

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

Chairperson
Ms. Erna Braun
Constituency of Rossmere

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Ninth Legislature

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

Saturday, May 2, 2009

TIME – 2 p.m.

LOCATION – Norway House, Manitoba

CHAIRPERSON – Ms. Erna Braun (Rossmere)

VICE-CHAIRPERSON – Mr. Ralph Eichler (Lakeside)

ATTENDANCE – 6 QUORUM – 4

Members of the Committee present:

Ms. Braun, Messrs. Eichler, Faurchou, Jennissen, Nevakshonoff, Whitehead

WITNESSES:

Mr. Nick Saunders, Norway House Cree Nation

MATTERS UNDER CONSIDERATION:

Consulting with Manitobans on Senate Elections

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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.

Our first order of business is the election of a Vice-Chairperson. Are there any nominations for this position?

Mr. David Faurchou (Portage la Prairie): I'd like to nominate the honourable Member for Lakeside (Mr. Eichler).

Madam Chairperson: Thank you. Mr. Eichler has been nominated. Are there any further nominations?

Seeing none, Mr. Eichler is our new Vice-Chairperson. Thank you.

Before we go any further, we would like to extend our sincere thanks to Norway House Cree Nation for welcoming us here today. We appreciate your hospitality.

Let's go around the table and let the members of the committee introduce themselves.

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

Mr. Gerard Jennissen (Flin Flon): Gerard Jennissen, the MLA for Flin Flon.

Mr. Tom Nevakshonoff (Interlake): Tom Nevakshonoff, MLA for the Interlake, and a pleasure to be back in Norway House after a 35-year hiatus.

Mr. Frank Whitehead (The Pas): Good afternoon. Frank Whitehead, MLA, The Pas.

Mr. Faurchou: A very good afternoon. David Faurchou, MLA for Portage la Prairie.

Mr. Ralph Eichler (Lakeside): Good afternoon. Ralph Eichler, MLA for Lakeside, and I'm the Vice-Chair of the committee.

Madam Chairperson: Thank you. We have a number of presenters registered to speak this afternoon 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 this afternoon, please register with staff at the entrance 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 allowed for questions from committee members.

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

The proceedings of our meetings are recorded in order to provide a verbatim *Hansard* 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 the signal for the *Hansard* recorder to turn the mikes on and off.

Thank you and we will now proceed with presentations.

I will now call on Councillor Nick Saunders from the Norway House Cree Nation. Thank you very much, and you may proceed.

Mr. Nick Saunders (Norway House Cree Nation): Good afternoon, committee and council. Tansi.

I am here speaking on behalf of Chief Marcel who couldn't make it today. I've prepared a very brief presentation here.

I'd like to welcome you to Norway House Cree Nation. I should like to thank the Special Committee on Senate Reform for attending here in Norway House Cree Nation to discuss electing senators in Manitoba. I commend that this all-party provincial panel has attended here in the north and will spend time on reserve to hear our submissions. I hope you find your stay in Norway House Cree Nation enjoyable.

Before I address the issue of electing senators in Manitoba, I would like to state that I question the basic premise of the focus of this panel. As you know, the Senate is based on the British North America Act and the patriated Canadian Constitution. Electing senators in Manitoba would necessarily require reopening the Constitution in order to reform the Senate. Needless to say, reopening the Constitution would require consultation with Aboriginal peoples as per section 35. Authority to actually consult with First Nations and other Aboriginal peoples would lead to a constitutional crisis as we saw in the Meech Lake Accord and the Charlottetown Accord. The lack of consultation as to whether or not the Constitution ought to be reopened leads me to oppose the need to look at electing senators in Manitoba.

The question of this panel that ought to be addressed is whether or not the Senate should be abolished. As a member of a First Nation and the elected councillor of Norway House Cree Nation, I recognize that the Senate is a discriminatory institution that requires that in order to become a senator one must own property. The First Nations band system is based on collective ownership rather than private ownership. Therefore, many First Nations members would be ineligible to become senators. Such requirements reflect archaic and colonial practices that have no place in Canada in 2009.

It is unclear what serious sober second thought actually gets done at the Senate. Aboriginal peoples and all other Canadians already have their democratically elected representatives in the form of their members of Parliament. What is the purpose of electing another body to undermine the role of

Parliament? Indeed from First Nations' perspectives, the democratically elected government representatives are the individuals and collective that represents the Queen who signed our treaties. Having another elective body when it comes to the fiduciary duty and constitutional obligation of the Queen's representatives undermines the democratic intent of what Parliament is supposed to do.

If we actually truly address the needs for diverse representation in our elected institutions we ought to look into the question of electoral reform not giving in, in effect, to institutions such as the Senate, which is really an anachronism to days gone.

Canada has a proud history in advancing democracy and good government both here and abroad. Electoral reform should therefore necessarily support the existing federal electoral institution, Parliament, and somehow promote the interests of not only First Nations and other Aboriginal peoples, but also, quite frankly, participation and representation of women in Parliament. To this end, the context of electoral reform, attention ought to be given to the recommendation of the 1996 Royal Commission on Aboriginal People that an Aboriginal people's parliament be created. Additionally, voluntary party agenda quotas and legal agenda quotas could be considered.

In closing, while I appreciate your presence here today, I reiterate that the focus of the committee violates Canada's constitutional duty to consult. Additionally, the Senate discriminates against Aboriginal peoples and should be abolished. Ekosani. Thank you.

Madam Chairperson: Thank you for your presentation.

Mr. Eichler: Thank you, Councillor Saunders, for your presentation. I just have a question for you, and I guess the first one was, did you draft the presentation or were you just reading it for the Chief of Norway House?

Mr. Saunders: I assisted with the draft, but he drafted the final draft and I read it as he.

Mr. Eichler: Thank you. The reason I ask is sometimes when you ask questions and somebody is presenting on someone else's behalf it's unfair to put him in a spot. But I do have a question in regard to abolishing the Senate. You made reference several times regarding the act having to be opened up; even if the Senate was to be abolished, the act would still have to be opened up and we'd still have to have

consultation on that process. Would you agree to that?

Mr. Saunders: Yes, in order for it to be abolished, it would have to be opened up and consultation would have to happen.

Mr. Jennissen: Thank you, Councillor Saunders, that was really a great presentation.

What are your views if there is electoral reform, and let's say there was an elected Senate, do you have a point of view on how Aboriginal people would be represented? Let's say if there were six senators, should one of them be Aboriginal or northern? How would that process go? I know you're suggesting abolishing it, but let's say if it wasn't, would you consider another point of view, that is, a certain number or at least one of the senators would have to be Aboriginal for Manitoba?

*(14:10)

Mr. Saunders: I have not considered that based on our position at this time so I cannot answer that question.

Mr. Faurchou: Mr. Saunders, I appreciate your attendance this afternoon.

The other meetings we've had throughout the province, there has been a lot of suggestion that, yes, the House of Commons is elected on the basis of population, and the Senate is, today, supposed to be representing regions. On that premise then, would you provide us with your thought patterns as to whether we should identify regions regardless of population for representation in the Senate? In other words, even though Winnipeg perhaps has greater than half the population of Manitoba, that doesn't necessarily mean they should see three of the six senators elected in Manitoba, perhaps one from the urban area of Winnipeg and then basically the other five senators representing regions throughout the province, two in the north, two in the southwest, and one in the east perhaps. Have you given any thought as to what regional representation you'd like to see?

Mr. Saunders: I've given some thought to that in terms of region over population. Because I'm speaking on behalf of the chief, I'm hesitant to answer that question so I think I'll just pass on it, if that's all right.

Madam Chairperson: Are there any further questions?

Mr. Whitehead: Good afternoon, Councillor.

You made some very interesting observations, I guess, the relationship with First Nations, Canada, and the Province as well. You are correct in stating the way the Indian reservations are designed and the land designated on behalf of Indians, one individual cannot own property within those boundaries under the present system, but there is also another alternative. The First Nations Land Management Act comes to mind right away where land can be designated for the use and purpose of individuals within that reserve, that have signed on to that particular act. Opaskwayak Cree Nation is one of those that went that way.

So we're now embarking on a new land management regime that is controlled by the people themselves, not by the Minister of Indian Affairs, not by Indian Affairs. We signed ourselves out. Section 53 and 60 of the Indian Act doesn't apply to us anymore.

By doing that, the thinking shifted. The thinking of the people shifted from dependency on the act, on the minister, to make decisions on life matters, social economic development, et cetera. So I'm wondering if you had some thoughts about how the First Nations can become more involved in the political mainstream, for example, because there is new legislation coming into effect that gets people more involved in the system itself.

For us, I think the First Nations Land Management Act has helped the young people, for example, to be more thinking about the future: investment, land, housing, looking after their own, and so forth. For me, that's important, the mind frame, the thought behind the whole thing, how we ended up with the act itself.

I guess the question I have is: Would you have any suggestions in how else we can bring the First Nations people to the table, be more active in the political arena, for example, national, provincial? Maybe there's new initiatives we need to look at. You know, we're talking about the Senate elections, and for myself, I'm leaning towards abolishment of the Senate. I think, as far as First Nations peoples are concerned, it's not on the top of their list as far as priorities are concerned. So how do we get to that point where we can become part of that process? That's a question I've always asked myself and something for us to think about, I think. We're so darn ruled about other things—housing and infrastructure, health, and so forth. How is Senate

reform going to help? So that's a question that the people have, that I represent, anyway.

But, having seen the thinking shift after we abolished certain parts of the Indian Act, I started seeing more involvement, more participation, more this is making it at their level, the younger people, for example. Then I thought there was something there, you know, we need to build on.

Mr. Saunders: Yes, I agree.

You mention there are so many difficult obstacles that Aboriginal people face in terms of housing, which is almost at crisis level in our community, health care, education. All of this stuff is so much at the forefront, that stuff like Senate reform and how that could positively affect us is kind of pushed down to the bottom so that people are not even aware.

In terms of, if I understand correctly, stepping away a little bit from the Indian Act, making their own decisions in terms of land management so that it doesn't apply to Aboriginal people is, I think, a step in the right direction. However, how you get to a place where all Aboriginal people are more involved is a tall order at the moment, and I think a lot more thought would have to be given on my part before I can suggest recommendations.

I was only informed of this meeting recently, to come here and speak here, so I haven't actually had much time to turn my mind to what are the positive aspects in terms of any kind of Senate reform. I know, in the past, there hasn't really been too much advancement at any kind of Senate reform in Canada, going back in the '60s. Quite a while, there's been nothing.

So, if I could just maybe ask you to reiterate your question a little more concisely, maybe I can address it better.

*(14:20)

Mr. Whitehead: You know, one of the things I found over the years, trying to change things, it's very hard to change conditions in communities where they've been so used to people making decisions for them, for us. So what we did was we educated the young people right in the schools, right from as soon as they could understand, right up when they left grade 12, so they could understand why it's important to know about parliamentary procedures, for example, how the country works and how the system operates and things like that. Only then can

the other people begin to understand why it is necessary to be involved.

Essentially, I guess, that's the question I have. How can we do this more expeditiously? It's a little bit slow right now because, to be frank with you, our people—we just don't seem to have—it doesn't apply. We have to try and make it apply. So how do we do that?

You're a young person. I know you're a councillor. You're in a position of trust and responsibility in the community. How can we get people involved? Take a look around us, there's not very many.

Mr. Saunders: I think the key with any of that is education. Like you said, start them when they are young. How to do it expeditiously is—I think in the end it comes down to dollars and cents; you have to have the money for the programming to get the information out. I'm not entirely sure how you would go about that. I don't have any answers today. It is a good question and I think it's important that the question has been posed.

Mr. Nevakshonoff: Thank you, Councillor Saunders, for your presentation.

You made reference to the Senate as it's currently made up as being discriminatory based on property. So, if there were to be an amendment to the Senate, obviously, that's one thing you would like to see eliminated. You did say that you had just put this together and I don't want to put you on the spot and I don't want to be repetitive, but do you think there's any way that we should maybe designate, say, one of the six Senate seats in Manitoba specifically for an Aboriginal person? Do you have any thoughts as to how that individual might then be chosen?

I'm thinking when I was on a parliamentary exchange once, one of the speakers from New Brunswick actually told us what they do with the speakers in the British House of Parliament. When a Speaker is chosen, then they have an understanding amongst all the other legislators that in the subsequent election, they will not run candidates against them. He will stand unopposed and automatically be re-elected as Speaker for a second term on the understanding that after that second term, he's appointed to the House of Lords. So that's kind of an appointed style.

Do you think maybe something like that would apply, say, from the Grand Chief-type perspective, Assembly of Manitoba Chiefs' Grand Chief should

be subsequently appointed to the Senate or some type of an electoral system? I guess my original question is: Should one of the seats be designated toward a First Nations person?

Mr. Saunders: Again, I have to say that I'm hesitant to make any sort of recommendations on the basis that our position is that it should be abolished. To step away from that and to start saying, well, if we can't do that, then maybe we can tweak it this way. I don't think I'm in a position to do that right now. So I'm afraid I can't answer your question.

Mr. Nevakshonoff: Point of information. Our position, as New Democrats, and our Premier (Mr. Doer) has said it many times, his preferred option is to abolish it. Just so that's clear on the record. Thank you.

Mr. Faurshou: Councillor Saunders, do you believe that if there was additional time you could go back to council and chief and perhaps answer some of our questions that we pose to you here today more definitively if you were provided with more time? Are you interested in more time to consider the questions we've asked this afternoon?

Mr. Saunders: Well, I would always welcome the chance to be better prepared. So, if the opportunity is there to be given more time to think about the questions that were posed today and what our position would be to that, then, yes, that would be agreeable.

Mr. Faurshou: In light of Councillor Saunders' response, I would like to ask leave of the committee that we consider extending the opportunity for a written submission to the committee in light of not only response but, as alluded to, perhaps there was a lack of notice in order for preparation for this meeting. Would you be prepared for a motion from committee, or can we do it by verbal leave or perhaps a week's extension for a written submission?

Madam Chairperson: Is there leave of the committee to give a one-week extension to next Saturday for a written submission?

Mr. Nevakshonoff: Yes, maybe I would also suggest then that the minutes from this hearing today be printed out and supplied to them so that they can actually look back over the transcript and address it fully in that manner. So if we could expedite that as quickly as possible.

Madam Chairperson: My understanding is that if we expedite the *Hansard* production of this meeting,

it would not necessarily be able to include the responses of the written submission in the *Hansard*. So it's kind of a technical issue that we have facing us if we have the *Hansard* available for Councillor Saunders to respond to.

Mr. Eichler: I have no problem with going with a week, but I think *Hansard* should go ahead as proceeded here today, and the written presentation can be held in committee. If we decide at that point we want it included, we can do it at the committee level rather than having to hold it up now. I think that would make it a lot cleaner. If that's all right with the rest of the committee, I think it would be a lot easier.

I am very concerned about the deadline, though. We have responsibilities to get our report in to the Legislative Assembly. So I think that next Friday would kind of be the latest that we should be able to include any submissions outside of what we've heard here today.

Mr. Jennissen: Sorry, basically it was the same question that Mr. Eichler was just addressing. I was wondering what the deadline was. I think it's June sometime. But whether another week or two would make a big difference, I don't know.

Certainly I look forward to getting as much information as I can, and Mr. Saunders is wanting a little bit more leeway, I think, for information in talking to the chief and others. I think it would be a wonderful idea to get some feedback. If I knew when we actually have to have the report in and how long that would take, then we could work backwards and say, well, you have a week or two weeks, or whatever. I'm not sure if that's possible.

Mr. Saunders: I apologize for the inconvenience. I was only asked to come to speak to this last night at about midnight, so I'm sorry if I'm a little unprepared.

* (14:30)

Madam Chairperson: That's fine, Councillor Saunders. So my understanding from the committee is that we are prepared to give leave for a written response to some of the questions that arose today to be received by Friday. Is that in agreement with the committee? [*Agreed*] Thank you.

Mr. Saunders: Will I be given a copy of the record, or do I have to wait for *Hansard*?

Madam Chairperson: I've just been informed that you will get an e-mail as soon as possible of the transcript.

Mr. Faurschou: Yes, I was just wanting to follow up on the Member for the Interlake and the point taken that at other committee hearings there had been a suggestion that, as in your presentation, that we continue with appointment to the Senate based upon recognition of the diversity of the population and to attempt to do that. You've made that point in your presentation, but also it has been suggested that First Nations be considered for one of the six senatorial positions.

Do you feel that, as a councillor, as an elected official, that potentially should be a consideration that all First Nations could collectively elect a nominee for appointment to the Senate?

Mr. Saunders: I'd like to just note the question and I will respond to that in my written response. He's not going to get around me.

Madam Chairperson: Thank you. Seeing no further questions, Councillor Saunders, we thank you for your presentation.

Are there any other persons in attendance who wish to present? I'm wondering if—

Mr. Eichler: Madam Chair, I'm wondering if we could seek leave to take a short break for 15 minutes and have us—maybe freshen up our waters.

Madam Chairperson: Is the committee in agreement to take a 15-minute recess? *[Agreed]*

The committee recessed at 2:32 p.m.

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The committee resumed at 2:47 p.m.

Madam Chairperson: If I could call the committee to order again, we've had our 15-minute recess, and seeing no further speakers in the audience, the hour being 2:47, what is the will of the committee?

Mr. Eichler: Committee rise.

Madam Chairperson: Thank you. Shall the committee rise? *[Agreed]*

The committee has risen.

COMMITTEE ROSE AT: 2:47 p.m.

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