a meeting, probably, with Judge Dixon, and maybe we'll get Peter McCormick up from Lethbridge, or something.

MR. SIGURDSON: I believe there is the luncheon on the 28th.

MR. CHAIRMAN: The noon luncheon with the ASTA, which we'd want to be at, so just don't schedule anything from 11:30 through 2.

MS BARRETT: Now, will we have public hearings on the

evening of the 27th?

MR. PRITCHARD: Well, now that I know when these are, I can do the rest.

MR. CHAIRMAN: Yes.

MR. PRITCHARD: Calgary would be good in the evening.

MS BARRETT: Good. I would like that.

MR. PRITCHARD: You'd like one on the 27th?

MS BARRETT: I'd like them on the 27th.

MR. CHAIRMAN: I think we talked about the afternoon of the 27th and the evening of the 27th and basically all day on the 28th, plus the evening.

MR. PRITCHARD: Okay, so we'll do something like - but would it be easier if we did a public hearing in Calgary on the 27th and on the 28th went to Hanna, or do we want to do Hanna in the afternoon on the 27th and then come back to Calgary with a public hearing in the evening?

MR. CHAIRMAN: We want to do the country points during the day, daylight hours for travel, and the city in the evening. So we should schedule something for the afternoon of the 27th and I guess the late afternoon of the 28th if it isn't too far away, because of the noon luncheon, ASTA.

MS BARRETT: Uh huh.

MR. CHAIRMAN: If we can fit Vulcan . . .

MR. PRITCHARD: Yeah. See, between those four days I can fit in Vulcan and Hanna and then in the evening two Calgary meetings. Unless somebody has specific preferences on the 27th, 28th, 11th, and 12th, then I'll just make the schedule.

MR. CHAIRMAN: The only thing is that when we start on Mondays, we normally start afternoon, don't we?

MR. PRITCHARD: Yeah.

MR. CHAIRMAN: We're not starting early for travel time?

MS BARRETT: No. I've got it written down, 1 o'clock start time, so I can drive down in the morning.

I will not be able to be at the Calgary hearings on Tuesday the 28th in the evening. Okay?

MR. PRITCHARD: Okay. Pam absent on the 28th in the evening.

MS BARRETT: But you'll be there, so it's fine.

MR. CHAIRMAN: Can we back up for a minute to November 14; that's the MDs and Cs. Bob, would you just remind other members who aren't part of the panel that we are still urging a good attendance? I don't see the Urban Municipalities Association.

MS BARRETT: We couldn't get on their agenda.

MR. CHAIRMAN: No, we couldn't, but what we are attempting to do . . .

MS BARRETT: A booth?

MR. CHAIRMAN: They've asked if we'd like to have a booth, and I think what we should do is work with the minister's office, use his room in the hotel, wherever that is, and make ourselves available for a three-hour period of time.

MR. PRITCHARD: Mr. Bogle, there are three ministers involved.

MR. CHAIRMAN: All right. They probably all have suites, and all we need is a block of time that's good for us when one of those rooms is open so that in the package of material going out to members, we can indicate that we'll be available between 2 and 5 or whatever.

MS BARRETT: Have you sent the stuff out for their kits yet?

MR. CHAIRMAN: Well, not yet, have you, Bob?

MR. PRITCHARD: No. That's what we're putting together. The stuff for the kits has to be delivered Monday morning, so I'll have time to put an insert in that we'd be there.

MR. CHAIRMAN: What is the date? It's not on that calendar.

MS BARRETT: I should have AUMA down because of the luncheon. That's right. Just hang on a second. I know the date for that. I've got November 23 as the AUMA and then a late lunch, so that would be one of the dates.

MR. CHAIRMAN: The 23rd?

MS BARRETT: Yeah. Thursday the 23rd.

MR. CHAIRMAN: Well, then I think what we'd have to do is - it must be on for the full week.

MR. PRITCHARD: It is. It's the whole week.

MR. CHAIRMAN: And then maybe take the 22nd, try to work around a date, and members who are in Edmonton would have to go. For instance, I don't think I could make a trip just for that.

MR. PRITCHARD: I'm calling back Randy, who's somebody's executive assistant, tomorrow morning, and I told him what Mr. Bogle was going to propose. He said that would be great. So there are three ministers going: transportation, Environment, and Municipal Affairs, I guess. So if we decide the 22nd and if we have two or three reps, then I'll make arrangements with Randy to use one or two or three of those rooms and also to prepare an insert to stick in the 1,700 letters going out.

MR. SIGURDSON: I'm going out to B.C. the afternoon of the 23rd.

MR. CHAIRMAN: Then maybe we should move the request

ahead into the week even earlier so that it's . . .

MS BARRETT: Yeah. If it were on . . .

MR. CHAIRMAN: Are you thinking maybe the 21st?

MS BARRETT: Yeah, I'd be free to go on the 21st.

MR. SIGURDSON: I'm in Toronto with Leg. Offices.

MR. CHAIRMAN: But if Pam is able to go on the 21st, and you're unable to find someone else . . .

MR. SIGURDSON: I'm here on the 22nd.

MR. CHAIRMAN: Oh, you're here on the 22nd. Well, can we leave it either the 21st or the 22nd if for some reason the 22nd won't work?

MR. PRITCHARD: That would make it easier for me. And if it is the 21st, it will be Pam; if it is the 22nd, it'll be Tom, plus whoever else we find.

MR. SIGURDSON: Apologies, but you wanted us to be available, if possible, on the evening of the 14th?

MR. CHAIRMAN: No. We're making a presentation at the MDs and Cs. Is it 3:45?

MR. PRITCHARD: It's 3:15, and it's half an hour.

MR. CHAIRMAN: All right. And the idea was to have other members there that afternoon, because I'm sure there'd be some hallway chat and so on, if possible.

MR. SIGURDSON: And that was the only one?

MR. PRITCHARD: We've been given a strict half hour there, and I'm only saying that over and over because it was reinforced to me.

MR. CHAIRMAN: Well, it has to be.

MR. PRITCHARD: Having said that, you'll get there and you won't get on till 5 o'clock or whatever.

MR. CHAIRMAN: No, I think they try very hard to follow their schedule. They have to with that many delegates.

Okay. Anything else on the hearings or the association meetings? There's one other, Bob, and you may not have had time to line it up yet, and that's the improvement districts.

MR. PRITCHARD: No, I haven't lined it up yet.

MR. CHAIRMAN: Okay. That's one that Mike is particularly interested in. We should find out when their convention is and work with their executive.

MR. PRITCHARD: What I'll do if it's okay with everybody is I'll find out the date, because when do we meet again? We don't meet again for a while. I'll find out when it is. What if I call around to see who's interested and get a representative?

MR. CHAIRMAN: Well, I know Mike will want to.

MR. PRITCHARD: And one of the two of you?

MR. CHAIRMAN: We should get Frank involved if possible.

MR. PRITCHARD: And Frank. I can call Frank, both of you, and Mike, and set it up that way. How would that be?

HON. MEMBERS: All right.

MR. PRITCHARD: I wonder; while we're on get-togethers and that, did you just want to mention about an open house?

MR. CHAIRMAN: Oh. Bob had mentioned having an open house. We'd send out notices to MLAs, the offices in the Leg. and the Leg. Annex, just that we're doing something here. Help raise the profile of this office and what we're doing with our colleagues and with the staff. Sound reasonable?

MR. PRITCHARD: And tie it in with Christmas. Have a piece of Christmas cake and a glass of raspberry punch.

MS BARRETT: Sure.

MR. PRITCHARD: Does anybody have any concern about the date?

MR. CHAIRMAN: Could we leave that with you?

MS BARRETT: Well, we shouldn't make it for December 16. Oh, that's a Saturday in any event.

MR. CHAIRMAN: I'm assuming we won't be here. We won't tie it into one of our meetings or anything.

MR. PRITCHARD: No. This would just be a separate function. We'll hope to get as many people as we can, including as many members of the committee as possible. But I just thought if somebody had a favourite date or something . . .

MR. CHAIRMAN: Well, what about the 19th?

MR. PRITCHARD: That's good.

MR. SIGURDSON: December 19 in the afternoon.

MR. PRITCHARD: December 19? Sure. Does that strike you as good?

MR. SIGURDSON: I make up a mean eggnog.

MS BARRETT: He does.

MR. PRITCHARD: Are you sure you can be here on the 19th?

MS BARRETT: Oh, he made some at our Christmas party too. Oh, if you can get him to make eggnog, boy, take away people's keys; that's all I've got to tell you. Take away their keys at the door. I used to think that I made good mulled wine. Since I was staff, I've been assigned that job. But it ain't nothing compared to his eggnog.

MR. PRITCHARD: I guess we're having eggnog.

MR. CHAIRMAN: All right. Anything else on items 1 or 2, Bob?

MR. PRITCHARD: No. Thanks. I think that covers them all.

MR. CHAIRMAN: All right. Well, let's go on, then, to item 3, which really is an overview of what we're doing tomorrow and Friday. It's primarily for Tom's benefit and mine.

MS BARRETT: In that case I'll go and make a call to Via and just sort something out here.

MR. CHAIRMAN: Sure. Good idea.

MR. PRITCHARD: There's a list in your package. You're leaving at 11 o'clock by government aircraft. We've confirmed that again today; it's all set up. You arrive in High Level at 12:30. There are taxis at the airport which will take you into High Level. You go for lunch.

MR. CHAIRMAN: Do you know where we're supposed to go for lunch?

MR. PRITCHARD: No. That's just by choice.

MR. CHAIRMAN: You don't know.

MR. PRITCHARD: No. We can make an arrangement for lunch, but we thought people might . . .

MR. SIGURDSON: We'll just wander around.

MR. PRITCHARD: Sure, just have a look around. If you want, we can . . .

MR. CHAIRMAN: No, that's fine.

MR. PRITCHARD: At 2 o'clock the meeting is at the High Level Provincial Building, which is on the main street in High Level. At 5 o'clock the airplane leaves High Level for Peace River; it arrives in Peace River at 5:40. Taxis again at the airport. Again, we didn't arrange a supper. At 7 o'clock the meeting is at the Peace River Provincial Building; the address is there. The aircraft leaves for Grande Prairie at 10:15. It arrives in Grande Prairie at 11:15. A taxi's there to go to the Golden Inn Hotel. The rooms have been confirmed for late arrival. They're being billed directly, so you won't have anything to do with payments. There's a restaurant right in there, and there's also a couple of restaurants close by. There's apparently a good place to have breakfast as well. Friday at 10 o'clock you'll go to the Charles Spencer Room at the Grande Prairie Public Library, and at 1:30 after the hearing the aircraft leaves for Edmonton, getting you back here at 2:30.

There'll be juice and coffee and doughnuts provided at the meeting, set up. There are chairs there. We asked for rooms that would accommodate 50. We're being optimistic. I have a package of 150 of the "Dear Albertan" letters that you may wish to use as handouts.

MR. CHAIRMAN: Will there be an overhead at the meetings?

MR. PRITCHARD: I don't think there will be.

MR. CHAIRMAN: Can we make those arrangements tomorrow?

MR. PRITCHARD: We can make those arrangements.

MR. SIGURDSON: You could probably put it on the aircraft.

MR. PRITCHARD: Do you know what? It might be easier to put it on the aircraft. Gary Garrison's taking his *Hansard* equipment on the aircraft.

MR. CHAIRMAN: You talk to Gary in the morning. If you do that, then we'll have that available.

MR. PRITCHARD: Okay, I'll talk to him.

MR. SIGURDSON: It just might be an awful lot easier to have it with us rather than expect to have it waiting.

MR. CHAIRMAN: Have we had any questions back regarding the hearings so far?

MR. PRITCHARD: I had a call this morning from John Eamons from the *Grande Prairie Daily Herald-Tribune*, the newspaper's called. He'd seen the ad, and he talked to me for about 15 or 20 minutes, asking me about background and what we were doing and that sort of thing and said he was very interested in it and that he would be attending the hearing. I've had a number of the ministers and a couple of MLAs ask about our letters or packages or what we have here.

MR. CHAIRMAN: When will we get everything distributed to all of the MLAs?

MR. PRITCHARD: Well, a package has gone to every MLA with a sample [inaudible]. You would have received yours, Tom. When we get this new material printed as an add-on to that, which should be about maybe two, three days, we'll set up new packages and be able to give out extensive quantities, whatever people ask for.

MR. CHAIRMAN: Okay. Anything else on tomorrow, Tom?

MR. SIGURDSON: No, that's fine.

MR. CHAIRMAN: All right. You've been to the hangar before, Tom?

MR. SIGURDSON: I have.

MR. CHAIRMAN: Lots of parking there.

MS BARRETT: How long is our meeting in Victoria? I see that . . .

MR. PRITCHARD: Okay, I've got one of those agendas in your package as well. Is that what you're looking at, Pam?

MS BARRETT: Well, see, what I'd have to do is I'd have to be in Vancouver by 5:15, which means I'd have to catch the 2 o'clock ferry, it looks like, and it's a full day meeting out there.

MR. PRITCHARD: It's a full day meeting, yes. This gentleman has really gone to a lot of work to set the meeting up and the lunch and that sort of thing. But, Pam, you know if you have to leave for part of it, that's . . . You'd be there for the morning, and you'd be there for the lunch with Larry Chalmers, MLA.

MR. SIGURDSON: What time do the ferries take off?

MS BARRETT: Well, 8, 10, noon, and 2. So I presume the next one would be 4, which wouldn't be enough time to get to the train station.

MR. CHAIRMAN: So 2 o'clock? Well, the presentation at 10:45 in the morning has got to be a key part of the presentation.

MR. PRITCHARD: I would say the presentation and the lunch would be the highlights.

MS BARRETT: I mean, I could, but I don't relish the thought of taking the bus. It's pretty cramped for that long a trip.

MR. CHAIRMAN: No.

MR. PRITCHARD: Plus the 9:30 report in the morning with comments by Larry Chalmers.

MR. CHAIRMAN: Why don't you look at it and see if you can work it in? But I agree; don't take the bus.

MS BARRETT: Well, I'm sure I'd have the agenda that you gave us somewhere, and I'll just take a look at it.

MR. PRITCHARD: I'm sorry; did I not give you one of the new agendas? It should be in your . . .

MS BARRETT: Is it in the current package today?

MR. SIGURDSON: The third last.

MS BARRETT: Oh, good. Okay. Yeah, it'll be here then.

[The committee recessed from 5:08 p.m. to 5:24 p.m.]

MR. CHAIRMAN: [Inaudible] the various delegations.

MS BARRETT: Frank's been advised.

MR. CHAIRMAN: Yes. Is someone there? You don't want to leave that door open so you see who's coming and going?

MR. PRITCHARD: Well, I think . . .

MR. BRUSEKER: These are pretty nice.

MS BARRETT: They're plastic.

MR. BRUSEKER: Even so. I mean, they spelled my name right; it says "Frank" and not "Fred."

MR. PRITCHARD: Yeah, it took some work. Actually if you want a second one, we've got two of yours. They gave me a

better title, and they gave you two.

MR. BRUSEKER: Does that mean I get two votes on the committee?

MR. PRITCHARD: Oh, I don't think so.

MR. BRUSEKER: Just thought I'd ask.

MR. CHAIRMAN: We reviewed two presentations. Bob, why don't you give Frank a brief overview on the two presentations.

MR. PRITCHARD: Okay. You recall the one, Frank, where Tomislav came in and gave us a computer demonstration of some of the things he could do with the data base and building a mapping system and that sort of thing. So he submitted a proposal. It's this proposal here, and on page 5 you'll see that the cost - and I'll skip right to the cost, first of all. He's suggesting that he can do a data base and a mapping system for us for \$15,000. We had another company come in, Systemhouse. Bill Gano and I met with them, and they're suggesting they can do about the same thing for \$79,000. Now, both companies also require another \$10,000, \$12,000, or \$15,000 for things like modems and software and extras, and that's to be expected.

[A portion of the meeting was not reported]

MR. CHAIRMAN: Bob, I thought Pam put her finger on one of the reasons that there's such a variance in the bids by the two companies.

MS BARRETT: Yeah, that's what I was going to pipe up to say. See, Tomislav did all this. I mean, he knows his stuff inside out because he did it for the ABS. So he's got most of what he needs, and that's why he can come in at such a cheaper price. He's already done all the groundwork, or almost all of it. So even if we are looking at an additional \$10,000 or even \$15,000 for the extra stuff, we'd be looking at that with either company, but he's an expert. I mean, I saw the guy. I've met him before in any event, but he really knows what he's doing here, so I certainly support his proposal. When we met with Bill Gano awhile ago, I guess all three of us thought the same way. I mean, first of all, it saves money. Secondly, we're not paying to train him. He's already trained. He knows what he's doing. Would you agree with that then?

MR. PRITCHARD: I think the other thing that's important, Frank, is that this system is something that's being built not just for the use of this committee but ongoing for the commissions that are struck after and into the future, for future commissions, because they're both systems that can be built on and used in the future, whether looking at boundaries or getting new demographics or population shifts and changes and those sorts of things.

MR. BRUSEKER: I guess the only question I would have would be: is there anybody else out there who maybe has the knowledge or has started something like this that we haven't looked at yet? That would be the only question I'd have. Before we sign on the dotted line, so to speak, we should have explored all the avenues that are there. Comparing the two of them, I mean, you are looking at a fifth of the cost.

MS BARRETT: That's right.

MR. PRITCHARD: What I did was go to Bill Gano, who's worked in computer systems for some time. I drew on his expertise from people that he knows in the field, and these were the two companies he came up with that probably could do the best job, one a large one and one a small one. I don't know how else we could particularly find somebody else who has done this work. I thought we were rather lucky to come up with Tomislav, who has done this kind of work for Municipal Affairs and some other work with Pam.

MS BARRETT: Yeah. If I could just add to that, I'm not an authority on this, but I met Tomislav in a different environment - I can't even remember where - and he told me what he did. I said: "Jeez, you do that? Do many people do that?" He said, "As far as I know, nobody else does that." I believe it. I just have enough connections in the computer world to suspect that that's the case.

MR. PRITCHARD: Mapping is a new science, and Bill Gano also did reference checks on both companies. Both their reference checks are good, but Tomislav was highly recommended and people who had hired him before would hire him back.

MR. BRUSEKER: Well, I think certainly on the basis of price his proposal is far more appealing. But from what I saw in the presentation, I think there were some things lacking. Specifically, for example, in the cities the commission would need to have maps that show particular streets and avenues and be able to do the kinds of things we saw demonstrated to us in the chief electoral office in Regina, I believe it was, where they did a demonstration and showed a community and then said, "Okay, if we take this poll boundary and move it here, and then the program automatically recalculates, we would need a program that could do those recalculations and say yes, now we've got equal distributions of people and population in these different polls and then across constituencies and so forth."

MS BARRETT: You're going to need that in any event.

MR. BRUSEKER: So that was missing from Tomislav's.

MS BARRETT: It would be missing from the other one as well.

MR. PRITCHARD: And Tomislav's demonstration was very general, Frank. He talked to us about being able to get data down to the size of the enumeration areas, which are very small, I suppose similar to polling stations. That information and stuff that we can get we did not have when he came and did that.

MR. BRUSEKER: Yeah. You see, I would think the cities must have something like that already for their planning for sewers and water and so forth. I know, or at least I'm reasonably certain, that in the city of Calgary they already have that computer mapping.

MR. PRITCHARD: Well, certainly from the federal government statistics they can get a lot of data down to very small areas.

MS BARRETT: And that's also available on disk now.

MR. PRITCHARD: Yes, and he has access to that.

MR. CHAIRMAN: It goes without saying that we'd want to be sure we can obtain from the successful firm the same data we saw while we were on our Regina/Winnipeg trip.

MR. BRUSEKER: Certainly what Tomislav showed us I was impressed with, but we need some more fleshing on that. I presume that's where the extra costs would be.

MR. SIGURDSON: Two programs could probably interface.

MR. CHAIRMAN: Stock, we're dealing with the bids from the two firms, SHL Systemhouse and the one by Tomislav. There's quite a difference in price between the two, and it's been pointed out one of the reasons is that Tomislav has already done a lot of the work, so he'll be up to speed that much faster. We asked the specific question of Bill Gano, whether or not he had a recommendation, and he did. He recommended Tomislav, and Bob supported that. The three of us - there were only three at the time; it's a minority in the committee - felt comfortable enough with the presentation, so we've included that subject to ratification by the full committee.

MR. PRITCHARD: Frank, I think that in the proposal - we were talking about detail - he talks about being able to capture detail about each polling station, 5,800 of them, which would give votes by party, candidate, number of names, rejected ballots, votes polled, voter turnout.

MR. CHAIRMAN: Yeah. I think Frank was talking about going beyond the polling station so you could break a polling station into two or three parts and get that same information. Is that correct, Frank?

MR. BRUSEKER: Yeah. For a polling station I would like to see a map of a particular community - say my community, for example, Ranchlands community - showing where the two schools are located and which are the two polling stations and then showing the streets within there. Within my community I think there are probably half a dozen polls that go to those different polling stations, and I would like to be able to look at that on a computer monitor, see that projected, and then say, "Okay, if we shift the boundary west by two blocks, what effect will that have on the polls as they are then redistributed?" which is getting to be very, very specific.

I guess my question then . . . As I said, I agree with you; I'm strongly leaning towards the proposal of Axion Spatial Imaging Ltd. My question would be: in the anticipated extra cost of \$15,000, will he or can he get us to that point, or to get us to that point, would it be considerably more money?

MR. PRITCHARD: I can find out that detail. Tomislav's proposal is \$15,000 plus up to \$15,000 for add-ons. The Systemhouse one is \$79,000 plus \$15,000 for add-ons. They both have that \$15,000 add-on. So the difference between the two is more significant; it's between \$15,000 and \$79,000.

MR. BRUSEKER: Oh, yes. I realize that. So from that standpoint, you know, this one, Axion Spatial Imaging, is . . .

MR. PRITCHARD: Yeah. I'm sorry Bill isn't here right now, because I'm sure he can answer your question. I'm just going to

give him a buzz. He may have just stayed around.

MR. BRUSEKER: Well, we know it can be done, because we saw it in the Saskatchewan electoral office.

MR. DAY: The \$15,000 . . . Sorry. Go ahead, Pam.

MS BARRETT: No, it's okay.

MR. DAY: Is the \$15,000 purchasing equipment also?

MS BARRETT: No.

MR. DAY: That's just the project costs. Do we have the equipment here or available through . . . Like, did we go out and purchase the equipment?

MS BARRETT: Well, no, because it's all software, you see. It's compatible with any computer. The programs he's got are already on disk. The add-ons would be on disk as well. In fact, I'm not sure that this committee will ever seek the detail you're talking about, frankly. That's more the commission's work as opposed to ours.

MR. BRUSEKER: Yes, it is.

MS BARRETT: I'm quite certain most of that is available already. The question is transferring it from one type of base to another. I mean, almost all programs can be transferred to a different base program through an interface, a subprogram.

MR. PRITCHARD: Yeah. Bill Gano assured me that actually the information proposed by both companies is adequate as a strong base for whatever needs to be done in the future. It's not a throwaway thing after it's finished. This is something they can build on for the future. They get more detail or use down the road.

MR. BRUSEKER: Pam, you're right in terms of the detail I'm questioning here. We don't need it on the committee. But if we're going to be looking at purchasing something for the committee, then we should be looking to be able to take what we've purchased and transfer it over to the commission so they don't have to turn around and buy something totally different at another \$30,000 or \$50,000 or whatever.

MR. CHAIRMAN: Or if they wish to add on, that can be done using the material we have as a basis.

MR. BRUSEKER: And the program could grow.

MR. CHAIRMAN: Yes, it could grow.

MR. DAY: That was my concern, too, that this would be able to move right into the commission's hands.

MR. PRITCHARD: To answer your question about equipment, the computers we have here are the models that will be used for the ones Bill's bringing in for the . . .

MR. CHAIRMAN: Great. So do we have a consensus?

HON. MEMBERS: Yes.

MR. CHAIRMAN: Thank you.

[The committee recessed from 5:36 to 5:57 p.m.]

MR. PRITCHARD: Our guest is Barry Chivers. I'm really pleased he could come and join us tonight. He's going to give us an analysis of the current electoral boundaries process in Alberta from a legal perspective. He's written up a paper, which I just handed out. So, Barry, without further ado.

MR. CHIVERS: I'd like to thank you, Bob, and thank the committee for inviting me here.

This is something that is of interest to me. My initial interest in it began last spring when it was brought to my attention that the population disparity in Alberta is what it is. I don't think there's any dispute as to the gross disparities amongst the urban ridings and between the urban ridings and the rural ridings.

In any event, I thought I'd begin by making reference to a joke I heard concerning Ross Thatcher. Please excuse me for losing my voice during this; I'm just recovering from a cold. In any event, when Thatcher was Premier of Saskatchewan he was accosted by an elector who was somewhat irate because of the disparities between constituencies in Saskatchewan. He proceeded to list the disparities line and verse. Thatcher's response was essentially: "Well, you're right; I agree with you. This is a serious matter. The minute we become the opposition, we'll be on the bandwagon." I think that little anecdote probably displays or underscores the ultimate irony of the process of redistribution and also indicates and illustrates the desirability so far as possible of conducting it on a nonpartisan basis. I realize that is not something that is ever achievable in totality, but it is a goal to move towards.

The reality, of course, in a situation such as we find ourselves in here is that usually the government party is the principal beneficiary of the disproportion and is naturally reluctant to relinquish the advantages that accrue to it. On the other hand, redistribution is an issue that crosses party lines, and I think probably on this committee you will see some evidence of that in practice when you get down to the nuts and bolts of crunching the numbers and trying to make the system work. The party distinctions become blurred by the multiplicity of political considerations. No party wishes to champion redistribution at the risk of losing what it perceives as one of its bases of support. Every party wishes to preserve the status quo with respect to the representation it does have in the Legislative Assembly.

In practice, there's a significant degree of opposition amongst all political parties to redistribution. This is because redistribution disturbs the status quo and may affect particular individuals, groups, or even MLAs of particular political parties in their entirety. On the other hand, a democratic process has in its fundamental nature a demand for the equality of voting power, and no government or political party can afford to ignore this imperative.

I don't know whether you want me to go through this in detail. What I've done – if I can just give you a brief overview – is made some observations and described the situation with respect to the Dixon and AG of B.C. case, which I think is probably the most significant case log you're going to be dealing with in the process of your deliberations. I've also made some reference to the experience in the United States, which I think is probably going to prove a fruitful source for analogy, although it can't be applied without some distinctions being made as a result of the differences in terms of the Constitution and, in

particular, with respect to reference to section 3 of the Canadian Charter of Rights and Freedoms.

You should be aware that the American Constitution does not have a provision similar to our Charter section 3 as set out at the bottom of page 2, along with section 1, which is the other significant section, and section 38, which is the section that makes direct reference to . . . Excuse me; section 38 is the amending formula. Section 42 is the section that makes direct reference to the principle of proportionate representation of the provinces in the House of Commons. You will note that reference to proportionate representation does not apply to the Legislative Assemblies of the provinces, however. It would be a strange result indeed if the courts were to determine that the principle of proportionate representation applied to the House of Commons but not to the Legislative Assemblies of the provinces. In any event, I think that question, although not directly answered in the Dixon case, is indirectly answered in the sense that there the court held that relative equality of voting power is a Charter requirement in the context of the British Columbia Legislative Assembly. But that is a matter you may have to direct your attention to.

In the Dixon case the petitioner sought an order declaring the British Columbia legislation invalid on the grounds that it violated the guarantees in the Charter of Rights and Freedoms. The counsel for the applicant did argue all of the various and assorted provisions and guarantees in the Charter of Rights and Freedoms and concentrated to a significant extent on the equality provisions in section 15. However, the court founded its decision essentially on section 3 of the Charter – and this is a paraphrasing of the decision of the court and a summary of it – that the right to vote under section 3 of the Charter encompassed the concept of relative equality of voting power as the single but most important factor to be considered in determining electoral boundaries, that electoral distribution as established by the British Columbia legislation offended the right to vote under section 3 of the Charter, and that in the circumstances it was not necessary to consider the effect of other Charter provisions on the electoral distribution scheme set out in British Columbia legislation. I think that is something you should bear in mind, or may wish to bear in mind in any event: that there are other sections of the Charter, such as freedom of expression and freedom of association and other sections, that have some bearing on these questions, although not so much in terms of the concept of relative equality of voting power.

The court went on to consider whether or not the legislation in B.C. was saved by section 1 of the Charter. It was argued that the legislation, as it was framed, represented a reasonable limitation on the guaranteed rights and freedoms which was demonstrably justified in a free and democratic society. The court rejected that argument.

The court's approach to remedy, I think, is a very interesting one. The court noted that it did have the power to strike down the existing electoral boundary system but noted that if it did so, the districts would vanish, and in the event an election was required, there would be chaos. It would be impossible to conduct an election, and as a result there would be disenfranchisement of the citizens of the province. I had set out some quotations from the decision on page 4, which I won't read. The conclusion of the court was that rather than striking down the legislation, the court would permit the government a period of time in which to remedy the situation. I understand that process is now under way in B.C., although I'm not sure how far along it is.

In a general sense, as the situation is in Alberta, the effect of the disparities under the British Columbia legislation with respect to voter distribution was to enhance the power of the rural voter. Votes in urban areas tended to be worth considerably less than votes in rural areas. The court rejected the argument of the Attorney General, who cited five factors justifying greater weight to rural votes. They're set out at the bottom of page 3 and the top of page 5. We will note later on when I make reference to section 19 of the Alberta Act that some of these matters are addressed to a certain extent as considerations listed under section 19.

The court also referred to the textbook by Boyer, *Political Rights: The Legal Framework of Elections in Canada*, where Boyer has enumerated nine points as forming part of the section 3 guarantee of the right to vote. I've listed those on page 5. The court then goes on, and I think this is one of the important aspects of the decision:

I would add to this list a tenth precept. It cannot be denied that equality of voting power is fundamental to the Canadian concept of democracy. The claim of our forefathers to representation by population – "rep by pop" – preceded Confederation and was confirmed by it.

As I have earlier noted, the purpose of the s.3 guarantee of the right to vote must be to preserve to citizens their full rights as democratic citizens. The concept of representation by population is one of the most fundamental democratic guarantees, and the notion of equality of voting power is fundamental to representation by population. The essence of democracy is that the people rule. Anything less than direct representative democracy risks attenuating the expression of the popular will, and hence risks thwarting the purpose of democracy . . . I conclude that the notion of equality is inherent in the Canadian concept of voting rights.

I then proceeded to analyze to the best of my ability in the limited time available the sort of factors that go into the concept of equality of voting power, and that appears at page 6 under part IV. The concept of equality of voting opportunity encompasses diverse matters such as the citizen's opportunity to cast a vote, a community's chance to be represented within the context of a larger polity in proportion to its population, the racial group's ability to prevent the purposeful dilution of its voting power, the candidate's ability to gain a place on the ballot, and the constituent's chance to contribute to a chosen candidate.

It's easy to articulate the principle in the abstract; it's much more difficult to apply it in practice. For example, the general precepts of the apportionment doctrine are simple to articulate. There should be some form of mathematical equality. Every individual should have the right to have his electoral constituency represented in proportion to the population. However, the American experience has been that even mathematically sound apportionment schemes can be used to circumscribe, or sometimes systematically circumscribe, the voting impact on specific groups. One example of that – and that is one of the situations that existed in British Columbia – was the multimember district. That plan can be manipulated so as to submerge the interests of a particular minority group or racial group, an ideological group, since more than likely a majority, an overall majority, will elect all the representatives of a multimember district even though there may be a significant minority, whereas if the district were broken down into several single-member districts, the outvoted minority is often able to elect some representatives. The temptation, of course, is to engage in gerrymandering, to draw the lines of the district so as to limit the voting power of cognizable groups of voters. Of course, the problem of ger-

rymandering is not limited to multimember districts. It applies equally to the unscrupulous crafting of single-member district lines.

The question becomes whether an apportionment plan accords to a population group more or less voting power than is its due. In practical terms, the issue is easier to identify in situations where the apportionment involves a readily isolated segment such as a racial minority.

In establishing an apportionment scheme, how far may it stray from precise mathematical equality before it violates the requirements of the Charter as enunciated in the Dixon case? It is clear from the comments of Chief Justice McLachlin, as she then was, that precise mathematical equality is not required in all circumstances. The question is: what circumstances justify a scheme that does not approximate mathematical equality? Some modicum of mathematical deviation will be tolerated. The question is: how much deviation, and in what circumstances? In my opinion, deviations from strict equality will not be sanctioned by the courts unless they are justified within the meaning of section 1 of the Charter. The question to be answered becomes: is a deviation a reasonable limitation prescribed by law, which can be demonstrably justified in a free and democratic society? What degree of deviation from the principle of one person, one vote can be justified in a free and democratic society? These are questions which admit of no absolute answers. Indeed, what may be considered a reasonable deviation at one point in history may well not be considered a reasonable deviation at another point in history. I think that is an issue you are going to be addressing too, because there will have been changes since the last distribution which perhaps change some of the factors that would be considered.

The next portion of the brief deals with the operation and application of section 1 of the Charter. I've gone into this because I think it's important that there be an understanding of how the courts have approached Charter issues, because as I see it, if I'm correct in my analysis, section 1 is going to be an area you are going to have to consider in terms of the determination of the types of criteria and the weight you are going to apply to them.

It is well established in Canadian law that while section 1 permits limits on the rights set out in the Charter, it cannot be applied to legitimize laws that collide directly with those rights and freedoms, nor can it justify laws that in effect constitute amendments to the Charter. In this portion I've made some reference to cases. I won't repeat the citations. Moreover, the onus of proof of the justification of limits on the rights and freedoms set out in the Charter falls upon the government. Since the impairment of Charter rights or freedoms is to be kept to a minimum, the limitation upon Charter rights and freedoms is subject to what's called a proportionality test. A limitation will not pass the test where there are less intrusive means of meeting the concern underlying the situation. What I have in mind here is that there is no doubt that in terms of effective representation, there are different considerations with respect to rural and urban ridings. It may well be that in this context the court will, if it comes to that, suggest or recommend that one look at other means of increasing the effectiveness of rural members aside from disproportion of population distribution.

If I am correct in this, I think there is already provision for direct-line telephones and things of this sort throughout the province to all MLAs, but there may be other matters such as the new technology with respect to document transmission that could come into that equation.

MS BARRETT: Just for your information, in certain remote areas charter flights for MLAs are allowed; by legislation we've set that out.

MR. CHIVERS: Maybe we'll have to provide them with planes.

The Black and the Law Society case, which is an interesting case from my point of view, made some important determinations. In that case the impairment of the Charter of Rights and Freedoms was said to have to be kept at a minimum, the limitation upon the Charter of Rights. It confirmed the proportionality test as well, and it determined that a limitation would not pass the test where there are less intrusive means.

In Regina and Oake the Supreme Court of Canada held that section 1 had two functions. First, it constitutionally guaranteed the rights and freedoms set out in the balance of the Charter. Secondly, it stated explicitly the exclusive justificatory criteria against which such limitations on these rights and freedoms were to be measured. In applying section 1 to limitations, the courts are guided by the values and principles essential to a free and democratic society, such as respect for the inherent dignity of the human person, commitment to social justice and equality, accommodation of the wide variety of beliefs, respect for cultural and group identity, and faith in social and political institutions which enhance the participation of individuals and groups in society.

To establish that a limitation is justified under section 1, two central criteria must be considered. First, the objective which the limitations are designed to serve must be of sufficient importance to warrant overriding the constitutionally protected right or freedom. Second, the government invoking the section must show that the means chosen are reasonable and demonstratively justified and, under the proportionality test, the least intrusive possible in a certain situation. The first criterion requires, at a minimum, that an objective relate to concerns which are pressing and substantial in a free and democratic society. The second requirement involves a form of proportionality test. The court must balance the interests of society generally with those of individuals and groups.

There are three components, as identified by the courts, of the proportionality test. First, the measures adopted must be carefully designed to achieve the objective in question; measures must not be arbitrary, unfair, or based on pure rationale or irrelevant considerations but must be rationally connected to the objective. Second, the means, even if rationally connected to the objective, should impair as little as possible the right or freedom in question. Finally, there must be a proportionality between the effects of the measures which are responsible for limiting the Charter right or freedom in the first place and the objective which has been identified as of sufficient importance to justify a limitation. The more severe the deleterious effects of a measure, the more important the objective must be if the measure is to be reasonable and demonstratively justified in a free and democratic society.

In the circumstances here the court in the Dixon case has declared that the Charter guarantees the concept of relative equality of voting power – I think that's an important distinction: it's not an absolute equality; it's a relative equality – as the single most important factor to be considered in determining electoral boundaries. Clearly, a margin of deviation from absolute mathematical equality will be permitted by the courts. The question is: what margin of deviation will be permitted? The answer to that question depends upon a host of considerations. The question is incapable of answer in the abstract. Each

situation will have to be judged upon its unique circumstances. However, what is clear in my opinion is that the gross disparities that exist in Alberta at the present time will not be tolerated by the courts. Furthermore, the court will insist upon as close an approximation to equality by population as is possible in the circumstances. This is not to say that the courts will ignore the factors enumerated in section 19 of the Act, and I've set them out.

I do suggest, however, that there should be two additional considerations, the first being fair and effective representation and the second being proportionate representation. Proportionate representation, according to the Dixon case, is going to be implied in this sort of legislation. I think it should be expressly set out in the legislation. I think the best formulation that I could come up with on the sort of notice that I had of this committee hearing in terms of some sort of mechanism that will provide a means of balancing the disparate interests between the MLAs, be they urban or rural, is fair and effective representation. It seems to me that that perhaps is one of the fundamental touchstones, that ultimately that is the goal of the process, presumably: to ensure that there is fair and effective representation. That can't always be achieved in terms of strict numerical and mathematical equality. This would allow some flexibility.

I think the American experience can be of some use in delineating the scope of the "reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society" in the context of equality of voting power. I do point out, however, that the American Constitution, of course, does not have a section 1 override. Consequently, the balancing act that is conducted under the American Constitution is a balancing act with respect to the application of each of the individual headings of the Constitution, rather than determining what a right is in absolute terms and then determining whether limitations on the right are fair and reasonable.

The leading case, perhaps, on the subject matter is Reynolds and Sims, a 1964 case. The American courts, of course, have been dealing with these issues for some 30 years. In the Reynolds case the court adopted the one-person, one-vote principle but acknowledged legitimate deviation at page 579:

So long as the divergences from a strict population standard are based on legitimate considerations incidental to the effectuation of a rational State policy, some deviations from the equal population principle are constitutionally permissible . . .

The court then went on to enumerate some conceivably justifiable state policies:

A State may legitimately desire to maintain the integrity of various political subdivisions insofar as possible, and provide for compact districts of contiguous territory in designing a legislative apportionment scheme.

However, the court then went on to limit the range of acceptable justifications for deviations from the equal population rule, stating:

Neither history alone, nor economic or other sorts of group interests are permissible factors in attempting to justify disparities from population-based representation.

The court then rejected notions of keeping districts of a manageable size, of balancing urban and rural interests, of discriminating against areas due to disproportionate numbers of military personnel. In general terms, the court admonished that a legitimate justification, while it might modify the equal population principle, could not be utilized to submerge it. In other words, while compactness, contiguity, and the preservation of political subdivisions might be legitimate considerations, they could not be allowed to operate so as to submerge the principle

of one person, one vote.

The next part of the brief deals with the Act as it presently stands. I'm not sure of the mandate of your committee; I'll hazard a few observations with respect to it.

MR. CHAIRMAN: Please do.

MR. CHIVERS: This isn't intended to be a complete or detailed or exhaustive critique of the legislation. It's simply a starting point, and some of the comments are perhaps not as well considered as they could be.

In any event, on my perusal of the legislation it seems to me that a good starting point for considering what sorts of things might be included in this legislation, in the abstract in any event, is to look at the situation in other jurisdictions. One of the things that stands out is that many other jurisdictions have a nonpartisan type of a model for their boundaries commission. In Alberta the commission consists of both partisan and nonpartisan members. In my opinion, a strictly nonpartisan model is more appropriate.

Section 5 of the Act requires the appointment of a new commission after every second election following the appointment of the last commission. In practice this means that redistribution takes place once every two elections. This means that the frequency of redistribution depends upon the frequency of elections, and there may be a significant disparity in terms of the time between redistributions. Some jurisdictions, of course, have a specific frequency of redistribution; for example, it's the decennial census under the federal legislation.

In my view, the Charter will require the relative equalization of voting power in each election. Now that, perhaps, is not as clear as it should be. What I'm driving at here is that it seems to me that with the advent of the Charter and the scrutiny that these pieces of legislation are now coming under, I would be very surprised if you're not confronted with a situation where voters are going to say that it's not good enough to have a redistribution once every two or three elections or once every 10 years. Every time there is an election, somebody's voting rights and voting power is impacted if distribution is not relatively equal. I suspect, although I have no authority for this, that you may be confronted with a situation that applications will be taken on the basis that if the frequency is not once every election or just prior to an election, challenges will take place before the courts.

Moreover, the fact that the frequency of redistribution depends upon elections, combined with the lengthy process involved in accomplishing a redistribution, means that the entire process can be aborted or circumvented by the calling of an election. Of course, the courts may take a dim view of such conduct, but there is no reason for not making the legislation clear.

Section 7 permits the commission a discretion with respect to the holding of hearings. Other jurisdictions usually specify a statutory limitation of 30 days. It seems to me to make sense that there should be a fixed standard enshrined in the legislation. Whatever the time period that's chosen, people should know what it is and should have the ability to refer to the statute in that regard.

Section 11 – and here I'm speaking not, of course, of your committee but of the commission – arbitrarily directs the commission to divide Alberta into 83 electoral divisions, of which 42 are to be urban and 41 are to be rural. The split between urban and rural electoral divisions is totally arbitrary and bears

no relationship to population distribution. It is clearly offensive to the principle established in the Dixon case.

Section 12, which establishes urban electoral divisions, likewise reflects little consideration of population distribution. Indeed, the legislation permits a wide deviation, even amongst urban constituencies, of between plus or minus 25 percent.

There appears to be a direct conflict in the legislation between section 13(a), which confines the boundaries of a proposed urban electoral division to municipal boundaries, and section 15, which permits the extension of a proposed electoral division beyond the boundaries of an urban municipality. Now, that may be explained on the basis that the two sections – the one contemplates the situation as it is enacted by the last commission, and the second section may be contemplating the future, because it's speaking in terms . . .

MR. CHAIRMAN: Does section 15 refer specifically to Red Deer, north and south?

MR. CHIVERS: It doesn't refer specifically to Red Deer, but I suspect it would apply to situations such as Medicine Hat with respect to the need for the creation of a new constituency and the possibility of throwing in a portion of a rural area in order to accumulate enough voters to justify it. It could also apply, I would think, to Red Deer, but it's not specific. What the section is specific about is that that discretion does not apply with respect to Edmonton and Calgary. So it could apply to any of the other districts that are designated urban districts.

Section 16 permits redistribution within an urban municipality only where the voter population of the municipality is more than 25 percent. This is where I think the legislation makes a change of gear and is moving from a situation in terms of how it's going to be applied this time to a situation of how it's to be applied in the future by future commissions. It permits redistribution within an urban municipality only where the voter population of the municipality is more than 25 percent above the average voter population of existing urban electoral divisions and then permits a subdivision to have a variation of up to 25 percent from that existing urban electoral division. The voter population of each of the subdivisions is required to be approximately equal, but there is no necessary equality between the newly created subdivision and other urban municipalities in the province. Subsection (b) permits but does not require this imbalance to be redressed by extending the boundaries of the urban municipality. Provisions such as these are an invitation to gerrymandering.

On the other hand, section 18, which deals with rural electoral divisions, does require them to be as nearly as possible equal in voter population. Bear in mind that in terms of urban electoral divisions there can be a variation by up to plus or minus 25 percent.

It is interesting that section 19, in setting out the criteria to be taken into account by the commission, makes no direct mention or reference to the concept of relative equality of voter population amongst all electoral divisions, and in my opinion that is going to be the touchstone that will be applied by the courts, whatever "relative" means; it certainly is a subjective term.

Redistribution is a sensitive and complex matter which requires a careful balancing of interests. The types of disparities in terms of voter population which were acceptable at earlier times in history are not necessarily legitimate now. Once again it is easy to state the problem in the abstract; it is more difficult in practice to identify and rectify the problem. That is not to say that an attempt should not be made to do so. What is at stake

is nothing less than the concept of the democratic society: the right of the individual to equal participation in governmental and societal decision-making. The fact that the goal is elusive does not justify abandonment of the attempt to secure it.

MR. CHAIRMAN: Thank you, Barry. You've obviously put some time and thought into this issue.

MR. CHIVERS: It's a fascinating area.

MR. CHAIRMAN: Questions? Tom.

MR. SIGURDSON: The Manitoba commission looks at dividing population into electoral boundaries based on the total population, not just the voting population, so they have a greater number of constituents and have folk under 18 as well. Does that create a problem?

MR. CHIVERS: I've looked at some of the European situations. That's been a debate that's raged in many European countries for years, and it's one that I think you can call either way.

I think perhaps a good starting place would be to see what practical difference it makes in terms of the numbers. I'm not sure that it makes a great deal of difference, because the franchise is perhaps more extensive here than it is in some European countries. However, the essential difference, of course, is that you count, in the total population numbers, children and people who are ineligible to vote. And as I say, when you're dealing with democratic principles, I think you can argue that issue either way. I'd feel quite comfortable in arguing it either way. I'm not sure that I would be able to decide which is the better approach. I think there are a number of things that have to be considered.

MR. CHAIRMAN: Anyone else on this specific point?

Okay. Further points? Stock?

MS BARRETT: Barry, I have a question. What about the subsequent decision in B.C.?

MR. CHIVERS: Meredith?

MS BARRETT: Yeah.

MR. CHIVERS: I haven't had an opportunity to analyze that decision. I'm sure it's going to have some impact on the situation, but I would think that the pattern is set fairly well with the Dixon case. There are going to be some variations in terms of the way the approach is taken, but I think the concept of relative equality of voting power is the essential feature of the Dixon case.

MR. BRUSEKER: Barry, in Manitoba they went with a 10 percent variation; in Saskatchewan they went with a 25 percent variation.

AN HON. MEMBER: And federally they have a 25 percent variation.

MR. BRUSEKER: I wonder if you might care to throw out your opinion – I'll put you on the spot here – as to what you think would be a reasonable sort of thing. Is 10 percent

reasonable? Is 25 percent reasonable? I guess in part it would be related to the frequency of redistribution. If we consider it after every election, as perhaps you're suggesting, that might have an effect.

MR. CHIVERS: I'm not sure that I would adopt a mathematical formula. It seems to me that what you have to do is weigh all of these factors and take them into account. As I said, I think fair and effective representation is a serious consideration and is going to in some circumstances justify some disparity. The amount of that disparity might be greater or lesser, and I'm not sure that it's wise to establish a statutory parameter for this. The moment you establish that kind of parameter, there's a tendency to work towards it.

MS BARRETT: But then how do you protect yourself against Charter challenges?

MR. CHIVERS: I think if you had the concept of an approximation of relative equality of voting power . . . As I've suggested, if you add a couple of factors – and bear in mind that they're not very well developed here – to the list that's set out in section 19, I think it would give you a fair combination of flexibility and certainty and you would be able to make some relatively sure predictions as to how redistribution would operate. But it would still allow you a fair amount of flexibility in terms of modifications or deviations depending on unique circumstances. And I guess that would be my preference: to have a flexible formula rather than a statutory plus or minus figure.

MS BARRETT: So when you talk about a flexible formula, are you suggesting that . . . I mean, because we do have to change the legislation before the commission is struck. You would have – I don't know – X amount of variation under some circumstances and expanded by certain factors under other circumstances. You wouldn't tinker with that at all?

MR. CHIVERS: No, I wouldn't specify a permitted range of deviation.

MS BARRETT: You'd just instruct the commission that their number one goal has to be . . .

MR. CHIVERS: The primary consideration is equality of voting power, and the secondary consideration is fair and effective representation. Then you would have to come up with a combination that meets the circumstances, a figure that would meet the circumstances in the unique situation. That would allow you flexibility from time to time. I mean, the situation would change in constituencies as transportation systems improve, technology advances.

MR. DAY: Did the Dixon case lay out any percentage variation?

MR. CHIVERS: The Dixon case made reference to the various standards that are set out in the different provinces and did make reference to the federal plus or minus 25 percent. It also referred to the Fisher commission, I think it is, in British Columbia, and I think tantamount to approved the approach taken by the Fisher commission. I'm not familiar with what that approach was other than as it's referred to in the case.

MS BARRETT: Who does know what the Fisher commission recommendations were?

MR. CHAIRMAN: Well, that's basically right. As my reading of it, the Fisher commission was appointed by the British Columbia government, had its mandate expanded once or possibly twice, and came back with recommendations to, I believe, do away with the dual ridings and to go to a province-wide mean and plus or minus 25 percent. The government rejected it. Professor Dixon took them to court, so Justice McLachlin came back and in essence reinforced what was in the Fisher recommendations.

MR. CHIVERS: I think that's the correct way of putting it, because she does make the reference first to the point of plus or minus 25 percent federal legislation and then to the Fisher report. Of course, that wasn't part of the ratio decidendi of the case. It's what is called in law an obiter statement, but I think it gives you an indication of the thinking of the court.

MR. CHAIRMAN: I think Justice McLachlin also made reference to extraordinary circumstances. I think again it's looking at those very sparsely populated large geographic areas. She didn't spell out, as I recall, a definition or any parameters but did make reference to another option. And you can argue that the federal government does it: the two seats in the Northwest Territories, the seat in the Yukon, Prince Edward Island with four seats because of their four Senate seats.

AN HON. MEMBER: Saskatchewan does it.

MR. CHIVERS: See, the experience in the United States may be fruitful here, because they've gone the full gamut from precise mathematical – in some cases the courts have said there should be precise mathematical precision. In other cases the courts have used a plus or minus percentage sort of approach. But I think the thing depends on looking at the unique situation. You may establish those parameters in the legislation, but how they're applied in practice is what the courts are going to be looking at.

MR. CHAIRMAN: On the other hand, in the United States they do protect their regional interests through their Senate, so there's a balance. You can go to a very pure one-person, one-vote concept with your two Senators per state as a balancing factor.

MR. CHIVERS: And there's a difference in U.S. law with respect to the stringency of the application of the principle as between Senate and congressional elections and as between state and federal elections.

MR. CHAIRMAN: Barry, are you aware of any province that requires redistribution more frequently than we now do?

MR. CHIVERS: I don't believe so.

MR. CHAIRMAN: Because I understood from discussions in Saskatchewan that Saskatchewan recently changed from once every 10 years to after every second general election. They're using our Act as a model, and yet you are concerned that even that may not be enough.

MR. CHIVERS: That's correct. It seems to me that an elector would be able to come before the court and say, "Look, there has been this redistribution occur, and then there's an election called." And subsequent to that election, before the next election, there's no redistribution under our system. The elector then could very well come before the courts and say, "Effectively my equality of voting power has been removed from me as a result of changed circumstances in the interim."

Now, it seems to me that one of the advantages of having an ongoing redistribution is that it's going to be less painful in the long run for everybody concerned because you're going to have less significant changes, and particularly . . .

MS BARRETT: Each time, yeah.

MR. CHIVERS: Each time. So there is a cost to it, because you will set up the procedure and it will be an ongoing commission, presumably. I'm not sure that the costs will be a great deal different than the situation that exists now, where it becomes a pretty big occasion every time there's a redistribution.

MS BARRETT: I want to come back on this subject of no stricter, or numerically clear variance between ridings. I just wonder, would it require, then, that the commission enumerate for each riding in writing why it is that it is of the nature that it is to prevent challenges? I mean, couldn't they . . .

MR. CHIVERS: As a lawyer that of course would be my preference because I like to see things in writing, and once they're in writing, I can analyze them and make some sense of them. That's not a requirement of the legislation now. The federal legislation is a bit more detailed in terms of what's required in a report. The legislation requires maps to be attached to the reports and has some specific directions with respect to who is to get the information; for example, sitting members get the information. That would be part and parcel of it. I would think that you'd want that kind of information conveyed to the people who are directly affected.

MS BARRETT: You actually think that by pursuing this method, you could avoid Charter challenges better than if you took on, say, a variance of 20 percent or something?

MR. CHIVERS: Well, I don't think that either method is going to avoid the Charter challenges. The possibility of the Charter challenge will exist, depending on how the division is done. I think the problem with a strict guideline is that there's always a tendency to work within the margin, and I'm not sure that from a democratic point of view it's wise to establish a fixed margin that people will tend to work towards.

MS BARRETT: Okay. But then by what you're recommending, do you think the implication is that the commission would necessarily be driven to working towards the mean all the time as opposed to the variance?

MR. CHIVERS: I'm sorry, I . . .

MS BARRETT: Were you arguing that if you have this, you know, 20 or 25 percent, you're saying, well, then you're always working towards those . . .

MR. CHIVERS: That tolerance.

MS BARRETT: That tolerance. On your recommendation – if we were to consider this – where you don't define it so strictly, do you think the commission would then be more inclined to work towards a mean?

MR. CHIVERS: Yes, I think so. I mean, an approximate equality of voting power would be the prime objective.

MS BARRETT: And then: unless there were exceptional circumstances that had to be . . . I see. Yeah, okay.

MR. CHAIRMAN: Let me ask a question. If you were the lawyer defending the federal government's position on two seats in the Northwest Territories against a Charter challenge, what would your arguments be?

MR. CHIVERS: What would the arguments be? Well, I think there'd be a number of factors that would be considered. One of them would be, of course, the difficulties in communication and the sparse population. I think some of the answers to those types of issues are improved technology and the possibility of additional resources being made available to the members.

MR. CHAIRMAN: But with due respect, that argument would be used by your opponent not by you.

MR. CHIVERS: That's right.

MR. CHAIRMAN: What arguments would you use?

MR. CHIVERS: I think that margin of disparity has more to do with history than the realities of the modern situation, the situation that we find ourselves in. And that disparity was established – I think the first reference to that range of talks goes back to about 1964. I think I'm correct there.

MR. CHAIRMAN: Well, we've had two seats in the Northwest Territories for a relatively short period of time. There was one seat divided in two, and I'm assuming most fair-minded Canadians would agree that that's fair. But that doesn't mean it's going to withstand a challenge based on the Charter, so I'm trying to get at how you would defend the two seats.

MR. CHIVERS: Yeah. You're trying to see how I would defend against it; I mean, how I would have to. What I would do, I assume, is – I think the Alberta statute has a list of considerations that are really important considerations, and I don't demean them at all. In section 19 I look at the community, the diversity of interests, the population, the means of communication, physical features, as far as . . .

MR. CHAIRMAN: Could you do one additional task for us? Look at the federal legislation. How would you base a defence on what's in their guidelines for a commission?

MR. CHIVERS: Well, I have looked at it, but what I'm saying is I think the best I would be able to come up with is to say, "Look, these are the traditional and generally accepted criteria; they are the criteria that presently are applied in most jurisdictions."

There are different formulations. I have the federal legislation here, and there is a slightly different formulation. In fact it, I think, lists only two criteria, but they're very broad and general, and that's the way a lawyer would have to defend the federal

legislation. He'd have to look at the statutory requirements, and say they're set out in section 13(c):

The commission may depart from the strict application of rules (a) and (b) in any case where

- (i) special geographic considerations, including in particular the sparsity, density or relative rate of growth of population of various regions of the province, the accessibility of such regions or the size or shape thereof, appear to the commission to render such a departure necessary or desirable, or
- (ii) any special community or diversity of interests of the inhabitants of various regions of the province appears to the commission to render such a departure necessary or desirable.

And then it goes on: but in no case shall there be a greater variation than 25 percent.

So as a lawyer I would have to approach it on the basis of saying, "Look, when you apply section 1, the legislation has established some reasonable limitations and has established some reasonable parameters." I'm not convinced that that range of tolerance can be dealt with in the abstract. You're not likely to face a challenge directly to the range of tolerance. What you're likely to face is somebody who's going to come forward and say, "In the particular circumstances that I find myself in, even though the federal government has done redistribution within the tolerance permitted by the statute, that is not good enough." And I don't think that by establishing the range of tolerance in the statute you're going to avoid that.

MR. CHAIRMAN: In the case of the Territories, you'd be arguing history and geography.

MS BARRETT: And common sense, though. But that citation is that, and if you feel comfortable arguing that.

MR. CHIVERS: Well, as a lawyer I feel comfortable arguing anything that makes some sort of sense. In terms of my own biases in the matter, as I say, I don't think that a statutory range of tolerance is a good way of approaching the problem.

There are a couple of other factors, of course, with respect to the Northwest Territories that have to do with its history, and I didn't bring them. There's another amendment to this legislation which I didn't bring along that deals with the development of the additional seat between the two seats in the Northwest Territories and the one seat in Yukon which goes back to a BNA Act argument. So I would imagine if I was defending it, I would be making some reference to this concept that you have to take into account the state of the law at the time the Charter was enacted. Now, that's an argument that in some circles has been debunked, but the courts keep pulling it out whenever it serves their purpose, and it might be something that could be used.

MR. DAY: Mr. Chivers, you're on an hourly retainer, or how are we handling that?

MR. PRITCHARD: You're here as a guest.

MR. CHIVERS: I was here as a guest.

MR. CHAIRMAN: When we ask for professional input, we're providing compensation.

MR. DAY: Yeah. I'd like some reflection on – and you've already indicated you don't have it – if that's how the Meredith case impacts or maybe modifies it.

MR. CHIVERS: Yeah, I'm sorry. I really intended to do that, but in the two days I just really . . .

MR. DAY: No, I can appreciate that, so that's why I'm asking what kind of a . . .

MR. CHAIRMAN: I know we'll deal with that when we're in B.C., but it seems to me from my brief review of it some time ago that Meredith said that while the McLachlin judgment is correct, the courts can't tell the Legislature how quickly it has to be done.

MS BARRETT: Yes, that's right.

MR. CHAIRMAN: I think that's the essence of it. So they've taken the pressure off that it must be done immediately, as long as progress is being made.

MR. CHIVERS: And I think that comes back to the suggestion that I made that perhaps the whole process can be circumvented by calling an election. I think the courts would frown on that and they would say: "Hey, look, you can't go that far, British Columbia. You can't call an election in order to thwart this process. We've given you some time to do it, and we're not going to be pressuring you, but one thing that's clear is you're going to have to do it before the next election."

MR. SIGURDSON: My understanding is that January 31 is the crossover. It said if an election was held before January 31, it would be based on the old boundaries. If it's held after . . .

MR. CHIVERS: You're speaking of B.C.?

MR. SIGURDSON: Yes.

MR. CHIVERS: I don't know, Tom.

MR. CHAIRMAN: They haven't adopted anything yet.

MR. SIGURDSON: Other than the boundaries that were drawn up by Fisher.

MR. CHIVERS: See, it raises some really interesting possibilities, because by dragging out the process they may be able to avoid redistribution. The reason I'm reluctant to comment on Meredith is I haven't read it. I've just heard reports of it, but I'm speculating and conjecturing. I think a court confronted with that kind of a development is going to say: "Look, you can't thwart the democratic process. The democratic process demands redistribution, and you're not going to be able to thwart it." So I think you can speculate that there will be an outer limitation in terms of the time they have to deal with the situation, although I don't think you're going to find – they're not going to say, "You've got to deal with it within such and such a period of time and such and such a period of time."

MR. DAY: Just another point. The comments on the American experience – whereas they may be interesting – does Dixon itself reflect at all on the American experience?

MR. CHIVERS: It does; it discusses some of the American cases.

MR. DAY: Does it suggest that it has any bearing on the Canadian?

MR. CHIVERS: The approach of Canadian courts to Charter issues is that they find the American decisions to be quite persuasive from time to time. When I did the juvenile age case here in Alberta, that was certainly the approach of the court in that case. It's that it's persuasive authority; it's not binding authority, and you always have to be very, very careful about the distinctions in terms of the legal provisions that you're applying. Here there are vast differences between the Canadian legislation and the American Constitution, between the Charter and the Constitution. So again, although those cases will be useful and they will certainly help lawyers to develop arguments and to identify the chinks in the system, I don't think they will be anything more than persuasive.

MR. DAY: Yeah, that's what I was wondering, because the differences are, like you say, vast. I was wondering if the Dixon case drew extensively at all. I would be surprised if they had, just given those historic differences.

MR. CHIVERS: No. You can identify general principles, but the specific approach that you take is going to be governed by the Charter. In fact, if I could just make another comment on that, that's one of the really interesting things about the Dixon case. The Dixon case focuses on section 3 to the exclusion of everything else in the statute, and indeed that section was barely argued in the argument, as I understand it, before the court. But the court chose to found its decision on section 3 rather than looking at due process and equality before the law and freedom of expression and freedom of association. In the United States the franchise cases are poised between these equality concepts and freedom of expression and freedom of association. So it's quite a different approach that's being taken.

MR. CHAIRMAN: On page 11 of your presentation, looking at the creation of an Electoral Boundaries Commission in Alberta, the very first observation you make is that you believe it should be nonpartisan in its makeup. Do you have any thoughts on the representation on the commission? Who do you think should be on the commission?

MR. CHIVERS: I see that in Manitoba they use a system where it's the Chief Justice or his designate, the Chief Electoral Officer, and I've forgotten who . . .

MR. CHAIRMAN: The president of the University of Manitoba.

MR. CHIVERS: Right. I think those sorts of appointments are probably as close to getting nonpartisan as you can.

MR. CHAIRMAN: The difficulty in practice with that – and it's interesting; we spoke with a number of MLAs, both opposition and government, while we were in Winnipeg, and one of the weaknesses with that system was that all three of the commission members were from the city of Winnipeg. Unfortunately, a number of oversights were made in rural areas regarding municipal boundaries, some rivers, and natural boundaries, and between the interim report and the final report, a number of adjustments were made.

MR. CHIVERS: So obviously, if you were going to move towards that sort of a commission, that would be something you'd want to guard against.

MR. DAY: Another thing on that point, Mr. Chairman. In Saskatchewan one of the members of their commission, the Justice, had been at one time an MLA, and the feeling among all parties, as we sensed it, was that that gave a special credibility to that commission, since – you know, if you look at Manitoba, these are all appointed people – an elected person knows some of the sometimes painfully excruciating realities of boundary distribution, and that seemed to enhance that commission. So I guess they did run the risk maybe of saying, "It's partisan; you've got a former Liberal on there," but they felt that was outweighed by the experience brought in.

MR. CHIVERS: And at least he was a former. I think all jurisdictions are unanimous where they have some approach to partisanship. You can't have a sitting member on the committee.

MS BARRETT: I would think that something else that might be desirable would be considering people who are elected by their own organizations, because if you talk about a university president, that's appointed. Right? If you talk about – what was the other?

MR. CHAIRMAN: Chief Electoral Officer?

MS BARRETT: No. Well, in Alberta that's appointed by an all-party sitting.

MR. CHAIRMAN: You could think of someone like the president of the AUMA or AAMDC.

MS BARRETT: Well, I always favour that in any event. I realize now I'm just in the business of tossing out ideas, but I always lean to that direction of elected . . .

MR. CHIVERS: It's not an easy question, the question of partisanship and nonpartisanship, because in a sense it's a fiction anyway. Partisanship on a broader spectrum is merely a matter of ideological outlook. So, in a sense, you're being very honest when you have a strictly partisan commission, but it's also one that's very open to criticism because of that.

MS BARRETT: You said you've only had a couple of days. Are there areas in here that you would like to explore further?

MR. CHIVERS: Well, there are certainly questions here that I haven't even attempted to assay. My thinking isn't as clear as I would like it to be in terms of what sort of considerations and how do you deal with this idea of deviation.

MS BARRETT: Yeah. Well, thanks. Would the committee consider inviting Barry back for a subsequent visit with a more extensive analysis in the areas that you think might be relevant?

MR. CHAIRMAN: Sure.

MR. CHIVERS: Well, if you're going to go that route, what I would suggest is that in addition to that I'd do my own analysis. But if you have some questions that you'd like me to address

specifically . . .

MR. CHAIRMAN: Well, they may evolve as we're going through the hearing process.

MS BARRETT: Yeah. Actually, that's right. Maybe I can make that suggestion a little more concrete. After we get through, oh, a good half of our hearings – so before Christmas – why don't we enumerate some of the questions we'd like to put to you and then schedule and give you enough time – for a change, instead of asking you to do it yesterday – to comment on those, because I have a feeling some other interesting stuff will come up once the hearings start. Is that an idea?

MR. DAY: Yeah, I can support that.

MR. CHAIRMAN: Good.

MR. DAY: Included in that, if with the agreement here you have the Meredith case that also would be given an overview.

MR. CHIVERS: Yeah.

MR. CHAIRMAN: Any other questions of Barry? Any other last wrap-up comments?

MS BARRETT: Yeah, I'd like to thank you for doing such a good written report.

MR. CHIVERS: My wrap-up would be: it's fascinating, the whole area. I envy you, in a sense, because I think you have a chance to make your mark on history in dealing with this here.

Probably you're in a better situation . . .

MR. DAY: Just working together more than outweighs any inconvenience you might encounter.

MR. CHIVERS: You're in a better situation than B.C. is, because of course they're doing it under compulsion, and you're doing it in a situation where you're not being . . .

MR. CHAIRMAN: Pam's really captured the essence of what I wanted to say on behalf of the committee in thanking you for sharing your thoughts and ideas with us. We know the challenge we face. It's also a very exciting opportunity for us; we feel good about the process.

So thank you so much, and we'll look forward to talking to you again.

MR. CHIVERS: Thank you.

HON. MEMBERS: Thank you.

MR. CHAIRMAN: Are there any other matters before we conclude tonight?

AN HON. MEMBER: I don't think so.

MS BARRETT: Okay. Adjourn.

MR. CHAIRMAN: All right. We're adjourned.

[The meeting adjourned at 7:02 p.m.]

