

[Chairman: Mr. Bogle]

[9:50 a.m.]

MR. CHAIRMAN: Okay. I'd like to report consensus on two areas. First, the makeup of the commission. Considerable time was spent discussing whether we would have a three-member, a five-member, or a seven-member commission. We looked at a variety of options and finally settled on a commission which would be chaired by a judge, have as its members the Chief Electoral Officer, two nominees by the Premier, one nominee by the Leader of the Official Opposition in consultation with the leader of the third party, and those three names would be put forward by the Speaker. We also have a clause that two of the five members be from outside the cities in Alberta; in other words, from rural Alberta. We still want to spend some time discussing how we reach that objective, but there was a very strong desire based on what we heard in the hearings: the request by a number of people that there be adequate rural representation on the commission. So we've settled on a five-member commission.

Anything any members would like to add to that?

MR. SIGURDSON: Just for clarification, when you say a nominee put forward to the Speaker, I just want to get clarification on "nominee." I know that a nominee . . .

MR. CHAIRMAN: It's a name.

Bob, can you look at the precise wording in the last Act?

MR. SIGURDSON: Yeah; I thought it was "appointment."

MS BARRETT: It was.

MR. DAY: Just to clear up any question and make sure it's our . . .

MR. SIGURDSON: Yeah, just to clear up. What I would not want to see is that you get three nominees made to the Speaker and the Speaker says, "I don't like them."

MR. CHAIRMAN: Agreed. There's only one factor that still needs to be worked out, and that is how we ensure that . . .

MR. SIGURDSON: That there's rural representation.

MR. CHAIRMAN: . . . two of the three are from rural Alberta, keeping in mind that the Chief Electoral Officer is from Edmonton and the judge will in all likelihood be from Edmonton or Calgary. But there is a precise wording, and that would come back in the final analysis.

MR. PRITCHARD: The wording says "nominated."

MR. CHAIRMAN: The wording is "nominated"?

MR. PRITCHARD: In the current.

MR. DAY: In that final wording, too, Mr. Chairman, is it not that we're going to try and address the concern raised by Pam that the Leader of the Official Opposition is not stuck with either having to go with an urban appointment or having to go with rural, that the choice is left up to him?

MR. CHAIRMAN: Yeah. The wording in the existing legislation is "nominated by the Leader of Her Majesty's loyal opposition." But we know the intent.

MR. SIGURDSON: Yes, okay. As long as the intent is clear and on the record.

MR. CHAIRMAN: Yeah.

MR. SIGURDSON: Thank you.

MR. CHAIRMAN: Anything else on the makeup of the commission?

All right; moving on, then, to the total number of seats. Again, we've heard in the hearings across the province a very strong desire not to increase the size of the House. It's fair to say that there were some representations made that we decrease the size or that we increase, but the majority of people said, "Don't solve the problem by adding more seats." We've discussed at some length whether or not we look at adding one or two seats or possibly reducing the Assembly by one or two, and the consensus of the committee is that we stay with 83 constituencies.

MS BARRETT: Hear, hear.

MR. CHAIRMAN: There are other matters, of course, that we've discussed at length during the last number of days. We've spent considerable time looking at the criteria, looking at a formula to look at variation, but no consensus has been reached at this point in time.

What's the pleasure of the committee as to the next item of business?

MS BARRETT: Is it time to go back to informal discussions, do you figure?

MR. CHAIRMAN: I'm not sure. I'm asking.

MR. SIGURDSON: I don't know that there's much else to report.

MR. CHAIRMAN: We did get into a new area yesterday when we discussed how much direction we should give to the commission through legislation. I'm not sure if we'd want to solicit a response from Pat at this time or if you'd rather go back in camera and discuss that more fully.

MRS. BLACK: Mr. Chairman, I'd like to clarify with Pat - and I don't know whether it's appropriate to do it in camera, out of camera, or where. While you're with us, Pat, I was wondering - we had some discussions yesterday, and maybe I misunderstood you. Are you looking for a very strong direction from this committee as to what the commission should be doing? You said the other day, I understood, that you felt our recommendations should be very specific by nature for two items: one, to shorten the time frame that is needed for the commission to do its work and, secondly, so that really the commission would not be hung out to dry, quite frankly, for decisions that were or were not made by the Legislature. Could you clarify that for me? I guess I'm sort of stumped, and I thought we had it clarified the other day.

MR. LEDGERWOOD: I think it's essential that the legislation be very directive to the commission. I don't think that the commission should, for example, be making decisions, if we're going to use the terms, on the number of urban and rural. It depends on the guidelines you design for the plus/minus factor. If there's a great variable in there, then it shouldn't be up to the commission to determine where the seats are going to go. I think it's up to the Legislature to provide guidance to the commission, particularly if there's any doubt as to whether it will stand a Charter challenge.

MR. SIGURDSON: But if it is a plus or minus . . . Would you refresh my memory about the Saskatchewan case? What are the two points of the challenge, please?

MR. LEDGERWOOD: Okay. Saskatchewan has three categories: they have a northern area, where they go to plus or minus 50 percent; they also have an urban definition and a rural definition. They were very specific in the guidance they provided as to the number of rural seats and the number of urban seats so that the rural average was about 5 percent off the mean and the urban average was 8 percent above the mean. There's going to be a court challenge of basically two items. First of all, is the plus or minus 25 percent reasonable? The court will answer that. Then the second question will be: is the redistribution in Saskatchewan acceptable; that is, is X number of urban and X number of rural and the variance total of 13-plus percent reasonable?

MR. BRUSEKER: Is the question that is being asked of the court: is it reasonable that all the urbans are above and all the rurals below? Is that what you're saying, or is that what the report is?

MR. LEDGERWOOD: I think we should get the very specific wording, because it took the lawyers literally weeks to draft the questions.

MR. BRUSEKER: I think that could be a very pertinent point.

MR. LEDGERWOOD: So I think that if the commission is interested in that . . .

MR. CHAIRMAN: You'll recall that I asked the question earlier of when we expected a decision in Saskatchewan. If we weren't under time constraints, it would be ideal if we could hear the results of the decision before moving on. Unfortunately, I think Pat indicated that that won't be heard until December 6 to 13.

MR. DAY: Will it be heard and decided, or how long can this thing go?

MR. LEDGERWOOD: It will be heard in December. As you know, the court doesn't tell you when they're going to make their decision.

MR. DAY: Realize, Pat, that I'm not putting you on the spot here with direct wording, but as you understand it, one of the things being questioned is: is the 25 percent variance reasonable? In effect, one of the questions is: was the McLachlin decision acceptable?

MR. LEDGERWOOD: That is my understanding.

MR. DAY: So the ramifications on that are if we were to allow in either one or 79 constituencies here a variance of up to 25 percent and this were to be ruled unreasonable in Saskatchewan, then I would imagine they would appeal all the way up to the Supreme Court. But if in the final analysis it were to come down - I'm just speculating here - that 25 percent is unreasonable, all this legislation falls in the other provinces.

MR. LEDGERWOOD: Remember, now, that of the jurisdictions there have only been two recent commissions: one in British Columbia, where they followed the plus or minus 25 percent, and the one in Quebec, where they just tabled their interim report and their emphasis was on equal votes. In the preamble they mentioned that three times. They only have the one exception where they are above the 25 percent. In their legislation they have one island in the St. Lawrence that's specifically named, and of course it doesn't meet the plus or minus 25 percent.

MRS. BLACK: But they basically use the 25 percent variance.

MR. CHAIRMAN: Just a minute.
Mike, please, then Pat.

MR. CARDINAL: I think one thing we have to keep in mind on that subject - you know, you look at the federal system with an upper House. They allow 25 minus or 25 plus variance, and that's with an upper House. Now, why can't a unicameral House be greater than that without the upper House?

MR. DAY: Well, that's the legal question; that's not facts.

MR. CARDINAL: Exactly. I mean, I know it's not facts, but it's something we have to keep in the back of our minds.

MRS. BLACK: But, Mike, keep in mind that in all jurisdictions every jurisdiction started off by saying, "With the exception to . . ." I don't think there's a jurisdiction that has not put exceptions into their legislation and recognized that there are other things that have to be considered.

MR. DAY: Well, section 1 of the Charter has an exception.

MRS. BLACK: Right. There's an exemption there all the way through, even in the federal government when you look at the Northwest Territories and that, so I think the question is the B.C. case and the Saskatchewan case: would it be reasonable that one court would overrule another court? I think that's a question. I don't know that we should worry too much about Charter challenges. I think they've become almost a way of life in our system today. It's a way to make a name for yourself in a lot of cases.

MR. BRUSEKER: I disagree with you. I think we have to take the Charter very much into consideration. We need to try and address that.

MRS. BLACK: I think we have to consider it, Frank, but I think we have to make a made-in-Alberta solution. Every province is unique by its very nature, by its geographics, and I think we have to look at the province, at what's best for Alberta, keeping in mind, naturally, the laws of the land. That's what we're here for. So I think that's very important.

We've looked at each jurisdiction. Each jurisdiction's had a justification for going to exceptions here, exceptions there. There was nothing purist in the world. So I think we have to look at that, and I think that's important.

MR. CHAIRMAN: I'm going to suggest we have a short coffee break.

[The committee adjourned from 10:03 a.m. to 10:08 a.m.]

MR. CHAIRMAN: Okay, we're reconvened.

MR. DAY: So are we on?

MR. CHAIRMAN: We are.

MR. DAY: And we're going in camera? Do we need a motion to that effect?

MR. CHAIRMAN: A request has been made that we will go back in camera.

MR. DAY: Can I just get clarification on a couple of points? Bob Pritchard is checking the jurisdiction situation in terms of census-taking, et cetera?

MR. PRITCHARD: Right.

MR. CHAIRMAN: Yes.

MR. DAY: Do you have any idea how long that's going to . . .

MR. PRITCHARD: I'll be doing it next week.

MR. DAY: Okay.

MR. PRITCHARD: So by the time we meet again.

MR. DAY: Mr. Chairman, is Bob or is Pat getting the clarification on this court situation in Saskatchewan, what the exact plans are?

MR. CHAIRMAN: Pat is doing that.

MR. DAY: So we'll have that Monday or Tuesday?

MR. LEDGERWOOD: Well, providing the Attorney General will give it to me. It may be that I'll go to Ken Rostad and ask him to contact his colleague.

MR. DAY: So now you need a motion to go in camera. When we come out, hopefully we'll have some more things resolved which we will put on the record. Is that what the process is?

MR. CHAIRMAN: That's correct.

MR. DAY: So you need a motion to go in camera? Is that what you need right now? Is that what you're looking for?

MR. CHAIRMAN: I need your motion.

MR. DAY: Well, I'll make a motion that we go in camera, and with that motion I'd like the understanding that when we come out of camera, all regular committee rules are in force and understood.

MR. CHAIRMAN: They're really two separate matters, I think. I think if you wish to amend the process by which we operate, that's one thing. Moving in camera is the second. Make your first motion and then . . .

MR. DAY: Okay. The first motion would be that when we come out of camera after our next discussion - hopefully, obviously, with more things discussed - all regular committee rules are in place.

MR. CHAIRMAN: Now, for clarification, what that means is the motion made at our first meeting by Pam that we not take any votes - because that's the only rule I can think of that we've amended the normal rule - unless all members are present. That's the essence of your motion?

MR. DAY: Correct.

MR. CHAIRMAN: All right. Any question on the motion?

MRS. BLACK: Question.

MR. CHAIRMAN: Question has been called. All in favour? Carried unanimously.

MR. DAY: I'd like to move that we move in camera.

MR. CHAIRMAN: All right. All in favour? Carried unanimously.

[The committee met in camera at 10:11 a.m.]

