

**Third Session - Thirty-Ninth Legislature**  
**of the**  
**Legislative Assembly of Manitoba**  
**Subcommittee**  
**on**  
**Senate Elections**

*Chairperson*  
*Ms. Erna Braun*  
*Constituency of Rossmere*

**Vol. LXI No. 7 – 1 p.m., Saturday, February 21, 2009**

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

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<i>Vacant</i>	Elmwood	
<i>Vacant</i>	The Pas	

**LEGISLATIVE ASSEMBLY OF MANITOBA  
THE SUBCOMMITTEE ON SENATE ELECTIONS**

**Saturday, February 21, 2009**

**TIME – 1 p.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Ms. Erna Braun (Rossmere)**

**VICE-CHAIRPERSON – Mr. Blaine Pedersen (Carman)**

**ATTENDANCE – 7 QUORUM – 4**

*Members of the Committee present:*

Ms. Braun, Mr. Faurischou, Ms. Howard, Mr. Lamoureux, Ms. Marcelino, Messrs. Martindale, Pedersen

*Substitutions:*

Mr. Eichler for Mr. Faurischou at 3:43 p.m.

**APPEARING:**

Mr. Ralph Eichler, MLA for Lakeside  
Mrs. Mavis Taillieu, MLA for Morris  
Mr. Gregory Dewar, MLA for Selkirk

**WITNESSES:**

Mr. Daniel Boucher, Société franco-manitobaine  
Hon. Maria Chaput, Private Citizen  
Hon. Bert Brown, Private Citizen  
Mr. Link Byfield, Alberta Senators in Waiting  
Mr. Vaughan Baird, Private Citizen  
Mr. Edward Mandrake, Private Citizen  
Ms. Darlene Dziewit, Manitoba Federation of Labour  
Ms. Niki Ashton, Private Citizen  
Mr. Roy Yerex, Private Citizen  
Ms. Anita Chubb-Kennedy, Private Citizen  
Mr. Vincent Pouliot, Private Citizen  
Mr. Frank Hechter, Private Citizen  
Mr. Joshua Watt, Private Citizen  
Mr. Jae Eadie, Private Citizen  
Mr. Robert Parsons, Private Citizen  
Hon. Sharon Carstairs, Private Citizen  
Mr. Al Mackling, Private Citizen  
Ms. Dorothy Dobbie, Private Citizen  
Mr. John K. Collins, Private Citizen  
Mr. John Lamont, Private Citizen

**WRITTEN SUBMISSIONS:**

C. Hugh Arklie, Private Citizen  
Jack P. Baturin, Private Citizen  
Deborah Avanthay, Private Citizen  
Hon. Bert Brown, Private Citizen  
Vincent Pouliot, Private Citizen  
Mark Rash, Private Citizen  
Hon. Terry Stratton, Private Citizen  
Robert H. Uchtmann, Private Citizen  
Ross Dobson, Private Citizen  
Jon Phillips, Private Citizen  
Chuck Davidson, The Winnipeg Chamber of Commerce  
Jack Boyko, Private Citizen  
James T. Teller, Private Citizen  
Doran Sewell, Private Citizen  
B. Coombs, Women & Political Issues  
Charles W. Morrison, Private Citizen  
William J. Alexander and Joyce P. Alexander, Private Citizens

**MATTERS UNDER CONSIDERATION:**

Consulting with Manitobans on Senate Elections

\* \* \*

**Madam Chairperson:** Good afternoon. Will the Subcommittee on Senate Elections please come to order. This meeting has been called for the purpose of consulting with Manitobans on Senate elections.

Before we go any further, let's go around the table and let the members of the committee introduce themselves.

I'm Erna Braun. I'm the MLA for Rossmere and Chair of the Subcommittee.

**Mr. David Faurischou (Portage la Prairie):** I'm David Faurischou, MLA for Portage la Prairie.

**Mr. Blaine Pedersen (Carman):** Blaine Pedersen, MLA for Carman.

**Mr. Kevin Lamoureux (Inkster):** Kevin Lamoureux, MLA for Inkster.

**Mr. Ralph Eichler (Lakeside):** Ralph Eichler, MLA for Lakeside.

**Mrs. Mavis Taillieu (Morris):** Mavis Taillieu, MLA for Morris.

**Mr. Gregory Dewar (Selkirk):** Greg Dewar, MLA, Selkirk.

**Ms. Jennifer Howard (Fort Rouge):** Jennifer Howard, MLA, Fort Rouge.

**Ms. Flor Marcelino (Wellington):** Flor Marcelino, MLA, Wellington.

**Mr. Doug Martindale (Burrows):** Doug Martindale, MLA, Burrows.

**Madam Chairperson:** Thank you.

We have some additions to our speakers list, and I would like to add the following names: 22, Colin Craig, private citizen; 23, Roy Yerex, private citizen; 24, John Lamont, private citizen; 25, Walter Zveff, private citizen.

Would you please note that No. 23, Roy Yerex, is out-of-town. So please put a little asterisk next to his name. No. 23, Roy Yerex.

Written submissions from the following individuals have been received and distributed to committee members: C. Hugh Arklie, Jack P. Baturin, Deborah Avanthay.

Does the committee agree to have these documents and any additional written submissions received until March 1, 2009, appear in the *Hansard* transcript of this meeting? *[Agreed]* As a result, just a note to indicate that the *Hansard* for this meeting won't be available until after March 1.

We have a number of presenters registered to speak today, as noted on the presenters list. Before we proceed with presentations, I just have a few notes for all in attendance. First of all, if there is anyone else in the audience who would like to make a presentation today, please register with staff at the entrance of the room.

Also, for the information of all presenters, while written versions of presentations are not required, if you would like to provide written materials we ask that you have 15 copies. If you need help with photocopying, please speak with our staff at the entrance to the room. As well, I would like to inform presenters that in accordance with our rules and practices, a time limit of 10 minutes has been allotted for presentations with another five minutes for

questions from committee members. Also, in accordance with our rules, if a presenter is not in attendance when their name is called, they will be dropped to the bottom of the list. If the presenter is not in attendance when their name is called a second time, they will be removed from the presenters list.

For your reference, we also have available at the table at the entrance to this room some background material on the Senate of Canada, as well as some material on this committee.

On the topic of determining the order of public presentations, I will note that we do have out-of-town presenters in attendance marked with an asterisk on the list. As well, we do have requests from Daniel Boucher, presenter No. 4 and Senator Maria Chaput, presenter 11, to make their presentations in French, and we do have translation staff in attendance for that purpose.

With these considerations in mind, in what order does the committee wish to hear the presentations?

**Mr. Martindale:** Madam Chairperson, I recommend that we follow our normal procedure which would be to hear presentations en français first, followed by out-of-town presenters, followed by everyone else.

**Madam Chairperson:** Thank you. Is it agreed by the committee to follow that order? *[Agreed]* Thank you.

With these considerations in mind then, we will begin.

To allow everyone to hear the translation services for the French presentations, we have made available portable earpiece units. If you would like to use one of these devices, please sign one out with our staff at the table near the entrance of the room and please return it when you are finished with it.

The proceedings of our meetings are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it be an MLA or a presenter, I first have to say the person's name. This is a signal for the Hansard recorder to turn the mikes on and off.

**Mr. Pedersen:** Madam Chairperson, before we get started, when we had hearings throughout the province, and due in part to the low numbers, we did waive the time restriction for questions. I think the presentations should be kept to 10 minutes, but for our questions, if there are further questions, is it the will of the committee to allow for more than five minutes? I'm sure that all the members here will keep

their questions brief so that we do have a long list here today, but I would just like to know what the will of the committee is on that.

**Mr. Martindale:** Yes, Madam Chairperson, I think that's a reasonable suggestion, but I would recommend that we do it on a case-by-case basis rather than allowing that for everyone carte blanche. We can ask for leave after the presenter has reached the five-minute limit of questions.

**Mr. Lamoureux:** Madam Chairperson, I think that what Mr. Pedersen is proposing is probably more appropriate, as opposed to if we are passing or judging a presentation and determining whether or not it's worthy enough to have leave to allow further questions, that we just leave it open as we did in the rural areas. I think that it worked exceptionally well. This way all members are afforded the opportunity to ask questions.

**Mr. Faurshou:** I believe also in expediency rather than interrupting at the five-minute juncture every time. I think for the good flow of questioning and orderly proceedings here today, I think we should agree upon this fact at this point in time.

**Ms. Howard:** I have no objections to allowing for questions. We have a number of people here today and a number of people are going to be waiting in this room for a long time. We just trust that we'll all be disciplined in our questioning in order to make sure that we allow everybody who's come to speak to us to speak in a reasonable time frame.

\* (13:10)

So, with that comment, I think we're happy to allow for open-ended questioning but not for long periods of time if we can help it. Thank you.

**Madam Chairperson:** So is it the will of the committee, then? *[Agreed]*

I will now call on Joshua—pardon me. Daniel Boucher, Société franco-manitobaine.

Do you have materials for distribution?

**Mr. Daniel Boucher (Société franco-manitobaine):** No, I don't.

**Madam Chairperson:** Please proceed.

**Mr. Boucher:** Merci. Bonjour. Good afternoon.

Je m'appelle Daniel Boucher et je suis le président-directeur général, de la Société franco-manitobaine. Il me fait plaisir aujourd'hui de pouvoir

partager nos opinions et nos perspectives en ce qui a trait à une réforme éventuelle du Sénat canadien.

Permettez-moi de vous rappeler le mandat de notre organisme : la Société franco-manitobaine, porte-parole officiel de la communauté franco-manitobaine, veille à l'épanouissement de cette communauté et revendique le plein respect des droits de celle-ci. De concert avec ses partenaires, elle planifie et facilite le développement global de sa collectivité et en fait la promotion.

Dans un premier temps, il est important de soulever que nous appuyons pleinement l'importance de revoir et de renouveler nos instances et institutions démocratiques afin qu'elles répondent mieux aux besoins de la population canadienne. La réforme du Sénat canadien est un exercice qu'il nous apparaît essentiel d'entreprendre et nous sommes particulièrement heureux que votre analyse nous permettra d'étudier la question de la perspective de notre province et de ses citoyens et citoyennes.

L'appareil gouvernemental canadien dispose de trois entités : la Reine, représentée par la gouverneure générale du Canada, la Chambre des communes et le Sénat. Contrairement à la Chambre des communes, dont les membres sont élus par scrutin universel, les sénateurs et les sénatrices sont nommés par la gouverneure générale du Canada sur recommandation du premier ministre. La raison d'être de cette distinction, à notre avis, est clé et a fait l'objet de maintes discussions et débats dans l'histoire du Canada.

Du point de vue de la communauté francophone du Manitoba, l'abolition du Sénat n'est tout simplement pas une option acceptable. Notre communauté, ainsi que les autres communautés francophones et acadiennes du Canada, croient que l'abolition du Sénat tel qu'il existe à l'heure actuelle n'est pas dans l'intérêt des groupes minoritaires ou du pays en général. L'histoire du Canada démontre que deux principes fondamentaux s'imposent dans la réflexion sur l'élection des sénateurs et sénatrices, celui de la représentation des régions et celui de la représentation des minorités, et plus spécifiquement dans le contexte de ce mémoire la minorité francophone.

Les Pères de la Confédération ont d'ailleurs accepté en 1864 une représentation égalitaire du Canada-Est au Sénat. Cette représentation égalitaire servait à protéger la langue et la culture françaises. L'histoire du Canada nous démontre clairement qu'à l'époque le Québec était minoritaire et ne comptait

que 35 pour cent de la population de la future Confédération de 1867. Les Pères de la Confédération reconnaissaient et acceptaient la nécessité de ne pas mettre en marge ce peuple fondateur en raison de sa taille et de son poids démographique. La représentation des régions et des minorités figurait déjà à l'avant-plan des principes fondamentaux qui ont façonné notre pays.

Au sein de la communauté francophone, le Sénat a joué et continue à jouer un rôle primordial tant au niveau de la représentation qu'au niveau des questions que les sénateurs et les sénatrices ont étudié au fil des années. Je cite en exemple l'étude sur la Loi sur les langues officielles, les enjeux entourant la dualité linguistique des Jeux olympiques et paralympiques à Vancouver en 2010 et l'étude sur l'éducation en milieu minoritaire francophone dans le contexte d'un continuum qui va de la petite enfance à l'éducation postsecondaire. Évidemment, il y a plusieurs autres études, mais le point à retenir est que les questions étudiées par le Sénat sont pertinentes et ont un impact sur la société. Elles viennent compléter et ajouter au travail fait par les élus de la Chambre des communes.

Nous considérons que les sénateurs et sénatrices font, entre autres, un travail très sérieux de recherche et d'analyse pour le développement des communautés francophones partout au Canada. Nonobstant la forme que prendra le Sénat suite à sa réforme, il est essentiel que certaines caractéristiques du Sénat actuel demeurent. De plus, cette représentation francophone au Sénat a donné une voix à la communauté francophone au sein de la Chambre haute et nous a permis de travailler de près avec différents sénateurs et sénatrices sur des questions qui touchent la Francophonie manitobaine et canadienne.

Nous reconnaissons qu'un des principes fondamentaux de la démocratie est la représentation légitime par les représentants dûment élus par la population. Cependant, il faut peser l'importance de ce principe versus l'importance d'avoir une représentation qui est équitable et représentative de la communauté en général. Les élections ne livrent pas toujours des résultats aussi représentatifs et démocratiques que l'on pourrait souhaiter. La preuve est que si le système électoral actuel nous donnait toujours un résultat parfait, des groupes, tels les femmes et les minorités linguistiques et visibles, les Métis et les autochtones, seraient représentés de façon équitable dans nos instances démocratiques. Si le système électoral était parfait, il n'y aurait pas de

situations où les partis politiques peuvent détenir presque 100 pour cent des sièges à la législature ou au Parlement.

Malgré le fait que le système de sélection au Sénat est quelque peu insulaire, où les nominations sont faites par la gouverneure générale sur recommandation du premier ministre, les nominations au Sénat canadien offrent au moins des occasions de corriger et de rétablir l'équilibre pour que soient mieux représentées différentes tranches de la société. Cet équilibre est essentiel dans toute société qui se respecte.

Il est important de noter que depuis la Confédération le Manitoba a élu 203 députés à la Chambre des communes. De ces 203 députés, 15 peuvent être considérés comme étant soit francophones ou francophiles, ce qui représente 7 pour cent du total des députés élus dans notre province. Pour ce qui est du Sénat, 41 sénateurs ont été nommés depuis de notre entrée en Confédération, et 10 de ces 41 sénateurs ont été des francophones ou des francophiles, soit 25 pour cent du total du Sénat.

Nous avons eu une représentation francophone au Sénat de façon presque consécutive au cours de l'histoire, et cette représentation prend l'allure d'une convention, voire même d'une tradition. En parcourant la liste de nos sénateurs et sénatrices francophones, passés et présents, il est évident que le Manitoba a été très bien représenté à la Chambre haute au fil des années.

Aujourd'hui nous sommes heureux d'être représentés par la sénatrice Maria Chaput qui est ici aujourd'hui et qui est une grande alliée de l'ensemble des communautés francophones et acadiennes partout au Canada. Le Sénat canadien donne une voix à plusieurs Canadiens et Canadiennes qui, dû à notre système électoral imparfait, n'ont pas nécessairement accès aux représentants qui peuvent parler en leur nom. Le Sénat canadien doit continuer son travail tout en revoyant son rôle, ses pouvoirs, ses fonctions, afin de mieux compléter et ajouter au travail effectué par la Chambre des communes canadienne.

Tel qu'énoncé précédemment, la primauté de notre système démocratique doit demeurer avec la Chambre des communes car ce groupe d'élus est ultimement responsable de légiférer en notre nom au gouvernement fédéral. Nous croyons cependant que le Sénat canadien doit œuvrer dans un cadre qui est moins rattaché à la partisanerie dans le but de

fournir un équilibre à l'intérieur de notre système démocratique.

Nous reconnaissons qu'il y a présentement une vague populaire, certains diraient même populiste, favorisant l'élection des sénateurs et sénatrices. Bien qu'il faille se doter d'une institution démocratique qui est à la fois moderne et pratique, il faut s'assurer de maintenir les principes de ceux et celles qui ont eu la vision de bâtir notre grand pays. Nous espérons que nos élus se pencheront sur différents modèles qui pourraient répondre aux besoins de l'ensemble de la population canadienne. S'il n'est pas possible de trouver un mode d'élection qui respecterait le principe de la représentation équitable des régions et des minorités, il faudrait revoir et modifier le mécanisme de nomination afin qu'il y ait une plus grande consultation avec les gouvernements provinciaux et les citoyens.

Nous croyons également qu'un processus de nomination plus transparent et ouvert, jumelé avec une limite de mandat de 10 à 12 ans, donnerait une plus grande légitimité au Sénat aux yeux des Canadiens et Canadiennes. Le Sénat doit aussi se doter de moyens formels de reddition de compte à la population canadienne, nonobstant qu'il soit nommé ou élu. Les sénateurs et sénatrices doivent être redevables pour leur travail et leurs actions. Notons que malgré la perception qui peut régner, nous estimons que les sénateurs et sénatrices contribuent positivement au développement de notre pays.

En conclusion, la réforme du Sénat canadien doit respecter les valeurs canadiennes qui définissent et unissent le Canada. Les Pères de la Confédération ont voulu donner une voix à l'ensemble de la société canadienne, et nous considérons que toute réforme doit tenir compte de ces valeurs, de ces principes et des intentions des gens qui ont façonné ce pays. Nous croyons qu'il faut des institutions démocratiques modernes qui reflètent les besoins des citoyens et des citoyennes de notre pays, et nous croyons que le Sénat canadien doit y contribuer activement. Le Sénat doit s'adapter aux tendances du 21<sup>e</sup> siècle, mais les solutions sont variées et complexes. Évitions de proposer des solutions simplistes qui ne corrigeront qu'une partie du problème. Que l'on choisisse un nouveau processus électoral ou une meilleure façon de nommer les sénateurs et les sénatrices, les principes de transparence et de représentation équitable des régions et des minorités doivent demeurer au centre de toute réforme.

\*(13:20)

Je vous remercie pour votre temps aujourd'hui, et nous espérons que vos délibérations, et ce que vous aurez entendu de la population, vous permettront d'avancer des solutions qui reflètent l'importance de donner une voix à tous les citoyens et les citoyennes de notre société démocratique.

Merci beaucoup. Thank you.

**Translation**

*Hello, my name is Daniel Boucher and I am the President and Chief Executive Officer of La Société franco-manitobaine or SFM. I am pleased to be able to share my views and perspective today with regard to possible reforms to the Canadian Senate.*

*Allow me to briefly state our organization's mandate: The SFM is the advocate for the Franco-Manitoban community, and as such, it looks out for the community's well-being and lobbies for full respect of its rights. In close co-operation with its partners, it promotes the community and plans and facilitates the community's overall development.*

*First, it is important to say that we fully concur with the importance of reviewing and renewing our democratic institutions and bodies so that they better meet the needs of Canadians. In our view, Senate reform is an essential exercise and we are especially pleased that your review will allow us to examine the matter from the perspective of our province and its citizens.*

*Canada's government apparatus is comprised of three components: the Crown, represented by the Governor General of Canada, the House of Commons and the Senate. Unlike the House of Commons, where members are elected by universal ballot, senators are appointed by the Governor General of Canada on recommendation of the Prime Minister. The rationale for that distinction is, in our view, of vital importance and has been the subject of much discussion and debate throughout Canada's history.*

*From the perspective of Manitoba's Francophone community, abolishing the Senate is simply not an acceptable option. Our community and the other Francophone and Acadian communities of Canada believe that abolishing the Senate in its current form is not in the interest of minority groups or the country as a whole. Canadian history shows that two fundamental principles must be taken into consideration when reflecting on the election of*

*senators: the first principle is regional representation; and the second is representation of minorities—and more specifically in the context of this presentation—the Francophone minority.*

*The Fathers of Confederation agreed to equal representation for Canada East in the Senate in 1864. This equal representation served to protect the French language and culture. At that time in Canada's history, Québec was in a minority position and accounted for only 35 percent of the population of the future Confederation of 1867. The Fathers of Confederation recognized and accepted the need to avoid marginalizing this founding people based on its size and demographic weight. The representation of regions and minorities was already one of the key fundamental principles that fashioned our country.*

*In the Francophone community, the Senate has played and continues to play a crucial role both in terms of representation and the issues that senators have studied over the years. Examples include the review of the Official Languages Act, the issues related to linguistic duality at the 2010 Olympic and Paralympic Games in Vancouver and the review of education in a Francophone minority setting from early childhood through to post-secondary studies. There have been several other studies, of course, but the important point is that the issues looked at by the Senate are relevant and have an impact on society. They complement and add to the work done by elected members in the House of Commons. We feel that the research and analysis work carried out by senators plays a very important role in the development of Francophone communities throughout Canada. Whatever shape the Senate takes after the reform process is completed, it is vital that some of the features of the current Senate remain. Moreover, Francophone representation in the Senate has given the Francophone community a voice in the Upper Chamber and has enabled us to work closely with various senators on matters affecting the Francophones of Manitoba and Canada as a whole.*

*We acknowledge that one of the fundamental principles of democracy is legitimate representation through representatives who are duly elected by the people. However, the importance of that principle must be weighed against the importance of ensuring that the composition of the Senate is equitable and representative of the community in general. Elections do not always lead to results that are as representative and democratic as one may wish. For instance, if the current electoral system always*

*delivered results that were truly representative, groups such as women, linguistic and visible minorities, the Métis and Aboriginals would all be represented fairly in our democratic bodies. If the electoral system were perfect, we would not have situations whereby a single political party would be able to hold nearly 100 percent of the seats in the legislative assembly or in Parliament. The system for selecting senators may be somewhat insular in that appointments are made by the Governor General on recommendation of the Prime Minister, but Senate appointments at least provide opportunities to correct and restore the balance so that the various segments of society are better represented. That balance is essential to any self-respecting society.*

*It is important to mention that since Confederation, Manitoba has elected 203 members to the House of Commons. Of that number, 15 can be considered either Francophone or Francophile, which accounts for 7 percent of all elected members in our province. As for the Senate, 41 senators have been appointed since our entry into Confederation. Ten of those 41 senators, or 25 percent, have been Francophone or Francophile. We have had Francophone representation in the Senate almost on an ongoing basis throughout our history and it has become a convention, a tradition. The list of our past and present Francophone senators clearly shows that Manitoba has been very well represented in the Upper Chamber throughout the years. Today, we are pleased to be represented by Senator Maria Chaput who is a great ally of Canada's Francophone and Acadian communities.*

*The Senate gives a voice to many Canadians who, because of our imperfect electoral system, do not necessarily have access to representatives who can speak on their behalf. The Senate must continue its work while re-examining its role, powers and functions in order to better complement and add to the work carried out by the House of Commons. As stated earlier, the primacy of our democratic system must remain with the House of Commons as it is this group of elected members that is ultimately responsible for legislating on our behalf at the federal level. However, it is our belief that the Senate must work within a framework that is less subject to partisanship, with a view to giving balance to our democratic system.*

*We realize that there is currently a popular—and some would even say populist—wave of support for electing senators. We do need a democratic institution that is both modern and practical, but we*

*must make sure that the principles of the visionaries who built this great country are maintained. We hope that our elected representatives will examine various models that could meet the needs of all Canadians. If an electoral system that respects the principle of fair representation of regions and minorities cannot be found, it will be necessary to review and modify the appointment mechanism so that there is greater consultation of provincial governments and citizens. It is also our view that a more transparent and open appointment process, combined with a term limit of 10 to 12 years, would give greater legitimacy to the Senate in the eyes of Canadians. The Senate must also be formally accountable to Canadians, whether its members are elected or appointed. Senators must be accountable for their work and actions. We believe that Senators make a positive contribution to the development of our country, despite the apparent widespread perception to the contrary.*

*In conclusion, Senate reform must adhere to the Canadian values that define and unite Canada. The Fathers of Confederation wanted to give a voice to all members of Canadian society and we believe that any reform must take into account the values, principles and intentions of the people who fashioned this country. We believe that it is important to have modern democratic institutions that reflect the needs of Canadians and that the Senate must play an active role. The Senate must adapt to the 21st century but the ways of doing this are varied and complex. We should avoid proposing simplistic solutions that will only address part of the problem. Whether we choose a new electoral process or a better way to appoint senators, the principles of transparency and fair representation for regions and minorities must remain at the heart of any reform.*

*Thank you for your time today. We hope that your deliberations and the input you receive from Manitobans will allow you to recommend solutions that reflect the importance of giving a voice to all citizens of our democratic society.*

*Thank you.*

**Madam Chairperson:** Merci, M. Boucher.

**Translation**

*Thank you, Mr. Boucher.*

**Ms. Howard:** Merci pour votre présentation.

Ma question est comment peut-on élire des sénateurs et des sénatrices qui peuvent représenter la diversité du Manitoba. On a mentionné deux façons

d'élire les sénateurs et sénatrices : on peut élire six sénateurs et sénatrices pour toute la province; ou on peut élire les sénateurs ou sénatrices par région. Par exemple, trois sénateurs ou sénatrices de Winnipeg, un du nord de la province, un du sud-est et un du sud-ouest.

Qu'est-ce que vous pensez d'élire les sénateurs pour toute la province ou par région?

**Translation**

*Thank you for your presentation.*

*My question is as follows: How can we elect senators in a way that represents Manitoba's diversity? We have heard about two ways of electing senators: one that would involve electing six senators for the entire province and one that would involve electing them by region. For example, three for Winnipeg, one for the North, one for the South-East and one for the South-West.*

*What are your thoughts on electing senators for the province as a whole or by region?*

**Mr. Boucher:** Je pense que l'approche régionale serait probablement la meilleure. Mais, même là, il serait difficile de garantir quand-même un résultat où on serait représenté. Alors, nous, c'est vraiment notre préoccupation que, depuis le début—je l'ai expliqué tout à l'heure—depuis le début de la Confédération nous avons eu une représentation au Sénat qui a beaucoup contribué à la province, au Sénat canadien et à la population canadienne. Notre préoccupation est qu'un système électoral ouvert tel que proposé, que ce soit par région ou pour l'ensemble du Manitoba, ne garantit pas cette représentation qu'on a toujours eue. C'est un acquis qu'on a. Puis nous, on considère que quand on a bâti ce pays, on avait tenu ça en ligne de compte. Alors, pour nous c'est une préoccupation.

Il y a possiblement un système électoral quelque part qui pourrait répondre à ces besoins. Nous, on ne le connaît pas. On n'est pas des experts dans ces systèmes. Mais c'est ce qu'on demande aux gens du comité de proposer et aussi aux gens de la Chambre des communes qui vont devoir se pencher sur cette question, c'est de voir différentes options pour voir comment on peut capter justement les intentions des Pères de la Confédération.

**Translation**

*I think the regional approach would probably be the best option. But there, too, it would likely be difficult to guarantee a result whereby we would be*

*represented. Our real concern is that, as I explained earlier, since the beginning of Confederation, we have been represented in the Senate, which has been of great benefit to the province, the Senate and Canadians in general. Our concern is that the open electoral system being proposed, whether by region or the province as a whole does not guarantee the representation that we have always had. It is an established practice. We feel that when this country was built, it was something that was taken into consideration. So for us, it is a concern.*

*There may be an electoral system out there somewhere that could meet those needs. We do not know what it is. We are not experts in those kinds of systems. But that is what we are asking the committee to recommend, and also the people in the House of Commons who are going to have to study the question, to see what the different options are and determine how we can respect the intentions of the Fathers of Confederation.*

**Mr. Lamoureux:** Just to continue on that particular point, as a proposal, we as a committee have to come up with a way in which individuals ultimately could be elected. Names then would be forwarded to the Prime Minister. Hopefully, the Prime Minister would then appoint those individuals. There needs to be a need for constitutional change.

I just throw this as a proposal and have your comment on it. What about if one would say each province had eight senators. Six in the province of Manitoba would in fact be elected by regions. Then there would be two that would then be—it's like a hybrid of sorts—that would be appointed, and, whenever there is a constitutional change, hopefully, then, that type of consideration, special consideration, would be given to the minorities through those appointments. Is that something you could support?

**Mr. Boucher:** Yes, if those considerations are more than considerations. I understand. I think it's going to have to be a hybrid. I don't think there is a perfect solution in terms of having an elected senate in the normal electoral way. So I think we have to find a solution where we'll have some combination of elected and people who are named to the Senate, but we have to consider what the intentions were when we do that, if we put that system in place.

Our position is that, obviously, we've had a representation since the beginning of time and we've got to continue that. That's the bottom line.

**Madam Chairperson:** Merci, M. Boucher.

**Translation**

Thank you, Mr. Boucher.

**Mr. Boucher:** Merci beaucoup. Thank you.

**Translation**

Thank you very much. Thank you.

**Madam Chairperson:** I will now call on Senator Maria Chaput, private citizen. Do you have materials for distribution?

Thank you. Please proceed.

**Hon. Maria Chaput (Private Citizen):** Alors, Mesdames et Messieurs, bon après-midi.

Je vous remercie de me donner l'occasion de vous adresser la parole aujourd'hui à l'égard du concept d'élections sénatoriales. Je le fais en toute humilité et au meilleur de mes connaissances dans un contexte si complexe.

Depuis la Confédération, le mode de sélection des sénateurs a fait l'objet de très nombreux projets de réforme. Déjà en 1874, la Chambre des communes débattait une motion portant que la Constitution soit modifiée pour conférer à chaque province le pouvoir de choisir ses propres sénateurs. Par ailleurs, divers projets de loi relatifs à des élections consultatives pour la nomination des sénateurs ont été déposés à travers les années mais aucun n'a été adopté. Plusieurs sont de l'avis que, dans une véritable démocratie, toute chambre législative doit être élue et si deux chambres législatives existent au Parlement canadien, les deux doivent être élues. Je ne suis pas nécessairement de cet avis, même si l'idée d'un Sénat élu bénéficie de plus en plus d'appui, car un tel changement soulève de graves questions.

En voici quelques exemples.

Pourquoi le Sénat a-t-il été créé? Le Sénat canadien, né en 1867, est un élément clé dans le compromis qui a donné naissance à la Confédération. Les arguments des Pères de la Confédération pour une deuxième chambre indépendante étaient de protéger les droits des minorités et de représenter les régions de la fédération canadienne. Les Pères de la Confédération ont alors jugé qu'ils pouvaient compenser en créant le Sénat dont les membres ne devraient pas être nommés d'après la taille de la population mais par région canadienne, le respect des droits des minorités. Le Sénat, organisme

indépendant, pourrait donc revoir avec impartialité les mesures adoptées par la Chambre des communes.

La Chambre des communes a le principe de la représentation selon la population et la Chambre haute a une représentation régionale. Et cela pour compenser la domination que la représentation selon la population aurait conférée, au Sénat, aux plus grandes provinces.

Le rôle que tient le Sénat de nos jours au Parlement du Canada s'apparente largement à celui d'un organisme de consultation. Les comités entreprennent des études, proposent des amendements et les sénateurs reconnaissent que la partisanerie s'incline dans les décisions du Sénat. Les sénateurs entament leur carrière au Sénat sous une bannière bien en évidence, mais ils découvrent très vite qu'il existe énormément de coopération entre partis, entre les membres de la Chambre haute.

À l'heure actuelle, les sénateurs sont nommés par la gouverneure générale sur recommandation du premier ministre. Nous pouvons dire que notre régime actuel de sélection des sénateurs par la nomination possède des avantages, notamment celui d'avoir un corps parlementaire où repose un esprit de parti moins virulent. Une nomination permet aussi de combler des lacunes flagrantes de la représentation. Ces lacunes peuvent concerner une région, une province, un territoire, un domaine de savoir, des qualités personnelles, une minorité linguistique de langue officielle, la communauté autochtone, et j'en passe.

Mais le gouvernement fédéral de Monsieur Harper a exprimé sa volonté de modifier le processus de nomination des sénateurs. Conséquemment, l'Assemblée législative du Manitoba a constitué un comité spécial multipartite sur l'élection des sénateurs. La population manitobaine est à être consultée par le Comité spécial au sujet de la façon dont les sénateurs du Manitoba pourraient être élus.

Puisque les sénateurs œuvrent dans un environnement où l'objectivité et le gros bon sens passent avant les alliances politiques, et où la coopération et le compromis sont monnaie courante, le travail individuel des sénateurs est souvent méconnu par les Canadiennes et les Canadiens. Considérant le mandat et le mode de travail particuliers du Sénat, comment s'assurer que lors d'éventuelles élections sénatoriales les Canadiennes et Canadiens puissent prendre une décision éclairée?

À mon avis, le Sénat du Canada possède deux grandes qualités qui sont au cœur même de son existence. Premièrement, sa représentation régionale et la répartition des sièges. Les sénateurs ne sont pas nommés d'après la taille de la population mais par région canadienne, ce qui empêche la domination des plus grandes provinces. Deuxièmement, sa représentation en termes de sénateurs. Son processus de nomination permet, il ne garantit pas mais il permet, de combler des lacunes flagrantes de la représentation concernant les minorités de langues officielles, la communauté autochtone, la diversité ethnique, etc.

\*(13:30)

Je crois que le Sénat doit continuer à être un complément, une tribune où les minorités sont représentées, où la partisanerie tient moins de place et où les débats techniques sont axés sur le long terme. Je crois sincèrement que le cœur de la question est : « comment un Sénat élu peut-il garder son rôle traditionnel de représenter les plus vulnérables et de protéger les droits des minorités dans un système parlementaire, en complétant le rôle de la Chambre basse et en assurant une représentation des minorités? » Voilà la grande question.

Il ne faut jamais oublier que, lors des débats qui allaient mener à la naissance de la Confédération, il fut énoncé très clairement le rôle particulier qui devait être attribué au Sénat en ce qui concernait les minorités linguistiques. L'un des rôles essentiels du Sénat devait être la protection de la minorité francophone. Cette préoccupation est toujours aussi importante aujourd'hui qu'en 1867.

Des segments de la population et notamment des groupes minoritaires peuvent avoir des préoccupations et des besoins qui leur sont propres, mais ne pas être assez nombreux ou regroupés pour élire un représentant à la Chambre des communes. La nomination donne à ces groupes la possibilité d'être représentés au Parlement par l'entremise du Sénat du Canada.

Mais, beaucoup d'autres questions feront probablement l'objet de votre examen. Lors de vos délibérations, vous aurez peut-être à vous demander si votre représentation régionale actuelle devrait être modifiée? Vos réflexions vous amèneront peut-être à vous demander s'il est dans l'intérêt national d'avoir en poste des sénateurs qui doivent se préoccuper de stratégies politiques et électorales, tout comme les députés à la Chambre des communes? Vous aurez

peut-être à vous demander comment un Sénat élu pourrait conserver son indépendance? Vous aurez peut-être une discussion visant à déterminer si une Chambre haute élue deviendrait plus puissante que la Chambre des communes? Ce ne sont que quelques exemples parmi beaucoup d'autres questions qui feront probablement l'objet de votre examen.

J'espère que vos délibérations vous porteront à considérer le principe de base sur lequel le Sénat a été créé et qui est de donner aux régions canadiennes une représentation égale au palier fédéral et d'assurer une représentation des minorités à la Chambre haute. Plus que jamais, le Sénat doit tenir un rôle spécial dans la protection des minorités et des minorités linguistiques. La Chambre haute est efficace mais il est toujours possible de l'améliorer.

En terminant, je tiens à citer une parole d'un ancien collègue, sénateur conservateur maintenant à la retraite, et pour qui j'ai beaucoup d'admiration et de respect, et je cite : « Le défi consiste à découvrir la formule qui permettra de transposer tous les avantages d'un Sénat nommé à un Sénat élu. » Sénateur John Lynch-Staunton, le 16 février 2000.

Je vous remercie et je vous souhaite bon succès dans vos délibérations.

### **Translation**

*Good afternoon, ladies and gentlemen.*

*Thank you for giving me the opportunity to speak to you today on the subject of senatorial elections. I do so humbly and to the best of my ability, given the complexity of the topic.*

*Since the time of Confederation, the process for appointing senators has been the subject of numerous reform proposals. In 1874, the House of Commons was already debating a motion to amend the Constitution so that each province had the power to choose its own senators. Moreover, various bills regarding advisory elections for the appointment of senators were put forward over the years, but none were passed. Many people are of the opinion that, in a true democracy, all legislative chambers should be elected, and that since the Parliament of Canada has two legislative chambers, both should be elected. I do not necessarily share this opinion, even though the idea of an elected Senate is gaining more and more support, as such a change raises serious questions, including the following:*

*Why was the Senate created in the first place? The Canadian Senate was created in 1867 and is a key*

*part of the compromise which gave birth to Confederation. The rationale of the Fathers of Confederation for a second independent house was to protect minority rights and represent all regions of the Canadian confederation. The Fathers of Confederation decided that a suitable compromise would be to create the Senate. Members of this chamber would not have to be appointed based on population size but, rather, would be selected based on region and the protection of minority rights. The Senate would act as an independent body that could review the measures adopted by the House of Commons in an unbiased manner.*

*The House of Commons has population-based representation, and the Senate has region-based representation. This is to compensate for the advantage that the most populated provinces would have in the Senate if its appointments were population-based.*

*Today, the Senate mainly acts as a consultative body within the Parliament of Canada. Committees undertake studies and propose amendments, and senators know that partisanship should not play a role in Senate decisions. Senators have party affiliations when they begin their Senate career, but they quickly find that there is a great deal of cooperation between the different parties and members of the Upper House.*

*Currently, senators are appointed by the Governor General on the advice of the Prime Minister. Our current method of appointing senators has benefits, and one of these is having a parliamentary body where partisanship is less fervent. Appointing senators also makes it possible to compensate for a blatant lack of representation, whether with respect to a region, a province, a territory, a field of knowledge, personal qualities, an official language minority community, the Aboriginal community, and so on.*

*In spite of all this, Mr. Harper's federal government has expressed its desire to change the way that senators are appointed. Consequently, the Legislative Assembly of Manitoba has formed a special all-party committee on the election of senators. The Special Committee is consulting the people of Manitoba on the manner in which senators from the province could be elected.*

*Because senators work in an environment in which objectivity and common sense are more important than political alliances, and in which co-operation and compromise are commonplace, Canadians are*

*often unaware of the individual work of senators. Considering the Senate's mandate and its special way of operating, how can we ensure that Canadians make an informed decision if they are one day asked to vote in a senate election?*

*In my opinion, the Senate of Canada has two major characteristics that are at the very heart of its existence: (1) Its regional representation and the allocation of its seats: senators are appointed based on region and not on population size, thus preventing the most populated provinces from dominating the Upper House; (2) Its composition: its appointment process allows, although it does not guarantee, compensation for a blatant lack of representation with respect to official language minority communities, the Aboriginal community, fields of knowledge, ethnic diversity, and so on.*

*I feel that the Senate should continue to complement the House of Commons and provide a forum where minorities are represented, where partisanship is downplayed, and where technical debates focus on the long term. I sincerely believe that the crux of the matter is this: How can an elected Senate maintain its traditional role of representing the most vulnerable members of our society and protecting minority rights in a parliamentary system, while complementing the role of the House of Commons and ensuring that minorities are represented? That's the overriding question.*

*It is important to remember that, during the debates leading up to Confederation, the Senate's special role with respect to official language minority communities was very clearly established. One of the Senate's integral responsibilities was to protect the Francophone minority. This issue is still just as important today as it was in 1867.*

*Segments of the population, particularly minority groups, may have their own specific concerns and needs, but they may not be large enough or grouped together closely enough to elect a representative to the House of Commons. The current senatorial appointment process gives these groups the opportunity to be represented in Parliament via the Canadian Senate.*

*As you reflect on the subject of senatorial elections, you will probably examine many other issues as well. Perhaps you are wondering if your current regional representation should be changed. Perhaps you are wondering if it is in the national interest to have senators who must worry about political and electoral strategies like members of the House of*

*Commons do. You may also be wondering how an elected Senate could preserve its independence. And maybe you are wondering if an elected Senate would become more powerful than the House of Commons. These are just some of the questions that may come to mind as you consider this issue.*

*I hope that your deliberations will lead you to consider the main principle on which the Senate was based, to give all regions of Canada equal representation at the federal level and ensure that minorities are represented in the Senate. Now more than ever, the Senate must play a special role in protecting linguistic minorities. The Senate functions well, but there is always room for improvement.*

*In closing, I would like to quote a former Conservative senator and colleague of mine who is now retired, and for whom I have a great deal of admiration and respect: "The challenge consists in figuring out how to transfer all the benefits of an appointed Senate to an elected one." Senator John Lynch-Staunton, February 16, 2000.*

*Thank you, and good luck in your deliberations.*

**Madam Chairperson:** Merci.

#### **Translation**

*Thank you.*

Are there any questions from the committee?

**Mr. Pedersen:** Thank you for your presentation, Senator Chaput.

The mandate of this committee is to look at election of senators only, not about the role of Senate. I took from your comments—or, I'm asking you about your comments, are you suggesting that Canadians cannot make an informed choice by electing rather than appointment of senators?

**Ms. Chaput:** Est-ce que je peux répondre en français?

Non. Ce que je dis ici c'est qu'il est très difficile de déterminer le travail du Sénat canadien parce qu'on ne connaît vraiment pas ce que les sénateurs font. Il n'y a aucun doute que ça n'empêche pas les Manitobains ou les Canadiens de voter pour un sénateur de leur choix, si c'est la décision qui va être faite. Mais il faudrait, à ce moment-là, avec le processus d'élection, je présume qu'on ferait connaître encore plus le travail du Sénat. Mais, présentement, le travail du Sénat est méconnu, et je le dis par expérience. Parce qu'à tous les jours, que ce soit au Manitoba, dans le milieu rural où je

demeure, ou à Winnipeg, il y a toujours des gens qui vont me demander, qu'est-ce que font les sénateurs? Qu'est-ce que vous faites vraiment? Alors, je me suis dit, bien c'est peut-être un peu plus difficile de voter pour quelqu'un si on ne connaît pas nécessairement le travail et la représentation de cette personne.

Alors c'était tout simplement un commentaire.

**Translation**

*May I reply in French?*

*No. What I am saying here is that it is very difficult to identify the work of the Senate because people do not really know what senators do. Obviously, that does not mean that Manitobans or Canadians would not be able to vote for the senator of their choice, if that is the decision that is made. But in that case, I presume that more would be done during the election process to explain what senators do. Currently, however, the work of the Senate is poorly understood and I say that from experience. Every day, whether in rural Manitoba where I live or in Winnipeg, people ask me what it is that senators do. What exactly do you do? So I said to myself it might be a bit harder to vote for someone if you do not actually know what the person does, what he or she advocates.*

*So it was just a comment.*

**Mr. Pedersen:** The overriding presentations that we heard around the country when we were in rural Manitoba, and perhaps we'll hear it again here today, was what does the Senate do? Maybe that's a role that you, the senators, should be out there actually telling Canadians what they should do and getting a better understanding of Canadians.

I agree with you that that is a problem we have in Canada right now is most Canadians don't know what the Senate really does and the important work that they do.

**Ms. Chaput:** Oui. Je suis totalement d'accord avec vous, Monsieur.

**Translation**

**Ms. Chaput:** *Yes. I agree with you totally, sir.*

**Madam Chairperson:** Senator Chaput.

**Ms. Chaput:** Oh, pardon. I'm so sorry.

Je suis totalement d'accord avec vous, Monsieur. Moi ça fait six ans que je suis au Sénat, et comme bien d'autres sénateurs j'ai fait beaucoup de présentations dans les communautés qui m'ont

invitée. J'ai parlé du rôle et des responsabilités du Sénat du Canada, comme bien d'autres. Mais il semblerait que ça ne se répand pas assez vite parce que la plupart des gens se demandent exactement ce que font les sénateurs. Lorsqu'on l'explique et qu'on donne des exemples, que les gens le comprennent, ils voient l'utilité d'avoir une deuxième chambre.

Je suis d'accord avec ce que vous avez dit, oui. Il faut faire connaître encore plus le travail des sénateurs.

**Translation**

*I agree with you totally, sir. I have been a senator for six years and like many other senators, I have made many presentations in the communities I have visited. I have spoken about the role and responsibilities of the Canadian Senate, as have many others. But it seems that the information is not being circulated quickly enough because most people are unclear about what senators actually do. When you explain it to them and provide examples, they understand and see the usefulness of having a second chamber.*

*So, yes, I agree with what you said. Even more has to be done to explain the work done by senators.*

**Mr. Martindale:** Thank you, Senator Chaput, for your presentation today. You asked if we were wondering if an elected Senate would become more powerful than the House of Commons. Yes, I am wondering that. But what is your view? Do you think elected senators would be more powerful? If so, would there be a power struggle between the House of Commons and the Senate? How would you resolve that, or would you limit the powers of the Senate?

**Madam Chairperson:** Senator Chaput.

**Ms. Chaput:** As you see, I can learn, Madam Chair.

Je ne suis pas constitutionnaliste, et je n'ai pas autant de connaissance dans ce domaine que plusieurs de mes collègues, mais d'après les lectures et les réunions de comité que nous avons à cet égard une des difficultés pourrait être qu'un Sénat élu soit autant, soit aussi fort, sinon plus, que la Chambre haute. Et, là, il faudrait mettre en place un mécanisme pour régler les différences. C'est à peu près tout que je peux vous dire, Monsieur, mais vous allez avoir des présentateurs tout à l'heure qui en connaissent beaucoup plus que moi et qui pourront répondre de façon plus efficace à cette question.

**Translation**

*I am not an expert on the Constitution and I am not as knowledgeable in that area as a number of my colleagues are. But based on our reading and the committee meetings that we have held on the matter, one of the potential difficulties could be an elected Senate that would be as powerful if not more powerful than the upper Chamber. And then we would need to set up a mechanism to settle disputes. That is about all I can say, sir, but you will soon be hearing from presenters who know a great deal more about the matter than I do and who will be able to answer that question more effectively.*

**Mr. Lamoureux:** One of the presenters was Inky Mark, who I thought made a great presentation as senator. One of the things he made reference to is that he had a better appreciation in terms of the Senate and the work the Senate was doing because of him being on Parliament Hill. So there is no doubt that the Senate does do a lot of valuable things. I know some senators and myself and some of the work that they do.

But you hit a couple of points, one in particular that I wanted you to comment on because it has come up in some of the other public meetings. It's the issue of partisanship. It is perceived that the Senate is much less partisan than the House of Commons. One of the suggestions that has been coming forward is: Should, much like how if someone is appointed to the court as a judge, they have to surrender their membership and involvement in a political party, what are your thoughts on that for a senator, whether they are appointed or elected? Do you think there is some merit to having senators surrender their memberships?

**Ms. Chaput:** C'est une question très intéressante, Monsieur, et je pense qu'il mérite plus de réflexion de votre part, parce que, finalement, au Sénat du Canada, lorsque nous travaillons en comité, les comités sénatoriaux qui font l'étude des projets de lois pour les rapporter au Sénat, la plupart du temps la partisannerie est mise de côté et les membres du comité se penchent sur l'objectif à obtenir.

\* (13:40)

Alors, moi, avec l'expérience que j'ai, qui est quand-même limitée, je ne verrais pas de problème si les sénateurs arrivent au Sénat du Canada ne portant aucune bannière précise, mais plutôt pour servir les Canadiens et les Canadiennes et faire le travail qu'il y a à faire.

**Translation**

*That is a very interesting question, sir, and I think it warrants more reflection on your part, because in the end, in the Senate, when we are working in committee, senate committees studying bills to be referred back to the Senate, most of the time, partisanship is set aside and the committee members focus on the task at hand.*

*So, with the experience I have, which is limited nonetheless, I would not have a problem if senators came to the Senate with no specific affiliation but rather to serve Canadians and do the work that is to be done.*

**Mr. Dewar:** Thank you, Senator. One of your colleagues, Ms. Spivak, her term is up this year. She will reach the age of 75 and she will retire. So what would be your recommendation to the committee as to how she should be replaced? Should she be elected, or should she be appointed—he or she, her replacement?

**Ms. Chaput:** Je sais que j'ai devant moi des membres de comité qui sont très intéressés à arriver aux meilleures solutions. Moi, je vous dirais à ce moment-ci, et vous le faites, d'écouter les Manitobains et les Manitobaines et d'arriver à vos recommandations en fonction de ce que les gens du Manitoba vous disent.

Moi, si je peux ajouter, il y a des temps où si je suis très honnête, je me sentirais plus représentative de la communauté francophone du Manitoba, parce que je les représente par tradition, si elle m'avait élue. Il n'y a aucun doute. C'est un privilège d'être au Sénat. J'ai été nommée par un premier ministre, mais nous sommes un pays démocratique. Nous prêchons la démocratie. Alors, que veut dire la démocratie dans le contexte du Sénat? Si c'est un Sénat élu et ce comité décide que c'est la volonté des gens de l'élire, tout ce que je vous demande c'est de vous assurer que le Sénat continue à représenter adéquatement les régions, les plus petites comme les plus grandes, et que le Sénat représente aussi de façon encore plus sûre et certaine les communautés linguistiques de langues officielles du Canada, ainsi que les Autochtones et les autres minorités.

**Translation**

*I know that I have before me a committee that is very interested in arriving at the best solutions. What I would say to you—and you are doing this—is to listen to Manitobans and to base your recommendations on what Manitobans are telling you.*

*If I may add something, there are times, I'll be honest, when I would feel more representative of the Franco-Manitoban community, because I represent them by tradition, if I had been elected, there is no doubt. It is a privilege to be in the Senate. I was appointed by the Prime Minister but we are a democratic country. We advocate democracy. So what does democracy mean in the context of the Senate? If it is an elected Senate and this committee decides that it is the will of the people to elect it, all I ask is that you ensure that the Senate continues to adequately represent the regions, small and large alike, and also to work even harder to make sure that the official language minority communities of Canada are represented, as well as Aboriginals and other minorities.*

**Madam Chairperson:** Merci, Senator Chaput.

That concludes the list of persons who have indicated they wish to present to the committee in French. Are there any other persons in attendance requiring translation services? Seeing none, does the committee agree to allow translation staff to leave for the day? *[Agreed]*

**Ms. Howard:** I would suggest we allow them to leave with our thanks for coming in on a Saturday and allowing us to have this process in both official languages.

**Madam Chairperson:** Thank you very much. Indeed, thank you to the translators for their assistance today.

I will now call on Senator Bert Brown, private citizen.

The next group of presenters are our out-of-town presenters.

Senator Brown, do you have materials to distribute?

**Hon. Bert Brown (Private Citizen):** Yes, Madam Chair, I do.

My presentation actually is the condensation of my papers that I'm providing because they would be too long to meet your time frame, but I have condensed them in my presentation. I have more than 15 copies here. Could you pass those around? There's more if you need more. I've got a few more.

Do I go ahead with my presentation now?

**Madam Chairperson:** Please proceed with your presentation.

**Mr. Brown:** Thank you, Madam Chair and members of the committee.

I'm sure that by now you've had many witnesses before you presenting reasons for and against election of future Manitoba senators. Probably you've had numerous and varied opinions on just how such elections might be held and when they should take place, if at all. I hope my presentation will be useful in your deliberations and preparation of your final report to the provincial Legislature.

During the past year I've had the pleasure and honour of presenting a three-step plan for Senate reform to premiers and ordinary ministers in every province and every territory from coast to coast. My advisor, Jonathon Watson, and I have been in the eastern Arctic at minus 47 degrees Celsius and back in the western Arctic when there was twenty-three and a half hours of sunshine. Even by airplane, Canada is a very, very big country.

My last meeting was here in this Legislature with the Honourable Dave Chomiak, Minister of Justice and Attorney General, on June 24.

Prime Minister Stephen Harper gave me a time-limited mandate to present the case for Senate reform to the province. That initial mandate ran out when the pressure to fill vacant seats with Conservatives, who were outnumbered by a nearly 3 to 1 ratio, up until January 26 and that became the deadline. The mandate has been renewed since those appointments were made.

Work continues to convince provincial premiers to grasp this once-in-140-year chance to hold democratic elections to fill future Senate vacancies. This historic opportunity is real and extremely important for expanding democracy through giving Canadians the chance to choose who represents them in the upper house.

We will leave the committee members copies of the three-step plan for real Senate reform. I will outline those steps during this presentation and answer any questions the committee may have.

First, there are constitutional issues that must be dealt with regarding any changes to the number of senators representing each province and the term of office once the senator is appointed. At the moment, as we all know, senators are appointed to serve until reaching age of 75. Previous attempts to reform the Senate in the Meech Lake and Charlottetown accords, failed for reasons other than proposed changes to the Senate. We decided to do what is both

constitutionally legal and possible by focussing all of our efforts on the election of senators.

The principle of democracy is the easiest first step to promote and to defend. Some polls show up to 83 percent of Canadians would prefer to vote for their future senators.

There are only two requirements to be met for elections of senators in any province. The first is a willing Premier and his Legislature to pass legislation for a legitimate election, either concurrently with a municipal or provincial election or a stand-alone election for senators-in-waiting. The second requirement is that we must have a Prime Minister who is willing to accept the outcome of such elections by appointing the winners of same election. There are examples of such legislation in Alberta, British Columbia and now in Saskatchewan. Alberta has held three elections, proof that they are not constitutionally challengeable.

If a majority of provinces hold elections for senators, it will take five to eight years before an elected majority is seated in the Senate Chamber. It is our certain conviction that at that time, with that time frame, will give ample proof of how elected senators can effectively represent the people and the provinces, a principle that is put forward in the Constitution.

With elected senators acting as the continuous voice for provincial interest in future federal legislation, they will be an enhancement, not a threat to the influence of their respective Premiers. This slow but steady reform, through elections to fill naturally occurring vacancies, will allow Premiers to acquire a comfort level with a democratic Senate while consulting on a change of representation in the Senate moving towards unanimity on the number of senators from each province.

When premiers agree, Senate representation will require a stand-alone constitutional amendment to deal only with representation in the powers of the future Senate. Some critics will say that's not possible, but unanimity was reached in Charlottetown in 1992. The reasons for equal or close to equal representation for each province springs again from the Canadian Constitution itself.

\* (13:50)

Provinces are protected in the 1982 acts of the Constitution as sovereign in matters of health, education, manpower, immigration, et cetera, but provinces have no specific representatives to speak

for or vote for those sovereign rights in the Senate and have very little power in the House of Commons, where party discipline is so pervasive. Only senators elected by provincial political parties or independent senators can fill a role of spokespersons for provincial interests without the restraints imposed on members of Parliament who may have ambitions to rise to parliamentary secretaries, committee chairs or Cabinet members. The independence of elected senators will come directly from whoever signs their nomination papers, not a Prime Minister who already controls the Commons, but rather the leader of any provincial political party they run for in a Senate election.

The last concern of provincial premiers and future Prime Ministers will be which body of Parliament will retain supremacy over legislation. Because the House of Commons represents the principle of population on the basis of one person, one vote, the majority of MPs must always be supreme in Parliament. Therefore, the third step in the plan for Senate reform is an override of any veto vote in the Senate on a specific piece of legislation.

As is the case now, when legislation is passed from the House of Commons to the Senate for review and passage, the future reformed Senate can propose amendments or vote against any legislation with a simple majority vote and send it back to the House. We propose an override called the Elton Override, named for its author, a Ph.D. in political science. That override raises the bar for Senate votes if the House refuses to accept amendments to the bill in question. If the Commons votes a second time with the same simple majority to preserve the integrity of its bill, it is then sent back a second time to the Senate. The Senate must then accept the bill, as it is written, within one month or 12 sitting days, or show that a majority of senators representing seven provinces out of 10, and 50 percent of the Canadian population, to vote to change or veto the bill in question. This puts an override into the Senate with a very high bar to reach a veto while at the same time preserving the powers that already exist in this current Senate.

Canadians need to be aware that in a Parliament with a majority of the House of Commons, the Prime Minister can become a virtual dictator simply by enforcing party discipline.

Coalition governments on the other hand, most recently in Germany, can lead to disaster simply

because, with two or more parties governing, no party can be held responsible.

Canada is a great country and its bicameral Parliament has served it well when we were a young confederation. The provinces are now maturing and their economies are growing. They need a voice, vote and, if necessary, a veto in Ottawa. There is only one institution that can answer that need. A democratic Senate with a voice for every province will make Canada a stronger, greater democracy.

In summary, we are here today to urge your committee to promote Manitoba legislation for the election of future senators through provincial elections sponsored by all legal provincial parties as well as independent candidates who meet the requirements of the legislation.

I close with my favourite quote. Politics has sometimes been described as the battle of ideas but, in democratic politics, one non-partisan idea above all others is supposed to rule supreme: Those who govern derive their moral authority to do so only with the consent of the governed and that such consent comes through free and fair election. The author is unknown.

Thank you sincerely for allowing us to make this presentation. I am pleased to answer any questions I can.

**Mr. Eichler:** Two things, Madam Chair.

First of all, I ask leave of the committee that not only the oral presentation, but the written presentation be included in *Hansard* as well.

**Madam Chairperson:** Does the committee give leave? [*Agreed*]

**Mr. Eichler:** Thank you, Madam Chair.

Thank you for your presentation, Senator Brown. My question for you is you were first elected, I believe, in 1998, then again in 2004, which you were appointed, I believe, in 2007. Having said that, normally your next election would be 2010. Will that still be part of the political appointment process? Do you have to go through an election to be reappointed at that point in time? And what have you learned from that that you can share with the committee if not?

**Mr. Brown:** Thank you for the question, sir. You're actually right. There will be an election in Alberta in 2010. The Alberta legislation allows for senators-in-waiting to be elected for a six-year period. The

reason I had to be run again, although I'd won in, as you said, 1998, was the six-year time frame had expired, and so I was asked to put my name forward again, and I did and I won a second time.

Pardon me for laughing, but I guess I'm unique in that I've worked on this issue for so long that I will not be eligible for another election. I will retire just a few months before the next election, so I will not be running for re-election. It's funny, I fought for elections for over 20 years and now I'm not going to be able to run in another one unless they change the retirement age for senators, and my wife wouldn't allow me to run anyway. So I guess the answer is no.

**Mr. Faurichou:** I would like to ask—that was my actual question that my colleague asked of you, but I do have a following one in regard to the current situation we face here in Manitoba where it is a fair number of years before we will actually see all of the currently appointed senators retire. Is there any consideration to hasten this type of process by—as one of the presenters said to us earlier this week—offer a buyout package, settlement package to vacate the seat and to allow for the electoral process to be engaged?

**Mr. Brown:** Well, through the Chair, from past experience, the last province to do away with an upper house was actually Québec, and from what I understand from history, if it's correct, that's exactly what happened. There was a kind of a buyout and senators were not forced to leave, but they could take the buyout package if they wanted to. I certainly wouldn't advocate that anyone be forced to leave, but if the momentum is there and the Canadian people in every province want it—I should leave a couple of copies of the Canada West Foundation study some years ago before the last election that studied all of four western Canadian provinces, and they were all in the high 70s for electing their senators, and then the second graph was done on whether they wanted to see the Senate become equal in number as well and that was also up in the 70s.

**Mr. Faurichou:** Yes, so this isn't such a far-fetched discussion because Manitoba came into Confederation as a bicameral governance model. Precisely what took place here in Manitoba was that the sitting senators were offered packages. So, as it stands though in Alberta, when the electoral type of process of offering up nominees is acknowledging and waiting out the terms of office of the currently sitting senators?

\* (14:00)

**Mr. Brown:** Yes, that's the process that we're following now, and the reason that we think it's a good process to follow is because, No. 1, election of senators by provinces is the only thing that can be done to reform the Senate that is not constitutionally challenging. I was at a meeting of IRPP, which is a group of—I guess you would call them the experts of political science across Canada. I think there were about 18 of them there that had Ph.D.s in poli science, and they all agreed that what Alberta has been doing for the last few elections is not challengeable under the Constitution because they're just having a consultative election, and the Prime Minister will or will not accept that, and apparently the one we have right now will accept the outcome of such elections.

So I have already talked to the Minister of Intergovernmental Affairs in Alberta when I was first appointed as to whether or not Alberta would continue with the elections, and I'm assured that they will. So there will be one vacancy in Alberta before 2010. I think it's 2009, if I'm correct.

**Mr. Lamoureux:** I have a few questions so I'll keep them really brief.

In terms of campaign costs, what kind of money would you spend for a campaign? Where would you get your money from in order to campaign?

**Mr. Brown:** I want to correct what I last said. I think I said 2009 and that's not what I meant. The next election will be in 2010, but the next vacancy is sometime around 2011, so I stand corrected.

Yes, the issue of raising money and whatnot, it's an interesting one. I know that it worries a lot of people that it will be very expensive. We had an election in Alberta. The first time it cost about \$4 million because the municipal people who were running their own municipal election sort of blackmailed the Alberta government into hiring another remunerator, if you will, or there are various names for them, but people who run in each constituency. So it literally doubled the cost of what was necessary. All they had to do was count one more ballot. You know, there were three candidates and they were only electing one senator winning. So it was unnecessary but because it was unique, the Alberta government let them do that.

That was cut by \$2 million in the next election. If you run it with a provincial election, from the returning officers that we've talked to in each province, their belief is that it would cost about

10 percent more than the last provincial election to run a Senate election concurrent with a provincial election. So that makes it easy to break it down for each province.

**Mr. Lamoureux:** What I mean is more so as a candidate. What does it cost for you as a candidate running for an election? We're often asked what sorts of limits should be put in place. Should we put limits in as to who can actually contribute, that sort of thing.

**Mr. Brown:** Yes, I agree with the fact that there should be limits. I mean, it got out of hand in the United States where Senator Hillary Clinton raised \$60 million for a Senate election in New York. I think that takes away both the democratic intent of an election and would disqualify huge numbers of people. So I see no reason to have that kind of money spread around just for one election for one or two people.

I think very definitely that there should be a formula for how you would control the amount of spending. Wait, we already have that in Parliament now, don't we? I mean, there's a spending limit for each member of Parliament, so I think it naturally follows that we would have it for senators.

**Mr. Lamoureux:** There is an issue in terms of how an individual gains the nomination. For example, should it be a federal type of nomination to a federal organization, or should it be more of a provincial nomination? How does one become a candidate? What do you think would be the best way, again thinking with that non-partisanship or the province of Manitoba's best interests versus the federal party of whatever affiliation you might be with.

**Mr. Brown:** Yes, I think you have hit on the one key point, that if I don't make any other one very crucial, that point should be that everyone should be representing a provincial political party, and the reason is very simple. It's who signs your nomination paper. If your nomination paper is signed by a leader of a provincial political party, then you're more answerable to the people of your province than any other way.

If your nomination paper is signed by the Prime Minister of the country or by a leader of a federal party, then it naturally occurs that you are more loyal to either the Prime Minister or to the leader of the opposition, or whatever. I would end that statement by saying that, from what I've learned, in the last year and a half in the Senate, the Senate is not just

partisan. I believe it's more partisan right now than the Commons.

**Mr. Lamoureux:** In regard to term limits, do you believe that there is a need for term limits?

**Mr. Brown:** Yes, Madam Chair, I think that there's an area at which I probably disagree with the Prime Minister right now because he wants term limits. I am not totally against term limits, but what I'd like to see is secure, elected terms with a term limit of two terms as a maximum. The senators themselves, on both sides—well, at least on the Liberal side, they wanted 15 years and others wanted 12 years. The reason I don't want to see a term limit that is just one term is I don't see how you can make people answer to the fact that you voted for them, and they're not holding up your part of the deal, unless they're going to have to run for re-election.

To me, a one-year term, or one-term limit, means that you've run for election, but then you're just as free as—and there's nobody better to say that than me because I'm in that position by accident. I didn't get to the Senate for three elections, but then when I got there, I can't be elected again. So I'm not really answerable to the people of Alberta other than my own loyalty. So if you have someone who wants to be re-elected, they're going to work harder for your interest and the interest of your province. I hope I'm not going to fail in that, but I don't really have to answer to anybody.

**Mr. Martindale:** Senator Brown, we heard earlier today presentations with concerns about Francophone representation. One presenter, I believe it was Mr. Boucher said that, historically, about 7 percent of Manitoba, I think MLAs, have been either Francophone or francophile, and about 25 percent of senators. We also know that about 13 percent of Manitobans are Aboriginal. If we were to move to elected senators in Manitoba, how would you ensure, or maybe even guarantee that minority rights, such as those of Aboriginal people and Francophones, were represented in who we elect as senators?

**Mr. Brown:** Yes, Madam Chair, I think you could do that if you are willing to divide your province into regions, and then say, okay, this is going to be at least a region that has significant numbers of Francophone people and so, therefore, you would hope that you would get an elected person from that area.

Whenever somebody starts talking to me about minorities, I remember the discussions at the final

constitutional conference I attended after attending five of them during Charlottetown, and that was in Vancouver. A man by the name of Gordon Gibson, you've probably heard of him, he writes for the *National Post* and *The Globe and Mail* quite frequently. He spoke to the issue of minorities, and he said you can divide a populace up into an unlimited number of minorities. You can find a minority from language, you can find it from gender, you can find them from disabilities, and he went on and on and on.

\* (14:10)

So I don't have an answer for how you get guaranteed representation for all minorities. But I will quote only one more person that I've admired all my life, and that's Winston Churchill when he said democracy is a terrible institution, but it's way out in front of whatever's in second place.

**Mr. Martindale:** Thank you. Senator Brown, I presume that you're in favour of equal representation of senators by each province. Is that correct?

**Mr. Brown:** Yes, it's the ideal of the committee I chair, the Triple-E committee, which is an elected, equal and effective committee for the Canadian Senate reform. That's the ideal we set out with. We recognize that it's up to the people of Canada what they want, and to that degree we found out that in almost all the polling—and again I apologize, I'll leave a couple of copies of the graphs with you to be copied for everyone—we're confident that, in every province, the majority of people want equality. But Senate reform now is basically down to 14 people. The 13 premiers, including the three territorial premiers, and the Prime Minister have all got to come together at some future point. If we keep electing senators in every province that we can, they will come together some day to decide whether they want three-quarters of equality, two-thirds of equality or full equality. They had it in Charlottetown before they carved all the powers out of the Senate. We hope the override we've provided now will make them confident that each province should have an equal voice just because they're sovereign.

Each province in this country is sovereign and has its own Legislature and yet it has no equal voice in the Commons. We think, on the issues that are sovereign to the provinces, they should have that equal voice, but we're not going to start a revolution or anything on whether they decide it's two-thirds or three-quarters or whatever. It's now virtually up to

the premiers and the Prime Minister of the day to decide, you know, how, what equality.

**Mr. Martindale:** Senator, do you think that it's equitable or fair or democratic that Prince Edward Island under your scheme would have the same number of senators with a population of 135,000 as Ontario with a population of 11,410,000?

**Mr. Brown:** Yes, we do, simply because of the things that we said are sovereign to the provinces. If you look at the things I listed, which I think were health care, education, immigration, manpower, those are the very things that Québec has tried to separate from this country over, because the federal government encroached in every one of those areas with its taxing powers and its ability to say, you play the game our way or we don't give you this money.

Just to back that up, I'll just give you one quote. It was back in 1993 when Prime Minister Chrétien called all of the premiers to the table with a promise to solve national health care. He gave them all five minutes to speak and the third Premier that was speaking was my Premier, Premier Klein. In the middle of his five minutes, the Prime Minister had a paper or papers passed around the table and then he promptly interrupted the Premier of Alberta to say, take it or leave it. Then he walked out of the room and Ralph Klein walked out of the room a few minutes later, went to the Windsor casino.

So I think it gives you an idea of what kind of sovereignty you can have if a Prime Minister decides that this is the way it's going to be regardless of what the provinces want.

**Mr. Martindale:** My final question actually mentions health care, so I'm glad you brought it up. I take it that you're a provincial rights advocate. It seems to me that if there were elected senators, they would be much more powerful and if there were an equal number from all provinces that they would be advocates for provincial rights.

My question then is, do you think that any of our existing social programs such as Old Age pension or medicare would have been passed or approved if provincial rights were primary?

**Mr. Brown:** We do not see provincial rights in the terms of being one or two or even three provinces overcoming all of the others. That's why the override that we settled upon after quite a bit of research back through the history of the British Parliament. The override we provided, I would remind you and you'll find it in those papers, the Senate would only be able

to summarily veto a bill or amend a bill over the wishes of the House of Commons if it could finally show that it had a majority of senators from each of seven provinces representing 10 percent of the population. That means that not Ontario and Québec could come together and do it themselves. It means they would have to have five other provinces. If it was only one of the two big provinces like Ontario or Québec they'd have to have six other provinces. If you have that kind of a majority, there's something wrong with that bill.

**Mr. Dewar:** Thank you, Senator, and thank you for coming to Manitoba to present.

We heard at another meeting, it was a suggestion made by a presenter like yourself, that the power to decide who should be a senator should fall upon us, MLAs, by secret ballot, that we are elected to make decisions and that should be a decision that we should make rather than hold another election.

Do you have any comments on that?

**Mr. Brown:** Yes, Madam Chairperson. We went through that argument and discussion in the Charlottetown negotiations in the early stages. I was in the Pearson Building for five days when the Charlottetown negotiations were taking place, and while the Premiers all agreed to equal representation of senators they also agreed that Québec could elect its senators from the members of their National Assembly. The reason, and this is not to disparage Québec at all, was that Québec, they felt, wanted something. They wanted to control a little bit more of the process than the other provinces were willing to let go of, and somebody pointed out that Québec was 10 years late in giving women the right to vote after all the other provinces had. So our thoughts came together to say that we felt that if other provinces were electing their senators, how long would it be before the people of Québec decided they wanted to elect theirs directly too?

**Ms. Howard:** Thank you very much for your presentation.

I wanted to just understand the Alberta process a little bit better, and something you had said earlier was that were you eligible, you would have to run for re-election.

So, my question is, when we're looking at how to do this, if a sitting senator loses that election there really is no mechanism to remove them currently other than them to resign or to be censured by the Senate. So it would totally depend, really, on the

honour of the senator who has lost an election to resign or not, or is there something in your legislation in Alberta that obliges a senator who has lost an election to resign their seat?

**Mr. Brown:** Yes, you're absolutely correct. It's a matter of honour right now. I'm not affected because, as I said, I will be 75 before I need to run and my wife wouldn't let me anyway, so it's a moot point. But, yes, it is a matter of honour and it will remain a matter of honour until the premiers get together with their stand-alone constitutional amendment that deals with those powers. Then they will say, okay, it's going to be a fixed election for this period of time and anyone who serves will have to rerun. But that's changing the content of the Senate, and that's the one thing you can't do without a constitutional amendment.

\*(14:20)

The reason we're going forward with elections by province after province after province is it's the one thing we know we can do and not have anybody take it to the Supreme Court and challenge it. If we succeed in showing that a majority of provinces are willing to go forward with that election process, then I think the stand-alone election will be very justified.

We've had two stand-alone constitutional amendments. We'll be very justified. We've had two of them in this country, one of them in Newfoundland over separation of church, I believe it was, and we've had one in Québec over language. A stand-alone means we won't bring all the other issues that came into Charlottetown which made it such a thick package that everyone could find something to vote against rather than vote for. So we had nine provinces out of 10 basically voting against it.

**Mrs. Taillieu:** Thank you very much. At this point in the questioning it's difficult because some of my questions have been answered as well, but I just wondered—and thank you very much for your presentation. I'm wondering if you could just enlighten me and the committee and the members of the public, exactly how it occurs in Alberta.

Does each political party elect a person that then would be their representative, or is it members at large from the community or certain other minority groups? That being said, does each political party then, for example, there may be several people wanting the nomination. Is the nomination process similar to what may happen when a federal or

provincial politician is elected, and are you governed by the Alberta elections finance act?

**Mr. Brown:** We are governed by the Alberta Election Act that was drafted as the senatorial election for senators-in-waiting. I may not have all the right words on the title here but that's what it is. It's an election act for electing senators-in-waiting, but there is no financial limitations at this time. I think that's something that will need to be dealt with in the future.

In the first election, one party spent \$250,000 on their nominee and the second party spent \$100,000 and that party won. I was representing the first party and so it proves that money doesn't always win. The first elected senator in Canada I'm proud to say was Stan Waters, who was the commanding general of the armed forces of this country at the end of the World War II. We couldn't have had a better candidate but, unfortunately, he died only six months after serving in the Senate from cancer. We had an interruption between elections.

**Madam Chairperson:** Thank you very much for your presentation, Senator Brown.

**Mr. Link Byfield (Alberta Senators in Waiting):** Thank you very much, Madam Chairperson, and members of this very worthwhile committee. My fellow senator-elect, Betty Unger, and I have come to Winnipeg with considerable appreciation for the chance to address this committee.

The consequence of what you are considering here goes far beyond the borders of this, my native province. What you decide to do about electing senators in Manitoba will affect all of Canada. You have a chance to move the country ahead, and Betty Unger and I very much hope you take it.

As you know, Senate reform has for the past generation been a high priority in Alberta among all of us who are eager to enhance the national role of smaller provinces like yours and ours. Some say we should abolish the Senate. We say no that would simply throw away the one chance our region has for federal parity with larger voting majorities in Ontario and Québec.

Fortunately, there is almost no chance the upper house will ever be abolished. It's constitutionally almost impossible because Alberta, Saskatchewan and numerous provinces would actually forestall that.

The far greater danger in Manitoba and other provinces is that you may do nothing, just leave everything the way it is. We hope you do something. Manitoba has it within its power now to support the sturdy principle, still strangely resisted by some, that all your representatives in the Parliament of Canada should be chosen by Manitobans.

Now, if you do pursue this course, be forewarned. You will probably hear the small but persistent Greek chorus of criticism, long on sarcasm and short on fact, that has attended all three Alberta Senate elections.

Senator Unger and I want to supply you with the reassuring facts of Alberta's Senate election experience. You'll find it bears little resemblance to much of what the Alberta news media has said about it. Critics in Alberta have always made three main claims against electing senators.

First, they say the elections are scandalously expensive. Alberta's most recent Senate election, as a matter of fact, in 2004 cost 81 cents per eligible vote. The cost of the concurrent provincial general election, that is excluding the Senate component, was \$3.42 per eligible voter. So giving Albertans a second ballot for the Senate when they went to vote for MLA added 23 percent to the cost of the provincial election.

We should caution that our two previous Senate elections in '98 and '89 were both held in conjunction with municipal elections, and they cost somewhat more mainly because the government paid the municipalities well to supervise them.

Even so you can see in the material I've provided that the cost per voter remained modest. Frankly the cost is trivial. It certainly is democratically defensible. For 81 cents you can give every Manitoban a real say in electing their representatives in Parliament.

And let's appreciate that senators are quite literally members of Parliament. They are legislators like you. Surely you agree that the people have a right and a duty to choose the legislators they want. There are emerging democracies in this troubled world where people risk bullets for the right to vote. Surely it's worth 81 cents.

Second point. You will also hear ill-informed critics say that Albertans do not take Senate elections seriously. Again, the facts show otherwise. The turnout in the 2004 provincial general election was 44.7 percent, standard Alberta boom-time turnout. Of

the eligible voters, 44.7 came out to vote in the election and of the eligible voters, 44.2 percent voted in the Senate election, half a percent lower.

Simply put, among those Albertans who still vote at all, almost all vote in a Senate election if given a ballot. Now it's true that about a tenth of those who did vote spoiled their Senate ballot or cast a blank. It was just a little under one in 10 who actually voted, and I should explain why.

Sad to say, our two main opposition parties fielded no Senate candidates in the last Senate election and urged their supporters to boycott the Senate race. Shame on them. That's all that can be said. Shame on them. As it turned out, their boycott made remarkably little difference to the result. At the risk of sounding partisan, I gently suggest their boycott may even help explain why in Alberta they remain opposition parties.

\*(14:30)

Bert Brown, who we just heard from, the leading candidate among the 10 of us who ran, received over 312,000 votes. I want you to stop for a second and appreciate the magnitude of that number. Single-handedly he drew more votes than the entire Liberal Party of Alberta in a general election, and more than the entire New Democratic Party. My colleague here today, Betty Unger, can say the same. I myself, coming fourth among the 10 candidates, drew more votes as an independent than the entire New Democratic Party and almost as many as the Liberal Party. I say that not particularly to brag, but simply to say that if you hear Albertans of a particular political leaning say that voters think Senate elections are a joke, ask them what that says about their caucus.

Ask, too, what it says about those three senators Paul Martin later appointed to represent us in Parliament. They got zero Senate votes. They have no moral authority to represent our province in Parliament and, to their credit, they don't even pretend to try. They represent their federal party in Parliament, even though section 22 of the Constitution Act specifically requires them to represent their province, in other words, us Albertans. Senator Brown represents us. He speaks for us Albertans. They can't. They're undoubtedly decent people, but they can't.

Which brings us to the last point. I mentioned the boycott in the election among parties who branded the election a right-wing gimmick. This was

a misapprehension on their part. There is nothing inherently left wing or right wing about electing senators. Democracy is democracy, pure and simple.

So we hope that all parties in Manitoba have the good sense to see that Senate elections are popular among Canadians in poll after poll, in all regions, decade after decade, not because they are right wing or left wing; they are wingless. They are borne aloft on the warm wind of democracy itself, on the sound and sacred precept of government by consent of the governed.

So ignore the naysayers. Please urge your elected Assembly to give Manitobans the right to choose their own representatives in Parliament.

**Ms. Marcelino:** Thank you for your presentation.

You have mentioned the cost of election. What would you see as a reasonable or a fair amount of election expenses?

**Mr. Byfield:** Are you speaking for the—

**Ms. Marcelino:** For the candidate.

**Mr. Byfield:** Oh, for the candidate. Well, ours range quite a bit. Bert mentioned some of the earlier elections—Senator Brown did. The last election the winners spent—I think the three Conservative Party winners, Betty Unger, Cliff Breitzkreuz and Bert Brown all spent around \$5,000 each according to their reports. I spent \$55,000. I ran as an independent. I needed a lot of radio advertising, so I bought it.

I think it varies a great deal, and I think it's one of those things that will develop as the process develops. I can't really be more specific than that.

**Mr. Lamoureux:** Thank you for your presentation. I did have a question in regard to in a federal election. We'll use Alberta as the example because that's what you're most familiar with and that's probably a good example to use. In Alberta I think there are 28 members of Parliament; 27 of them are Conservative. That's correct, yes? *[interjection]* And one NDP, thank you.

Yet, if you take a look at the actual vote turnout, I believe the Conservatives would have probably been around 50 percent and the other two opposition combined would have been around 50 percent. Do you know right offhand?

**Mr. Byfield:** Well, remember we're talking provincially with these elections, so I'm not sure it's the same thing. But, yeah. I think either provincially

or federally your numbers are probably in the ballpark. The Conservatives, I think, normally take more than half, but not by a huge number.

**Mr. Lamoureux:** Like Manitoba, I understand Alberta has six Senate seats, and there seems to be this general feeling amongst people that it would be nice if the Senate, if they're going to have an elected Senate, reflected what it is that the wishes of the people were. What I'm getting to is maybe the need for some sort of a preferential ballot because there is a great percentage of the population maybe that feels that they are not getting their voice heard because the results don't necessarily reflect what the people of Alberta really wanted. Is that a fair comment?

What I'm trying to get to is how do we develop a ballot. One person suggested you have a ballot in which you just check off the names of the individuals that you're content with and then you do the addition, or you go to a preferential ballot so it takes a majority. Do you think as a committee we should be looking at ways so that it's more than just first past the post that wins at the end of the day?

**Mr. Byfield:** I would be open to preferential balloting. I'm not sure how you work that with province-wide boundaries in the race. I'm sorry. I'm a bit dense when it comes to the subtleties and mechanics of different systems. Whatever system you end up with has to be comprehensible to a fairly inexperienced voter.

I would hope that you could develop a system in which the representation among the six senators reflects more or less the representation of the vote within the province, and I don't like the thought of going to a proportional representation system where you just vote for a party because it rules out all the independents like me. I also don't like these hybrid systems where some are appointed and some are elected. I don't think that works. But there must be a way in which you could do that, and you'd have to talk to somebody from Fair Vote Canada or something to get the right way of doing it because I'm not good at it.

I agree with your general thought.

**Mr. Lamoureux:** Finally, I don't quite understand the Alberta process. There are three people that are elected, and are they just waiting till a seat becomes available? Like, you're a senator-in-waiting. Is that the phraseology? How does that work?

**Mr. Byfield:** Yes, that's the normal term, although I personally and many of us senators-in-waiting prefer

the term "senator-elect" because it makes us sound a little more active and anticipating. But, yes, each of the three elections has had a different number elected. The first was one because there was one vacancy. The second one elected two winners, and the government simply decides the top two guys, or men and women, will be the winners.

In our case, in '04, there were three vacancies at the time, so they said, well, we'll take the top four as winners because somebody else may retire, which in fact happened. So that's why now that complicates the voting system. You'll notice if you look at the numbers of turnout, you have to always distinguish between the number of voters and the number of votes cast because, if you're given two choices, well then you get twice as many votes cast. When you have four people you can choose, well, that really does inflate the vote number, not necessarily the voter number. But it, again, gets a little bit complicated.

I don't know if I've answered your question. I hope I have.

**Mr. Faurshou:** Thank you very much for your presentation. Without knowing where an individual resides and you having province-wide voting—perhaps you can help us out amongst the committee—have you seen the prevalence of a highly populated area of the province a candidate that resides in, say, Edmonton or Calgary, would have a better chance than some that would be living in a more remote part of Alberta? If you could go by the candidates here, the ones that are successful like yourself, would you say that you're in close proximity or in either Edmonton or Calgary and the other individuals as well?

**Mr. Byfield:** My home town is Rivière Qui Barre which is right near Calahoo, Alberta, not exactly a metropolis. It's not too far from Edmonton, but I wasn't really seen as an Edmonton candidate I don't think. Our results were actually not particularly biased urban-rural, north-south. That could develop over time in Alberta because there's ill will now—well, there's always ill will between Edmonton and Calgary, and now there's much more ill will between rural areas and urban, and, having grown up in Manitoba, I can appreciate it is a big problem here. I'm not sure what to suggest. I suspect you're better judges of that than I would be. I haven't noticed a lot of it in Alberta though.

\* (14:40)

**Mr. Faurshou:** As a former Manitoban, you're then well aware the majority of the Manitoba population resides in and around Winnipeg. We've heard throughout the committee hearings to date a concern of a province-wide balloting for senatorial positions being significantly weighted towards Winnipeg and area and leaving much of the rest of the province without representation. Obviously there's been concern that there should, in fact, be constituencies designed within the province, sectors, if you will, of the province, clearly identified for senatorial representation. Would you be supportive of that with the benefit of both Manitoba understanding as well as Alberta?

**Mr. Byfield:** Yes, I think that there might well be a utility in dividing the province up, either dividing up the voters list between what you might call political constituencies or dividing the province up geographically into constituencies. I'm long enough gone that I wouldn't dare to make a suggestion there, but the one thing I would say is that you, in Manitoba, have an opportunity now to decide that for yourselves, and I urge you to take it because if you don't, the feds will decide it for you and whatever you want doesn't matter.

**Mr. Eichler:** Thank you for your presentation. I just have a quick question in regards to 2010, which you will have an opportunity to again run for election to represent Alberta in the Senate. Without the other provinces coming forward, do you see a way that Manitoba could help lead the way through this committee in trying to raise awareness in electing more senators, or would that have much of an implication in your opinion on what's happened in the past?

**Mr. Byfield:** I'm sorry. I'll get the rules one of these days, Madam Chairperson. I think it's absolutely critical that you elect senators because if you do it, B.C. can't be too far behind.

The reason that it has been slow to leave Alberta, is that Alberta does not elect Liberals ever. I shouldn't say that, the odd one. We don't elect Liberals, and so when we elect Senate candidates, and a Liberal majority Prime Minister or even a minority, in the case of Martin, looks at it, he says, well, okay, why am I going to do this? How many seats might I lose if I don't? The answer? Zero.

Now if you look, the west is generally Conservative federally, but the Liberals have seats in Manitoba. They have seats in Saskatchewan. They have seats in British Columbia, and they haven't

entirely lost interest in it. So as long as that's the case, if Saskatchewan does it, and Goodale's seat's at risk, to get specific, and Manitoba does it and there are more Liberal seats at risk, and then B.C. does it, which I believe it will do, then it doesn't matter who's running the Government of Canada. They're going to start appointing. Then it just keeps spreading from there.

**Madam Chairperson:** Thank you for your presentation—I'm sorry, Mr. Lamoureux.

**Mr. Lamoureux:** Quick question. Do you, as a senator-in-waiting, do you receive any sort of enumeration at all since the election day to whenever it is you might actually get appointed?

**Mr. Byfield:** No.

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

I will now call on Vaughan Baird, private citizen.

Do you have some materials for distribution? You may begin your presentation.

**Mr. Vaughan Baird (Private Citizen):** Thank you, Madam Chairperson.

After 1967, people saw that senators appointed at the discretion of the Prime Minister was undemocratic. Various individuals attempted to bring about the reform, but were always blocked by Québec or Ontario which each had a power of 24 senators.

In 1984, a report on Senate reform was tabled by the joint chairman of the Senate and the House of Commons. That was the Honourable Gildas Molgat and the Honourable Paul Cosgrove, PC, QC, MP. Those were Liberal chairman, vice-chairman. They favoured an elected Senate and proposed an introduction of a fixed term of nine years, non-renewable and believed it would not require the use of the general constitutional but rather would proceed under section 44 of the Constitution Act of 1982. They believed leaving Senate seats vacant for a considerable number of years was crippling and all vacancies should be filled within six months. They also believed that to be appointed, the requirement of having \$4,000 of assets was now anachronistic and could be amended by section 44 of the Constitution Act.

Senator Carstairs, whom I consider one of the hardest working senators in Canada, in her speech to the Senate December 11, 2002, against a referendum

for the abolition of the Senate, she would vote a resounding no. Without any doubt we will see Québec will vote always against the abolition of the Senate.

The Premier of our province, the Honourable Gary Doer, has stated he was for the abolishment of the Senate. Manitoba passed Bill 22 in 2006 of holding consultations. Québec and Ontario, each of which has 24 senators, are opposed to the abolition.

It has been stated by the government of Manitoba that its preferred position is to abolish the Senate. However, in my opinion, we will not see the abolishment of the Senate in our lifetime. Québec and possibly Ontario are adamant against it.

We can at least at this time support the democratization that the Prime Minister is trying to carry out. Rather than his sole recommendation to the Governor General, he is willing to abrogate his powers if provinces hold elections; he will appoint that person to the Senate. I think that's a very important point. He's willing to abrogate his powers. If Manitoba elects a Senate, he will recommend to the Governor General to appoint that person. No other Prime Minister has suggested this before, of abrogation of his power.

If the committee acts fast, it can hold an election this year. If one informs the Prime Minister's Office that that it will hold an election this year, I am sure he will delay the appointment. The election reform act of Manitoba, passed June 13, 2006. It has taken over two years and eight months to hold these hearings. Surely, in this 21st century, the committee can have its report completed so that we can have the first election of a senator in Manitoba because we have a senator retiring mid-2009.

Alberta set the lead in the election of senators. Stan Waters in 1990, appointed by Prime Minister Brian Mulroney, and Bert Brown in 2007, appointed by Stephen Harper. We would be the second province to elect senators. It would be like the United States; once a few states started an election, it becomes a democratic rush.

The Prime Minister, the Right Honourable Stephen Harper, on September 7, 2006, met with the Special Senate Committee on Senate Reform regarding Bill S-4 to amend the Constitution Act of 1982. This was the first time a Prime Minister attended a committee hearing before the Senate. It shows his sincerity on wanting to see the reform of the Senate.

\* (14:50)

He proposed a term of eight years for senators. The Liberal Party previously had proposed nine years, which would be equivalent of a term of two consecutive majority governments. The Prime Minister discussed and consulted with Premier Charest on the proposed legislation and he had no objections to the bill.

It also went into an imbalance on representation. For instance, Saskatchewan and Manitoba, which have a greater population than Nova Scotia and New Brunswick, will continue to have fewer senators than the other two provinces. One should correct the inequality from which western Canada suffers, but that's another matter. It has been reported that western Canada has 9.7 million people, thus 30 percent of the country's population and only 23 percent of the Senate. The four Atlantic provinces, 8 percent of the population and 29 percent of the senators seats.

In Australia, the term is six years and in France, nine years for senators. To me it is important to have a choice of second thoughts and also the idea that senators will work toward the protection of provincial rights, if a province holds an election, and the Prime Minister is on record he will recommend to the Governor General to appoint that person so elected.

Do parties in Manitoba favour elected senators? The Progressive Conservative Party of Manitoba, at its annual meeting, April 11 to 13, 2008, went on the record that they endorsed such reform of the Senate proposed by the government of Manitoba to adopt similar legislation as Alberta for the election of senators. Your presenter was the person who presented that motion in the Senate.

It was not until 1907 that Oregon in the United States pioneered the direct election of senators. Later, the 17th amendment to the United States Constitution requiring three-fourths majority passed in 1913. The following year, senators who were elected by the people passed.

You have to take this question of the modernization, you could say, of the Senate piecemeal, and this is the first step. If Manitoba goes for election, you'll see Saskatchewan go and you'll see the West go and the other provinces will follow very quickly just as the United States did.

When asked the question, should our senators be elected at large or by constituencies, in my opinion,

they, without doubt, should be elected at large. They represent the whole province. Québec has constituencies that are over a hundred years outdated. They were set in the past and this is what happens.

Nor should any vacancies be designated because of racial, sexual, national or ethnic origin, colour, physical disability or religious adherence. It should be open to all Canadians of 30 years of age or over.

Manitoba is bordering on a million population. Over 60 percent reside in the Winnipeg area and the largest ethnic majority of Aboriginal descent. If they wish, they can be an effective force in the election of senators. Senators should be elected on merit, and with today's instant communication it does not take long to evaluate an individual.

I believe that proportional representation would be the most democratic and that Senate elections should be separate from the provincial and federal elections. Some would argue that there will be a lower turnout, but I will tell you that those who see the importance of the Senate and issues involved will make a wiser choice than those who do not pay attention.

It is suggested holding the election of senators at provincial election time, but if a vacancy of a senator occurs right after a provincial election you would have to wait four years before that Senate election. This is where, to me, it falls.

I'm in favour of holding an election within 60 days of the retirement of a senator. They're supposedly protecting provinces' rights. They would be there at the will of the people, not of the Prime Minister or Premier, for they would be elected by the people in separate senatorial elections. I'll ask you now, underline that whole paragraph.

I submit this as a concerned citizen on how we are governed and make it more effective, and one who does not meet the qualifications to receive such an appointment as I exceed the time limit.

Madam Chairperson, I point out our press has deprecated the question of non-interest in a senator, but I noticed that no representatives of the press are here today. It's rather interesting, and you have an excellent turnout, I would say, from Manitoba of representatives of the people here. I think you should make that comment to your report.

Thank you, Madam Chairperson.

**Mr. Martindale:** Thank you, Madam Chairperson, and thank you, Mr. Baird, for your interesting presentation today.

I'm a little surprised to read on page 3 that you don't think any Senate seat should be designated for any particular group in Manitoba's society, especially since you were the lawyer for one of the most famous Francophone rights cases in the history of Manitoba. So, notwithstanding that, you don't think that a seat should be ensured or set aside for a Francophone representative?

**Mr. Baird:** Definitely not. The Constitution struck out that French and English shall be translated and the languages of our Legislature.

The question now, we're in the 21st century, I'm in favour of protecting the rights under the Constitution. I'm not in favour of putting restrictions like you are suggesting, Mr. Martindale, in the Constitution because I think that the communications today, a person can make themselves known almost instantly and people evaluate on the quality of that person.

**Mr. Martindale:** Perhaps the solution lies in your suggestion, also on page 3, of proportional representation. So, for example, if we were to have six people elected at the same time, perhaps you could have four elected by direct election and two by proportional representation and then, you know, which ever party came first, or first and second, those people could be appointed from a party list and maybe even chosen on the basis that they were Francophone or Aboriginal or whatever.

What do you think of that idea?

**Mr. Baird:** Madam Chairperson, and to the members of the board, you are receiving reports from across the province and also from Alberta and what have you, and you have to make that decision. You can evaluate better, really, what one should do on the election.

But I look at Québec and they built their constituencies, you could say, in stone. They're 100 years outdated, and you know the trouble of getting a constitutional amendment changed when we know and you know the difficulties in that. So you've got to be careful on what you put in. You might say, well, is it going to work 25 years from now? Is it going to work 50 years from now? And Québec is 100 years behind on the question of its constituencies.

\* (15:00)

**Mr. Faurshou:** I appreciate the opportunity to have you here today, Mr. Baird, and I do, for everyone's note, see that you're wearing your Order of Canada lapel pin this afternoon. Your constitutional expertise is certainly welcomed at this committee level, and thank you for sharing your valuable time and understanding of the Constitution with us today.

You made no mention in your presentation about anything pertaining to a specified ballot. Currently, we use the first-past-the-post winner or most ballot numbers take all. Yet, many presentations have come our way suggesting that first-past-the-post ballot in the case of Senate elections would not give the legitimacy that is needed at this juncture in time. In other words, we should be looking at another style of ballot, preferably a ballot that would allow for a person's win only with a clear majority.

*Audio system failure.*

\* (15:10)

**Madam Chairperson:** If the committee could resume, I think we have our *Hansard* problems fixed. We are going to return to Mr. Faurshou's question. We believe it may not have been recorded on *Hansard*. So, Mr. Faurshou.

**Mr. Faurshou:** Thank you very much, Madam Chair.

I wonder, Mr. Baird, if you wouldn't mind answering my question once again as it pertained to your understanding or your preference as to the style of balloting if an elected Senate was to progress here or proceed here in Manitoba. Currently, we adopt and make use of for the first-past-the-post in our balloting, but there are other types of ballots. Would you share with us your thoughts?

**Mr. Baird:** Madam Chairperson to Mr. Faurshou. The question of the balloting, your committee is hearing the public and can make a far wiser choice than I, but I hope you will be progressive and adopt a system that is not just the first-past-the-post, but the question of first, second, third, fourth choice because when you have, say six candidates, I don't think it's fair to take the first-past-the-post, but you people, in hearing the different representatives, will be able to make a wise decision.

**Mrs. Taillieu:** Thank you very much, and thank you very much, Vaughan, for your presentation today. I note the last line in your presentation says that you wouldn't be eligible because you don't meet the

requirements because you exceed the age limit. I think that's unfortunate because I certainly think you would have been a good candidate. I notice as well that you are wearing your Order of Canada pin representative of the amount of work that you have done for your country.

I want to also recognize that you have done a lot of work in Senate reform. You are one of the forerunners and certainly we've had a number of conversations about this over the years. You're very knowledgeable so we appreciate your presentation.

I think the heart of the issue here is election versus appointment of senators. Election being the democratic way to do it, in my view. I think one of the previous people did say that if you're appointed by the Prime Minister, you work for the Prime Minister, but if you're elected by the province, then you're accountable to the people of the province. Is that how—would you agree with that and is that your opinion there as well?

**Mr. Baird:** Thank you, Madam Chairperson. Without any doubt, an election by the people is far better than an appointment and you feel a certain, shall we say, you can even make it *[inaudible]* the fact that the public elected you rather than being appointed by a Prime Minister. I compliment the Prime Minister on saying he'll abrogate his rights to recommend to the Governor General appointment of certain people. He will recommend the person who is elected by the public which is far better.

**Ms. Marcelino:** Thank you, Mr. Baird, for your presentation. Just curious, you were the presenter of the motion which passed at the Progressive Conservative Party's annual meeting for the election of senators. Does your motion include a term limit of elected senators? Or if not what would you suggest as the term limit for elected senators?

**Mr. Baird:** I'm most in favour of a term limit. The Liberals, federally, recommended one when they were in power, a nine-year limit. They were in favour of an elected Senate.

The Prime Minister picked eight because it was two terms, shall we say. Usually a government is in power for four years if it's not a minority. To me, the term of four years, eight years is excellent.

But when we didn't go that depth as to the term, it was just that we were in favour that the public of Manitoba should have the right to elect their senators.

**Mr. Lamoureux:** Mr. Baird, I want to follow up on you because you give a very clear statement; you want your senators elected at large from the province. Yet, in rural Manitoba—and I believe we'd have a difficult time to say that we're going to have six senators representing the entire province and elected from the entire province.

What about the idea of three senators in the city of Winnipeg and three senators in rural Manitoba? Would you be open to something of that nature?

**Mr. Baird:** Madam Chair, in answer to that question, the thing is, you take Morden and the city next to it. They're growing, really growing and you have Brandon. To me, to say you represent the province is far more important than to just say you represent Brandon, the city of Winnipeg or what have you.

I think with today's communication, people get to know and evaluate a person. Then the evaluation would decide on the question of senator.

**Mr. Lamoureux:** We're looking at four possible options when a senator could be elected. They could be elected in a municipal election, a provincial general election, a federal general election or a stand-alone election. Do you have an opinion as to which one you think would be best?

**Mr. Baird:** Without any doubt, stand-alone. A senator can be and some are very outstanding. To me they can stand alone and hold an election. In my opinion, that's the way it should be done. Because if you tie it in to provincial elections, and you hold an election and then the Senate falls vacant right after that election, you have to wait four years for the federal election possibly and that seat is vacant.

**Madam Chairperson:** Thank you, Mr. Baird.

We have two additional names to add to our speakers list, presenters list. No. 26, Anita Chubb Kennedy, who is also from out of town, and No. 27, Vincent Pouliot, also from out of town.

It's also been brought to our attention that we have an individual whose circumstances are such that they would like to be able to present now. I wonder, with leave of the committee, if we could ask Edward Mandrake to present at this time? *[Agreed]*

I will now call on Edward Mandrake, private citizen. Do you have some materials to distribute? *[interjection]* Then you may proceed with your presentation.

\* (15:20)

**Mr. Edward Mandrake (Private Citizen):** Good afternoon. It is a great honour to be here and to be afforded the opportunity to offer you my views upon the Senate.

But first and foremost, I'm completely baffled by a previous speaker. I am a former—I should say I offered my life to this country twice. No. 1, I served in the military for 15 years. I gave you my youth. Then I served in this wonderful Legislature for two years and I've never, ever seen such horror as I have heard here today from a person from Alberta telling me that certain people of certain political affiliations do nothing. Well, I got news for you. Palliative care was brought on by a senator and just today the best care that you ever, ever heard of. So don't say that these people don't do their job. They do a very good job. Unfortunately, it's because we elect them along political lines, which is a foul. That's wrong. Got that off my chest, thank you very much.

The second thing is I noticed in the *Winnipeg Free Press* that the content as listed on your front page here was not in there, and I was wondering why didn't you put it there, please. I think it would have helped us to formulate a far better presentation if it was in there.

Do I favour an elected Senate? Yes.

How quickly should they be elected? Very simple. During a provincial election. Not a City election, not municipal elections. It should be a provincial election only.

There's no need in electing a senator for a particular—you want to call it a region. I don't like to regionalize anything. What is the sense of electing a senator today when there's not going to be a seat vacant until 1920? There's no logic to this. We have got a vacancy right now in—what is it? August 12 this year, we have a vacancy. But I'll guarantee you, I know what's going to happen. No matter what we do, how we do it, a government of the day is going to elect whom they wish. They've done it. They've broken their promises so many times that it's pathetic.

I'm going to illustrate just a couple. Kyoto Accord: he was against it. Elected Senate: guess what happened? He put a key limit in. Election: every four years. No. Do as I do, not as I say.

There are two sets of bills before the government right now suggesting electing Senate and setting term

limits. Are they constitutional? From what I have been able to ascertain, they're not even constitutional. So why are we going into constitutional amendments when we know that we just cannot do it? Didn't Meech Lake tell us anything? Can't we learn from history? History has taught us one thing: be mindful of what we did in the past.

To make the Senate work, I do honestly and sincerely believe that if it was a non-partisan group of men and women, we would not have this discussion today. Unfortunately, it is along political lines. The gentleman that spoke, he calls himself an independent. Listen to them. He is so—political views is not even funny. They call it independence? No.

If we elect a non-partisan Senate, then we will have sober second thought. 'Cause they're not aligned to any party, they're aligned to—guess who? The voters. Not you. Not you. The voters of that province. Because when they come back home, the voters will let them know.

Election expenses, there has to be a limit on election of the senators. The minute that you have any political party get involved in any kind of election of anybody, you can almost be rest assured of one thing, that person will, he or she, will bend that way, their political party.

Termination of service or years of service. Personally, I think 10 years is a very, very adequate time for service in the Senate. Age 70 should be the age limit. I think that's very, very fair.

I'm sorry, this bickering about Conservative and Liberal and NDP. Let's stop this foolishness. We are putting people in there who are giving each bill sober second thought. They should not have any kind of political alliance.

Thank you. That's all I have to say. I'll answer any questions.

**Madam Chairperson:** Thank you, Mr. Mandrake. Are there any questions from the committee? Seeing none. Thank you very much for your presentation.

**Mr. Mandrake:** Thank you.

**Madam Chairperson:** I will now call on Darlene Dziewit, Manitoba Federation of Labour. Do you have some materials for presentation?

**Ms. Darlene Dziewit (Manitoba Federation of Labour):** Yes, I do.

**Madam Chairperson:** You may start your presentation.

**Ms. Dziewit:** Thank you, Madam Chairperson. The Manitoba Federation of Labour supports the historic view held by organized labour in Canada that the Canadian Senate should be abolished.

In our view, the democratically elected House of Commons is or should be the supreme governing body in Canada without being second-guessed by an appointed or elected upper house. Our MPs are elected by Canadians following the principle of representation by population to formulate just and fair-minded policies and laws to guide the orderly administration of the Government of Canada. They represent all of us and they speak for all of us.

The Senate has often been described as the House of sober second thought, as if this limitation on the will of the people is both necessary and a good thing. In fact, the roots of the Senate stretch back to the British House of Lords, a body put in place to protect the interests of royalty and the wealthy British upper class from the House of Commons, a body populated by representatives of ordinary people. God forbid that laws and policies put in place to benefit the population at large should have any impact on their powerful and entitled lives.

Another justification has been that it gives equal voice to all regions of Canada so that their interests are not overwhelmed by MPs elected in densely populated regions advancing their own regional interests. But since senators are also members of the two largest political parties, the Conservative Party of Canada and the Liberal Party of Canada, and vote, for the most part, along party lines, this role has been subverted by the cut and thrust of partisan actions in the House of Commons.

Canada is unique among western democracies in that senators are appointed by the Prime Minister and not elected. The resulting retirement club for party hacks and individuals, who earn golden handshake awards for services rendered, has turned an institution with dubious merit into an expensive farce. The Senate's annual budget now exceeds \$80 million per year.

\* (15:30)

It is no surprise to us that the continued existence of the Senate, elected rather than appointed in its latest proposed incarnation, is a cast-in-stone goal of the Liberals and Conservatives and defended loudly by many members of the news media. The latest round of appointments to the Senate include influential new media members who are

self-described respected journalists. Since 1867, no fewer than 48 journalists have gone to their substantial rewards in the Senate.

Even though the idea of abolishing the Senate has steadily gained more support among Canadians, we recognize that it will continue to be with us, at least for the time being, and that committees across Canada will tinker with it to make it less offensive.

The Prime Minister has long been a supporter of the so-called Triple-E model—elected, equal and effective. The exercise we are engaged in today is simply the first step in that evolutionary process that will subvert the will of the people as expressed through the democratically elected House of Commons. A Triple-E Senate will have one purpose: to end run the House of Commons and reduce its ability to govern on behalf of the people who elect MPs who in it.

If the Prime Minister succeeds in creating an elected Senate, he will create a body that will feel the need to act on the mandate they receive through election—in essence, a parallel House of Commons, one that will originate many more legislative initiatives than the somnambulant appointed version.

But, in the absence of a constitutional agreement from seven provinces containing at least 50 percent of the population that gives the reformed Senate structure, how will this elected body operate?

Will they sit in the Senate until age 75, never having to test the will of the electorate again? If so, how can the electors ensure that the senators' actions will be consistent with their mandate? Can term limits be placed on senators without amending the Constitution? How will disagreements between an elected House of Commons and an elected Senate be resolved?

Prime Minister Harper has repeatedly committed himself to only appointing senators who have been elected by the people of the province they represent. This actually occurred in the case of Senator Brown from Alberta.

However, Prime Minister Harper has just appointed 18 more senators who haven't been elected. If Prime Minister Harper, the biggest promoter of Senate reform in this country, can't be trusted to follow his own rules, then how will future Prime Ministers be convinced to appoint elected senators?

Clearly, advancing Senate reform in a piecemeal fashion without constitutional amendments to make them legal is a minefield fraught with dangers and needs to be avoided.

But if Manitoba takes the Prime Minister's bait and adopts an elected Senate model without constitutional authority and structure, then we need to ensure that a number of standards are met. Namely, an elected senator model in Manitoba should ensure: gender equality; regional representation; cultural diversity, including larger numbers of Aboriginal senators; consistency with the political landscape through proportional representation and multimember constituencies; and we should also allow independent candidates.

Existing senators representing Manitoba, through constitutional requirements, will be retiring one at a time between now and the year 2021. Do we elect replacement senators now or as they occur? Or do we elect a number of senators-in-waiting and appoint them in a fashion that leads to realizing the criteria already mentioned?

These issues, and no doubt many more, need to be dealt with in this subcommittee's report to the Legislature and tested through a Manitoba referendum.

In conclusion, let me restate the position of the Manitoba Federation of Labour.

Abolish the Senate. Don't breathe new life into the existing institution. The democratically elected House of Commons already represents all Canadians. If there are problems with the current political process in Canada, then fix the process by reforming the House of Commons. A good starting point is moving away from the first-past-the-post style of electing our representatives and adopting an appropriate form of proportional representation so that our diverse political landscape is accurately reflected in the House of Commons.

But, that's a debate for another time and it's also another topic, so I want to thank you for your attention.

**Mr. Martindale:** Thank you, Madam Chairperson, and to the presenter.

I note that your first and basic position is to abolish the Senate. But, if there were to be an elected Senate, you have some recommendations, namely, in Manitoba, you would want to ensure gender equality, regional representation and cultural diversity which

raises the question of how would you ensure that. But I think you answered that with the next point, consistency with the political landscape through proportional representation.

My question is on exactly how you see that working. Normally, in proportional representation, people are chosen from a party list. So, for example, party A might have a man, and then a woman, and then a man, or vice versa, on their list. They could have Francophone representation, Aboriginal representation, which would achieve a goal of some balance in the senators from Manitoba. But would you dictate the terms of proportional representation or not because another party might not be interested in any of those values? Supposing they got 50 percent of the vote, they'd be entitled to three senators. They could appoint—or elect, I should say—three men.

Do you have any suggestions on how proportional representation should work?

**Ms. Dziejewit:** I don't have a lot of suggestions to make to you other than other countries seem to manage to do it quite well and have good representation. I think we can look to what's going on in other democratic countries throughout the world on how they sort of develop their systems of proportional representation while still taking into account gender balance and ethnic balance and Aboriginal balance.

There are all kinds of ways to do it. The bottom line is, if there's a will there's a way, and you can make it work.

**Ms. Howard:** Thank you very much for your presentation. Since Mr. Martindale took my question, I'm going to move on to another one.

I did want to just say, for your information and the information of the people who have come here to present, the piece of legislation that causes us to be here today to talk about Senate election does state that it is the preferred will of the government of Manitoba that the Senate be abolished. That is the position, but the question that we've been asked by the Prime Minister is how to elect senators. We'll give advice and we'll see if it gets taken or not.

I think what I want to ask you about is the notion of independence and independent candidates and whether your position is that there should be allowance for independent candidates or whether we should limit the process only to independent candidates, so like when we have municipal elections

people's party affiliation doesn't appear on the ballot, although they may well have those affiliations. Should we run a Senate election in that way, or should we allow for party affiliation if the candidate chooses or to be listed as independent if they choose?

Do you have an opinion on which way to go?

**Ms. Dziewit:** I think by trying to hide someone's affiliation all you're doing is making sort of an artificial process. Most people who are politically active and run for political office have a political affiliation of some sort or at least have a party they feel close to.

I think we have to allow for people to have a right to say what party they support and have that show on the ballot, as well as encouraging those who are truly independent to do so, and to run as well. I don't think much rides on it one way or another. You can generally judge by the way someone speaks as to whether—what their political affiliation is.

We had a previous speaker who said he was an independent, and I bet I could have guessed what party he supports. It wouldn't have been a big leap. That's neither here nor there. We may as well be up front and honest and say whom we support.

**Mr. Faurchou:** Thank you very much. Well, it's very interesting your proposal here.

It's not the mandate of the committee to really take up the mantle to say we support the abolition of the Senate. It is our mandate to study how we provide for nominees for the Prime Minister and, ultimately, the Governor General's appointment. But your comment in regard to—well, through your presentation stating that we should modernize our election of citizens to our legislative and parliamentary Chambers you suggest proportional representation.

Can you maybe elaborate a little bit in regard to the style of balloting that you are referencing? I'm quite curious as to how that might take place because just based on proportionality the New Democratic Party would never have governed, ever, here in Manitoba using a strictly proportional representation model.

\* (15:40)

**Ms. Dziewit:** Nor would the federal Conservatives, I should point out, and there are some questions about that as well.

I think that there's all kinds of ways to have proportional representation. Once again I would refer you to my comments regarding what goes on elsewhere in the country. There are some countries that have multiple ballots and multiple choice ballots. There are other countries that have run-offs, and there are all kinds of ways to do proportional representation. There are countries that have lists of candidates that are in combination with direct election. So there are a myriad of ways of doing it, all of which will make the system more representative.

There are a lot of people that don't vote in this country because they don't think that their interests are going to be represented, and that they think they have a quote, unquote, wasted vote. If those people knew that their vote would count for something, then maybe they'd more interested in participating in the political process.

**Mr. Faurchou:** I am quite aware, as most of the committee is, of the varied balloting regimes throughout the world. I'm asking for your opinion. You just basically restated my question. You're the presenter here today. What is your preferred way of balloting?

**Ms. Dziewit:** The Manitoba Federation of Labour has a fairly open mind on it, as do I, personally. We support the idea of having some form of proportional representation. Are we married to any particular dogmatic way of doing it? No.

We're looking for some really good ideas for the best ways to do it that fit best with Manitoba beliefs and ideals. Does that mean that I'm not answering your question? No. What it means is that I think we have to be, all of us, open-minded, and prepared to look at different ways to do it.

**Mr. Lamoureux:** I do have a few questions I would like to ask Ms. Dziewit. You make a couple of comments at the end, you make it very clear what MFL's position is in terms of abolishing the Senate. You also make it very clear at the beginning.

I represent a northwest riding in the city of Winnipeg, very much a working class. I would suggest to you that it is probably one of the highest union percentage working areas in the province of Manitoba, probably in the top 10 percent, anyway.

The reason why I point that out is that I like to think that, in representing my constituents, I have a fairly good idea in terms of what they feel about the Senate. And, yeah, you know, this issue of

appointments. They have a tough time accepting that, but I've never been of the opinion that they want the Senate abolished—the majority of them want it abolished. I'm thinking in terms of how does MFL come up with the conclusion that the Senate should be abolished?

### Committee Substitutions

**Madam Chairperson:** Before you answer the question, I would like to inform the committee that, under our rule 85(2), the following membership substitution has been made for this committee, effective immediately: Mr. Eichler for Mr. Faurchou.

\* \* \*

**Ms. Dziewit:** Okay. We debate policies and resolutions at our annual conventions, and our conventions are attended by elected members from all of the unions that are affiliated to the Manitoba Federation of Labour. Those people are elected as delegates. They debate resolutions. We talk about them, and they represent the interests of the people that elected them to attend the convention. So we come to our positions and we arrive at our positions in a fairly democratic and open fashion. That's how we arrive at our positions on issues. So I think when you look at the way we do things, it's pretty much open.

With regard to what people think about the Senate on just a general basis, anecdotally, a lot of people that I talk to, if you ask them straight: do you want an elected Senate or an appointed Senate? Most people will say they want an elected Senate because most people have democratic values.

But if you say to them, do you want an elected Senate, do you want an appointed Senate, or do you want no Senate at all and let the House of Commons do it, and you have a conversation on that basis, you have a completely different conversation. So it all depends on how you present issues to individuals and how you debate those issues, and what you put out there to debate.

**Mr. Lamoureux:** I would agree with your latter comments, but I think that we're missing a very important point here. The point being—and before I get on to the point, it's important in terms of the committee to be aware of this because if we genuinely felt that a majority of Manitobans wanted the Senate abolished, I think there is a moral obligation on this committee to say that in our report, that we believe Manitobans, the majority want it

abolished. That's why I take it very serious the concern that you have expressed in terms of the abolishment of the Senate.

I would ask if you and I, for example, were to go and meet with a group of grade 12 students at a local high school, let's say at Sisler High or Tec Voc High, and you were able to present your case for an abolishing of the Senate versus an elected Senate, I suspect, especially if we talk about the potential value—Inky Mark came and he said, you know, he has a better appreciation of the Senate because he's witnessed what type of work the Senate has done.

We had presenters earlier that have talked about the valuable contribution. The speaker, Mr. Mandrake, before you talked about palliative care. Maybe there is some there. Maybe there is an educational thing.

We've heard in terms of regional representation and the importance of the province of Manitoba.

I think that the Manitoba Federation of Labour should not be saying abolish the Senate if, in fact, the majority of Manitobans don't want it abolished because it does have an impact in terms of what's happening at the community level. Would you not agree?

**Ms. Dziewit:** First of all, Mr. Lamoureux, we don't represent all of Manitobans. We represent those Manitobans who belong to unions that are affiliated to the Manitoba Federation of Labour. The positions we take forward are positions that are voted on and debated by that group of people.

Secondly, if you go to the Sisler students in grade 12 and talk to them about the Senate, they're going to tell us both to shut up because they want to talk about whether they're going to have a job because there is 200,000 more people out of work in this country now than there were a couple of months ago.

So I think what we're talking about here is an elected Senate or an appointed Senate, neither of which—the question is not high on the minds of the public right now. I can tell you what's high on the minds of the public, at least of those that I speak to. It's whether they're going to have a job. It's whether they're going to keep their pensions. It's whether they're going to keep their house. Those are the issues that are of concern to people.

Frankly, I'd rather be here today talking to you about what kinds of solutions we can find for those

kinds of problems rather than talking about a Senate issue which is a luxury issue to most Manitobans, quite honestly.

**Mr. Lamoureux:** Honestly, I'd rather Mr. Doer call us back into session so we could be talking about that. But that's getting political, Madam Chair.

One of the issues is the dealing with donations. There's been a suggestion that unions and corporations not be allowed to donate to Senate candidates that would be running in an election if, in fact, there were elections. Would you agree with that?

**Ms. Dziewit:** Whether there be no corporate or union donations? We support the position that there ought to be no corporate or union donations to political parties. We also support the rights for individuals, to a certain level, to donate to political parties. That then keeps the process from becoming a process where the elite simply fund political parties.

We also support public financing for political parties. We have a long-standing position on that which I also think is reflective of what goes on in most of the rest of the democratic world.

**Mr. Lamoureux:** In Russell, one of the committee members was asked the question by another committee member, or one of the presenters was asked by a committee member, what about union and corporate donations, and the presenter made comment that there are different forms of contributions that are made. Some of it is just like labour-oriented, not necessarily financial.

Are those the types of contributions we should also be looking at, so when people talk about no union and corporate donations, we should be taking that into consideration also?

**Ms. Dziewit:** My understanding, and correct me if I'm wrong, is that is covered now. People can volunteer their time to any political party they want. I always encourage people to do that. Get out during your off hours and knock on doors.

We also have laws in this province that allow for people to take leaves of absence to go work for political parties, providing the political party pays them to be there and that they're not being paid by either their employer or their union. So those kinds of donations that I think you're getting at are already covered under legislation and they're well respected.

**Mr. Lamoureux:** Finally, in regard to the issue of gender equality, we had someone from the

Francophone community make a presentation. There's been concern in regard to Aboriginal representation. When we look at what most seem to be saying, it is that they would like to see, based on regions, maybe three in Winnipeg, three in rural Manitoba.

How do you see that working in terms of facilitating what we're hearing?

\* (15:50)

**Ms. Dziewit:** I don't think those are mutually exclusive. You can have rural women and northern women and Aboriginal women representing northern areas. There are all kinds of ways you can do that. The fact is that over 50 percent of the population are female. They're vastly, vastly under-represented in the elected world and I think that doesn't make for good laws and good policy a lot of times for women. So we'd like to see more women, but we'd also like to see more representation from rural areas from under-represented groups now. There are plenty of under-represented groups out there that are completely disenfranchised from the process and it's time to include them.

**Mr. Lamoureux:** Just wanted to express my appreciation and thank you for answering questions.

**Ms. Marcelino:** Thank you for your presentation. I just want to let you know that in the past few days, we were out of town listening to people from the province, and there's several presenters that we've heard who have opined that they are for Senate abolition. However, they're aware that this may not be the option that would happen. So they have suggested on ways to reform the Senate through election. You have suggested the model for Manitoba as well.

In this model that you have put forth, do you see a term limit in this elected Senate for senators?

**Ms. Dziewit:** With regard to term limits, I've always thought of term limits as some elected people saying to the electorate, we're going to stop you before you vote again. I don't quite understand that myself. If somebody's popular and if somebody's fulfilling the wishes and views of the people they represent, why would we stop them from running again? Just simply because of the term, term limits. I've never quite understood how that's democratic to suggest to people that they're not being allowed to vote for someone simply because they've already voted for them.

**Ms. Howard:** Before I ask my question, I just want to make sure we've accurate information on the record and that everybody knows that the Legislature has been recalled for March 25. There was a news release that went out, but I know everybody doesn't read their news releases. So I just want everybody to understand that.

The question I have for you is on campaign financing and, particularly, I think we heard from the Alberta senators-elect or senators-in-waiting—I think that what we heard is that there is no cap on spending in Senate elections in Alberta. I wonder if we were to proceed with elections here, what would be the view of having a cap on spending or no cap?

**Ms. Dziewit:** That's pretty much a no-brainer. We have caps on all kinds of elections here and the provincial government and provincial candidates for election have a cap on how much they can spend based on the numbers of voters in their particular area. There has to be some formula devised if there is going to be an elected form of Senate to put caps on spending. To simply allow unlimited spending is to allow those that have money to spend money, and that doesn't always make for a fair election.

**Madam Chairperson:** Thank you for your presentation.

I will now call on Niki Ashton, MP, Private Citizen.

*Mr. Vice-Chairperson in the Chair*

**Mr. Vice-Chairperson:** Do you have any written materials for distribution to the committee?

**Ms. Niki Ashton (Private Citizen):** I do.

**Mr. Vice-Chairperson:** Please proceed with your presentation.

**Ms. Ashton:** Thank you very much.

I'm pleased to be able to make a presentation to you on our province's position on the Senate. What struck me as I was travelling in today is that the Senate is, at best, irrelevant to most Manitobans. I was just in the Island Lake area on the east side of our province visiting my constituents on the winter roads. I heard a lot about health care, education, economic development and transportation. I heard a lot about the issues facing elders and youth. No one was talking about the Senate.

What I find is that when you discuss the Senate with people, they realize that it is an institution that is outdated and an insult to many Canadians. That is

why I would suggest to you that the real question that you should be considering is: Should we abolish the Senate?

In a country where you can vote, run for Parliament and fight and die for your country at the age of 18, no one under the age of 30 is eligible to become a senator. As someone who is honoured to be elected as a member of Parliament at the age of 26, I believe that this ageist restriction is clearly reflective of the Canada of 1867, not 2009.

The age restriction is not the only outdated qualification requirement. Senators need to own at least \$4,000 worth of property. This reflected the attempt to create an upper house that parallels the British House of Lords. Many of my constituents, including virtually everyone living in First Nations, would not meet that eligibility requirement.

Here in Manitoba we had our own upper house, but it was abolished in 1876. Every Canadian province has done the same. The vast majority of Manitobans oppose the current Senate. Many were outraged when the federal government appointed 18 patronage-based senators in December despite promises to elect the Senate. The real question is whether we abolish or change the Senate.

There's been a strong tradition of fighting to change the Senate in western Canada. The Progressives in the 1920s and later the CCF and the NDP have all fought to abolish the Senate. The Reform Party sought to bring in a Triple-E Senate. Those of us that have challenged the undemocratic nature of the Senate have often received the response that there is nothing that can be done without changing our Constitution. This is correct. It is also one of the reasons why the Conservatives' proposal to reform the Senate by having provinces elect and then have the federal government appoint senators lacks legitimacy. It does not deal with the ageist nature of the Senate, the property requirement, the provincial distribution of Senate seats or the powers of the Senate. It does not deal with the recommendation of the Royal Commission on Aboriginal Peoples for an Aboriginal Parliament. It attempts to bypass real constitutional discussion and change. Have we learned nothing from the Meech Lake and Charlottetown accords?

I believe that the federal government's proposal on the Senate is a political gimmick that attempts to distract attention from the fact that reforming the current Senate is like operating on a fossil. At a time when every province has abolished its upper house,

at a time when we are encouraging young Canadians to participate in the political process, why should we keep an institution that reflects a Canada from a different era?

The conclusion is obvious. It is time to abolish the Senate. That is why I would recommend to this committee that if we are looking at any election involving the Senate, it should be a vote on a question: Do you support the abolition of the Senate?

Thank you.

**Mr. Vice-Chairperson:** Thank you for your presentation.

Mr. Martindale, you have a question?

**Mr. Martindale:** Thank you, Mr. Chairperson, and Ms. Ashton.

I support abolition of the Senate, as do you.

But since this committee is going to write a report on how senators should be elected, what advice do you have on how that should happen, specifically? Any advice on regional representation? I think that's important because, particularly as a Winnipeg member of the Legislature, we are often accused, especially by rural members, of having Perimeteritis and not seeing the needs of people outside of Winnipeg. So, I think it would be actually quite unfair to have six senators who all lived in Winnipeg. So I think regional representation is important. Then how would we ensure minority representation, especially for First Nations, Métis and Inuit people since you represent probably the majority of those people in Manitoba, and also a Francophone minority representation.

**Ms. Ashton:** The concern that I'm bringing forward is perhaps allowing for consultation on the major question, which is, Senate or reformation? Polls have shown that a majority of Manitobans do support abolition. Certainly, that is my presentation and certainly the echoes of voices that I have heard all across the constituency that I represent, and that is what I am here to bring forward.

\* (16:00)

You mentioned the issue of minority representation. I referenced the Aboriginal parliament, something that came up in the Royal Commission on Aboriginal Peoples. When we're looking at whether it's our House of Commons or so many of our elected institutions, we do see an imbalance in terms of the representation of diversity

in our region, and that is one of the things that Aboriginal people brought forward to the royal commission.

So instead of reinventing the wheel, let's look at some of the demands that Aboriginal people themselves made in terms of having a voice in our federal institution, in terms of our federal government. And, certainly, let's listen to those voices that have already spoken and have desire to be heard.

**Mr. Lamoureux:** If there were to be regional senators being elected, three in rural Manitoba, Ms. Ashton, would you want one of those three to come from northern Manitoba, or would you just as soon see all three elected at large from rural Manitoba?

**Ms. Ashton:** Well, considering I support the abolition of the Senate, I would avoid the discussion on regional representation. Certainly in terms of regional representation in our elected House of Commons, of which I am a member, I think that is a very viable discussion and necessary discussion. I think that that's something that I believe is high time for Canada to engage in.

**Mr. Vice-Chairperson:** Any further questions? Thank you, Ms. Ashton.

So I will now call No. 23, Roy Yerex, and I would like to inform the committee that Mr. Yerex did present a written presentation, but he would like to give an oral presentation now. Is there leave from the committee to do this? *[Agreed]* Thank you.

Do you have written material for the committee?

**Mr. Roy Yerex (Private Citizen):** Just what I e-mailed in. You have it. I have no other written material.

**Mr. Vice-Chairperson:** Okay, we have that on record, so you may proceed, Mr. Yerex.

**Mr. Yerex:** Thank you. Canada is a vast nation and it's made up not only of people, but it's made up of geography. For that reason I'm suggesting that each province have eight senators. That way each geographical area will have an equal representation and an equal opportunity to put its case forward to share in the largess of the whole country.

We know now that there is a situation where we have an economic problem, and the vast majority of the money is going into one small area, one small geographical area. It benefits the majority of the people, but we'll never know, because of the way the

political parties have things set up, whether or not each Canadian shares the dollars that are going into this economic crisis equally or not. It may be that certain geographical areas, as western Canadians have always felt—are going to certain geographical areas that are not in the west. So I'm suggesting eight senators per province and territory, so that when the Senate meets, it's stuck with the geographical situation as well as a population density situation.

Now, proportional representation. Proportional representation is not democratic when you take a look at these aspects of it. When I go to support my candidate, as a member of Parliament or as an MLA, I direct my attention to that candidate. I accept or reject that candidate on the basis of that candidate. I defy you to look into the Constitution of this country and see anywhere that it says, CPC, PC, Liberal, NDP, independent or any other. This Constitution of ours is designed to protect us individually, not political parties. Proportional representation is designed to empower political parties. Political parties do not appear in the Constitution, and yet, by some magical process, if I belong to a political party, if I have paid my dues to that political party, I can thereby be reasonably certain that a member of that political party has a proportional chance of being elected.

That's not what an election is about. I'm electing a person, not a party, because what happens is, if not enough people are elected from a political party, the mandarins of that party may appoint the person in whom I have reposed my democratic freedoms. I don't want that. I happen to believe that the Liberal Party that took us to Afghanistan shouldn't have done it. I happen to believe that the CPC Party that opted to go to full war shouldn't have done it.

I don't agree with most political parties. I'm a very independently minded person. I do not want a mandarin from any political party telling me who is going to represent me. That person's not answerable to me. That person is answerable to one of those people, to the mandarins, to the leader. If you are a member of the right political party, and if that leader of the party decides to appoint someone to represent me, then I get representation. But, if I'm not a member of the political party, then I'm not, I'm not represented, not by the person I chose. I can lose my opportunity to be represented by the person I chose, but that's in an honest election.

People who are appointed to come to these kinds of hearings are appointed by one of these people, and

quite often one of these people has a reason to send somebody here strictly to ask a question, for example, do you think Canadian people are intelligent enough to decide who to vote for? Is that a question that I, as a polite person, want to ask? No. It has nothing to do with this. It's a political shot. You know who I'm talking about. There's no need for that. That has nothing to do with Senate reform.

I do not want proportional representation because the people who had political representation were abhorrent. They were despotic. They were malicious despots. If you were a member of the Communist Party in the U.S.S.R, you could be represented. If you were a member of Mussolini's party, you could be represented. If you were a member of the Communist Party in China, you can be represented. Other than that, you don't get heard because you're not allowed into, for example, a policy convention in Winnipeg. Only if you're a member of that political party are you allowed into a policy convention.

\*(16:10)

I had no input into this present federal government's policy, and I wasn't even allowed to observe. Is that what I want? I do not want proportional representation. I do not want to be told by the leader of some party who's going represent my rights. I want the person who's answerable, who I can talk to. When it comes policy time I want to be able to talk to a person and I don't want to have to join their political party to do it. I don't want to give that man money, that man money. I don't happen to agree with their political principles. I don't want to give them money. I don't want to have this decide whether I'm represented, and that's what proportional representation does because the more of this that I put into a political party the more chance I have of the person that I want to be represented to be picked by the proportional representation system.

Don't be fooled for a second that proportional representation does anything but empower political parties, and political parties for good reason have no status in the Constitution. You will not find the word Liberal. You will not find the word political party in the Constitution because it protects we individuals. Now, if you want to try proportional representation where the political leaders don't decide who's going to represent you then we've got another conversation, but that's what proportional representation is.

Now, other than that, time limit on senators. To answer the question that was asked, I think we're

intelligent enough to decide when an elected leader has had it and when we don't want that elected leader any more. So please, don't prejudge by age whether a person has anything or has enough to give. I'm watching the pencils move here when the representations are given, mostly by the other people, and I see really only one pencil moving. I hear only one set of concerned, polite, respectful questions being given and it's by the only member of a political party in this province who got elected.

I don't want proportional representation. I see more respect being given by, excuse me for naming names, Mr. Lamoureux. I see more respect being given to the presenters here than I do anybody else. I'm out of time. You know what, I could talk forever. Thank you.

**Mr. Vice-Chairperson:** Thank you, Mr. Yerex.

Does the committee have any questions?

**Mr. Lamoureux:** Just one quick question.

Is it safe then to assume, if you were devising the ballot that you shouldn't have party affiliation on the ballot in order to, as much as possible, take party politics out of the ballot box or would you want to see the party affiliation if they have a party affiliation?

**Mr. Yerex:** If we're going to reform the Senate, I'm going to reform it less than make the senators require—that make a requirement on the senators so that they do what they're supposed to do, which is sober second thought.

I think the highlighted purpose of senators should be gadflies to the way democracy is proceeding in this country. I don't mean to set a second opposition party up for—if you read my information you'll note that I say that houses of commons and our legislatures don't like second-guessing—people who have the authority to second-guess them. They don't like 'em.

That's why, for example, when we used to have the coroner's inquest here, we used to go and scoop people up off the street and make a jury of them. Well, that was gotten rid of because what it meant was the Legislature was being second-guessed on legislation that should be in place by people, and that was abhorrent enough to have the coroner's inquest abolished.

Legislators don't like—I'm sorry, I do that pause thing, don't I? Yes, I know. Everybody hopes, oh my God, he's finished, but just take another breath, you

know. I may tell a joke to lighten it up for you, but I doubt it. It's probably going to be a serious thing all the way through.

Legislators do not like to be second-guessed. They don't care for it. They find it very difficult to deal with. Getting elected, for heaven's sakes, getting through their party and then having some House of sober second—well, our electors have not been doing a very good job of maintaining the confidence of the voters. In case you've noticed, okay, the last poll put used car salesmen as more credible than elected officers. And I say that with respect to you, but that's the fact. We need people to second guess you. We don't trust you and we got good reason not to. If you wanted to balance the economy right now, and you wanted the money to be spent so we would spend money, give us the money, don't give General Motors the money. We'll make General Motors work for 'em by taking the money that the government gives us to buy things. That'll speed the economy. They want us to—no, but they want it anyway.

Be that as it may, like I say, the House of sober second thought—the short answer to your question is I think they have to be a House of sober second thought, and I don't think politics is appropriate there.

**Mr. Vice-Chairperson:** Any further questions by the committee?

Thank you, Mr. Yerex, for your presentation.

Our next presenter is No. 26, Anita Chubb-Kennedy. Ms. Kennedy, do you have any written information for the committee?

**Ms. Anita Chubb-Kennedy (Private Citizen):** No, I don't. I just learned about this yesterday and I'm from out of province—well, originally from Manitoba, but I came from B.C.

**Mr. Vice-Chairperson:** That's good. Then, Ms. Kennedy, proceed with your presentation.

**Ms. Chubb-Kennedy:** I didn't prepare anything, but I have been working on this Senate reform, whatever.

Anyway, my question is, first of all, what piece will this reform process have after it's all over because I notice that a lot of people don't attend, primarily because they're discouraged and they don't trust their politicians anymore. They don't trust people that they have been elected to represent. I see that happening across the country.

I didn't really feel like coming out here today, either, but I thought maybe I should throw in my two cents for what it's worth. I will keep on working at it until something does happen because we can't count on the people that we elect anymore. This is what's been happening across the country and this is why—the way the whole world's at state right now, it's in crisis, economically or whatever and Canada's not immune to it either.

What I'd like to see is the Senate abolished completely because it's too costly. If we're going to start cost-cutting measures, you start at the top where you cut the fat off a government structure. The Senate, I see, as far as I can remember, it's more like a sleeping chamber. Last time I checked, people getting paid \$150,000 a year and working three days a week. Well, how many people do you know that have that kind of a job in this country, and how many people are just struggling to make ends meet between two jobs and not counting the homeless people in this country? And here we have squandering of money as I see it, and that money could better be placed somewhere else and, you know, or else have a decent structure of the government.

I don't see the Senate as a viable option to governing because in the history of Canada, all these Prime Ministers have unfairly stacked the Senate according to their whim and their friends, that's all I've seen happening with no representation whatsoever. What I would like to see is a report of what they have accomplished and what they have done, and how much it is costing us each day. I would like very much to see that sort of report out from the senators that have left in the past throughout the Canadian history right up to the present time.

\*(16:20)

I don't recognize anybody in this country that gets appointed to anything, not the Governor General, not the Senate or anyone for that matter within a government structure, because we are supposed to be a democratic country. I don't see any democracy in appointments, and I won't recognize as a First Nations person, I won't recognize any appointments whether it's Aboriginal or whatever, First Nations or whatever. I won't recognize it because it's not democratic, and we have to have the respect for Canadian people that work hard to support these people to run things for them. I don't see that happening either.

I would keep on working to see change or until the Senate is abolished. What I'm looking at is what Stephen Harper did was treasonous when he granted Québec a nationhood when it's not even his country yet. The treaties haven't even been signed, not all of them, and he goes and gives away, grants Québec nationhood, and we're not even done with our treaties yet. That's something we're going to pursue. It's just erroneous and an insult to our intelligence. Maybe some of our ancestors didn't have the education or the structure that Europeans brought to them back then, but now we know better and we're better educated and a lot more of us out there.

This is the process I'm going to be taking because I am sick to my stomach of paying through the nose for the services. I don't even get any of the services. I don't get government health or anything so I don't care about that. The thing is it is so much unfair stacking of the Senate throughout the history of Canada and not representative of anything at all. It's just costing money and not doing anything at all as far as I can see.

Like I said, I will keep on working at this, resolve this in any way through legal channels whatsoever because it's not over yet. If Stephen Harper thinks that he can get away with it, well, we're going to pursue him on this challenging legal matter. It's not up to him to say what goes because we are still in the treaty processes and that hasn't been done yet. It's not over yet. We don't want to see our young Aboriginal people getting frustrated and having blockades and turn to suicide bombing, whatever. That hasn't happened yet in this country so we don't want it to happen either.

We want to have a peaceful process where fair negotiations persist and equal representation of everybody. This is what I am pursuing. I don't want my grandchildren or my children to inherit a debt that we didn't create either. So this is another big major step to *[inaudible]* and that because we are paying through the nose for everything and we're sick and tired of it. I'm sure a lot of people feel that way in this country.

Another matter that I have watched happen is through unfair representation where senators get \$150,000 a year. They don't work for a whole week, and there are a lot of poor people out there.

When they have the right to protest guaranteed under our Charter of Rights, the police pick on them and they jail them. That's not right. Under the guise of the terrorist act that they set up precisely to do just

that is deter any teeth that goes into legitimate protests and put teeth into the rights of people in this country, but police brutality can be considered a terrorist act. Just because they're in uniform doesn't excuse them for what they do, because I have seen them and these children are young people that want to protest. That's the only way they have, a way of expressing their concerns and voicing their concerns—so peaceful protests and rallies at political conventions or events. It's just horrible when I see policemen attacking our young citizens when they are poor and they don't have any money to fight for themselves.

I don't like this kind of country, and I don't want to see it anymore. In my own way, I'm going to help correct that, and I vow that I will not stop until this Senate is abolished and the Governor General's position for that matter too. It's just a waste of taxpayers' money and nothing gets done. It's like a useless tool, an expensive useless tool, as far as I can see or I'm concerned.

Well, that's about the size of what I have to say today, but you will be hearing other things from me because it doesn't stop here. Thank you.

**Mr. Vice-Chairperson:** Thank you, Ms. Chubb-Kennedy. Ms. Howard has a question.

**Ms. Howard:** Thank you very much for your presentation.

I hear from your presentation that you don't have much hope for Senate reform. It sounds from what you're saying that you would favour abolition and that's fair comment.

One of the things that we've heard from some people is their hope for changing the Senate would be that it could be more representative of people who aren't represented currently in elected bodies. One group would be Aboriginal First Nations people.

Do you have any advice to us as we move forward with electing senators, if there's any way to ensure that we get those voices in the Senate of First Nations people?

**Ms. Chubb-Kennedy:** Well, like I said, I would like to see the Senate abolished because, as I have seen for years and years when I would learn to speak, talk and hear, it's just been unfair stacking and nothing gets done.

As for representation for our First Nations people, we don't get representation. We have to struggle on our own. Even if those people that get

elected in the Legislature or house of Parliament, we don't hear from them. We don't even get representation from them.

So it wouldn't matter if there was First Nations there, representation in the Senate, because it will be the same thing. Everybody gets ganged up on the hill or political structure, and only a few people manage to survive and get something out of it, and to hell with the rest of the country, so to speak. That's the attitude I see and what's happening.

So much corruption within our own First Nations running affairs. I see that happening every day. When we speak out against them, our lives get threatened and the other side, the white government side, sides with them. It's just a round, vicious circle of corruption going on and on. Who's paying for all this? We are and our children. Even though we're Status, we still pay taxes. You can ask Revenue Canada about that one.

Anyway, this is what I'm saying. This has got to stop. I hate, like, squandering money, spending and mismanagement. We wouldn't be at this stage in this world if everybody had managed the money end of their affairs to begin with. Because this is why the world crisis is at this stage, including the United States. We've seen it. I've been watching it from the time I was little. Now it's at its peak point where disaster erupts, like a volcano that's been waiting to erupt, and that's what's happening now.

\* (16:30)

People didn't see it that way. They were fed one blundering lie after another is what's happening. Now they're scrambling to correct it or spend more and more millions and billions of dollars. For what? To make themselves look good. It's just another blunder in the process as far as I can see. Because a lot of people don't have to create debts or don't have any debts that I know and manage their money and affairs. Why can't they do the same thing?

At this point, the Canadian people should be living off the interest of the money they had put in during all these decades now instead of paying off trillions of dollars in debt as far as I can see and understand it. This is why I don't want to see any kind of Senate up on the hill or any form because it's not working.

**Mr. Vice-Chairperson:** Any further questions from the committee? Then thank you, Ms. Chubb-Kennedy.

Our next presenter is No. 27, Vincent Pouliot. Mr. Pouliot, do you have—

**Mr. Vincent Pouliot (Private Citizen):** Yes, I have a paper I wrote for the Institute for Intergovernmental Relations on Senate reform. Unfortunately, I just heard about this meeting this morning.

**Mr. Vice-Chairperson:** Mr. Pouliot, as it's being distributed, you can start your presentation now. Thank you.

**Mr. Pouliot:** So I only heard about this hearing this morning, and I wasn't able to prepare a presentation. My presentation's based on this study of the constitutionality of Stephen Harper's Senate Appointment Consultations Act, Bill C-20.

Upon studying this bill, what struck me is that it allows nominees, potential nominees, to run either for the federal political parties or provincial political parties. I think, though I'm from Québec, we all have the same fundamental interest in that we would like to have our local interests represented in Parliament, and we would like to have a federal government that is more accountable to the people and more accountable to the provinces.

The 14th Resolution of Québec, which establishes the framework of our country, of our federal government, it states that the Governor General shall appoint the members of the upper house "so that all political parties may as nearly as possible be fairly represented." It's clear that the Fathers of Confederation intended that the provincial political parties be represented in the Senate.

What is not clear is whether they meant to establish this as the principle underlying the representative character of the Senate, whether it was meant to guarantee only the representative character of the first Senate or whether it was to guarantee the representative character of the Senate until each of the provinces chose how it wished to be represented.

But one must admit that, if all our provincial political parties were proportionally represented in the Senate, then the provincial interests of the people, the people in their provincial political capacity or, put more simply, the provinces, would be truly represented in Parliament.

So section 19(1) of Bill C-20 says that if a nominee for the Senate is upholding a political party, this person must be endorsed by the political party he

says he's upholding or representing. It doesn't say whether this political party is federal or provincial.

So I think second sober thought is an important function of the Senate, but the first intent of the Senate was to create a constitutional balance between both houses of Parliament, so that there be opposition to abuse, principally, and to keep each other in line within their respective jurisdictions.

So I'm here to suggest that in your legislation, if you do legislate for elections of senators, that you consider restricting these elections to those people who would represent provincial interests or provincial political parties. It's the business of provincial political parties to govern the province, and to govern the province they have to be elected, and to be elected they have to convince the people that they best represent their wishes and interests. They also have to convince the people that they are organized and have the personnel to do that, that is, to govern the province.

So the original intent to Confederation was that the provincial parties delegate representatives to the Senate in a proportional manner so that the—you might say the authority of the people vested in their political parties is truly brought up to the Senate. If, for sure, these people who will be nominees to be senators—generally speaking, 99 percent of the time they're either going to be representing one party or another. It's just too difficult a chore to be an elected senator when you don't have the support of a party, the organization and everything else. It won't be any different from provincial elections or even federal elections. You'll have an independent every once in a while, but very rarely. Generally speaking, they're going to support one party or another.

Now, if this bill is not changed, if Harper doesn't change Bill C-20, then it is the Chief Electoral Officer, whose job is to approve this list of nominees—he's supposed to respect 19(1), which says they have to be endorsed by a political party, and there is no restriction as to whether it's federal or provincial. So what I suggest you consider is that you restrict the nominees to those people who are endorsed by provincial political parties, those people who are in charge of governing the province, those people who gain the favour of the electors by presenting a political platform that the people endorse.

One of the main functions of the Senate is to protect that provincial political power so that the province, or the provincial parties, when they set out

a platform, they can be sure to do it without interference from the federal government. So it makes them responsible for the platform. There are no excuses.

\* (16:40)

If you pass legislation that restricted the kind of provincial party members or nominees, we would see a Senate in which all provincial—well, let's say assuming this was done throughout Canada—all provincial parties, representing all the local interests of the people, would be represented in the Senate. There'd be 100—I don't know how many, 113 now—people representing those provincial interests on behalf of their party. If these senators goof off or don't act correctly, it's going to reflect on the provincial political party. So these provincial parties, I think, will select the best men to send up to the Senate and these men will have to conciliate the interests of the provinces to form a majority in the Senate. They're going to have to discuss and concert and negotiate to see, you know, how they can form a majority in the Senate and what will all the provincial political parties support as a platform. It's going to take a lot of ability as a conciliator, but eventually there will be a leader or two or more leaders that will come out of the Senate, all of them with a position that is reflecting all of Canada's views on our provincial interests.

So you have my paper. It's, of course, much better in writing, and I think I made my point. I thank you very much for the opportunity to speak of this to you.

**Mr. Vice-Chairperson:** Thank you, Mr. Pouliot.

**Mr. Eichler:** I ask leave of the committee to have his paper as part of the *Hansard*, if it would be agreed by the committee to include that?

**Mr. Vice-Chairperson:** Is there leave from the committee to have it as written? *[Agreed]*

**Mr. Eichler:** On my question on your presentation, in regard to representation by province, do you have a feeling or a position about where representation should be by province and, if so, how would you go about doing that?

**Mr. Pouliot:** The number of representatives by province, you mean?

**Mr. Vice-Chairperson:** Mr. Pouliot, go ahead. Just that I have to recognize you before you can answer the question.

**Mr. Pouliot:** Sorry. Well, no, I don't have any particular idea myself. But I believe that if the Senate was properly constructed and if it was properly—get the word there—composed since the beginning, that is, if the Governor General would have appointed all provincial parties so that they are equally represented in the Senate, there's—to form a majority, because without a majority you cannot act, you cannot function.

You have to form a majority in the Senate to act, and to form that majority you have to conciliate the interests of all these different parties. If you want to form a majority—and there are ambitious people in the Senate who would like to be leader and will try to conciliate these representatives together—to get the backing of a province, you might say, for a policy you will not get the backing of a province if the province feels that it is being—I don't know, I can't find the word.

If the province feels it is under-represented in the Senate it's going to set down as a condition for their support a change of representation in the Senate so that they have more seats more proportional to the population and to their financial ability and to their contribution to the country. That's going to be a precondition to get their support to enter a coalition or to enter a majority in the Senate, and at one point it will happen because eventually legitimacy will prevail, I believe, because if you keep somebody down he's not going to support you. You won't be able to get—you will never be able to form a majority. You won't be able to get him. You won't be able to get all the western provinces. That's my opinion.

So I don't have any opinions as to the number in particular. What I am saying is that if all provincial political parties were represented in the Senate there would be movement and there would be agreement as to what is fair representation.

**Mr. Lamoureux:** Actually, a couple of questions. The first one is in regard to, I assume that you're not saying that an independent could not run. In fact, an independent could, and that's my interpretation of it.

Generally speaking, there's a certain amount of criteria that would be established if you're going to run provincially. For example, you have to go out and get 125 signatures, you have to be 18 years old, you have to be a citizen. I'd ask for you to comment on that. In order to be one of those senator-elects on a list, what do you think should be the qualifications in order to get on that list?

**Mr. Pouliot:** Well, we have a Constitution in this country and it's this Constitution that got us together. In fact, it was Confederation that brought us together, and the qualifications set out, they're set out by section 23 of the Constitution saying that they have to be a resident of the province, which is not mentioned, by the way, in Stephen Harper's C-20 bill. Nowhere in the federal bill does it say that a nominee for senator has to be a resident of the province which he's supposed to represent.

So, you know, you're free to add qualifications—there's no doubt about that—but I believe the qualifications that are set out in the Constitution in section 23 have to be respected.

**Mr. Lamoureux:** I understand that what you're saying is you want that candidate, if you like, the party candidate, to be based from the provincial wings of political entities.

Do you see those entities appointing or electing through memberships? Do you have a preference, if you follow where I'm going with that?

**Mr. Pouliot:** In choosing the candidate, you mean?

**Mr. Lamoureux:** Yes.

**Mr. Pouliot:** Well, I can't imagine how it would function much differently than it does today, but, like I said, if the provincial political parties or if the nominee had to be endorsed by the provincial parties, excepting independents there, if they had to be endorsed, then they would be representing the party in the Senate, I'm convinced, because the Senate has the same power as the House of Commons. It's not even the same powers as the House of Commons. The Senate and the House of Commons have the same powers and privileges of the British House of Commons. Both Houses are supposed to be representative of the wishes and interests of the people.

So the Senate is a very powerful institution if it was composed and operated properly. I think that a political party would be very wary of endorsing someone who was not up to the job, I think, because if you have a senator who doesn't conduct himself properly or with ability or is not able to negotiate or conciliate or if the candidate is not good, it's going to reflect on the provincial party, because if this Senate reform is properly done, the Senate is going to be an institution that will be respected. So I think the parties will be very, very careful in choosing the best candidates possible.

**Mr. Lamoureux:** Just to get some clarity on it, let's say I want to be that Liberal-person-that's-endorsed type of thing. Do I go to the leader and say, please endorse me, or do I have to go to a party membership and get support to get the nomination to represent the party?

**Mr. Pouliot:** In Bill C-20 it specifically says that the candidate or the nominee has to be endorsed by the party leader, specifically. That's in the federal bill.

**Mr. Vice-Chairperson:** Any further questions for Mr. Pouliot? No? Then thank you, Mr. Pouliot.

That concludes our list of out-of-town presenters.

For the committee, presenter No. 19, Mr. Frank Hechter, needs to leave before 5 o'clock due to child concerns. Is there leave to allow him to speak now? *[Agreed]*

So, Mr. Frank Hechter? Do you have any written materials for the committee?

\* (16:50)

**Mr. Frank Hechter (Private Citizen):** I do, indeed.

**Mr. Vice-Chairperson:** Then you may proceed, Mr. Hechter, if I pronounced your name correctly? Hechter?

**Mr. Hechter:** For the record, it's Dr. Hechter—

**Mr. Vice-Chairperson:** Dr. Hechter.

**Mr. Hechter:** —and I'm here as a private citizen with no political allegiance. I'm a member of no political party and I am about to articulate a view that has not been shared with you to this point. You have before you the outline of a PowerPoint presentation which will be the format for my presentation. I thank you for the opportunity to present at this committee. I have to say that I'll retain some editorial comments to the end about the process if you'll indulge me.

Let me only say, to begin with, that Canadians, Manitobans expect government to be effective, responsible and responsive. If that, in fact, is the case, then contrary to what other presenters have said, government, then, is priceless. That is the expectation of Manitobans and Canadians. Anything short of that is unacceptable. So let's begin.

Makarenko in 2006 provided a fairly detailed and concise review of suggestions related to Senate reform, and I will just highlight them. Again, with all due respect to previous presenters, the information that was provided should have been provided to this

committee in writing and they should clearly have been fluent with it before they took up 40 minutes of this committee's time.

Having said that, constitutional Senate reform is not new. It has occurred since the onset in 1874. But, more recently, the constitutional amendment, Bill C-60, the themes—and that's all I'm going to refer to—dealt with regional grievances, greater provincial control over public policy and governance, providing provinces with a greater voice in the Senate, therefore in federal legislative processes.

In the '80s, democratic legitimacy and the Triple-E Senate were the themes. Of course that meant, and consistent with today, equal, elected and effective Senate, whatever that means. The Senate reform of the 1990s included, as has already been mentioned, the failed Meech Lake and Charlottetown Accord where the Meech Lake agreement called for an enhancement of provincial and territorial voices in the Senate, while the Charlottetown principles eked out the notion of a Triple-E Senate.

The 2007 proposal—so this is not attributable to any one Prime Minister or any one political party—was to enhance democratic accountability by integrating direct elections into the selection process and limiting it to a term of eight years.

Well, what I think we're missing or what this committee is missing in the presentations to this point is the basic question. We should be back to first principles. The question really is: what is the objective of Senate reform and what do we expect of senators? I have generated a list and it's not my own making. It's in the disseminated information that is on the public record. The Senate and its members should: demonstrate democratic legitimacy, credibility and accountability; serve as a vehicle for regional representation at the federal level of government; investigate social and political issues facing the country; and serve, incidentally, as has already been referred to, as a Chamber of sober second thought. Isn't that an interesting phraseology? It's not the elitist check that was originally conceived by the fathers of Confederation. The intoxicant is no longer alcohol. The current intoxicant is power and ideology. What is it supposed to do? It is meant to act as a non-ideological routine revising Chamber that identifies flaws in legislation not noted in the House of Commons.

Well, if that's what it's about, what are the characteristics, then, of an ideal senator? Knowledgeable and a critical thinker; committed to

and supportive of the Province of Manitoba and the Dominion of Canada; the best and the brightest from representative backgrounds who have a demonstrable set of skills to fulfil a matrix of skills that can best represent the citizens of Manitoba. Not by quota, not by region, but by skill sets. They should be reflective and articulate to represent provincial communities in relationship to national policy.

*Madam Chairperson in the Chair*

With all due respect to our Alberta brethren, what we need is a made-in-Manitoba solution. We don't need to take direction from our Alberta friends, with all due respect. The statistics that they have relayed, and I'm really given to comment on this, Senator Brown, survey research, methodology. The problem we already have is too few Manitobans even know what the Senate does. How are they in a position to comment on whether it should be abolished or whether it should be elected or whether there should be proportional representation? Senator-elect Byfield, we don't elect Liberals?

Gentlemen, ladies, the answer is clearly before us. We are not asking first generation questions. To restrict the debate on Senate reform, to the electoral system or the timing of elections is problematic and flawed. Why? Because electing senators is not a no-brainer as has been suggested. The idea for Senate debate should not be restricted to the electoral system. Plurality or proportional representation that should be adopted. Nor should the debate be restricted to when Senate elections should occur: in concert with provincial or federal elections, or staggered elections as has been articulated by Professor Thomas.

So the question becomes, why shouldn't we elect senators in the conventional manner? Well, I'll give you some very good reasons. We should avoid partisan and regional composition. What we're being asked to do by this process is to legitimize the flaws of the current process, because traditional elections require election machinery including resources, human and financial, namely in who comes to the floor, former political candidates, strategists, lobbyists, political organizers, et cetera. They don't necessarily meet our schedule of criteria that would best serve Manitobans. These appointees or elected individuals become the servants, clearly, of the political machinery that facilitated their election. So, so much for avoiding partisan politics and ideology in the Senate.

I have for you an alternative methodology. There are precedents. The precedents already exist; the Order of Canada, the Order of Manitoba. Create an independent committee to create a matrix of desirable skill sets, broadly solicit nominations, screen nominees, interview and then elect senators. We have been myopic. This committee is incredibly myopic on their interpretation of the word "elect." Again, as I said, there are precedents for this process. They exist provincially and nationally: the Order of Canada, the Order of Manitoba, the selection of the Chief Justice of Manitoba.

Membership on this independent committee would be virtue by the position these individuals hold. What might they be? Well, the Chief Justice of Manitoba; the Clerk of the Executive Council; the Chair of the Committee of Presidents of Universities of Manitoba, otherwise known as COPUM; the President of the Chamber of Commerce of Manitoba; the President of the Manitoba Federation of Labour or the MGEU; the Lieutenant-Governor of Manitoba could serve as a non-voting Chair, and one elected member from each provincial political party.

\* (17:00)

To do anything but, is to legitimize what is clearly illegitimate. It means only to take the opportunity to be co-opted by whatever political flavour we currently have.

If we expect good government, then we better get the best people. If it is meant to be a Chamber of sober second thought, effective, reflective, responsive, then we need to get the best candidates that we can. Let me add, why cannot we have a right-of-recall legislation for senators? California is not unique in their notion.

Ladies and gentlemen, to do anything less than I have suggested is being co-opted by the present government to maintain the status quo so that political hacks and political candidates will continue to be appointed based upon their political allegiance, and they will be servants to whomever their masters are, be it the Prime Minister, the Premier or whatever political party they happen to be representative of.

I'd be happy to entertain any questions.

**Mr. Pedersen:** Thank you for your presentation. It's always nice to hear one that's a little out of the box and a little different thought process.

You are suggesting this membership of independent committee would be choosing our

Senate candidate to be appointed by the Prime Minister, because we know we are not going to change the Constitution overnight. So how do you envision—would they come up with a potential list? Would you apply? Give me the mechanics of how the list of potential senators would go to this committee.

**Mr. Hechter:** This committee would be struck through legislation of being mandated to create a process by which candidates would come forward. They would effectively serve as our agents, that is, the citizens of Manitoba, by virtue of the positions that they held, not by their political bias. As a consequence, they would have the opportunity to rank order. I mean, after all, we're only get to have one Senate vacancy in 2009. If I'm not mistaken, we don't get the next one until 2012. So we would only be looking for one candidate, but the idea would be to develop a matrix of skill sets that would best represent the concerns and issues of Manitobans.

Who better to do that? We don't involve a quota system. We don't, with all due respect, by definition, need to have a man, a woman, a First Nations, a Filipino candidate, a Jewish candidate. They should have skill sets that the province would admire. The list of candidates would be known to the citizens of Manitoba and, like there are in many other elections, their credentials would be well advertised, and they would be out for public scrutiny and the committee could take opinions.

**Ms. Marcelino:** Thank you for your thoughtful presentation.

I noted in the past few days a similar presentation made by another thoughtful individual is similar to yours, and it is quite exciting. It's very interesting that these candidates or nominees that you have proposed have these wonderful skill sets. These are people who are definitely well qualified. How can we attract these people to put their names forward? Do you see some mechanism of assistance because they are not beholden to any political party or organization? What do you see coming in to attract these people? Like, shall it be some sort of political funding to help them in their election?

**Mr. Hechter:** I would argue that it needs to be completely independent of political funding and that we need to go out and look for individuals with skill sets that would behoove the province to send to Ottawa to be their representatives.

**Ms. Marcelino:** I'm sorry. My apologies—not political funding but public funding.

**Mr. Hechter:** There are other means of appointments in this province. I'm delighted to be able to report to you that I was appointed by one political stripe to a provincial position and was re-appointed on two successive occasions by a party of a different political stripe. So I hold near and dear to me the notion that the skill sets that I presented were the ones that best represented or were acceptable and that, again, I was vulnerable to being recalled at the will of the minister or at the will of the Premier.

How do you do it? You need to go out and know the province. You need to know the individuals within the province. You need to solicit them actively. It isn't money that's going to drive these individuals to this position; it's their sense of commitment to the province and to the country. And, believe me, they're out there. Many of them shake their heads, myself included, quite candidly, about the appointments that have been made by—and I'm not going to restrict this to Prime Minister Harper—by appointments that have been made by previous Prime Ministers.

Where's the skill set? Where's the vision? Where's the commitment to the citizens of the province? It's not a reward. It's a responsibility. It's not a reward.

**Mr. Lamoureux:** I always find it challenging when someone comes in a forceful way and is thinking outside the box. It forces me to really think about what it is that you're saying. I think it is definitely unique. Having said that, in the back of mind I'm wondering, quite often individuals that maybe would have been elected might not necessarily meet the academic standard that a committee, structured like this, would want to see, or maybe they spent a good portion of their life as a stay-at-home parent, for example, but did some wonderful community things. There are a lot of things, I believe, that could be of great value of having individuals of that nature, and by having elections it's more wide open and individuals of that nature would at least be allowed to participate.

How would you ensure that we're not becoming too exclusive to who these Senate appointments could be?

**Mr. Hechter:** Again, the composition of the committee did not—or my suggestion is that it should not be restricted to academic accomplishment. It's a

question of skill sets. Go back to the list of the criteria that would be represented of an ideal Senate candidate, that might be the yardstick by which candidates might be compared. It is not meant to be elitist in any way. The positions that I identified, the purpose of identifying those positions was to say, the individuals ought to be there on this committee by virtue of the position that they hold, that they're not to be appointed by the Premier at his or her will or whim.

I want to make this absolutely clear. There is nothing in the construct of this committee that would restrict a candidate who may have been in labour. Clearly, my suggestion is that there'll be a representative of labour, that there be a stay-at-home mom, there could be a community activist, there be an Aboriginal, there'll be a member who, for whatever reason, did not have the opportunity to attend post-secondary education, but is clearly concerned and motivated and a capable thinker.

**Mr. Lamoureux:** You, along maybe with at least one other presenter, kind of make me think in terms of is it possible to have some sort of hybrid. I'm interested in knowing if you feel that it would water it down too much, where, in fact, there are the two components to it: one of an appointment nature and another where there is the broader election, which seems to appeal to a much larger base.

Would you be comfortable with something of that nature?

**Mr. Hechter:** Well, I think you potentially create a two-tier level of senators, and I would argue that that's not an appropriate way to go. Make a decision, think outside the box. Again, the premise is that these individuals will have the skill sets and the personal characteristics to represent the people, the citizens of Manitoba, and to advance the issues that are associated with Manitoba. They are not political hacks.

**Madam Chairperson:** Seeing no further questions, thank you for your presentation, Dr. Hechter.

I will now call on Joshua Watt, private citizen. Do you have some materials to distribute?

\* (17:10)

**Mr. Joshua Watt (Private Citizen):** No, I do not.

**Madam Chairperson:** Please proceed with your presentation.

**Mr. Watt:** Thank you, ladies and gentlemen of the committee. It's a great honour to be here before you.

I served in the Senate as a page representing this province from 2000 until 2002 and then had the great honour to work in Senator Sharon Carstairs' office when she was leader of the government in the Senate and the Minister with Special Responsibility for Palliative Care.

That said, the views that I bring to the table before you are based on my personal experiences in the Senate and I would like to share those with you.

When I was collecting my thoughts for this presentation, there were three underlying principles by which I organized them. The first one was how we, as a province of Manitoba, move forward to consider the democratization of the Senate in a manner that reflects both the integrity and the role of the Senate as an integral part of Parliament. The other being how do we democratize the process of nominating senators from Manitoba in a method that respects the Constitution of Canada.

In keeping with the first principle, that of the integrity of the role and function of the Senate, I believe that what I witnessed as a young page of 19 years old, very impressionable, was that democracy was alive and well indeed in the Senate of Canada. If we consider what has happened in this very Chamber today, to be democracy, according to democratic processes, then I believe that what happens every day that the Senate assembles is representative of what we know and love to be Canadian democracy. In that respect, it is the spirit of what happens in the Legislative Chamber that is of importance, and not the process by which the members are nominated or appointed.

I believe that much has been written about the history of the Senate and its roots in Confederation. That said, I believe that when we examine some of the preambulatory clauses of the present bill before us, when you look at the premise that the preferred position of the provinces that the Senate should be abolished simply due to a historical fact that our own Senate of Manitoba was abolished in 1876, there's a false dichotomy, and one which I believe is best placed in the context of the fact that only some years before, less than 10 years before, this province chose to opt into a Confederation that was comprised of—according to the Constitution of the British North America Act—a queen, one Chamber of style, the

Senate, and one which would be a popularly elected and representative Chamber called the House of Commons.

On that basis I believe that we should tread very respectfully when we decide to bring up a proposition such as the abolition of the Senate because I don't believe that it reflects the vast majority of what we agreed to when we entered into Confederation.

I believe that having participated in the Senate's activities and witnessed all of the stages, both of legislation as well as the many studies that are conducted by the Senate, the role and the function of the Senate is of great importance to our continuing dialogue in this country and of democracy and promoting democracy. When I was in the Senate, there were men and women who were appointed that reflected all different levels of Canadian society: men as well as women; Aboriginals as well as non-Aboriginals; Francophone and Anglophone; and those who are newcomers to Canada. I've witnessed the very first senator being sworn in on a *Koran*, which was a very unique thing to be present at. I witnessed people who are dedicated to this country, who fulfilled their roles and the responsibilities and duties with the greatest care and devotion. There were others who, granted, probably did not merit the same respect and affection as I held for those that did their duties well, but at the same time I believe that that's a reality that's present in any legislative body, regardless of whether it is appointed or elected by the people.

In proposing a method for democratization of the Senate, I echo the notion that the establishment of a special nominating committee similar to that which functions for the Order of Manitoba and the Order of Canada would be a very innovative and meritorious solution to propose.

The reason for this is that when I was reflecting on who the senators are and who we would like to see appointed to that Chamber the best way that we can democratize that process is by simply allowing the people of Manitoba to submit nominations to an independent board that would be constituted by representatives who would reflect all of the greatest points of Manitoba's community, whether that involves an official representative of the Société franco-manitobaine, whether it is representative of the Assembly of Manitoba Chiefs, of the Manitoba

Métis Federation, of any group that we believe has merit in selecting these senators.

I believe that we must pay special attention to the role of the Senate being a body that is in a confederal federation, such as our Canada, intended to respect the rights of minorities, to protect constitutional values of minorities and, as well, to respect some of the other rights and freedoms that have been enshrined in our democracy, rights and freedoms such as bilingualism, respect for the equality of the genders and any of the other rights that are so enshrined within our Constitution.

I would have to say that this has been a very emotional process for me. It's a process that I think is akin to somebody saying that we would like to abolish your school because, for me, the Senate was the greatest school where I learned the principles of community service of democracy. When I think that this is a country which is currently at war in Afghanistan promoting the values of democracy and freedom and justice and here we are examining our own system to see how we can improve it, I believe that we must tread lightly, because the system that has been bequeathed to us in its integrity and in its function has served this country well.

When we examine the role of the Senate historically there are several episodes where the Senate has made important contributions to democratic discourse. Whether you believe that it was motivated by partisanship, I believe that a re-examination of the role of the Senate will reveal otherwise. Whether it was NAFTA or the GST debate, those are all important episodes for which the Senate served to extend its sober second thought to the processes that would affect all future generations of Manitobans and of Canadians.

Lastly, I would posit that when the senators are chosen for Manitoba, that they be chosen along regional lines. I believe if you examine the history of senatorial appointments for Manitoba you'll see that the senators have tended to represent the rich diversity of the province according to all of the regions and it is my fear that if weight is given to the popular nature and how the population is distributed in Manitoba it will bear an adverse and detrimental impact upon the Senate's ability to represent all of this province. That is why the Senate, despite being regionally appointed to act as a regional representative body should also be comprised of members that represent the regional diversity of

Manitoba without reference to the population of the province in its distribution.

In terms of the six seats that are currently in the Senate representing Manitoba, I would propose that they be divided so as to represent roughly the six regions of Manitoba that we all recognize.

Finally, with respect to the Constitution of Canada and our ability to protect its principles, if we hold the democracy as an important constitutional principle that merits special examination within the context of the Senate, I would posit that there's a false dichotomy between elected and appointed officials because in my opinion, appointed officials are just as judicious and just as meritorious as the elected officials.

We would not have the third branch of our legislative process, which is the judiciary, if it were not for appointed officials. We would not have the officers of Parliament that so ably serve to ensure the democratic rights such as privacy, official languages, the role of the Auditor General, these are all appointed positions that serve a special role within our democracy, and they do so because they are isolated from the partisanship that would otherwise ensue if these same individuals were to be elected to their position.

\* (17:20)

I believe, as well, and in closing, that when you examine constitutionality of our acts, we must ensure that this process takes place in a manner that respects the amending formula that was appended to our Constitution, whereby seven provinces with a majority of the population must come together to decide that the Senate be changed or amended in any facet or shape or form. In that respect, I would hold that the election of senators occurring in various parts of the nation and to have those senators appointed by the Prime Minister is, as some of the presenters have said, not incompatible with our current constitutional order—

**Madam Chairperson:** Mr. Watt, I'm sorry. Your time has expired.

**Mr. Watt:** Thank you.

**Madam Chairperson:** Questions of our presenter?

**Mr. Lamoureux:** Yes. I appreciate your efforts in terms of coming forward and no notes. I think you made eye contact throughout everything. Wonderfully done.

Being a page, you had the opportunity to do what many Manitobans have not, and that's get a sense in terms of what happens inside the Senate. I've always argued that if we can show that there's more value in the Senate, it'd even be an easier sell in terms of getting people behind the Senate.

I ask you the question: In your opinion, what are the three most valuable things that a senator does? How would you respond to that?

**Mr. Watt:** I think that when you examine the role and the function of the Senate, there are three Rs that I would posit, that being the rational nature of the Chamber, the responsible nature of the Chamber, and the representative nature of the Chamber.

In keeping with the rational part of the Chamber, I believe that the ability of the senators to accord sober second thought to legislation, to also exercise that same thought in conducting studies that are of benefit to all Canadians through the formulation of proposals and recommendations that the government can consider for further action is an important facet of that rationality.

In terms of responsibility, again, I witness senators who are ceaseless and tireless in their devotion to this country and whose love of this country, few of them despite in many cases their age, to transcend all of the limits that would otherwise impede somebody of a similar age from fulfilling their duties. They were very responsible, and I, in the role as a page, had to, from time to time, take the role of the macebearer as well, which is a position that's responsible for recording the attendance of the senators.

If I could communicate to the people of Manitoba what they are seeing in the House of Commons in terms of representation, if that is what is democratic representation of the people, then what you would find, if only you could spend as much time in the Senate as I have, is even greater representation.

The senators were, on a daily basis, continuously present in their seats, and, at times, when you would see similarly in the House of Commons almost near vacancies after question period, the senators were very active and involved in their committee work, which is the heart and soul of the Senate. If you could see the non-partisan realities in which the Senate conducted its deliberations, I think you would see that, in terms of representation, each of the senators brought a special regional interest, whether

it was by province, by gender, by a language, by political affiliation, to the table when they would ask members of the public who would show up before the committees for their ideas and their recommendations on how to best govern Canada.

I think that those three Rs are really the greatest contribution that individual senators give to our nation.

**Mr. Pedersen:** No, I'll pass, thanks.

**Mr. Eichler:** No, no. Good job.

**Madam Chairperson:** Seeing no further questions, thank you for your presentation.

I will now call on Jae Eadie, private citizen.

Do you have some materials for distribution?

**Mr. Jae Eadie (Private Citizen):** I distributed my presentation electronically. I didn't realize that technology hasn't quite caught up with you here yet. I thought you'd have computers in front of you. I thank Rick Yarish for distributing it to all members of the committee in advance. I'm not going to read it word for word, but I am going to just make reference to a few things in here.

**Madam Chairperson:** Please start your presentation.

**Mr. Eadie:** First of all, I appreciate the opportunity at 5:25 p.m. to be here today to present a point of view that is mine. It might be shared by others on so-called reform of the Senate.

First of all, I want to make the point that, when the Legislature passed Bill 22 nearly three years ago, you included in schedule D of the preamble, which actually created this committee, the phrase: WHEREAS the preferred position of Manitoba is that the Senate of Canada be abolished.

I want to say to you that in my opinion neither the government in particular nor the Legislature in general had any business passing such a categorical statement in the name of all Manitobans when Manitobans have not been consulted in a referendum as to whether or not they want the Senate of Canada to be abolished.

The Senate is the upper house of the Parliament of Canada. It doesn't belong to you in this building. Particularly, it belongs to all Canadians generally. In my view, the Legislature was wrong in passing such a statement in the name of all Manitobans when Manitobans haven't given you that authorization in a

referendum to make that statement to the country. I just wanted to make that particular point because it has aggravated me as I read the legislation, quite a long time ago, actually.

I'm one Manitoban who does not believe that the Senate of Canada should be abolished. Whether it continues in its present form or whether it is subsequently elected, I think the Senate of Canada is a very useful institution in our national Parliament.

I'm aware of the good work that the Senate has done over years, particularly in their committee system. The Senate committee system and their review of both legislation and general policy issues are far superior to that of the House of Commons. There have been many very valuable reports produced by the Senate through its committees that have been taken under consideration by governments of the day from time to time. I understand the useful work senators do and the Senate of Canada does generally, and I don't favour its abolition.

However, I am a supporter of electing our senators. I mean real elections, not pretend elections. I'm in favour of allowing the citizens of Canada, including those of Manitoba, to be able to go to the polls in an election and actually vote and elect their senators. No appointments necessary. To have real and democratic elections of our senators, that is where I think we should be going.

I recognize, and some may not recognize, that you cannot accomplish that without constitutional change. I'm not afraid of mentioning the word "constitution" or "constitutional change" because that is the reality of the situation. You don't get to elect senators today and have them accountable to their electors without constitutional change. That's what we should be aiming for, and let's not pretend otherwise.

The model that I suggest, well, it's the model that's been established by Australia. Indeed, it's an elected Senate model that was supported by no less than Manitoba's greatest citizen, the Honourable Duff Roblin, whose portrait appears right here to my left. When Duff Roblin was a senator from this province for nearly 14 years, he was an advocate then for an elected Senate, and he advocated that the Australian model would be one that would be most appropriate for our federation. I agree with then-Senator Roblin.

Australia and Canada have very similar histories. We both started off as colonies of the British Crown.

We eventually became self-governing nations within the Commonwealth. We have both adopted the Westminster style of parliamentary government. We have both adopted bicameral parliaments. We are both federal states. Australia has states and territories. We have provinces and territories. Our lower houses of our parliaments are the confidence Chambers.

But the Australian Senate, as opposed to Canada's, is a directly elected assembly. Each state in Australia is represented by an equal number of senators, 12; the territories, represented by a smaller number. Senators are elected for fixed terms. Roughly every three years when the lower house, the House of Representatives, is dissolved for an election—their maximum term of office is three years in the House—then half of the Australian Senate, actually 40 senators, six out of every state's 12 senators plus the four territorial senators, are up for re-election. From time to time there have been double dissolutions when there's been a parliamentary deadlock but those have only happened six times in the 108 years of Australia's federation.

\* (17:30)

But the people of Australia get to vote for their senators. They are elected at large from the states. There are no Senate constituencies. Again, they're elected for a term of six years. It's a fixed term but they are not subject to term limits. And you know what? That particular model has served that federation very well. I think it's the model that we in Canada should be striving for if we really want to have an elected Senate.

The powers of the Australian Senate are virtually equal to that of the House of Representatives. As a matter of fact, they are quite similar to the powers of the Canadian Senate except that Australian senators, even though they are elected, they cannot initiate money legislation or legislation that imposes taxation on the people of Australia, and neither can ours, but the Australian Senate can propose amendments to that legislation or they can even defeat it. It doesn't mean the loss of the government however. It just means that it goes back to the lower house for further consideration.

Our Senate has virtually the same powers. Ours also has only a suspensory veto of 180 days on constitutional amendments, but otherwise our Senates, even though ours is appointed and Australia's is elected, have virtually identical powers.

So Australia has essentially established what you might call the Triple-E Senate or what some used to call the Triple-E Senate. It's elected; each state has equal representation in the Federation; and it provides an effective part of the Australian governance system.

When the founders of Australia determined that they wanted to have their lower house elected on a rep-by-pop basis, as is ours, they determined that obviously those states with smaller populations would continuously get swamped in the lower house because states with larger populations, obviously with more MPs, are going to potentially dominate the agenda. When they established a Senate with equal representation from each state, it was to give each state in the federation a Chamber in the national Parliament of Australia where their voice would be equal to all of their other states.

I think that's a very sound principle. In Canada, all of our provinces are equal. Every provincial premier that gets around the table is equal to one another under our Constitution. Obviously provinces have vast differences and sizes, and perhaps in the national scheme of things, issues that are of importance to, say, a small province like Prince Edward Island may not get the same time of day as an issue that's of importance to Ontario, in the House of Commons, for example.

But in a Senate where every province has an equal elected representation, those opportunities for provincial points of view I think—and it's been proven in Australia—have a much better chance of coming to the fore for debate in at least one of the two elected Houses of the national Parliament of Australia.

Australian senators are elected in federal elections. They are members of a federal parliament, and our senators, whether just Manitoba senators or all Canadian senators, should be also elected in federal elections. The Senate, as I see it, is not supposed to be the branch plant of provincial governments or provincial legislatures. The Senate of Canada, one way or the other, is the upper house of the national Parliament, and if it's going to be elected, senators ought to be elected in national elections. Whether it's roughly every four years when the House of Commons is up for re-election or if you stagger the elections—say, elect senators for eight-year terms with one-half being up for election every four years when the lower house is dissolved—I mean, that's the subject of much further discussion.

But, in any event, the election of senators, if we are going to have elected senators in Canada, should take place in conjunction with federal elections. We are talking about representatives who are going to represent the people in the Parliament of Canada and not in either the local Legislature or anything else. Of course, the rules should be based on federal electoral laws.

So I'm just going to conclude with these points. Canada's Senate should be renewed and I'm saying renewed rather than reformed, because if we're going to elect our senators it would mean actually starting from, in my view, a clean page, and we would, in effect, be renewing the Senate, not just reforming it.

It should be renewed to become an elected rather than an appointed parliamentary Chamber. Senators should be directly elected by the Canadian people, and, in turn, they should be held accountable to the people in subsequent elections.

Every province should be represented by an equal number of senators with territories represented by a smaller number. Senators should be elected from their respective provinces or territories on an at-large basis and not from individual constituencies, and proportional representation could be considered as the basis for electing senators.

And I'm telling you I'm not a fan of P.R. I certainly wouldn't want to see either the House of Commons or this Legislature elected on that basis, but I think in a renewed Senate, where it's clear that the House of Commons is the Chamber of confidence, I wouldn't be adverse to seeing P.R. used, some form of P.R. used, for the election of senators from our provinces.

Senators should be elected in federal elections within rules and regulations established by federal law under the jurisdiction of Elections Canada. Such rules could include, but not be limited to, candidate qualifications, campaign contributions and spending limits. Senators should be elected for fixed terms of office, but should not be subject to legislated term limits. Why would you do that? They're elected. Why do you need term limits for people who are elected?

Then finally, whether the Senate is renewed, reformed or abolished, you have to acknowledge that none of those changes can occur without constitutional amendments and there is absolutely no quick fix.

That's my summation. If you have any questions, I'd be happy try and answer them.

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

**Mr. Pedersen:** Thank you for your presentation, Mr. Eadie. As you were giving your presentation and saying that the election of senators should be under federal rules, right away I was thinking, well, that prevents the downloading from the fed, the province to municipal, which you are very well aware of, of passing costs on to another level of government. It would somewhat blunt the argument, perhaps of this government, that they don't want to do elections because it's going to cost them money versus if the federal elections rule was paying the bills, type of thing.

But when you get into Senate elections, are you tying them—just so I'm clear—directly to every federal election? We all know we're into minority Parliaments right now. Or can it be a stand-alone election? Do you have some thoughts on that and particularly in terms, you know, four and six and eight years have been thrown out? Any particular thoughts on that?

**Mr. Eadie:** Well, to me, I think it would make sense, generally speaking, if Senate elections were held in conjunction with a federal election. The attention is focussed on a federal election. Australia, as I mentioned earlier, now their lower house has a maximum term of three years. Ours has—or actually the Constitution still says that the House of Commons has five. Fixed-date law doesn't trump the Constitution necessarily. So if we want to follow the Australian example or even the American example—but Australia elects their senators for twice the amount of time as a term as a lower house member. So it's six years. The date is fixed as to when they take office, no matter when the election was held.

I would prefer personally that whether we elect all of the Senate at the same time or stagger the elections that it be done in conjunction with a federal election of the House of Commons whenever possible. I think for the ease of the public and everything, it's all being done at one time. For Elections Canada and election officials, it's all being done at one time. To me it just seems cleaner, but, you know, I guess that might be the subject of debate if we ever get around to actually discussing the Constitution.

**Mr. Pedersen:** You've been very patiently waiting all afternoon and Dr. Hechter gave his presentation here about an independent committee nominating candidates and all the rest. Part of our problem with the Senate, and we've heard it over and over in presentations, there's two things: people don't understand what the Senate does and the other thing is do you favour having some sort of criteria put out there to be a senator?

**Mr. Eadie:** Well, to answer your second question first, if we actually have true elections for senators and it's in conjunction with federal elections, the criteria for Senate candidates would be established under the Canada Elections Act. Same criteria that a candidate for the House of Commons—well, maybe not identical, but candidates for the House of Commons have to meet the criteria for candidacy as set out in the Canada Elections Act.

\* (17:40)

If we're going to be able to elect senators, then candidates for the Senate would have to meet the qualifications set out in whatever may be put in there under the Canada Elections Act, whether it's, you know, you have to be 18 years of age, Canadian citizen, all of that sort of thing. That should be spelled out in federal law. I'm sure that if we ever actually got to the point where we could amend the Constitution so that Canadians could actually vote and elect their senators, that all of those things would have to be tied up. But in my view, all of those things should be contained in the Canada Elections Act, or whatever federal law is going to be enacted to set out the processes for Senate elections, candidate qualifications, spending limits, all of that sort of thing. I think it has to be done on a national basis and through national law so that no matter where you live, if you are a Senate candidate in the Yukon or a Senate candidate in Québec or British Columbia, the rules for being a candidate are identical across the country. I would never use the American example where almost individual states get to determine a lot of the electoral processes for national offices. We don't want that. I think it should be national law and it applies in every province and territory identically.

**Ms. Marcelino:** Thank you, Mr. Eadie, for your presentation. You have made it very clear that you're looking at a renewed Senate and start with a clean page. As it is now, we have a vacancy this year and the next one is not till four years from now, and then three not till eight years from now and one not till 12 years from now.

How do you see a clean page starting, based on this mandatory retirement of the present senators we have or all at the same time?

**Mr. Eadie:** Let me, first of all, tell you that your own Premier has indicated that his personal preference is abolishment of the Senate, but he's even declared that if we were to elect senators, it would mean we would be starting from square one with a brand new page, a clean page, because there would be all kinds of issues that would have to be tied up in constitutional change.

If there's no change to the Constitution, I mean, obviously, there's not going to be in the next four or five months when the next vacancy in Manitoba occurs, then the Prime Minister has a constitutional obligation and duty to fill vacancies through a recommendation to the Governor General, as was done earlier this winter. That's any Prime Minister's constitutional duty. Until we actually amend the Constitution so that Canadians can actually vote and elect senators in real elections, then the Constitution is very clear that Canadian citizens get into the Senate. The language is, being summoned by the Governor General on the advice of the Prime Minister.

So without change, without a constitutional change, any Senate vacancies, and currently with the Manitoba vacancy that will happen this year, it can only be filled by appointment. The Constitution does not allow for the election of senators, and no senator to this date—there's been 894 of them since Confederation, and every single one of them got into the Senate exactly the same way, they were summoned by the Governor General of the day on the advice of the Prime Minister, including every one, without exception, of the 105 that sit there today. Some may think otherwise, but nobody's ever been elected to the Senate in Canada, the Constitution doesn't allow it.

**Mr. Lamoureux:** Mr. Eadie, I guess the way that I kind of see it is that for those that want to be able to see some sort of an evolution of the Senate, whether it's a renewed or a reformed Senate, maybe reform is a poor word to use there, a change in the Senate in the way in which it gets elected, I think for those individuals they would see this process as a small step. We recognize the need for constitutional change to give legitimacy to actually having an elected Senate.

Having said that, I want to go to your point about it has to be during a federal election. For many

people, it becomes a regional issue. What's the regional interest. If it's based on a federal election, and it's the federal leaders, then they're going to have to sign off, for example, on potential nomination papers. They're going to become a part of the federal machinery and apparatus. Sometimes decisions are made in Ottawa in which there's this perception that that's not in Manitoba's best interest. Now our Manitoba senators are going to have to buy into it because it's the federal government that's been doing it. For a lot of presenters, what they feel is the way in which to make them represent Manitoba first, if I can put it that way, is to have them elected in provincial elections, stand-alone elections or municipal elections and have them, as one presenter earlier or a couple of presenters earlier talked about, go through provincial wings as opposed to a federal wing.

Are there merits to that particular argument? Can you appreciate why it is, and, if so, what would be your preference, a municipal versus a provincial, in essence maybe your second choice, your compromise position, if you have one.

**Mr. Eadie:** Well, I tried to make it clear in my presentation and in my oral presentation here as well, my written and oral, that I believe—well, first of all, the Senate of Canada is the upper house of the Parliament of Canada. It is not the branch plant of any province, and its members are not the agents of provincial governments. So, in my view, if we're going to elect our senators, you elect them in national elections, and they're elected under the basis of federal electoral law, not the patchwork of provincial electoral law that exists across the country, but it's under the basis of national law. The rules are the same no matter where you are running in Canada for the Senate.

Without disrespect, I say I don't see any merit of tying in either provincial parties or associations in the election of national elected officials. Whether senators run as the nominee of a party or whether they run as independents, they run under the basis of, let's use the Canada Elections Act as it might be amended, and if they are the nominee of a party, they're the nominee of a federal party and not of a provincial party.

So they are national elected officials. Their first job, as our members of the House of Commons first job, is to Canada. Your first duty as an MLA is to Manitoba; it's not to Inkster. But your first duty here, as a member of the Legislature, is to the province.

So I don't see elected senators any different. Their first duty is to Canada. They're elected to the national Parliament of Canada. Their first duty is to Canada, and it should always be that way. They may have a provincial or regional interest, obviously, as do the members of the House of Commons. I understand that. I know what elected office is all about, but you have to be loyal to the people who elected you.

But you are there to serve Canada first.

**Mr. Lamoureux:** My first responsibility is actually to Canada. I put Canada above the province. Hopefully, I don't offend the constituents.

Having said that, what about a stand-alone election, even if it's a federal-oriented stand-alone election?

**Mr. Eadie:** That may work. We're really getting down, drilling down into more details, but I simply want to make the point that senators should be elected in national elections. Whether, at the end of the day, if we actually get to amending our Constitution, whether it's determined that is should be stand-alone for either all senators or half the Senate every so many years or whether it's in conjunction with House elections, I'm trying to make the point that we are electing people to the Parliament of Canada, and they should be elected during and on the basis of a national election and not a patchwork of local or provincial elections that we have across the country.

**Madam Chairperson:** Seeing no further questions, thank you for your presentation.

**Mr. Eadie:** Thank you.

**Madam Chairperson:** Our next presenter, Fern Marion, has left, so I will now call on Gordon Thompson, private citizen.

Is Gordon Thompson here? If not, Gordon Thompson will be dropped to the bottom of the list. Thank you.

Robert Parsons, private citizen. Are those materials for distribution?

**Mr. Robert Parsons (Private Citizen):** No, I have no materials for distribution. I'll spare you that detail.

**Madam Chairperson:** You may proceed.

**Mr. Parsons:** Thank you very much. My name is Robert Parsons. I'm here to speak to you as a private citizen. I'll try to be brief. I know you've been here a

very long time, and I appreciate the depth and the length of what you've been going through to listen to a lot of viewpoints.

I believe that this subject is a very important one to all of us here in Manitoba and Canada as a whole. I believe it's interesting, and indicative of that, it's not been announced and said, but Canada's minister for democratic reform has been sitting in the audience of this committee hearing as evidence of how important this may be.

\* (17:50)

But I also hardly need to remind you that Senate elections are hardly exciting, hardly inspiring, and it's not surprising that the numbers of committee members attending your hearings has often exceeded the number of presenters.

It's important, I think, to acknowledge that individual members of the Senate of Canada have done a very commendable job in what they do. Some do extremely good work. I know individuals in specific instances who have done very good work, but at the same time it is absolutely undeniable that overall the Senate of Canada is the most utterly and completely irrelevant political institution that exists in this country. I think that is the key word; it is completely irrelevant. Its irrelevance is what is at issue.

It's not surprising that people just yawn at the mention of the Senate. Now, since I was much younger, and I'm older than I look, I had a very strong interest in the elected Senate. I am a proponent and an advocate of the so-called Triple-E Senate—and from a very young age I was that—equal, elected and effective, but I'm also aware that around the table in the committee as representative there are other viewpoints of what should be done. I think the main one has been abolition, and good riddance is typically one position that's been advocated for the Senate.

I think that we all know that any wholesale change, whether it be to abolish, change, reform, otherwise, renew, is going to require constitutional change, and that doesn't happen quickly or easily. I think everyone recognizes that. I think the point could be made that really politics is the art of the possible, and that's really potentially what we're into today.

What we're seeing is a situation where it's not senators, per se, that are being elected but nominees for Senate, nominee that is being elected and put

forward, but there seems to be the tall order in front of the committee as a whole to deal with an issue that seems to have irreconcilable differences on how to change the Senate, almost complete disinterest of the public, and seemingly impossible changes because of constitutional requirements. But I believe at the same time, and I think it's interesting, that this actually provides a very interesting opportunity for you in particular as a committee. The reason I say that is that this is merely a stepping-stone.

I think this point has been mentioned before, but I think it's worthwhile to note that also in the context of you as a committee, the committee is not having to come up with a second stone way that the Senate members from Manitoba may forever have to be elected or put forward, but a first step in acknowledging, a first step that we may change later on in the future. I think that is what may be important, to make those first recommendations for change.

So let me make a few comments very specifically about how I think it should be done. First is the nature of the election, and my recommendation is that each senator, or each Senate nominee, should be elected at large by the province as a whole, and there's a practical reason for that. We only have six seats, and, as has been outlined in the background material and otherwise before, those are coming only open one, or two, or three at a time.

The perspective of proportional representation has been put forward extensively I know by a lot of people, but proportional representation is never appropriate when you're electing one person. It's hard to carve them up. P.R. by its nature also tends to be very party focussed, and I think in this case what we really want is individuals who would be representative of Manitoba. I think that, if there's a perspective or a qualification, as was mentioned before, for senators, what we really need are people, individuals, who are representative of this province. I'll have more to talk on that topic later.

Secondly, the timing and the mechanisms, and there's something very interesting. I'm an analytical-type person. My recommendation is that the Senate nominee elections coincide with the municipal election schedule. There are some practical details, of course, that have to be worked out. One of them being noted as raised has been expenses and how that's done, whether that should, in fact, involve some funding from the federal government. But it's interesting how the schedule works out, 2010, 2014,

2018, 2022. Heaven forfend, that's about one-year distance from when each of the future senatorial positions would come forward.

Also, nicely, they're about four years apart, which would, nicely, lead ultimately, potentially, to an eight-year term period. So we have a position leading forward that kind of nicely works toward something that might be a long-term way to go. I don't believe it's a good idea to hold Senate nominee elections at the same time as elections for the province of Manitoba or our Legislature or the federal government. One of the key factors in that is that they're unpredictable.

The call of the election for the Legislature is at the call of the Premier, for the federal government at the call of the Prime Minister and we, of course, all know about the existence of minority governments which we've had federally and have had here provincially, and those are very unpredictable. A third question that was interesting—and it's been raised on a number of presenters—is this question of addressing apparent inequities. It is interesting that this gender equity question had been raised by a number of the—I know members on the committee. This actually, I know, was raised about 10, 12 years ago when it first came out, and I think the interesting comment I would make is I would suggest that's perhaps not a good idea. One of the things we say right now, and this is not really that well-known and acknowledged, but I think as you all recognize the majority of Manitoba senators currently are female. I'm not sure if it's well acknowledged.

A second question was raised about that in regard to certain linguistic minorities, and that's a little bit more of a difficult one. Although, I would raise the point that I'm a Heinz 5, my children are Heinz 6, and we're now becoming more defined, if you wish, by language, by what we select, as opposed to who we are. We're all becoming much more homogeneous.

A last and related question probably most germane in this regard is people of First Nations background, and I think that's because there's been a bit of slightly different and special relationship between people of First Nations and the federal government. I have a slightly different recommendation in this regard as how that may be dealt with. I think within the province of Manitoba it's a problem that we do make any distinctions between individuals. But I'd also suggest—and this is actually something I had suggested a number of

years ago—that people in First Nations might have a separate number of Senate seats appointed directly by the Prime Minister of Canada with those nominated electees or electors through separate elections. Ms. Ashton, actually, in fact, noted the idea of an Aboriginal parliament. I think my suggestion is perhaps four seats in that regard and what I'd suggest is that might be possible under the current circumstances by virtue of the administrative control that the Prime Minister has. That might actually be able to happen now and that's actually a recommendation that this committee perhaps could make directly to—not just to the Legislature—but to the Prime Minister of Canada; to have a few extra seats added to the Senate specifically to represent people of First Nations background.

Lastly, there's questions of the election process. Elections are always influenced by parties, by money, and I don't think there's any way to really get around that. One of the reasons I have not—I'm not in favour of proportional representation as it does tend to be party focussed and I believe what we want to encourage is engagement and involvement of people as a primary criteria.

My recommendation is that we should have a very high threshold of what counts, and that is people's involvement. I know that it was mentioned by one of the members on the committee it requires 125 signatures for nomination to become an MLA, to be a nominee. It's at 200-or-so to be a federal MP, to become part of an election. Why not make a very high threshold, a number of say, a thousand. Put the effort there, not on making money and raising money. You get people involved and supporting you in terms of signing your nomination paper in order to be on that list.

I had two quick other comments. I know a lot has been said about proportional representation. I'd like to say something good about first past the post. It has been talked about very dismissively in many instances. I think the one thing—and I think all of you can probably speak to this because you're all elected officials through a first-past-the-post election process—that it does tend to force everyone to the common middle ground, whereas P.R. tends to be divergent, this brings us all together.

I think in terms of provincial wide having a single—I'm not having districts inside outside Winnipeg, the centre left versus the centre right. I don't think there's any done deal as to who would necessarily win a senatorial election. I think it's very

much up on the air and I think it would be a very interesting contest to see it happen.

Lastly, this idea of having some special committee. Unless it's an open, transparent and elected process, I think it always has the problem of devolving back into what we've got currently right now, which is this closed process in the background that no one is really involved in and is closed to the public at large.

As I said, I think politics are about the art of the possible and I think that's the opportunity we have today. I think we should proceed ahead to move forward in some mechanism, some kind of a process to elect a Senate nominee, but noting that it could change in the future. It doesn't have to remain that way forever.

I thank you very much for your attendance.

\*(18:00)

**Madam Chairperson:** Thank you for your presentation.

Are there any questions?

**Mr. Lamoureux:** One of the presenters talked about how a ballot could look, and the suggestion was that all Senate candidates would appear on the ballot, and then you would just put a check mark on the ones that you support. Three, four, five, whatever, you put your check marks. Then they do the addition, and the one that has the most would be the one that wins. Fairly simple. What are your comments on that?

**Mr. Parsons:** Madam Chair, my suggestion is we may not get that difficult because we are probably only going to have one or two at a time, so it's not a large number. There is the single transferable vote, which is a very good system. The problem with all these others, with all of them, that they're better, they lead to a full majority, if you wish, by transferring votes, but they get to be complex and difficult to understand. With all of its banalities and problems of the single X, it's a really simple system and everyone intrinsically understands it. I think I would stick with that.

**Mr. Pedersen:** Thank you for your presentation, and I picked up on that having a thousand signatures. That would certainly get some commitment from the candidates and also put some knowledge out there in the country of exactly what you do, because I know from going through a nomination process, trying to explain the nomination process to people, if you're out there getting signatures, if you need a thousand

signatures for your Senate nomination, you'd have a thousand people asking you, why should we have a Senate? And it would actually, in a small way, get some knowledge of the Senate out there.

**Mr. Parsons:** I think the point on that is the concern. I think there is concern about money, influence, power, parties. Why not put the threshold where it counts, which is in people involvement. I think that transcends political boundaries all across the board. Put it where it belongs, which is engaging people, getting people involved. And if that is the case, then that's setting a threshold where we're getting what we want, people that are known, are in the communities, are involved and are getting the message out about it.

**Madam Chairperson:** Thank you very much for your presentation.

I will now call on Senator Sharon Carstairs, private citizen. Do you have some materials for distribution?

**Hon. Sharon Carstairs (Private Citizen):** It is already available for distribution in both English and French.

I was going to say good afternoon, but I think I'll say good evening.

Madam Chair—

**Madam Chairperson:** Can we just wait a moment.

You may proceed.

**Mrs. Carstairs:** Thank you.

The perspective I bring to your deliberations this afternoon, this evening is personal. It comes from my experiences in both elected and unelected legislative Chambers. I believe all of Canada's parliamentary institutions should be elected while at the same time respecting the Canadian Constitution, which I don't believe the present bills before Parliament do.

I was privileged to serve in the Manitoba Legislature as a Member for River Heights from 1986 to 1994. I was leader of a political party for nearly 10 years and Leader of the Official Opposition for two and a half years. I've had the honour to serve in the Senate of Canada since 1994, where I have served as Deputy Leader of the Government, as a federal Cabinet minister, as Leader of the Government in the Senate, and I think it's fair to say that I have some perspective on the differences between the elected and non-elected legislative body. The institutions are very different.

As an elected person, my focus was usually much more short term, more immediate. It had to be. The institutional reality in an appointed body is quite different. Certainly the Senate has its share of crises, but if you consider the average tenure of a senator, typically 10 to 12 years, you can appreciate that it is much easier to adopt a long-term view of things. Senators can pursue an issue that is not on the radar and adopt a long-term strategy to advance it. And I want to share an example from my own experience regarding end-of-life care, but I want to assure you that my own story is not unique.

When I was appointed to the Senate, I became a member of the committee that was studying euthanasia and assisted suicide. One of the few things we could agree on was the deplorable state for palliative or end-of-life care in Canada. I have worked on this issue since 1995. I have chaired committees, conducted studies, given speeches, worked with my colleagues to put this issue on the national agenda. In 2001, I became Minister with Special Responsibility for Palliative Care and was able to implement some of our key recommendations. Ten years ago, only 5 percent to 10 percent of dying Canadians had access to palliative and end-of-life care. Now almost 40 percent have access to this care.

The key point I want you to take from this personal illustration is that the perspective, the horizon for a senator in the current system is totally different from someone who is seeking re-election, for example, to the House of Commons.

As you look at options for changing the method of selection, I urge you to keep these differences in mind and to preserve some of the advantages of the current system as you move forward. The current system has a major advantage worth preserving. It allows Prime Ministers to redress gaps in representation in the federal Parliament.

We must acknowledge that our system has not given adequate representation to women, minorities or other important sectors of our society. The Senate has been an important means of providing under-represented groups a seat at the table. The Senate has the highest proportion of women members of any federal or provincial parliamentary assembly in Canada. Aboriginal representation in the Senate is 6.7 percent where in the House of Commons it's only 1.6 percent.

There are many other areas where the Senate also permits the inclusion of voices and perspectives

from minority communities, including various professions and experiences that are lacking in the House of Commons.

As you weigh your options, I urge you to discover the advantages that exist and to retain as many of them as possible. Changes to the method of selection of senators have implications for all aspects of our federal parliamentary life, even on the conduct of federal-provincial relations.

One British report on changing the House of Lords said that the method of selection cannot be determined in advance of defining the role. Electing a group of people, then trying to figure out what their job should be is putting the cart before the horse. The link between the role and method of selection is of critical importance. For this committee, keeping an eye on the larger picture means being aware of the significant impact your choices will have on the evolution of the Senate's role in the federal Parliament.

Direct election raises concerns about age requirements and tenure. The average term of a senator, as I said, is between 10 and 12 years. With an elected Senate, one person could be elected on her 30th birthday and serve 45 years. Another person could be elected at age 74 and serve mere months. These scenarios I think are absurd, but they demonstrate that electing senators forces us to reconsider the appropriateness of the current constitutional text, which imposes age requirements without defined terms.

There are many other issues of concern: powers, regional distribution of seats, the role of the House of Commons as the confidence Chamber. It's not realistic to think that we can change one without affecting the others. By electing senators we won't fix everything that's wrong in our democracy.

One of the most glaring concerns to us in western Canada is the distribution of Senate seats. Changing the method of selection will do nothing to address this problem. Indeed, it might well exacerbate it.

Your biggest risk is that your recommendations may run afoul of the constitutional scholars who say that election requires an amendment to the Constitution. You should consider options that minimize this risk. Options need to be evaluated honestly and realistically and in light of the positions of other provinces.

I come to this issue from a strong belief in the rule of law. I believe that the Senate should be elected, but I also believe that change should be achieved without any doubt as to the legality and the constitutionality of that process. As a Manitoban and as a Canadian and as someone who believes that our multicultural reality is invaluable to our prosperity as a nation, I regard the rule of law as part of the bedrock that supports our whole system of values.

\* (18:10)

To put it in terms of enlightened self-interest, Manitoba has a small population. We need to have a healthy respect for the constitutional objections of other provinces lest our own constitutional rights be dismissed. We should be particularly concerned about attempting to achieve indirectly anything that is directly prohibited by the Constitution. I believe election of senators without a change in the Constitution is indeed prohibited.

Let me outline a short-term solution that I believe would provide a form of elected senators without running the risk of failure on constitutional grounds until the genuine constitutional change can occur. Consider a process of indirect election that retains some of the discretion at the Prime Ministerial level. The Legislative Assembly of Manitoba could adopt a process for approving candidates similar to the process for appointing the Auditor General or judges.

I would recommend a system where candidates must obtain the majority of the caucus of each party in the Assembly. The Assembly could establish a list of names for each vacancy, perhaps three or five Manitobans who were widely acceptable to all parties in the Assembly and to Manitobans. Direct election would leave the Prime Minister with no real option politically, whatever position he may be in legally. It is doubtful that a direct election can be established without an amendment to the Constitution. Other provinces, Québec and Ontario, have raised credible objections and have declared their intention to pursue the matter in court. The process of indirect election would significantly reduce the risk of a successful constitutional challenge. The solution would also leave some discretion in the hands of the Assembly so that unintended consequences such as 45-year terms could be avoided, and it would have no direct cost to the taxpayer.

This leads me to another important point: cost of electing senators. To my knowledge, no one has

attempted to estimate the cost of direct election. Effectively, you have two simple choices. You could say that money is no object and have Manitobans go to the polls whenever a vacancy occurs. This would cost as much as a provincial general election, tens of millions of dollars each time.

The alternative is to tie Senate elections to some other process. If you use provincial elections, you would save money, but you would be accepting the likelihood that seats would remain vacant for up to five years at a time. With municipal elections the time frame may be shorter, but the problem of long-term vacancies remains. There is also the question of which level of government should pay for direct elections. The solution of indirect election I propose would avoid both of these problems. It allows for vacancies to be filled quickly and at no cost.

There is another dimension to your task that I want to touch upon as I conclude. I would urge you to be aware of unintended consequences. When you are coming up with your recommendations, I urge you to think through the full impact they will have on our institutions, not just the Senate, but also on the House of Commons, on the Office of the Prime Minister, on the relationship among these various institutions and indeed on the organization and financing of political parties, which are an indispensable feature of our mature parliamentary democracy.

There can be no doubt that direct election of senators will change all of these dynamics. We cannot even imagine all of the consequences. We need to go into this with our eyes open. You need to think through all the implication of the options and consider ways of limiting any potential negative of unintended consequences. It is obvious that an elected Senate would be much more powerful and much more costly than the institution we have now. The outcomes need to be understood, and the transition needs to be well managed.

I realize how difficult your task is. I have emphasized the rule of law to remind you of where some of the obvious pitfalls lie. I believe it is possible to move forward without being resigned to the risk of constitutional challenge. I need hardly remind you of the two unanimous resolutions of the Québec National Assembly opposing the initiative or the abolitionist's position of the Ontario government. Despite these challenges, I believe you can succeed where every other attempt since Confederation has failed. But, if you succeed, it will be because you

have accepted and overcome these challenges, not because you ignored them.

You need to keep an open mind. You need to be creative. You need to be honest and realistic about the risks and the consequences associated with each option. You have the difficult task of engineering a major change to the Senate without sacrificing the advantages inherent in the status quo. I sincerely hope that you succeed because if you do, you will be making history.

**Madam Chairperson:** Thank you.

Are there questions for our presenter?

**Ms. Howard:** Thank you very much for your presentation. It's extremely, of course, well researched and well presented and we would expect nothing less, so thanks very much for that.

I was really interested to hear your take on how the Senate has been used to address gaps in representation. I think one of the exciting things about this committee is we discuss ways to choose senators, is we do get to think about representation in a new way or a different way than we are accustomed to thinking about it. We're all accustomed to thinking of electoral representation as whoever gets the most votes wins, and that's democracy full stop. There are many things that that system does not result in that helps democracy.

So as we move, or if we are to move, and I believe we are going to move towards an elected Senate, how do we preserve the ability to make the Senate or help the Senate be that place that represents views and populations that aren't represented in most of our elected bodies. Do you have any thoughts if those goals are compatible?

**Mrs. Carstairs:** Well, if you go to an indirect election, it's easy. You would suggest names that would reflect that dynamic. So if you put forward three names, one or two of them would automatically be a woman. One of them might represent a visible minority. You could combine a woman and a visible minority. But there are a number of ways you can do that. If you go to a direct election process, it's not nearly so easy unless you move to a system, like a list system, which they do in South Africa, which is 50 percent on the list of each political party are female and 50 percent on the list of each political party are male. Barring that, it's almost impossible to do.

**Mr. Lamoureux:** Senator Carstairs, first, I must express my appreciation in the fact that you're here. In fact, many would say it's a good thing, some would say it's a bad thing, if it wasn't for you, I wouldn't be here today.

Having said that, I know that you've done an immense amount of work on the whole issue of palliative care. I understand that you've given many presentations on the issue and I suspect you've received a number of awards in regard to it.

I said to one of the earlier presenters, I think it was the page, that there is that misconception out there that for those that will say, okay, yeah, the Senate, they have that sober second thought, but that's about it, that's all we ever really hear about, but when I talk to individuals that are familiar with the Senate, they talk about more than just the sober second thought.

I wonder if you could just share with us, and to a certain degree you have, but if you could just highlight three things that you feel are very important in terms of what the Senate, and how it contributes, and particularly to our province.

**Mrs. Carstairs:** Well, there are three ways. First, what many don't understand is that the Senate reviews every single piece of legislation. It has to pass in exactly the same form from both Chambers. It is very common for the Senate to amend legislation. What you may not realize is that it is even more common for the House of Commons to accept our amendments without any discussion, without any debate, and that's because of the nature of the two places.

The House of Commons goes in to study a bill and they go for the hot button political issues. The senators debate that same bill and they're more likely to do the clause by clause, what are the ramifications, or they may even do the institutional memory.

I remember one Conservative senator saying to me, my God, this is the third version of the young offenders legislation, and the first one didn't work, and the second one didn't work, and this one doesn't seem to be working either. That's an institutional memory that exists in the Senate that I would suggest to you does not exist in the House of Commons.

The second aspect are the special studies that senators do, whether it is end-of-life care, the right of every Canadian, whether it was Senator Kirby's mental health study, whether it was Senator Sparrow's soil study, whether it was Senator Croll's

poverty study. Those are the kinds of studies that get done in the Senate that don't get done in the House of Commons and, quite frankly, don't result in immediate legislation. It frequently takes several years before those ideas percolate down to the other place, as we affectionately refer to it, and it forms itself into legislation.

\* (18:20)

The third issue is those special interests that we take on. I mean, I presently chair the Committee on the Human Rights of Parliamentarians for the Inter-Parliamentary Union. I'm elected by 147 countries. I spend two and a half to three months a year on that work. Just this week, we could celebrate because we freed a parliamentarian from Egypt. No member of the House of Commons has the luxury of the time to give to that kind of thing that I do as a member of the Senate. It's just the way it works.

**Mr. Lamoureux:** Another, I believe, misconception is the issue of time. If you were to average it out, can you give a sense in terms of the average senator, what they would be putting in, in terms of effort equated to time, if you could?

**Mrs. Carstairs:** Well, it's like every member of every legislative Chamber. Some people do more and some people do less. My average work week in the Senate is about 60 to 65 hours.

**Mr. Lamoureux:** I realize that's a week you're referring to, Mrs. Carstairs.

You highlighted the need and the necessity for constitutional change. I think that we would all recognize that there is a need for a constitutional change. When the appetite to actually do that is going to be there, we don't know. But if there was constitutional change—I've raised it on a couple of occasions, the idea of maybe leaving it open to allowing—because there's this appetite to see some sort of election, but leaving it open for a certain percentage of senators being appointed. Do you believe there's value to something of that nature?

**Mrs. Carstairs:** You have to have all or nothing. You either have to have an elected Chamber or an appointed Chamber. You cannot have both because then you will have a priority in terms of senators. Are these senators more important, more valuable? Do they have a more moral mandate than other group of senators who don't have that?

So it cannot work. But in terms of the constitutional issue, you know, Senator Brown said

this afternoon that the elections in Alberta have never been constitutionally challenged. That's true. That does not mean that they're not *ultra vires*. When asked in 1988, in the Senate of Canada, where Senator Lowell Murray, who was then the Constitutional Chair, Cabinet Chair for Brian Mulroney, was asked the question is that election valid, he said, no, it is *ultra vires*.

I would put it to you like this. How would you react if a piece of legislation was passed in Parliament dictating how MLAs were to be elected in the province of Manitoba? You would consider that *ultra vires*. Well, I consider legislation, which asks the provinces to do what the federal government can't do because it knows it can't do it without changing the Constitution, is also *ultra vires*. It's a federal House. It's a national body. It has to be changed by the nation through a constitutional change.

**Mr. Pedersen:** Senator Carstairs, I take it you're not in favour of Senate elections run by the Province or based on the Alberta model and you're telling us there could be constitutional challenges. One of the suggestions that you had in your presentation was candidates for inclusion approved by each caucus, provincially, as a list of candidates. You're very politically astute. What happens in Manitoba when you've got a governing party that's for the abolition of the Senate and they refuse to put a candidate forward? Are we getting anywhere then? What happens then?

**Mrs. Carstairs:** Well, I think that's why your committee is so important. If your committee came forward with a process whereby you recommended that we choose senators indirectly through a Manitoba legislative process then I think the government would be duty bound to do that, particularly if that report passed in your legislative Chamber, which it would have to do in order to have force in fact.

You know, we had this situation with Senator Lillian Dyck. She was appointed. She chose to sit as an independent because she wanted to sit as an NDP. The NDP wouldn't let her sit in the caucus. So she has recently decided to sit as a Liberal because she can't sit the way she really wants to sit and because independents don't have the same rights to participate in committees, therefore she's kind of not a full-time senator. So she came over and joined us so she could be a full-time senator.

**Mr. Pedersen:** But doesn't that go against your whole argument, is that the Province dictating or picking who the senator should be from the province? If I understand correctly, you're saying that the Province has no right to be picking a senator or Senate nominees when it's a federal jurisdiction. So why would you even suggest having the Province involved in that process? Either it's federal or it's provincial. What is it?

**Mrs. Carstairs:** I think you're missing two processes here. I am suggesting that a provincial election for a national House is *ultra vires* in terms of legislation. There's nothing wrong with a province, through the Legislature, proposing to the Prime Minister a list of names of individuals that they believe will well represent this province in the Senate of Canada.

Don't be naive. The reality is that the Prime Minister has to appoint anyway, no matter whether you have an election. In fact, the interesting constitutional expert who represented the Harper government before the hearings on C-20, said that the only way it was constitutional was because the Prime Minister didn't have to appoint them.

In other words, if he was forced to appoint them, it was unconstitutional. But if he wasn't forced to appoint them, it was somehow rather okay. Well, I just don't think that's good enough. We have a constitutional formula. It's quite clear under section 41 of the Constitution that significant changes to the Senate can only be made by the agreement of the House of Commons, Senate, seven provinces out of 10 representing 50 percent of the population.

**Mr. Martindale:** Thank you, Senator Carstairs, and welcome back to the Manitoba Legislature. There's actually two of us around this table who were here when you were here in the early 1990s.

Probably you are bringing us a unique perspective. You're probably going to be the only presenter that has both been elected as a provincial MLA and appointed as a federal senator. So, I think there's probably a lot of wisdom and insights that we should pay attention to.

Notwithstanding your recommendations, would you have concerns that if there are elected senators, that they would feel quite a bit more powerful and that this could lead to deadlock between the House of Commons and the Senate?

**Mrs. Carstairs:** Absolutely. If you have six elected senators and 14 elected members of the House of Commons, who's more powerful? Move it to

Ontario—24 elected senators, 106 MPs, who is more powerful? Look south of the border. It is clear that the senators have far more power than the House of Representatives, and if that's what you want, then elect the senators.

But you cannot, in my view, reform the Senate, and I was very impressed by Jae Eadie's presentation. He clearly identified, this is a package. You can't nitpick. You can't take this part of it and that part of it and some other part of it. You have to reform the Senate or you have to remodel the Senate—I forget exactly what his word was. You have to do it in a whole package, and that's why it requires constitutional reform.

\* (18:30)

Now, what you can do, I think, by having indirect process, is giving some credibility to those names that go forward to the Prime Minister because you've said, we've vetted these people. I was vetted by no one. The Prime Minister picked up his phone and said, Sharon, because he could never say Sharon. That is the reality of how I got appointed. I love to say that when I'm meeting with young people on Monday morning in the Senate because I often do the Encounters Canada tours with them. They say, how did you become a senator? I say, well, the Prime Minister woke up one morning and put my name on a piece of paper. Well, that's not good enough. That's why I'm in favour of an elected Senate, but we have to do it right. If we're going to not do it right or we're going to try and turn the Senate into a carbon copy of the House of Commons, then I think those of you who happen to accept abolition may have some validity because there's no point having two Chambers that are identical. If you're going to have a Chamber of sober second thought, it has to be unique and somewhat different.

**Madam Chairperson:** Seeing no further questions, thank you very much for your presentation.

The next person on our list, Senator Terry Stratton, has left; however, he has given us a copy of his presentation. So is it agreed by the committee to have his presentation appear in *Hansard*? [Agreed] Thank you very much.

Our next presenter, Al Mackling, private citizen.

**Mr. Al Mackling (Private Citizen):** I have a number of copies but not—maybe sufficient for the small number in the committee.

**Madam Chairperson:** Okay. You may begin your presentation.

**Mr. Mackling:** Thank you. No consideration should be given to a proposal to reform the Senate merely by electing senators. Unless there is a more substantial reform of the Senate, it should be abolished.

I, like many other like-minded socialists, have long held the view that the Upper Chamber is next to useless and serves merely to provide patronage appointments to deserving political friends. However, in recent times, some senators, of whom Duff Roblin is one, and Sharon Carstairs, have influenced my views to the point that I now believe that an elected, truly reformed Senate would be beneficial.

I would reform the Senate in several ways: (1) the current legislative process would be abolished: no longer would the Senate have the power to deny the passage of legislation once adopted by the House of Commons; (2) the Senate could initiate legislation for consideration in the House of Commons; (3) the Senate would, through standing committees, be charged with the careful annual oversight of all corporations that are either incorporated by act of Parliament or provide national service: financial institutions, transportation, communication, and so on; (4) the Senate would, through standing committees, be charged with the annual oversight of criminal law, the federal judiciary, and human rights.

While one may argue for differing areas of national concern that could, or ought to be, the subject to continual oversight by a working Senate, it must be a working Senate, assisting the House of Commons in ensuring good governance in Canada.

Senators should be elected for a 10-year term with a maximum of two terms, provided that no senator could serve beyond 80 years of age.

To be eligible to be elected to a reformed Senate, one would need to be (a) a Canadian citizen for 10 years or more, and (b) have attained the age of 55 years or more.

The number of senators would be the same as the House of Commons. The federal Senate constituencies would be the same as the House of Commons constituencies, and the same provisions respecting public financing would prevail.

My view is that for a democratic government to be effective and play a positive role in organized

society there must be more, not fewer, people elected to office. Constituencies should be of a size that ensures that the elected representative can effectively serve and represent his or her constituents' interests. I believe that federal constituencies are too large, and there should be more smaller constituencies and therefore more elected members.

As a digression, it is sad to note how far the present city of Winnipeg has moved from this principle. Political efficiency isn't the hallmark of democratic government. Quite the contrary. The most politically efficient government is a dictatorship. Voting for both houses of Parliament should be by STB, single transferable ballot, where an elector votes for the preferred candidate No. 1, second choice No. 2, and so on. It is far more democratic than the present first-past-the-post system we have now.

In summary, there should be no Senate if it is not only an elected Senate, but also is a working Senate playing a responsible positive role in Parliament facilitating rather than second-opinioning decisions of the House of Commons. Senate representation, constituencies and financial support systems should parallel that of the House of Commons whose size should be increased to provide smaller constituencies and better representation.

**Madam Chairperson:** Thank you.

Are there questions from the committee members?

**Ms. Howard:** Thank you very much for your presentation, and thank you for being so patient all day.

**Mr. Mackling:** It's been a trial.

**Ms. Howard:** Yes, I hear you.

I want to ask you a question. You talked about the need for more senators representing smaller constituencies or more elected people representing smaller constituencies. But as we can only have six without a change to the Constitution, as we move to electing those six senators, would you see them elected on a regional basis or on an at-large basis? Would you favour electing the six senators from all of Manitoba and we just have six names and all Manitobans vote, or more than six names where we have six senators, or would you favour electing them by region? What's been suggested in the past is that we would elect three from Winnipeg, one from the

southwest, one from the southeast and one from the north. Just interested in your thoughts on that.

**Mr. Mackling:** My thoughts are that unless the Senate is reformed, merely providing for elected senators, regional, however it is, isn't going to be positive. It isn't going to be productive in respect to the Parliament of Canada. We need to reform the Senate, not merely just change the way senators come to be senators.

**Mr. Eichler:** Thank you for your presentation.

I just have a question in regard to Senate powers. Currently, the Senate doesn't have the power to pass money bills, laws that would in fact cause an expense for the government. Do you feel that power would be part of what you call the reform, allowing them to get into money bills?

**Mr. Mackling:** No, I would continue the practice that the Senate would be a working assistant to Parliament. It wouldn't be a duplicate of Parliament. At the present time, what the Senate does—and Sharon Carstairs is right—it reviews very carefully the legislation that is being put through the House of Commons. But perhaps if the Senate were a working Senate and the House of Commons were enlarged, as I suggest, more members of Parliament, more senators, then through the committee arrangements of Parliament they can do a more exacting job of legislation rather than as sometimes is the case hurrying legislation through that then is the subject of a further review in the Senate.

No, I think that the Senate shouldn't be dealing with the final passage of legislation, approving it. The House of Commons should make those decisions.

**Mr. Lamoureux:** Mr. Mackling, I appreciate your presentation. I like the way in which you've stated here are a couple of things the Senate could be doing, and it's very specific. Like you, I, too, have a number of ideas that I believe would be wonderful to see the Senate do and, as opposed to sitting on a committee, it would be nice to be able to make presentation at a committee that actually had the authority to make that change.

\* (18:40)

Having said that—and I do like the two recommendations in particular that you have suggested. You make reference to the single transfer ballot. There is the—and I've raised it earlier—of the ballot where you just put the checkmark by the

candidate that you like, that you support. There is no limit. There's no minimum number, but you put the checkmark by the one that you support, believing then that you will get a candidate that's successful, that has a larger mandate and is more widely accepted by people or candidates.

What's your opinion on that type of a ballot?

**Mr. Mackling:** I wouldn't go for that kind of ballot. In 1953, I ran in a provincial election in Manitoba, and we had at that time the STB, the single transferable ballot. I ran against the incumbent. I came second. I finished second, but the process involved the elimination of the fourth candidate because he didn't get anywhere near 50 percent of the ballots cast. And then, when that candidate was dropped, we dropped the third candidate because, again, he didn't reach the 50 percent or more.

But through that process my opponent, Reg Wightman, whom I later became very close to—he was a Liberal, a good MLA and a good member of the St. James Council later, and I worked with him. He was elected by the transferable ballot. Reg got more second choices than I did after the third count, but it took until the third count before Reg had 50 percent or better of the voters' approval.

With the transferable ballot, you actually have democracy. You have more than 50 percent of those who marked the ballot who have favoured the candidate that wins. Under the first-past-the-post system you can have a victorious candidate that only has 39 percent, 38 percent because there are four other candidates, and no one gets 50 percent. But the single transferable ballot, when you work it through, the winning candidate has received 50 percent or more of the votes cast in favour of that person.

It's a good system. It takes longer to count the ballots, that's all.

**Mr. Lamoureux:** I really appreciate your details and your comments. So am I correct in understanding then that actually you would have had the most ballots on the first count, and then you were overtaken through the second?

**Mr. Mackling:** Reg Wightman had the most first choices, but he didn't have 50 percent plus one, so he wasn't elected. He had the most votes, but he didn't have 50 percent plus one. So then you drop the candidate that has the fewest votes and you examine those ballots and see where the voter who voted for John Jones, who came fourth, where that voter put

his second choice, and if it was for Reg Wightman, he got that. If it was for Al Mackling, I got that.

So you work through the process until the successful candidate has actually received 50 percent or more of the support that was needed to gain office, 50 percent or more of the necessary votes to win. If there were 20,000 electors, then fine, and there were 4,000 votes cast, then the winner would have to have 2,000 plus one, 2,001, and that's the way the system worked.

It's fair. It's equitable. The only problem with it is it takes a little longer because you have to look at those other choices. You have to go through the ballots. But we did it. It was no great problem then. It shouldn't be any great problem today, particularly with smaller constituencies and more politicians.

**Madam Chairperson:** Seeing no further questions, thank you for your presentation, Mr. Mackling.

I will now call on John Sayers, private citizen. John Sayers. Not seeing John Sayers, he will be dropped to the bottom of the list.

I will now call on Mark Rash, private citizen. Mark Rash. Not seeing Mark Rash, I will drop him to the bottom of the list.

I now call on Dorothy Dobbie, private citizen. Do you have some materials to distribute?

**Ms. Dorothy Dobbie (Private Citizen):** Unfortunately, I don't, but I can make them available by e-mail later. I did this this morning.

**Madam Chairperson:** Well, please proceed.

**Ms. Dobbie:** Thank you very much. It's very interesting. I haven't been in this room for quite a number of years. The last time I was here, I was sitting at the end of the table listening to constitutional presentations as the co-chair of Dobbie-Beaudoin committee on the Joint Committee on the Renewal of Canada that preceded the Charlottetown Accord. So as you can understand, I have quite a strong interest in this topic, although it doesn't seem to be quite as strong and there doesn't seem to be as much interest in the topic amongst Manitobans from what I gather because I think this is the probably the most successful day that the committee has had.

That leads to the question that I really want to ask here today and that's why are we focussing on Senate reform, because as a few other speakers have

said, there are a lot of other burning issues right now that seem to hold a lot more public sway.

However, the Senate holds a keystone position in the Canadian parliamentary system, and it provides an important balance that keeps the powers of the Prime Minister and the House of Commons in check while currently bringing regional representation to the House and, in fact, I want to say, along with Sharon Carstairs and others, that it does provide scope for sober second thought and that's a very important consideration.

The Senate does very good work in reviewing bills. It often finds costly flaws that it resolves with amendments. It hardly ever exercises its residual powers and when it does, well the government has recourse, such as the appointment of extra aid as exercised by Mulroney to get the GST legislation through.

In addition, the Senate has the time, as we've heard before, to really study emerging issues of importance to Canadians, as we see in the Kirby report just recently, which brought the critical issue of mental illness to the forefront, and many, many other examples can be presented.

To my mind, changes to the Senate have the potential to create more problems in the balance of power than to resolve or solve any outstanding or serious issue in the Federation right now. The whole case for electing senators appears to be based upon an emotional rather than a reasoned set of arguments. For some reason, Canadians hate the idea that some people are appointed to do a job even though the appointment process is a keystone of this parliamentary system that as someone referred to earlier today, Churchill referred to as better than all the rest. He was referring to the parliamentary system rather than democracy.

I spent several hours last night and this morning looking for a logical argument, a logical case to support Senate reform, especially Senate elections. I really was very surprised not to find any except that the argument, therefore, having a more democratic system that was more democratic to elect senators than to appoint them. Of course, it's a moot question, isn't it, because even if we elect the senators right now, they still have to be appointed and this, of course, can't be changed without changing the Constitution, so we're going through a very moot process in my mind.

Now, I suppose that those who have a single-minded goal for change to have an elected Senate, whether or not this is for good or for ill, I suppose to them it really doesn't matter. As Canada West's Roger Gibbins points out, incrementalism, which is what I would call it, is probably the last best resort of those who know they can't achieve it through constitutional change. In fact, Roger mentioned that the, and I quote, the only way you end up with more comprehensive reform is if you destabilize the status quo to the point where Canadians say, this is a mess and we've got to sort it out. It's not to my mind the best way to resolve issues that seem to be burning in the minds of Canadians.

\*(18:50)

In fact, it seems to me to be a very dishonest way of forcing change especially when there doesn't appear to be any other compelling reason for it, and I've listened most of the day today looking for those compelling reasons. Haven't heard them yet. Gibbins isn't the only one to admit that this is part of the strategy of those who propose elected Senates. According to *Maclean's* in an article in 2006, Ted Morton and the University of Calgary political sciences, is another who feels this way. He's an advocate of slowly changing the nature of the Senate by appointing members selected in non-binding elections, again until the pressure to enshrine the new reality in the Constitution becomes undeniable. Not a good system in a democracy and not a good system or a good, I would say, example of how to manage a democratic system.

In making arguments for electing the Senate and changing its powers, though, thoughtful proponents have come up with a whole menu of ways to resolve the issue of the balance of power, removing vetoes over some Commons-initiated legislation or others adding them, and a whole bunch of other tinkering that basically amounts to what is in place now but just with a little of flavour-of-the-month difference, and the disadvantages that these tinkering have not been tested, as has the system that's in place now over the last 142 years, so who knows what we'll end up with?

Even without making constitutional changes to the powers of the Senate, the act of election, however, will give the upper house a lot more moral clout than it has now. We need to ask ourselves if this is desirable. You know, there seems to be an assumption that if we elect senators, they're somehow going to be above the political imperatives

of elected MPs, as if they wouldn't be politically aligned and that they would be somehow magically turned into senior statesmen who have no motives other than that mandated to them. Not my experience of the political process as a former member of Parliament.

And not everyone agrees on the mandate. The Bert Browns of this world want the Senate to represent the provinces, and others feel that somehow, you know, by electing the Senate, we could get more regional support, and others have other ideas. But, as Bert says, only an elected Senate in session, in conjunction with the House of Commons, can be capable of continuous input into proposed federal legislation, backed up by a vote and, if necessary, a veto by a majority of provincially elected representatives. I think that's what's been in Bert's heart from the very beginning.

So, according to him, he'd like to see the Senate capable of overriding the will of the House of Commons. It doesn't take a clairvoyant to see the problems associated with that and the many issues and questions that arise from such a move—issues that will require further adjustments to curb the power of the now-elected Senate. We've heard some of those suggested today.

Others want an elected Senate to put a damper on the powers of the Prime Minister, which is interesting. Again, my good friend, Roger Gibbins, has this to say, what we want to do is to put into play a modest set of institutional reforms so that we don't have to rely on the fickleness of the party system to provide regional representation. In other words, elect powerful senators who represent the province and would be independent of any Prime Minister and his contingent of MPs. Well, I'm not sure that that's what you're looking at, but that's what some people are.

I find it fairly naive to believe that elected senators, as I said before, would be any different from elected MPs. Can anyone believe that they would have no party interests? Indeed, rather than curbing the power of the Prime Minister, it could actually, perhaps, bolster it where there might be a double majority. And because senatorial constituencies would be larger than those of ordinary MPs—nobody, right now, is suggesting a House with numbers, at least, not many people, that would be greater than they are, because constitutionally we can't do that—so elected senators could claim a greater legitimacy due to the size of the electorate. That leads to an interesting thought because, indeed,

elected senators might be able to claim greater legitimacy than the Prime Minister, and I don't think that's what's behind his thinking right now, do you?

At any rate, think what would happen should there be two elected Chambers in the House. The balance of power would definitely be disturbed. This could result in potential gridlock, as we've heard. It's a phenomenon that in the U.S. is dealt with through the presidential veto. Are Canadians ready to vest a veto in the Prime Minister? It's very doubtful. Firstly, we don't elect the Prime Minister directly; he's elected by his party and he can be changed at the whim of the party. We've just seen that example with the Liberals when they changed their leader. And why would we give that kind of power to someone who wasn't represented directly to represent us all? In other words, a party appoints a Prime Minister; we don't elect a Prime Minister, in spite of how we might like to fool ourselves into thinking that we do.

So, if elections and tinkering with Senate powers won't resolve anything, I have to ask, what is the point? It leads us back to this question, should we abolish the Senate? An option that I once wrote would be preferable to tinkering with it. It opens up the possibility of replacing it with something else, though, to satisfy the concerns of the provinces, and the provinces, I think, do have, sometimes, legitimate concerns. We certainly hear about that in any constitutional discussions, because they say they have no say in issues that directly concern their well-being or where the federal government decides to intrude on provincial jurisdictions.

I once proposed a version of the Council of the Federation wherein the representatives would be ministers of interprovincial affairs who would sit in the council on a full-time basis. I don't know if that would work. It's more tinkering again, but it would be better, I think, than some sort of new bicameral system that doesn't have a real purpose except to mimic the House of Commons.

This was very definitely a compromise position that sought to bring the concerns of the provinces to the table in a comprehensive and ongoing manner, and it avoided that problem that they've had in the European Union where the bureaucrats now dictate to their political masters, because they suddenly are more powerful and have more legitimacies than those who would be elected at the individual federate levels.

So, we do have a Council of the Federation now, of sorts, but it is flawed in several ways. Firstly, it

very seldom meets, so that the issues get a burst of attention and then they recede from the landscape resulting in a lack of effectiveness. Secondly, the members are the premiers, who, while they do bring the broad view to the table, they're not immersed in these affairs and they have many, many other priorities. Thirdly, the council has no constitutional legitimacy, and I have to underline what Sharon Carstairs said about the constitutional legitimacy of any body that might come out of these discussions.

This brings us back full circle to the original question I posed: Why? In my mind, there is no burning need to reform the Senate. Now, I've read opinions that the Senate is dysfunctional, but these assertions are never backed up by evidence. Indeed, it seems to me that when the Senate does its job most assertively, that we hear the loudest complaints from whoever is in power at that particular time and whoever lacks a majority in the upper house. Suddenly we hear how dysfunctional the Senate is. Indeed, there is a certain beauty in the way that this works because new governments with majorities have their powers checked, and that's a good thing, until they gain the experience they need to avoid some very serious mistakes.

So, I'll close by saying that I don't believe we need a fundamental change to the Senate, that to bring that kind of change is fraught with danger to Canadians and to their system of governance. To abolish the Senate leaves us vulnerable to having no checks on the power of the Prime Minister, and to try and change the Senate through incrementalism is dishonest and does a disservice to the wisdom of the Canadian electorate. I believe that our system of government, for all its flaws and warts and its uglies, is still the best system in the world and I would hope that we leave it alone.

Thank you.

**Madam Chairperson:** Thank you.

Do we have questions from our committee?

**Mr. Pedersen:** Thank you for your comments. I hope we don't keep you up too late so it affects the garden show tomorrow. But, we know that there's not much appetite out in Manitoba for interest in Senate reform, given the lack of participation it had through the province. I would suggest there's probably even less appetite in the Canadian people for a full-blown constitutional battle again right now. Like, it's the economy, stupid; fix that, type thing.

So, bottom line, what you're suggesting here is just don't touch it. Leave it alone. Let the Prime Minister continue to appoint as he has previously.

**Ms. Dobbie:** Sorry, I forgot the system.

Which he's going to have to anyway, so why don't we be honest about it? It doesn't matter how many elections we hold across the country, they really aren't legitimate, they're smoke and mirrors, but if we go back to what we've heard others who are proponents of electing the Senate no matter what, they're hoping that through this kind of incrementalism, if we can get Manitoba to do it, if we can get Saskatchewan to do it, we can get B.C. to do it, suddenly that'll put pressure on Ontario and Québec and, of course, the Maritimes are supposed to just fall into line. I don't think that's a good and legitimate way to go. I think if we want constitutional change, we need to hit it, go after it head on. To come up through the back door, as I said before, I think is a dishonest and a very unfair way to go. It's sneaky.

**Ms. Howard:** Thank you for your presentation. I think I probably presented to you in this room, actually, when you were here listening to people talk about the Constitution and so, it's nice to be back.

**Ms. Dobbie:** Yes.

**Ms. Howard:** I wanted to make a comment and then ask a question. I guess what you're saying is there's no need or desire for Senate reform. I don't think that's the question that's really up to us. The Prime Minister has stated his interest in Senate reform and he's asked the provinces to provide direction or comment on how we want to select senators. So, to my mind, I'm not sure we would be responsible as legislators if we provide no comment or no direction when he's asked that, even though many of us have the view that the Senate should be abolished.

\* (19:00)

But my question I wanted to ask you, also probably has nothing to do with our mandate, but what the heck, it's 7 o'clock. I have had this argument with friends of mine who say, but senators do great important things, and they point to the work of Senator Carstairs or Senator Kirby, and I don't disagree that they do great, important things. But the question that comes back to me is, do they need to be senators to do those great, important, good things? I think, in my mind, of the work of Roy Romanow who also did great, important things with the commission on health care, and I think no less

greater important than the work of Michael Kirby on mental health, and he didn't need to be a senator to do that. He needed to be appointed by the government of the day to do some work on a specific issue.

So I guess that's the question in my mind, is however good and important the work of the Senate is, is it necessary that those people be senators to do that work, or could that work be done regardless by having the government of the day or even—I don't think you even have to be appointed to do that work, just having people do good work?

**Ms. Dobbie:** Well, let me go back to your opening comment first and to say that answering the question that has been posed by the Prime Minister and passed down to you through your Legislature, it kind of reminds me a little bit like that question about when did you stop beating your wife. It's a false premise. You have to say I either agree or don't agree with electing a Senate, and I think you have a right, as legislators, to say that at the end of the day when you've listened to all of the proposals from the various people who have come before you. So I don't think that you're completely handcuffed in what you can comment on.

Secondly, what else do the senators do? Well, as I mentioned in the earlier part of my remarks, they do go through very carefully, clause by clause, legislation and particularly when governments are new and when there's a big change in government and you have a whole bunch of folks who haven't got that sort of corporate memory that you need in order to avoid pitfalls.

There can be legislation presented to the Senate that needs sober second thought, and the senators do give it. I believe that they perform a very useful, worthwhile and helpful function in doing so, and you can't really turn that over to a commission. It's not an ad-hoc thing. That corporate memory that the senators bring, when they're working at their very best, is extremely important to the way legislation is passed, and even then we still get some pretty bad laws put on the books.

**Mr. Lamoureux:** Ms. Dobbie, I'm wondering if you can comment on, if you have these constitutional discussions sometime in the future and what's on the table is what are we going to now do with the Senate, and people were looking for ideas on how we could reform the Senate so that there would be more value to it, do you think that would be kind of a noble thing, that if, in fact, it was done, it would be a

positive and it would be worth our while, not only in keeping it but better defining it and ensuring that Canadians are more comfortable with the Senate? Is that a noble objective to try to achieve?

**Ms. Dobbie:** Well, it might be a noble objective. Certainly, enough people have tried, not just in Canada but all the way back through other parliamentary systems going back several hundred years. So it isn't a question of noble objective. It's a question of being able to accomplish something that's actually going to have some long-term benefit for the federation.

I do understand the issue, as I mentioned earlier, that sometimes provinces have when it comes to federal incursion into their jurisdictions. I understand their wish to have some sort of defence, and so they've turned to the Senate as being an option to make that something possible. But every time you tinker with the Senate, it's like that row of dominoes that you see set up all the time. You go like that and bang, everything falls, and everything is mixed up.

Now, I've heard people say, we're not planning a revolution here. We just want to make a few little changes to the system. Well, I've got to tell you, it isn't that easy because when you do make those changes, it is a bit of a revolution. There will be fallout. There will be implications that we haven't thought through, and in spite of all of the deliberations, and I'm sure you're all much more up to speed on all of the details than I am now after all these many years, but you will know that no system has been able to resolve this issue without having major fallout at the end of the day.

So, as noble as our objectives may be, we have to be very careful in thinking about whether the fallout is going to meet the nobility of our intent.

**Mr. Lamoureux:** And we could cite Meech Lake and the Charlottetown Accord as living proof of that.

You see, if we were talking about the role, one of the things I'd be advocating is how dependent Manitoba or have-not provinces are on equalization payments and how a regionally based Senate could be there to protect those have-not provinces. In what way? You know, I'm not really too sure. I really haven't had a good thorough debate on it, but it would change the role.

We're not here to talk about the role, but there is a good contingency of people out there that feel that there is a need to push the debate along. What the current Prime Minister is offering is a window that

will allow us to do just that, and you made reference to that. So for many Manitobans that's what it is. It's just a small step because they're not content with the status quo.

Is that not a valid reason for us maybe to move ahead and come up with something that's tangible, that would see at least a nominated list for now?

**Ms. Dobbie:** I don't believe that, as I said before, incrementalism is the way to go. If there is a real desire within the country for that kind of change, then there should be a fully fledged constitutional debate, and the amending formula should be used so that the constitutional debate has legitimacy.

I think there was a lot of wisdom in the framers of the Constitution. I think they thought these things through carefully. They've been, I'd guess, the recipients of wisdom down through the periods of time when the British parliamentary system went through the same question about the House of Lords and so on, and tinkering, to my mind, is not going to get us anything more than more pain and more problems at the end of the day. So, when you say move it ahead, move the debate ahead a little bit, well, that's like being a little bit pregnant. You're either going to do it or you're not. You can't just sort of move it ahead.

Electing senators or senators-in-waiting or senators-elect here in the province of Manitoba is not going to do anything in the short term to change the Constitution. To force Canadians into a position where, as I've quoted from people in Alberta, they think it's such a mess that we have to change it is not the way to go in my mind. It seems to me that you're elected and you're very thoughtful and caring and considerate people, and you respect the laws, you respect the rule of law, and why would you be wanting to be pushed into a position where you're trying to subvert the rule of law?

The rule of law in this country is predicated on the Constitution. The Constitution says there is a way to amend the Senate, and if we can't find a way to do it within that Constitution, then what are we doing? Do we have—are there two systems? I mean, how can you break your own constitutional law?

**Madam Chairperson:** Thank you. Seeing no further questions, thank you for your presentation.

**Ms. Dobbie:** Thank you.

**Madam Chairperson:** Mark Rash, whose name I called earlier, has left, but has left his presentation.

So does the committee agree to have his presentation appear in *Hansard*? [*Agreed*] Thank you.

I will now call on John K. Collins, private citizen.

**Mr. John K. Collins (Private Citizen):** Thank you, Madam Chairperson.

**Madam Chairperson:** Do you have materials to distribute?

**Mr. Collins:** Yes, I do.

**Madam Chairperson:** Thank you.

**Mr. Collins:** Madam Chairperson, and members of the committee—

**Madam Chairperson:** One moment.

**Mr. Collins:** Oh, I'm sorry.

**Madam Chairperson:** You may now proceed.

**Mr. Collins:** Thank you. Madam Chairperson, members of the committee, my name is John Collins and I am a private citizen. I think, considering the esteemed people who have gone before me, I should point out to you I have never been elected to a Legislature nor appointed to a Senate of any kind in any way, shape or form. So I'm the person you all talk about, the ordinary Manitoban.

While I could probably argue with you that the Senate should be abolished or I could probably argue with you that the Senate should be elected, I couldn't argue with you the Senate should be left alone. The fact of the matter is that it all depends on the circumstances, and what I think we should be looking at here is that the circumstance that we're dealing with is Bill C-20. Sorry. Yeah, that's it, Bill C-20. It's the provisions of Bill C-20 that would come into effect if we do end up getting some form of elected Senate, and so we're not blue-skying here in terms of wouldn't it be nice if we could have this, wouldn't it be nice if we could have that. What we've got is Bill C-20, and we should look at it in terms of what that provides or would not provide and what the consequences of that would be or would not be.

\* (19:10)

In terms of the questions that you were asking about electing people in Manitoba, I've tried to deal with some of those in the paper that's been distributed to you. I'm not going to go into them in any great detail here because I want to deal with what I think is a crucial problem and that is I believe that this committee is asking the wrong question.

We should be asking the question, from where does the government derive the authority to change the method of creating senators? There are two problems with the current government's approach. The first is that the Constitution Act of 1867 provides that the Governor General shall summon people to be senators. The act does not put any condition on how the governor does the summoning.

Bill C-20 would limit the Governor General to appointing only elected candidates and, of course, when we say the Governor General we're talking about the Prime Minister. The current Prime Minister is free to appoint senators elected as set out in Bill C-20 if he wishes to do so. That's not unconstitutional. As Prime Minister, he can make up any rules or conditions he likes in terms of how senators get appointed or get elected or how the names come to him. However, the problem is that Bill C-20 would require future Prime Ministers to restrict themselves to appointing elected senators. This would presume to deprive them of the unfettered right that they have under the act of 1867 and, of course, the 1867 act is part of our Constitution and cannot be amended by a simple act of Parliament.

So the key here is not what they had in Alberta where they said, let's elect some people and give the names to the Prime Minister. In this case, we're getting an act of Parliament that says this is the way it should be and that's trying to amend the Constitution by the backdoor. Even if Bill C-20 is called a consultations act instead of an elections act it's still an attempt to amend the Constitution by the backdoor and will surely result in expensive litigation.

The second problem we have with the question is that it is more fundamental. Neither the Constitution acts of 1867 nor of 1982 were ever ratified by the people of Canada. Both are creatures of the Legislature and not of the people. We've heard a lot of talk about democracy, but if we believe that Canada is governed by the people of Canada the fundamental law of the country must surely be created by the people and not by the representatives alone.

In 1992, the federal government grudgingly recognized this fact when it made the Charlottetown Accord subject to the approval of the people. So where does that leave us? We have in the Charter a complex amending formula for the Constitution involving the Parliament and provincial legislatures, and we now have the people's right, apparently, to be

consulted by referendum. It would appear that the government of today in Ottawa is attempting to cheat the public of its right to decide how it shall be governed.

The Senate, as it is currently constituted, is a deeply antidemocratic institution. Since 1867, as Canadians grew more aware of their democratic rights, the non-elected Senate became more hesitant about challenging the Commons. However, all the legal rights that the Senate had in 1867 are still more or less intact today. They are just dormant. Except in a couple of areas the Senate is as powerful as the Commons. Because it has not been elected, senators have been nervous about abusing their power, but what happens if the Senate gains legitimacy through elected senators. A legislated body opposed to the jurisdiction of the central government would be in a position to create legislative gridlock.

No legislation of the Commons can pass without the approval of the Senate. If the elected Senate refused to pass a Commons bill, there is no provision in the Constitution that could resolve that impasse. Neither is there any provision in Bill C-20 to deal with that.

We should not forget that the proposal for an elected Senate had its strongest support in the 1990s campaign for a Triple-E Senate. The argument at the time was that the jurisdiction of the federal government had to be decreased. The proponents of an elected Senate attacked the government of Canada's right to be involved in health care and child care and in regional, economic and environmental issues.

We should not forget that the only time the people of Canada were allowed a voice in determining their own Constitution was the 1992 referendum of the Charlottetown Accord. That Charlottetown Accord was designed to amend the Constitution so as to increase provincial power and reduce federal power. What should be of particular interest to this committee is that one of the ways the accord would achieve this was by creating an elected Senate. As far as I can remember, almost every federal political party and every national guru shouted from the rooftops that the accord should be supported or Canada would shrivel up and blow away. But for once, given a voice in the matter, the Canadian public chose to think for itself, defeated the accord and supported the authority of the Canadian government.

I thought that the lesson of the Charlottetown Accord referendum was that there should never again be an amendment to the Constitution of Canada without the approval of the people of Canada. It seems the lesson our present government learned was that the people of Canada cannot be trusted to do what their betters want them to do.

We face many problems in Canada today, but none of them will be resolved by having an elected Senate as long as the Senate retains its present powers. None of them will be resolved by taking one of the most decentralized states in the world and weakening even further its central government.

The rights of the provinces are more than well protected by our premiers, who are well able to aggressively pursue their provincial agendas by the Charter and by frequent federal-provincial conferences.

The reality of Canada is that it is the national interest that needs to be protected from the provinces. If the Canadian Parliament and provincial legislators really cared about the national interest, they would recognize the sovereignty of the people. They would get rid of the complicated Charter amending formula that favours them and allow a majority of the people of Canada to amend the Constitution by referendum.

Henri Bourassa said, we have in our country the patriotism of Ontarians, the patriotism of the Québécois and the patriotism of the westerners, but there is no Canadian patriotism and there will not be a Canadian nation as long as we do not have Canadian patriotism.

Well, today there definitely is a Canadian patriotism, but it is stifled in political terms as there is no institution of governance that is elected by the Canadian voters as a single national constituency. In other words, there is no political institution in Canada directly responsible for the Canadian people as a whole.

If we want to make changes to the Senate, why not make real changes. By all means, let us have an elected Senate, but let us have senators who represent the whole country and not narrow regional interests. Let us have a Senate of perhaps 40 or 50 senators from anywhere in the country as long as they can win over 50 percent of the vote in each province and territory. Let us limit them to two terms of four or five years each. The election should be by proportional representation. The campaign should be

financed completely out of public funds. There should be a ban on all third-party advertising during the term of the campaign.

I would not give this new Senate the power to initiate legislation. However, among its powers, should be: the authority to scrutinize bills passed by the House of Commons to ensure they do not conflict with the welfare of the nation as a whole; to withhold approval of any bill for up to 180 days to allow for study and public debate; to order a referendum on any bill or aspect of any bill when it deems it necessary to consult with people; to approve the Prime Minister's recommendations for appointments to the federal bench and to select and appoint the Governor General.

The committee, as I said, has a list of questions as to how a Senate election in Manitoba should be administered, and I have dealt with them to the best I can in my written presentations. I've done this, not because I believe in Bill C-20, but only on the contingency that it might pass.

Instead of asking us how to elect senators, the government should be asking its citizens if we support Bill C-20. I do not support it, and I would ask the government of Manitoba to oppose it with every means at its disposal. Thank you.

**Madam Chairperson:** Thank you for your presentation.

Are there any questions from committee members? Seeing none, thank you very much for your presentation.

I will now call on Colin Craig, Canadian Taxpayers Federation. Colin Craig. I will move Colin Craig's name to the bottom of the list.

The next person I will call on, John Lamont, private citizen.

**Mr. John Lamont (Private Citizen):** Thank you, Madam Chairperson.

**Madam Chairperson:** Do you have any materials to distribute?

**Mr. Lamont:** I do not have any written material. I am one of the members of the Canadian committee for an elected Senate.

\* (19:20)

**Madam Chairperson:** Excuse me. Please proceed with your presentation.

**Mr. Lamont:** Bert Brown was our senior representative and he's presented you with his written proposal which I fully support. I think he's covered all of the necessary issues arising, including the question of abolition and whether it should be elected or not.

It seems to me that there is a major anomaly in the Canadian federal Parliament. Only half of the two houses of Parliament are elected. The other half is appointed by the majority Cabinet in the House of Commons. It's a very serious anomaly in terms of democratic practice. You have the power in the lower house, the House of Commons, in effect appointing the members of the upper house.

*Mr. Vice-Chairperson in the Chair*

Now, that's completely inconsistent with any democratic principle. I'm not aware of any other democracy. Most democracies do have bicameral parliaments, an upper house and a lower house. It's certainly the case in the United States, Australia, even Britain, although the British upper house is not elected. They've been appointed by some majesty some time ago.

In any event, we have in Canada a system which is quite inconsistent with normal democratic practice. The principal point I would make to you is that already in Canada there is a movement to reform that deficiency, and it started in Alberta where they brought in legislation where they would have nominations for vacancies in the Senate elected by all the members of the electorate. They timed these elections in advance of vacancies so that they could either have an election when there is a municipal election province wide, or a provincial election province wide. It wasn't necessary to have a special election for the nomination of a vacancy in the Senate. You could always anticipate the vacancies coming up. I think we have one in Manitoba in May. The province of Alberta adopted the process whereby in anticipation of a vacancy occurring, they would have an election at the time of the municipal election or the provincial election and arrange to allow the members of the electorate generally to appoint their senators. Of course, you've had presentations here today from two Albertans who have been elected in that very process.

There is no reason why Manitoba could not adopt that same process by enacting legislation in anticipation of the vacancies occurring. You can always be certain of a certain vacancy because senators have to retire at 75. Someone said there is

one in May in Manitoba. If Manitoba adopted legislation to elect the senator at the same time as a provincial or a municipal election, I'm just absolutely certain the current Prime Minister would go along with that process and appoint the person elected by the process which you are able to establish.

My recommendation is that your committee consider adopting the same legislation that Alberta has; provision for elections to take place at the same time as municipal or provincial elections are heard for filling vacancies which are going to be forthcoming. We know that the current Prime Minister is in favour of the election of senators. If you adopted that process and did have an election and Prime Minister Harper was still there, he would appoint that person a senator.

Now, let's get into the, I suppose, the issue of should there be an elected Senate or should it be abolished. Abolishing the Senate requires constitutional amendment. Reforming the Senate and the process that I've recommended, which is already under way in Canada, that is the reform by provinces nominating senators is under way. It's under way in Alberta and Saskatchewan.

There is a reason why Bert Brown and I were involved in the process of the recommendations for an elected Senate. You may remember one of the major issues some 10 years ago was the National Energy Program, which was a program of the Parliament of Canada on the basis of a Cabinet taking over a major slice of the petroleum industry, which, of course, would affect, in a major way, Alberta, to a lesser extent British Columbia and also Saskatchewan, and to a limited extent, Manitoba as well, because we do have petroleum production. In other words, the federal Parliament, under—I've forgotten which Prime Minister it was who wanted to bring in the—maybe it was Paul Martin. In any event, the idea was it'd be a national energy policy and there'd be a major takeover of that petroleum industry which is a major industry in western Canada. It's the very opposite of what's presently being proposed to assist the auto industry. Instead of taking a big slice out of the auto industry, they want to have everyone in Canada give them a great bonus. Fifty million bucks is it they're going to give them?

This kind of problem arises because of the way major population centres are located geographically in Canada. Ontario is the biggest province. It has the most members of Parliament. Québec is the second largest. It has more, not quite as many, but many.

And you have smaller provinces, particularly western Canadian provinces and the Maritimes, who don't have the representation in the House of Commons to really protect their own interest. So the reason why Bert Brown and I became involved in a movement to have senators elected was we felt that that would give western Canada a more effective voice in the Parliament of Canada and it's still true.

You know, you have Alberta represented by elected senators and every time there's going to be a vacancy arising because of a retirement, the Alberta government will have an election to nominate someone to fill that vacancy. Now, of course, the senators who are elected have much more political clout than a senator who is appointed by a political party because of political affiliation. So it is possible for you to adopt the same process that Alberta has adopted and make provision for the nomination of senators to fill vacancies which you see forthcoming by having a Senate vote, a nominating vote at the same time as a provincial election or a municipal election. I don't know whether this is the year for municipal elections or not in Manitoba, but that's the way Alberta managed the process. It made provision for the nomination of someone to take a vacancy in the Senate.

*Madam Chairperson in the Chair*

\* (19:30)

Now, no Prime Minister, I think, has ever refused to accept the elected representatives who've been selected by Alberta. You heard today from two of them: Bert Brown and Link Byfield, who became senators on the basis of that process. I can't imagine a Prime Minister refusing to accept the nomination of someone from Manitoba who was elected in a general election province-wide. Now we have, of course, six vacancies, and the ideal system for electing senators would be to have constituencies, but to divide up the province in constituencies would require a constitutional amendment. The process is under way though. The process of reform of the Senate is now under way and I don't think it's reversible. Now, in due course, I would anticipate there will be constitutional amendments which recognize the fact that people of Canada want the process to proceed. If you read Bert Brown's submission, you'll see that he quotes percentages of people who are in favour—in Alberta, I take it.

**Madam Chairperson:** Mr. Lamont, I'm sorry to interrupt. Your time for presentation has expired.

**Mr. Lamont:** Oh, well, I'm sorry. Thank you very much for your attention, honourable members.

**Mr. Pedersen:** Mr. Lamont, you've worked on Triple-E Senate for a long time, or the idea of it—

**Mr. Lamont:** I have indeed.

**Mr. Pedersen:** —and there was one of the presenters earlier who was suggesting that—I think it was Senator Carstairs was suggesting there'll be a constitutional challenge down the road, particularly if Saskatchewan and Manitoba were to come on board with nominating senators.

Do you see that as a potential challenge?

**Mr. Lamont:** No, there's nothing—

**Madam Chairperson:** Mr. Lamont, excuse me. Mr. Lamont, I need to say your name first before you can respond.

**Mr. Lamont:** Yes, thank you.

I don't see that as a constitutional problem at all. I mean, it's already happened. Link Byfield, Bert Brown have been appointed senators in the usual way. I mean, there's the usual process. I guess, the Prime Minister recommends someone to the Governor General, who then—it may be an Order-in-Council, I'm not sure. But in any event, that's the process which is now used to appoint senators, and there's no reason why that process can't be used to appoint senators who are nominated by election. It's just the choice of the Prime Minister as to who he wants to recommend to the Governor General. So I can't see any constitutional objection to that process. It's ongoing. It's happened. It's not been challenged. I doubt if it can be.

I'd be amazed that any party or party leader would launch a constitutional challenge to object to the appointment of someone who has been nominated by an election in a province. That might mean he'd never get another seat in that province. You're going to challenge the right of the electorate to nominate someone to be a senator? Can't see it happening and I can't see any legal objection to the process either. It's just that you—both of you have the process, and the Prime Minister then picks it up and makes the appointment in the usual way, by recommendation to the Governor General.

So Manitoba's Legislature can adopt the same process, and I'm sure if they did the current Prime Minister would be only too pleased to support

whoever the people of Manitoba did elect in an election.

Now, that doesn't end the process of constitutional reform which would be required to completely reform the Senate, but it's an ongoing part of the process which is already under way, and you can join that process and bring it along.

**Mr. Lamoureux:** Mr. Lamont, how would you—given your background with the Triple-E Senate in the history of it—how would you envision candidates receiving money in order to be able to run for election for office? I'm specifically looking for should there be limitations as to where they should be receiving funds from.

**Mr. Lamont:** Well, I don't see any reason why there wouldn't be limitations imposed as there is for the election of members of the Manitoba Legislature or members of Parliament. I mean, if you decided you wanted to support the idea, you could incorporate whatever rules that you thought were appropriate.

**Mr. Lamoureux:** Again, given your background, I'm interested in knowing what would you expect a candidate would have to spend? Any—your best guess? Especially if it's a proportion. Like if you have a—based on a region. How much money would one anticipate that—

**Mr. Lamont:** An initial election would involve the entire province. So you would have to bear that in mind. Candidates would have considerable expenses trying to cover the entire province. There's no reason why, it seems to me, that appropriate limits could not be imposed as there is in any other election, but you'd have to bear in mind that an election province-wide for a single senator, and they would likely be single elections, and I don't see any reason why you wouldn't have a transferable ballot, by the way, one, two, three, four, and so on. The transferable ballot is somewhat more democratic than the first-past-the-post system. The first-past-the-post system may mean that many are elected who don't have the majority support of their electorate, but a transferable ballot system ensures that the person who actually wins is the person who has the majority support of his electorate.

**Madam Chairperson:** Seeing no further questions, thank you for your presentation, Mr. Lamont.

**Mr. Lamont:** Thank you very much.

**Madam Chairperson:** I will now call on Walter Zveff, Walter Zveff.

I will now go to the top of the list. I will call on Gordon Thompson. Is Gordon Thompson here? He has been struck from the list.

I will now call on John Sayers, John Sayers. He is struck from the list.

I will now call on Colin Craig, Colin Craig. He is struck from the list.

Walter Zveff, Walter Zveff, he is struck from the list.

This concludes the list of presenters I have before me. Are there any other persons in attendance who wish to make a presentation? Seeing none—

**Mr. Martindale:** I have two items of—no, I have a request of the committee involving two items of research. I tried to ask a question, but I was told that requests could only come from the whole committee. So that's why I'm putting it before the whole committee.

Tonight a number of people referred to Bill C-20, and I don't think we have a copy of that yet. I'm wondering if we could either—I can't remember—I'm wondering if we could either get a copy of Bill C-20 or a summary of it. Is there agreement of the committee for that request?

**Madam Chairperson:** Agreed? *[Agreed]*

**Mr. Martindale:** And, secondly, I would be interested in knowing what year each province abolished their Senate. I know that in Manitoba it was 1876, I believe. I think in Québec it was quite late. It was like 1960, or something, not that long ago. I'm wondering if the committee would agree if we could get those dates and share them with everyone.

**Madam Chairperson:** Does the committee agree? *[Agreed]*

**Mr. Eichler:** Also, just for the request to that, we could look at the Alberta legislation, as well, that's been talked about here today. If we could get copies of that, if there's will of the committee to at least have a look at that so we have that information at our fingertips.

**Madam Chairperson:** Is that agreed by the committee? *[Agreed]*

**Mr. Eichler:** Again, Madam Chair, I am concerned about the consultation process for the north. I have asked a couple of times, and a few members, about looking at the possibility of going to Thompson in

order to hear—it's the third largest centre in the province of Manitoba and I feel that we need to hear from those people and ask if there's will of the committee to have the Clerk's office look at setting something up before we go into session on the 25th.

\* (19:40)

**Ms. Howard:** I got a bit lost what happened to the northern trip that was planned. I understood we couldn't go because of weather. Is there a plan to go at a later date or is that—

**Madam Chairperson:** The decision to reschedule is within the purview of the subcommittee. So the subcommittee can decide to reschedule or to add other locations for the meetings.

**Ms. Howard:** Do we remember what the registration was at those meetings? Does anyone—

**Madam Chairperson:** My understanding for Flin Flon, it was one registration. The individual was contacted and they, I believe, forwarded their—no, they haven't. Sorry.

They had an option of submitting their presentation in writing, and they opted not to. I don't believe we had anyone registered for Norway House.

**Ms. Howard:** I would suggest that, given that the time frame for us to generate this report is June and the House has been called back for March 24, that we may be getting into a short period of time to do further consultations. I don't know if there has been a way for people to send in their presentations. I believe there have and people have. We did make an effort to go up north and receive presentations, and that was advertised.

My recommendation would be, at this point, that we end the formal consultation process by—I think March 1 is the deadline for written presentations, and we move on to the consideration and debate of what the recommendations are going to be. I think we've heard very differing viewpoints just today and throughout our presentations. I think we'd be hard pressed to define a consensus that's come from Manitobans, and so that makes our jobs in some ways a little more difficult because we're going to have to wade through all of that.

So my recommendation would be at this time that we move on to consider what we have heard, having given folks in the north an opportunity to present and, because of weather and there wasn't a great interest to start with, that we end the formal presentation and move on to consider the report.

**Mr. Eichler:** Madam Chair, I do have to disagree. I was very concerned about the time frame that we were under as far as constraints are concerned, and I agree that we do have an awful lot of presentations that were presented here today that we have to digest. But, in fairness to those to the north, the timing that they were called was weather-related. I'm sure an awful lot had to do with that. Again, as I said before, it is the third largest centre. I think we'd be pleasantly surprised that the number of presentations that we may be able to get out of there, we have no guarantee, but certainly we should at least give those people that opportunity, in my opinion, Madam Chair.

**Mr. Martindale:** Yes, I support my colleague from Fort Rouge. I have been on other all-party committees in the past and one time, instead of travelling, we went to an MTS building and used video conferencing which at that time we were told it was cheaper than travelling. If that was possible to do between Winnipeg and Thompson, and if it was cheaper than flying the entire committee and staff and staying in hotels and meals, then I think we should consider that.

**Mr. Lamoureux:** Madam Chair, just to pick up on what Mr. Martindale is saying, I think that there is some merit in terms of not concluding the public input into the process, and if we were to try again for the community of Thompson and we set the number, whether it's six or eight, in terms of individuals that would be interested in presenting, and if it's less than that, then we look at the video conferencing.

At least this way, they've been afforded the opportunity to participate, and if there is no real demand for it, then we can just have the video conference right here in Winnipeg, and really legitimately be able say that we did consult all regions of the province. As Mr. Eichler has pointed out, it is the third largest community.

**Ms. Howard:** If there's an interest in going to the north or hearing from the north, then I think that teleconferencing is one thing we should look at to do that. Then I would suggest the fairest thing to do is to go to those communities which were originally scheduled and we couldn't get to because of weather, not to now add another committee. I think we came to the conclusion of the towns and cities that we were going to, we came to that as a subcommittee at the beginning of the process and it was a sound process to do that. I think we should stay with the ones that we decided on. If we want to give the north

another try, I think teleconferencing is a good way to try to do that, given the travel constraints that may be on all of us, but I think we should stick to the ones that we had decided to do previously.

**Mr. Eichler:** I'm open to the teleconference concept. As far as the committee, if memory serves me correctly, it was the overall consensus, I believe, that subcommittee could at any point determine whether or not they wanted to add extra sites, it was my understanding that they would have that power.

Having said that, we have looked at Flin Flon and Norway House, and they've had that opportunity, so I don't think we need to revisit that. In my opinion, I think they've had that opportunity. They would have registered prior to us being there, but this would give the Thompson people that opportunity, and if there is that big an interest, then we could do it by teleconference. I have no problem with that.

**Madam Chairperson:** We're getting some sort of a direction here but nothing very specific, and I think if we're going to look at something a bit more specific for our staff to look at—Mr. Pedersen and then Mr. Martindale.

**Mr. Pedersen:** Well, then I would suggest that—I guess it's the Clerk's staff that does the advertising—do some advertising for a hearing in Thompson and if we have less than eight, eight or less, then set it up as a video conference. If there are more than eight then set up a hearing.

We can still do it the week prior—in terms of advertising, you still have time to do the advertising in the first two weeks of March. We could be there in the third week of March because that's the week prior to coming back in session, so if we needed to physically fly out or do the video conference, whatever it is, in that third week of March prior to the week we resume session. In terms of the committee as a whole to work on a position on this, we will be in session and we can do it evenings here. We're going to be in session anyway. I know there's always lots going on, but whether we're coming in for meetings or whether we're here in session, we're still here in the building and we could spend some evenings working on a position.

**Mr. Martindale:** I have a question for information, and perhaps you can seek advice from the Clerks and that is, how much lead time do we need to advertise and to book a meeting space and charter a flight? Are we talking one week, two weeks, three weeks? What's reasonable?

**Madam Chairperson:** Is there leave of the committee for the Clerk to answer that question? *[Agreed]*

**Clerk Assistant (Mr. Rick Yarish):** Thank you. The biggest time crunch would be advertising. It's a weekend right now, so if I got on this Monday morning, Communications Services Manitoba is the one who sort of does the logistics and legwork, so they'd have a better idea of when the Thompson paper publishes, when you have to get information, and so I won't be able to find out any of that until Monday morning. But the biggest crunch is the advertising. The booking of flights and the getting accommodations, that can be done with a little bit more flexibility, but it's the advertising which is the big crunch, and in this case that's the part that's the most crucial, because, if I understand correctly, what you're wanting to do is choose a date, put out a notice that we're intending on coming and see what kind of interest we get.

\* (19:50)

So the advertising is the crucial part, and I really don't think that can be answered tonight. I probably can't get back to you until Monday morning on that. So, perhaps the committee can give some guidance on this. If it's the committee's wish I can look into this on Monday morning and then get in contact with the Chair and Vice-Chair and relate what our details are in terms of the timing for advertising and so on and then some sort of decision can be agreed to by the Chair and the Vice-Chair. The Chair and the Vice-Chair do have that ability based on previous agreements here to make some decisions. If that's the will of the committee, that's how we can proceed. Probably the only thing I would need then is to choose a date and then I could try and line up advertising based on that date.

**Ms. Howard:** I guess I have a little bit of concern with sort of changing the rules in mid-stream. We went to other communities when there was no one registered to present and we went with the entire committee and we allowed people to present that came to the meetings and that wanted to speak. So I'm not sure that at this point in time we can change the rules and say the threshold is eight, which is more, I think, than we got in any town outside of Winnipeg. I'm not sure that's the right way to go, to sort of change the rules in midstream. I would support the idea that we perhaps not make this decision tonight. That we allow the Clerk to get the information that he said he would. My experience of

going to the north and doing work is that it takes twice as much time as you think it's going to in terms of the advertising and the word of mouth just because of the distances. So I'm not as optimistic that we could pull it together in a couple of weeks or three weeks. But I would suggest we allow the Clerk to get that information and that we could quickly call together another meeting of the subcommittee next week and have the discussion of how we want to proceed at that point.

**Mr. Lamoureux:** In order to try to expedite the whole process, if in fact it's feasible, my position, because I understand it will be Chair and the Vice-Chair, so I'll be saying to the two of you in particular, would be that if it is at all possible for us to do and provide the option for the community of Thompson, that I think that we should be doing that with the limitation that Mr. Pedersen just said. At the end of the day if there's, I believe it was eight or less, we would look at some sort of teleconference. If it would be nine or more, I'm very comfortable in saying that a portion, if not whatever we would have arranged before in terms of going up north, should be making the trip to Thompson. I don't think the committee would need to reconvene in the sense that I would anticipate some time by mid-week next week that between you, Madam Chair and the Vice-Chair, that you would be able to inform us whether or not it's going to happen. The only thing that I would ask from again, my perspective, is that if it is something that can be done, my preference would be to do it.

**Mr. Martindale:** Well, I would recommend that the Clerk do the research that he's offered to do and that the committee reconvene because it may only take five minutes to make a decision once we have the information in front of us or—I mean this committee to make a decision about going up north.

**Mr. Lamoureux:** I believe next week there are people that are on rules committee that won't be here, including myself and other members of this committee. So that's why I am suggesting that the Chair and the Vice-Chair ultimately make the decision.

**Ms. Howard:** There's a number of people on this committee, the larger committee of which this is a subcommittee. So I think there's only a few of us that are going to be away next week. I don't think that we're at the point where we have a consensus and the deciding factor is, can be it be done. I think that decision does have to come back to the

subcommittee for more discussion with the input from the Clerk and the research that he's done. I think there should be enough people left in Winnipeg or in Manitoba that are on the larger committee that could come together and have that discussion.

**Mr. Lamoureux:** On that point, maybe then I'll be a little bit more direct. All-party usually means all three political parties would be able to participate in the decision process. So given that I'm on the rules committee, I won't be able to be here, and the Liberal Party only has one spot on the committee. So if you want the subcommittee to meet, we would have to make a substitution. I don't know if we can do that, and, if my leader's available, then I'll suggest that then would be acceptable.

**Mr. Martindale:** I wonder if we could clarify what committee we're referring to. I'm in this committee and I understand this is a subcommittee, and you seem to be referring to a committee. Could we clarify that this is the subcommittee and it's my intention that this committee, this subcommittee, would make the decision?

**Mr. Lamoureux:** It doesn't have to be a complicated thing. We're talking about the subcommittee, and if it's deemed necessary to reconvene and have *Hansard* and everyone reconvene in order to be able to say yes or no, which I don't believe is necessary, I have enough trust and confidence in the Chair and the co-chair to be able to make that decision. If they want to consult with the members, that would be nice, but I feel confident in their abilities to be able to do that. If other members don't, then let's have the subcommittee meet, I guess, but then we'll have to make that substitution for that one day if the meeting is going to be occurring while the Rules Committee is out of province.

**An Honourable Member:** Where's the Rules Committee going?

**Madam Chairperson:** Is there a will of the subcommittee to meet next week to talk about this issue or not? *[Agreed]*

Do you want to set the time now? Do you want it to be a regular meeting or an in camera meeting?

**Ms. Howard:** I would suggest that once the Clerk has completed the research that he's undertaken to do, then you and the Vice-Chair can canvass for people's availability and a meeting can be set accordingly. I don't think it needs to be an in camera meeting.

**Mr. Eichler:** I agree with Ms. Howard.

**Madam Chairperson:** Is it agreed then that the Chair and the Vice-Chair will meet with the Clerk and then be in contact with the committee members to set a subcommittee meeting date? *[Agreed]* Thank you.

The hour being 8 o'clock, what is the will of the committee?

**Some Honourable Members:** Committee rise.

**Madam Chairperson:** Committee rise.

**COMMITTEE ROSE AT:** 8 p.m.

\* (20:10)

**Madam Chairperson:** Will the Subcommittee on Senate Elections please reconvene.

**Mr. Martindale:** Well, what I'm going to say on the record is that the Chairperson and the Vice-Chairperson will consult with the Clerk of the Committee (Mr. Yarish) regarding the feasibility of the trip to Thompson in March and then consult with the subcommittee.

**An Honourable Member:** Then if they can't achieve a consensus, then they'll have—

**Madam Chairperson:** The committee will reconsider a decision that was made earlier.

**Mr. Martindale:** Thank you, Madam Chairperson.

We've had a chance to have a discussion and we have decided that we're going to change what we had previously agreed to so that the Chair and the Vice-Chair will consult with the Clerk of the Committee about the feasibility of a trip to Thompson in March. The Chairperson and Vice-Chair will consult with their colleagues on this committee and make a decision, and if a consensus can't be reached, then the subcommittee will reconvene.

**Madam Chairperson:** Is that the agreement of the committee? *[Agreed]*

The hour being 8:16 p.m., what is the will of the committee?

**An Honourable Member:** Committee rise.

**Madam Chairperson:** Rise.

**COMMITTEE ROSE AT:** 8:16 p.m.

### WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

I cannot think of a single reason why the Senate of Canada should be allowed to exist. It is expensive and anonymous. Even if appointments were made on merit, which they are not, the Senate is redundant. An elected Senate would be no less redundant.

I would prefer that the Senate be abolished immediately. Failing abolition the salaries of senators should be reduced to \$1 per year. Pensions should be 50 cents per year. Another possibility is that every taxpayer who wishes the Senate to exist should check off a special box on their personal tax returns and be assessed a pro-rata percentage of the cost of the Senate, including all expenses. Then everybody would be happy. Those who think that the Senate should exist can fund it. Others, like me, would be relieved of this unnecessary window-dressing in our democracy.

Yours truly,

C. Hugh Arklie

\* \* \*

Dear sir/madam:

This is my recommendation re Senate elections:

Held during national election campaigns for a term of 2 (two) 4 year terms.

No. of senate seats per province will have to be worked out.

As long as current senators play a part in decision making why should they be appointed?

Jack P. Baturin

\* \* \*

Hello,

I am replying to your e-mail to me regarding above subject title.

I have given this subject much thought and prayer since hearing of it's conception and I now take this opportunity to share my ideas with you.

- Each senator must have a prerequisite of a minimum of 4 years practical experience as a member of Parliament or premier, or Governor General, to be eligible for

consideration as a candidate for senator in addition to the current Senate's requirements,

- The Prime Minister will have final authority to accept or decline candidates,
- Each candidate's biography and history of political experience must be placed into the hands of all Manitoba voters including party affiliation,
- Each candidate must have a fully operational Web site during their campaign prior to voting,
- Each elected senator may serve only (1) four year term; equal to the same term as the Prime Minister,
- Each elected senator may only serve a maximum term of (2) four year periods during their life time, same as the Prime Minister,
- Each elected senator who has not been re-elected, will no longer be the recipient of any pension benefits, health benefits or any benefits that they have been receiving from their elected position. All job benefits will cease.
- Senator seats must be decided upon by provincial population statistics,
- Québec and Ontario due to population demographics have too many senators, this needs to be amended.
- Other provinces do not have enough representation, population statistics should be the deciding factor for Senate representation.
- Each candidate must state the portfolio or position they are campaigning for.
- No members at large category.
- Manitobans can select senators for consideration to the Prime Minister, at the same time we elect a Prime Minister.
- To transition over to a newly amended/reformed senator electoral process, the current senators lease must be shortened from the current age of 75 to 65.
- The new senators will now serve a minimum of 4 years, up to a maximum of 8 years as the new term.

Thank you for your time and consideration of my ideas and thoughts on this subject,

Respectfully,

Mrs. Deborah Avanthay

\* \* \*

### **Step 1 on the Staircase to Senate Reform**

#### **Why Don't We Just Abolish the Senate?**

A significant number of ordinary Canadians have expressed their opinion that the Canadian Senate should be abolished. Their opinion is not much different from that of some pundits who routinely vilify the institution in their columns and the national press which regularly paints the Senate as useless.

Certainly an argument can be made for this position, especially as many believe the Senate is only filled by old party bag men anyway.

Unfortunately, abolishing the Senate may be much more difficult than anyone realizes. Constitutional experts disagree on exactly how Canada could get rid of its Senate, with some saying it cannot be abolished because it is, along with the Supreme Court, the Bank of Canada, and the House of Commons, one of the major institutions of government. Some also argue that it cannot be abolished without the unanimous consent of all the provinces and the Parliament itself, others claiming that it requires only seven of 10 provinces to agree, plus the House of Commons. But those are all technical details.

Fortunately, the argument in defence of retaining the Senate may not be as difficult as the media and public believe. First, a little historical perspective: The Fathers of Confederation expected the Senate to play two key roles:

- Provide a counterbalance to the democratically elected House of Commons.
- Protect regional interests (including Québec's diverse cultural interests).

Appointed by the Prime Minister through the Governor General, senators were expected to provide sober second thought to decisions reached in the House of Commons, which would otherwise have gone unchecked. It was also expected to represent the interest of the propertied class, the landed gentry, hence the requirement that its members own \$4,000 worth of real property. As well, to be considered for

the Senate, an individual had to be at least 35 years of age.

The Senate's second role was regional representation. Both Québec and the Maritime colonies feared that, because Ontario had a majority of the population, its interests would predominate in the House of Commons. The Confederation Fathers designed our system of government to give the three regions of Ontario, Québec and the Maritimes an equal number of senators. This ensured that the concerns of Canada's French-speaking minority, which formed a majority in the province of Québec, would be heard, and provided the Maritimes, with a smaller population, with a forum where they shared an equal voice with Ontario and Québec.

The Senate has taken on two other roles not explicitly laid out in the Constitution.

- Non-ideological, revising chamber that picks up flaws in legislation that weren't noticed during the bill's passage through the House of Commons.
- The investigation of social and political issues facing the country.

But no matter the intentions of the Fathers of Confederation, and because they are appointed by the Prime Minister, and the fact that the appointments can be continuous from age 35 to 75, the Senate has come to be viewed as "illegitimate" without the right to amend or defeat bills.

In fact, however, under the Constitution, senators do have the power to amend and/or veto on any bill emanating from the House of Commons. Like it or not, the vote of a senator is equal to the vote of a member of Parliament. By law, both senators and MPs are members of Parliament. So the question turns to why changing the Senate is necessary at all?

Besides the fact that the majority of Canadians (when asked if they wanted to elect future senators, 79 percent said yes) have opted to put their collective voice behind fixing the Senate, the most fundamental reason is the failure of the appointment system to recognize the principle of fairness in the political composition of the Senate. Since the end of World War II, one political party has been in power for 42 of the 53 years. Successive prime ministers have become addicted to rewarding party workers and other party loyalists with seats in the Senate. Consequently, the existing Senate has a three-to-one majority of one party over the other.

Since the recent election of a minority government, the majority of senators have morphed into an unofficial opposition to the government in the House of Commons. Their party discipline has become so compelling, they automatically oppose any bill, ignoring the fact that the official opposition to government policy exists in the three opposition parties in the House of Commons.

Some senators have openly declared that their job is to oppose government policies. This anomaly occurs because of the failure to appoint an equal number or close to an equal number of senators from each party.

Democratic elections by provinces of their future senators would bring more diverse political philosophies to the representatives in the Senate and very possibly change the focus of its members into the realization that the Constitution states senators are there to represent the provinces at the federal level. A critical disconnect that will allow future senators to align their voting with their provinces is who signs their nomination papers: federal or provincial leaders.

Interestingly enough, that's exactly what the current Prime Minister is trying to do: return more power to the provinces, both in the House of Commons and by giving the provinces an opportunity to fill the 18 vacancies in the Senate with elected senators.

Future columns will look at the redistribution of seats and power in an elected Senate and finally at preserving the supremacy of the House of Commons.

Please send your comments or questions to [brownb@sen.parl.gc.ca](mailto:brownb@sen.parl.gc.ca).

### **Step 2 on the Staircase to Senate Reform Why Would Some Provinces Give up Seats in an Elected Senate?**

One of the greatest hindrances to an elected Senate arises from a simple question: Why would some provinces give up the number of senators they currently have to an elected body with equal representation?

As a matter of historical fact, of course, all of the premiers of the time, including former Ontario Premier Bob Rae and former Québec Premier Robert Bourassa, actually agreed to an equal number of senators for each province during the 1992 Charlottetown Accord negotiations in Ottawa.

I have met with the current premiers of all of the provinces since I was named to the Senate and our discussions have led me to believe that they realize today's senators very rarely speak in the interests of their provinces. Over the last year, only a handful of senators stated their vote was made with their province's interest in mind. Most admitted to normally voting for the political philosophy, i.e. party, that led to their appointments in the first place, even when the appointment is decades old.

The only way to foster a senator's loyalty to the people of their province is through their election. My deep conviction in the efficacy of the election process stems from my own experiences during three Senate elections held in my home province of Alberta. Provincial premiers' hesitation to hold Senate elections is probably the result of two concerns they have:

- 1) Advisors to the premiers believe elected senators would lessen the premiers' influence in Ottawa and;
- 2) Most premiers want the federal system to pay for the elections.

Let's look at both in turn.

Electing senators would actually increase the premier's influence by giving them representatives in Ottawa who are loyal to the provincial interest, with the power to pass, amend, and propose or defeat legislation emanating from the House of Commons. The argument can be made, of course, that that is the function of members of Parliament, and rightly so. And our system works well, as long as all provincial interests are represented in the House of Commons. Rarely, however, do the interests of all provinces coincide with federal interests. In fact, almost never do the interests of all provinces agree with those of the federal government. That's when independently elected senators from each province can freely express their provincial interests.

The only recourse members of Parliament have to make the case for their province's interests comes during caucus debates and in committees. But their fervour is limited by their desire for promotion, and their passionate defence of their province's interests can actually result in their ouster from the party caucus.

Former Prime Minister Jean Chrétien clarified the actual influence the premiers have at the federal level

when he invited them to a meeting back in February 2003 to solve Canada's ongoing health-care problems. Chrétien handed the premiers a piece of paper and left the room, saying, "Take it or leave it!"

The premiers tried another tack to increase their influence at the federal level with the creation of a Federation of the Provinces in 2003. The Council of the Federation was created by premiers because they believe it is important for provinces and territories to play a leadership role in revitalizing the Canadian federation and building a more constructive and co-operative federal system. The hope was that the Federation would give the premiers a vehicle for provincial input into the federal government's decision-making process. While workable, the fact that the premiers were not elected to vote at a federal level undermines its legitimacy. The one workable solution we have to increasing the influence of provincial interests is already in place: the Senate. Provincially elected senators, with equal representation from all provinces, is the ideal mechanism for the task.

It is patently obvious that we need to elect future senators. Canada is, after all, a parliamentary democracy, and we can't ignore the fact that nearly 80 percent of voters want elections. If the provinces really want to have real power at the federal level, to have input in amending or introducing legislation, even vetoing it, then why not use the powers existing in the current Senate? But reform to legitimize the Senate would be necessary.

As to the second point, a number of provinces are on record as saying they would run Senate elections if the federal government would pay the cost. In the short term, that cost may not be as onerous as the premiers think. Elections to fill only natural vacancies will give them five to eight years before a majority of senators are elected, at which time a decision on the distribution of seats, more equal representation, will have to be made. That five-to-eight-year time span allows for a more thoughtful discussion, without the urgency of a constitutional amending process, on the allocation of seats, agreed to by all the provinces. When a majority of elected senators is reached, the time for a stand-alone constitutional amendment on future Senate distribution of seats will have arrived.

The next column will deal with the concern that a reformed Senate will create deadlock with the House of Commons.

### **Step 3 on the Staircase to Senate Reform The Senate Override**

I am often asked, during my travels across Canada, if an elected Senate wouldn't lead to gridlock with the House of Commons.

My answer is always no. Political scientist, Dr. David Elton, professor emeritus of the University of Lethbridge, where he was a faculty member for 27 years and president from 1980 to 1997 of the Canada West Foundation, has provided us with one example of a simple but powerful override process that would maintain, in the end, the supremacy of the House of Commons.

The "Elton Override" is a straightforward three-step process that would apply when a simple majority of the Commons passes a bill. As at present, the bill would be referred to the Senate for passage or suggested amendments.

What would happen next?

- 1) The Senate—this time made up of elected senators—would either amend or veto the bill if a majority of senators were opposed to it becoming law, just as they do now. The Senate would then send the bill back to the House of Commons with its objections or outright opposition.
- 2) Should the Commons decide to ignore the Senate's proposed amendments or opposition, MPs would again vote and, with a simple majority, send the bill back to the Senate without change. Again, much as they do now.
- 3) If the Senate then, again, refuses the re-represented bill, its members would have either one month or twelve sitting Senate days to show that they have a majority of senators in each of seven provinces, representing 50 percent of the population, who are voting to reject the bill with a veto.
- 4) The bill would then simply die, or the House could redraft it. In any case, the veto of the bill would not be a vote of confidence in the government. In this way, the "Elton Override" creates a very high bar for a truly reformed Senate to veto any bill.

Using such a process, it is clear our fears of a gridlocked Parliament are unfounded.

Many constitutional experts argue that Canada's major institutions—including the Senate—are in crisis because they no longer function as they should.

In my opinion, Senate reform is the first measure required in a major reformation movement of all of our national institutions that will ensure they are better able to serve the future needs of all Canadians.

Some premiers are currently under the misapprehension that a reformed Senate would diminish their power at the federal level. But I have to ask: What power? Without a vote or veto at the federal level, the premiers simply don't have power in Parliament. Electing senators would actually increase the premiers' influence by giving them representatives in Ottawa who are loyal to the provincial interest, with the power to pass, amend, and propose or defeat legislation emanating from the House of Commons. To curb the excesses of the federal government, it is imperative that the provinces exercise their innate but unused power to elect senators. Provincially elected senators can even be invited to discuss provincial issues with their provincial ministers and to attend provincial caucus meetings (as I have).

The Fathers of Confederation assigned the Senate with the role of representing the regions. But it can only represent the regions if it has the legitimacy only an elected Senate can exploit.

In order to govern effectively, a federal party must enforce solidarity in the House of Commons. Members of Parliament are only free to speak their minds in caucus, and even then only up to a point if they wish to further their careers. That discipline has the unfortunate side effect of stifling regional concerns and grievances, which can only be aired in an elected, equal and effective Senate.

Now that we know there are ways to ensure Parliament will not be gridlocked by an effective Senate, it is time to do what is right by Canadians to break the crisis we currently live under.

Senator Bert Brown

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Bill C-20 attempts to implement a practice, a consultation of electors, in the appointment of our senators.

This practice is either constitutional or it is unconstitutional. Either it implements the letter of

the law and the legislative intent of the constitution or it contradicts it.

If it implements the constitution, it could rightly be said to be establishing a constitutional convention regarding the appointment of senators. If it contradicts the constitution, it could rightly be said to be a constitutional amendment requiring approval in accordance with the provisions of our constitutional law.

Should we care about the constitutionality of Bill C-20? My answer is an unequivocal yes. Bill C-20 is meant to reform the representative and democratic character of the Senate. It is meant to affect the political structure, the constitutional balance of powers and the democratic process, that is, the constitutional framework through which the people govern themselves in Canada. In proposing to reform the Senate, the government has given Canadians an opportunity to renew Canadian federalism. We want to do it right.

### **The Responsible Government of Canada**

Section 18 of the Constitution Act, 1867 explains that the source of the powers and privileges of both the Senate and the House of Commons is the British House of Commons. On 22 May 1868, an act of Parliament, still in force today, confirmed that both Houses are entitled to the same powers and privileges as those belonging to the British House of Commons in 1867. This confirms that, contrary to the political structure of the British model of parliament providing for the legislative union of the United Kingdom, both Houses of Canada's federal Parliament were meant to represent the wishes and interests of the people.

Section 22 provides that senators shall represent the provinces in Parliament. Section 23 sets out the qualifications of a senator, among others, a senator must reside in the province for which he or she is appointed. Section 32 provides that the Governor General shall fill the vacancies that occur in the Senate by fit and qualified persons.

The 14th of the Québec Resolutions of 1864, on which the Constitution Act, 1867, is based, states that the Crown shall appoint the members of the Upper House ... "so that all political parties may as nearly as possible be fairly represented." It is clear that the Fathers of Confederation intended that the provincial political parties be fairly represented in the Senate.

What is not clear is whether they meant to establish this as the principle underlying the representative character of the Senate, whether it was meant to guarantee only the representative character of the first Senate or whether it was to guarantee the representative character of the Senate until each province chose how it wished to be represented.

One must admit, however, that if all provincial political parties were proportionally represented in the Senate, then the provincial interests of the people, the people in their provincial political capacity or put more simply, the provinces, would be truly represented in Parliament.

Because Canada is a federation of provinces, the people's political will regarding how they wish to govern themselves is divided. Under the division of powers between Parliament and the provincial legislatures that is set out in the constitution, if this political will concerns purely local issues, the provinces are vested with the exclusive jurisdiction to govern the matter; otherwise the matter falls under federal jurisdiction. Thus, in general, the jurisdiction of the federal government over public matters is a function of them not being of a purely local nature.

Despite all this, it is thought that the Fathers of Confederation must have intended that the courts protect our local interests because, being appointed rather than elected, the senators cannot legitimately do so within the institution created for this purpose by our constitution.

Permit me to suggest that the appointment for life of senators was meant to ensure the co-ordinate authority of the Senate by eliminating the possibility that the Governor General could revoke the appointment if displeased.

The representative character of the Senate was ensured by section 30 specifically permitting a senator to resign. Within the context of the times, it was understood that if a senator was made to feel that he no longer represented the wishes and interests of the authority to whom he owed his appointment, honour would oblige him to resign. Today, the political party, when selecting their delegate, would require their choice of senator to sign an undated resignation guaranteeing he or she honours their confidence, and thus, the authority to act on their behalf and on behalf of their constituents.

Furthermore, the appointment of senators is essential to ensure a different quality of person in the Senate, one that has proven his or her ability in sober

thought. Given the real estate or wealth qualification of some \$2 million in today's terms, it is likely that our senators would also possess the quality of knowing from whence comes the government's money.

### Bill C-20

Bill C-20 enables citizens within a province to indicate, from within a list of nominees, who they would prefer to be appointed senator. Section 16(1) charges the Chief Electoral Officer, CEO, with confirming a prospective nominee to be included in the list of nominees. It assumes the CEO will confirm the nominee if he or she fulfils the requirements set out in the bill. It also assumes that the Prime Minister of Canada will advise the Governor General to appoint those persons the people prefer.

Bill C-20 does not require a nominee to reside within the province being consulted. Nowhere does it state that the nominee, if appointed senator, would represent a province in the Senate.

However, section 19(1) requires the prospective nominee to be endorsed by the political party the nominee upholds in the consultation. It does not require that this political party be provincial in nature, representing the provincial interests of the Canadian citizens living in the province being consulted. It does not permit the provinces to determine for themselves the practice by which they would select and authorize their representatives to act on their behalf in the Senate.

### Conclusion

It would seem that the constitutionality of Bill C-20 depends on how the CEO decides to apply the law.

This is contrary to the rule of law. According to A. V. Dicey, the rule of law "means the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, and excludes the existence of arbitrariness, of prerogative, or even of wide discretionary authority on the part of government. (...) Englishmen are ruled by the law and by the law alone."

A. V. Dicey, *Introduction to the study of the Law of the Constitution, 10th edition*, (London, Macmillan Press, Ltd., 1959), p. 202.

The Supreme Court of Canada explains that "The principles of constitutionalism and the rule of law lie at the root of our system of government. (...) At its

most basic level, the rule of law (...) provides a shield for individuals from arbitrary state action."

Reference concerning the secession of Quebec, [1998] 2 SCR par. 70

### Recommendations

To ensure the constitutionality of Bill C-20, it should be amended:

- to charge the Chief Electoral Officer to ensure the nominees qualify to be senator as set out by section 23 of the Constitution Act;
- to change the phrase "political party" to read "provincial political party";
- to permit the provinces to determine otherwise how they wish to be represented in the Senate.

Vincent Pouliot

\* \* \*

### Proposed Model for Senate Reform

- The model for reform proposed here would give significant political influence to a newly constituted Senate but not enough authority to effectively control governments or paralyze policy formulation.
- Senate reform must address the principle of equality as expressed in two basic forms: the equality of all citizens regardless of residence, and the equality of regions irrespective of size. A reformed Senate must claim its legitimacy not just by adequately balancing the House of Commons' representation by population, but also by not allowing a collective minority to impose its wishes upon the majority.

### Regional Expression

- Keeping these principles in mind, the premise for Senate reform advanced here is the requirement to strengthen regional decision making within the national context. One interpretation of this position is that the public residing within any region is to be treated as a single community, not as members of cross-regional, ethnic or social groupings. It is assumed that the collective needs of regional communities require the same institutional protection and support as the Charter of Rights and Freedoms extends to individuals living anywhere in Canada.

Another interpretation of the need for enhanced regional representation is to redress the current power imbalance which exists between the central provinces of Ontario and Québec, and those of the West, the Atlantic and the territories of the North.

- Though important means for expressing regional concerns and views already exist, there is still widespread perception in those marginalized regions that its representatives are significantly outnumbered in national policy-making. Given the political and economic importance of central Canada, it is not difficult to see why special attention has been paid to its needs. But, as Paul Thomas points out, "what is missing is an open and visible process for the expression of regional viewpoints and their accommodation within national policies."<sup>1</sup> More equitable regional representation in an elected Senate would best address this long overdue reform.
- To this end a modified Senate representing a new series of non-conventional political regions could be constituted. Rather than the current, constitutionally enshrined, provincially based regions, the new senatorial districts would correspond roughly to an amalgam of Canada's physiographic and climatic zones. The boundaries for these regions would, in the main, be transprovincial in design, encompassing as narrow as 15 percent of a province by land mass, or as broad as portions of four provinces and two territories. See Appendix A. Canada would be divided into 12 such districts which more accurately reflect natural regional divisions and, concurrently, more equitable population distributions.
- Beginning with the Atlantic Region in the east and moving westward, the senatorial divisions would be designated as North Laurentian, East Arctic, South Laurentian,

St. Lawrence, Lower Lakes, West Arctic, North Interior, Prairie, South Mountain, North Mountain and Pacific. Similar physiographic features within each division would predispose the individual regions to common economic concerns. Because each region and their abutting border areas would encompass the same revenue-generating resources, political action over traditional matters of natural resource development and protection would be more easily fostered and co-coordinated than under the current conditions of conflicting provincial authority.

- In contrast to today's provincially designated senators, elected regional senators could justifiably sidestep partisan provincial or federal politics and advance regional development aims that might otherwise challenge stated party policy. Because the new electoral system, outlined below, would produce a chamber less subject to rigid party discipline, regional concerns would be better served by a new-style elected politician whose mandate was to bypass conventional partisan politics. Just as the Charter allows an individual the right to speak over the heads of politicians directly to his or her constitutional rights, so too can this new-form senator speak directly to micro- or transprovincial regional issues without being threatened with party censure. Economic matters would not be the only glue binding regional cohesiveness. As will be suggested below, the cultural concerns of a given region would be more securely protected by a Senate specifically mandated as its guardian.

#### The Electoral System

- The electoral system advocated in this model recommends that each of the 10 national regions outside the Arctic regions be divided into 12 separate electoral districts. Because of its extremely sparse population base, the Arctic would be represented by only five such districts. Each district would in turn send one elected representative to the new Senate for a total complement of 125 members. Notwithstanding this recommendation, there is no optimal number for maximum Senate

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<sup>1</sup> Paul G. Thomas, "The Powers of a Reformed Senate": A discussion paper prepared for the Ministry of Intergovernmental Affairs, Government of Ontario, p.74.

effectiveness. With Senate form following function, optimal size would depend on the legislative review and policy study roles handled in committee. One important democratic principle, however, can be accommodated with certainty—having off areas of more concentrated population would result in a division of seats based more equitably on representation by population. Not all districts would necessarily share the same population per senator, but numbers would be far less regionally varied than is currently the case. In addition, with the exception of the provincially defined St. Lawrence (Québec), Lower Lakes (Ontario) and Pacific (BC) regional divisions, which together would comprise roughly 29 percent of the total number of Senate seats, proposed legislation would require transprovincial Senate acceptance for passage. The perception of central Canadian parliamentary domination, at least as it applies to the Senate, could be relegated to history. National policy adoption would necessarily reflect true regional acceptance, not the permission of provincial fiefdoms.

- Unlike the recommendation made in *The Report of the Special Joint Committee of the Senate and the House of Commons on a Renewed Canada, 1991-1992*, proportional representation for an elected Senate may not fully satisfy the legitimacy concerns of Canada's voting public. Although proportional representation would avoid the partisan make-up of the House of Commons and reflect party or non-affiliated candidate preference within each region more accurately, a modified alternative vote system similar to the one used in the Australian House of Representatives may better reflect voter confidence. Based on a preferential ballot system, the voter would be asked to rank his or her choices for office on a specially designed computerized ballot. The successful candidate would be required to garner at least half of the total number of votes cast in the constituency for which he or she stands. If this is not accomplished on the first ballot, the candidate receiving the fewest votes would be excluded from the next count. His or her accumulated totals

would be subtracted from the aggregate vote and the second preferences on the unsuccessful candidate's ballots then added to the original totals. This process would continue until an absolute majority for one candidate is reached.

- With respect to the timing of Senate elections, they should not be held concurrently with either the provincial or lower house votes. In the former case, confusion might result as people attempt to distinguish between strictly provincial-territorial concerns and those regional issues which are national in scope. In the latter, the electorate may wish to either reinforce or balance partisan representation in the House with that in the Senate, thereby sacrificing the explicit functions of a reformed Senate on the altar of party politics. Like the U.S. model, a fixed term of six years staggered so that one-half of each regional contingent would be elected every three years would ensure sufficient time to learn and manage the parliamentary process. The formation of an upper house whose partisan membership differed from the Commons and whose focus was on the longer term would go far in promoting the distinctive nature of a reformed Senate.

#### Shape of the Reformed Upper House

In order to improve the Senate's regional representative and legislative review roles while sprucing up its tarnished image, it is necessary to limit the effects of strict party discipline on elected senators. This condition would flow naturally from a preferential ballot system which produced a Chamber of non-confidence. Not only would this system avoid duplication of party composition of the House, but it would reflect more accurately regional party preferences and permit those groups currently under-represented in Parliament to enter the institutional system. With this reduced emphasis on partisanship, the Senate's focus could now be shifted to its revised, non-adversarial parliamentary role.

- Closer in design to the American model, a reformed Senate would perform its duties in a tiered semi-circular Chamber reflecting a new spirit of regional accommodation and co-operation.

### Powers of a Reformed Senate

- The upper house must have enough power to do its job credibly, but not enough authority to prevent government action as required. In the brief outline of the new or modified powers of the Senate to follow, it is assumed that any authority granted is meant to protect the Canadian citizenry's regional concerns, not their federal, provincial or individual interests which are elsewhere ensured under the Constitution.
- The proposed powers can be divided into two areas: the powers of legislative review, including financial matters, and ancillary powers.

### Powers of Legislative Review

- A reformed Senate will continue its current function of reviewing bills which have come down from the House. For the Chamber to foster any new political and public credibility, however, the Senate's powers over legislative review must go beyond revising the details and discussing the merits of proposed legislation. By amending the current Constitution to allow the reformed Senate a six-month suspensive veto on ordinary bills, rather than its current absolute status, and a two-month veto on money bills, it will be able to affect all legislation in a meaningful way.
- With respect to the nature of the Senate veto, a change from its current absolute status to a suspensive veto would not represent a challenge to the House as the Chamber for responsible government. Delaying a non-monetary bill's passage for up to six months would require the government to rethink its legislation and be more receptive to amendments from the opposition parties and from a public recently educated on the issues in question. The two-month suspensive veto for money bills would afford time enough for opposition to be mobilized without unduly disrupting the government's financial planning and administration. Ignoring input stemming from either veto might well compromise the political stability of any recalcitrant

government. It would then be in the executive's best interest to use the Senate as a sounding board for any modified or future legislation which may appear regionally contentious. Through the use of its veto powers, the upper house would have successfully fulfilled its function of protecting regional interests and informing legislation with positions of compromise. In addition to these vetoes, and with the exception of initiating taxation, borrowing, or supply legislation specifically assigned to the House of Commons in section 53 of the Constitution Act, 1867, elected senators would be encouraged to go beyond legislative pre-study and review, and originate national legislation of regional importance. These modifications to its current powers would guarantee real political legitimacy to the reformed Chamber without the threat of House deadlock.

- Other suggestions for reformed Senate powers not unique to this proposal fall within the purview of the Senate's expanded role as protector of cultural matters and representative of the Canadian people in its provinces and territories. The former guardian function would complement while the latter role would not conflict with regional demographic representation. The ancillary powers might include such reforms as (1) granting the Senate an absolute veto over legislation of cultural or linguistic significance; (2) Senate ratification of appointments to regulatory agencies and national cultural institutions including farm marketing boards, the Atomic Energy Control Board and the Canada Council; (3) setting aside a certain number of Senate seats specifically for Aboriginal representation, either before or after self-government has been negotiated. Each of these recommendations has arguments which speak for or against their adoption. Unfortunately, the restricted scope of this paper prevents in-depth study of these matters. But it should be noted that as well as problems with process and the assigning of administrative responsibility, difficulties will certainly arise in the mere definition of matters cultural or ethnic.

## CONCLUSION

The brief outline for Senate reform presented here is neither exhaustive in its scope nor fully comprehensive in its implications, two important concerns which may reduce the force of its argument. Matters such as the timing of elections, regionally equal seat distribution and the preferential ballot electoral system described above all have an impact upon the types of powers granted to a renovated upper house. Depending upon one's personal beliefs in the responsibility of governments to Parliament and in the preference of stability in policy-making over voter preference, this model's suggested allocation of powers and recommended electoral system may both be called into question. Perhaps a reliance on the time-honoured Canadian political techniques of partisan action and provincially based regional representation may better suit the next generation of parliamentary reform. That is certainly a question for the Canadian people to decide. But by adopting this model's cautious approach to constitutional change, and by accepting as necessary the political authority awarded to an elected Upper Chamber, the delicate parliamentary balance required to implement national policy in a timely manner is assured.

As we proceed confidently into the new millennium, we might best take our cue from the original framers of the Constitution who wisely recognized the limitations of institutional reform on the political process and remain cautiously optimistic on matters of change.

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## Appendix A



Mark Rash

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Madam Chair and members of the committee, I am pleased to be here today to add my voice to those who are urging you to support the election of members from Manitoba to the Senate of Canada.

My goal is not to advise you on the method of electing senators. Rather, I am here to stress the urgency that, regardless of the method you choose, you act on Senate Reform, and you act quickly.

Having said this, it is a sign of how far we have come in this area that the committee is not asking

whether senators should be elected, but how they should be elected.

I recognize that it may appear somewhat hypocritical for me, a Manitoban who was appointed to the Senate in 1993, to speak in favour of electing senators. But, the fact is that I have long-supported such reform. You will recall that in the late 1980s and early 1990s, the federal government not once, but twice, succeeded in reaching an agreement with the provinces for Senate Reform through the Meech Lake and Charlottetown accords. I am proud to say that I fully supported both of these accords. The Meech Lake Accord would have required the federal government to choose senators from a list of nominees submitted by the provincial and territorial governments.

In keeping with the spirit of the Accord, even though he was not legally required to do so, Prime Minister Brian Mulroney appointed Stan Waters to the Senate, making history in the process. As you are aware, Senator Waters had been elected through a process carried out by the government of Alberta, as had Senator Brown. The Charlottetown Accord would have allowed provinces to choose between direct elections of senators, or appointment by the legislature.

Once some provinces began to elect senators, I suspect that the others would have followed rather than face the politically difficult challenge of continually explaining to their electorate why only politicians had any kind of a say in their province, while in other provinces citizens were electing their senators.

The Charlottetown Accord also provided for an equal Senate with six senators from each province.

While Meech and Charlottetown failed for reasons completely unrelated to the issue of Senate reform, they serve as recent reminders that progress is very possible. Progress in this area is what our Conservative Government is trying to accomplish in Canada. Unfortunately, we are lagging far behind most other nations.

In recent years I have been closely watching how Upper Chambers are structured in other nations.

Australia, for example, chose to elect its senators from the beginning. In 1901, and since 1948 it has elected them through proportional representation. The Australian Senate also has the power to block legislation.

In Ireland, some of the members of the Upper Chamber, the Seanad, are nominated by the Prime Minister, while other are elected by a variety of groups representing different interests in the nation.

The House of Lords in the United Kingdom—which, like Canada, still has an appointed upper chamber—has begun the process of initiating change, and removed the bulk of its hereditary peers in 1999. Since then, the U.K. has undertaken several studies on the matter and proposed legislation to bring about change. Like us, they are finding the process somewhat difficult, although the recognition that reform is needed is apparent. As Justice Secretary Jack Straw recently wrote in *The Sunday Times*, quote: "An unelected second chamber in the 21st century, with no direct link to the people it services, raises serious questions of legitimacy." End of quote.

Fortunately, the winds of change are finally beginning to strengthen our nation. This is particularly so in the west, where provincial governments are moving towards holding elections to choose their senators.

British Columbia has dormant legislation in place to hold Senate elections. My understanding is that this can be reactivated without much difficulty. It will also be holding provincial elections this spring, which would be an opportune time for the province to allow the people to express their opinion about who should represent them in the Senate.

Alberta, of course, has already held three Senate elections under its *Senatorial Elections Act*. As you are aware, two elected senators have been appointed from that province: Senator Bert Brown, in 2007; and Senator Stan Waters, in 1990. The government of Alberta is to be congratulated for not letting this important issue die, and for continuing to exert pressure for change through its Senate elections.

Here in Manitoba, we passed Bill 22 back in 2006, almost two and a half years ago.

Bill C-22 was but a first step, providing for the creation of your all-party committee to make recommendations. My hope is that these consultations will result in change sooner, rather than later.

Saskatchewan is also moving forward with its proposed *Senate Nominee Election Act*, which it tabled in November.

With some exceptions, Northern and Eastern Canada also favour Senate reform.

The time for change is upon us. I am proud to say that the West is in a position to take the lead. I would like to state very clearly the impact of that would result from having all the Western provinces support the election of senators. Please let me remind you that some 24 members of the Senate of Canada come from the four western provinces—that's almost one-quarter of the Chamber. Electing a strong regional and numerical block of senators would send a powerful message to Ottawa and the rest of Canada, that reform and democracy are not only a possibility in the Senate, a key body in our Westminster Parliamentary tradition, but a fact. It would mean that *some* Canadians would have a real say about who would represent their interests in both Houses. I have no doubt that those who were not so represented would soon be calling for their voices also to be heard. Their provincial and territorial governments would be under increasing pressure to act.

But it takes more than the will of provincial and territorial governments to achieve an elected Senate. The federal government must also be interested. In Stephen Harper, Canada today has a government committed to Senate reform, including an elected Senate. The next Prime Minister may not be as committed to Senate reform as Stephen Harper. At this point in our history, the combination of a Prime Minister who sincerely believes in Senate reform and a critical mass of elected senators from Western Canada would create a force for change that would soon roll across the country. It would mean that Senate reform would no longer be ignored as some odd administrative shift on the fringes of our Parliamentary system, but be seen as the full democratization of Parliament. At a very practical level, it would mean that Western Canada would become the voice of democracy, legitimacy and accountability in the Senate, a body which is intended to represent the regional interests of our nation.

It is urgent that, regardless of the model that you choose, you act as quickly as possible while the window of opportunity is open.

And while it is urgent that you act, you must also be willing to show patience. It will be a dozen years before all of Manitoba's sitting senators retire.

Senator Spivak retires this summer, and I will retire four years from now.

Eight years from now, in 2017, three more shall retire.

It will not be until 2021, twelve years from now, that Manitoba's youngest senator will reach the mandatory retirement age of 75.

At that point, if you act now while the window for change is open, we would have reached the point where all of Manitoba's senators would be elected.

In closing, I would like to read a couple of lines from the preamble of Schedule D, *An Act to Establish and All-Party Committee to Make Recommendations on Electing Senators* of Manitoba's *Election Reform Act*, assented to on June 13, 2006:

- AND WHEREAS democracy is a *fundamental principle* of the Constitution of Canada;

Then let me skip down to

- AND WHEREAS if not abolished, the Senate should consist of democratically elected members rather than members appointed by a process involving patronage appointments.

These principles are at the heart of what you are doing.

Madam Chair and members of the committee, I ask you to move quickly on determining how Manitoba's senators should be elected not just because it is in Manitoba's best interests to do so, but because it is in the nation's best interest to do so.

Thank you.

## **Overview of Meech Lake and Charlottetown Accords**

### **Meech Lake Accord (1987)**

#### Senate Reform

Meech Lake would require the Prime Minister to choose a senator from a list of nominees provided by the provincial and territorial governments. Future constitutional change regarding powers of the Senate, or method of selecting senators, would require approval of all provinces and the federal government.

#### Other issues

- The federal government would protect bilingualism in Canada as a whole, while the Québec government would protect and "promote" the "distinct society of Québec."

- Provinces could opt out of new shared-cost programs without fiscal penalty.
- The federal government would negotiate agreements with a province, when requested, on immigration and aliens.
- It entrenched the Supreme Court as the highest court of appeal for Canada.

### Charlottetown Accord (1992)

#### Senate Reform

Senators could be elected in a general election, or by the provincial legislatures. It established six seats for every province and one for each territory, and allowed for future special seats for First Nations voters. The Senate could not defeat the government on a confidence motion or block the routine flow of legislation relating to taxation, borrowing or appropriation. Passage of a bill relating to francophone culture and language would require a Senate majority *and* a majority of francophone senators.

#### Other issues

- It gave provinces exclusive jurisdiction over forestry, mining, and other natural resources, and cultural policy. Policy would be harmonized in telecommunications, labour development and training, regional development, and immigration.
- It included a Social Charter which would promote health care, welfare, education, environmental protection, collective bargaining, and eliminate barriers to the free flow of goods, services, labour and capital.
- It included a Canada Clause, which would codify the values that defined the nature of the Canadian character. Aboriginal self-government was approved in principle.

Senator Terry Stratton

\* \* \*

Please accept this as my submission to the Hearings on Senate Reform

1. I strongly support the idea of an elected Senate
2. I do not support the idea of having an equal number of senators from each Province. I believe the Senate should represent the best interests of Canada

as a whole, and therefore representation should be based on population.

3. I do not support the idea of fixed terms for elected senators

4. I do support the idea of fixed terms for appointed senators

Yours truly

Robert H. Uchtmann

\* \* \*

#### Electing a Senate is The Wrong End of the Stick

A Submission to the Committee of the Manitoba Legislative Assembly Enquiring into the Election of Federal Senators in Manitoba

A provincially elected Senate cannot do what the advocates of electing senators intend. Despite the regional specification for senators in the Constitution of 1867 (and subsequent), the Senate was not conceived as a body to represent regions, let alone provinces. Its constitutional mandate was to be a watchdog upon The House of Commons to safeguard the new nation from what were perceived in 1867 as its probable excesses of popular democracy, hence to approve, or delay and amend, acts passed by the House of Commons.

At confederation in 1867, the MacKenzie and Papineau rebellions were only thirty years past. The War of 1812, when the Americans sought to annex Canada, only twenty-five years before that. The Fathers of Confederation created an appointed "upper" house as a bulwark against republican ideas which they feared might migrate up from the United States to infect a popularly elected House of Commons. An exclusively federal mandate. We really do not need that "sober second thought" any more.

The first Senate Reform proposal was made in 1874, seven years after confederation, for senate appointments by provincial premiers. Resource wealth in provinces east and west, undreamt of in 1867, to say nothing of Québécois national ambitions, have amply demonstrated the need for a federal House of Parliament that represents provincial interests. But the Senate can't do that, even if elected, without either combative negativism, threatening to stall Commons legislation unless it got its own legislation passed, or extreme constitutional modification into a body to serve provincial interests.

It would be simpler to retire the Senate and create the House of Provinces the advocates of a provincially elected Senate really want.

The foundation is there in the annual Premiers Conference, which has developed precisely because the provinces need to coordinate policies dealing with the federal government on trade issues, and the national application of the social responsibilities in provincial jurisdiction, like Medicare. It wouldn't matter whether Members of a House of Provinces were elected, delegated by provincial governments, or appointed by the Governor General or the Lieutenant Governors on the recommendation of the provincial premiers, as long as they effectively represented the people or governments of their provinces and provided effective national oversight of provincial interests and concerns.

Scrapping the Senate for a House of Provinces would be a constitutional amendment every provincial legislature could accept. They'd call special sessions to do it! And the federal government should be happy to have transfer payments for social programs off the table and a House of Commons able to pass legislation without senatorial second-guessing.

But a house of Provinces could not be the "upper" House of Parliament. The "Provincial Crowns" have authority only in matters defined as provincial jurisdictions, all else lies in federal jurisdiction. The "upperness" of the Senate, however, is important only at the opening of each Parliament, when what appears to be symbolism is, in reality, the legal foundation upon which Parliament rests.

In Canada, power does not arise from the people, as it does in the republic south of us. It descends from the Monarch, who retains, residually, the right to rule. The government of the day, chosen by the people, has no authority to govern until it is granted that right to rule, by the Monarch, and then it governs by permission of the monarch, and in the Monarch's stead and name. At the opening of each Parliament, the speaker of the House of Commons claims the "rights and privileges" of The Members, before the Royal Thrones, directly from the monarch's representative. A thousand years of history lies behind the fact that those rights are always granted. But the request must always be made! The "Provincial Crowns" can't properly host that necessary ceremony.

In practical terms, this would mean only that we would have to move the Thrones (one for Monarch, one for Consort) which represent that third element of Parliament, the Monarchy, and which now sit behind the Senate Speaker's chair (but, technically, not in Senate chamber), and conduct the opening of Parliament elsewhere. That cannot be the House of Commons. No Monarch has been allowed to enter the House of Commons since January of 1642, when King Charles I brought armed men to arrest five of its members.

Fortunately, we have The Hall of Honour, between the chambers of the House of Commons and the Senate, a location that would be a fully appropriate "Royal Hall" for the thrones, without even changing its name. What a tourist attraction that would become! The Hall of Honour would be an entirely appropriate place to hold the opening ceremonies of Parliament, for that legally necessary request and granting of the power to rule. There is room enough to seat all Members of Parliament for The Speech from the Throne with no standing. For other "royal" events, we could use the Governor General's residence.

Electing senators does not go far enough. It would no, could not, make the Senate the effective instrument the provinces need and the advocates of an elected senate really want. Create a House of Provinces that will do that, new, from scratch.

Ross Dobson

\* \* \*

I am writing in regard to Senate elections. What is there to discuss?

The people of Manitoba should be able to elect all their representatives in government. The election process should be just like our other elections, no partisanship but let the people of Manitoba decide in a free and open election.

I also hope for what has been called a Triple E. Western Canada has been short changed in Ottawa and anything that helps to fix that imbalance is good for Manitobans.

Give us the means to elect our senators and do it quickly.

Regards,  
Jon Phillips

\* \* \*

## Electing Senators in Manitoba

February 2009

### Issue

Over the past number of years the issue of how to reform the Canadian Senate has been discussed numerous times in various contexts. The federal government has committed to moving forward with Senate reform – the process now is to determine exactly how that should be done.

In response to that the Province of Manitoba established Manitoba legislative all-party committee is asking Manitobans how senators should be elected to represent the province in the Senate of Canada. A report with recommendations on how Manitoba senators could be chosen is expected by June 4, 2009.

### Background

The Senate of Canada is currently made up of 105 senators who are appointed to their positions by the Governor General of Canada, on the recommendation of the Prime Minister of Canada, and they serve until age 75.

The current make up of the Canadian Senate includes representation from the following parts of Canada

Québec	24 Senators
Ontario	24 Senators
Western Canada	24 Senators (6 each from BC, AB, SK, MB)
Territories	3 Senators (1 each from NWT, YK and Nunavut)
Atlantic Canada	30 Senators (10 from NS & NB, 6 from NFLD, 4 from PEI)

Based on political party affiliation, the make-up of the Canadian Senate is as follows:

Liberal	59
Conservative	38
Independent	4
Progressive Con	3
Non Aligned	1

The make-up of Manitoba's Senate representation is as follows:

	Party	Appointed	Retirement
Sharon Carstairs	Liberal	Sept 15, 1994	April 26, 2017
Maria Chaput	Liberal	Dec 12, 2002	May 7, 2017
Janis Johnson	Con	Sept 27, 1990	April 27, 2021
Mira Spivak	Ind	Nov 17, 1986	July 12, 2009
Terry Stratton	Con	Mar 25, 1993	Mar 16, 2013
Rod Zimmer	Lib	Aug 2, 2005	Dec 19, 2017

### Winnipeg Chamber of Commerce Recommendations

The legislative committee has outlined a number of questions that need to be answered to ensure they have the proper information in preparation for their final report

1. What method should be used to elect Manitoba senators?
  - The Winnipeg Chamber of Commerce would recommend that senators be elected through a process of proportional representation that would be based on the outcome of the results of the federal election.
  - This would mean that senators would not be directly elected and instead a slate of up to six senators would be identified prior to the federal election and then based on the outcome of the election a number of those senators would represent Manitoba in the Senate.
  - The make-up of the proportional representation would be based on the votes calculated in Manitoba and not for the entire country. For instance, in the last election, based on the results, and the Conservatives receiving approximately 50 % of the vote, they would receive 3 senate positions; the NDP with 30 % would receive 2 senate positions; and the Liberals, with the majority of the remaining votes, would receive 1 senate position.
2. Should senators be elected by proportional representation, or some other form of voting?
  - A form of proportional representation as outlined above is favoured by the Winnipeg Chamber of Commerce
3. How can we ensure that the election of senators will result in better representation of all regions of Manitoba?

- This is a challenging issue as there would likely be no appetite to increase the size of the Senate and therefore the number of senators from Manitoba would remain unchanged.
  - In addition, based on Manitoba's population, if you were to have senators representing specific ridings based on population, there would most likely be four senators representing the Capital Region and only two senators representing the rest of Manitoba.
  - The Chamber would suggest that all senators would represent the entire province of Manitoba.
4. Should senators be elected by ridings or by all Manitobans?
- The Chamber would recommend that senators represent the entire province of Manitoba and not individual ridings, as per the above reasoning.
5. In addition to the existing federal requirements for Senate nomination, should a potential candidate for Senate have to meet any other requirements in order to run for office?
- The Chamber believes that the current qualifications for those eligible running for Senate could be further strengthened, but has no specific recommendations in regard to a candidate's net worth of at least \$4,000 and the \$4,000 in equity in land that a candidate must have.
  - The Chamber does however recommend that the requirement that a candidate live in the home province or territory could be strengthened. It could be a provision that a potential senator must have a primary residence in Manitoba for a minimum of 3 to 4 years.
6. Should there be a limited number of consecutive years that a Manitoba senator can serve?
- The Chamber would propose that term limits for senators be three consecutive elections or a maximum of ten years in office.
7. How often should Manitoba senate elections be held?
- As mentioned earlier, there would be no actual election for Manitoba senators as this would be done in conjunction with federal elections.
8. Should the elections be held in conjunction with other elections?
- Yes, in conjunction with federal elections
9. How should advertisements and other public events be handled during a Senate election?
- This would follow the existing rules for federal elections
10. Should there be limits on expenditures and contributions for Senate elections?
- This would follow the existing rules for federal elections

Chuck Davidson  
The Winnipeg Chamber of Commerce

\* \* \*

Dear Honourable Members:

**Re: Senate Elections**

I fully appreciate being able to make a written presentation to the committee concerning the election of Senate members.

The Senate is a definite need in our form of government. It has served us well as a "second thought" in the process of making acts into law. Laws that are made by the elected members of Parliament and passed. It is then carefully scrutinized by an intellectual, unbiased, level-headed group of people called the Senate, which now is politically appointed.

I believe this "elected" Senate should represent the different areas of Manitoba—that is—the urban and rural areas—based on equal population representation based on the latest census. Federally, the number of senate seats should be based on population distribution. The constituencies should be congruent to the federal seat for members of Parliament for proper representations and less confusion.

These elections should be held every four years to coincide with municipal elections. But definitely they should *not* be tied to either the provincial or federal elections so that there would not be a political bias. The elections should be nonpolitical. A government monetary amount should be set aside for

Senate elections for each established constituency. Each "would be" senator seeking election would be responsible for collecting of "capped" donations from individuals—including him/herself. Donations *cannot* come from corporations, unions, political parties or other organizations or groups such as charities, churches, government-sponsored group, special interest groups, etc. Present senators would be removed of their responsibilities with the passing of the "Elected Senate" Act but would be able to run for election of senator if they so choose. They would not lose any of their "accumulated" benefits that they have earned under the present contract.

The length of term should be for four-year periods, with *no* maximum number of re-elections of members. These members should have no age restriction as long as they represent the area (that is they must reside in the area that they represent!), be Canadian citizens, be 18 years of age and have no criminal record.

The starting salary should not exceed that of the members of Parliament and then based on the length of service. There should be a "fair" pension plan. There will be travel accounts for travel to their respective constituencies and other acceptable expenses justified by chartered accountants. But there should be limited international travel as representations internationally should be the task of the members of Parliament.

Senators convicted of misconduct (criminal, misrepresenting the county, mismanagement of funds, etc.) will be removed by a committee established by the members of Parliament.

These are some of my suggestions and I thank you for taking them into consideration.

Yours truly,  
Jack Boyko

\* \* \*

Dear Senate Committees Branch:

I was away from Winnipeg when the public meetings to discuss the Senate were announced, and returned only this week.

My views about a Senate are simple. (1) It should be elected. (2) It should give Manitoba an equal representation with all other provinces, not be another "proportional" representative body. Without #2, Manitoba, and all small population provinces, will remain subservient to the big provinces.

James T. Teller  
PhD, PGeo, FGAC, FGSA

\* \* \*

I propose an age minimum for a senator to be 65. People of that age have experience and knowledge (at least they should have) to be elected to the Senate.

Also to only serve for ten years (maximum) or, if they miss too many meetings, be dismissed for cause.

It's too bad that the government in charge of the day does not appoint senators based on what they could contribute to the well being of the Senate but rather lean toward supporters of their political stripe, but that's life.

Mrs. Doran Sewell

\* \* \*

Any proposal suggesting Senate reform should be prefaced by an agreement between the provinces that they will all buy into the need and desire for Senate reform. Constitutional amendments would in all likelihood be required in any meaningful reform to the Senate. Without a desire by all of the stakeholders to actively promote Senate reform, any further proposals for constitutional amendments will continue to fail, as have the 28 major proposals since 1970.

While it is understood that Manitoba has established this committee to consult with Manitobans on how their senators should be elected, it is the belief by this group that senators should continue to be appointed. Senate nominees should be appointed by an all-party committee with proportionate representation based on their numbers in the legislature. Appointment by a committee that could travel throughout the province similar to what this committee is doing, hearing from various candidates who might be either nominated or who may have put their name forward, would be a process that would be both transparent and accountable to the general public. We support the continued appointment of senators for a number of reasons. The costs involved in the election process are tremendous, and when the election turnout is only in the range of 52 percent, is it fair to say that nearly half of the voting public has no interest, or has lost faith/interest in the election process? Are the electors going to do their homework and nominate candidates who will give

the proposed bills the appropriate "sober second thought," the careful review process that is expected of them? At the same time we believe that the appointments process in the past has, on the whole, successfully reflected the demographic diversity of Canada. Indeed, with more females appointed to the Senate than are currently elected to the House of Commons, one could argue that the appointments process has proven to be a more effective means of ensuring equity amongst under-represented groups.

This group feels that senatorial terms of eight years are appropriate. A Senate seat should not be a person's career path. Yet, in reviewing the terms of some of the current senators, that is exactly what it has become. Thirty years is not an uncommon number for a current senator to sit. This is the number of years in the workforce that is put in by many teachers, nurses, firemen. Although we do believe that a minimum age is certainly a requirement, and that the life skills that are learned in the course of a productive career are important, we do not believe that a Senate seat should be reserved for retirement.

This group feels that the current size of the Senate is adequate at 105 members. However, it is felt that the Senate has strayed far from its original purpose to provide regional representation. Traditionally, upper houses worldwide do not use representation by population as a primary criterion for member selection. The intent is more to achieve a balance of regional interests. This can only be achieved if we truly do have representation from a broad geographical background. The legitimacy of the upper house can be determined by its representation by territory, not population. In this way, it is hoped that senators would be accountable to their regions as opposed to a particular political party. Our proposal therefore is for a Senate comprised of 10 senators per province and five from the territories, with each candidate running as an independent.

It is the group's belief that a Senate seat should be open to every qualified Canadian. We also believe that no seats should be designated for any specialty body, gender, ethnic, or disenfranchised groups. The provinces should all strive for diversity in their selection of nominees for appointment to the Senate.

We feel that the Senate continues to fulfil a need in Canadian politics, but in the eyes of the Canadian people there is seen a strong need for reform. From Wikipedia we have learned that there have been 28 major proposals for constitutional Senate reform

since the early 1970s, and all have failed. Four provincial premiers have voiced their support for the abolition of the Senate. With continued opposition from Ontario and Québec to Senate reform, it may be difficult to achieve. However, reform is preferable to abolition.

Women & Political Issues

B. Coombs

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Greetings,

My name is Charles W. Morrison, and I have been involved in a local school board for the past decade. I am writing you today with my personal opinions regarding the election of senators in Manitoba. I will be using the 10 questions that were asked on the Web site page entitled, "Electing Senators in Manitoba - Background and Context."

**1. What method should be used to elect Manitoba senators?**

Manitoba senators should be elected in one large constituency using cumulative voting. I propose that all Senate seats be elected using a form of proportional representation (PR) called cumulative voting, in order to: increase voter turnout through minority inclusion, provide increased diversity, spark innovative decision making and counteract the negative effects of the first-past-the-post (FPTP) system of voting.

Here is a brief description:

- All of Manitoba is one electoral district with 6 seats.
- Each elector has 6 votes to distribute to candidates in increments of 1.
- Each elector can place their 6 votes on 6 candidates, 6 votes on 1 candidate, or any combination totalling up to a maximum of 6 votes.

• Ballot would look like this:

	1	2	3	4	5	6
• Candidate A	( )	( )	( )	( )	( )	( )
• Candidate B	( )	( )	( )	( )	( )	( )
• Candidate C	( )	( )	( )	( )	( )	( )

On election night, the votes are tallied like any other first-past-the-post election, and the top 6 candidates are deemed elected. One of the largest criticisms of

PR is that during election night it is hard to explain the tally, and how someone was actually elected. With cumulative voting, the tally is the same as FPTP. It is for this same reason that PR advocates consider cumulative voting a semi-proportional system and not true PR.

There is no need to precisely duplicate the current federal parliamentary electoral process. In order to provide decision making diversity, it is preferable to have long range views independent of current political situations. We already have MPs with close links to their constituencies, and so the requirement of everyone having their own representative is already fulfilled.

I believe that innovation comes from minority positions - ideas ahead of their time, ethnically diverse perspectives, and fresh thinking. The system of first past the post, from nomination to election to caucus, is based upon majority rule. Therefore FPTP has the effect of moderating innovative thinking. With the House of Commons, we already have FPTP. Let's balance that with innovation from minority positions. Strong minorities is what has made Canada strong.

Cumulative voting allows sizable majorities to elect representatives from their own minorities, whether ethnic, geographic, or ideological minorities.

Political scientists talk about a threshold of exclusion, that is, a point past which minorities must reach in order to elect a representative. With FPTP, it is 50 percent plus one. With cumulative voting, in Manitoba, it would be 14.3 percent. That means that a northern, rural, or ethnic minority with 14.3 percent of the vote would be able to elect its own representative, provided that they concentrated all their votes on that one candidate.

The constituency system tends to reward geographically dense majorities, and excludes dispersed minorities. How then do we include important minorities in our decision making, whether immigrants, Aboriginals, youth, or others?

Cumulative voting is said to have diverse results, including results that are:

- politically diverse,
- socio-economically diverse,
- gender diverse, and
- minority diverse.

Cumulative voting is used in a variety of places in the world, including corporate governance in the United States, and school boards in Texas.

Cumulative voting is a compromise between hard to understand PR systems and our traditional FPTP system. It is a blend of the best, that is about fairly representing all members of our society in our assemblies.

While I have proposed this idea's application, there is much more information available on the benefits and research on cumulative voting and its characteristics versus FPTP. I believe that, together, a cumulative voting system balanced with a FPTP system can prove valuable in arriving at the best possible decisions. I hope that this proposal sparks further reading and research.

## **2. Should senators be elected by proportional representation, or some other form of voting?**

Senators should be elected using a form of proportional representation known as cumulative voting.

## **3. How can we ensure that the election of senators will result in better representation of all regions of Manitoba?**

Under cumulative voting, Manitobans will be able to place up to six votes on from one to six candidates. They are able to place those six votes on a single candidate. Tactical voting under cumulative voting results in geographic minorities having the opportunity to elect a proportional number of senators. Rural, northern and ethnic minorities would have the opportunity to elect one of their own.

## **4. Should senators be elected by ridings, or by all Manitobans?**

Senators should be elected by all Manitobans in one riding using cumulative voting. Cumulative voting works best with between 2 and 9 members per riding, with more exaggerations near the extremes. It works best with about 6 members.

## **5. In addition to the existing federal requirements for Senate nomination, should a potential candidate for Senate have to meet any other requirements in order to run for office?**

I believe that there should be a residency requirement for senators. Something in the order of 5 to 7 years residency in Manitoba immediately preceding the election period. This is primarily to

disqualify those who are not currently familiar with our province.

**6. Should there be a limited number of consecutive years that a Manitoba senator can serve?**

I believe that the essential characteristics of a senator are: a commitment to make Manitoba a better place; a commitment to live here; having a long-range vision for Manitoba (50 to 100 year view); currently understand the people of our province; and a personal commitment to ongoing study and research. There is also a learning curve prior to achieving optimal effectiveness. I have no strong opinion on term limits, but if there were a requirement I would favour 12 years.

**7. How often should Manitoba Senate elections be held?**

I have no strong view on frequency of elections, but it seems reasonable to hold them with another election approximately every four years.

I do believe strongly that by-elections should be eliminated. This can be achieved through cumulative voting. Cumulative voting establishes a ranking of preference by all Manitobans. Senators should be sent to Ottawa in that order, during any transition phase. During normal elections, the top 6 would be sent. As well, non-top 6 senatorial candidates, such as number 7, number 8, and number 9, should be considered 'in waiting'. If any senator is unable to complete their term of office, the next 'in waiting' senator would be selected. Under this situation, there would also need to be a tie-break mechanism in the case of ties. I prefer order of nomination, to a draw, or by-election in the event of a tie.

**8. Should the elections be held in conjunction with other elections?**

For financial reasons, these elections should be held with other elections. I am uneasy about including them with either municipal or federal elections, and so provincial general election alignment is preferred.

There may be two situations to deal with: normal elections and transitions. Under a transition situation, the next possible general election might be preferred, whether federal, provincial, or municipal.

**9. How should advertisements and other public events be handled during a Senate election?**

Advertisements and public events should be allowed.

**10. Should there be limits on expenditures and contributions for Senate elections?**

There should be limits on expenditures equal to 2 to 3 times that of a federal constituency. In a perfect world, senators would finance their own campaigns with no contributions allowed. However, in the interest of transparency, contributions must be accounted for. Individual candidates should have to match contributions (50/50) out of their own funds. The result is that candidates would fund from 50 percent up to 100 percent of their own campaigns. The result is to disqualify candidates not truly committed to the long-term welfare of Manitobans.

Additionally, I continue to be in favour of a random draw order to candidates' names on ballots, similar to the current municipal practice.

Finally, this committee's own mandate requires proportional representation from all parties. Thus, PR is an established principle for good decision making, even within the parliamentary system. For me, diverse opinions lead to good decisions. And, while it is apparent that I have given some thought to this matter, I do understand that the official government position is to abolish the Senate, and therefore will lose no sleep over the outcome. In light of that, maybe we should give this cumulative voting thing a try. Manitobans are known for innovation, why not election innovation?

Charles W. Morrison  
Portage la Prairie

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How should Manitoba elect senators

We are in favour of an elected senate. Qualifications should be similar to the current requirements. We are in favour of term limits. There should be limits on expenditures and contributions for Senate elections. There should be an age requirement for retirement.

These are our views on some of the issues to be discussed by the committee studying Senate reform.

William J. Alexander and Joyce P. Alexander

The Legislative Assembly of Manitoba Debates and Proceedings  
are also available on the Internet at the following address:

**<http://www.gov.mb.ca/legislature/hansard/index.html>**