



# **STANDING COMMITTEE ON HOUSE SERVICES**

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## STANDING COMMITTEE ON HOUSE SERVICES

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Moosomin

Mr. Len Taylor, Deputy Chair  
The Battlefords

Mr. Denis Allchurch  
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Hon. Rod Gantefoer  
Melfort

Hon. Donna Harpauer  
Humboldt

Mr. Andy Iwanchuk  
Saskatoon Fairview

Mr. Randy Weekes  
Biggar

Mr. Kevin Yates  
Regina Dewdney

[The committee met at 19:30.]

**The Deputy Chair:** — All right let me call to order the meeting of the Standing Committee on House Services. I welcome all members here. I have one substitution. Do I need to put that on the record? I have a substitution form. Andy Iwanchuk is unable to be here; he has authorized Frank Quennell to attend the meeting on his behalf.

**Bill No. 59 — *The Election Amendment Act, 2008***

**Clause 1**

**The Deputy Chair:** — Okay. We have in front of us two Bills under consideration. The first Bill for consideration today is Bill No. 59, *The Election Amendment Act*. We have with us the Minister of Justice. Let me call upon the minister to introduce his officials, and introductory remarks, should he wish to make them. Mr. Morgan.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I am joined this evening by Darcy McGovern, senior Crown counsel, legislative services branch.

Also in the Chamber tonight is the Acting Chief Electoral Officer, Dave Wilkie, who's seated behind me. He is not here as one of my officials but is here as an officer of the legislature and as a resource for this committee. So if there's questions that the committee chooses to direct to Mr. Wilkie, that's certainly their prerogative to do so. He is here and has offered to make himself available. I'm not certain, Mr. Chair, whether that's an issue one way or the other, but I put that forward. It's his offer, and he's here.

I will make a brief opening statement. The amendments to *The Election Act, 1996* will put into action the promise that this government made to extend and strengthen the election advertising requirements in Saskatchewan. The existing provisions of *The Election Act* have been in place for over 20 years. They are intended to protect the fairness of the electoral process by ensuring that the government of the day is not perceived as using members of the public service to conduct their political campaigns. They are also intended to protect the public service from being unintentionally drawn into a political debate during an election campaign.

As promised in the election campaign, with this Bill we are taking steps to not only maintain these principles, but to significantly enhance their protection. This Bill provides that in the 30 days prior to the issuance of a writ for a fixed date general election, no government ministry shall advertise in any manner with respect to the activities of the ministry. The only exception is for emergencies or compelling public safety information.

In the 90 days prior to this new 30-day pre-writ restriction, there will be a further restriction to prevent government ministries from advertising any information other than that which is intended to inform the public about programs and services for the public benefit of Saskatchewan people or to address public safety issues. Government resources and the public service must not be used for partisan purposes. By

extending these restrictions, we are confident that fairness will be enhanced and the integrity of the public service will be protected during this period of heightened political activity.

This Bill also addresses the long-standing concern that government advertising will spike upwards immediately prior to an election. In the 120 days prior to the issuance of a writ for a general election, no government ministry shall spend more than the average monthly amount for advertising.

As with the existing section 277, Crown corporation advertising with respect to their competitive business interests would remain exempt from these advertising restrictions. This is to avoid erosion of their competitive market position.

The Bill also addresses the concern that advertising promoting Saskatchewan to other provinces has been run within the province's goodwill advertising in the run-up to an election. In the 120 days prior to the issuance of a writ for a fixed date general election, no government ministry shall advertise in Saskatchewan information that is intended to promote the Government of Saskatchewan to audiences outside of Saskatchewan.

With the change to a fixed election date, several of the concerns that we are addressing with this Bill become more acute. If everyone knows when the election will be, government advertising in the pre-writ period requires more attention to ensure fairness. As promised, we think we have taken important steps in that direction with this Bill. We welcome your questions.

**The Deputy Chair:** — Thank you very much, Minister. We're now open for questions. Mr. Quennell.

**Mr. Quennell:** — Thank you, Mr. Chair. I guess as a preamble to my question, I'll say that the motivation and the intention behind the Bill is clearly a good one. And there's a saying in democratic politics in Chicago — or used to be — good politics is good government, and good government is good politics. I assume that the government believes that this is both good politics and good government.

But sometimes things are a little bit more complicated to execute than we would like. So I have a few questions about the devil in the details. And my first one is, given all the good intentions and the statements of principle about how much advertising there will be in this period and how much advertising there will be in that period, a sceptic might say, so what? There doesn't seem to be any sanction or penalty for either ministers or anybody else that fails to comply with the legislation. And I wonder if that's an oversight on the part of the government in drafting this Bill or if it's intentional that there be no penalty whatsoever for following these very good intentions, why that deliberate choice was made.

**Mr. McGovern:** — Darcy McGovern. Mr. Chair, to the member, I would draw the member's attention to section 216 of *The Election Act*, which is the existing general offence provision in *The Election Act*. It provides already that:

- (1) Any person who contravenes any provision of this Act

is guilty of an offence and is liable on summary conviction to the penalties set out in this Act with respect to that offence.

(2) If no penalty is prescribed with respect to that offence, the person, if convicted, is liable to a fine of not more than \$5,000 or to imprisonment for a term not exceeding two years or to both.

So that general offence provision right now in *The Election Act* is the offence provision that would apply to section 277 of *The Election Act*. So that's the offence provision for the advertising provisions now. It would continue to be the offence provision for the new 277, 277.1 and 277.2. And so the reason that there's no separate offence for the advertising provisions that have been brought forward in the amending Act is that the existing general offence provision was viewed as adequate.

**Mr. Quennell:** — So it's the view of the Ministry of Justice that the general offence provisions that already exist govern these changes, and a violation of this legislation would be subject to those penalties as set out, and that is an appropriate way to proceed with the penalty provisions that are already in place. Is that right?

**Mr. McGovern:** — Correct, keeping in mind that this is an amending Act to an existing piece of legislation. The existing Act has no general offence provision. It also has some specific offence provisions surrounding corruption offences, but the general offence provision has applied previously for the advertising provision, so that with these amendments changing the advertising provisions, the previous general offence provision would continue to apply.

**Mr. Quennell:** — And the corruption provisions apply to certain offences where the sanction may be that the person is barred from running for office in the future?

**Mr. McGovern:** — The general provisions respecting offence have a series of different offences as well as some specific offence of guilty about particular corrupt practice, use of disqualified person. Some of them have lesser offences and some of them are general, and few of them actually speak to the penalty. They more rely on the general offence provision but set out specific penalties.

**Mr. Quennell:** — But there are corrupt practices for which part of the sanction is barring a person from seeking public office in *The Election Act*.

**Mr. McGovern:** — If you are convicted of a corrupt practice, then one of the attendant results would be that you are subsequently barred from running as an MLA [Member of the Legislative Assembly] for example.

**Mr. Quennell:** — But none violating, in the provisions in this amending legislation, none of these would be corrupt practices.

**Mr. McGovern:** — No.

**Mr. Quennell:** — Secondly — and I don't think this question will come as a surprise because I think it came up a number of times in second reading debate — the average monthly amount

that is the limit for the 120-day period, that's calculated within a certain period as well, is it not?

**Mr. McGovern:** — Under the legislation the average monthly amount means, with respect to a government ministry, the average amount of money spent on advertising by the ministry within the 12 months preceding the restriction on advertising in 277.1(1), and then the advertising restriction itself provides for a four-month period in which you're not able to exceed that average monthly amount.

**Mr. Quennell:** — The average monthly amount set in the previous year?

**Mr. McGovern:** — Yes, by that definition. Yes.

**Mr. Quennell:** — This may be a question the minister wants to respond to directly. But the concern was expressed, I think, a number of times in this Chamber during second reading debate that the — and I'm sure unintended — consequence of this legislation may be that any government including this government would be tempted to increase government advertising earlier — that is, within that 12-month period — to increase the monthly average so that they can advertise more in that 120-day period.

And I guess there's two parts to that. Am I correct in my understanding that there's no limit in the legislation about increasing that one-year period, advertising in that one-year period over the prior period because that one-year period sets the benchmark? And if I'm correct in that — and that's just a legal question, I suppose, about the legislation — then there become . . . I think I'm looking for some statement of intent or principle from the minister that the government could do that theoretically but would not be doing that. So I guess it's a two-part question.

**Hon. Mr. Morgan:** — I think it's a fair question. I think it unlikely that the situation would arise. And then it raises the question of how far back from the dates you're looking at do you want to control or legislate or have the average in place. The one-year period gets it back far enough that it goes through one cycle of budget estimates where the opposition would have the ability to question the minister and the ministry officials about why the expenditures were at a particular amount during that period of time. So it has a greater level of public scrutiny.

I mean, to take it to the extreme, you could start up-spending immediately following the election and spend at a higher level all the way through so the average is right, you know, right across the entire four-year cycle. I think it would be counter to good governance to do that purely for political reasons. I don't think anybody would want to do that or would do that. I think it's just plain bad governance to do that for political reasons.

So by doing it for a one-year period, even if somebody did try and raise it in advance of that one-year period to try and set the average at a higher level, the effect of the advertising would likely be lost. People's eyes would be, you know, they would be fatigued from watching the thing so I suspect it would not be an issue.

I think this might be something that over time people look at

and decide, is there a need to have a different period? Should it be six months? Should it be 18 months? But I mean this appears to be reasonable. It gets it through a full budget cycle. So I think there's a reasonable level of accountability going back to the legislature and to the public.

**Mr. Quennell:** — And I guess this is one of the things that time will tell. And I'm correct in my understanding that this is ministry by ministry? So we may hypothetically have a number of ministries that maintain a level of advertising spending, communications spending, year after year after year — you know, 2008, 2009, 2010, and then 2011 — and other ministries that do theoretically, hypothetically ramp up spending in 2010 and therefore have a higher average going into that four-month period. But it is ministry by ministry; it isn't the average government spending over that period of time. It's ministry by ministry. Is that correct?

**Hon. Mr. Morgan:** — Correct.

**Mr. Quennell:** — And again I hope that everyone appreciated my opening remarks, that I think the intentions of the legislation are good, but some things are just a little bit more complicated than we would like them to be.

The other question I had was about what the minister called goodwill advertising directed out of province and the prohibition on that advertising being conducted within the province. Am I correct in understanding that there is no limit in the legislation to increasing the amount of goodwill advertising prior to the election in any of those periods — 30 days, 90 days — as long as it's directed theoretically at people outside the province of Saskatchewan?

**Hon. Mr. Morgan:** — I'll give an example of what you might be asking about is tourism advertising that would be conducted in another province. And the intention would not be to catch that type of advertising. If the tourism officials chose to advertise in *The Edmonton Journal* about the wonderful parks and lakes we have, it would not be caught by this legislation. It's not the intention to try and limit the out-of-province . . . You know, the legislation is directed at where the voters reside or where the voters would reasonably see the advertising.

[19:45]

**Mr. Quennell:** — To use a different example. If the Ministry of Enterprise and Innovation, if it's still a ministry in 2011, decided to advertise, increase its level of advertising in Manitoba and Alberta immediately prior to an election — say, even within the 30-day period on TV stations in Winnipeg and Edmonton and Calgary to attract people to Saskatchewan and say this is a great place to work, it's a great place to live, it's a great place to raise a family, you should come here — there's no prohibition in this legislation against that ministry doing that because it's directed outside the province. Is that correct?

**Mr. McGovern:** — Just to parse your example slightly, during a general election the prohibition in 277 (2) continue to apply where “. . . no Government ministry shall publish in any manner any information with respect to the activities of the ministry.”

So during that 28-day . . . [inaudible interjection] . . . Right, during the actual writ period. And I wasn't clear in your question whether you were including that. So that prohibition is unlimited in terms of its statement in terms of publishing. But with respect to the period prior to the writ period, then think as you've submitted it, there is no limit aimed at expenditures outside of the province.

**Mr. Quennell:** — And I guess my concern here has to do with what's called, on my SaskTel Max, the time-shifting channels where if I can't catch a TV program at 7 o'clock because I'm in the Chamber asking questions about *The Election Amendment Act*, I go home and watch it on Vancouver TV. And I watch the advertising in Vancouver or Calgary or Toronto, depending on what time of day it is.

And given the nature of — not our print communications, I mean, I think some eyebrows would be raised if this advertising was in *The Globe and Mail* because so many of us get *The Globe and Mail*, but other than that — just telecommunications, just television aimed at our fellow citizens in Canada, you can't stop it from leaking back into Saskatchewan. And I wonder if this is not a loophole of some concern.

**Hon. Mr. Morgan:** — It deals with the average monthly amount. It will be caught under the average monthly amount, so the limits are there on a dollar amount. You know, you're talking specifically about the geographic prohibition, but there is also the average monthly which is going to catch it as well.

I think it's probably a healthy issue to raise that, you know, we introduced . . . It's a Bill that hasn't been updated for 20 years. So the theory is we wanted to bring it as close to what we think the current situation is. And we deal in a more complex society with electronic communications, but we wouldn't have introduced it if we'd sat down beforehand and thought of a bunch of ways to try and circumvent it.

I suspect that wouldn't be the case, but it would be something to watch, and it would be interesting, you know, an interesting factual issue whether the time-shifting channels that are available in this province would actually be seen as advertising here because they're available through SaskTel Max in this province.

It's a question, you know, that may arise during that time, but I think it's up to the various ministries to ensure that they comply with the legislation. And if there is a prohibition, you know, the prohibition exists and the expectation wouldn't be that, you know, you allow it to be circumvented through whatever is taking place otherwise.

**Mr. Quennell:** — So I'm a little confused. I thought what we were being advised was that advertising outside the province — goodwill advertising, whatever we want to call it — wasn't subject to the monthly average. Is it?

**Mr. McGovern:** — Sorry if I had misled the committee there. My answer was with respect to 277.2(5) where there is no specific restriction with respect to the ability to advertise outside the province unlike, say, 277 where it's once you're inside the 30-day period, you're restricted.

Outside of that, with respect to outside of the province, it's not spoken to, but it is caught in your global average.

**Mr. Quennell:** — It's caught in the monthly . . .

**Mr. McGovern:** — Yes. And so that would operate as, I don't want to say a deterrent, but that would be obviously a factor in terms of saying, well, you can't randomly in that last period ramp-up your out-of-province advertising without it being caught in that average monthly advertising.

I would note for the committee that — and the member may well remember this — section 277 is not a popular provision within government in terms of having to be very careful during election periods and by-election periods in terms of information that's provided ordinarily to the public. And I think these provisions will be similar in terms of having governments, regardless of the administration, take the position that, out of an abundance of caution, be sure to overcomply with the provision. That's been the experience at this point in terms of direction.

**Mr. Quennell:** — I think the problem — for not so much the politicians but for the people administering the programs — is that a communications dollar is a communications dollar is a communications dollar. And a lot of communications with the public, as I think the minister will appreciate, don't have much of a partisan or political ring to them. They're letting people know what programs are available when you're trying to have a job fair or something, and you can't do it because there's a by-election on.

I think that's where the problem comes, and it actually comes more from, I think, the officials who want to be delivering these programs to people than from the politicians who hear about . . . Well you know the officials don't feel that there's any way that this is partisan political advertising, but they're caught by 277 because legislation can be a blunt instrument. And as I said, a dollar communications spending is a dollar communications spending is a dollar communications spending.

I'm sure the minister can point at advertising before the last election that was different in his view than that vast majority of government spending, but you can't distinguish — and this is not being critical — but you can't really distinguish communication dollars, and that's what makes this kind of legislation very difficult in practice, I think.

**Hon. Mr. Morgan:** — I think that's a fair comment, and I think it's probably incumbent on the officials to ensure that they're brought up to speed or stay up to speed and become aware of it because I think your point is valid that the officials don't do the expenditures, they don't make the expenditures with the intent of political advertising. They do it because they're operating a program.

I don't know whether you recall, just prior to the writ being dropped in the 2007 election, ISC [Information Services Corporation of Saskatchewan] had planned a training session for people on the new land titles system. I mean, you couldn't imagine a more non-partisan thing, but because they anticipated that a writ was to be called, they wanted to have the names of all the registrants to ensure that they could get hold of them to cancel them. And I think I spoke with you briefly about it and

indicated, by all means go ahead with the session. And it was the probably the most apolitical, non-partisan expenditure that could be made. Why go to the expense of cancelling, you know, people's travel, and the program did go ahead during the writ. So there should be an element of common sense.

But out of an abundance of caution, you know, you want to prevent political expenditure, but it also will apply to government officials as they operate and run their programs because the programs could be seen to be political or may have a political tone to them that they did not anticipate.

**Mr. Quennell:** — Thank you. Mr. Chair those are all my questions.

**The Deputy Chair:** — All right, thank you very much. Are there any other questions? Seeing none, I believe that questions then on this Bill are complete. Let us now review the Bill and look at the clauses. Again we are dealing with Bill No. 59, *An Act to Amend the Election Act*. I ask all members to review this.

Clause 1, the short title, *The Election Amendment Act, 2008*, shall clause 1 pass?

**Some Hon. Members:** — Agreed.

[Clause 1 agreed to.]

[Clauses 2 to 5 inclusive agreed to.]

**The Deputy Chair:** — Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: Bill No. 59, *An Act to Amend the Election Act, 1996*. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Deputy Chair:** — I would ask a member to move that we report Bill No. 59 without amendment. Mr. Weekes. Mr. Weekes moves that Bill No. 59, *An Act to Amend the Election Act, 1996* be reported without amendment. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Deputy Chair:** — Thank you very much. And that's the short title, *The Election Amendment Act, 2008*. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Deputy Chair:** — That completes work on Bill No. 59.

### Bill No. 60 — *The Senate Nominee Election Act*

#### Clause 1

**The Deputy Chair:** — The next piece of business in front of us is consideration of Bill No. 60, *The Senate Nominee Election Act*. I see the Minister of Justice is prepared on this. I do not know, Minister, if you have any additional officials. Perhaps for the record, you could identify who is with you and if you have a few opening remarks, Minister, I give you the floor now on Bill No. 60.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I am once again joined by Darcy McGovern, senior Crown counsel, legislative services branch and, as I indicated during the last Bill, also in the Chamber tonight is the Acting Chief Electoral Officer, Dave Wilkie, who has indicated he is prepared to be here as a resource if there are questions of the committee members. He is not here as an official from my ministry, but we're pleased that he is here in any event.

Mr. Chair, I wish to advise that this Bill will authorize the people of Saskatchewan to elect individuals to be put forward as the Saskatchewan nominees for federal appointment to the Senate. The number of nominees to be elected in a given election would be set by order in council. The number would depend on the number of Senate seats available or that may become available in the immediate future.

The qualifications for a nominee are primarily those established by the constitutional requirements for a senator. The Bill would further allow sitting MLAs or MPs [Member of Parliament] to run and stand as nominees pending appointment. This Bill provides that a Senate nominee election would be conducted at the same time as a provincial or federal general election or on such other date as set by order in council. A Senate nominee election would not be held with every provincial or federal general election unless it was viewed as necessary to identify additional nominees at that time.

The term of a Senate nominee would run from one Senate nominee election to the next. The nomination of a Senate candidate would require 100 voter signatures to be filed with the Chief Electoral Officer by the close of nominations after a writ has been issued.

A Senate nominee may run as an independent or as a representative of a federal political party. As this is a federal rather than a provincial position, the election spending limits and the requisite deposit for a nominee would be based on that of a federal MP. Any matching payments to a nominee post-election would be provided federally and not provincially. Political contributions to a nominee for election purposes would not receive a provincial political tax credit under *The Political Contributions Tax Credit Act*.

Similarly the election expense limit for a candidate under this Bill is based proportionally to that of a federal MP candidate. The regulations under the Act will ensure that election expenses and other financing requirements are adopted from *The Election Act, 1996* and adapted or buttressed as appropriate.

[20:00]

In terms of procedure, the Bill adopts *The Election Act, 1996* process and terminology as much as possible in the conduct of voting, enumeration, balloting, final count, and return of the writ, etc. The results of the election would determine the candidates and the order of preference in which they would be recommended for appointment based on the number of votes they each received.

If only one candidate runs in the election, he or she would be acclaimed. If there were two or more candidates, then the election would be held to determine the order of preference for

recommendation. In this manner, we can determine who has the highest level of support from Saskatchewan people for appointment as one of our senators and recommend his or her appointment accordingly.

With this Bill, we are taking the democratic steps that are available to us and expressing our commitment to elected senate nominees for Saskatchewan's people. Thank you very much, Mr. Chair. We're prepared to answer questions.

**The Deputy Chair:** — Thank you, Minister. Are there any questions? Mr. Quennell.

**Mr. Quennell:** — Thank you, Mr. Chair. First of all, how will the government — and I take it, it's the government order in council under this legislation — determine how many vacant seats or how many nominees are going to be elected, to use the language of the legislation, say at the time of the 2011 election?

I'm assuming now, following the Prime Minister's appointments and his appointment of filling a vacancy in Saskatchewan — and there are no vacancies in Saskatchewan — that, you know, barring some unfortunate circumstance, a death, that there will not be a vacancy in 2011. Would the government see, under this legislation, conducting an election, to use that terminology, of a nominee in the absence of a vacancy?

**Hon. Mr. Morgan:** — It would be determined based on the circumstances at the time. You would certainly hold the election or want to hold the election if there was an existing vacancy or you anticipated one that would arise between the next four-year interval. So if we had one at the time of the next election in this province, November of 2011, and we knew that there were three senators that were retiring in the next four-year window, we would certainly want to have a pool large enough to draw from that in that period. So you would want to have a minimum of three and possibly as many as one or two more if you had the potential of a senator resigning or a senator having ill health. So you may want to have more senators in waiting than what you would anticipate by what you know would come up as vacancies by way of retirement.

**Mr. Quennell:** — So if we had no vacancies, 2011 . . . [inaudible interjection] . . . Well no vacancies at the time. So we're coming up to the . . . assuming that the government doesn't dissolve the legislature earlier and we have the election on that November date, 2011. And there are no vacancies but — and I haven't looked at the ages of our current senators — but to use the minister's example, there's three retirements between 2011-15.

The government can choose to elect at the 2011 election — or have elected at the 2011 election, excuse me — three senators or three senate nominees or four or five, just in case something happens to another couple. Doesn't the legislation have some control over how many nominees would be chosen in an election, depending on actual retirements that are expected, actual vacancies that are expected to arise?

**Hon. Mr. Morgan:** — You would want to have one or two additional people on the list. One, you could have another senator retire or die or resign during that period of time, so

you'd want to have a person in waiting for that anticipation. Also you could have a vacancy come up on your pool; say your number one candidate becomes ill or is unwilling to accept the appointment when it becomes available.

So you are effectively rank-ordering them by the electorate at the time of the election, so you would have one or two additional people. And that we've left open to be determined by order in council, and presumably it would take place based on conversations with the Prime Minister's office as to what they would anticipate would be a reasonable pool to have available.

**Mr. Quennell:** — The Prime Minister apparently thinks a reasonable pool right now is zero. But the government of the day will determine how many nominees are chosen — what? — to use the minister's example, three known retirements and then two contingencies, three heirs and two spares, for example. But that's speculative. Currently the minister can't say that if he knew there were three retirements between 2011 and 2015, whether the government would propose to elect three nominees, four nominees, or five nominees. That would be a political decision made as we approach the 2011 election?

**Hon. Mr. Morgan:** — I'm not sure I would regard it as a political decision as much as a practical decision. You would want to ensure that you had a pool of people that would be large enough to have somebody effectively waiting. Your list would have somebody on it. Now it's possible that the list would become exhausted prematurely, but if you had picked a reasonable number of spares — and I don't see how that would be political to have a reasonable number of spares — the people stay on the list only until the next election. They would have to run again at that point in time.

**Mr. Quennell:** — If this is a practical consideration, that there should be more people on the list than there are certain vacancies to arise, then why can't this formula be set out in the legislation?

**Hon. Mr. Morgan:** — I don't really know the circumstances that are there. We want to ensure that the pool is large enough. You know you would, I think, consider what the requirements might be. And it might be more a matter of looking at it from a practical basis at that point in time. You could try and define it in the legislation, but I think we'd rather have the flexibility that's there.

**Mr. Quennell:** — I was interested on that part of the minister's remarks about expenses being set by the expenses allowed to a Member of Parliament, somebody running for the House of Commons because of course a senator is a Member of Parliament. But I assume that the minister meant someone running for the House of Commons. How would a candidate for the nominee process, how would the limits be set because this person's running in a constituency the size of the province of Saskatchewan.

**Hon. Mr. Morgan:** — It's not the same as. There's a formula defined in the Act, and it's based on the number of MPs in the province divided by the number of Senate seats that are there. So if we have 8 senators right now — 6 senators rather — and we have 14 members of parliament. So you would have fourteen sixths of what an MP would be allowed to spend.

**Mr. McGovern:** — Just to add to that, if you look at section 32, that's the formula that's being referenced, 32(1). It provides that no candidate is able to spend in excess of . . . and the formula that's set out to exceed in the aggregate the amount A calculated in accordance to the following formula: A equals B over 6, with B being the combined total of the permitted maximum set to the *Canada Elections Act* for election expenses for a candidate for Member of Parliament in each federal electoral district in Saskatchewan as established.

And so the minister, as he mentioned, you have 14 seats federally for an MP, each of those ridings under the formula under the *Canada Elections Act*, and there's a limit on expenditures for that. That's added together for a particular election, divided by the number of senate seats to equal A within that formula.

**Mr. Quennell:** — We're not drawing boundaries for the senate seats.

**Hon. Mr. Morgan:** — No, you made the point that the person has to campaign throughout the entire province. We thought it was an appropriate measure to use that there was that proportion of the 14 versus the 6. So you know if you kept on a proportion and that would compensate or that would allow for the fact that they've got to campaign on a province-wide level.

**Mr. Quennell:** — Did the government consider creating six constituencies within the province?

**Hon. Mr. Morgan:** — It considered it and felt it was not appropriate. Right now the senators from across the rest of the country are tied to a province rather than a specific location within a province. There's no geographical breakdown in any of them, so we felt it's up to the people to determine whether if a person lives in Rosetown, Saskatoon, or Regina or Buffalo Narrows it should . . . you know, it's the decision of the people rather than of the provincial government to make that determination. So we had the discussion and felt there was no basis for us to impose that.

**Mr. Quennell:** — It's probably unlikely that you're ever going to elect six nominees, to use that language again, in any given election. In the hypothetical that the minister and I were discussing, it was five, and that was based on three retirements in four years. So it would be unlikely you would ever actually have six positions?

**Hon. Mr. Morgan:** — I think that's probably a fair statement, you know, if you look at the number of anticipated retirements. Now it may be that there's a greater number if the Prime Minister chooses to impose a requirement, on appointing the senators, that they tender a resignation, a post-dated resignation, with their appointment. And that's, you know, that's a prime ministerial decision, not ours. But if the Prime Minister required that of senators that when they're appointed that they do that, then we would be effectively re-electing the entire slate every year.

**Mr. Quennell:** — If a prime minister did that, you'd be creating terms, in essence.

**Hon. Mr. Morgan:** — That's correct. And I think it's open to



the Prime Minister to do that. And I think some of the senators that the Prime Minister appointed in the last round indicated that they intended to resign or have given that indication they intend to resign. Whether they've given the Prime Minister an undated resignation or not remains to be seen.

**Mr. Quennell:** — I have to admit that reminds me of the Reform members of parliament who intended not to take their pension but had a different change of heart when they got there.

What does the government anticipate will be the circumstance in 2011? Have you looked at the retirement dates for the current six?

**Hon. Mr. Morgan:** — Yes, I have them before me. None of them fall before 2015. So I'll tell you what they are: Raynell Andreychuk, 2019; Lillian Dyck, 2020; Pana Merchant, 2018. Oh I'm sorry, that was wrong: Robert Peterson, 2012 — so there would be one. David Tkachuk, 2020; Pamela Wallin, 2028. So there would be one that would come during that period of time or one that we would anticipate retiring.

**Mr. Quennell:** — Theoretically in 2011, the government would have an election to elect a nominee. I struggle with this language but an election for . . .

[20:15]

**Hon. Mr. Morgan:** — You prefer to use the term senator in waiting? That's the term that they've used in Alberta, and we now see the process starting to work in Alberta.

**Mr. Quennell:** — Well the reason I have trouble with the language . . . I don't want to get into a debate; I had my chance to do this in second reading and did. But usually when you're elected, you take office after you're elected, and these people aren't taking an office. They're waiting for a decision from a Prime Minister that couldn't wait for this legislation, in the case of the particular Prime Minister we have.

But theoretically, using the minister's reasoning this evening, in 2011 we might elect two nominees, one for the retirement that we know is going to happen and a contingency one.

**Hon. Mr. Morgan:** — I think that would probably be a reasonable approach to take. I had indicated that you may want to have one in case your pool of nominees were to lose one there or from the senators. But knowing that you only have one vacancy, probably one backup would be sufficient, so I think that's fair.

There's the opportunity to have a stand-alone election if you chose to do that. I think as a province we'd be loath to incur the expense of a stand-alone election for this purpose. You know, it could be tied to either a federal election, a provincial election, or a stand-alone.

If the federal government wished us to ensure that we had a pool here, I think we would look to them and say if you wish this to be a stand-alone, we'd invite you to bear the cost of it. We don't feel it's appropriate for the Saskatchewan taxpayer to bear that cost unless we're able to combine it with an election that we're planning to have in any event.

**Mr. Quennell:** — I was wondering why that provision was even there. How many elections have we had in the last three, four years? Why would we have a stand-alone election for . . . well not even for a senator but for somebody who the Prime Minister might appoint to the Senate? I don't even know why this provision to have the provincial government have a stand-alone election for that position, whatever we want to call that position, senator in waiting. I think the guy in Alberta waited a long, long time. Why would we have that, even have that provision?

**Hon. Mr. Morgan:** — I think if the federal government asked us to have the election, offered to pay for it, I think we might be inclined to accommodate them. We may have things that we wish to put on a ballot for a referendum for our taxpayers at that time. As well there may be other reasons that we wish to have an election. Elections, votes are held for a variety of reasons.

**Mr. Quennell:** — Is it merely the desire of the provincial government that if there were two people, two positions . . . say in 2011, two people were successful obviously and came in number one, number two on a province-wide vote. Is it merely the desire of the provincial government that the Prime Minister would choose on the retirement that we're certain of, would choose the one who got the most votes? Is there any expression of that desire in the legislation?

**Hon. Mr. Morgan:** — The pool would be given to the Prime Minister on a rank-ordered list based on the number that are there. We can't direct that the Prime Minister appoint anybody from the list or the top person on the list. But where we do have leverage is whether we hold the election or not, and that's one of the reasons why we feel we want to have it set by order in council.

I think it would be a good idea for us to have a commitment from the prime minister of the day that that prime minister would want to pick from the list and would respect the wishes of our electorate. And, you know, we would want to ensure that whatever concerns the prime minister had about wanting to require those people to give a resignation that's undated, etc., would fall into place. Our ability to control the process is through the voting process. The prime minister's control on it is who he or she selects from this list or elsewhere.

As you are aware, we were in the run-up to this and the Prime Minister chose to appoint senators across Canada. The effect of that was in some people's view to make this not a worthwhile exercise to go to. And while I appreciate the Prime Minister's desire and need to fill vacancies in the Senate so that parliament can work the way it's supposed to, it certainly doesn't make this process as meaningful for us, knowing that there are no vacancies in our province nor will there be for a while.

And I think, having said that, I think we will proceed very cautiously with the regulations and the proclamation of this Bill to ensure that we have something meaningful when it comes. I know that in Alberta they had senators in waiting for a long time. I don't really have a great appetite to do that in our province. I would want to make sure that we had everything in place so that those people were likely to be appointed and that we had a good interlock with or, you know, the pieces fit together well with what the PMO [Prime Minister's Office] was

proposing to do.

And, you know, I believe they would act in good faith, but we would want to make sure that there was (a) a need to do this and that the process we were using there was a comfort level with on the part of the federal government as well. I think we want to make sure that we, by going through the trouble of an election, we're actually giving our citizens the democratic right that we want them to have by creating an elected Senate.

**Mr. Quennell:** — Well didn't the government think it had a commitment when it introduced this legislation? You had a commitment from a Prime Minister who didn't keep that commitment, but the legislation was introduced when you thought you had that commitment.

**Hon. Mr. Morgan:** — I don't, you know, I don't believe we asked for or sought a commitment. We indicated to the federal government we felt strongly that we did not like the current Senate model that's there. I think if you were creating a new democracy from scratch, you would not have an appointed upper House; you would want to have an elected upper House.

And I realize the constitutional requirements to make a change for that, and I think the provinces are now sort of seizing the opportunity and saying, we can't guarantee that we will get to a Triple-E Senate, but we can see a process that would ensure that senators are elected and, if the Prime Minister chooses, can make those people effective by having retirement as part of their appointment process.

We think we've taken a fairly significant step towards having an elected and an effective Senate, and hopefully if enough provinces came on board over a period of time, it may be easier to have a constitutional amendment that would produce an elected Senate.

**Mr. Quennell:** — Maybe I should have phrased it differently. I guess I would say that the people of Canada had a commitment or a representation from the Prime Minister that if provinces elected nominees, he would appoint them, and that's a commitment that he didn't keep. But the reality that he wasn't going to keep that commitment did not become apparent till after the government introduced this legislation.

And I guess my last question is, if the Government of Saskatchewan was going to point out and continue on with an issue despite the Prime Minister reversing himself on it, I would have rather the government picked equalization than a popularity contest for Senate nominees who may or may not ever be appointed to the Senate.

**Hon. Mr. Morgan:** — I'm not sure whether you're posing that as a question or a comment. I think, you know, you have your perception of the position the Prime Minister had taken. At the time the Prime Minister made the appointments to the Senate that he did, we did not have a pool of candidates for him to draw from, nor did any of the other provinces with the exception of Alberta. In the provinces where there was a pool of people to draw from, Alberta being the one, he chose to follow that. So you know, that's a debate or a discussion you might want to have with him.

But you know, your point is valid; we don't have a vacancy in the Senate seats from our province right now. So our rush to have this in place doesn't exist, or the immediate need for it. So we will proceed with it. We want to have it. We think it's an important democratic step. But our rush to implement it certainly doesn't have the same impetus that it did before.

**Mr. Quennell:** — Even if it was a stand-alone . . . I'm sorry, I guess that wasn't my last question because I have a couple more. Even if it was a stand-alone election, am I right in assuming that our Chief Electoral Officer would be overseeing the Senate election nominees, as well as the members of parliament or the MLAs that are being elected at the same time? It would be the same office overseeing what's being done.

**Hon. Mr. Morgan:** — Well it's a different office now for MPs or MLAs, but this will be a provincial election, so it would be done through our legislation and through our Chief Electoral Officer. So the costs of it are, as you're aware, not insignificant. So if we were doing it as a stand-alone, we would want to know what those costs were and who would bear those. It's not something we would undertake lightly.

**Mr. Quennell:** — But assuming, you say, even if it was conducted at the same time as a federal election, it's a provincial election and therefore it's our electoral office, the province's electoral office that would oversee the election.

**Hon. Mr. Morgan:** — You're absolutely correct. And that's one of the inherent problems with doing it in conjunction with a federal election. It would have to be done with provincial staff. Now we may be able to overlap or appoint or do something like that, but it is in effect a provincial election that would be run in conjunction with or at the same time, but it would be run by . . . Our Chief Electoral Officer would be responsible for the process; you're absolutely right.

**Mr. Quennell:** — And in some ways it can be compared — the minister may not agree — but in some ways it can be compared to a plebiscite, that is, that it's an expression of opinion on behalf of the Saskatchewan people.

**Hon. Mr. Morgan:** — I think I don't know whether I would want to use the word plebiscite, but it's certainly an expression from our electorate as to who they wish to have as senator. So if you want to use the term plebiscite, I don't find that an offensive term. I mean it's not binding, but it's certainly an expression of their wish. And I think as a province, we would want to ensure that the people that we would go through the process to have them would have a great likelihood to be appointed.

**Mr. Quennell:** — Mr. Chair, you know, if government members don't enjoy sitting in committee, they can always bring forth less legislation. I think, Mr. Chair, those are all my questions.

**The Deputy Chair:** — Thank you very much, Mr. Quennell. Are there any more questions or comments? Seeing none, I draw your attention to the Act in front of us. Clause 1, the short title, *The Senate Nominee Election Act*. Is that agreed?

**Some Hon. Members:** — Agreed.

[Clause 1 agreed to.]

agreed?

**The Deputy Chair:** — Clause 2 is that agreed?

**Some Hon. Members:** — Agreed.

**Some Hon. Members:** — Agreed.

**The Deputy Chair:** — Agreed. Thank you all very much.

**The Deputy Chair:** — The minister has asked if we do this part by part. There's 36 clauses, I can with the approval of the committee. I thought 36 clauses is not that many, but with the minister's . . .

[The committee adjourned at 20:32.]

**Hon. Mr. Morgan:** — Given the comments of the Government House Leader, my preference would be to do it part by part.

**The Deputy Chair:** — Okay. Do I have permission from the committee to proceed on part by part?

**Some Hon. Members:** — Agreed.

**The Deputy Chair:** — Agreed. All right. first though, I did do a short title and that was agreed, and I will do clause 2 independently. Is that agreed?

**Some Hon. Members:** — Agreed.

[Clause 2 agreed to.]

[Clauses 3 to 36 inclusive agreed to.]

[20:30]

**The Deputy Chair:** — I'm sorry, the Clerk has just pointed out the preamble is there. The preamble is votable. The preamble, is that agreed?

**Some Hon. Members:** — Agreed.

[Preamble agreed to.]

**The Deputy Chair:** — By and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: Bill No. 60, *The Senate Nominee Election Act*. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Deputy Chair:** — I would ask a member to move that we report Bill No. 60, *The Senate Nominee Election Act* without amendment. Who would move that? Mr. Weekes, Mr. Weekes moves. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Deputy Chair:** — That would conclude our measures for this evening. Are there any members who wish any comments before we adjourn? Minister.

**Hon. Mr. Morgan:** — Mr. Chair, I would like to thank Mr. McGovern and Mr. Wilkie for being here this evening. Their work is always appreciated. Thank you.

**The Deputy Chair:** — Thank you very much. Any members of the committee wish closing remarks? Seeing none, I need a motion to adjourn. Mr. Allchurch, motion to adjourn. Is that