

**Fourth Session - Thirty-Ninth Legislature**  
**of the**  
**Legislative Assembly of Manitoba**  
**Standing Committee**  
**on**  
**Legislative Affairs**

*Chairperson*  
*Mr. Daryl Reid*  
*Constituency of Transcona*

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

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

**Wednesday, March 10, 2010**

**TIME – 6 p.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Mr. Daryl Reid (Transcona)**

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

**ATTENDANCE – 11 QUORUM – 6**

*Members of the Committee present:*

*Hon. Mr. Blaikie, Hon. Ms. Howard, Hon. Messrs. Selinger, Struthers, Swan*

*Ms. Brick, Messrs. Derkach, Eichler, Goertzen, McFadyen, Reid*

**APPEARING:**

*Mr. Kevin Lamoureux, MLA for Inkster  
Mr. Richard Balasko, Chief Electoral Officer,  
Elections Manitoba*

**MATTERS UNDER CONSIDERATION:**

*Annual Report of Elections Manitoba for the year ending December 31, 2003, including the conduct of the 38th Provincial General Election, June 3, 2003*

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

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

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

*Annual Report of Elections Manitoba for the year ending December 31, 2007, including the conduct of the 39th Provincial General Election, May 22, 2007*

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

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

Mr. Swan had his hand up first.

**Hon. Andrew Swan (Minister of Justice and Attorney General):** Yes, I nominate Mr. Reid.

**Clerk Assistant:** Mr. Reid has been nominated. Are there other nominations? Hearing none, Mr. Reid, will you please take the Chair.

**Mr. Chairperson:** Thank you to members of the committee. I'm honoured to be your Chair.

Our next item of business is election of a Vice-Chairperson. Are there any nominations?

**Hon. Jennifer Howard (Minister of Labour and Immigration):** I would nominate Ms. Brick.

**Mr. Chairperson:** Ms. Brick has been nominated. Are there any further nominations? Seeing no further nominations, Ms. Brick has been nominated as Vice-Chairperson.

This meeting has been called to consider the following annual reports of Elections Manitoba: for the year ending December 31st, 2003, including the conduct of the 38th Provincial General Election, June 3rd, 2003; for the year ending December 31st, 2004, including the conduct of the Minto and Turtle Mountain by-elections, June 22nd and June 29th, 2004; for the year ending December 31st, 2005, including the conduct of the Fort Whyte by-election, December 13th, 2005; for the year ending December 31st, 2006; and for the year ending December 31st, 2007, including the conduct of the 39th Provincial General Election, May 22nd, 2007.

Before we get started, are there any suggestions from committee members on how long you wish to sit this evening?

**Mr. Swan:** I believe, Mr. Chair, it'd be fair to sit until 10 o'clock or before that, if the business of the committee is finished.

**Mr. Chairperson:** It's been recommended to the committee that we sit until 10 o'clock or until the business of this committee is finished, if it happens to be a prior hour. Is that agreed? *[Agreed]*

Are there any suggestions from committee members on—in which order you wish to consider the reports that I have previously mentioned?

**Mr. Swan:** It's become that the tradition that we consider the reports globally and, hopefully, we do that with a view to passing one or more reports at the end of the evening.

**Mr. Chairperson:** Is that agreed?

**Mr. Kelvin Goertzen (Steinbach):** I agree with the global portion of the statement by the minister, yes. We'll review with them globally.

**Mr. Chairperson:** Is it agreed by committee members that we review the reports in a global fashion? *[Agreed]*

Does the honourable First Minister wish to make an opening statement, and would you please introduce your officials in attendance here this evening—if you know them.

**Hon. Greg Selinger (Premier):** Well, I believe they're officials that are officers of the Legislature, not my officials. I'd like to correct the record on that.

But, as I understand it, we have our Chief Electoral Officer, Richard Balasko; and we also have Shipra Verma, the Deputy Chief Electoral Officer; and Mary Skanderbeg, the manager of corporate operations, and, as you know, Mr. Chairperson, these folks are officers of the Legislature and report to the Legislature. So I think we should be clear about that.

**Mr. Chairperson:** Okay. Do you have an opening statement?

**Mr. Selinger:** Yes, I do.

Thank you. I thought I'd take a little time in an opening statement to just to review some of what's been accomplished. As this is my first meeting in this role, it's also a useful summary for myself.

And, first of all, I'd like to extend my thanks to Richard Balasko, who has served our Province since 1990, and throughout this time he has overseen five elections and, as he moves into retirement on the next phase of his life, we wish him all the best for all the work he's done on behalf of Manitobans, who have a democracy that functions effectively and in the best interests of the citizens of the province of Manitoba.

\* (18:10)

As Manitoba's Chief Electoral Officer, Mr. Balasko's been entrusted with the crucial yet often

thankless job of ensuring that electoral process is free and fair. That elections should be free and fair is a right for which people fight and die each day in countries across the globe. Though we in this room will also often argue over the details of our electoral process and, make no mistake, the details are important. What we cannot dispute is that we are fortunate and have been elected and entrusted by the people of Manitoba to discuss these issues on their behalf. We are also fortunate that we can meet, as we are today, and discuss ways in which our electoral process can be made to function better. It is, after all, through this process of discussion and debate, this coming together of ideas and perspectives that we will make the voices of our constituents stronger.

Since coming into office, our government has taken a number of steps to modernize and enhance the democratic process in Manitoba. These efforts have been built on the principles of fairness, enhancing transparency, accountability and equality. First of all, access to voting. Once such way that we have worked to promote these principles is by introducing legislation that allows for greater access to voting.

We have made changes to The Elections Act and the elections financing act that require employers to give unpaid leave to employees who are candidates, election officials or designated volunteers working for political parties. We have also extended absentee voting to students and public employees who are outside the province, and we have provided dedicated polls within large apartment blocks so residents don't have to leave to vote. In addition, polls now open an hour earlier, at 7 a.m. on election day to allow voters more time to vote on the way to work. Restrictions surrounding advanced polling have also been removed so that anyone can vote in advance for any reason, and we have increased the number of locations of advanced polls and the days they can be open.

Also, we have legislated the creation of super polls in malls, and by super polls I don't mean super politicians, I mean polls where people can go and vote. So, people can vote in advance in convenient locations and have improved access to voting locations in rural and northern areas. With this improved access, residents in a community won't travel more than 30 kilometres to vote in advance.

These changes to advanced voting were well received. In the '07 election, more than 42,000 voters cast ballots at the advanced polls, compared with

18,762 in 2003, in more than doubling. Advanced voting accounted for 12 percent of votes cast, compared with 5 percent in '03 and the '99 elections. We believe that the more accessible voting is, the more the result at the end of the election day will reflect the will of the people of our province.

With respect to greater transparency, we believe that this is important to the political process and the political parties that participate in it. We now require elected officials to disclose additional salaries they receive from a party; require caucuses to file an annual financial report with respect to special allowances received; require lobbyists to register and disclose who they are lobbying and the techniques they are using; and have made it law that any loans received by a candidate be filed with the CEO of Elections Manitoba immediately, while also restricting loans from friends and family to \$3,000.

In order to further improve transparency, we have established an independent Commissioner of Elections to receive and prosecute complaints regarding breaches of elections legislation. Through the establishment of compliance agreements and the power to seek injunctions during an election, the Commissioner of Elections has been provided with greater options to deal with infractions of the act. These measures enable the commissioner to deal with minor infractions in a more effective way.

The addition of compliance agreements and injunctions parallel federal provisions that resulted from a recommendation by a royal commission. Both Saskatchewan and Nova Scotian election officers have recommended the institution of compliance agreements in recent reports. Compliance agreements caution letters and all court proceedings are to be made public. Additionally, the commissioner has been given the discretion to comment on investigations where she or he believes it is in the public interest.

With respect to fairness in elections, it's important that there be a level playing field today as much as it has ever been. We have banned union and corporate donations and post a 3,000 annual limit on individual donations. We have also introduced legislation requiring an MLA who crosses the floor, in quotes, to sit as an independent, rather than joining another caucus, unless a by-election is called.

To avoid conflict, municipal councillors must now resign on nomination when they are seeking another office. A set election date every four years on the first Tuesday in October now removes the

advantage held by the government of the day to call the election when they please, while also allowing Elections Manitoba time for better planning and the creation of a stronger voters list. With a set election date, we have also extended the ban on government advertising to 90 days pre-election and extended a similar ban to mailings and advertising by MLAs and caucuses.

Taken together, these changes help to ensure our elections are independent, fair, and ensure Manitobans have access to a modern and transparent democratic process. Manitobans have a right to have their voices heard and they have a right to know that their government is accountable to them, the people, not the hidden special interests. And with those comments, I thank you for the opportunity to give my opening remarks.

**Mr. Chairperson:** We thank the honourable First Minister for the opening statement.

Does the critic for the official opposition have an opening statement?

**Mr. Hugh McFadyen (Leader of the Official Opposition):** I'm pleased just to make a brief statement tonight in advance of some further discussions.

I want to thank the First Minister for his comments and certainly acknowledge that—I certainly indicate that we acknowledge that, since 1990, there have been positive developments and steps undertaken in many respects in terms of the conduct of elections in Manitoba.

Mr. Balasko and his staff have been instrumental in modernizing and bringing forward many of those developments and, I think, through all-party discussion, where all of the parties represented in the Legislature have come together and had fruitful discussions, I believe that we have had quite significant and important and progressive changes made to our election laws, and we hope that that spirit of all-party co-operation, as we go forward, will continue. And we certainly intend to advance our views and work with other parties to continue the process of improving elections in Manitoba.

Mr. Chairman, it's been almost a year since the last meeting of this committee. At that time, and in other forums, including the Legislature and public, we had the opportunity to deal with information that had come forward fairly recently with respect to an election scheme run by the NDP, leading up to, and including 1999, involving the falsification of election

returns in order to trigger taxpayer-funded rebates to which the party was not entitled.

Now, we've certainly raised significant questions about the handling of those discoveries by Elections Manitoba upon their discovery by Mr. Asselstine, the forensic accountant, and I think it's important for us to put on the record today that we continue to be dissatisfied with where things stand today in terms of the responses we've received on that issue.

Now, since that last meeting, Mr. Chairman, some other information has come to our attention that we believe is relevant to the discussion of the independence of Elections Manitoba and relevant to the way that the NDP conducts its financial affairs here in the province of Manitoba.

I will note, before we get into the detail of that—of those new concerns—that since the last meeting of this committee, there have been calls for public inquiries by the Provincial Council of Women, several media outlets and other credible commentators in the province of Manitoba who have an interest in fair elections here in Manitoba, many of whom are not partisan and are in no way associated with either opposition party, and that includes comments made by, as I said, the Provincial Council of Women and others.

In addition to that, the current Minister of Public Safety has certainly voiced significant concerns about the way in which matters were handled with respect to his own issues going back to 1999 and the apparent discrepancy between the approach taken to his matters and matters taken with respect to the governing party in that same time period.

Mr. Chairman, we have significant unanswered questions and significant concerns about the handling by Elections Manitoba of some of these issues and, in particular, the extent to which Elections Manitoba appears to have succumbed to pressure and interference—

**An Honourable Member:** Point of order.

**Mr. McFadyen:** —by representatives of the NDP.

**Point of Order**

**Mr. Chairperson:** Mr. Swan, on a point of order.

**Mr. Swan:** Yes, I do have a point of order on the line that Mr. McFadyen is beginning with and, frankly, I think it's a departure from the usual way things work in this Legislature, and under

*Beauchesne*, sixth edition, page 96, citation 316, that, in and of itself, can give rise to a point of order.

\* (18:20)

Where Mr. McFadyen is going, and I've been listening carefully to his statements, really is counter to our Manitoba Legislative tradition which, unfortunately, seems to be the way that the member and his party want to operate. Each member of this House should have respect for independent officers. This is a Legislature where we do partisan things and we certainly take each other on politically but, frankly, independent officers are a different creature within this Legislature. They report directly to the Legislature, not to any particular party, and, unfortunately, statements that Mr. McFadyen and his party members have made in the Chamber, in committee, in public, really demonstrate that they don't share that respect that I think every honourable member of this Legislature should, and we've seen comments by Mr. McFadyen and his caucus members, by his party workers impugning the Chief Electoral Officer. We've seen comments impugning the former Auditor General, the current Auditor General, the Electoral Boundaries Commission, and, Mr. Chair, I think you need to straighten out the record and not allow that to continue. And I do have some examples of the way that Mr. McFadyen and some members of his party have decided to deal with this.

There's been routine attacks on the credibility of the Chief Electoral Officer, who, I would note, was appointed through an all-party committee process back in 1990, and, as the Premier (Mr. Selinger) has indicated, has served the people of Manitoba through five elections. There's been repeated attacks in the Chamber, in scums outside the Legislature, in the newspaper, and, in fact, Mr. McFadyen, unfortunately, publicly accused the Chief Electoral Officer of unfairly treating his party over others. He effectively accused the Chief Electoral Officer of lying when he stated his decision to prosecute are based on the advice of two independent lawyers, Mr. Green and Mr. Graham, who Mr. McFadyen and I both know, and, indeed, Mr. McFadyen, unfortunately, called the Chief Electoral Officer's statements a, quote, total misrepresentation, end quote, and, quote, a neat trick, end quote.

But we've seen other members. We've seen Mr. Pedersen, the MLA for Carman, just the other day, comments that Elections Manitoba is being controlled by the NDP, there's no doubt about that.

So members under his control and direction are continuing to impugn an independent member of the House. We're here for four hours tonight. We've agreed to a lengthy meeting to allow many questions of Mr. Balasko, many questions of the Premier (Mr. Selinger) and others—[*interjection*] Well, I hear members opposite that don't want me to raise this point of order, but I'm actually raising this point of order because it's not the Manitoba way to attack independent officers of this Legislature, whether it be the Auditor General, whether it be the Chief Electoral Officer, whether it be the Ombudsman, and, I think, Mr. Chair, it's your opportunity to set us straight and allow us to get on to what I think will be a very good evening of questions and answers.

**Mr. Kevin Lamoureux (Inkster):** Mr. Chair, I don't believe the member has a point of order. In fact, I think that the member knows full well that he does not have a point of order. In fact, I found it interesting; it's almost as if he was prepped to make that statement in anticipation of an opening statement from the Official Opposition House Leader (Mr. Hawranik).

Mr. Chairperson, I would think that the government has to recognize that they might not like everything that they're hearing at the committee level. And just because they don't like it doesn't necessarily mean that they have the right to prevent the comments being made, and, ultimately, for us to be able to ask the questions that are important, that we feel are important, and I hope and I trust that the minister will not be interrupting throughout the evening as whether it's in statements or questions, that we use this three and a half hours in a productive way. Thank you.

**Mr. Goertzen:** I know the minister had a prepared point of order and rolled through that with a script that he either wrote prior to the meeting or the script that he was given by one of his colleagues. But you need only look back, Mr. Chairperson, at the previous committee meeting. I know it was a year ago, longer than we would have hoped, but there was a number of questions that were put to Mr. Balasko at that point, and, to his credit, he took those questions and whether he answered them to our full satisfaction or not, he did endeavour to, in his own way, provide an answer, and he didn't raise objections regarding those questions.

I think he recognized that the role of an independent officer isn't to wrap oneself in some ironclad protection. I mean, we can all wonder what

would happen if we gave that sort of protection to every independent officer, that you can never look at the conduct of their office, that they would be without scrutiny, without any sort of questioning. I don't think that independent officers would want that. I never heard of an independent officer ask for that sort of protection nor do I think that they ever would, and nor has Mr. Balasko ever asked for that sort of protection.

I think that we've acted in a respectful way at committees in the past. I think we'll continue to act in a respectful way, and just because you don't like the questions and just because it might impugn your party or might impugn you personally, sir, doesn't mean that it impugns the rules of this Legislature. And I would ask that you stop trying to interrupt these proceedings and allow us to get on to the matters at hand.

**Mr. Chairperson:** No further comments?

The Chair thanks the honourable member for the point of order, and for all members for their comments with respect to that point of order.

The tradition of this committee, for which I have been chair in other times, is to allow a fair amount of latitude for members that are making their opening comments and it's always been a practice that I have followed as the chairperson of the committees that I've chaired.

This Chairperson did not detect any unparliamentary language so far in the comments that were made by the Leader of the Official Opposition (Mr. McFadyen). The relevance seem to be in keeping with what was—the reports that are under consideration here today, and that, with respect to the point of order itself, I must remind honourable members that point of orders—this is for all members' advice—points of orders are not to be used for debate purposes. And also my advice, as Chairperson, is to make sure that this committee can function in a fairly harmonious way through the course of this evening.

I would ask for consideration of all members here to direct all of their comments through the Chair, please, so that we can ensure that this committee works in a way we intended it to be, and therefore, with respect to the comments that I've just made, I must rule that there is no point of order. And we'll now continue with the opening statement of the Leader of the Official Opposition.

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**Mr. McFadyen:** Just to carry on, we do have great respect for the office. Obviously, there are times when there are decisions and actions taken that I think all Manitobans have an interest in questioning, and that's where we're going, all with the view toward ensuring the ongoing integrity of that important independent office for Manitobans.

And in that vein, Mr. Chairman, I just want to clarify one point I made earlier. I said that the Provincial Council of Women had called for a public inquiry. I should clarify that it was Elizabeth Fleming, in her personal capacity, that had made that call, and I want that just clarified for the record.

Mr. Chairman, as I was saying, since the last meeting, new additional information has come to our attention respecting communications from Mr. Asselstine, who was the forensic auditor that was hired by Elections Manitoba prior to 1999, and who continued to be an auditor for Elections Manitoba until such time as he was—his position there was terminated following a request by the NDP provincial secretary. And that information gives rise to some new and troubling concerns that we have about the financial practices of the NDP, in connection with election finances, and the way those practices were handled when discovered by Mr. Asselstine and brought to the attention of Elections Manitoba and the Chief Electoral Officer.

We recognize, Mr. Chairman, that the Chief Electoral Officer here in Manitoba, and in any jurisdiction, is in a job which, by nature, puts that individual into difficult and pressure-filled situations. We have a concern that there appears to have been a response to pressure applied by the NDP, that, in our view, was inappropriate in terms of the response to the information that was being brought to the attention of the Chief Electoral Officer by the forensic auditor. Now, with the benefit of some further analysis of donation patterns and the issuance of tax credits, we have some significant additional concerns about the NDP's financial practices and the way those matters are dealt with here in Manitoba.

\*(18:30)

Now, with all of those comments, I again want to thank members—again thank the Chief Electoral Officer and his staff, and we'll look forward to having an opportunity to examine some of these very significant issues which go to a fundamentally important issue, and that is the independence of the Office of the Chief Electoral Officer, and Elections Manitoba and the fairness of elections here in our

province. As we begin 2010 and look to an election campaign in 2011, we believe that there's growing urgency to clear the air and resolve the various issues that have been brought forward, and so with that, I want to thank you for the opportunity for the statement and turn it back to you, Mr. Chairman.

**Mr. Chairperson:** I thank the Leader of the Official Opposition for the opening statement.

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

**Mr. Richard Balasko (Chief Electoral Officer, Elections Manitoba):** Mr. Chairperson, thank you, and thank you members for the opportunity to appear this evening with staff from my office to discuss our previously tabled reports.

With the experience of eight general elections, five of them as Chief Electoral Officer, I want to take this opportunity tonight to make some comments related to the critical issue of voter turnout and what I think can be done to respond to the issue. I think it's of a concern to all at the table.

As well, I want to refer to a few outstanding recommendations that have not been addressed from previous annual reports which are before you today, and, of course, at that point I'll be pleased to take any questions and do my best to reply to the questions that I receive.

Many jurisdictions in Canada and around the world are grappling with this issue of declining voter turnout, and much of the response to voter turnout—the decline in voter turnout has been centered on the enactment of progressive legislation that provides even greater access for the voters and programs to promote voter engagement. In Manitoba, over the past decade plus, there have been a number of very important legislative changes to make voting more accessible—a number of which have just been referred to in the Premier's opening statement. It's not an exaggeration at all to say that many jurisdictions across Canada look to Manitoba's Elections Act as innovative and expansive in terms of voter access.

There are many examples of this. I won't repeat those that have been identified, but I will add a couple: The extension of advanced voting now to eight days, including two Saturdays and a Sunday; absentee voting both inside and outside of Manitoba; a reduction in the size of rural voting areas from 350 to 250, which results in more rural voting places and less distance to travel; that homebound voting has



been extended to those who have any disability, mental or physical, that disables them from leaving their home and has been extended to the caregivers; and, very important, I will also mention the vote-anywhere opportunity that is quite uniquely applied in Manitoba. So these are all examples of legislative changes that have made voting much more accessible, and such examples have had some success in the past. Some of them are yet to be tested on a full basis in the next general election, but even on the vote-anywhere opportunities from the last election, voter turnout went up marginally to 57 percent of registered voters, compared to 54 percent in 2003.

Now, of course, there's a lot and varied reasons to explain why people choose to vote or not to vote, but I've no doubt that such changes have had an impact. In fact, from 2003 to 2007, the percentage of non-voters who cite administrative barriers as a reason for not voting has declined from 11 percent to 9 percent of voters.

In addition, like many electoral agencies around the country, Elections Canada now has a clear mandate to promote voting and to educate citizens on the importance of democratic engagement. As part of the mandate, for example, we have distributed to you a package called *Your Power to Choose*, which is an educational kit—I hope you've received it and found it to be of interest—which is directly tied to the curriculum in grade 6, 9 and 11 throughout the province and it's distributed in all those grades throughout the province.

The promotional message will only get stronger as we go on in time. And yet, with all these innovations that bring voter access to sort of state of the art, up to this point, voter turnout in the last two general elections has rested below 60 percent, and in the recent Concordia by-election, the turnout was 31 percent, low even by by-election standards and part of a steady decline in voter turnout in the province in by-elections since 2000.

So, while there are likely still some legislative and administrative actions, like expanding the use of advanced voting locations and continuing to outreach that can be expected to make a positive impact, these, in my view, will never be enough. The issue of low-voter turnout, I would argue, is societal in nature and it requires a broad-based community effort to revitalize. We know from research that the strong majority of both voters and more than two-thirds of non-voters value very dearly the opportunity to vote.

It's on their list of priorities but just not at the top of their list that day. But, just like charitable giving, voting is a core value among Manitobans.

Going forward, I want to take this opportunity to suggest that voter engagement might receive some important momentum from a summit of sorts bringing together all aspects of civil society with a common goal to promote democratic engagement. Election agencies and political entities have an important role to play, but so, too, does the media, academia, community groups and others, and I want to leave you with the thought that it would be something really quite special if Manitoba once again took the lead and found a way to provide a forum to promote voter engagement that brought together civil society.

When I last appeared before you to consider our reports, I provided also to you information about our continued proactive approach to assist political participants to comply with, in particular, campaign finance legislation. I reviewed a series of different information packages, including guides, checklists, as well as campaign information sessions, which are sewn together in a program, including the introduction of a new post-election day information session to assist official agents and chief financial officers to actually—to complete the election returns.

In the recent Concordia by-election, Elections Manitoba has made available to all campaigns for the first time a prototype electronic record-keeping disc so that all incumbent expenses may be recorded throughout the campaign and transferred easily to the electronic filing disc, and a number of campaigns are using that, and I look forward to their feedback for necessary enhancements.

So we'll continue to work together with the political entities to extend assistance, but in addition I'd like to draw to your attention one important outstanding recommendation from previous reports that I believe, if acted upon, will be of tremendous value to all participants and the many political volunteers who're responsible for compliance, and specifically, I'm referring to the need for a rewrite of The Elections Finances Act. Anyone familiar with that statute will know it to be very complex and a statute that, as time has gone on and multiple amendments have been made, has only grown more and more complex. This project would not necessarily be an easy one or a quick one, but I recommend it to you as a very important one.

Prior to the last election, The Elections Act was rewritten cover to cover in plain language, and since that, has been used in an election, held together very well, and I think it was a great asset to those seeking to understand the election rules in 2007. I think, really, this project is just another aspect of promoting democratic engagement, complementary to the notion of engaging voters, since I believe a rewritten, plainer-language finance act will assist the efforts of campaign volunteers.

Finally, between 2003 and '07, Elections Manitoba has made about 70 recommendations for legislative amendment, and I'm pleased with the participation of the political party advisory committees and the Legislature. All but very few of these have been enacted into law.

But in addition to The Elections Finances Act rewrite that I have mentioned, I'd like to draw to your attention another outstanding recommendation, and that is that I believe there needs to be a Manitoba referendum act. Certain statutes require referenda to be held under certain circumstances, but now it's left to regulation and adaptation of other statutes. But I recommend, for all concerned, clear rules as to the conduct, including rules as to campaign financing. These should be set out in legislation as is the case in many other Canadian jurisdictions.

The third outstanding recommendation—when I say outstanding, I mean in the context of not yet addressed—is, I'd like to draw your attention, are the rules that relate to the set election period for set date elections. It's my recommendation that set date elections should also have a set date election period rather than a variable period. Now the period for a set date election is at least 28 days, but not more than 35 days. I believe the period should be set. That would provide for certainty of the day of the writ. That would provide better service and efficiency in the administrative conduct of elections by Elections Manitoba. It would further level the playing field by providing a greater—by providing a clear and known start date, and that would assist all the political campaigns to manage their resources and live within the spending limits, and I think it may assist in the recruitment of election workers and volunteers. B.C. and Ontario have set election dates and have set election periods.

So in conclusion, I would like to thank all the members for their time and for their attention and also for those comments in recognition of my

service. It is my honour to serve as Chief Electoral Officer of the Province of Manitoba. Thank you.

**Mr. Chairperson:** We thank the Chief Electoral Officer for the opening comments.

The floor is now open for questions.

**Mr. Goertzen:** Good evening, Mr. Balasko. Thank you again for coming to appear before the committee this evening. I know it's been close to a year since we had our last meeting. You've indicated in the past that you're willing always to come to committee, and so I will assume that the inability to get a meeting date sooner than this was not of your own making but perhaps those in government.

\* (18:40)

It was more than a—or almost a year ago that I discussed with you a letter dated December 23rd, 2004, and this comes out of a declaration made in the June 3rd, 2003, annual report that is before us tonight. That's a letter that was written to Blair Graham, I believe, counsel for Elections Manitoba, and signed by David Asselstine, who, at the time was a forensic auditor with Elections Manitoba, and was subsequently—left the employ of yourself and Elections Manitoba at the request—or at least after some concerns raised by the NDP. In that letter—and Mr. Chairperson, I have copies of that letter if Mr. Balasko doesn't have the copy with him here tonight.

On page 3, Mr. Balasko—and the pages aren't numbered, but it's the third page sequentially, under the heading: Accounting for the Contributions in question, and I'll read—*[interjection]*

**Mr. Swan:** I wonder if Mr. Goertzen has copies for all committee members, so we can follow along.

**Mr. Chairperson:** We can make sure that the copies are made available to all members, if that will suffice.

**Mr. Swan:** Thank you, Mr. Chair.

**Mr. Goertzen:** For the benefit of Mr. Swan and all committee members, I will read into the record the words of then-forensic auditor Mr. Asselstine.

Under the heading: Accounting for the Contributions in question, he writes: "It would appear obvious that the CEO concluded that the contributions in question were federal contributions in his evaluation of whether charges were warranted in the circumstances. It would also appear obvious that you will not be providing me any further information that would allow me to reconsider my

previous opinions or evaluate the appropriateness of the CEO's conclusion."

I wonder if, Mr. Balasko, you could expand upon the concern that Mr. Asselstine, your forensic auditor, was relaying in that letter under that paragraph.

**Mr. Balasko:** Thank you very much for the question. I—no, I'm not able—in a position to expand on the comments that Mr. Asselstine might wish to make. I'm sure that they're set out in the letter that you've distributed. This letter has clear reference to an investigation, and as you've mentioned in your comments, decisions on prosecution.

It's been mentioned in the opening statements tonight that the Commissioner of Elections—which, by the way, has been responsible for compliance, investigations and prosecutions since 2006, and which was a recommendation of our office, to separate investigations and prosecutions from Elections Manitoba—it's been commented that the commissioner has various new authorities, one of which is to comment on investigations and prosecutions, if it chooses to in the public interest. That's not a provision that I operated under.

It's—the provision I operated under was that investigations were required to be conducted in private. And I want to say, with complete earnestness and as clearly as I can, that the provision to conduct investigations in private and, therefore, my inability to comment on any matters related to the investigation, are consistent, 100 percent, with the legal advice we receive. They're consistent, 100 percent, with all investigations that have been conducted by Elections Manitoba over the—and I don't know exactly the number of years, but the near decade we are responsible for. It's consistent with the position that's been taken with respect to all political parties.

And so I would certainly ask you to appreciate and understand that, thoughtfully, we've looked at what we can do. We've sought advice on it, and we're acting consistent with that advice, consistent with what the law is at the time, not our will or our choice, but what the law is. I cannot comment on investigative matters, period, regardless of whether some documents may be tabled or how they come to public light.

To finish with that, though, I can—I want to tell you a little bit about the process, and I hope that perhaps laying it out once—and I appreciate your

patience on this, and my answers won't go this long each time, but I want to take a moment to lay it out for all.

The process in an investigation is that there's investigative counsel. That person, in this case, and in all cases with Elections Manitoba post-Monnin inquiry, was Michael Green. Michael Green was the commission counsel to the Monnin inquiry. Michael Green was investigative counsel to Elections Manitoba, and is the current Commissioner of Elections. And decisions on prosecution were based on the advice that we received from both investigative counsel, Mr. Green, and then—who would be prosecuting counsel, Mr. Blair Graham. They provide legal analysis throughout investigations. They provide advice from time to time, and, at the conclusion, they provide their final advice and recommendations specifically with regard to charges.

So inasmuch as your comment and question relates to discussion about the laying of charges, I want to tell you that the process to lay—to determine whether charges should be laid is very, very rigorous. It's without partisan influence completely. It's consistent with our legal advice throughout and all parties are treated the same.

I very much want to say thank you, Mr. Goertzen, for your patience to allow me to lay at the table as is we see it and as we've always practised in the years we were responsible for this. Thank you.

**Mr. Goertzen:** While I appreciate, Mr. Balasko, your reviewing the processes as you see it, certainly, when we've had discussions with others who have had the unfortunate experience of being prosecuted by Elections Manitoba, including the current Minister of Public Safety, his statements to us was that, in fact, the counsel who was leading the prosecution in that case indicated differently, that he was under instructions from yourself.

And so there seems to be some dispute over the facts, if I could be generous, in terms of how prosecutions are either laid or how they're directed. But, more specifically, in this particular case, it's clear that Mr. Asselstine believes that there were some contributions made by individuals to the provincial New Democratic Party that somehow elicited a federal tax receipt and that he believed they should have been deemed to be federal contributions, and then, as well, he wasn't able to review that belief, his belief, because he wasn't being able to get further information.

Could you indicate whether or not that is at least true, that Mr. Asselstine believed that there contributions made by individuals to the provincial New Democratic Party that somehow generated federal NDP tax receipts?

**Mr. Balasko:** Thank you for the question. I'll let Mr. Asselstine speak for himself. I won't put words into his mouth. But let me clarify one hundred percent if there's any confusion about charges being laid and the process by which charges are laid. We receive, following investigations, we've received detailed legal analysis from both investigative counsel Mr. Green and general counsel and prosecuting counsel Mr. Graham, and, from time to time their advice and their recommendations, and, at the conclusion of the work, I receive from each of them, from each of two counsel, specific recommendation as to whether or not charges ought to be laid in the matter. That's the process that was followed here, that's the process that's been followed in every investigation post-Monnin inquiry. That's the same process that's followed with regard to all political parties. It's a rigorous process, it's a back and forth, and I certainly do not believe that either—I certainly know for a fact that neither Mr. Graham nor Mr. Green would have any confusion about the process.

**Mr. Goertzen:** Can you indicate whether or not if an individual writes a cheque to the provincial New Democratic Party, whether or not that should trigger a receipt to the provincial New—receipt from the provincial New Democratic Party and from them only?

**Mr. Balasko:** Thank you for the opportunity to respond. It depends on the circumstances of when the contribution is made, what's the law—what the law is at the moment. The law we have in Manitoba right now is that only individuals can contribute to political parties in Manitoba and transfers among political parties are not permitted. The law that was in effect at that time was that transfers were permitted among political parties. So if you have questions about the practices of the New Democratic Party, you might wish to ask the New Democratic Party of that. If you have questions about the investigation, I'm sorry that I'm not in a position to provide that information, but, again, there's nothing that would have not been considered by counsel. All the accounting work was before both counsel, would be considered carefully, specific legal advice was received with regard to recommendations and prosecutions, and I acted consistent with that—with those recommendations. There's no mystery.

\* (18:50)

**Mr. Goertzen:** Well, there may still yet be a mystery, and certainly one of those mysteries is why Mr. Asselstine, who is recognized internationally as an auditor in his field, had a different view and why he wasn't able to continue with his investigation. So I wouldn't be as quick to say that the mystery has been solved. In fact, if an individual was donating to a provincial political party, as the law stands today, and as it stood in 1999, there would be a diminishing return.

Is that not correct? That the more you are given—giving, your tax credit would be reduced as higher amounts were given. Is that correct?

**Mr. Balasko:** With respect to the commenting on The Elections Finances Act, that's correct, yes, and The Income Tax Act.

**Mr. Goertzen:** And so that would be the same federally. If an individual is giving to a federal party, their earliest giving, their initial dollars, would receive a higher tax credit than subsequent dollars, which would trigger lower tax credit. There's a diminishing return, a diminishing tax credit, as higher dollar figures are given. Is that correct?

**Mr. Balasko:** I'm not familiar with the federal act but I believe that's true.

**Mr. Goertzen:** So it is true that there is an incentive, at the very least, for an individual who wants to maximize tax credits. There would be an incentive for them to have those tax credits split between a provincial and a federal party so that they could—their dollars could attract the highest tax credits on both sides.

**Mr. Balasko:** Yes, there would be.

**Mr. Goertzen:** And I want to refer to a list of individuals, who, in 1999, donated, according to the records, both to the provincial NDP and to the federal NDP, and I believe that this gets to the heart of what Mr. Asselstine's concern was. That there were—was an intention to donate to a provincial political party, and yet it resulted in two tax receipts from a provincial New Democratic Party and from the federal New Democratic Party, which resulted in a tax benefit to the donor and didn't result in a financial detriment to the provincial political party because they could transfer—the federal party could transfer money back. As you indicated, that was the law at the time.

So, an individual donor could make a donation, and the provincial party could split that donation in some fashion between their federal cousins and the provincial party, and then the federal party could return that money to the provincial party, and it would seem like a win-win situation because the donor would get the higher tax credits and the provincial party would get the money back. The loser in that, of course, is the taxpayer because they are paying a higher tax credit for what was clearly intended to be a donation to a political party. I believe that that is the concern that Mr. Asselstine was raising with you, with Elections Manitoba, and that he wasn't able to conclude his investigation.

Let me go through—and I appreciated the fact that you were grateful that I gave some patience. You may give some patience to me as I read through a list of individuals. Nancy Allan in 1999 donated \$668.14 to the provincial NDP and \$330 to the federal NDP, for a total of \$998.14. That means that, in that year, she donated 67 percent of her total givings to political parties to the provincial NDP. Steve Ashton, in that same year, gave a total between the two parties, federal and provincial, \$1,920. Ironically, 67 percent of the money that he donated was to the provincial NDP. Marilyn Brick donated a total \$480 in 1999. Again, ironically, 67 percent of that total donation was to the provincial NDP. Marilyn—Marianne Cerilli gave a total of \$3,168.75 and, ironically, 67 percent of that total donation was to the provincial NDP. Dave Chomiak gave \$2,700 and 1,800 of that was to the provincial NDP; 67 percent. Jay Cowan donated 67 percent of his total donations to the provincial NDP. Greg Dewar, of his \$3,346, donated, ironically, 67 percent to provincial NDP. Gary Doer, a name that we're familiar with, gave \$4,275 between the provincial and federal NDP, and 67 percent of that went to the provincial NDP. Mr. Clif Evans gave 67 percent of his total donations to the provincial NDP. Leonard Harapiak—Jennifer Howard, gave \$435 that year, 290 was to the provincial NDP and, ironically, 67 percent was the amount that went to the provincial party. Mr. Ron Lemieux gave \$2,962 to the federal and provincial party; 67 percent of that, 1,975, went to the provincial NDP. Gord Mackintosh also gave 67 percent of his total contributions to the provincial NDP. Mr. Jim Maloway gave 67 percent. Mr.—sorry, Diane McGifford gave 67 percent. Doug Martindale gave 67 percent. MaryAnn Mihychuk donated \$3,397, and 67 percent of that was for the provincial NDP. Eric Robinson donated \$2,655, and 67 percent of that was to the provincial NDP. Mr. Jim Rondeau

gave \$1,254.38, and 67 percent of that was to the provincial NDP and the remainder to the federal NDP. Mr. Tim Sale also gave 67 percent of his total donations to the provincial NDP. Mr. Stan Struthers gave \$4,333, generous as he is, and, as a coincidence, 67 percent of that went to the provincial NDP. Bill Uruski also gave 67 percent of his total donations. Rosann Wowchuk gave \$3,622 and, ironically again, 67 percent of that was to the provincial NDP, and a Mr. Greg Selinger gave \$1,020, and surprisingly, or perhaps not at this point, 67 percent of that was to the provincial NDP.

And I think that what perhaps concerned Mr. Asselstine was, it seemed beyond the stretch of the imagination that all of these individuals giving on their own would've miraculously all landed on this 67 percent donation contribution, that somehow this must have been one transaction or conspired as one transaction was his concern, that one cheque was being issued and then it was somebody at the central party in the provincial NDP who decided to split the donations, and then two tax receipts flowed back to these individuals so they could claim more back on their taxes.

**Mr. Balasko:** I'm sorry, Mr. Chairman, I'm not sure if there was a question. [*interjection*] No, in all sincerity, I'm—if there's a question, I missed it.

**Mr. Goertzen:** I'm more than happy, Mr. Balasko, to repeat the question for you. I know there's been a bit of chirping back and forth here at the committee.

The extensive list that I read indicated that all of these donors somehow miraculously, individually in their donations, in their own donation-making decisions, landed on the percentage of 67 percent that went to the provincial New Democrats and the balance went to the federal New Democrats. Now, conveniently, the federal New Democrats transferred back tens of thousands of dollars to the provincial NDP in that year, so it didn't have the same impact on them as they were looking to run their campaign, and yet, presumably, two tax receipts were issued, one by the provincial NDP and one by the federal NDP, and yet the provincial NDP ended up with most of the money.

So I think the question that Mr. Asselstine was likely raising to you was, it looks like there is an intention to give to the provincial party—that's certainly where most of the money ended up—and yet two tax receipts were issued. Why was a federal tax receipt issued for what looks like it was an

orchestrated, a designed scheme to give to the provincial party?

**Mr. Balasko:** Thanks very much. I appreciate you going over that one more time, and I understand the question.

As you've described the set of circumstances, our job would be to determine whether there's been a violation, and I won't comment on the specifics of any investigation, but our job would be to determine: is there a violation? And the way we would do that would be to consider all the work we've taken so far, all of the accounting work—which, by the way, was available to both counsel and to myself—to review that, to seek opinions from two lawyers to get from them their advice, to get from them, at the end of a very—of a process that's very rigorous, their final recommendations on whether or not in any case there would be a violation.

So our job is to determine violations, and so, while I can't comment on the specifics of—that you're putting in front of me right now, our job would be to determine the violation. The process we use is two independent counsel. They come with their final advice. I act consistent with their advice. That's our role in this.

The way parties structure themselves and the tax-receipting practices of parties becomes our concern when there may be a violation under the legislation, and if that's the case, we'd look at it, we'd receive advice, and we'd act consistent with that advice.

\*(19:00)

**Mr. Goertzen:** Of course you were getting different advice. You were getting different advice from your forensic auditors. So you chose, presumably, and we haven't seen the advice that you were given, and maybe we'll be privy to that, but you chose, obviously, to ignore one set of advice but to take another set of advice.

Would it be a violation for an individual to intend to give money to a provincial political party and yet receive a donation from a federal political party? Is that a violation, sir?

**Mr. Balasko:** With regard, Mr. Goertzen, to the information that I receive, because at the end of the day I make the decision, I make the decision based on the advice that I have received. I have privy access to all the accounting work that's been done. Both counsel have access to all of that. At the end of

the day, when we're talking about our job, which is to ensure that any potential violations are investigated, when it comes to the end of the day, mindful of the accounting information, it's the legal analysis that really bears most on whether charges are laid in any circumstance, and I'm speaking of process.

And so while we may have access to all kinds of information across the board, everyone on the investigative team, or the two lawyers and myself have access to all that information, they give me their specific advice at the end of the day, and I acted consistently with their advice at the end of the day.

**Mr. Goertzen:** That wasn't my question, sir. My question was whether or not it would be a violation of the act, as it existed in 1999 or today, for an individual to intend to give money to a provincial political party and to get a federal tax receipt in return.

**Mr. Balasko:** I'm not going to speculate on the application of the law in a situation where you're talking about the intention of an individual to provide money. If money is provided to a provincial political party: entitled to provincial tax credit. If it's provided to the federal political party: entitled to the federal tax credit. So that's the specific answer to your question.

As far as the intention of a donor, that's not something that, you know, reasonably, I can speculate on.

**Mr. Goertzen:** Well, you know, I think, actually, reasonably, when you have all these individuals who precisely gave this particular split, and then the provincial party got the money back from the federal NDP, in an election year—because I can't imagine, as generous as someone as Mrs. Howard and others might be—

**An Honourable Member:** Ms.

**Mr. Goertzen:** —that when they've lost—

**An Honourable Member:** Not married.

**Mr. Goertzen:** —when—while there's—

**An Honourable Member:** Not yet anyways.

**Mr. Goertzen:** —where—we're hopeful—

**An Honourable Member:** I'm hopeful too. Is that a proposal?

**Mr. Goertzen:** —and when there is—

**An Honourable Member:** He's married. He's taken.

**Mr. Goertzen:** –when there's all these individuals who are precisely giving–

**Mr. Chairperson:** Order.

**Mr. Goertzen:** –this particular split on a donation, it certainly looks as though this was somehow not a coincidence, that, in fact, there was some sort of direction. And in an election year in 1999 where the then Leader of the Opposition acknowledged that he would need to win that election to remain in his position, it seems strange to me—and I suspect it would stretch the bounds of imaginations for most people—that he would be directing so much of his funds to a federal political party that wasn't fighting in an election that year as he was, and direct all of these individuals close to him to direct all of this money to the federal NDP unless he had an assurance that that money was coming back at some point.

So that is certainly something that adds to the suspicion, Mr. Balasko, but the specific question is: If an individual wrote a cheque out to the provincial New Democratic Party, for whatever amount it would be, a hundred dollars or \$300, should they not receive one tax receipt for that amount?

**Mr. Balasko:** The answer to the question is: Tax receipts are provided for contributions to the provincial political party where that's where the contribution is going, and tax receipts would be provided from the federal political party if that's where the money is going. *[interjection]*

**Floor Comment:** No, that's right. That's the right answer.

**Mr. Goertzen:** Right. So if an individual wrote out a cheque to the provincial New Democratic Party for a hundred dollars, that's where the receipt should be coming from for the amount that the cheque was written out for.

**Mr. Balasko:** My statement was that the contributions to provincial political parties are provincially tax receipted, and I'm speaking in a general process, and the same thing would be true federally.

The arrangements that political parties have themselves, the structure that political parties have, they have different structures. The fact that transfers are allowed at that time, these are all other factors that would go into it. But what I can tell you, without going further or down the road of commenting on the

investigation because, again, you're introducing information which is a part of an investigation, I'm not able to comment on that information. But I can tell you that in any investigation, counsel and myself would have access to all this information, would look at it from every conceivable angle, and at the end of the day I'd receive final legal advice on whether it's a violation, and that's our responsibility: is there a violation or not a violation in a circumstance.

So that's, again, the process of investigations, and I cannot comment on the specifics of an investigation.

**Mr. Goertzen:** I think you can understand how this stretches the bounds of reasonableness for most individuals, to believe that all of these people, acting individually and on their own, would give exactly the same percentage to the provincial party and to the federal party, and that all of these people, in an election year, who all had a vested interest in the New Democrats' winning election that year, would decide that they would hive off a certain percent of the donations to the federal NDP, who weren't running an election that year, who didn't have the stakes that Mr. Doer and the New Democratic party did, unless there was some assurance that that money was coming back, and in fact tens of thousands of dollars did come back. And so, I can understand from—if this is what Mr. Asselstine's concern was, why he would look at it, as though I think most people would, that these were intended to be donations to the provincial party, that they would end up back in the provincial party's coffers, and in fact they did end up in the provincial party's coffers.

And yet, individuals, some of them who sat at this table today, opened up their mail at some point in a new year of 2000 and found themselves with two tax receipts. Ironically, there was a lot of individuals, most of whom were lawyers for the NDP, who didn't, in fact, participate in this scheme, who gave significant amounts of money, similar to the kind of money that I described here, but who didn't get two different tax receipts. Maybe that's because of their legal profession, it sort of waried them off, but I suspect that most individuals, if they were to give \$100 to the Red Cross and got a \$50 receipt from the Red Cross and a \$50 receipt from Siloam Mission, both of which are worthy charities, would wonder why they were getting two receipts for one donation.

And, I—you know, I'm not really asking for you to comment on the scenario, because I think that

speaks for itself, but there is law that was being governed at the time that you were partially responsible for ensuring was enforced. And I'm simply asking you: If an individual, regardless of the situation—if I hadn't asked you any of this before—if an individual was writing out a cheque to the provincial New Democratic Party for \$100, would you expect them to get a tax receipt from that party for \$100, or for \$66 and then another \$33 tax receipt from the federal party?

**An Honourable Member:** Point of order, Mr. Chair.

#### Point of Order

**Mr. Chairperson:** Mr. Swan, on a point of order.

**Mr. Swan:** Mr. Goertzen has now asked the same question, I believe, five times, and Mr. Balasko has given, I think, a very full and fair answer as the Chief Electoral Officer of Manitoba.

And, once again, I made my concerns—*[interjection]* I raised my concerns earlier on about what I think is effective abuse of conduct of the Chief Electoral Officer. Mr. Goertzen has chosen to make lengthy preambles and then has come back to a question that Mr. Balasko has now answered, I believe, five times.

I would ask you, Mr. Chair, to ask Mr. Goertzen to move on. If he has no further questions for Mr. Balasko, I believe there's a number of members from all three parties that do have some further questions, so we can get on with it.

**Mr. Chairperson:** Mr. Goertzen, on the point of order.

**Mr. Goertzen:** I'm quite happy to hear, at some point—we have a four-hour meeting, I understand—questions from other members of this committee. I'm sure Mr. Swan—he may want to answer some of the questions, because he may have also have been given—in that—we might be getting to that yet.

But, Mr. Chairperson, it's not up to Mr. Swan to determine whether or not we received an answer to a question that I asked. That is not his prerogative. And if I feel that there was something missing in the response, or that perhaps it was my fault, that I wasn't clear in the question that I asked and I want to re-pose that question, I don't believe that Mr. Swan is or should make himself the arbitrator of that decision.

**Mr. Chairperson:** Mr. Lamoureux, same point of order?

**Mr. Lamoureux:** Same point of order, Mr. Chairperson.

I would suggest that, if you do look at tradition, whether it's inside committee room or inside the Legislature, the repetition of questions has always been acceptable in both committee rooms and inside the Legislature.

I think the member from Minto, minister—*[interjection]*—Minto is fine? The member from Minto is just a little bit nervous because he might have got his hands caught in the cookie jar once again, maybe in an unethical fashion.

And I would suggest to you that it is an appropriate question, and the member from Steinbach should be able to continue to repeat the question in order to provide better clarification for all committee members. It's a very good point. I would be a little red in the face, too.

**Mr. Chairperson:** On the point of order raised by the honourable member—and I thank all members of the committee for their advice on the point of order—it's been the practice of the Legislative Assembly of Manitoba to allow for questions pertaining to the same subject numerous times, and there is, from my understanding and the advice that I have received, there is no rule that prohibits the repeating of a question a number of times.

\* (19:10)

I would like to caution all members, though, that questions that I have been listening here from time to time, appear to be hypothetical in nature, and I'd ask all members to take into consideration they want to steer away from questions that may be treading into the area of being hypothetical and ask the more direct questions. And I would also once again ask all the members to conduct themselves by asking the questions through the Chair and not to each other across the table and the same with responders as well.

With respect to the point of order raised by the honourable member, I must respectfully rule that there is no point of order in this case.

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**Mr. Goertzen:** Thank you, Mr. Chairperson, and I will refrain from noting that the—Mr. Swan also donated \$1,892 in that year and a similar proportion went back to the provincial party. The Attorney General—I'm sure he can find his own legal advice on this.



Mr. Balasko indicates—and thank you, Mr. Chairperson—Mr. Balasko indicated that there was an investigation that was undertaken. If there had only been—or if there had been two cheques written, one to the provincial NDP and one to the federal NDP, would there have been a need for an investigation, because that would have seemed clear then what the intent was?

**Mr. Balasko:** Responsibility—[*interjection*]

**Mr. Chairperson:** Order, please. I'm going to ask for the consideration of all honourable members. It is very difficult for the Chair to occasionally hear the questions and answers, so I'm asking for consideration of all members of this committee to please show some restraint and allow for the questions and answers to be—to take place.

**Mr. Balasko:** I won't speculate on hypotheticals. I will simply say that I'll continue to comment on the process that's followed at Elections Manitoba. I'm not able to comment on the specifics of an investigation. That's something that's in statute. But, you know, I want to say that it's—let that not be misinterpreted in some way that there's anything less than complete confidence in the investigation, because there's absolute confidence in the investigation. And I understand, speaking from my perspective and that of the legal counsel that provide advice to me, that our investigations, where they're conducted, is a process, are a matter of determining whether there's been a violation in law, and that's our focus and that's our job.

And so in arriving at the determination of whether there's been a violation of law and whether there ought to be a prosecution following from that, that's a matter which I am fortunate to receive legal advice from two of the best—the best two in this business in the province: Michael Green, having been counsel to the Monnin inquiry, investigative counsel for many years and Commissioner of Elections today, Blair Graham, general counsel for over 20 years to Elections Manitoba and the prosecuting counsel for Elections Manitoba. In any investigation, both provide their final specific advice as to whether or not there's been violations and whether charges ought to be laid.

And so I would tell you that in any matter that we would investigate, I have acted consistent with the advice that I've received, and it's very good and credible advice from the—probably the strongest two people in this field in the province. And I think it

through carefully myself. I make the decision, but I make it with extremely strong advice.

So our job is to determine violations where there's an investigation. And my actions on the investigations are consistent with the legal advice that I receive.

**Mr. Goertzen:** And yet there was advice from Mr. Asselstine which you chose to not take or to simply ignore. It seems obvious that if Mr.—if there had been two cheques written out by these individuals, including Mr. Swan and Mrs. Howard and Premier Selinger—

**An Honourable Member:** Ms.

**Mr. Goertzen:** —and Mr. Struthers—

**An Honourable Member:** You're determined to marry me off tonight.

**Mr. Goertzen:** —I'm doing my best. The—had there been two cheques that would have been written, this would never would have come to the attention of Mr. Asselstine because one cheque would have gone to the federal NDP, one cheque would have come to the provincial NDP, and he never would have been any of the wiser that—I mean, it would have been a normal transaction. He never would have seen those two cheques. Is that not correct? So is it not true that it must have been a one-track—a one-cheque transaction to catch his attention?

**Mr. Balasko:** Thank you for the question. I'm not going to speculate on what was in Mr. Asselstine's mind and what caught his attention, but I'm going to tell you again, respectfully, that our job is to determine whether practices, whatever the practice is, constitutes a violation under the statute, and that's something we take very, very seriously.

None of the accounting advice was disregarded; completely considered in its entirety, provided available to both counsel. So we took together all the information we had in any circumstance as a process of investigations—

I'm sorry, I just wanted to finish my response. [*interjection*] I'm fine.

So we take, as a matter of process, all of the information available—and counsel provide their advice—and act consistent with their advice. So again, on process—and I can't speculate on what's in other people's minds and I won't speculate on contributors and political party organization but to the extent that it may be a violation. And if it's violation, then it's

investigated. And if it's investigated and found, through legal advice, to be a violation, then it's prosecuted. It's as straightforward as that.

**Mr. Goertzen:** And again, you were getting conflicting advice at the time. I wonder if you sought advice from those in Revenue Canada or from Elections Canada, since there were federal tax receipts at play here and a question—raised a question in Mr. Asselstine's mind about whether or not these were intended to be federal contributions. Would you have sought advice from CCRA, Elections Canada, the RCMP, any of those bodies, sir?

**Mr. Balasko:** I'm not in a discussion with you about the specifics of any investigation. I'm referring to the process of an investigation, so let me answer it from the perspective of a process.

Where we've encountered things in the past that if they may have had criminal aspect to it, we would, you know, share information or have a discussion with criminal authorities. If that were a case. And so, you can imagine that, if we were looking at any kind of matter that would have an impact beyond Manitoba's borders, that we, as a matter of process, would probably touch base, but that's process.

**Mr. Goertzen:** Have you made a determination, or your legal counsel has made a determination, that there wasn't a violation, would that contact have happened and at what depth would it have happened?

**Mr. Balasko:** I won't speculate on every depth and every purpose of what set of circumstances might come up. I'm just responding to you with regard to our process and the process that we would follow and we'd make that determination. So, I'm not here to discuss with you the specifics of any investigation—which I can't do and I know you understand that.

**Mr. Goertzen:** A number of organizations, including media, including individuals, have called for a public inquiry into the issue of the rebate scheme, I'll label it, and the subsequent investigation, or some might say, lack thereof. These are additional questions that go on top of those questions relating to getting two tax receipts for what seem to be one donation to a provincial political party.

Would you welcome the opportunity to testify at a public inquiry, sir?

**An Honourable Member:** Point of order.

#### Point of Order

**Mr. Chairperson:** Mr. Swan, point of order.

**Mr. Swan:** Mr. Chair, there's more hypothetical questions which apparently is all Mr. Goertzen has left, now based on the straw man that he's built over the past couple of questions. That is not a fair question to put to the Chief Electoral Officer and I would ask you to find the question is out of order.

**Mr. Chairperson:** Mr. Lamoureux, on the point of order raised?

**Mr. Lamoureux:** Yes, Mr. Chairperson, the member from Minto is in fact disrupting what I believe is a good line of questioning. If the member from Minto would like to interrupt, maybe he could tell the committee whether or not he wrote one cheque or two cheques. Then I would suggest to you that members of all the committee—*[interjection]*

**Mr. Chairperson:** Order, please.

**Mr. Lamoureux:** —would welcome his contributions. But to sit quiet on that particular issue and then to raise a point of order in order to try to disrupt the line of questioning, is highly inappropriate. If he wants to continue to interrupt, tell us whether or not he wrote one or two cheques.

**Mr. Chairperson:** Order, please. I'm going to ask the committee members here tonight to, once again, direct their comments through the Chair, please, and any questions that you might have also through the Chair.

My role as the Chairperson is to make sure that this committee functions in an efficient manner and I'm sensing that we're starting to stray away from the rules or principles that guide these committee proceedings. So I'm asking all members for your consideration once again. Please direct your comments through the Chair, not to each other across the table.

\* (19:20)

If there's no further comment with respect to the point of order then I'll indicate for members here tonight, with regard to the issue of hypothetical questions: while Marleau and Montpetit make no prohibition against hypothetical questions, whether in this committee proceedings or in question period, our rules and procedural authorities do not offer direct guidance on this matter in other debates such as committees. However, previous chairpersons have allowed such questions in committee and I will allow this particular question, but I would remind committee members that are present here tonight that

they are not obligated to answer hypothetical questions.

\* \* \*

**Mr. Chairperson:** Now, who had the floor here? Mr. Goertzen asked the question? Can you comment?

Miss Howard, next question please.

**Ms. Howard:** I appreciated your comments, Mr. Balasko, about making the election process more accessible, providing more opportunities for people to vote and your hope that that would help increase voter turnout. One of the areas that I'm responsible for is also people with disabilities, and I recently had the opportunity to read about a federal decision by the Canadian Human Rights Tribunal as it related to Elections Canada, and it was a complaint launched. I don't know if you're familiar with the case, I'll just outline it briefly.

There was a complaint launched by a gentleman who had trouble accessing a polling station. There was some stairs that he had to get down. He used a walker. He had to go down the stairs in a way that was fairly undignified, so he went to the Human Rights Commission, and I think the order was that there has to be barrier-free access in an election. So I was wondering if you had any reflections on that decision; how we've handled in the past making polling stations barrier free and what plans, if any, you might have in the future to make sure that people with disabilities can get in to polling stations.

**Mr. Balasko:** Well, thank you very much for the question. It's an extremely important point and one I touched on when I reviewed the advances in Manitoba over time. Voting stations need to be accessible. We have been measuring that in provincial elections. Because I'm not completely familiar—I'm aware of the complaint federally—but I would, rather than speak to that, if I could talk about Manitoba.

I believe that our accessibility is 98 percent or 99 percent in terms of voting stations in the province and it's been in that range for now several general elections, so when we seek out voting locations we seek out locations that are accessible. And there are other provisions in the law in the event that we cannot find an accessible location and that would involve moving the voting materials within 50 metres to the person who can't enter the building, but that's really a failsafe. We've not had to use that or use that very often over all of the years.

We have worked with community buildings to install ramps, for example, so that voters can enter the building and are left with—the facilities left with a legacy of accessible location. So extremely, extremely important. The record we have now is about 98, 99 percent, but, of course, we'd like it to be, you know, 100 percent. It's—actually, I've just been advised by Mary that locations which are not completely barrier free are 0.2 percent in the province of Manitoba. So we continue to try to do better, but that's where we are at the moment. It's extremely important.

**Ms. Howard:** Well, I think that's very good news, and I would congratulate you and commend you for that progress and also the comments you made that that work has also enabled accessibility to be put in places where it wasn't before and provides a lasting legacy to a community. I think that's a very important contribution that Elections Manitoba has made to accessibility in the province.

Where in those 0.2 percent—and I can't think—I can't do the math as quickly as Mr. Goertzen, so I couldn't tell you what that means in terms of number of polling stations—but, in those few instances where they aren't accessible, is the reason just that there is no accessible space in that community? What are some of the difficulties that you face in those very few instances where it's not accessible in making it so?

**Mr. Balasko:** Well, thank you for the question. We carefully review every single voting location to make sure that it meets our accessibility criteria. Where it doesn't, it's most often that, for example, in a rural community we might not have the choice of additional locations. Often, you know, we'll have accessibility to the main floor, and if we can locate our voting station there, we will, but the odd time we have only one building to choose from and we cannot get the main level, for example. So, people would have to bring the materials from the second level to the first level to allow the person to vote, in those very rare cases that that comes up.

**Ms. Howard:** I guess one of my other responsibilities has to do with immigration, and I wonder what kinds—as you probably know, there is increasing numbers of newcomers to Manitoba, increasing diversity of our province, and these folks come here, they become citizens, they're very anxious to participate in the process. I wonder if you could fill us in on some of the things that Elections Manitoba has been doing to reach out to that

community, to help inform them of the democratic rights and responsibilities in Manitoba and to help them also engage in the electoral process.

**Mr. Balasko:** Well, thank you for the question. I mean, I'm really excited about this sort of stuff. This is the role, really, for election agencies, I believe, to be engaging people in the democratic exercise.

Specifically, what are some things we're doing? Well, one of the things is we make sure we have full advantage of all ethnic newspapers and means of communication, both when we're staffing positions, to involve people in the election process, as well as providing information about elections. So, in multi languages through ethnic newspapers and otherwise.

Two other things we're doing now that are, I think, really, really interesting, very excited about—the first is with the adult literacy centres where, of course, many new immigrants will go to achieve the command of the English language to a higher level. We've taken *Your Power to Choose*, which is the program in the schools in six, nine and 11, and it's been adapted to an ESL learning environment, and we're working together with the ESL learning network, and we will soon be announcing the introduction of *Your Power to Choose* in an ESL context, throughout the learning centres in the province. So that's another way that we're able to introduce, at a basic level of English language, the prospects for voting in the province, the procedures and the importance of democracy.

The other thing that we're doing is we have now got a public communications mandate which is relatively new. So we have diligently been building an address or a data base of community groups because we think that the way to engage people in democratic exercise is grass roots up. And so the contact with community groups includes community groups in the ethnic community and representing new Manitobans. And so, again, we're very active with that.

And, finally, we're also exploring, with Elections Canada, joint ways on a number of fronts, but this front in particular, joint ways that we can work through citizenship courts, together with Elections Canada and ourselves, to have a presence and to greet new citizens with, you know, helpful information about elections in Manitoba.

**Ms. Howard:** I want to thank you very much for those comments, Mr. Balasko. I think it's—that work that you're doing to expand your outreach to voters

who may be participating for the first time is commendable, and I also want to thank you for your tremendous public service to Manitoba in your years with us and wish you the best on your retirement.

**Ms. Marilyn Brick (St. Norbert):** Mr. Balasko, first of all, I just wanted to also add my compliments to Ms. Howard's in regards to accessibility. I'm very pleased to see that that's part of your consideration, when you look at a voting station, to see whether or not that would be suitable for all of our population. So, congratulations on that.

My questions relate to the 2007 annual report, and one of the paragraphs in here says that the final voter turnout for the general election was 56.75 percent, which was an increase from the 2003 turnout of 54 percent. So I'm wondering if you could give us some idea why you feel that that voter turnout was higher in 2007 than it was in 2003.

**Mr. Balasko:** Thank you, and thank you for your comments, and Ms. Howard, as well. Thank you very much. I appreciate that. It, of course, comes from having an outstanding staff, and we're really blessed with that, and Manitoba will continue to be blessed with that in Elections Manitoba.

In terms of voting and not voting, it's a very, very complex issue, and I will offer some thoughts as to why I think the voter turnout went up.

\*(19:30)

But the first thing we've done at Elections Manitoba over two elections now, is we've engaged Prairie Research Associates, which has done a telephone survey of both voters and non-voters to try to best understand the reasons why people vote and why they choose not to vote. And we've put that information up in its entirety on our Web site in 2003 and 2007, so that this could encourage the public debate and creative thinking about ways to address voter turnout, because we certainly don't expect that we have all the answers on this.

But it's really interesting to note, at the same time, that the increase in the number of voters in 2007 is virtually identical to the increase in advance voting in 2007. And I understand from a research perspective what a complex puzzle this is; it's something I've done, personally, research in before coming to this job. So I know it's difficult and everyone is grappling with how to cut through it, but I think that the essence of it and the essence of why there were more people voting in the last election in a similar circumstance was that we took the voting

stations to where the people happened to be, and that's, you know, it's turning the concept on its head, you know.

We've been set up to go to the community centres down the street, and that's a wonderful concept, and something we'll always keep, but at the same time, it's important to put voting opportunities in front of people as they're shopping, as they're at the airport, and so that's we did in Manitoba, and it's the—

**An Honourable Member:** Point of order, Mr. Chair.

#### Point of Order

**Mr. Chairperson:** Ms. Howard, on a point of order.

**Ms. Howard:** I'm just having a little trouble hearing. Perhaps you could ask the opposition to go to their caucus room if they needed to caucus in between questions, or if they're not interested in this line of questioning I'm sure they could call for adjournment. But I'm just having a little trouble hearing over the din across the way.

**Mr. Chairperson:** Mr. Goertzen, on the same point of order?

**Mr. Goertzen:** Yes, we were actually having a very passionate debate about accessibility and different things regarding the discussion that you had, and we are more than happy to let the din die down a bit and the minister can hear the answers, and I hope she'll look forward to hearing answers to other questions that are yet to come.

**Mr. Chairperson:** Further comment?

I thank the honourable member for the point of order raised. I must caution, once again, all honourable members to direct their comments through the Chair and to give consideration for those that are either asking questions or providing answers to this committee, and I ask for your consideration in that regard.

I must rule in this case that there is no point of order, but a caution to honourable members is therefore necessary to all members.

\* \* \*

**Mr. Chairperson:** To continue with the answer, Mr. Balasko, please.

**Mr. Balasko:** So really, in terms of the voter turnout—although, you know, no one can claim to have that answer because it's very complex, many, many factors—but I do believe that it's reasonable that

a contributing factor was the vote anywhere of advance locations.

And not just the locations, but the law has been changed so that there is no longer a requirement to establish a need to vote at advance voting. It used to be you'd have to provide a reason: I expect to be out of town, or whatever it might be. So now, for advance voting, there's no longer a reason necessary to be given. There's no particular oath that you have to swear that you're unable to attend on election day, which was, I believe, a detriment to many people.

And so, with the extension—and I think it's—I don't think anyone comes near to the number of days we have, as well, now: eight days, two Saturdays and a Sunday, that, other than the Sunday, it's 8 till 8, and the Sunday's noon till 6—that, really, what's starting to evolve, I believe, is less so an election day with exceptional advance voting, more so eight rolling days of voting.

And I think that with people's busy lives these days that, as we go to the notion of eight days of rolling voting leading to an election and putting the voting stations more and more where people happen to be—they happened to go shopping that day or they happened to go to a movie that day and they bumped into a voting station and so they voted—I think if we follow those two tacks that we can make a contribution to voter turnout.

But fundamentally, I do believe, as I mentioned at the outset, that this is—I mean, I really liken it to charitable giving. The community comes together, and it talks about All Charities and otherwise, and it—this value, through the research, is very highly held. Two thirds of non-voters say voting is very important to them, and yet they don't vote.

So, overwhelmingly, Manitobans believe in the value; it's a matter of mobilizing that value. And that's not just for electoral offices or political parties.

**Ms. Brick:** I guess, just a follow-up on that is, one of the things you speak about in this 2007 annual report as well is expanded communication mandate, and you talk about the 2007 election media buy included broader radio and television exposure as well as media not purchased before, such as transit, cinema and Web advertising.

Now, we know that a lot of the youth are very mobile in terms of the Web. They're definitely out there and that's one of their communication vehicles. And I'm wondering if you have a plan to expand on

that in the 2011 election and what your thoughts are about that.

**Mr. Balasko:** Thank you for the question.

Electoral agencies across North America and beyond are concerned with the engagement, in particular, of youth, with voting, because what had before been described as a generational effect, that when youth began to—became to acquire the attributes of mortgages and other things, that they became more interested in politics and they voted. That transition has tended to lag, and so the uptake among youth, as they turn somewhat older, and engage more in the business of life, the uptake has not been quite as much.

How best, then, to reach youth? Firstly, I'd say that our—so, yes, we've identified this as an important outreach program. We're interested in approaching it both long-term, in terms of grade 6, 9 and 11 through the schools, because we really believe that, since the values are there, if we can expose, progressively, those ages to the voting experience, that they will more likely carry that on. And, by the way, a lot of those exercises are taken home to the household, where they're discussed at the dinner table, hopefully, if the assignment is done, because research also tells us that you're more likely to vote if you come from a home where politics is discussed and where voting is discussed.

We're looking at all the new social media, from Facebook to Twitter, all these vehicles, to determine how we might be able to leverage that, but it's a very difficult group to reach. We're looking also at their habits of many youth, which include moviegoing and things like that, and the ability to put voting stations at those locations.

**Mr. Lamoureux:** I think that what I'd like to do and, as interesting as those questions are, and, you know, I think that if we actually had an inquiry which was being asked for, that we'd probably be able to get onto more dialogue on those types of questions.

Unfortunately, I think that there's a number of issues that are before us, as a committee, that deal with ethical behaviour. And, to that extent, you know, I learnt something new here this evening that I think is worthwhile in terms of pursuing. Mr. Chair, we're very much aware of the number of candidates who were involved in a situation where there was some changed documents, in terms of election returns, somewhere in the neighbourhood of an impact potential of \$75,000-plus, and there was no

action taken in regards to that. Many Manitobans, I believe, are very sceptical, in terms of why it is that no action was taken on that particular issue.

And then, this evening, I come in and, in listening to the member from Steinbach, another issue comes up. And, again, it becomes an issue of what I would classify as ethical behaviour. And—to what degree does Elections Manitoba, or what role does Elections Manitoba have, in trying to ensure that there is appropriate behaviour by all political parties, when it's dealing with the finances?

The reality of the situation is, based on the percentages, and I don't hear—and there's a number of them, you know, out of the names that were listed off, there's at least four of those that are present here this evening that could have responded, could have said something to provide some clarity to the issue. But they chose not to do that, so I'm going to make the assumption that out of that list, when we talk about that 67 percent, I believe that's more than just a coincidence. I do believe that it gets right at the core of, once again, what sort of behaviour the New Democratic Party feels is appropriate in raising money, or in, at least, what appears to be two cases, taking money away from the taxpayer in a highly inappropriate fashion. And I think that that's—would be—would appear as what's taken place here, Mr. Chair.

And I ask the Chief Electoral Officer if he believes that there is an expectation from the public that political parties would behave ethically in dealing with the tax credit. Is there not that expectation that that would be the case?

\* (19:40)

**Mr. Balasko:** Thank you, Mr. Lamoureux, for the question.

I won't speculate on what any member of the public would consider to be ethical or not ethical. I think the people would arrive at their own decisions on that. Elections Manitoba's rule—role—is to investigate matters, and if violations are determined, to prosecute matters.

Now, the notion of ethical behaviour is something that I know you've raised in the past with regard to the ethical code of conduct, which all political parties have subscribed to in the Manitoba Legislature, but that's not something that Elections Manitoba is responsible for or part of our mandate to enforce that. That's intended to be a self-regulating code of ethical conduct among the political parties,

and it's there to be referred to by whomever might like to use it as a reference point in coming at to their own conclusion of what's ethical and what's not ethical.

Our job is to determine, in this role of investigations and prosecutions, which, as I say, we've not been in since 2006, but when it was our responsibility, our responsibility there, very clearly, was to determine whether or not there was a violation of the law and whether or not charges ought to be laid, and that's the process that we have built ourselves vigorously around. That's a process that's free of political interference. That's a process that acts consistent with the final legal advice of two outside and outstanding counsel, and that's the process we've followed since day one we entered this responsibility, until day last when we left the responsibility.

**Mr. Lamoureux:** And I do want to get on to that code of ethics. But to simplify the issue as I understand it, in this particular situation—and I would ask that I be corrected if I'm wrong—it would be similar to a individual—what members, a number of the New Democratic MLAs did, or have alleged to have done, would have been something to the effect of make a contribution to a political party using one cheque, and then some sort of an internal mechanism within the party allowed for that cheque to be divided on a certain percentage so that they would have a maximum tax benefit.

I believe that Manitobans as a whole would see that as an unethical way of—or an unethical behaviour. And I don't know whether or not this is an issue that was actually raised to the Chief Electoral Officer outside of the letter. There was a letter from Mr. Asselstine that was tabled here this evening. Is this the only time in which Elections Manitoba would have been made aware of that situation, through this particular letter, or was it ever brought up prior or after?

**Mr. Balasko:** Thank you for the question, Mr. Lamoureux. We're talking now about the notion of a letter that refers to an investigation. Investigations are not something that we can comment on, but certainly, you know, all the forensic work in any investigation would be made available to the counsel who provide their advice on which I take decisions.

But, again, going back to our mandate. Our mandate is to determine whether or not there's a violation of the law. And so I just want to be very,

very clear on that. There's a couple of discussions going on, and I won't speculate hypothetically also on the way parties may organize themselves around receiving contributions or providing contributions. I'm sure each party has its own way of doing that.

**Mr. Lamoureux:** Would you say, based on the Monnin report, would you say that political parties adhering to a code of conduct, a professional code of conduct, as a political entity, is an important component to our democratic process?

**Mr. Balasko:** Yes, thank you very much for the question. Chief Justice Monnin highlighted the importance of ethical conduct among political parties and Elections Manitoba took a lead role—not required, but on our own initiative—to bring together the political parties and provide a sort of a brokering role to arrive at a code of ethical conduct. It's beyond our mandate. So the answer to your question, I think, is something to be discussed with legislators and Manitobans, but it's not Elections Manitoba.

**Mr. Lamoureux:** But you would recognize the value of having a code of ethics for political parties in the province of Manitoba? Correct, yes?

**Mr. Balasko:** Your Chief Justice Monnin identified that as important and, as I say, we took a leadership role in bringing that together among the political parties. So we did invest in the creation of the code of conduct, which, again, by the way, is—it's on the Web site, you know, for all to see. Beyond that, it's a responsibility that lies elsewhere to take that forward; it's not Elections Manitoba.

**Mr. Lamoureux:** How would the public, as a whole, know whether or not that code of ethics is actually being applied to or that political parties are holding themselves to account based on that code of ethics? Is there anything that we can test it that would demonstrate that it has been successful in the province?

**Mr. Balasko:** I'm really not the best one to ask about that since we've brokered the ethical code of conduct. We have it on the Web site. It's there to be used. And the notion was that, through the give and take, through, you know, just different oversight and debate and otherwise, that it would be a useful reference point. But we don't maintain the code and we don't apply the code and there really is nowhere other than the self-regulating nature where you'd find the answers to the kinds of questions that you're asking about. I don't have the answer to your question.

**Mr. Lamoureux:** So what we do is we have this code of ethics and it's up to the political entity in question to apply the code of ethics to their own behaviour, correct?

**Mr. Balasko:** Yes, the mechanism in the code of conduct is that each political party is to have its own process by which complaints of ethical misconduct can be received and those can be dealt with within the political party. But there's no sort of third-party arm's length regulating it as we do, for example, with offences under the statute. We've got Elections Manitoba before we had the Commissioner of Elections. Now we have the Commissioner of Elections since 2006, that's the arm's length. There's nothing equivalent to that in the ethical conduct.

**Mr. Lamoureux:** I had an incident, and the Chief Electoral Officer would be familiar with the issue in regards to a staff member inside the Premier's office. It was a very hotly discussed and debated issue, and the government one day pronounced that Elections Manitoba has cleared that individual, that he did nothing wrong.

Did Elections Manitoba ever make any statement, formal statement, saying that there was no inappropriate behaviour from a staff person from the Premier's office?

**Mr. Balasko:** Thanks for the question. I won't comment on what might have or might have not been said by others.

With regard to Elections Manitoba, when we were responsible for investigations and prosecutions, at the conclusion of an investigation, if charges were laid, it's public. It's in the courts system. It's in the open court process. If an investigation was concluded and charges weren't laid, the source of the complaint would be advised that it wouldn't be going forward. And, on request, and most often, the subject, but not always, the subject would be advised of the outcome from our office. So that's the end of our comment or action on any investigation.

**Mr. Lamoureux:** So if charges are not laid, does that mean the person is innocent of any wrongdoing?

**Mr. Balasko:** Mr. Lamoureux, I really don't—it's very difficult and I wouldn't want to continue to speculate or go down the road on certain circumstances because that's not our role and that's not why I'm here. Our job is to determine whether there's a violation of the law and that's what we put our mind to and that's what we built our rigorous process around doing that. As a matter of fact, since the days

of the Monnin inquiry, we reorganized the way we investigated and made decisions on prosecutions, and the way we did that was to have a clear investigative counsel outside of Elections Manitoba, and so that's Michael Green from Green and Dixon, outside the office, take any investigation where he thinks it needs to be taken. We built in the other notion of having two counsel because we realize that for an office like ours where our credibility is very important, we work hard at maintaining it, that we need to, as best we can, demonstrate through our process and through the individuals involved that there's great credibility. And so one of the other changes we made is to have two counsel provide us advice. And we act consistent with the advice of both those people.

So our job is—was until 2006, investigations and prosecutions, and that's how we organized around it. I understand and—your comments about a code of ethical conduct, but Chief Justice Monnin made the recommendations on that and we've taken the first step, which is the code. And it's to legislators and others to take it the next step, it's not with Elections Manitoba.

\* (19:50)

**Mr. Lamoureux:** I only have a few more questions and I'll try to keep them right to the point.

I think that it's important, based in terms of what you've been saying not only at this meeting but previous meetings, did Elections Manitoba indicate that the individual in question from the Premier's office—did Elections Manitoba give any public indication that the individual was cleared of any wrongdoing? I don't quite understand why you can't say yes or no to that answer.

**Mr. Balasko:** Thank you for the question. The answer is that at the conclusion of an investigation, what we do is we write to advise the person who made the complaint of the outcome, and often we would write to the—or advise the person who is the subject of the complaint.

**Mr. Lamoureux:** I did—there was another issue that came up, and it dealt with inappropriate behaviour, again, from very close individuals to the former premier. And that individual actually had come to me, and I had written a letter on that individual's behalf, and it was in the Wellington riding, and she was a candidate at one point.

And I received a letter from Elections Manitoba saying that it was out of their jurisdiction, that it was



up to the code of ethics and the political parties to apply the code of ethics. Would that, in fact, be the case in that particular situation?

**Mr. Balasko:** I'm not sure I recall the details of the particular question you're talking about, I mean, generally speaking. But in any event, if we receive a complaint, you know, we won't discuss complaints and we can't discuss complaints.

So we can either dispense with them by determining that there's nothing to the complaint or determining that there's nothing within our authority to the complaint or investigating a complaint.

**Mr. Lamoureux:** I actually have the Monnin report, and this is what it says in regards—regarding the code of ethics, and I think the code of ethics is critical here. You see, if we had a proper code of ethics, I would suggest to you, maybe the need for a public inquiry wouldn't be as great.

But this is what the Monnin report stated, and I quote recommendation No. 3: that all registered political parties follow the recommendations of the federal Royal Commission on Electoral Reform and Party Financing published in November 1991, often referred to as the Lortie report, and prepare a code of ethics as outlined therein as well as a mechanism whereby such a code or provisions therefore to be strictly adhered to. Someone must have the power to oversee the activities of others. If the political parties fail to implement a code of ethics by December 31st, 2001, the standard code of—the standard code be made compulsory—I'm sorry—by legislation.

Why wouldn't Elections Manitoba, given the very importance of that recommendation and how critically important it is that there be integrity within the system, insist that there be a legislative code of ethics that has the—that—where there's some actual teeth to it, so that, whether it's the New Democrats, the Conservatives or Liberals, can actually be held to account for their behaviour? Why wouldn't Elections Manitoba advocate for mandatory legislation?

**Mr. Balasko:** Thank you, Mr. Lamoureux.

We're all aware of the recommendation made by Chief Justice Monnin, and that's the source of it. And I want to be clear about this: The source of the recommendation is the inquiry and chief justice, and you have that recommendation and all legislators have the recommendation. And the caveat on it was if there had not been a code of ethical conduct implemented by a certain date, and that code of ethical conduct was agreed to by all political parties

by a given date—I am not arguing against it, Mr. Lamoureux. I am simply saying that it's a recommendation coming from a commission of inquiry, and so a recommendation to proceed with it could come from some—from any direction.

We took the leadership role to pull together such a code, together with the political parties. I mean, it's not—it's to their credit, not ours, but we provided the forum that people could get together and develop the code of ethical conduct, which is on the Web site and available to all.

What future recommendation may come from Elections Manitoba? I can't say. I won't be making those.

**Mr. Lamoureux:** My understanding was, is that once this report came public, Elections Manitoba supported that recommendation. The leaders of all political parties supported that recommendation, and the recommendation is very clear. Of financial affairs, accounts of any—make sure I get the right one here—and I quote: and prepare a code of ethics as outlined therein as well as a mechanism whereby such code or the provisions thereof be strictly adhered to.

There is clearly a huge gap between what's happening in Manitoba and what it is that the Monnin inquiry was recommending, at which—at what point in time back then Elections Manitoba and all political leaders endorsed, and for whatever reason—and I don't understand it, but for whatever reason—that has not been followed through. Yet every entity supported the need to see legislation. So why have we not seen the legislation? We have had allegations of inappropriate financial contributions being made. We've had allegations of the New Democratic Party attempting to steal—and I'll use the word "steal"—money through an election or—*[interjection]*—I'll withdraw that, Mr. Chairperson.

**Mr. Chairperson:** Order. Order, please.

**Mr. Lamoureux:** I realize they're sensitive on it. *[interjection]*

**Mr. Chairperson:** Order, please, Mr. Lamoureux. One moment, please. I think most members know that the use of that particular language that you've indicated a few moments ago is unparliamentary and I would ask you to withdraw those comments, please.

**Mr. Lamoureux:** I withdraw those comments, Mr. Chairperson.

**Mr. Chairperson:** Thank you, Mr. Lamoureux, you may proceed.

**Mr. Lamoureux:** But, over and above that, we've had individuals that I've seen affidavits from that have said that they've been intimidated, that they've been bullied, and I'm supposed to tell people, the public, not to worry, there's a code of ethics. A code of ethics that's a complete wash. Yet we were instructed, back in 1999, to—if we're not prepared to adopt one, then there should be one made mandatory by legislation, and I would have thought that the biggest champion of that sort of reform would've been coming from, not an MLA, but rather it should be coming from Elections Manitoba as an independent agency who played a critical role in the whole Monnin inquiry.

Most MLAs that are here today weren't around in the mid-'90s. Elections Manitoba was, and I think that if we had a code of ethics that had some real teeth to it, we probably wouldn't be in the situation that we are today. Instead, we'd be asking questions like Ms. Brick and other members had asked for. But because of the very seriousness of why it is things are happening the way that they are because there is no code of ethics—it's a complete wash—that we find ourselves in an awkward predicament. Now we're waiting for the Premier (Mr. Selinger) to do the right thing and call an inquiry on the issue.

What role does Elections Manitoba have in terms of advocating for a code of ethics which was mandated by the Monnin inquiry?

**Mr. Balasko:** Thank you for the time to respond to the question and I know this has been a concern of yours continually. I don't think it can be said that Elections Manitoba has not played a role or taken seriously the notion of a code of ethical conduct and, in fairness, I don't think that's what you're saying, because we're sort of there at the beginning to do that.

You know, as well, the process that we use to develop recommendations, and so we're certainly not all things to all people, and we don't have a mandate to regulate ethical conduct. We have a mandate to regulate statutory conduct, that conduct that's regulated by law, and determine whether or not the law's been broken, and that's a mandate that we no longer have since 2006. But I know that you'll also know, because you participated in a number of these meetings, that we meet with the political party advisory committees, and one is—they're both by statute now, by way of our recommendations, but at

one time only the one on campaign finance was statutory, the one on elections was not statutory. But, nevertheless, we convened one and invited all the political parties to come and discuss things and, at those meetings—and the reason I'm refreshing us on this is that that's the genesis of the recommendations. Elections Manitoba goes to the advisory committee, they bring forward various ideas, get feedback, and then the recommendations are those of the CEO at the end of the day.

So there's various opportunities to bring forward the recommendation you're talking about. I think Elections Manitoba has played a role. It's certainly open for discussion at the advisory committees in terms of future recommendations of Elections Manitoba, but I can't, you know, commit the next chief electoral officer to that. But that's been our role, and we have a clear mandate which is on—which was on investigations of prosecutions to '06.

\* (20:00)

**Mr. Lamoureux:** Mr. Chair, what I'll do is provide this letter to the page, and the page can make photocopies of it, and if members really want it tabled, I'm prepared to table it, but I would suggest that maybe we not table it but all members here will have a copy of the letter, after I read a specific quote.

This is actually a letter that was sent to me by Mr. Green and it's in reference to the second issue, with respect to what was happening in Wellington. And it—and again, I'm going to read from the third paragraph. It states: Your letter refers to a potential violation of the Elections Manitoba's code of ethics. I would point out that the code of ethics to which you refer is not, quote, Elections Manitoba's but rather is a code which has been adopted by major political parties. More significantly, however, is the fact that there does not appear to be any jurisdiction in my office to investigate the matters being complained of.

Now, I received a copy of this letter. I never did get anything on the first issue. And, in my mind, this says nothing in terms of saying that appropriate or inappropriate behaviour. It seems to be just kind of passing it on to the political parties.

And I would suggest, Mr. Balasko, that one of the things that is absolutely critical to the process of trying to improve our system, is to follow up and follow through on the recommendations from the Monnin inquiry. I don't believe, because I've asked, I've demanded, I've begged, you name it, for a shred of evidence showing something that would have

clearly demonstrated that behaviour, inappropriate behaviour, was not conducted within the Premier's office in relation to the nominations. Never have received anything. Never have had a comment from someone saying that, no, there never was inappropriate behaviour. There is—if I raise the issue, I can't bring it to the New Democratic Party; I know they're not going to do anything with it. They're not going to deal with these financial situations.

There does need to be more independence and I'm going to close my comments by making the suggestion, unless, of course, there's more time at the end, I close my comments by making the suggestion that we do need to have a province-wide code of ethics and conduct and it should be applied to all political entities and there needs to be some form of enforcement. And I would suggest that we move on that and I hope that Elections Manitoba will. Thank you.

**Mr. Chairperson:** Before I proceed to Mr. Balasko's answer, Mr. Lamoureux, since you've quoted from the document, we'll have to include that as a tabled document, where copies are being made for the—for all members of this particular committee.

Mr. Balasko, with your response, sir.

**Mr. Balasko:** No response.

**Mr. Chairperson:** No response. Okay.

I'm just wondering, if—I have a number of members of the committee who wish to ask questions and we're, hypothetically—I know we're not supposed to use that term, but, at the halfway point of this particular committee sitting this evening, not knowing what the will of the committee members are, with respect to the sitting time, but I'm wondering if members would consider a recess at this point for 10 minutes? *[Agreed]*

Agreed, we'll recess for 10 minutes.

*The committee recessed at 8:03 p.m.*

*The committee resumed at 8:19 p.m.*

**Mr. Chairperson:** Order, please. Will the committee—we'll return to questions from committee members. The floor is now open for questions, and I believe Mr. McFadyen is the next one on my list to ask questions.

\* (20:20)

**Mr. McFadyen:** It's just a—it's a question of law in terms of the act, Mr. Balasko, and the question is a simple one. It doesn't require any reflection on situations, either real or hypothetical, but a question of law. Is it an obligation under the act to issue receipts for every dollar of a provincial donation that comes in?

**Mr. Balasko:** Yes, thank you for the question.

There's a requirement of the finances act to issue receipts—I believe it might be for contributions over \$10, or is it—

**An Honourable Member:** It is \$10. That's right.

**Mr. Balasko:** —for provincial contributions.

**Mr. McFadyen:** And so, well, I think that's clear that there's an obligation to issue a receipt, and the receipt has to be in the amount of the contribution. Is that right, or can the receipt be issued for amount different than the amount of the contribution?

**Mr. Balasko:** The amount of the receipt would be in the amount of the provincial contribution.

**Mr. McFadyen:** Just moving on to another, just another issue that arose in Mr. Asselstine's correspondence. He—and this is correspondence to Mr. Graham, and I refer again to a letter that has been circulated, the letter dated April 4th, 2005, and—sorry. That's—just bear with me for a second. There are a couple of different letters.

Okay. My question actually relates to a separate piece of correspondence dated June 23rd, 2003, addressed to Mr. Graham from Hamilton and Asselstine, and in that letter Mr. Asselstine says, and I quote, on the second page, I further understand that you both concur that the complaint filed against my conduct in the Hindle interview was contrived and was part of an attempt to disrupt if not obstruct the investigation.

I wonder if you can just react to that comment made by Mr. Asselstine that in the course of the—in the course of his interviews and his investigations there was agreement between your office and him that the NDP's complaint was an attempt to disrupt if not obstruct the investigation.

**Mr. Chairperson:** Before I recognize the honourable member, just to remind honourable members when they are quoting from particular private letters or other private documents that the member should, for the benefit of committee members, table those particular documents, and if

you have that we would be pleased to circulate it to committee members.

**Mr. McFadyen:** I've provided our copy of the letter to the Clerk, and he could make copies and circulate that letter.

Just picking up on Mr.—

**An Honourable Member:** Point of order.

**Point of Order**

**Mr. Swan:** If Mr. McFadyen is going to put the question to Mr. Balasko, which he's able to, I think it would be fair to let Mr. Balasko have the letter in front of him before the question is asked. So, perhaps we can just wait until we have copies.

**Mr. Chairperson:** Mr. McFadyen, same order?

**Mr. McFadyen:** I'll move on to—no. I'll move on to a different—I accept the member's point. We'll await the arrival of the letter. I'll just ask a separate question.

\* \* \*

**Mr. McFadyen:** Mr. Balasko, did the NDP ever obstruct or attempt to interfere in an investigation that your office was involved in?

**Mr. Balasko:** Thank you, Mr. McFadyen, for the question.

If there was ever any occasion where there was a belief that there be any attempt to obstruct in any investigation, that matter would be referred to counsel and we'd get two views from counsel as to whether there'd be a violation. So, as a matter of process, that's what we would do, and you can be assured that if counsel's conclusion was that there was obstruction, that there would be charges in any situation.

**Mr. McFadyen:** And so did you seek an opinion from counsel as to whether there was obstruction or interference in these investigations at the time?

**Mr. Balasko:** I can't comment on the specifics of the investigation, but I can tell you that in any process where there would be such a complaint that it would be referred to counsel, counsel would provide advice and I would have acted consistent with counsel.

**Mr. McFadyen:** When your office received the letter—which has already been tabled—of September 9th, 2002, from Tom Milne, the provincial secretary of the NDP, asking you to terminate Mr. Asselstine's involvement—it was tabled the last committee

meeting—did you have any concerns about receiving that kind of a letter asking for the termination of a respected forensic accountant who was looking into issues involving NDP finances?

**An Honourable Member:** Point of order.

**Point of Order**

**Mr. Chairperson:** Mr. Swan, on a point of order.

**Mr. Swan:** Again, and I hear the chirping from the other side, I think it would be decent for Mr. Balasko to have—at least have the letter in front of him so he can try to respond to Mr. McFadyen's question.

**Mr. Chairperson:** Mr. McFadyen, on the same point of order.

**Mr. McFadyen:** This is a letter that was actually published in full in the *Winnipeg Free Press* and was tabled at the last meeting, but we're very happy to table it again for the benefit of the committee.

**Mr. Chairperson:** Just give me a moment, please, to ascertain whether or not the letter has been tabled.

Okay, the advice the Chair has received is that letter has been tabled at a previous committee hearing and that we'll endeavour to get copies for committee members to—for their use. And so I'm—therefore, I must rule that there is no point of order.

\* \* \*

**Mr. Chairperson:** Mr. Balasko, did you wish to respond to the question?

**Mr. Balasko:** Sure.

**Mr. Chairperson:** Okay, please proceed.

**Mr. Balasko:** As I understand the question to be related to concern that was raised about appearance of bias with regard to one individual on both the compliance matter and the investigative matter, and I want to spend a minute on that because I want to be sure that that's well understood in sometimes the way this is framed.

The concern that was raised with us is that, not with regard to the investigation, the individual, the forensic auditor in the investigation, remained on the investigation. The return to which the letter refers was a return on a compliance return for a following year—I believe it was 2001—outside the scope. So the concern was the same individual on one hand doing an investigation and on the other hand reviewing compliance. That was brought to us as a concern. You can see it's a—perception of bias is, I think, the

term that they used, not a specific complaint about the individual.

So I went to both Mr. Green and Mr. Graham—and thankful to have their counsel always—and I—we reviewed the process and we—and asked ourselves whether or not it's best to have a clear demarcation line between compliance on the one hand and investigation on the other hand. And I also addressed this last time we were in committee. And the advice from both Mr. Graham and Mr. Green—and advice that I accept because I believe it's appropriate as well—is that there needs to be a bright line between efforts on compliance and efforts on investigation.

Elections Manitoba, at that time, had a difficult road to hoe. It had two responsibilities: on the one hand, to assist people to comply with the law, and on the other hand, to investigate and prosecute. And that's really the genesis of us having recommended in the early—in the years 2000—that investigations and prosecutions ought to be out of our office so we could focus on compliance and assistance.

So we certainly agreed with the notion that there ought to be a line between compliance review and investigation. So the individual was retained on the investigative file. That continued; there was no change there. There was a change on the compliance file for the 2001 return, which you'll see is not a return that's involved in what was reported in our annual report. And since that time we maintained the very same process. We do not assign both compliance and investigation to any one individual.

**Mr. McFadyen:** And so just to confirm then, the view you came to with advice was to accept the position of the NDP and remove Mr. Asselstine from the compliance review in connection with the 2001 returns? Is that correct?

**Mr. Balasko:** Yes, it's correct. It is a matter of process. It made sense to us that compliance ought to be separate from investigation. We didn't want any other issues out there that might take away from the investigative side of things, and it made sense for us to do that as a process, and so Mr. Asselstine was replaced on the compliance side by other forensic auditors who did similar work and he remained on the investigative side. As I say, we follow the process since that point.

**Mr. McFadyen:** And just in terms of the ongoing role of Mr. Asselstine on the investigative side of things, he was retained to continue on the investigative side and then was terminated a few

days after the 2003 general election. Can you just explain what the basis was for terminating his role with Elections Manitoba a few days after the 2003 general election?

\* (20:30)

**Mr. Balasko:** I mean, these are good things to be able to clarify. Number one, you're putting the context of an election has nothing to do with that. Number two is that with regard to the investigation, Mr. Asselstine is retained by Mr. Green as investigative counsel, so to—and Mr. Green is the one who leads the investigation. Remember, it's Elections Manitoba. It's only the authority of the CEO to decide whether investigation ought to commence. It's my power alone, and so I determine that an investigation ought to take place. Mr. Green was investigative counsel. I appointed him. Mr. Green had the ability to get whatever resources he needed. He used the resources and took value from them to the extent it was necessary for the investigation and then it concluded.

On a separate matter, not investigative matters, on separate matters there were contracts between Mr. Asselstine and Elections Manitoba, and there were a number of disputes over those contracts and we came to a parting of ways.

**Mr. McFadyen:** And, just to confirm, so the fact that the—your counsel wrote to him terminating the arrangement within a couple of days of the 2003 general election, that's purely a coincidence then. Is that what you're saying?

**Mr. Balasko:** Mr. McFadyen, in every bit that I can muster in myself and on behalf of Mr. Graham, Mr. Green and the reputations of people who are involved absolutely has nothing to do with the timing of elections. And when comments like that are posed, you know, I appreciate the opportunity to clarify those things because really they have, not what you said, but what someone else may take as an inference between the events, there's no place in the discussion, I think, of the individuals involved.

**Mr. McFadyen:** No, I—we note, as a matter of fact, that happened within a few days of the election of your saying the two events were unrelated, then that's—you're certainly entitled to make that statement.

I just want to ask what was the reason for terminating Mr. Asselstine, never mind the fact that it was a couple of days after the election. What was the grounds for making that decision at

Elections Manitoba? Was it a question of competence? Was it some other issue that you felt he wasn't delivering on behalf of the people of Manitoba in connection with his work there or was there some other reason for that decision?

**Mr. Balasko:** Yes, thanks for the question. First point, to reiterate, it is not a matter of the investigation. The second point is that there were contractual disputes between ourselves and that's the basis.

**Mr. McFadyen:** And as I understand it the contractual disputes were based on the refusal of Elections Manitoba to pay invoices that had been issued by Mr. Asselstine. Is that right?

**Mr. Balasko:** I don't think it's appropriate to get into a discussion about the contractual arrangements with the party that's not here, but I will tell you that in terms of, again, process, that the position of Elections Manitoba was supported by two legal opinions and by an accounting opinion of Deloitte, and that's the basis on which we arrived at our position and we maintain that. There was a settlement reached between both parties in, I think it was, August of—I have to peak over my glasses here—I think it might have been August '05.

**Mr. McFadyen:** And was the—so are you saying that Deloitte also advised that Mr. Asselstine be terminated? He was—they were part of that advice as well to terminate Mr. Asselstine's relationship with Elections Manitoba?

**Mr. Balasko:** If that's the inference that you took, absolutely wrong. There's no reference to that. I said that Elections Manitoba's position was arrived at with the benefit of advice.

**Mr. McFadyen:** And that accounting advice from Deloitte's has never been made public, has it?

**Mr. Balasko:** No, none of the legal advice or opinions have been made public, no.

**Mr. McFadyen:** Actually asking about the accounting advice, which isn't privileged and confidential. Just wondering why it hasn't been released, the Deloitte opinion.

**Mr. Balasko:** It has nothing to do with the investigation. It's a contractual dispute. It's a business matter, and we arrived—and if you'll refer to an earlier letter that was tabled, I believe you—or perhaps yourself or Mr. Goertzen tabled a letter from Mr. Asselstine with his reference to the fact that by a certain date—I believe it's June 5th—he referred to the

fact that he too had come to the conclusion that further association with Elections Manitoba was not what he desired, and it was not what we desired.

**Mr. McFadyen:** Yeah, and I mean, I can appreciate that when you do a lot of work and don't get paid you may want to go and work for paying clients, and that's what he did.

Mr. Balasko, I just want to ask again, though, on the Deloitte opinion: Why has it never been made public?

**Mr. Balasko:** It's a contractual matter and it hasn't been made public.

**Mr. McFadyen:** I know it hasn't been made public. The question is why.

**Mr. Balasko:** I don't have a specific reason for you as to why. It's just part of the advice we collected in arriving at a decision.

**Mr. McFadyen:** So there's no reason to not release it, then. Are you prepared, then, to release that advice now?

**Mr. Balasko:** No, I'm not. It's a matter of business relations between the office and an individual.

Again, you know, the way the questions can go down the road to appear as something sinister—it's not at all. The advice that we got was simply in relation to Elections Manitoba's position. And in terms of payment, Elections Manitoba is a—you know, is a good business partner, and I make no reflection on Mr. Asselstine whatsoever. It was simply a business relationship that had come to an end.

**Mr. McFadyen:** And was that because you were dissatisfied with the work he was doing?

**Mr. Balasko:** There were disagreements over demands for payment and other contractual matters.

**Mr. McFadyen:** On the Deloitte advice, you're saying that the decisions made with respect to the rebate issue were founded on two legal opinions and the Deloitte advice, none of which have been provided publicly.

Would you be prepared to go back and reconsider the issue of releasing Deloitte's advice, given that it's not under the category of privileged and confidential legal advice?

**Mr. Balasko:** You know what, now I think I understand where you're going with the questions,

and there's a misunderstanding that I think has crept into the conversation.

The—Deloitte did not provide to us advice on the use of—expenditures being cash or being donation in kind. We didn't request advice from them on that at all. We relied on the accounting work of the investigative auditor, and that's Mr. Asselstine. We relied on his work heavily and it was completely considered by our legal counsel. There is no opinion from Deloitte on that.

My reference to Deloitte was simply in terms of the end of the business relationship with Elections Manitoba and certain demands for payment. We sought, you know, advice from that from our lawyers.

In any event, be that that there is no opinion from Deloitte on the issue of reimbursement, all matters under an investigation would be—be confidential. And again, that's the law we live with. That's not something I've created. It was created among this group, in the Legislature, many years ago.

**Mr. McFadyen:** Mr. Balasko, you've said that you rely on the advice of Mr. Graham as a legal advisor, and that Mr. Graham then ultimately carries out your instructions.

Can you just indicate why—or where the instruction would have come from for Mr. Graham to threaten Mr. Asselstine with litigation in the event that Mr. Asselstine disclosed any of his findings?

**Mr. Balasko:** I will not discuss any matters that's related to investigations, nor will I discuss matters that are privileged with counsel.

And that's not invoking some kind of bizarre defence mechanism, and I—that's what I really want to dispel this evening. I mean, we're talking about—you know, myself in the job and the credibility that I built up. My job can be judged on my performance. We're talking about Blair Graham, who's represented our office probably for 25 years and is just an outstanding person with great character and great reputation. We're talking about Mike Green, through the Monnin inquiry and through the—now being Commissioner of Elections. *[interjection]*

**Mr. Chairperson:** Please proceed, Mr. Balasko.

**Mr. Balasko:** These are the individuals that we're talking about in terms of the process, and so thanks for the opportunity to reiterate once again that investigations are conducted completely free of any

political interference. They're thorough, they're rigorous, they're consistently applied across political parties and they've been consistently applied from the first to the last day we had that mandate.

And the law is the law. And I said earlier, the group of people around the table—of course, not many people might have been here at the time that law was passed, but—it's a device of the Legislative Assembly; it's not a creation of Elections Manitoba. And we live within the law. That's where our authority comes from.

\* (20:40)

**Mr. McFadyen:** Just—I would just note, I mean, on the rigorous claim of a rigorous investigation, it's interesting that Jim Treller was never interviewed in the context of all of this, somebody who had a lot of relevant information to provide.

Just setting that aside, and I want to come back to the—just the issue of the role of legal counsel in all of this. Can you, because you've indicated that you've relied on the advice of Mr. Graham and Mr. Green in making decisions, can you indicate why Mr. Graham would have been telling counsel to other parties that he was simply following your instructions when he made decisions about whether to prosecute or not prosecute? It seems to be slightly at odds with what you are saying tonight.

**An Honourable Member:** Point of order.

#### Point of Order

**Mr. Swan:** Hypothetical. Mr. McFadyen now wants to put unsubstantiated comments to Mr. Balasko, who's got no ability to corroborate that in any way. So I would ask that Mr. McFadyen be directed to ask the question a different way.

**Mr. Chairperson:** Mr. McFadyen, on the same point of order.

**Mr. McFadyen:** Well, no, and it's a—he's objecting to what he views as an unsubstantiated comment. I mean, it's perfectly logical for a lawyer to indicate that they've made—that they're acting on the advice or on the direction of their client. That's the normal solicitor-client relationship. So there's nothing unseemly about the fact that Mr. Graham would say he was acting on the direction of his client, Elections Manitoba. I don't think that it's inappropriate for him to have said it at all.

All that I'm asking is to—for clarification around the apparent contradiction between his statements

that he was acting on the instructions of his client, and Mr. Balasko's statements tonight that he made all of his decisions based on the recommendation of the lawyer.

It looks to me like it's just a passing of the buck in terms of who's ultimately accountable for these decisions.

**Mr. Chairperson:** Any further advice to the Chair?

Seeing none, the information that the Chair has been given, and I want to quote again from this for members as I have previously during these committee hearings this evening. With regard to an issue of hypothetical questions, while Marleau and Montpetit make note of prohibition against hypothetical questions during question period, our rules and the procedural authorities do not offer direct guidance on this matter in other debates such as committees. However, previous Chairpersons have allowed such questions in the committee, and I will allow the question, but I would remind committee members, ministers and witnesses are not obligated to answer all of the questions.

So, therefore, I must rule that the question is permissible and there's not a point of order.

\* \* \*

**Mr. Chairperson:** Where were we here now? Any response to the question posed?

**Mr. Balasko:** Yes, thank you. Because it gives me the opportunity, Mr. McFadyen, once again, to reiterate what I have at earlier committees, and that is—and what I said earlier this evening: decisions on prosecutions are mine. I'm the CEO at the end of the day. I'm the one that decides whether investigations go forward. I'm the one that must give permission for charges to go forward.

But what I've also said, and as clearly as I can, but I welcome the opportunity to say it again, is that in arriving at my decisions I have sought two separate, final legal opinions from these folks who I've described before, and their qualifications are just tremendously, tremendously deep, and I have acted consistent with the final recommendations of both counsel. And so, yes, the responsibilities are mine. I consider carefully very much what the opinions are. I read them carefully. We'll discuss them, but, at the end of the day, I'm getting an assessment from two lawyers separately as to—as a matter of law. Is this a matter of law that to—for which a prosecution should arise, or is it not? And that's the call I have to make

at the end of the day, and I've done that consistent with lawyers, and I don't think that you'll find any difference of opinion whatsoever among Mr. Graham, Mr. Green and myself having worked together for a number of years.

**Mr. McFadyen:** And so what you're saying, then, is that in the decision to not proceed with charges in connection with the federal tax credit issue that we got into earlier tonight, the legal advice you were provided was that it was legal to issue federal credits for provincial contributions. Is that—that's the legal advice that was provided by Mr. Graham and Mr. Green to you?

**Mr. Balasko:** Mr. McFadyen, I won't accept words being put into my mouth. I didn't say anything of the sort.

What I said is that I took a decision on prosecution that was consistent with the legal advice that I received from Mr. Green and from Mr. Graham, and that is the same process that's been followed regardless of political party from the first day to the last that we've had responsibility for this. And so that's the process, and I hope that's helpful to understand, and I hope people are listening to this description, because when an agency is responsible in such an arena as this with the task to investigate and prosecute, they do their very best to develop a system, which system will provide a credibility, and then fill the system with individuals of integrity and reputation, which will bring that system to light. Because beyond that we can't comment or discuss the investigations that we undertake. I won't comment on correspondence between myself and counsel or anything else related to the investigation because the legislators have given me that situation; it's not something I've created.

**Mr. McFadyen:** If investigations are—if you have a strict policy of not publicizing the detail of investigations then why were the investigations into opposition candidates so widely publicized through leaks from your office as well as the public laying of charges and processes?

**Mr. Balasko:** I don't understand the question, and I think it's—perhaps you'd try it again.

**Mr. McFadyen:** Right. The—subsequent to 1999 there was extensive publicity around Mr. Toews in particular, but other opposition candidates who had been charged, and, in fact, there were leaks from your office leading up to the laying of charges concerning those issues, and then extensive



publication of the fact that they had been charged and ultimately the disposition of those charges. I'm just wondering why you're so keen to publicize investigations concerning opposition members, but that there's a veil of secrecy when it concerns NDP members.

**Mr. Balasko:** I think that's an extremely unfortunate and incorrect characterization of what's happened, and I would tell you, as I mentioned to you, respectfully, as I have on numerous occasions, that the law requires investigations to be kept private, but that once charges are laid—earlier this evening I went over this and I'm pleased to do it again—that once charges are laid it's in open court, and it becomes a public matter, not through Elections Manitoba but through court. We have reported in our annual reports on the outcome of prosecutions. And that again has been consistent from the first time we took this mandate on.

With regard to the notion that vigorous on one hand and not vigorous on the other, Elections Manitoba doesn't look at the world that way, never has looked at the world that way, and there's no basis and no evidence to suggest that we've acted that way. What you have is a matter where certain things go to court and there's a judgment reached at court and we report back to the Legislature. And on the other hand we've got a mandate to investigate, and we have legislators passing a law saying that must be done in private; you must not comment on that. And so the policy that we've placed before this committee, I could go back seven or eight years and think about different circumstances and discussions and the same policy was applied then; same policy is applied now. And cases are different and are in different facts and different law. Again, in the case to which you refer, the federal—the other case to which you referred, same process was followed irrespective of political party. Two different legal opinions received, separate opinions from counsel outside the office, final opinions given, acted consistent with those, went to court, and the court played itself out. It's in the court's hands at that point, not ours.

So thanks for the opportunity to clarify that so that we understand at least where we're coming from. I can't regulate how you perceive it, but that's where we're coming from.

**Mr. McFadyen:** And so—and I appreciate the fact you've made it clear that it's illegal for anybody to disclose the fact that an investigation is under way. It's great to have that on the record, and I just want to

ask you: Did your—did Elections Manitoba do an investigation into our party concerning advertising spending subsequent to the 2007 general election?

**Mr. Balasko:** I won't be commenting on investigations that may have been undertaken by our office.

**Mr. McFadyen:** Well, the reason I'm asking is that Mr. Doer, the former premier, referred to it in the House on the record, the fact that we were being investigated for our advertising. I wonder if you can indicate how he would have known about that investigation and if it was illegal for him to have disclosed the fact that that investigation took place.

\* (20:50)

**Mr. Balasko:** With regard to your question, I have no idea and I'm not responsible for comments by third parties, and so I have nothing to add to that. Absolutely no leaking of information has taken place from our office. And it's of interest you mention '07 when our role in investigations ended in '06, but I know you're familiar with that.

**Mr. McFadyen:** It is the independent officer—or the independent prosecutor, and the fact is there was an investigation that was done by the independent prosecutor into our party, and the conclusion was that there had been no illegality. I just thought it was interesting that the leader of the NDP was making reference to that investigation in the House.

And I'm curious as to whether you would be willing to undertake an investigation as to how that information would have escaped from Elections Manitoba?

**Mr. Chairperson:** Mr. Balasko? Okay. Mr. McFadyen.

**Mr. McFadyen:** Is that a—obviously there was a leak of information from your office, and I'm wondering what steps you're taking—that was in terms of an investigation, and what steps you're taking to investigate that, given that you're so adamant that it's illegal to talk about investigations publicly?

**Mr. Balasko:** Firstly, again, your representation of comments by others is not something I'm going to comment on.

I've said a number of times, and I continue to remind all of us this evening, that since 2006 it's the Commissioner of Elections responsible for investigations, not Elections Manitoba. Elections Manitoba does not supervise, oversee the work of the

Commissioner of Elections. The Commissioner of Elections, as you've properly said it, is an independent officer that—who was appointed, on my recommendation, with the concurrence of the leaders of the political parties in the House and who does his job.

There have not been leaks from Elections Manitoba. Certainly, I've never heard of that. I've never seen anything like that demonstrated. Although I have heard the allegation before, and I recall the allegation many years ago, many years ago that there was a leak from Elections Manitoba, and subsequently that was found to have no basis.

So from time to time—I understand it's a difficult business. It's a difficult business. And, as a public servant in this difficult business, we try to build rigorous systems, we try to improve on those systems all the time, and we place people of great integrity in those positions so that some of the assumptions and perhaps views that people have would be in somewhat tempered by the individuals involved. And that's not so much really just a reaction to your comment, Mr. McFadyen, but just, generally speaking, it's another opportunity for me to relay that.

**Mr. McFadyen:** Just as a matter of process, there are really two different ways that those of us who are elected officials and members of political parties interact with your office in an official way. One is here at committee obviously and through our deliberations of the Legislature. The other is the all-party committee that works together at an officials level where parties provide representatives and they have discussions with you and your office.

Can you just indicate whether, in addition to those two processes, there was also substantial communication between yourself and the former NDP leader on issues outside of those two processes?

**Mr. Balasko:** From time to time, the Chief Electoral Officer is called upon for his advice, and I'm going to couch this in the whole time I've been Chief Electoral Officer. I was appointed in 1980 by then Premier Filmon, and at that point when legislation was being brought forward, I'd be asked my opinion on legislation. So there would be various staffers would ask my opinion. The Clerk of Executive Council would ask my opinion, and I would provide my opinion.

My opinion is available to any member at the committee and in between committee meetings when people are in contact with me about recommendations to amend the legislation. So that process has continued since 1980, and if I'm called on to give my opinion on recommendations that I've made, I welcome the opportunity. And I would love the opportunity this evening to talk about some of the recommendations that I've made in these reports.

To pick up on a point Mr. Lamoureux raised, Chief Justice Monnin in the Monnin inquiry took strong exception to the fact that the recommendations of the Chief Electoral Officer had not been put before committee and had not been considered for a very long time, and resulting in some difficult situations or perhaps contributing to those. And so the amendment that calls the Chief Electoral Officer at least each year to this committee is to consider the recommendations.

So I'm just tying it all together. I'm saying, absolutely over time, I'm asked my opinion on my recommendations, and I provide it. I did back in the '80s, I'd continue to do so tomorrow if you'd like to talk about recommendations, or tonight.

**Mr. McFadyen:** And I certainly think that we've got some good processes here at committee. I think the all-party working group are good forums where all parties are present for people to provide input to you. What I'm really asking about is the communications that took place separate from that between the former leader of the NDP and yourself on matters that were coming before Elections Manitoba and how often you communicated with him and what were the matters that were under discussion.

**Mr. Balasko:** By process and with respect to specifically what's discussed, I've had discussions about legislative recommendations that I've made and that's been the point of discussion. I've met with your predecessor as leader. I've met with the leader of the Liberal Party outside committees and outside other circumstances, and, you know, would be pleased to meet with your representatives as well at the advisory committee. That would be a very great assistance to get a full picture with all parties being represented there.

**Mr. McFadyen:** Just the letter that's now been circulated, the June 23, 2003 letter from Mr. Asselstine, on page 2 of that letter, second-last paragraph, Mr. Asselstine writes: On January 14th, 2003, at the request of the CEO I attended a meeting

to discuss the apparent negotiations you and the CEO were having with the Manitoba NDP concerning the findings of the investigation.

Can you just indicate who Elections Manitoba was negotiating with at the Manitoba NDP concerning the findings of Mr. Asselstine's investigation and why negotiations would take place with the NDP in advance of making decisions as to whether or not you were going to lay charges?

**Mr. Balasko:** Thanks, once again, for an opportunity to clarify.

As a matter of process our counsel is the one that would have contact in any investigation with the opposite number, both with the complainant and with the person or the organization that's being investigated. So, it's not communication with myself. There would be communication through counsel and the communication would relate to the investigation. Let me be crystal clear as I was last committee, but I appreciate the opportunity again to do so. Decisions on prosecutions are taken based upon the legal advice that's received from two counsel. That's the decision point. Certainly, in the matter of the investigation in regard to donations in kind versus cash expenses where there are two different opinions, we certainly press our opinion and were pleased with the compliance that we received, but the fact of whether charges are laid or not is a matter determined on the basis of legal advice, full stop.

**Mr. McFadyen:** You've said that there would be negotiations between counsel to Elections Manitoba and the NDP. Mr. Asselstine's letter makes reference to negotiations between Mr. Graham and the CEO, referring to you, that were under way with the Manitoba NDP concerning the findings of the investigations. Was Mr. Asselstine mistaken in thinking that you were directly involved in negotiations with the NDP concerning the findings of his investigation?

**Mr. Balasko:** Good, thank you for the question.

Two quick points. Firstly, unless I'm mistaken, you said that I just said that they were in negotiation with the NDP. I don't believe that's the case. I believe that those were your words not mine, and, secondly, I will not be discussing the matters that are between counsel or really a third party's representation. I'm not—I mean, Mr. Asselstine is entitled to his opinions and views of things and you are producing his perspective on things, and what I'm telling you is that all information from a forensic side was considered

in the investigation, went to two counsel, two final legal opinions, decision consistent with it. Same in every case, and so that's the process. That's what was applied without question.

**Mr. McFadyen:** The thing that I'm curious about is you've talked about process and investigation followed by a legal opinion followed by a decision. There's also another step that appears to be referenced by Mr. Asselstine, and that's direct negotiations between yourself and Mr. Graham on the one hand and the Manitoba NDP on the other concerning the findings of his investigation.

\* (21:00)

Can you just indicate, just give us a flavour of those negotiations? Who was involved for the NDP, and whether that's normal practice to negotiate—for you to negotiate directly with a party before decisions are made on whether to charge them, and whether you had similar negotiations with Mr. Toews or other parties in advance of decisions being made in those cases?

**An Honourable Member:** Point of order.

#### Point of Order

**Mr. Chairperson:** Mr. Swan, on a point of order.

**Mr. Swan:** You know, I think that Mr. Balasko's tried to explain this a couple of times. I mean, the difficulty is that Mr. McFadyen is ignoring the word "apparent" contained in the letter. The letter from Mr. Asselstine talks about the apparent negotiations. Mr. McFadyen, in his questions, has conveniently forgotten that and is trying to put an improper question to Mr. Balasko.

Mr. Balasko, I think, has been trying to explain that, but I think it would help the committee's work if Mr. McFadyen could acknowledge that and maybe ask his question again.

**Mr. Chairperson:** Mr. McFadyen, on the same point of order.

**Mr. McFadyen:** On the same point of order. I did read out the word "apparent," and I don't believe the member has a point of order. He's mistaken in terms of his characterization of what I said.

But if he's not happy with that question, I'll ask it a different way, if he wants. I've got a different way of asking it that maybe won't be so offensive to the member for Minto.

**Mr. Swan:** To the Chair.

**Mr. McFadyen:** I don't think there's a point of order, and so we'll leave it at that. I'll let you rule on the point of order, Mr. Chairman.

**Mr. Chairperson:** I thank the honourable member for the point of order and for subsequent comments by committee members.

It appears to be a dispute over the facts with respect to this particular point of order, and the Chair must rule that there is no point of order based on dispute over the facts.

But if Mr. McFadyen has indicated or expressed an interest to rephrase the question, and that may be helpful in this circumstance, then I encourage him to do so.

\* \* \*

**Mr. McFadyen:** Since the issue that Mr. Asselstine is referring to would be within the direct knowledge of Mr. Balasko, can you just indicate, did you participate in any direct negotiations with the NDP concerning the findings of Mr. Asselstine's investigations?

**Mr. Balasko:** Thank you, Mr. McFadyen. I've said before that discussions would take place through counsel, and I think that if people have an opportunity to look back over the whole course of investigations conducted by Elections Manitoba while we had that mandate and if they have any experience with it, they'll know that that's the way it takes place, through counsel. And that's the place that discussions—and it's not unusual at all during the course of an investigation; of course there are discussions with both the complainant and the organization under investigation. I mean, it stands to reason, and it is conducted through the investigators and through counsel.

But at the end of the day, the decisions are those that are my decisions, and my decisions based on the legal advice with regard to prosecutions, and when I have that final advice in my hand I've acted consistent with it.

**Mr. McFadyen:** And so, just, I understand what the policy and the approach is. So just to be clear, then, there was never a discussion between yourself and the former NDP leader concerning the findings of Mr. Asselstine's investigations then. Is that the case?

**Mr. Balasko:** Mr. McFadyen, you know that I cannot comment on investigative matters, and don't

read that to be an affirmative. Don't read that to mean there were discussions.

The fact is, I'm trying to reply to your question the very best and earnestly I can by taking it out of the specifics of an investigation into the process, and what I've said to you is that I would not be discussing these matters in the course of an investigation. As process, I wouldn't do that. I haven't done it. So I think, within that, you have the answer to your question, but I cannot come into discussion about the investigation itself.

**Mr. Chairperson:** Before I proceed to the next question, I would appreciate if honourable members of this committee would direct their questions through the Chair, and the appropriate responders, whoever they may be, to direct their responses through the Chair, as well, because it would be helpful to these proceedings to keep them flowing in a smooth fashion. So I appreciate your co-operation in that regard.

Mr. McFadyen, next question?

**Mr. McFadyen:** Yes. Thank you very much. Just on the other comment made by Mr. Asselstine, the original one that I had made reference to on page 2 where he says: I further understand that you both concur that complaint filed against my conduct was contrived and was part of an attempt to disrupt if not obstruct the investigation.

Do you know whether Mr. Asselstine was correct in suggesting that Mr. Graham agreed with him that the NDP complaint against him was an attempt to disrupt if not obstruct the investigation?

**Mr. Balasko:** Firstly, Mr. Chairman, excuse my lack of procedure from time to time. I'm not as familiar when I get my opportunity at this table, as often as it happens. I do my best, but I will make extra effort, of course, to direct my remarks through you.

With regard to Mr. McFadyen's question, I'm not going to comment on Mr. Asselstine's characterization of any aspect of the investigation.

**Mr. McFadyen:** And so let me just ask, do you have any—just having worked with Mr. Asselstine for many years—

**Mr. Chairperson:** Mr. McFadyen, can I interrupt you there for a moment? I'm getting a sense here—

**Mr. McFadyen:** To the Chairman.

**Mr. Chairperson:** Yes, please, when you say you—

**Mr. McFadyen:** Right.

**Mr. Chairperson:** –you're referring to the respondent. I would prefer that you would direct it through the Chair, please, and then whoever chooses to respond, that will be up to the individuals.

**Mr. McFadyen:** Right. Well, Mr. Chairman, through you to Mr. Balasko, the question to Mr. Balasko is whether having worked with Mr. Asselstine for many years, whether Mr. Balasko has any reason to believe that Mr. Asselstine would put things in writing that were untrue or false.

**Mr. Balasko:** I don't see a point in speculating on what Mr. Asselstine would do or not do.

**Mr. McFadyen:** Just to the Premier, through you, Mr. Chair, to the Premier. Mr. Selinger, you had—you've indicated that you attended a meeting in 2003 in advance of the 2003 general election, in which lawyers for the NDP were present and at which certain issues were discussed with yourself, your official agent and other official agents, including Mr. Treller. Can you just confirm that in addition to the rebate issue that's already been discussed, that there were other issues that were raised by the NDP's lawyers at that meeting?

**Mr. Selinger:** No, I can't confirm that.

**Mr. McFadyen:** The—can you just indicate why it was that you sought a letter from NDP central office exonerating yourself and your official agent in terms of responsibility for the issues that were raised by the NDP's lawyers at that meeting?

**Mr. Selinger:** Yes. As I've indicated earlier, I've always presented myself as a candidate without the benefit of corporate-union donations. That's a long-standing policy of mine and I thought that had been understood.

**Mr. McFadyen:** And so you were bothered by the fact that the party was receiving illegal union contributions and wanted to be sure that you weren't tarred with that then.

**Mr. Chairperson:** Mr. McFadyen, if I can stop you there—

**Mr. McFadyen:** Oh yeah. So to the Premier, through you, Mr. Chairman, Mr. Selinger, was he bothered by the fact that lawyers raised union contributions and wanted to distance himself from that reality?

**Mr. Selinger:** Well, as I said earlier, I had a policy of not accepting union or corporate donations and I just asked that that be respected.

**Mr. McFadyen:** And with respect to that, you received a letter from NDP's head office to the effect that you and your official agent had not been knowing participants in the scheme involving the unions?

**Mr. Selinger:** I simply asked for them to take responsibility for the attribution of any union donations to my campaign.

**Mr. McFadyen:** And do you still have a copy of the letter that you were provided?

**Mr. Chairperson:** Mr. McFadyen, again—

**Mr. McFadyen:** Mr.—does—Mr. Chairman—

**Mr. Chairperson:** –using the word "you" is creating some difficulty for the Chair so I would appreciate it if you'd put it into a third-party sense.

**Mr. McFadyen:** Mr. Chairman, does Mr. Selinger continue to have a copy of the letter that Mr. Selinger was provided by NDP central office?

**Mr. Selinger:** No.

**Mr. McFadyen:** And where did that letter go?

**Mr. Selinger:** I'm not sure where it went. All I know is I don't have it.

**Mr. McFadyen:** Well, it would seem to defeat the purpose of getting the letter to misplace it. Obviously, it was generated in anticipation of this becoming a public issue. So, is it through sloppy filing or deliberate actions that the letter is no longer available to you?

\* (21:10)

**Mr. Selinger:** Well, I don't think those are the only options. It's simply the case that I thought the matter had been closed and was no longer an issue.

**Mr. McFadyen:** To the First Minister, as a former Finance Minister—I want to ask the First Minister whether he thinks it's appropriate for federal and provincial governments to be issuing tax credits for donations that are made solely to a provincial political party.

**Mr. Selinger:** Well, again, as I indicated elsewhere, that is somewhat a hypothetical question.

In 2000, we changed the rules to ban corporate union donations, which made that practice illegal,

and we did that and it was done before I knew there was ever an issue such as you've just raised right now. And I'm happy we did that, because I think it clarified the way democracy should function in Manitoba.

**Mr. McFadyen:** The list that Mr.—or the member for Steinbach (Mr. Goertzen) tabled earlier didn't contain any union or corporate donations. It was all individual donations that were split on a 67-33 basis.

So not getting distracted by the issue of union and corporate donations, I wonder if the Premier (Mr. Selinger), as former Finance Minister, thinks it's appropriate for individuals to receive federal tax credits for provincial donations.

**Mr. Selinger:** As I've said earlier, I think that as a result of our decision that we ran on in '99 and earlier not to allow corporate and union donations, at the same time as that occurred in 2000, it was now no longer possible to have this kind of transferring of funds between the federal and provincial parties.

**Mr. McFadyen:** So let me just try again. We're talking about individual donations to the provincial NDP that triggered federal tax credits, and I wonder if the minister can indicate whether he thinks it's appropriate to issue federal tax credits for provincial donations.

**Mr. Selinger:** Well, as I said earlier, I'm happy that the practice has been made illegal as a result of the reforms we have made to elections in Manitoba, and I think that is a better practice for democracy right now.

I did note that the Lortie Commission was clear nothing, neither the federal income tax or in Manitoba, disallowed interparty financial transfers. So it was not an illegal practice according to the Lortie Commission, but in our view, before anybody made an issue out of it, we had moved to make it impossible in the electoral reforms that we had passed into law.

**Mr. McFadyen:** Right, and the issue of transfers between parties is a separate issue. What we're talking about is a scheme to run money in and out of a party in order to trigger federal receipts.

And I wonder if the Premier, as a former Finance Minister, thinks it's appropriate to issue federal tax credits for donations that ended up in the bank accounts of a provincial party.

**Mr. Selinger:** I believe I've answered that question. The reforms we took made that a practice that was

no longer possible, and I thought that was for the improvement of our democratic process.

**Mr. McFadyen:** The problem was that it was illegal before the reforms you talk about, because Mr. Balasko just said that it's illegal to issue federal receipts for provincial donations.

So I just want to ask the Premier whether he agrees with Mr. Balasko that it's always been illegal.

**An Honourable Member:** He didn't say that.

**Mr. McFadyen:** Yes, he did. [*interjection*] Well—

**Mr. Chairperson:** Order, please.

**Mr. McFadyen:** The members opposite are chirping. They can read *Hansard*.

No, he indicated—and I don't think anybody would think that it would be legal to issue federal credits for provincial donations. I mean, that's just ridiculous.

But Mr. Chairperson, the—my question to the Premier, as former Finance Minister and somebody responsible for the Treasury: How would he feel if donors to federal political parties were receiving provincial tax credits and, as a result, cutting into the revenues available to the provincial government?

**Mr. Selinger:** Well, again, a hypothetical question.

What I am pleased about is that we ran in '99—and I believe, actually, it was part of the '95 campaign as well—to reform the electoral laws of Manitoba to make union and corporate donations illegal, and as a result of that, this practice of transferring money between the federal and provincial NDP was no longer possible.

**Mr. McFadyen:** Well, the issue of transfers between parties is completely separate from the issue of who donates to those parties, and I want to, again—I don't know what—this is—it's not a difficult question—just ask the Premier whether he thinks it's appropriate for one level of government to issue tax credits for donations to another level of political party.

**Mr. Selinger:** And, again, I believe I've answered that question. I think the electoral reforms that we brought into law have made that practice no longer possible, and I think that's a positive outcome.

**Mr. McFadyen:** Can I just ask, given that the issue of interparty transfers was never a publicly debated issue at the time, what prompted your government, following Mr. Asselstine's discoveries, to bring in that legislative amendment?

**Mr. Selinger:** As I understand it, that practice was made impossible as a result of changes we made in 2000.

**Mr. McFadyen:** The two-third, one-third split goes into 2000 but the changes that were made to the legislation happened subsequent to the discovery of the transfers by Mr. Asselstine.

And I'm wondering what prompted you, at the time, to want to deal with the issue of shutting down interparty transfers? Was it in any way related to the fact that you were aware of Mr. Asselstine's findings and were in the process of doing damage control in the event they became public later?

**Mr. Selinger:** No. As I said earlier, we ran on this and one of the outcomes of the changes we made was to make this practice of interparty transfers no longer possible in law and that was before we knew there was any issue raised by anybody.

**Mr. McFadyen:** So, just to be clear, you're saying that the part of your 1999 election platform was to ban interparty transfers?

**Mr. Chairperson:** Mr. McFadyen, we've wandered back into the first person again. I would prefer through the Chair, please. Rephrase the question, please.

**Mr. McFadyen:** Is the First Minister saying that his party campaigned in 1999 on the issue of banning interparty transfers, that was part of their 1999 platform?

**Mr. Selinger:** The principle plank was to ban corporate and union donations. One of the outcomes of the changes we made to law was to make interparty transfers no longer possible, so it was a desirable outcome.

**Mr. McFadyen:** What would have prompted you to become concerned about interparty transfers which aren't directly connected to the issue of union and corporate donations?

**Mr. Chairperson:** May I ask you to rephrase that question again.

**Mr. McFadyen:** To the First Minister, what would have prompted the party to bring forward amendments related to interparty transfers when the issue of union and corporate donations, which relates to who donates to a political party, would have been separate from that issue?

**Mr. Selinger:** Section 41(1) reads: no person or organization other than an individual normally resident in Manitoba shall contribute to any candidate leadership contestant, constituency, association or registered political party. So the intent of that was to restrict contributions to people resident in Manitoba.

**Mr. McFadyen:** That's fine. It doesn't address the question. *[interjection]*

Members opposite are getting excited.

The issue of interparty transfers was dealt with in amendments that the government brought forward in 2000. The issue of interparty transfers had not been part of the debate over who can donate to parties. It's an issue of relationship between federal and provincial parties.

I'm wondering if you can just—if the minister can indicate—First Minister can indicate whether it was just a coincidence that the ban on interparty transfers came immediately after Mr. Asselstine and Elections Manitoba brought forward their concerns about the federal tax credit scheme that's been discussed earlier tonight?

**Mr. Selinger:** Well, as I said earlier, as far as I know, and certainly in my case, we weren't—I wasn't aware of any issue on the table but I was glad that we had run on the issue of banning corporate and union donations. I was glad it covered interparty transfers—intraparty transfers—as a result of the legislation we brought forward and I thought it brought greater clarity.

I read out a section which restricted it to Manitobans only and I think that relates to the issue of intraparty transfers because it makes sure that the money comes only from people that are resident in Manitoba.

\* (21:20)

**Mr. McFadyen:** Does the First Minister support, as a matter of policy, the position or the interpretation of the law that's being advanced that there can be no further public discussion of investigations into the NDP?

**Mr. Selinger:** As I understand it, we have brought forward amendments that allow for more public disclosure, and that that's something that has occurred in the last few years. I believe it's since '07. It allows this Commissioner of Elections or Elections Commissioner to make additional comment, if they wish to do that, and we supported that.

**Mr. Swan:** I'd like to ask Mr. Balasko some questions about his office's efforts to assist political parties and political candidates with compliance. So I ask Mr. Balasko to talk about what steps his office takes to assist, whether it's an individual candidate or a party, after an election or between election periods, to make sure they're in compliance with The Elections Finances Act, and how you work with—how Mr. Balasko works with parties and those candidates.

**Mr. Balasko:** That's another topic that I'm, you know, really interested in, because mindful of the fact that political campaigns operate through the graces of volunteers. And the campaign finance legislation in particular can be quite complex, and it gets changed relatively frequently as well.

So in terms of our—firstly we have the mandate. We have the mandate to assist people to comply with the law. And then, how do we do that? Well, we do that firstly by offering the essential parties, the executive directors, the opportunity to meet with any of their staff that they would like to get an overview of the laws and the compliance responsibilities of the position. We have guidelines, a series of guidelines, that apply to chief financial officers of political parties, to candidates, to official agents of candidates, to auditors of registered political parties, to auditors of candidates.

We also put on a series of programs where we have in-person training, and it's around Manitoba and it's off hours as well, that is tailored: One to political volunteers who manage campaigns, and the second program is tailored to auditors who have a responsibility to fill in to the legislation. So we provide more than just the manuals, but we actually get in the classroom with them and spend time. I can't remember the exact numbers, they were in our comments last year, but a very, very high percentage, I think it's in the neighbourhood of 60 or 70 percent of campaigns, were represented going into '07, and a higher percentage of auditors, took up our training.

The other thing that we try to do, beyond the checklists and the guidelines and the training, is we have been very much at the front edge of automation and providing tools to volunteer campaigns that they may use to stay compliant with the legislation. So, for example, for many years we've had an electronic filing disc that's available for campaigns, and it's built in such a way that if common errors are made there's a diagnostic that pops up and it says, you know, think twice before you try to do this.

The most recent innovation that we have—thank you, Mary—I'll just go back to what I said a second ago. We had 76 percent of auditors—or, sorry, auditors representing 76 percent of candidates attend our training sessions at the last election, and we had 143 people, which represents 60 percent of the 196 official agents, also attend our training sessions. So we've had a very, very big pickup on this.

The last point I'd add is, you know, we haven't stopped yet. We're still doing something that I think is unique in Canada, and that is we've rolled out in this by-election a software package that—I don't know if all the campaigns are using it, but several campaigns are using it—which allows the agents to track all their expenses as they occur and to put it—their expenses and their income—to sort it in a way that they can use it practically in their campaigns and in a way that they can dump the information later to produce the electronic filing disc. We do that so that the campaigns can, you know, have a nice tool to keep their records straight. No more shoe boxes. And it allows them easily to transfer the information.

Now we'll see how successful it is because we'll get feedback after the by-election, and I'm sure to some extent we'll have to go back to the drawing board, but we're very committed to this.

**Mr. Swan:** Thank you for that response, Mr. Balasko.

I wonder if we can talk a bit more about the process that happens after a general election, after a by-election. Of course both the party and the candidate, if they're a member of a party, will file a return with Elections Manitoba. My understanding it's not unusual that Elections Manitoba may raise concerns or have some other thoughts and some steps happen before a final return is provided. So could you talk about that?

**Mr. Balasko:** Just to add to my last comment, if I can, just to—before I move into the answer to this question, I'm very pleased to say—and thank you to the goodwill of everyone in the room—that we've got all—we've got four campaigns—all four of the campaigns that ran in Concordia are using our new filing software. And so we appreciate that because it's a little something extra people have taken on. It's sort of a beta version, and we'll see how good that it is—how good it is, I should say.

We receive the returns—returning to your question, Mr. Swan—at Elections Manitoba. We'll do a review. If we feel that there are matters that require



further information, substantiation, we will go back to the campaigns and collect that information, and it's not infrequent then for amended returns to be filed by campaigns, and we have a role to assist people as well to ensure that when they're making changes at our request that the changes are accurate and it's—completes the process for them.

**Mr. Swan:** And in that process, what would—what I expect would happen is that if there was a problem with a filing, there was something Elections Manitoba didn't necessarily agree with—I mean, you would never run off to a prosecution. It would always be a matter of discussion between Elections Manitoba and either the party or the candidate. And the goal would be to have an amended return that would take into account the changes Elections Manitoba had suggested. Is that a fair thing to say?

**Mr. Balasko:** Thank you, Mr. Chairperson, Mr. Swan, for the question. We first operate in a compliance mode. That's the way the legislation is set up, and we have worked with every political party at every election, and candidates of every political party at every election to—in the review of their returns—to bring their returns into compliance with the legislation to the extent that they can be. If there's a matter that crosses the line toward investigation, then that's a matter—that's why it goes out of our office to investigative counsel.

At the time, we were responsible for that, and that's another process altogether we've talked about this evening. But, fundamentally, that's why I'm very pleased that the recommendation was accepted effective 2006, that the Commissioner of Elections is responsible for enforcement of the law and that allows us to focus on sort of the core business of, you know, doing our best to run elections.

There's lots more that we can do to learn about running elections well but, as I said, the law in Manitoba, thanks to the Legislature, is very progressive. In high-90 percentile of voters at elections have reported their experience to be satisfactory or very satisfactory. Three elections running, we're 95, 97 percent, something like that. It's not to say it's all done, but this departure from being involved in investigations and prosecutions and all that it brings allows us to return to the core business of running great democratic elections in the province.

It also allows us to get into the business of assisting people to comply with the law, and also very importantly, we talked about a little earlier,

we're very, very excited and very motivated with the new mandate to engage people, the citizens in civic society about voting and about participation in elections.

**Mr. Swan:** Yes, and thank you, Mr. Balasko. And even before 2006, when compliance was still, I think it's fair to say, the main goal, so, is it fair to say that there were not just one party, but three parties represented in the Legislature had had examples where Elections Manitoba had given them—had given those parties their view on what should happen and, rather than contest those, each party chose in its own way to resolve the matter to Elections Manitoba's satisfaction? Is that a fair way to describe what happened?

**Mr. Balasko:** I prefer to look at it from the point of view, the earlier discussion about compliance and enforcement and, once you're in an enforcement mode, that's a whole different process. You've got the external investigators, the team, now you've got a commissioner. So it's a whole other thing. But while it's with Elections Manitoba in terms of compliance, you know, we're very mindful of the fact that it's a complex law and there's lots of volunteers involved, and you're quite right, that the first goal is compliance.

And it's not uncommon to have amended returns filed and it's not uncommon for—that they have an impact on reimbursement being repaid, and, for certain, all political parties in the Legislature, from one time or another, and candidates of all the parties have had returns adjusted in a compliance mode to repay reimbursement as a result of changes necessary to their returns.

\* (21:30)

**Mr. Swan:** This will be my last question. It's for Mr. Balasko. I do want to thank you for your service to the people of Manitoba and to the Legislature.

We haven't spoken yet tonight about how things look across Canada. How does Manitoba's current scheme now look when we compare it with other Canadian jurisdictions on the issue of investigation and the issue of compliance? Can you tell us, where does Manitoba stand?

**An Honourable Member:** Point of order.

#### Point of Order

**Mr. Chairperson:** Mr. McFadyen, on a point of order.

**Mr. McFadyen:** The member for Minto (Mr. Swan) is putting his question directly to Mr. Balasko. He said, can you tell us how—where you stand. I think he should put it through the Chair, Mr. Chairman.

**Mr. Chairperson:** Mr. Swan, on the same point of order.

**Mr. Swan:** I apologize heartily to Mr. McFadyen if I have created any difficulty, and I will ensure that I pose my last question to Mr. Balasko.

**Mr. Chairperson:** I appreciate the honourable member's point of order. He does have a point of order, and I would ask the honourable member, who has indicated he is willing to rephrase his question—and I ask Mr. Swan to rephrase his question at this time, please.

\* \* \*

**Mr. Swan:** Yes, Mr. Chair, thank you, and I would ask Mr. Balasko simply to comment on where Manitoba stands in elections legislation in terms of the ability of Elections Manitoba to do its job to investigate and to hopefully voluntarily have compliance or, if need be, enforce compliance. If he could just speak about that, that would be very helpful.

**Mr. Balasko:** The first thing I want to do is make sure I acknowledge the Chair, so Mr. Chairman—

**Mr. Chairperson:** It was my shortcoming. I apologize.

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

Investigations and prosecutions are always, you know, difficult matters, and they are so across the country, and, really, there's a whole range of responses to investigations and prosecutions across the country. Many of them are not clear in statute at all, and I'm a great advocate that it needs to be clear in statute.

And so I would say that in Manitoba, it's right where the province needs to be, in my opinion. And I say that because it, by the creation of a Commissioner of Elections, it allows Elections Manitoba to refocus in, you know, a co-operative compliance mode with the parties on exclusively the core business of running elections and assisting people and engaging the citizenry. It allows us to do that and that's terrific, and it also puts investigations clearly at arm's length from Elections Manitoba and in the hands of a specific group of people whose job it is to focus and doing that alone.

We're somewhat similar to Elections Canada that has a Commissioner of Elections, and so we're closer to that model, but I think that we're very well positioned across the country in terms of our approach in Manitoba.

**Mr. Ralph Eichler (Lakeside):** In the opening comments, we had talked about voter turnout, and my question, in particular, is regards to rural Manitoba. Having said that, I'm sure the urban areas have the same issue, but in particular with rural Manitoba, where almost everybody knows everybody and the poll clerks have been the poll clerks, the returning officers have been the returning officers for a number of years. And my concern is where somebody's been missed from the voters list, and they've drove in 25 or 30 miles, don't have the two pieces of ID, they're turned away, they're mad.

Do we have any indication about how many people we lost from those voting polls as a result of that, and what steps are taken to try and overcome that in the future?

**Mr. Balasko:** Mr. Chairperson, thank you, with your permission.

I mean, that really is critically important, because I do believe that someone arriving at a voting station on election day without identification and is turned away is a barrier. Now, there's offsetting considerations to that, but I absolutely acknowledge the issue.

A couple of things: First, I think you make an excellent point by talking about people who aren't registered to vote on election day. So, how good is the voters list, is I think where we start on this.

In Manitoba, we do a door-to-door enumeration, and in the rural areas, it's really helped by the fact that many people, they do know each other and they—a good sense of community in many cases. But we've engaged Prairie Research Associates to do a survey following the last elections to tell us how good is the quality of our voters list. And we have two measures, and the first measure is sort of—and I'm looking over to the folks I work with to remind me of the numbers—but the first measure, really, is how complete the voters list is. So when we consider now all the possible voters out there, how many are captured on our list, and this gets to will we have to turn people away or not on election day if they're on a list.

And in 2003 and 2007, the completeness of the voters list is about 87 percent. It was 86 percent in

'07 and it's 87 percent in '03. So, that's by us—arm's-length survey. That's very good because you've got to realize that there are people out there who don't want their names on the voters list because that's circulated and they'd rather just show up on election day.

The second thing we measure is the accuracy of the information on a voters list. So, do we have the right person at the right address and spelt properly? Again, through Prairie Research Associates surveys, in 2003, it was 88 percent accurate and in 2007 it was 93 percent accurate.

So—I appreciate your patience. But the first stone I want to put in there is the fact that I agree with the notion that being on a voters list is critical. And by the way, through research, we know factually that if you're on the voters list, you're more likely to vote. It just reflects what you're saying. So the voters list is the first place we start.

Now, secondly, in terms of identification, in Manitoba, of course, identification is not required to vote on election day if you're on the voters list. Now, federally, I know it is required even if you're on the voters list, and I know that the City of Winnipeg, it's required even if you're on the voters list. And I'm not sure about all the municipalities, what their different rules might be with respect to that. But, in Manitoba, if you're on the list, you vote without ID and since, overwhelming, people are on the list, very few people are turned away.

Last election we made the recommendation that there is a vote-anywhere opportunity. So, during advanced voting, any individual can vote at any advance location. Visiting family in Birtle, you know, and you live in River Heights, you can vote in Birtle at the advance. We recommended that there should be ID required for that because the opportunity exists, you know, for people to move around and vote in various places, so ID was required for that.

And, we don't have official statistics, but we can tell you that we monitored really closely how many people were turned away without ID at the advance and it was, I don't want to say inconsequential because one person is important, but very, very small numbers. We're talking, like, a handful of people.

But there's a safety net, right? If you show up to advance and you don't have your ID and you're turned away, you can always come back another day

or you can come back on election day, but on election day you cannot come back.

So what we're trying to do in terms of not turning people away on election day is get the list up to the best quality that we can. And we haven't made a recommendation for identification on election day but it's something that we look forward to discussing with the advisory committee and make sure we understand all aspects of it.

**Mr. Eichler:** With respect to the voters list, and, of course, now that we have set date elections, the turnaround time normally is, you know, within a couple of weeks as a goal.

Now with set date elections, do you anticipate having those tools made available to you so we can get those, you know, a bit sooner, so that those that are missed can have a chance or opportunity to realize that they have been missed and those steps had been taken to overcome some of that?

**Mr. Balasko:** Thank you for the question.

It would be nice to talk elections one day because this is another point where I think you're right on.

A couple of things come together with the set date elections. The first thing that comes with the set date elections is Elections Manitoba—this is new—we've been tasked with creating an address database for the Province of Manitoba and it doesn't exist anywhere that we found other than we're creating it. And the purpose of the address database is to put people on the proper doorsteps and get even better coverage than where we are now.

But the result of that, with a set date, is we'll be enumerating well in advance of the election. So the voters list you will have will be before the writ of election. So before we get into the actual, you know, the writ period beyond, you'll have a voters list. That will be—also—and I shouldn't speak for who comes past me, but I'm sure that every effort will be made to make sure it's a very, very good list.

So, yeah, you'll get the list early. And since you've got the list early, you can scrutinize the list and if we've missed voters, we want to go back and get them and we distribute the list in advance. And with the list, we always send a letter to the parties saying, look, if we've missed people, please let us know, and we appreciate that kind of feedback. So you'll have the list earlier, much earlier.

\* (21:40)

**Mr. Eichler:** One last question in regards to the writ that you talked about in your opening comments through the Chair.

What number of days would you recommend as compliance for that?

**Mr. Balasko:** Thank you very much for the question, and, Mr. Chairman, for the opportunity to respond, and Mr. Eichler for the question.

Right now there's a range. I don't have a specific suggestion to make to you on what the range ought to be. I just think it's really advantageous to everyone involved if the period's set. Right now there's a range during which the election may be issued, and that is at least 28 days but not more than 35 days before the writ of election. So, even going forward on a set date, people not sure, like, what that writ date is going to be, so how do I manage my spending limit? How do I get my campaign workers all lined up if I don't know it's going to be a Friday, but it could be next Wednesday, it could be next Thursday? And how then can we also make sure our office is open on time, not too early, not too late, but very efficiently and cost effectively? So, for all those reasons, I heartily recommend that now that we have a set date, that we have a set election period. I just note that, you know, elections in Manitoba have almost always, not always, but almost always been called on the minimal period and when you have a set date you know the election is coming. You know, there's something to be said for that. It's not going to sneak up on people.

**Hon. Bill Blaikie (Minister of Conservation):** I'll endeavour to try and speak through you, Mr. Chairman, but first of all I've got to get the microphone on, so, you know. There we are, okay.

I wonder, Mr. Chairman, if Mr. Balasko could—we were talking just a few minutes ago about a voters list and many other provinces have moved to a permanent voters list, and I certainly remember the debate around a permanent voters list at the federal level and, in my own judgment, there's a little bit of, be careful what you ask for, there, because there was always a great hope that a permanent voters list would be superior to a list created on the occasion of an election being called through the traditional enumeration process and, as you probably know, there's been a lot of problems associated with the permanent voters list: having it comprehensive, having it up to date, having it be the kind of list that so many people hoped it would be when it was

created has been more problematic, I think, than a lot of people may have anticipated at the time.

So, I wonder whether, you know, whether you would have an opinion, I suppose, on what's happened in other provinces, whether you're familiar with what's happened in other provinces where they have moved to a permanent voters list and whether, in view of their experience and your own experience with Manitoba's system, which is the more traditional system, whether you would, you know, continue to be—or what your view would be, whether, you know, our system is a good system. I mean, it's not one of the recommendations you made at the outset, so I assume that it's not high on your list, but I just wondered if you could give us some analysis or comment on the whole question of permanent versus occasional voters list and how you think the Manitoba system is working.

**Mr. Balasko:** Thank you, Mr. Chairman.

Mr. Blaikie, that's been a—you know, a great discussion for quite a long time and I was, you know, around at the beginning of that discussion, and I'm very much a believer in the metrics and so that's why we have Prairie Research Associates do these surveys to determine the accuracy and the quality and the currency of our voters list, and so, to me, it's sort of, it's all in the numbers.

Going back to Mr. Eichler's comment, we want people to be on the voters list because we know that's related to voter turnout. We want that not to be inconvenient for people. So I'm very much driven by what works. I'm not a, you know, just a sold-out advocate on enumeration or continuous list, but what works. We know that in Manitoba that the enumeration works because we have a very, very good voters list. It's a difficult thing to do outside a set date period, and becoming, sort of, more difficult to do.

I wouldn't, as far as the rest of Canada goes, of course, you know, it wouldn't be my place to comment on how it works elsewhere. I'm sure that—

**An Honourable Member:** We'd let you.

**Mr. Balasko:** I'm sure it works well when people are satisfied wherever that's working. I would say that the permanent list has come a long way and I wouldn't have said to you before, like 10 years ago, I wouldn't have said keep a close eye on it because I think it had a lot of development, but it's—it has improved, and it's—it is much better than it used to

be. But I still think that the process that is followed in Manitoba is a very good process.

I recall the Law Reform Commission of Manitoba studied this, and the Law Reform Commission made a comment that some academics picked up at the time of the continuous list federally—and I think it's hard to measure, but you don't want to dismiss it—and that is that enumeration service is a wake-up call to the electorate, and it employs, you know, a few thousand Manitobans in every corner. So I always have the image in my mind of it being talked about around the kitchen table, and did you know so-and-so's an enumerator, and there's a knock on your door from enumerators. That must have something that, I think, is positive in elections.

Also, I think statistically it's been shown that there are certain populations that may be more difficult to identify on data bases and so may be left off lists that are continuous. And it's interesting to note that British Columbia, which has been in a continuous-voters-list mode, I think, since the '30s—they really—they've been at it a long time, way, way ahead of the curve—if I understand it correctly, I believe I do, the legislators there have passed a law at the last election to mandate an enumeration at the next election, which is, I think, where it stands now.

So, I think that it's very important right now to keep our eye on the voters list, the continuous list, because now that we're building an address register and we see improvements elsewhere, I think we need to be aware of what works and just keep measuring it and find out what works.

But for now, enumeration does work, and I'd hate to lose the soft value of enumeration, which is a wake-up call to the electorate. These are not the times when I think we start taking supports away from that. I think it's—we need to be looking at finding ways to kindle that, and as I mentioned in my opening comments, some type of civil society discussion around this issue would be, I think, very important.

**Mr. Blaikie:** I was tempted to ask Mr. Balasko whether he had any recommendations as to the possible timing of by-elections with respect to enumerators, because I remember running into a lot of cold enumerators in the Elmwood by-election of last year, but that's just—that comes with the territory, whether you're a candidate or an enumerator or a volunteer or whatever.

So—but I—at the beginning of the evening, you made a reference to referendum legislation, and I don't think you've had a chance to kind of expand on what you were getting at there, and it seems to me that that might be interesting to the committee—through you, Mr. Chairman, of course—if Mr. Balasko could elaborate on it.

**Mr. Balasko:** Yes, Mr. Blaikie, it's—I'm glad to have that discussion, because in Manitoba there's been a reference to referendums for quite a period of time, and there's a growing list of statutes under which referendums might occur, but how these are to be conducted are basically dealt with by regulation, which would be, you know, government of the day, or by CEO adaptation of the election laws. And I'm a great believer in, especially around elections, you know, keep the rules clear and set them out in law so there's no question.

And there are a number of things that just don't translate. I mean, the setting of the question at a referendum. That's what's proven to be in other jurisdictions a real interesting debate and discussion, and a lot of controversy around that. So in some jurisdictions, like Ontario, I think, the CEO has a role in helping to set the question. And I'm not getting within a million miles of that recommendation, because I think that's a tough spot to be in. But that's one example of, I think, what ought to be addressed in terms of referendum legislation, setting the question.

As well, there are the campaign finance regulations around it. If you have a yes and a no committee on a referendum—firstly, are there—is it permitted to have yes and no committees around referendums? If so, may they spend as much money as they want to convince the public one way or another? Need they to disclose their contributors? You know, as I mentioned the matter of limits, what would they file by way of disclosure? All of this is just left to, it could be addressed in regulation.

So for a while, I've been suggesting to the committee that I think we need to follow the lead of some other jurisdictions and just get on this project and codify the procedures for a referendum well in advance, before there's any events, so that people aren't figuring it out on the go. The rules of the election are not things you want in discussion at that time.

\* (21:50)

But at the same time, I'm appreciative that, through the good work of the advisory committee coming up with a lot of good ideas and a lot of good input that's helped our recommendations be better, that there's more than 70 recommendations in law in the last several years. And so we're quite the envy of a lot of provinces that our legislation does get changed, and it's been that way for, you know, well beyond a decade. We're going back, you know, pretty close to 20 years we've had continuous attention to our legislation in Manitoba, and that's something to be proud of. I hope this is the next thing or one of the next things.

**Mr. Blaikie:** Perhaps I should know this, but, through you, Mr. Chairman, to Mr. Balasko, has there actually been any recommendations made? You mentioned the 70. Did any of them have to do with referendum, or is that just a suggestion or a recommendation you're making—you were making tonight?

**Mr. Balasko:** Thank you, Mr. Chairman. It's a long-standing recommendation, but in fairness, you know, we haven't, you know, been tremendously specific on what we think all the rules and regulations of a referendum ought to be. We have simply identified that we believe that there should be legislation and, you know, we're happy to contribute if that gets off the ground to what the contents of that might be—far better to do it in advance.

**Mr. Blaikie:** Well, Mr. Chairman, I had some experience in a former life talking about who gets to decide the question and what constitutes, you know, a fair question and what constitutes a majority, and I'm just—was thinking back to many committee meetings held on the clarity bill, C-20, coincidentally, in 1999.

But, in any event, I just wondered whether, perhaps, if Mr. Balasko's had a chance to look at the province of Québec where they have a lot of experience in referendums, and whether there's—that he feels there's any lessons to be drawn from their experience, because, you know, whatever we think about whether or not Québec should have referendums on the things that they have referendums on, it's nevertheless the case that they have had a lot of experience in trying to find processes and rules by which people can regard a referendum to have been fairly held, both in terms of funding and all that sort of stuff.

**Mr. Balasko:** Thank you, Mr. Chairman, and thank you, Mr. Blaikie, for the question.

You know, I think you might have some really interesting observations from your seat, as you experienced it through the various experiences you've had and that you've alluded to already. So I'd be interested in hearing that.

As far as the province of Québec goes, I would say many. I'd say there's a—constantly a lot to be gained by taking good note of the—sorry—of the election laws in Québec, and I say that not specifically in terms of a particular rule or regulation, but that their rules and regulations, whatever they may be, have been carefully codified over the years through lots of controversy and lots of effort.

Mr. Blaikie makes the point with respect to campaign finance, and in Québec they have very strict regulations on campaign finance in referendums which is somewhat related to third-party regulations in elections, very strict with the umbrellas of yes and no. And so it's not so much, I would say, whether Manitoba ever were to adopt such a structure of yes and no, and the limits as tight as they are in Québec, because they're very, very tight, the spending limits and referendums in Québec, but it's a matter of the fact that Québec has very much thought through what's required, what points they want to address and how in their society it makes sense to address those points.

And that's the kind of forethought and discussion that I'm just trying to spark now so that those discussions can take place well in advance of referendums and not during the referendum. Québec election law gets changed very frequently, as well as it does in Manitoba, and at annual conferences it's quite common that Manitoba and Québec are speaking about the changes to the law.

So, yeah, much to be learned from other jurisdictions, and we've applied that across the board. We call it, you know, harvesting, and maybe that's a good term for Manitoba, but we host here, as well, the national closed Web site for election offices—*[interjection]* Is—we promoted the idea of a closed Web site for election offices across Canada, and we offer and we host that closed Web site for election offices across Canada, and we use that as a way to post and exchange ideas and new legislation, forms, materials, manuals, discussions across the country. And it happens here and we find many, many, like, wonderful ideas. The vote-anywhere idea was something they have similar in British Columbia, but it's rolled out differently in Manitoba. So, it's got to work here, but the idea, you know, we would credit,

you know, in another jurisdiction. And so too, we would look to other jurisdictions for referendum models if we get to the point of being able to contribute to that process. And I just realized at this late point that I've been making more contact with the people whose questions I've been replying to than the Chair, and that's a nuance that, perhaps, I didn't appreciate at the beginning. So, thank you very much for being lenient with that.

**Mr. Blaikie:** Well, a comment, Mr. Chairman, not a question, just I also wanted to—well, first of all, to say I remember at least being accused along with thousands of other Canadians of running afoul of the Québec legislation when I attended a rally in Montréal. But I wanted to add my own personal best wishes to Mr. Balasko and my gratitude for his service to, particularly to the electorate of Manitoba over the course of his career as Chief Electoral Officer.

**Ms. Brick:** My first question I have for you is I just wondered, there's 9,000 people—I was quite amazed when I read this—that are actually working for you during the time of the election. I'm wondering if you could tell me is it difficult getting people to work or is it something that, you know, since it's a part-time job and it's not necessarily a job where you, you know that there's going to be continuation of it, is it, you know, something where you have challenge getting people?

**Mr. Balasko:** Thank you very much for the question. It's a—it is a large work force, as you point out. I mean, it rivals the largest when we put it all together, and the challenge has been to assemble that work force when the date of the election is not known. I would say, with respect to the election day officials, there's quite a number of people who wish to work at election day, on election day for the one single day with us. And a lot of that, we're very thankful for because we are—been able to have sufficient staff for the voting stations on election day.

Enumeration is a little bit more challenging, because, of course, when the election day is not known, when the call of the election is not known, that's a work force of, you know, 2,500, 3,000 people that we need to assemble immediately. As you know, the way the calendar is now, outside set date elections, elections are called on a Friday and often late in the day on a Friday, and we want the enumerators on the doorstep on Saturday and Sunday and our office is open.

So, we have been, so far, able to recruit sufficient enumerators and sufficient voting officers. With a set date, it allows us to really get into some really exciting new territory, which is to advertise that in a, you know, a really great manner so that we bring in a good representative group of Manitobans and involve perhaps more youth in that as well that might tie into voting. That's an opportunity a set date election provides to us.

**Ms. Brick:** Just as a follow-up to that, I was wondering if you could tell me is there outreach that you do to different groups to try to have representation sort of across a broad ethnic groups, or, you know, how does that work?

**Mr. Balasko:** Thank you, Mr. Chairman and thank you for the question, Ms. Brick. We—we're very much, in the running of elections, a grass-roots organization. And what I mean by that is, of course, our job is to set the procedures and equip the returning officers and supervisors at work, but we're very much a community-based organization. That's the way we see ourselves; that's what we strive to be. As we recruit returning officers, now that we have the authority to appoint returning officers—have had for a couple of elections—we look for people who are very connected in their community. We seek out people who are, you know, volunteer coaches and active in their community and are involved in professional associations that brings them in contact with others in the community. Right now we have 85 percent of the positions filled for the next election in terms of returning officers, and we have a very, very well-connected to the community work force.

\*(22:00)

One of the very first jobs of the returning officer is to go out in the community and identify their work force. So, the work force at elections really comes from the returning officer in their community. And that's where it starts. We have a list that worked there before, and we have a returning officer who's connected with the community who is there now recruiting. We do also give to them an objective that their work force, ideally, is reflective of their community, and Manitoba Bureau of Statistics provides—has just released a report which provides profiles for electoral divisions, and may be something of interest to you as well—I'm sure you've seen it already. But that's something that we used in talking to our returning officers and directing their recruitment.

Now, with a set date, again, that allows us to do much more, and that's the planning under way now.

**Mr. Chairperson:** We've reached the hour 10 p.m. previously set by this committee, and I think, unless there's other comments by committee members with respect to the sitting hour, I'll move to the calling of the reports.

**Ms. Brick:** I just wanted to check and make sure you are going to call and see if some of the reports pass.

**Mr. Chairperson:** That's my intention. Yes.

**Mr. Lamoureux:** Mr. Chair, I know that, you know, for the last little while I was hoping to get some more questions asked. Is it possible to ask more questions? I was encouraged by seeing members from both sides of the table engage in discussion. It's very rare that we actually get Elections Manitoba here, and I think it would be nice if we could maybe even possibly continue on so at least those individuals that are on the list that were wanting still to ask questions be afforded the opportunity to ask questions before we are asked to vote on any of the reports.

**Mr. Chairperson:** I understand the comments you are making, Mr. Lamoureux, but my understanding is, it's been explained to me it has to be a member of the actual committee that would have to make that suggestion.

But I am prepared to pose that question to committee members considering that we have four other individuals that would like to ask questions, at least to this point in time, whether there is leave of the committee to extend the sitting time with respect to asking of questions. What's the will of the committee?

**An Honourable Member:** No.

**Mr. Chairperson:** Doesn't seem to be a will? Okay. We will now proceed to the annual reports.

Shall the Annual Report of Elections Manitoba for the year ending December 31st, 2003, including the conduct of the 38th Provincial General Election, June 3rd, 2003, pass?

**Some Honourable Members:** No.

**Some Honourable Members:** Pass.

**Mr. Chairperson:** The Chair hears a no, so the report is not passed.

Shall the Annual Report of Elections Manitoba for the year ending December 31st, 2004, including

the conduct of the Minto and Turtle Mountain by-elections, June 22 and June 29th, 2004, pass?

**Some Honourable Members:** Pass.

**Mr. Chairperson:** The report is—*[interjection]*

**Mr. Lamoureux:** Yes, Mr. Chairperson, I recognize I'm not a committee member, but not necessarily been afforded the opportunity to ask additional questions. I think it would be inappropriate to be passing reports. Committee members aren't even aware if that's where I want to ask my questions, and to pass it would deny me the opportunity which, traditionally, in the past, has said that reports not be passed until they've—members and non-members—have actually been able to ask questions. That's been my previous experience, and I don't think it's appropriate to pass a report if potentially there's more questions on it, whether a person's a member of the committee or not a member of the committee.

**Mr. Chairperson:** I appreciate your circumstances, Mr. Lamoureux, but this committee has been functioning in a global fashion and we've been giving consideration to all of the reports, not necessarily individual pieces, and I'm not certain if that would preclude you in the future coming back to these committee hearings with having the opportunity to ask questions pertaining to the functioning of Elections Manitoba with respect to the reports we have had before us at that time. Because my understanding is the global fashion allows for a wide-ranging series of questions to be asked at that point in time, and I don't think would preclude you from asking any questions that might be on your mind at that particular time. And, at that point, it would have to be up to other members of the committee to determine whether or not they wish to keep the reports on the—before this committee or to pass them at that point in time, knowing that you or other members of the committee or other members of the Legislature that wish to come before this committee have that opportunity to ask wide-ranging questions.

**Mr. Lamoureux:** Just, you know, based on the comments, as long as, you know, at future meetings, because my concern is, who knows when this committee is going to meet next. There has been no indication, whatsoever, and there are a series of questions that I would like to ask, and—but if we're saying that I won't be limited into the future in terms of the scope of my questions, then I'm okay with that.



**Mr. Chairperson:** Well, then, if you had specific questions, my understanding is that you would have the ability, then, if other members of the committee that are actually members of this committee wish to keep the reports before us, you may want to indicate you had specific questions about a particular report to draw to the attention of committee members.

But it would still give you the opportunity to ask a whole series or wide-ranging questions related to the reports that may be passed or other reports that will come before us, because we're still continuing to hold the 38th provincial general election report before this committee, which may give you the opportunity to ask those questions as well, and I hope that will suffice, Mr. Lamoureux. You okay with that?

Annual Report of Elections Manitoba for the year ending December 31st, 2004, including the conduct of the Minto and Turtle Mountain by-elections, June 22nd and June 29th, 2004—pass; Annual Report of Elections Manitoba for the year ending December 31st, 2005, including the conduct of the Fort Whyte by-election, December 13th, 2005—pass.

Shall the Annual Report of Elections Manitoba for the year ending December 31st, 2006, pass?

**Some Honourable Members:** Pass.

**An Honourable Member:** No.

**Mr. Chairperson:** The Chair hears a no. The report is accordingly not passed.

Shall the Annual Report of Elections Manitoba for the year ending December 31st, 2007, including the conduct of the 39th Provincial General Election, May 22nd, 2007, pass?

**Some Honourable Members:** Pass.

**An Honourable Member:** No.

**Mr. Chairperson:** The Chair hears a no. The report is not passed.

I believe that concludes the business of this committee, and before we rise, I would appreciate it if members could leave behind any unused copies of the reports so we may use them at subsequent meetings.

And, Mr. Balasko and members of your team, we'd like to thank you very much for appearing before this committee and for your participation, and wish you all the best in your future endeavours.

What's the will of committee?

**Some Honourable Members:** Committee rise.

**Mr. Chairperson:** Thank you, committee. The hour being 10:07 p.m., committee rise.

**COMMITTEE ROSE AT: 10:07 p.m.**

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