

**Second Session - Thirty-Ninth Legislature**

**of the**

**Legislative Assembly of Manitoba**

**Standing Committee**

**on**

**Legislative Affairs**

*Chairperson  
Ms. Marilyn Brick  
Constituency of St. Norbert*

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**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Ninth Legislature**

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**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON LEGISLATIVE AFFAIRS**

**Thursday, July 10, 2008**

**TIME – 10 a.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Ms. Marilyn Brick (St. Norbert)**

**VICE-CHAIRPERSON – Ms. Jennifer Howard (Fort Rouge)**

**ATTENDANCE – 11 QUORUM – 6**

*Members of the Committee present:*

Hon. Messrs. Ashton, Doer, Hon. Ms. McGifford, Hon. Mr. Swan

Ms. Brick, Messrs. Dewar, Goertzen, Hawranik, Ms. Howard, Mr. McFadyen, Mrs. Taillieu

*Substitutions:*

Mr. Faurschou for Mr. McFadyen at 11:20

**APPEARING:**

Mr. Kevin Lamoureux, MLA for Inkster

Mr. Richard D. Balasko, Chief Electoral Officer

**MATTERS UNDER CONSIDERATION:**

Annual Report of Elections Manitoba for the year ending December 31, 2003, including the conduct of the 38th Provincial General Election held on June 3, 2003, and the administration of The Elections Act and The Elections Finances Act

Annual Report of Elections Manitoba for the year ending December 31, 2004, including the conduct of the Minto and Turtle Mountain by-elections, dated June 22 and 29, 2004

Annual Report of Elections Manitoba for the year ending December 31, 2005, including the conduct of the Fort Whyte by-election, dated December 13, 2005

Annual Report of Elections Manitoba for the year ending December 31, 2006

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**Clerk Assistant (Mr. Rick Yarish):** Will the Standing Committee on Legislative Affairs please come to order.

Your first item of business is the election of a Chairperson. Are there nominations for this position?

**Mr. Gregory Dewar (Selkirk):** I nominate Ms. Brick.

**Clerk Assistant:** Ms. Brick has been nominated. Are there further nominations? Seeing none, Ms. Brick, will you please take the Chair.

**Madam Chairperson:** Our next order of business is the election of a Vice-Chairperson. Are there any nominations?

**Mr. Dewar:** I nominate Ms. Howard.

**Madam Chairperson:** Ms. Howard has been nominated. Are there any other nominations? Hearing no other nominations, Ms. Howard is elected Vice-Chairperson.

This meeting has been called to consider the following reports: the Annual Report of Elections Manitoba for the year ending December 31, 2003, including the conduct of the 38th Provincial General Election held on June 3, 2003, and the administration of The Elections Act and The Elections Finances Act; the Annual Report of Elections Manitoba for the year ending December 31, 2004, including the conduct of the Minto and Turtle Mountain by-elections, dated June 22 and 29, 2004; the Annual Report of Elections Manitoba for the year ending December 31, 2005, including the conduct of the Fort Whyte by-election, dated December 13, 2005; and the Annual Report of Elections Manitoba for the year ending December 31, 2006.

When this meeting was announced, it was indicated that the committee would sit today until 12 noon. Are there any suggestions as to the order in which we consider the reports?

**Mr. Gerald Hawranik (Lac du Bonnet):** Yes, in the order that they appear.

**Madam Chairperson:** Is it agreed that we would consider the reports in the order they appear? [Agreed]

Does the honourable First Minister wish to make an opening statement?

**Hon. Gary Doer (Premier):** Yes, I do. First of all, I'd like to thank Mr. Balasko and the members of his staff for the hard work and diligence in conducting the latest 2007 election campaign. Some of the innovations that were recommended and implemented in legislation dealing with improved electoral participation and the increased opportunity to vote with polls and so-called super polls, we certainly believe, are innovations that can be built on into the future. But we know that, because they were new, it puts a lot more pressure on the staff. Again, I want to thank them on behalf of all Manitobans for the job they do as the independent, non-partisan body for the integrity of elections here in Manitoba.

Certainly, we have before our Legislature today another one of the recommendations that has been made by the Chief Electoral Officer, in fact, in three previous reports, to have a set election date that is proposed in legislation that is before the Legislature, as we speak. Certainly, we are committed, also, to implementing a number of recommendations that still are outstanding, the recommending of changing The Elections Finances Act to plain language. If we can do that, we'll move on to The Income Tax Act after that.

Secondly, the issue of the referendum act, beyond the balanced budget legislation referendum act, and beyond the Crown corporations referendum acts that we have amended extensively, has also been recommended by the Chief Electoral Officer.

We're pleased that, including the proposed but not passed set election date, we have implemented some 65 recommendations that have been made to this Legislature by our independent Chief Electoral Officer. Some of the reforms include: requiring employers to give unpaid leave to employees who are candidates, election officials; removing restrictions from advance polling so the people can vote in a reasonable way creating, as I said before, the super polls; extending absentee voting to students and public employees who are outside the province, including the military.

Again, we also provided for more dedicated polls in apartment blocks. We have reduced the number of electoral electors in rural and northern ridings so that people would not have to travel as far as they would. In fact, that was a recommendation made at a committee in the past by members of all parties.

We have also introduced changes in The Elections Finances Act: complete records of

contributions, ensuring that polling is considered an election expense; elected officials to disclose any additional salaries they receive from a party; creating an independent officer to receive and prosecute complaints about election financing; dealing with loans that would be filed with the Chief Electoral Officer beyond the \$3,000 limit on union and corporate donations; dealing with the issue of payroll deductions for political contributions; the issue of a number of changes—that's before the House now in terms of Bill 37—dealing with the set election date, as I've stated, and proposing that that be on June 12, 2011. We also provide for the predictability of these dates, based on recommendations of the Chief Electoral Officer in terms of improving the enumeration process and getting a better voters' list in place ahead of time. We certainly believe that those, again, will improve the operations of elections and the integrity of election dates.

We've also proposed to extend the hours to be 7 a.m. People are going to work earlier nowadays in society all across Manitoba. Again, we're proposing more advance polls; again, improved electoral participation in terms of distance. We certainly believe that this will help us, again, improve the laws in Manitoba.

We are again bringing in changes that we will allow for compliance agreements and injunctions to be similar to the federal process. We're also providing a proposal to have compliance agreements, which are voluntary agreements between the commissioner and an individual, to be made available under the act to be public. We're allowing the commissioner of elections, unlike the previous law, post-Monnin, to be able to comment on investigations where the commissioner believes it's in the public interest, and instituting provisions for lobbyists in other areas that would be covered in the legislation of Manitoba.

We know that the Boundaries Commission is before the Chief Electoral Officer. It's a busy time for your office getting ready for the public hearings in the fall of this year. Again, we want to say that—I'm sure all parties will have comments on the boundaries. They always do and always will, but, certainly, the ability of the Legislature to not pre-empt, in terms of timing, the boundaries, I think that the law has been changed to make the boundaries more independent than the Legislature. That, I think, in turn, is a good idea, notwithstanding the fact that every MLA has their own individual opinions about

how—what is it? The hand that signed the paper felled the nation, the old poem.

Boundaries are very, very sensitive to individuals as a process of integrity. I think I'll give credit to D.L. Campbell for bringing an independent boundary commission. Worthy of note, the former Liberal premier brought that in, and I think it has stood us in good stead over the years, even though we will have lots of—I'm sure we'll have lots of questions to the Chief Electoral Officer about that process.

So thank you very much to the Chief Electoral Officer and all his staff for their work on behalf of Manitobans.

\* (10:10)

**Madam Chairperson:** We thank the honourable Premier for his comments.

Does the Leader of the Official Opposition have an opening statement?

**Mr. Hugh McFadyen (Leader of the Official Opposition):** I do. Thank you, Madam Chair, and I thank the Premier for those comments.

I, too, would like to thank the Chief Electoral Officer and his staff for the very good work that they do, day in and day out. I know that, with the significant changes that have taken place to the act over the years, it's required a lot of innovation and adaptation on the part of that office, certainly, a more intensive level of review, which has been required by amendments to the act, and quite a significant amount of give and take between staff of the Chief Electoral Officer and political parties and their representatives. I know, from the representatives of our party, the extent to which the hours that people are putting in to ensure the integrity and accuracy and completeness of the documents that are filed and requirements to comply with the act, with all the various changes that have taken place.

I, too, would like to just note, both with interest and approval, many of the recommendations that have come forward from the Chief Electoral Officer's office with respect to elections in Manitoba and the positive impact that many of those recommendations have had in terms of increasing access to democracy on the part of Manitoba citizens in a variety of ways already outlined by the Premier. He will know that we have taken issue with some provisions within Bill 37, but it's those provisions that were outside of the scope of the recommendations of the Chief Electoral

Officer that we were primarily concerned with and not those that were advanced by that independent office. So I would just like to thank and commend you for that.

We have some quite significant issues to deal with in this committee. I just want to put on the record, before we get into the question and answer part of this meeting, that it has been the normal practice, and I think for very good reason, to have the party leaders be able to be present and fully participate in committee meetings when we deal with fundamental issues such as electoral reform, Elections Finances Act, and the conduct of elections in Manitoba. With some regret, the date and time of this meeting was established through correspondence from the Government House Leader (Mr. Chomiak) to the Opposition House Leader (Mr. Hawranik) without prior consultation with my office. The result of that is that I'm able to be here until about 10:45 or 11 o'clock this morning because of a prior commitment to travel outside of the country, and I need to be at the airport shortly after noon.

As a result of that, and given the significance of the issues, we will have some opportunity today, certainly, while I'm present, to address some of the issues that we would want to deal with. My very capable colleagues will carry on from the time that I have to depart until noon today, but my expectation will be that there will be significant unresolved issues by the time we reach noon today and I would certainly like to, at this stage, put on the record the desire on the part of the opposition to call another meeting of this committee to ensure that all issues related to The Elections Act, The Elections Finances Act, and the fundamental importance of transparency and elections are able to be dealt with by the committee.

There are significant issues arising, obviously, with Bill 37. There are issues arising with respect to the direction of reform going forward and, also, issues with respect to the conduct of elections in the past. So I just want to put on the record our desire to reconvene this committee at an appropriate date after today, but we'll certainly look forward to seeing how far we're able to get into these issues today. Thank you.

**Madam Chairperson:** We thank the Official Opposition Leader for his comments.

Does the Chief Electoral Officer wish to make an opening statement?

**Mr. Richard D. Balasko (Chief Electoral Officer):**  
Yes, thank you very much. It's been practice that I do so, and I'll keep my comments brief, particularly in view of the time.

I want to thank the committee for the opportunity to be here this morning and to discuss important matters of elections with you, but first I'd like to introduce to you members of my staff. Scott Gordon is the Deputy Chief Electoral Officer; Mary Skanderbeg is the manager of operations. Shipra Verma is the manager of Elections Finances.

Certainly, people in your campaigns, if not yourselves, and certainly your political parties, will have had much interaction with our office.

I'm pleased to be here to review the recommendations that have been made in our reports for the years covered, 2003 to 2006. I want to tell you that a lot of consultation goes into the development of the recommendations. We consult with our returning officers, the assistant returning officers; we survey the field officials. We consider very important the views of the parties and also of campaigns. We speak with campaign managers. We speak with official agents. We speak with auditors of political parties, across political parties.

We undertake surveys of voters and surveys of non-voters to determine their satisfaction with the process and what might be in their best interests in terms of future reforms. We review legislation across Canada and we review best practices across Canada. Of course, we consult with the all-party advisory committees.

The 2003 annual report included a consolidation of 28 recommendations to amend The Elections Act and 28 recommendations to amend the finances act. In 2004, just in terms of a brief overview, we carried those items forward and added an additional eight items under The Elections Act, notably a mandate to promote democratic participation in view of voter turnout and to provide for non-resident advance voting opportunities. As well, we brought forward three more recommendations on The Elections Finances Act.

As well, in 2004, we made reference to The Electoral Divisions Act, The Controverted Elections Act, and with regard to fixed elections dates, as well as commented on the need for a referendum act. So, in 2005 and 2006, those reports basically carry forward the items that were on the table at that point because, at that time, as we all know, The Elections

Reform Act was passed on June 13, 2006, and is in effect on December 13, 2006.

There are a whole raft of what I consider, at least, to be highlights in terms of decisions of the Legislative Assembly to change the laws in Manitoba, a number of which have been talked about already, so I won't go through them in great detail. To touch base, first off, a plain language rewrite of The Elections Act is something that, I hope, paid dividends to the volunteers who are involved in elections. The legislative drafters did a tremendous job, in my view, in terms of the language and organization of the legislation. It's brand new, cover to cover. It includes a number of important opportunities to extend the voting rights of Manitobans, as you say.

Some things that have not been mentioned: first, it clarified that all qualified voters are entitled to vote at advance voting stations. There's no longer a reason required to vote at advance voting. It provided an additional day of advance voting and, for the first time now, on a Sunday from noon till 6. That proved to be particularly popular.

Permitting voters from any electoral division to vote at any advance voting station, while an important undertaking as Mr. McFadyen returned to the need for innovation, the fact is it works and it empowers voters not only in voting but, very interestingly, a lot of voters at the advance voting stations are voters whom we find difficult sometimes to enumerate because of very active lifestyles. We were able to add them to the voters through swearing on at the advance voting stations.

Certainly, not a great number, but an important extension of the franchise is to caregivers of persons that are homebound. Homebound voters have had the ability to vote for some time but, often, their caregivers are very restricted in their abilities as well.

Voter identification was required at the advance voting opportunities in order to ensure the integrity of that process, since voters could vote at any station. That proved to go over very, very well. There were very few instances where people had a problem producing the identification or had to return. Of course, since it was advance, there was that opportunity.

There was also the implementation of a formal advisory committee under The Elections Act and the appointment of an independent commissioner of elections, responsible for the compliance and

enforcement of The Elections Act and The Elections Finances Act, since December 13, 2006.

\* (10:20)

Under the finances act, a couple of notable changes, one is—hopefully, you felt the benefit of this—the filing deadline was extended by a month. I know, from our perspective, the returns came in, I would say, more complete; there was more time for assistance. So they came in four months after election day.

The matter of who may collect contributions was also dealt with in the legislation, and only individuals normally resident in Manitoba may collect contributions.

Child-care expenses were considered not to be an election expense, but the incremental costs for an election are now 100 percent reimbursable, so, again, trying to remove a barrier.

Another innovation, hopefully, that helped political campaigns is the fact that, for the first time, there's a base spending limit established at the time of the writ. Before, you'd have to wait until the voters' list was compiled. This time, the spending limit was based on the list in the previous election as a base, and it could only go up from that point.

In terms of The Electoral Divisions Act, there were several important changes that reinforced the independence of the commission. Of course, I am not joined by the other four commissioners this morning and I will remind you that, of course, the maps are those maps that are proposed, and we're going into significant public hearings across the province early in September. The report goes to the Speaker. All members get copies of the report now as soon as it is tabled or, in fact, if the session is not in, copies are circulated. The timing of the implementation of the report is specified. The composition of the commission is expanded.

Of the couple of recommendations left outstanding that have not been dealt with, there are very few. In The Elections Act there is one that's under discussion now, in addition, of course, the fixed date which may be dealt with; we'll see in Bill 37. The requirement for 100 signatures on nomination papers, this was recently discussed at advisory committee meeting. The recommendations that number be reduced from somewhere to 25 to 50 simply to be more comparable to other jurisdictions across Canada, those with fixed dates and those

without fixed dates, the norm elsewhere is from four to 25.

The Elections Finances Act, the plain language rewrite would be a tremendous effort but a tremendous boon to everyone. That statute has been amended over time so often that, going back to the basics, clarifying the principles and rewriting that statute would be tremendously important.

We recommended that contribution limits be indexed and the reason behind that is that political spending is indexed and so the ability to raise funds to continue to spend to the limit seems a reasonable length. Our recommendation has been to adjust those contribution limits, however, only every three years and to round it to \$100, because it would be quite difficult to apply the CPI annually and say, well, this year your contribution limit is \$3,065.25. So, for example, from 2001 to 2008, at this point the contribution limit, if adjusted, would be \$3,500.

We have similarly recommended that third-party spending limits be adjusted. Political party and candidate spending limits are adjusted. Third parties wishing to engage in election communications during the election period, we feel, ought to have their contribution limits adjusted if and when third-party legislation is proclaimed, which remains our recommendation, particularly in view of the most recent decisions of the Supreme Court and Harper.

I'll stop there. I mean, I love elections, as much can be said, but I understand the time constraints. So I appreciate the opportunity—if you wish to discuss more things about the election, if you wish to discuss more things about The Electoral Divisions Act, of course, I'm pleased to do so. But, with that, Madam Chairperson, thank you very much.

**Madam Chairperson:** Thank you very much.

The floor is now open for questions on the 2003 report.

**Mr. Doer:** Yes, in previous—on three occasions the Chief Electoral Officer has recommended set election dates. I prefer to use that word as opposed to fixed election dates, and members opposite would probably want to do the same thing. But the set election dates, Elections Manitoba, I'm sure, did a lot of studying on this issue beyond just, the other provinces have done it, and I know that part of that study included the improvement on enumeration and voters' lists and the hiring of enumerators, and they'd be able to do the criminal background checks, and some of the issues that have been raised with us.

Has Elections Manitoba studied the advantages and disadvantages of different dates?

At this committee, during public hearing processes, students, some farmers, argued against the June date and argued for an early fall date, a point that's been raised by the Member for Inkster (Mr. Lamoureux), as well, in committee. Has Elections Manitoba studied the advantages and disadvantages of both sets of dates?

I went with the June date as a proposal in law because of the obvious fact that it would look disingenuous to have something that would be later than that in the sense of, you know, not being consistent within a four-year date. But I know that, if this is passed, I believe this will stay in practice for a long time because parties will not want to change it for the added advantages of democracy.

Have you studied this issue, and what are the pros and cons of a spring date versus a fall date, if you have indeed studied the two issues?

**Mr. Balasko:** Thank you for the question. We have done some research into spring dates and fall dates for set elections. We have not yet had the opportunity to discuss that with the political party advisory committee and so we will be sharing that research with them and having a discussion with them. But, for the purpose of discussion this morning, there are eight jurisdictions in Canada with set election dates, and two of those jurisdictions have set election dates in the spring, and the balance have set election dates in the fall. Of the jurisdictions that have the dates in the fall, only one in September and the balance in October, with the exception of Saskatchewan, which goes into November. So that's sort of where the state of affairs is in terms of set election dates.

In terms of Manitoba, our perspective, of course, on that would be we have to consider rural Manitoba and the window for seeding and harvest. We have to consider flooding and forest fires in Manitoba as important factors, as well. We also have to consider the enumeration process so, when the election date is set, that the enumeration doesn't take place during the summer, say, the month of August, when many people are on holidays and traveling. So all of that to us makes very attractive the notion of a fall date because of the issue in particular of forest fires and floods. There are no guarantees, but most likely, through our research with Emergency Measures, these occurrences are, of course, most likely in the spring rather than the fall.

In terms of when in the fall, again, our early thinking on that is that, of course, we have to get past, you know, mid to late September for issues in rural Manitoba for the harvest, so we're thinking we are into October and later in October would allow late dates in October, or, as Saskatchewan's done, early dates in November allow for an enumeration to take place, at least half of it, or much of it, after people return from their summer vacations. So the norm seems to be the fall. It seems to be October. It seems to have some advantages with regard to Manitoba realities.

I hope that answers.

**Mr. Doer:** So my assumption is that if you were recommending this to the Legislature you would recommend the fall date over the spring date, No. 1, based on your comments. I have a second question on another matter, but I'm making that assumption, and you can clarify if I'm wrong.

On the issue of the boundary report, section 9(2)—and, first of all, I just want to say that we respect the integrity of the commission and the drawing up of the proposed boundaries. We believe that's a difficult job, and it's never—I remember in '99 we didn't even know what boundaries we were going to run on because, you know, the law hadn't been proclaimed or passed, so we were sitting in a pre-election period not knowing, you know, whether it's going to be boundaries from the past, the '89 boundaries or the '99 boundaries. So we've taken that provision out to make it clear when they're binding.

\* (10:30)

But section 9(2) of the act provides for what is called undercounting, and it specifically relates to the undercounting of where you sometimes see that in inner city areas because people don't participate in the census, and in Canada you see a lot of undercounting in Aboriginal communities. We've documented that the reserve count, if you look at First Nations communities in the old Rupertsland, would be 5,650 more electors than the current census population. Under the proposed map, we've documented that the variance stated in the electoral boundary map of 23 percent is based on the census, not on the undercounting. Demographers would generally concede that there is undercounting in inner city areas and in First Nations communities across Canada. Your variations appear to me to be based on census, not on the basis of proposed undercounting or potential undercounting.

How is the electoral commission dealing with the issue of 9(2) of the act, dealing with undercounting and the ability of the commission to use estimated populations from Stats Canada, the Bureau of Statistics, or other sources that are satisfactory to the commission, or are they only going to go with the strict census numbers in the drawing of the boundaries?

I only say that because there's a variation there, but that doesn't necessarily mean you weren't incorporating that in the drawing of the boundary in terms of undercounting. So I want to, before we write a big, long brief to you—which we still might do and I wouldn't do that possibly. It would be people outside of my office, but—*[interjection]*—no, everybody has input. I'm an MLA after all, in Concordia, and I won't be contesting anything they propose in Concordia. So, I'll make that clear; I'm above this issue.

So, (a) I'm confirming—*[interjection]*—everybody's going to talk about their own boundaries. I think the Chair would like to have a few. The issue is I'm confirming that it's a recommendation for fall versus spring and, secondly, the issue of undercounting and the specific question on Rupertsland with the obvious case of the undercounting, which we believe is about 5,000 electors.

**Mr. Balasko:** Thank you for the two questions.

First, with regard to set election dates, I provided to you my thinking. What I've said makes sense to me from all my experience, having been Chief Electoral Officer for five general elections. However, it's very important to us in arriving at our final recommendations to consult with the political parties. So, we will have those meetings.

We had a set of meetings very recently and we'll have another set of meetings with that group. After that point, having the benefit of their advice, I'd be in a better position to make a formal recommendation on that. I hope you can appreciate that.

With regard to The Electoral Divisions Act, again, I wish there were four more chairs here in the committee. I don't speak for the commission. I'm speaking as Chief Electoral Officer, but I do understand the question and I do appreciate the importance of the question. I can give the committee some information about that.

The statute requires, firstly, that the commission use Statistics Canada numbers. So the proposed map

that's been provided is based on the census numbers from Statistics Canada; this should clarify this. The commission is very much aware of the ability to use other sources, as the statute says, that are satisfactory to the commission, to make adjustments for areas that are undercounted. Of course, in addition to that, we have the variation; we have the 25 percent variation and we have the 10 percent variation. So there are two levels that could come into play here.

The matter before the commission, really, is that if it were to accept a second set of data in place of the Stats Canada data, it needs to be satisfied that: (1) the quality of that data is up to the standards of the Statistics Canada data, because the census data really is the landmark data. There's no question about that.

Also, very, very importantly, the commission would have to be certain that the undercount—and it's correct to say that demographers accept there's an undercount in Manitoba; Statistics Canada recognized an undercount in Manitoba. The issue is the distribution of the undercount. Statistics Canada, for one, is not able to distribute the undercount across Canada. So this is certainly a matter for the commission.

The commission will have public hearings and will welcome full thoughtful submissions on that. Nothing is in stone; that's why they're proposals. The commission's a very close partner with Statistics Canada and the Manitoba Bureau of Statistics and gets expert advice on the appropriateness of applying alternate sources of data. For now, the map is based on Statistics Canada.

I hope that answers.

**Mr. McFadyen:** I've got about 10 minutes and, to be clear, it's a mission to the Philippines that I was committed to and so, regrettably, I'll only be able to spend about 10 minutes.

I just want to ask, picking up on the Premier's (Mr. Doer) question and your response on the issue of the all-party committee, can you just indicate when was the last time that all-party committee met? And were all of the substantive provisions in the current proposed Bill 37 discussed as they pertained to the first couple of schedules, The Elections Act and The Elections Finances Act? Were they discussed at that all-party committee meeting?

**Mr. Balasko:** The advisory committees met at the end of June, and at that time there was not a discussion and there hasn't been a discussion of Bill 37 per se. A number of their recommendations—I

mean, those recommendations that are in Bill 37 that come from Elections Manitoba, and I want to know if you have a specific one in mind, then please ask me because that would help me confirm it to you. But of course our major recommendations do go through the advisory committee and we consult with them, and so there are items in Bill 37 that are not initiatives of our recommendations and were not discussed with the advisory committee.

There are other elements of Bill 37 that were discussed with the advisory committee in 2001; for example, the annual funding. A government initiative for annual funding was discussed with the advisory committee in 2001, and a report was made to the Legislative Assembly at that time. I'm sure you have copies of that report.

**Mr. McFadyen:** Thank you; that answers the question.

You made a comment about a recommendation for a plain language rewrite of The Elections Act and The Elections Finances Act, which I am confident would be well received by the many official agents and CFOs from all political parties who I think—and probably your staff—labour under the interpretations of the existing act and the significant amount of paperwork and compliance and other things that are required. I know that would be welcome.

In your comment, you talked about going back to first principles under The Elections Finances Act, basic principles under that act, and I wonder if you can just outline for the committee what, in your view, are the most important core principles that are dealt with in the act. We know there are all kinds of detailed provisions and mechanisms and requirements for certain documents and actions to be taken to achieve the objectives, but I wonder if you could just start at a high level and share with the committee what your view is as to what the most important fundamental objectives of The Elections Finances Act are.

**Mr. Balasko:** Well, you know, reading the statute and being familiar—and let me add my personal name to those who would be very happy to see that statute rewritten. The statute importantly sets out the notion of spending limits, and that notion is related to competitive elections and to equity in the electoral process. So this is an important feature of The Elections Finances Act.

The Elections Finances Act speaks about disclosure and disclosure of public returns, and defines what is to be disclosed and what is to be disclosed. So disclosure is a second very important principle of the act.

Support for the political process is another important—public support is another important element of the existing act and, when I say that, I speak about tax credits and I speak about reimbursement of election expenses.

\* (10:40)

One of the other notions that's important in the act is agency, and that is the notion that—of course, back when in elections, in the '50s and before that, weren't sure what a campaign was and who was responsible and the act now defines clearly the officers for political parties and for campaigns who are responsible.

The act provides for the independent administration of the finances act. The act reinforces the necessity for an arm's-length independent body, this being Elections Manitoba, not only to encourage compliance, but also to provide assistance. As you know, I'm sure through your campaigns, this has been a tremendously important initiative of Elections Manitoba over the years, recognizing that the act is, in fact, applied most commonly by volunteers. So we have done many, many things. We're anxious to do more, if you can help us with that in terms of assisting people to comply with the legislation.

As well, there's the notion of enforcement, and enforcement is important. As you know, since the Chief Electoral Officer was responsible for enforcement of the act until 2006, the commissioner of elections is responsible for compliance and enforcement with the act since December 13, 2006. The commissioner of elections is independent of the Chief Electoral Officer. The Chief Electoral Officer of Elections Manitoba has no statutory authority to investigate or to prosecute since that time. So the notion of an independent enforcement agency is also extremely important. Some agency, the commissioner, Elections Manitoba, to go through all the matters that are required by the act in the political environment of elections and to make straight, down-the-line, good judgments through reasoned processes and apply the legislation.

So these are some of the main features of the legislation as it currently exists, and I think that they're important, each of them.

**Mr. McFadyen:** Thank you, Mr. Balasko, for that. I think it was a very strong response in outlining what the key principles are.

I wonder if you could just expand just a little bit more. You talked about spending limits to provide for competitive elections. You touched on the issue of disclosure. But I wonder if you could expand on what are the underlining issues and objectives that disclosure is designed to achieve in a democratic election process.

**Mr. Balasko:** I'll start with disclosure, if that's fine, and I'll go back to limits.

In terms of disclosure, I think the most important thing is that the users of the information can rely on what's disclosed in the return. So that's one of the reasons that Elections Manitoba is specifically charged in section 6(c) of the finances act to assist political parties in the preparation of financial returns, to assist parties, to assist their chief financial officers, to assist candidates, to assist their official agents, and why we have a long history of providing assistance, not only in terms of the seminars that we put on, the guidelines that we circulate, but, also, in terms of assistance to complete the information required on initial returns and on supplementary returns, so that the point of disclosure—and, hopefully, you've had a chance to use our Web site as well and become familiar with that. I believe it's a very deep and rich source of information, and we hope to add to that soon with things like a contributor searchable data base. So the point is to demonstrate that the required information is disclosed and people can rely on the information that has been disclosed.

The fundamental objective of limits on election spending is to recognize that money plays a role in politics. The objective is such that one voice, just based on money, cannot overwhelm the others. So candidates have spending limits, as you know, and political parties do as well.

We have also recommended that third parties be subject to limits in the same notion that the regulated competitors in an election campaign are subject to spending limits. Those advocacy groups, specifically partisan groups, during an election period, who might want to advocate the election or defeat of someone, ought, similarly, to be subject to spending limits, a notion that the Supreme Court, in reviewing the Québec Referendum Act, upheld and reaffirmed in the Harper decision. So we think that the limits ought to apply in those circumstances as well.

Of course, the limits are adjusted to keep pace with inflation and the matters that just cause general increases in spending. Not all jurisdictions in Canada I think have spending limits, but we do and we have for a long time.

**Mr. McFadyen:** Thank you for that.

Just further on the issue of disclosure, spending limits, I think there's a good understanding of why it is that you want to limit spending in order to create a level playing field. On the other side of the ledger, so to speak, there's disclosure of where parties or candidates get their money or their support from. It can come in the form of money, or it can come in the form of other forms of contribution. I wonder if you can just touch on the purpose of having that kind of information disclosed in an accurate way.

**Mr. Balasko:** I believe I understand the question, but if I'm off track at all, I'm sure you'll bring me back to that.

The purpose of disclosure in terms of the source of contribution is very important. When you look at Manitoba now, for example, since 2001, only individuals normally resident in Manitoba can contribute. So source of contribution is something that is critical to proper disclosure. As each party and candidate has to deal with their own contributions at Elections Manitoba, we then receive information from all the contributions across all campaigns and all political parties, and we review that at our office to ensure that there's compliance with the legislation in terms of who may contribute and who may not contribute. So it's important to know the source of the contributions.

You also, I think, make reference to the notion of there can be different kinds of contributions. The Elections Finances Act provides for two kinds of contributions. And a contribution, basically, and I know you're all familiar with this from the statute as well, but something provided to or for the benefit of a political entity. Contributions may be in cash, a monetary contribution, or contributions may be donations in kind. A donation-in-kind contribution is a contribution of a good or a service, but it's still a contribution; it's still disclosed in terms of the total contributions.

Different treatment on the monetary side, donation-in-kind contributions are also donation-in-kind expenses, and they're reimbursable—sorry, monetary contributions are also monetary expenses and reimbursable. On the donations-in-kind side,

donation-in-kind contributions are disclosed as contributions, but on the expense side, as I say, the other side of the ledger, those are not reimbursable.

So that's the distinction between donations in kind and money in terms of contributions. Both those contributions, however, are included in the general umbrella. They both are contributions. They're different types of contributions, different treatment of the contributions on expense, but they're both contributions.

**Mr. McFadyen:** Can I just ask you to further delineate the difference between contributions, on the one hand, which are disclosed and dealt with? You dealt with the two different kinds of contributions, one which is monetary, the other which is in kind. So it's some way that some individual provides support to a campaign that doesn't involve cash, but it provides some other contribution. Sometimes it's labour or expertise, or it may be some other non-monetary contribution; contributions on the one hand, and expenses on the other, which are dealt with in completely separate sections of the returns. Because you used the term donation-in-kind expenses, which is a term that I'm not familiar with. I always thought that there were expenses on one side and contributions on the other. What is the relationship between donations, contributions on the one hand and expenses on the other, if any?

**Mr. Balasko:** I didn't want to jump in too quickly. So forgive me.

I think a good way to look at it this way is, you say two sides of a ledger, so you've got contributions on the one hand, you've got expenses on the other hand. The act provides on the contribution side, you can make a contribution of a good or a service, which is a donation in kind, or you can make a contribution of money.

\* (10:50)

On the other side of the ledger, in terms of expenses, the act provides that those expenses that are donations in kind are not reimbursed. So those are treated in a different way than those expenses for which the political entity has expended cash. So, if you expend cash for a new computer, that expenditure is eligible for reimbursement to 50 percent, if you qualify with 10 percent of the vote. If someone provides to you that computer, then it goes against your expense limit. It's not a question of that.

It's against the limit but there's no reimbursement of the value of the computer that you've received.

**Mr. McFadyen:** But, just to be clear, there's no necessary connection between expenses and contributions. For example, if somebody donates a computer to a campaign, there are two different entries that are required. There's a donation, which is the market value of the computer, and that may very well just be a donation. On the other hand, on the other side, in terms of disclosure, there would presumably be an expense only if money was paid toward a computer. In other words, there are different—expenses and contributions are two different animals altogether, I think is what I'm trying to ask you.

**Mr. Balasko:** I mean it's not as—I don't think it's as simple as that. I want to focus, if I can, on the expense side and see if that adds value to understanding this.

First, for something to be an expense, it's got to be used. So whether you buy something and put it in inventory, if you never take it out of inventory, it doesn't become an expense and you're not going to be reimbursed. If you buy something and use it, it's an expense.

Similarly on donation in kind, if a contribution is received by you of a donation in kind, let's say that computer that you want to use—*[interjection]* sorry, that computer that you want to use in your office, if you don't ever take that out of inventory and use it, then that's not going to be an expense, but if you take the computer out of inventory and use it, that is an election expense. The donated good, the donated contribution is an election expense that's included within the limit of the spending. It's just not reimbursed. So it does carry over if the item is used or the service is used. It is an election expense, just not subject to reimbursement.

**Mr. McFadyen:** Just on the issue when you're talking about basic principles, you talked about the issue of agency and that's the establishment of officers for political parties who are responsible for the preparation of returns and ultimately accountable to Elections Manitoba for compliance.

Can you just indicate the degree to which Elections Manitoba relies on those agents for the accuracy of returns? Just to put the question a different way, what level of certainty does Elections Manitoba have that a return is accurate? And to what extent is there reliance on the agent of the party, and

to what extent does Elections Manitoba have the ability to independently verify every detail of a return?

**Mr. Balasko:** There are levels of assurance. I mean, that's why we put so much effort into assisting people to understand the legislation. That's why we'd like to see the legislation in plain language. We put on seminars all around the province. We had about 60 percent of campaigns attend our seminars to become familiar with the act. That's because the first agent is the official agent in terms of a candidate's campaign.

We also have similar services available. We offered to all the political parties a seminar on The Elections Finances Act. That goes to the notion that it's the chief financial officer of the political party in the first instance that's responsible. So these are the first-level responsibilities. That's why we put a lot of effort into assisting people to comply.

In our experience, there's a tremendous variety in the experience of people who are official agents, and some people need a lot of assistance and some people not so much, if they have a professional background or they've done the job before, for example. So, in terms of the official agents, it's extremely common and overwhelmingly the case that a return that had been prepared by an official agent is something that would, under review, there would be some things that would need to be clarified.

That's why, as a second level of assurance, returns come in audited. The requirement for an audited return in the statute is both on an official agent and on a chief financial officer for a political party.

This now takes it to another level of assurance. The next level of assurance is someone who is an auditor and, again, in terms of assistance, we put on seminars for auditors across the province. We have auditing guidelines. We have accounting guidelines, official agent guidelines, chief financial officer guidelines, bookkeeping guidelines—by the way, all those guidelines circulated through the advisory committee and incorporated in the comments of the advisory committee.

But, of course, an election is, you know, it's an infrequent event, and so there are specific compliance audit objectives in The Elections Finances Act which would be different in the general accounting principles that auditors would most likely

be familiar with. Nevertheless, it adds sort of the next level of assurance when it comes in.

The third level of assurance is the review by Elections Manitoba. We have the ability to do a review of the return, but in the first instance, and until amendments in 1999, the review was based upon the face of the return and, as well, in 2006, there were some very important amendments that helped us. So, until that point, it was based on the face of the return. On the face of the return, you'd examine it, you'd ask the questions. There would—overwhelmingly, there will be adjustments to the return that are required. So the review by Elections Manitoba is sort of the third level. In doing that review, we would assist candidates and political parties to understand the changes that we're suggesting and of course, at all times, the return remains the return of the political party or the candidate.

So the various forms of assistance that we provide once we're reviewing the return, it's commonplace for us to meet with official agents and meet with political parties to review changes. It is common for us to take a form, as recently as the 2007 general election, across all political parties, to take a form, complete the information, return it to the agent saying, here are the changes we see, here's what we've discussed; it's your return, if you're in agreement, you can complete it. These are changes generated by that third level of assurance, which is Elections Manitoba.

We have similarly marked-up returns and we've similarly sent very detailed letters. You know, it might be 10 components, it might be one. But there might be 10 and, under 10, it would say, on line 6, this changes to that, and on line 7, this changes to that. So, we do, as is our requirement under 6(c) of the finances act, to assist in preparation of a return, we assist people by giving them specific numbers and information, especially when it's generated by us. It's their return. They need to sign that return and file it with us, but these are our observations.

Moving up, the next level of assurance was really provided in 1999 when we got the power to do inspections and audits. That's a very different thing than simply reviewing a return on its face with an audit attached to it and asking the questions that are there—although that's, you know, carefully done, but there's a limit, you know, to what you can do. We made a recommendation at the time of the Monnin inquiry that we should have the authority to do

detailed inspections and audits. Now, this is—in a sense, you have to suspend this notion of the regular compliance review. Now this is Elections Manitoba going in and having certain authorities, the authority to enter a premises, the authority to require the production of records, the authority to compel people to provide to us records and information. So, it's a very, you know, weighty and important section.

When we use those authorities or, for example, an investigative authority, where we, again, have very clear powers, if we're using those authorities, now we're up to the highest level of assurance that we can provide at Elections Manitoba. Again, the purpose of this at the end of the day, when the return is final and it's amended, that the end user can look at that return and say, yeah, I think that this return makes sense in a compliance review because it's been audited or in a detailed inspection by Elections Manitoba or an investigation because Elections Manitoba has gone in with powers and resulted in the various amendments.

So those are the gradations. I think the final comment is that, again, from our recommendation, and new in 2006, is that campaigns have to provide to us all evidence of disbursement. So, even going back now to that most fundamental face of the return on it, now we do see, without having to ask can we see that receipt, can we see this receipt, can we see the other, all the receipts come in. So we have just initially, ourselves, a much higher level of assurance now than was ever the case, and I think it's better for agents, too, because we're not coming back as often to them.

So, thank you very much.

\* (11:00)

**Mr. McFadyen:** This is my last question before I have to head to the airport, so I'm not going to get another chance to just say thank you for the very strong and candid responses. Then I'm going to turn it over to some of my colleagues.

But, as I understand it, with all the changes that have taken place, Elections Manitoba has taken a more proactive approach to assisting campaigns to try to achieve the ultimate objective of honest and accurate returns. I think your staff does a very good job of working with campaigns. The underlining assumption is that campaigns are operating in good faith, want to be honest, even though there may be errors in a return. I think the assumption, fairly, in almost all cases, is that they're honest errors and that

you work with official agents to try to get accurate and full and complete disclosure in those returns. I think in the very significant majority of cases you successfully achieve that.

Coming back, though, to the question. At the end of the day, where does ultimate legal accountability rest in terms of the accuracy of those documents, and why does the accountability rest at that point?

**Mr. Balasko:** First, thank you for your comments. This discussion ties right back into the nature of that statute, which has been amended so many times, and, sometimes, jokingly referred to as the lawyers and accountants relief act, because it is a difficult statute.

**An Honourable Member:** Company excluded.

**Mr. Balasko:** Of course, no offence. As much as we have an expert group of people in our office, including accountants and expert legal advice, people have been with us for 20 years. As much we have that and work with it, we have questions. So, when I think of the volunteers who are just trying to do a very good job—and I want to echo your comment. Overwhelmingly, it's a tremendous testament to our electoral process that these volunteers come in and they want to do the right thing. That's certainly been our experience.

The ultimate accountability for a return is absolutely the accountability of the party filing the return. By party, I mean the political entity. So, if it's a candidate's campaign and the official agents file the return, well, the candidate may also be liable in circumstances. It's the official agent in the first instance. With a political party, the chief financial officer, but the party in certain circumstances as well. At the end of the day, it is the return is the return, and it's the disclosure of the political party.

But, of course, keep in mind that, while you're right, we're increasing our assistance. We have always provided assistance. We've always provided detailed assistance. The kinds of things I'm talking about in terms of sitting down with people, in terms of completing the information on the returns, in terms of detailed letters saying, line 6 this, line 7 that, we've been doing that since I've been in the office. This goes back to the early 1990s.

So there's no question where the accountability rests, but, of course, we have an accountability as well to ensure that a return is, in our view, in compliance. If it's not, in our view, in compliance, then we have other responsibilities.

**Mr. Kelvin Goertzen (Steinbach):** I have some questions to follow on the theme that the Leader of the Official Opposition (Mr. McFadyen) was going on. Before I move on to that, though, I want to ask a question in relation to the comment that the Premier (Mr. Doer) put forward early on about set election dates and the timing of elections. I understand that maybe there's been some research that's gone on with Elections Manitoba regarding when the right time for an election would be.

One of the things that the Premier has said, and not only him, but others in the past, about the need to try to avoid conflicting with the federal election because of the great number of challenges that that presents, not only for those who are running elections, but, of course, for those who are voting, because there is a degree of confusion when elections coincide.

The federal government, my understanding, has legislation now for set election dates in October. The next one, I believe, would be October of 2009, but, because of the likelihood of minority governments on the federal side and not the likelihood so much in Manitoba, that's much more in flux. My understanding is that, after a minority government falls, the system resets itself and they go with that four-year cycle again.

So, using a scenario, if the province had a set election date in the fall of 2010 and the federal election—if it would go till the fall of 2009, which it's proposed to now—would result in another minority government, which is certainly likely, that might then result in a conflict with having a 2010 provincial election, because the average lifespan of minority governments is really only a year. This has been a bit of an exception.

Has that been considered, the concern about having a fall set election in Manitoba because of the possibility of a conflict with a federal election?

**Madam Chairperson:** Just prior to recognizing Mr. Balasko, I wanted to say I'll give you one more question. Then I have to go to the government side, because they had their hand up but I didn't actually see that.

**Mr. Balasko:** You make an excellent point. I would add to that point that, of course, in Manitoba, we have municipal elections in the fall as well. That's one of the reasons why we would want to have a full discussion as well with the political parties at the

advisory committee, about whether the spring or the fall date ultimately makes sense.

It doesn't take away from the advantages to the fall, in terms of forest fires, floods and things of that nature. Perhaps, it is a reason why Saskatchewan has gone to the first week of November; they've got their fall election and, at the same time, they are avoiding, in the Manitoba context anyway—I don't know when municipal elections are in Saskatchewan but, in a Manitoba context, that could avoid the likelihood of an October conflict with a national election or with a municipal election. That, of course, needs to be balanced with what travel and campaigning, et cetera, are like in Manitoba, and it doesn't change the overlap of the campaigning and otherwise. The later it gets, the more difficult it is.

On the one hand, I think you've got some pretty regular events in Manitoba—forest fires, floods and things that can often displace people, cause a lot of hardship and maybe divert some interest in participation from elections. On the other hand, you do have the possibility of overlap, no matter when you set the clock. Minority governments at the provincial or federal level can reset that clock.

In my final comment though, having said that, we have experience running now—it's only a by-election, so the demand on resources is less. The election's no less important, but the demand on resources is less where there's been a federal election basically overlapping with us, and we were able to do that.

I agree—a different thing, if you're looking at 57 divisions across the province. From a political party perspective, that's one of the really important elements that we want to talk with them about. Many of the volunteers will be the same; the agents will be the same. So, yes, we've thought about that. Those are our thoughts on the fall. That's why, perhaps, some have gone to very late fall, late October, but there likely still would be some overlap in the campaign period.

**Madam Chairperson:** Mr. Goertzen, for a supplemental question.

**Mr. Goertzen:** Thank you for that response. Certainly, I think that there would be significant challenges with an overlap of a federal election. I suppose that's why the Premier (Mr. Doer) in the past has been adamant about avoiding that conflict. On that point, I think I have general agreement.

There are questions regarding the role of the official agent. I appreciated the comments that you made in terms of the strong role that the official agent has on a campaign and that next level of accountability which you refer to is the auditor.

The relationship between the official agent and the auditor, I think, is important. Certainly, in working in campaigns, I've seen that relationship there.

Can you maybe expound a bit on the need for the official agent and the auditor to be in communication regarding the returns, before they get filed with Elections Manitoba?

**Mr. Balasko:** Just a point of clarification, in terms of the accountability, it's sort of the next level of assurance, I would say, when you go to an audit. The accountability always remains statutorily with the official agent, the candidate of the political party and the chief financial officer.

In terms of the relationship between the official agent and the auditor, of course, a lot of that would go to the auditors. The auditors have their own professional standards and responsibilities. We wouldn't suppose to dictate to the auditors their professional conduct in relation to auditing of financial returns.

\* (11:10)

What we do is provide assistance to auditors saying, look, you're familiar with the general accounting principles. Now we want to talk to you a little bit about The Elections Finances Act, because there are some notions, like donations in kind, and how that all works.

It would be important from our perspective that the auditors are familiar with the finances act. I'm sure, professionally, from their perspective, it's important that they are as well. They are the ones—the auditors who receive the records from the official agents. Certainly, we've heard many times that, if the records are well-compiled by the official agents and they move on to the auditor, the job is much simpler. If it's a shoebox, then it's a much more detailed project.

I would say, primarily, the response to your question goes to—would involve also the auditors, their professional obligations, how they perceive their professional obligations through their institute. I'm not in a position to dictate to an auditor what their relationship ought to be with the campaign.

**Ms. Jennifer Howard (Fort Rouge):** I just wanted to provide some feedback and ask some questions.

I think the innovations that were introduced in the last election, which was my first as a candidate, really helped get people out to vote, who in the past may have had a lot more difficulty. For me, I represent a constituency that's 80 percent rental housing—many large apartments and condominiums. Having those polls right in the lobby of those buildings was so important for seniors, people with disabilities and just anyone who might not be as inclined to vote, to be able to tell them, all you have to do is go downstairs in the morning, on your way out or on your way home, and vote. I think that was tremendously helpful.

I also have heard a lot of great things about the super polls at airports and malls where anybody, no matter what constituency you were in, could vote on their way flying out, or when they happened to be in the mall.

So I think that your office has done a tremendous job at moving the ability to vote where people are. I think that's very important in terms of turnout.

One of the things we heard at the public hearings into Bill 37 from students was a request to have some of those super polls on campus at universities. I don't know if we did that this time, or if that might be something that we might do next time. I'd like your thoughts on that.

The other thing that I heard a lot about, that you probably also hear a lot about, is enumeration and the real challenges with enumeration, especially I think, in high density neighbourhoods that have tremendous turnover in terms of residency. I would see enumerators in the hallways and we'd commiserate about ever finding anybody at home to talk to. I know that they were out over and over again to try to get people at home to enumerate them.

Any thoughts you have on how—and are any other jurisdictions looking at how to do enumeration? I think more and more people are not at home; I think people have much more active lives. Some people are reluctant to open the door to anyone. So I wondered about your thoughts about how—I think the enumerators do a tremendous job, but I don't know how we're going to do enumeration in a way that we can get more people on the list and at home.

So I appreciate your thoughts on both those questions.

**Mr. Balasko:** Thank you for those questions.

Voting in apartments was very, very successful, but it's not something we can take credit for having made a recommendation. That came through the legislative process, and a very good idea. You hit the nail on the head when you said, go where people are. That's, I think, a huge change that's happened. The notion that everyone is going to enjoy the experience of going to the voting station on election day—while many, many people do and the majority of people do still vote that way—in a very mobile society, it's very, very important. That's our mantra at our office; go where the voters are.

In apartment buildings, for example, you see that the voter turnout was greater. The voter turnout in apartment buildings was about 66 percent where we're looking at about 57 percent elsewhere. Why? It's pretty obvious when you walk through the front door; you're walking right by the voting officials. Now, we're not able to get into every apartment building; it's with the permission of the management of the building. It's not a requirement in the statute, like the use of schools.

The advance voting anywhere is especially important to us, because that builds on the notion of go where the voters are. You mentioned some of the various locations we had. The most popular locations were the shopping malls—St. Vital mall, Grant Park, Clearspring mall, anywhere that people go in the normal course of affairs. They happen to be there and say, I didn't get up to go vote today, but here I am and I'm going to vote. That was tremendously successful.

Advance voting at the last election more than doubled; again, many people were people who would find difficulty to add to the voters' list.

With regard to campuses, given the timing of the last election, there were not advance voting locations on the campuses because the great number of students wouldn't have been there. Having said that, it probably would be a good idea in any event for those people who are there to have an advance voting station on the campuses. So I think regardless of when the timing of the election is, it's just a good thing to do. When we first looked at this project of advance voting, it was so, you know, immense that some of the advice that we certainly got because no one else in Canada had rolled this out, and some of

the advice—we'll start with four or five locations and that made sense, but the more confident we got that the process was a good one, we rolled it out to many, many more than that. So our theme would be to continue to expand that.

With regard to enumeration, building the voters' list is, of course, very critical and one of the advantages, if the Legislature determines there should be a set date, is that we would have more time for the enumeration. We could recruit people. We could do some, you know, basic testing and more training of people to do the job. But having said all of that, notwithstanding what was for us a late start on that day, the coverage of the voters' list was—at enumeration—about the same as the election before. The accuracy of the voters' list went up about 13 percent from the election before from some of the steps that we took. So we don't stand still.

Enumeration has its challenges, but it has its opportunities, too. A lot of communities where you—you know, a continuous list may not provide the best record of the voters. High mobility areas, some areas in rural Manitoba—First Nations, for example—may be difficult to build a good list from a continuous list.

From our perspective, we're always analyzing this, but going door to door and doing enumerations still, from our research across the country, does provide the highest level of coverage and the most accurate list. It's just a point in time, but that's all in Manitoba we're using it for. It's just for that point in time. I would also note with interest that British Columbia, which has been using a continuous list since the 1930s, I believe, there's legislation there to require a full enumeration at the next election.

So this is not to say that continuous lists can't be good. They can be very good and I'm sure where they're used they're excellent and they serve the purposes of those jurisdictions, but it's not a magic bullet and it doesn't necessarily, and doesn't in our case, provide a better voters' list than enumeration does.

**Madam Chairperson:** Ms. Howard, for a supplemental question?

**Ms. Howard:** Yes, just briefly. I wouldn't suggest that a continuous list would be an improvement particularly for constituencies like mine where the population—25 percent of the population changes between elections. But I guess any ideas on how we can get people at home more often for enumeration I think would be helpful because I do think—I don't

know that I heard anecdotally that the enumerators in my constituency in Fort Rouge probably had to go back the most number of times in any constituency to find people at home, and they did a tremendous job, but any ways that we can help them get more people on the list I think is a good idea.

**Mr. Balasko:** Madam Chairperson, may I make a comment in regard to an earlier question because I wanted to add something to the question from Mr. Goertzen, and I don't know the procedure, whether that's appropriate or not.

**Madam Chairperson:** That's appropriate. Please go ahead.

He's going to follow up on your question.

**Mr. Balasko:** Just, if I may, your question about auditors and the relationship, the official agents, and saying of course they've got their own professional obligations. I want to add to that that one of the things from the Monnin inquiry is that there were certain protections for auditors and certain duties on auditors. For example, a duty to provide notice if they resigned. There's, as well, the auditor must hold themselves as independent from the campaign that they're auditing. So there are—and I'll refer you to section 10.2 with regard to auditors. So it's something that might be helpful to look at. There is some direction in the finances act on that.

So I'm not sure if that was exactly even the question, but I thought it'd be helpful to add that, to you, so I can sort of point you in the right direction and mention those statutory obligations.

\* (11:20)

**Madam Chairperson:** Mr. Goertzen, do you have a question?

#### Committee Substitution

**Madam Chairperson:** Oh, prior to that, I'm sorry, I just have to make the committee aware that there's been a substitution: Mr. Faurschou is substituting for Mr. McFadyen, on the committee list.

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**Mr. Goertzen:** Thank you, Mr. Balasko. I appreciate that clarification.

I also appreciated your comment, prior to Ms. Howard's question, regarding the accountability of the official agent in that there's a legal accountability, equivalent to what the candidate bears, from the official agent, which is separate from the auditor's

responsibility, which has to do with their own, sort of, qualifications and their responsibilities. That's appreciated that you made that distinction.

The relationship between the two, I know, is an interesting one in terms of how they operate during campaigns. I think it's also important that you recognize that they're independent. They're intended to be independent from a political campaign and a particular political party.

Am I right in saying that it's the official agent, because of their liability, who actually files the return with Elections Manitoba in co-ordination with the candidate?

**Mr. Balasko:** The responsibility, at least in the first instance, to file financial statements is with the chief financial officer of the party, or with the official agent of the campaign.

**Mr. Goertzen:** I think that that is also important that the official agent has that responsibility vested to them, or through the party. Would it be unusual for an auditor to make changes to a campaign's return without the knowledge or without the acceptance of the official agent themselves?

**Mr. Balasko:** I don't really have knowledge of that to give you an answer whether that's a common practice among auditors or not or whether that's something within their professional standards or not. I can't help you there. But I do know that, at the end of the day, the return that's signed has got to be signed by the official agent or, in some cases, by the candidate, or by the chief financial officer of the political party. So the obligation is on that entity to file a return, and that's the return that we receive and that we review.

**Mr. Goertzen:** That's fair. I think the question isn't so much about how common the practice is as specifically about if that scenario existed. If an auditor took it upon themselves to make a change to an official agent's filing and didn't report that back to the official agent and submitted this to Elections Manitoba, how would the act, or how would Elections Manitoba view that particular occurrence?

**Mr. Balasko:** The returns filed with us are signed by the official agent or the candidate, so that's our point of review. So, when it comes in, they're certifying that this is their statement. So, in terms of arriving at that, I'm sure that many people on the campaign, in any campaign, who keep records and feed records in, but they compile their return however they compile their return. Then the return comes in with an

opinion expressed by an auditor attached to it, but it's signed by the official agent, or the candidate, or the chief financial officer of the party. It's their return. They're certifying on the form that they're filing this. So it's their return.

**Madam Chairperson:** Mr. Goertzen—and then I will have to go back to the other side because they have questions as well—for your last supplemental.

**Mr. Goertzen:** You can see the concern, the legal concern of an official agent who has signed off on a return that then goes to the auditor. The official agent believes in good faith that that's sort of the end of their duty unless they hear otherwise from the auditor. They hear nothing else; the report gets filed is the scenario. The report gets filed with your office and then something comes back as amiss. Are you saying that it's the official agent, then, who has full responsibility, even though they had no knowledge of a change that may have come from the auditor that went directly, then, into your office? Surely, the act must speak to responsibility of the party that interceded to change that report?

**Mr. Balasko:** I think I follow the scenario you're talking about. I don't want to get out too much in speculating on, you know, any possible combination of circumstances, but I just want to highlight the fact that—we talked about agency before and the importance of that—it's the official agent who accepts the responsibility under the statute to file the return in accordance with the statute. So, when that return comes to us signed by the official agent, well, that's telling the world, and that's certainly in compliance with the legislation, that the official agent says the information included in its report is my report. Then we begin our review of that report.

**Hon. Steve Ashton (Minister of Intergovernmental Affairs):** First of all, I want to, I guess, as an MLA who has been through a few elections, say how much I appreciate the tough job that Elections Manitoba does and the unbiased way in which it conducts elections. I think we only have to look internationally, perhaps even nationally as well, where you either see elections clearly conducted in a biased manner—I think we're all watching events in Zimbabwe, for example. I certainly know Elections Manitoba has an international dimension as well and has assisted in the conducting of elections. But I even see nationally when you have accusations about Elections Canada, a potentially biased one, I think that in itself is

something that is totally inappropriate in a Canadian context.

We've come a long way from elections that might have, perhaps, had some bias and conducting with a bias. So I just wanted to say that, as an MLA, I certainly appreciate Elections Manitoba's integrity and, quite frankly, I appreciate the tone of the discussion today because it's somewhat different than, perhaps, some of the discussion that's taken place in the House over the last period of time. I was particularly offended, quite frankly—I can take a lot of criticism. I think we all can, but Elections Manitoba is above and beyond reproach.

Just one question I wanted to ask, by the way, on the report itself. We're dealing with a series of reports, and I assume this is a sort of ongoing process. Obviously, it's more complex following the conduct of an election. One only has to look at the difference between the 2003 annual report and the 2006 report; one is somewhat more detailed than the other one. But I do know there was certainly a concern expressed about the timing of the release of various reports.

I just wanted to ask if you can confirm that the 2003 annual report—which is far more detailed, obviously, than the 2004, 2005, 2006 report—was actually tabled December 7, 2004. In fact, that the remaining three reports—one was tabled March 6, 2006; one was tabled April 4, 2007; April 9, 2008. So, in other words, the 2003 report, which is far more detailed, obviously, given the fact this deals with the general election of June 3, 2003, was, of the four reports we're dealing with, actually tabled earlier than any other report.

**Mr. Balasko:** Thank you for the question. I'll mention the reports in just a moment.

But I might also want to thank you and all the members across the parties this morning who have spoken about Elections Manitoba and the work we do. This is not about me, but this is about almost 10,000 people who work with Elections Manitoba—the people in our office who work very, very hard, some of whom are with me today—with only one objective in mind, and that is public service.

With regard to the annual reports, it's not that we're running out of ideas that they're getting smaller, believe me. It's that we had legislation in 2006, which addressed a lot of those recommendations. So we're very excited about some of the new things, and we're excited about meeting

with the political parties and getting their notions of further improvement in legislation for 2007.

Specifically, in terms of when the reports were tabled, your information is correct. Of course, we don't have anything to do with the ultimate tabling of the report, but I can speak to when our reports are delivered to the Speaker. If we look at 2003 to 2006, our report was delivered on December 6, and it was tabled in that case on the 7th. Four were delivered again in December. Our norm really is December. It's the end of December. The very end of November is about the earliest, and then they go into December.

\* (11:30)

Our office is one that has a lot of fascinating mandates. Whether it's being very involved in a new elections act being written cover to cover, whether it's a boundaries commission, whether it's the finances act, whether it's the conduct of an election, whether it's international assistance, there are many things that we have on our plate. But our reports are delivered at the end of the year. That's been the case since 1999.

**Mr. Kevin Lamoureux (Inkster):** Madam Chairperson, I did have many questions. I'm going to try and narrow it down to three so that other members will be able to ask some questions.

First off, I want to acknowledge and compliment the Premier (Mr. Doer) in terms of his, what appears to be an open mind, in terms of the set election date. It shows that he was listening in terms of what was being said in the public committees.

My concern, at least, in part, from Elections Manitoba's point of view was it indicated that you were wanting to go to the advisory committee to run this fall versus spring. I've sat on the advisory committee in the past and I know the individuals that quite often attend or represent the parties are not necessarily the best individuals that one might want to consult in terms of whether it should be fall versus spring. I'll tell you the reason why, is that the individuals that seem to want to have the fall election over the spring election can easily be found out by going to university clubs, by visiting some of those rural communities. I would suggest that there would be more value in doing that and then reporting back to the Legislature before or to, in whatever form, prior to the House reconvening in September. I just think there would be more value to that.

I know, as a legislator, I went around the province and canvassed this very idea. The date, I

think, it was October 25, give or take a week, type of thing. I do believe there's a lot of value to it, and we saw that in the committee presentations. I know, Mr. Balasko, you were here for many of the committee presentations. I would make this suggestion that, as opposed to relying on the advisory committee on that particular issue, it might serve us better if you went to the university campuses, other stakeholders, to see what would happen if it was in the fall.

The Member for Steinbach (Mr. Goertzen) brings up a good point in terms of a minority situation. The only thing I would add to that is, whenever you're in a minority federal government, we have to recognize that the election could be in June, too, by accident, where it's a confidence vote. So I'm not as much concerned about the possibility of a federal election occurring at the same time. It just seems to me that the fall date—if Mr. Balasko wants to respond to that, he can. Otherwise, I'll go on to the next question.

**Mr. Balasko:** Yes, thank you for the comment. I know, as well, that, of course, you've participated in a number of advisory committee meetings over the years.

Certainly, we can encourage the political parties to consult as well with their folks who are in rural Manitoba and northern Manitoba and across the cities to get that feedback and bring it to the advisory committee. Of course, at the end of the day, it's the recommendation of the Chief Electoral Officer. We're there to listen thoughtfully and appreciate the advice of the advisory committee, but it's our recommendation at the end of the day.

One of the ways that we will get some good feedback from outside Winnipeg and outside our office is that we have quite a large work force which, of course, is intermittent, but we have a lot of folks out there who care about elections in all corners and all parts of the province. We can do some work on our part to try to get some feedback from our officials in different parts of the province.

So, thank you for those comments, because I think we can broaden out some of our research. Thank you.

**Madam Chairperson:** Mr. Lamoureux, for your supplemental question.

**Mr. Lamoureux:** In the Monnin report, it was suggested that political parties adopt a code of ethics, and that there should be some sort of a follow-up, and I'm taking the essence of the report, to ensure

that there's legitimacy to the whole idea or concept of a code of ethics. It went further to state that if, in fact, this does not occur then, that the government should be looking at bringing in legislation that would legislate a code of ethics.

Is Elections Manitoba looking into the possibility through, maybe, its advisory committee at the very least, in terms of legislating a code of ethics? After all, it's something that came out of the Monnin inquiry.

**Mr. Balasko:** I, of course, recall well the process and Chief Justice Monnin's recommendation.

You'll probably also recall that, at that time, although—it was to the political parties to develop codes of ethics; it wasn't up to Elections Manitoba to impose upon the political parties a code of ethics.

Having said that, we realized that we were in sort of a good position to be helpful. So we went out through the political party committee and said to all the registered parties of the province, if this is a suggestion to have a code of ethics, if you'd like us to broker that, draft and work with you and try to bring together a meeting of minds on a code of ethics, we're here to do that, if that's something that you'd like to do.

I think it's an unbelievable credit to all the political parties that all of the registered parties in Manitoba sat around the table and, after a few meetings, came to a shared code of ethical conduct which is, I think, tremendous. Certainly, in Canada, I'm not aware of any code of ethical conduct of its like; if it exists in North America, I'm not aware of it, but, perhaps, in some places it might.

The notion of a code of ethical conduct is that it was to be self-regulating; that is on one level. On the other level, the parties were to regulate it. The code of ethical conduct has in it a requirement that the parties have a method to receive complaints and resolve ethical issues but, at the end of the day, the notion was that all the parties would have the code of ethical conduct. The code of ethical conduct is on the Web site for Elections Manitoba. The media and others have access to the code of ethical conduct and that, as political parties and campaigns conduct themselves, they can be held up in discussion and otherwise publicly to the code of ethical conduct, because the code is public.

There is not a regulating mechanism attached to the code of ethical conduct, as you're well aware. Perhaps that is something we can raise with the

political party advisory committee and see whether there's interest in that regard, and something we can look at ourselves too and see whether or not there would be value in analyzing that, raising considerations, potentially going to recommendations, if there's something helpful that we can do there.

But our role is not to enforce a code of ethics. I want to reinforce that it's very important that, when you look at the agency that is assisting people to file their election returns, assisting in compliance and disclosure and running elections, it's a very good step that the commissioner of elections was created to take the responsibility for enforcement and compliance, because there's virtually nowhere else—or very few places, if there are—where, at the time, the CEO did both jobs.

Similarly, on a code of ethical conduct, to be having people comply with the legislation and, at the same time, putting another level from ourselves of regulating their ethical conduct is, again I think, layering that would be better served by—if you have a code of ethical conduct and you want that to be enforced by an agency, to provide that task specifically somewhere.

So there's the code. It's a great accomplishment, a great achievement. The recommendation of the Monnin inquiry was that the political parties all adopt a code. They had adopted a code and that fulfilled the requirement of Chief Justice Monnin's recommendations. The code is available on our Web site, and we encourage people to take advantage of that.

**Mr. Lamoureux:** The final question is that one of your recommendations was dealing with the number of signatures for nominations. Reducing it down from 100 to 25, I think, is very admirable. I think that it would work actually quite well. We've made the suggestion in the past.

I'm wondering if the Chief Electoral Officer can give any indication in terms of is there any value to having 100 versus 25. I know politically, from a party perspective, it makes it much more difficult, because it's not 100, of course, as you would know. You go out and get 150 and, hopefully, a hundred qualify. As a result, I believe there have been candidates who have not run in the elections because of that requirement.

Would he affirm that, and does he see any real value in terms of 100 as opposed to 25?

\* (11:40)

**Mr. Balasko:** Well, I think, in fairness, if you look at the notion of a nomination paper as indicating a certain level of public support, I mean, on the surface of it, if you've got 100 people signing that nomination, there's obviously greater weight or substance or numbers behind it, so I think we have to acknowledge that 100 is a greater level of recognition in the community than 25 or 50.

But the interesting discussion at the advisory committee has been more along the lines of now when we're shading between, you know, 100 and 50, or 50 and 75, let's look at what the practice is elsewhere, because all jurisdictions have an interest in finding some level of public support for a nomination. When you look at that, the range is basically from four in Saskatchewan to 25 in a number of other jurisdictions.

But I want to put a caveat on that. In a lot of these other jurisdictions, I think everyone else except Manitoba and Québec, there's a financial deposit required with nominations. I don't support at all the notion of a financial deposit for nominations. I think the test ought to be support, you know, in the community, versus a financial barrier.

Having said that, Québec is our parallel. Québec doesn't have a financial deposit. Québec requires 100. The divisions are much larger than Manitoba. I think the Manitoba requirement for 100 just does stand as quite a high bar relative to any other jurisdictions in Canada, and that's the concern. People are saying, are we able really to find a meaningful gate between 100 and 75? Is that 25 going to make the difference?

The final comment I'd make on nomination papers in relation to collection of signatures is that, of course, with the new legislation, once the Boundaries Commission reports at the end of this year, that report takes effect at the following dissolution, so whatever the final map is is the map for the provincial election, the next provincial election after 2008. To the extent that boundaries change and, of course, we're dealing with only a proposal now, but to the extent boundaries change, it'll be a big job for candidates' campaigns to ensure when they're collecting those signatures that they're within their proper electoral divisions if that has changed and we'll provide assistance to that, but I only mention that because if finding 100 is a challenge, I think that each time there's a

redistribution, that challenge goes up because we've got to make sure it's on the right lines on the ground.

**Mr. Dewar:** My question is to the Chief Electoral Officer, and it relates to the relationship between federal and provincial riding associations. I know that there have been, of course, some changes at the federal level and we have changes here in terms of reporting. I wondered if you could update us about the rules concerning the transfer of assets between a federal and provincial riding association during those periods of election. As you know, there are sign stakes and furniture and staples and staple guns are purchased and these are, if they are a transfer, of course, it's assumed they are a non-rebatable expense, but I was wondering, in terms of the new rule, both federally and provincially, what can be transferred between federal and provincial riding associations? And if things can be transferred, what is the best way to report those?

**Mr. Balasko:** Thank you for the question. This impacts on a couple of different issues: the issue of contributions and the issue of transfers. Transfers under the finance act are movement of money, goods and services among provincial registered political parties. So, under our statute, when you're moving goods or services or money, for that matter, between constituencies, candidates, and political parties in Manitoba, it's within the registered political party of Manitoba.

Transfers from—money or goods received from outside Manitoba, for example, federal party—and, of course, we would have to look at the circumstances of any particular case; I do want to put that caveat on—but in general, in general, of course, money that's provided from federal parties is not a transfer. That's not defined as a transfer under our statute. If it's not a transfer, what is it? One of the things, of course, if it were deemed to be a contribution, of course, that would be prohibited, because only individuals may contribute within Manitoba. So there's to be a separation between the federal and the provincial political parties.

**Madam Chairperson:** Seeing no supplemental question, I just want to give a supplemental question to Minister Ashton because he had one before and, I'm sorry, I didn't give him a chance.

**Mr. Ashton:** Great. Thank you very much. I appreciate that and I'll certainly keep it brief, here.

My colleague earlier made an observation on the impact of some of the super polls that have been

called in terms of advance polling, some of the stationing of polls in apartment blocks, coming from northern Manitoba, representing many of the remote communities, the challenges are the same but different.

I just want to outline the thing that happens every election that I have run in, and I represent four remote communities: Thicket Portage, Pikwitonei, Ilford and York Landing, all of which rely on services—to a large part, also, medical services as well—three of which are on the train, on the Bay line, which has service three times a week. What happens is, every election, about one-third to one-half of those communities are not actually in the community on election day. It's not something they can plan for. It depends, you know, if you have to go see a doctor because you're sick, you have to go. But unlike, say, elsewhere in rural northern Manitoba, you know, you can't go see the doctor and then drive back. There's no road. There is a train, but the train will return after the election has taken place.

Similarly, in York Landing, depending on the time of the election, again, you may be in a situation where the ferry doesn't run. So even though at times of the year you can use the ferry to come in, there's the freeze and thaw period where the only access is air and there's one flight in and out per day.

So I was wondering, given the success of the super polls for advance polls, and given the fact we do have, as I understand it, polling available for hospital patients, for people in correctional facilities, that allows people to vote, no matter where they are living, for a candidate in their riding—obviously, they have to be resident in their riding—whether Elections Manitoba has considered something that may apply elsewhere, but particularly to northern Manitoba for remote polls because, to my mind, if we would've had the opportunity to have a super poll in any of the regional centres, take Thompson as a good example. There was one-third to one-half of residents of those communities who were effectively disfranchised, through no fault of their own, would then be able to vote during that period. By the way, it could apply to campsites as well. We had, in the last election, quite a few people at Wuskwatin who were working at Wuskwatin, weren't registered as voting in Wuskwatin, were unable to vote because they came into Thompson. So that, you know, this can also apply to work situations. A lot of development going on in northern Manitoba, so there are a lot of people in that category.

But could we—I mean, I'm asking more for an opinion. I recognize the process would have to be an elections act, but do you see a way in which we could feasibly have a super poll system for remoter parts of rural and northern Manitoba to give people the opportunity to vote if they unexpectedly are not in their community on the day of the election?

**Mr. Balasko:** Yes. I mean, it's an excellent point. Some other very interesting concepts came up. I like the notion, depending on the time of year the election happens, of campsites. A lot of Manitobans enjoy that, and so—*[interjection]* I understand work camps, campsites, you know, where the people are, as was said earlier. Go where the people are.

If you are speaking—and I just want to be sure I understand you correctly. Are you speaking about advance voting opportunities in those communities, or are you speaking about election day?

\* (11:50)

**Mr. Ashton:** Yes, just to make it very clear. I'm talking about whether we can have super polls on election day, because I recognize that if you're in—for example, if you're from Thicket Portage or in Thompson during advance polls, when they're open, you can vote. But what happens if you're in Thompson and you're from Thicket Portage. You have no opportunity to get back because of medical or other reasons. Would it not be possible to have a super poll that would be for people who are eligible to vote in whatever constituency, like hospital patients or, like, prisoners, but are not actually in that place and time?

So, in a way, I could have been a bit political about it and said, well, you know, could you give my residents of Thicket Portage the same opportunity to vote that prisoners have? But I actually do believe that that's appropriate as well, that prisoners who are entitled to vote should be able to vote in their constituency. They obviously can't appear in person; so it's actually about an election date, not advance voting.

**Mr. Balasko:** I just want to be sure I understood that. I'll answer your question with regard to election day and give you some thoughts on that. Then I would also like to back that up and discuss a little bit about advance voting, if we can do that.

With regard to election day, of course, the first principle would have to be that there's acceptance, in that case, that the ballots wouldn't be counted on election night. That's a very important consideration

because, unlike in some other jurisdictions, Manitoba has the broadest array of voting opportunities that you can find. We're looking for ways to continue to enhance that to meet the new realities of society, but it's a very, very broad array.

In some other places where they have voting outside your division, they might count the ballots a week after the election, two weeks after the election—voting outside the country after the election, voting in hospitals counted after the election. The principle to this point, anyway, in Manitoba, and any legislative initiatives have been related to the ballots being in and being able to be counted on election night. So, fundamentally, that would be a very important discussion to have.

Conceptually, there's nothing that would prevent a vote anywhere, any location on election day, because that's essentially what we do during advance voting, but, of course, those ballots need to be brought in, redistributed, to the count on election night.

So I would say that, certainly conceptually, it's very similar to advance voting, but that would be the first hurdle. That would be a very full discussion, I think, around the importance of counting all the ballots on election night.

Having said that, when you go back to the advance voting opportunities, we can continue to be more expansive with those. We have the opportunity to have remote advance; so, if there's a train service, for example—why not in the days leading up? It won't catch election day, but you never catch everyone in one place at one time. In the period leading up to election day, we can certainly put a vote anywhere, advance on the train, at a work site, and have people vote. We can do that up until the Saturday before election day.

That brings us quite close to when people would be able to vote in relation to the election itself. There's, of course, always the option for absentee voting within the province, but I do recognize that that process requires an application and requires a number of steps. Increasingly, what we're trying to do is take the very simple act of voting to the voters.

The final comment would be in relation to the process. Why can't we count it that day? Of course, we've got to ensure that the person votes only once across the province, in all these multiple voting opportunities.

Just for your information, the way the stations worked last time, of course, was the voting would take place; the ballots would be brought in to their returning office on an intermittent basis. Every day, there was a sheet completed as to who had voted. At the end of the night, late, late in the night, that would come in to Elections Manitoba; overnight, that would be developed in terms of redistributing all those names to their proper home electoral divisions so that, when the officials came in the next morning at 6 o'clock, they would have sitting there a list of all the people in their division who'd voted in St. Vital or Clearsprings or wherever they'd voted. They could then be in touch with their officials and say, for your voting area, strike the following people as having voted on election day.

Then, of course, we gather all the ballots at Elections Manitoba in a secure place, sort them by all the electoral divisions, get this out through our own courier system—with our own staff to ensure security—to the voting locations to be counted on election night.

I only add that because the notion of a vote on election day is true, but that just highlights why, certainly, that process—you wouldn't be able to accomplish that kind of process in the hours on an election day, nor would you be able to guarantee that someone voting in another electoral division, that advance doesn't also try to vote somewhere else, unless you've got that lag where you can strike the list and correct the list.

**Mr. Goertzen:** I see the hour is drawing this committee to a close.

In the 2003 report which, I think, is the report that's before consideration now, I think we're going to have difficulty moving that report without additional discussions and information. The Chief Electoral Officer will note, and committee members will note, on page 17 there are issues, and questions have been raised elsewhere as regarding some changes that were made to individual campaign returns and the difference between in-kind and reimbursable expenses under the act.

I'm going to conclude with a question. But I also want to ask the Chief Electoral Officer if he could undertake to provide us with additional information, some of which I'm sure is not as readily available because it doesn't appear on the Internet like the new returns do, but I'm going to, for the sake of staff, they could note that I'll be requesting from Elections Manitoba a complete 1999 central return from the

NDP, including the supporting schedules, that was filed in '99.

As well, I would ask that Elections Manitoba provide to me completed returns and supporting schedules for a number of different New Democratic candidates in that 1999 campaign, including the candidates for The Maples, St. Vital, Riel, Fort Garry, Gimli, Springfield, St. James, The Pas, Burrows, Lakeside, Rossmere, St. Boniface, and Southdale.

As well, in relation to that, the disclosure as it is on page 17 of the report, any correspondence that took place between candidates and official agents and Elections Manitoba regarding the overpayment of reimbursements in the 1999 campaign, I'd like copies of that as well. If there are concerns with that, certainly, you can make a comment on that. It's part of the question.

But, in relation to the disclosure as it is on page 17 of the 2003 annual report, under the heading: update to previously filed statements, it states that Elections Manitoba's normal practice is to have amendments to the financial statements reviewed by the auditor, and, in this case, it wasn't. Might the auditor who was on the original constituency campaign—and, in this case, it was a central auditor—can the Chief Electoral Officer indicate where the discretionary power exists whether or not to have an auditor provide an audit for an amendment, and when in the past, other than this instance, that discretionary power has been exercised so that there wasn't an audit, either with a filing or an amendment?

**Mr. Balasko:** Thanks very much for the question. Certainly, the financial returns are something that we'll be happy to provide to you and, of course, anyone else who might be interested in that; those are public documents.

The reason that the disclosure in this report is as it is, just to set, sort of, the record, this is related to the returns that are filed. The investigation and the review of this matter is a matter that's conducted in private, and that's an obligation under the law. I hope that everyone will appreciate and understand that I will be happy to do my very best to provide what can be provided and answer what can be answered, genuinely so. But I'm under the same obligation as anyone else is, that investigations in Manitoba are private. So anything that would fall within that investigation is not something that we have any opportunity to provide.

But I want to come to the question, and that's what this disclosure deals with—the return. This isn't a disclosure of an investigation. Investigations cannot be disclosed; that's the law.

\* (12:00)

In terms of the audit opinion being required, The Elections Finances Act requires that statements and returns filed have an audited statement, and we talked about the level of assurance that provides when those statements are filed. Although it's not explicit, it's our interpretation and the legal advice that we've received that that requirement also applies generally to amended statements. So, if we get an amended one, although it doesn't say any subsequent statement, we request an audited opinion, and people are pretty good about complying with that.

In terms of these particular circumstances, I think the second part of the question is, has this been done before? I don't want to lose those two parts of it. In terms of these particular circumstances, in this case, remember the distinction between a return is filed and you do a compliance review, and the level of assurance you get from that. In this case, the auditor had resigned between the time of the initial return and the audited return. So, in addition to that, our practice is to go back to the initial auditor to provide another opinion. The auditor was no longer on this file. In addition to that, and as important, is the fact that, in this case, we had done a—

**Madam Chairperson:** Order. I hate to interrupt, but it is now noon. What I would like to do, though, is ask leave from the committee not to see the clock so that Mr. Balasko can finish his answer. Is that agreed? *[Agreed]*

**Mr. Balasko:** Thank you so much.

So, in this case, Elections Manitoba had undertaken a very extensive review of all the financial information. The difference between the general compliance to which the—remember the return is a level of assurance, the audit is a level of assurance, the review by Elections Manitoba is a level of assurance. Now we've stepped up to a case where the inspection and audit powers, the ability to compel records to be provided, the ability to compel information to be provided, the ability to enter premises, all the investigative authorities are brought to bear. That's the scenario that Elections Manitoba is now operating under, full access to all the records.

We sought, in those circumstances, without the initial auditor, and, given the level of assurance we

bring to it, which, I believe, is the most substantial level of assurance that can be brought to it, we sought legal advice and advice from Deloitte with regard to a statement from Elections Manitoba, relying on our work in place of another audit opinion from someone else.

I should mention a third fact, very, very important. The only changes, the only changes on these returns are the changes that resulted from Elections Manitoba's interpretation, albeit, a different interpretation than the filers had, our interpretation of the proper accounting treatment, our legal interpretation. So, applying our interpretation to it and our legal to it, which was at odds with the filers, but, having said that, having applied that to it, we identified the changes. We're in the very best position to identify the changes. The only changes to the return were those changes.

So, with the benefit of legal advice on the matter, with the benefit of the advice from Deloitte on the matter, we thought the highest level of assurance is Elections Manitoba. Do we think that's in compliance with the act? Absolutely, we think that's in compliance with the act and, absolutely, that's the legal advice we got at the time.

Now, if I can mention previous circumstances to this. There have been previous circumstances to this. That's one of the reasons that, genuinely, I think it's good to have these discussions because we apply to the best of our ability the law consistently and across all the political parties, and that's got to be known and that's got to be reinforced.

We had another occasion where the auditor, the initial auditor, had resigned prior to the amended statement being filed. In that circumstance, Elections Manitoba went in. Under investigative powers, did a very, again, thorough, detailed review with all the powers we need to do so. We identified the necessary changes. They were agreed to. That report was signed by the chief financial officer for that party. It was filed with Elections Manitoba, accepted and dealt with exactly the same fashion as this case. In the annual report, the fact of the refiling of the amended return was identified.

The only difference, and, I guess, this is something you learn over time, is that back then—and

I'm talking about an earlier return that was from 1995, amended and refiled in 2000. At that time, we did all the work. We took all the steps that I've mentioned. We didn't put a note on it because we simply just relied on the fact that these were the changes that we identified, the chief financial officer had agreed to. It made sense. We were satisfied with this, and so that's the return that was on file.

Fast forward to 2003, we're looking at the situation and saying, you know what? It's the same circumstance. Auditor has resigned. We've done our work. The only changes are those we've identified. We're relying on our very, very detailed audit under powers that—an auditor couldn't rely on those powers to get to the details that we got to. So we're quite satisfied in that.

We took the extra step this time around. The extra step was to say that in our report. To describe that, in this case, we accepted it without that information because we wanted to be, just, again, very transparent about it. That's how we accepted it. It's consistent practice. It has happened with other political parties over time, very good rationale behind it. Sought good, solid, professional advice; acted consistent with the professional advice.

I hope that's helpful and it describes to you why we did what we did. That is what we did. We believe it was the correct thing to do, and it's a consistent thing that we've done. We've done it with, you know, excellent and deep professional advice.

**Madam Chairperson:** Thank you.

From your comment, I imagine that the 2003 report, I don't have to ask the question about that?

**An Honourable Member:** Well, I don't run the whole committee. I'm only one member.

**Madam Chairperson:** I see heads shaking, so I'm not going to ask that.

Before we rise, in the interests of saving paper, it would be appreciated if members would leave behind any copies of reports they do not need so they may be collected and reused at the next meeting.

The hour being 12 noon, committee rise.

**COMMITTEE ROSE AT:** 12:06 p.m.

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