

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON STATUTORY REGULATIONS AND ORDERS
Tuesday, 9 December, 1980

Time — 2:00 p.m.

CHAIRMAN — Mr. Warren Steen (Crescentwood).

CONSTITUTIONAL REFORM

MR. CHAIRMAN: Committee come to order. As I mentioned to some of the members of committee both yesterday and this morning, is that the Winnipeg Chamber of Commerce had written me some time ago asking if they could be heard this afternoon because their two persons involved with them have business commitments, and they wrote in some time ago asking if on the 9th in the afternoon they could be heard, so it would be my suggestion that we hear them first thing this afternoon. I trust, to members of the committee, that you concluded this morning with the Association of Rights and Liberties. Is that right Mr. Kovnats?

MR. ABE KOVNATS (Radisson): Mr. Chairman, we had concluded with that group. We allowed them past the appointed hour to continue and complete their address and I had announced that the Winnipeg Chamber of Commerce would be the first presentation this afternoon.

MR. CHAIRMAN: Representing the Winnipeg Chamber of Commerce, Mr. Kristjansson and Mr. Reimer. Would you come forward please. Mr. Reimer, are both of you involved in the presentation?

MR. REIMER: Yes we are, Mr. Chairman.

MR. CHAIRMAN: When one or the other speaks, just identify yourselves because the meeting is being taped for Hansard purposes.

MR. REIMER: Fine. I'm going to, if it's in order, Mr. Chairman, read our submission into the record and then Mr. Kristjansson who is a lawyer and of course was involved in the drafting of the submission will be here to answer questions in respect to it, if that's in order.

MR. CHAIRMAN: Yes, do you have copies of your presentation?

MR. REIMER: Yes we do. If I may, Mr. Chairman, and gentlemen, just before I begin reading our submission, perhaps some of you or all of you may have read an article in the Winnipeg Free Press, Page 3 of, I believe, it was the November 27 edition, which purported to indicate the Chamber's position on some of the items that we're discussing today, and the headline in fact of that article indicated that the Chamber would be in favour of supporting the entrenchment of human rights in the constitution, and as a matter of fact as you will notice, as we present our submission, that is not the position which the Chamber Council as taken. So in case there's been some misunderstanding on the part of the committee, perhaps I should say that at the

outset. The Free Press article was based on an internal document and at that time the Chamber Council had not yet discussed our position on the Constitution or taken a position, and the article indicated that we had taken a position, and that should be corrected I believe at the outset. I'd now like to read our submission to you.

The Winnipeg Chamber of Commerce has prepared a brief outlining its recommendations of its Council respecting the Federal Government's resolution "to bring about the amendment and repatriation of the Constitution of Canada." In preparing its recommendations, the Chamber utilized the report of a Constitutional Task Force which it established to consider the matter, as well as a survey of the Chamber's membership on attitudes to constitutional reform. These are our recommendations:

1. Canada does need a new constitution. The federal and provincial governments have sought many changes to the existing constitution. Topics dealing with the distribution of power between the federal and provincial jurisdictions, Senate reform, appointment of Supreme Court judges, and language rights, to name a few, have for many years been the subject of discussions in Canada. There appears to be no doubt but that certain changes to the existing Constitution are needed.

The Chamber believes that the most important change to the existing Constitution is that which will permit change without requiring the unanimous approval of the federal and provincial governments. An amending formula is needed and needed now, as Canada prepares for the future.

2. "Repatriation" of the Constitution of Canada is highly desirable.

It seems to have become a matter of some concern to Canadians that the present Constitution of Canada is in the form of legislation, (British North America Act) enacted by the parliament of the United Kingdom and that the amendments to the Canadian Constitution are made by the British Parliament in the form of legislation amending or adding to The British North America Act. However, it should be noted that all amending or additional legislation has only been made by the British Parliament when requested by Canada and then only with the consent of all Canadian provinces.

The Parliament of the United Kingdom does not therefore purport to exercise sovereign jurisdiction over Canadians, as a matter of right, but only because federal and provincial authorities in Canada have failed to reach agreement on an amending formula, which seems to have been the stumbling block to bringing home Canada's Constitution.

It should also be noted that The British North America Act of 1867, did not itself contain an amending formula. The wording of the statute was drafted by Canadians of the day who did not include an amending formula, because they could not reach agreement on how to amend the statute. This pattern has continued as the Honourable Jean Chretien, Minister of Justice, pointed out in a speech to the House of Commons on October 6, 1980:

"For one reason or another, the Federal Provincial attempts of 1927, 1931, 1935-36, 1950, 1961, 1964, 1971, 1975-76, 1978-79 to find such an amending formula all failed".

The Constitution of Canada should be repatriated. Canadian conscience, pride and emotional appeal associated with Repatriation of the Constitution of Canada are urgent enough reasons that repatriation be done. However, Repatriation of the Constitution of Canada without the provision of an amending formula might satisfy for a short time, the emotional appeal associated with the Act, but the problem of how to change the constitution except by unanimous agreement and consent of all provinces, would still remain and possibly be compounded.

3. The "Repatriation" of the Constitution of Canada must include a Provision for Future Amendments to the Constitution to be made in Canada.

The federal resolution now proposed calls for the British Parliament to enact The Canada Act and as a schedule to that Act, The Constitution Act, 1980.

The Constitution Act does contain provisions for future amendments to Canada's Constitution to be made in Canada. These provisions for future amendments are to be found in Parts II, III, IV and V and do provide a means for determination of an amending formula. This determination is obviously needed although the amending formula stated in the federal resolution is unacceptable to the Chamber, however we wish to stress that even though the Chamber has not come up with an amending formula, we view amending provisions as an important and necessary ingredient of the repatriation procedure

4. Repatriation of the Constitution of Canada, including satisfactory provisions for future amendments to be made in Canada should not be done by the federal government, except with the consent of the provinces.

The current attempt by the federal government to unilaterally repatriate Canada's Constitution certainly does not aid the case for national unity. The two questions involving legality of unilateral Constitutional Reform, and the question of encroachment on provincial authority, is now being contested in the courts by many provinces. If the provinces consent to repatriation is not obtained, then regions with similar interests are forced to unite not only in opposition to the federal government but in opposition to other regions whose views may differ. Canadian unity cannot be achieved through this kind of process which simply introduces new problems and compounds existing problems.

5. If Repatriation of the Constitution of Canada is done without the consent of the Provinces, then the only provision for the amendment of the Constitution of Canada, to be included with the repatriation proceedings, should be limited to the provisions for its future amendment in Canada.

In view of the application made by the Province to the Manitoba Court of Appeal, which in effect questions the right of the Federal Parliament to repatriate the Constitution with the amendments being sought to the Constitution of Canada, it would seem more advisable for the adoption of a Canadian Charter of Rights and Freedoms, to be deferred until questions of legality have been settled. Many of the

provinces have taken the position that the proposed Canadian Charter of Rights and Freedoms, or some of its provisions, infringe on the exclusive rights (or some of them) granted to the Provinces under Section 92 of The British North America Act. This may well be the situation but notwithstanding, the Courts may decide that the British Parliament at Westminster has the right, particularly if requested by the Parliament of Canada without the consent of the Senate, to give effect to the proposed resolution and enact the legislation requested. It would seem, under these circumstances, that if the Federal Government is successful in repatriating the Constitution in the form proposed, then regardless of the outcome of pending litigation, a Canadian Charter of Rights and Freedoms could and would probably become the subject of attack and criticism for reasons, which may prove to be valid legal reasons, but which do not, except perhaps indirectly, deal with the real question of whether there should be a Canadian Charter of Rights and Freedoms which, if entrenched, will indeed limit the existing powers and privileges of the Parliament of Canada and of the Legislatures of the Provinces.

6. That a Charter of Individual Rights and Freedoms should not be "entrenched" in the Constitution of Canada.

Much has been said on this question. Premier Sterling Lyon, in his statement on this question to the First Ministers' Conference on the Constitution held in February, 1979, said in part:

(Page 2)

"Well sir, I want to tell you that Manitoba is going to be consistent in its position. We think a Bill of Rights is not good for the Constitution of Canada — not because we are opposed in any way, shape or form to a Bill of Rights. Heavens, we are as concerned as any other province around this table about enforcing individual and democratic and other rights for the people of Manitoba — but the method of enforcement, we think, has been proved beyond question to be better done by Parliament, by the Legislature, as we have done in this country for the past 112 years."

and later: (Page 4) Premier Lyon is reported to have said:

"... we say that we do not support entrenchment, even of the first group of three rights in the Constitution, not because we do not favour them, not because we do not feel that that kind of protection should not be given to the people of Canada or to the people of Manitoba, but because we know that under the present system that protection is being given, and we rather doubt that the new system that is being grafted unto our Constitution is going to improve that in any way at all. In fact, I think it is going to prejudice the application of the protection of rights to our citizens."

and later, (Page 5) Premier Lyon is reported to have said:

"What we are doing if we agree to an entrenched Bill of Rights is to say to the elected representatives of the people 'you have less jurisdiction today than you had yesterday' and to the Courts 'you have more

jurisdiction today than you had yesterday" and the Courts are of course appointed and the representatives and MP's and members of the Legislative Assemblies are elected."

The position of the Province of Manitoba is or should be well known. The position of the Federal Government is set out in its recent Resolution concerning the Constitution. The Winnipeg Chamber of Commerce endorses Premier Sterling Lyon's position on the issue of rights and freedoms.

7. Although we do not agree with the entrenchment of a Canadian Charter of Rights and Freedoms, The Winnipeg Chamber of Commerce records its approval of the intent of the contents of The Canadian Charter of Rights and Freedoms, except for the change noted herein.

The Winnipeg Chamber of Commerce adopts the intent of the Canadian Charter of Rights and Freedoms proposed by the Federal Government in their Constitution Resolution, except for Subsection (1) of Section 23 — of Schedule B, being the Constitution Act, 1980.

Section 23(1) reads in part:

"Citizens of Canada whose first language learned and still understood is that of the English or French linguistic minority population of the Province in which they reside have the right . . ."

The Chamber believes that the Language Educational Rights of the minority should not be dependent on whether or not the "first language learned and still understood" must be the language of instruction for which minority language educational facilities in an area are being sought. The recommended rewording of the section is as follows:

"23(1) Citizens of Canada will have the right to have their children educated in either the French or English language at the primary and secondary school levels if they reside in an area of the province in which the number of children of such citizen or citizens is sufficient to warrant the provision out of public funds of minority language educational facilities in that area."

The Chamber also agrees in principle with the provision contained in Section 1 of the Canadian Charter of Rights and Freedoms — that the "guarantees" of the Rights and Freedoms set out in the Charter are "subject only to such reasonable limits as are generally accepted in a free and democratic society with a parliamentary system of government." Dealing with this latter statement it should be said, perhaps needlessly, that every freedom carries with it a responsibility, which tends to restrict the exercise of the freedom. However, if the Charter is entrenched the provision in question is a necessary and vital ingredient of the proposal since there will be restrictions, many of which at this stage of our development, will not even be contemplated. It is obvious that a list of restrictions will not satisfy what is needed and for that reason, the restrictive provision suggested seems a reasonable solution if the Charter is entrenched.

In Conclusion, The Winnipeg Chamber of Commerce favors repatriation of the Constitution of

Canada but only with the consent of the provinces. If the Constitution is unilaterally repatriated by the Federal Government then only the provisions or something similar respecting the amendments to the Constitution should be included in the repatriated Constitution. The inclusion in a unilaterally repatriated Constitution of a Charter of Human Rights must be deferred until a large majority of Canadians are resolved that such a Charter entrenched in our Constitution is not only necessary, but highly desirable despite whatever the weaknesses or limitations of such entrenchment may be.

The Chamber believes, and believes sincerely, that those questions of the Constitution involving fundamental changes in the relationship between the Federal and Provincial authorities should of course be given due consideration, but these questions will not have the same importance, indeed if any importance, if our parliamentarians and legislators fail now to provide Canadians with a kind of Constitution that is so obviously wanted and needed now, to unite us as Canadians.

So we say to you Gentlemen, we have made our comments with the hope that we have helped, not hindered the cause and with the prayer that we all get on with the job and get it finished with a showing of unanimity. The outcome of the cause is so important and its success, so dependent on its acceptance by a majority of Canadians, that the resolution of the question is unthinkable without more unanimity than is now shown.

This is approved by the Council of The Winnipeg Chamber Commerce, December 2, 1980 and is respectfully submitted.

Thank you very much, and as I said earlier, Mr. Kristjansson who is the Chairman of our Constitutional Subcommittee and who is the Legal Counsel is here to answer questions if there are any.

MR. CHAIRMAN: Thank you, Mr. Reimer, for your presentation on behalf of the Winnipeg Chamber. And as Mr. Reimer has stated, Mr. Kristjansson, the Chairman of their Constitutional Task Force is accompanying him here this afternoon and is prepared to answer questions from members of the committee.

Are there any members of the committee that wish to ask questions at this time? I know Mr. Reimer you read very quickly and you had a fair amount of material for us to digest, so it may take a moment or two before questions are . . . Mr. Schroeder, you have a question?

MR. VIC SCHROEDER (Rossmere): Yes, I do Mr. Chairman.

MR. CHAIRMAN: Would Mr. Kristjansson like to join you at the microphone. Mr. Schroeder.

MR. SCHROEDER: Yes, Mr. Chairman. On Point No. 7 on Page 5, I'm just wondering is it the position of the Chamber that the current minority language rights as they are today, would continue in Manitoba and Quebec.

MR. KRISTJANSSON: Yes.

MR. CHAIRMAN: They would be entrenched rights to a language in Manitoba and Quebec, and what

you're referring to in Section 7 is that those additional rights would be given to people in the eight other provinces. Is that the position you take?

MR. KRISTJANSSON: I think the position taken by the Chamber is in reference to the resolution itself and we're merely saying to the committee that if it's necessary to entrench what has been suggested in the charter, that we would go along with this entrenchment of what's been suggested, with the one revision dealing with the question of language rights. We don't think the fact that one must speak the language of birth to be a condition to the right to be educated in his or her minority language. That's really what we're saying, and all we're saying.

MR. SCHROEDER: Yes, probably I'm still a little bit confused. Your first position is that you don't want a Charter of Rights. I understand that. But . . .

MR. KRISTJANSSON: Our first position is we don't go for an entrenchment of a Charter of Rights. We go with the intent of a Charter of Rights. But we agree with Premier Lyon's statement that it would probably be better to have those rights subject to change by the majority wish of the Legislature.

MR. SCHROEDER: Yes. Your first desire is not to have an entrenched Bill of Rights. Is it also your first desire to have language rights entrenched?

MR. KRISTJANSSON: The proposal put forth by the Government of Canada is to entrench language rights.

MR. SCHROEDER: But that's not my question. My question to you is whether your Chamber supports entrenchment of language rights as they now exist?

MR. KRISTJANSSON: It's difficult for me to answer that with a simple yes or no because I don't know that the Chamber has really considered the question of entrenchment of language rights as they now exist. What the Chamber did was take the proposal which has been advanced by the federal government and approve what has been proposed. The intent of it has been satisfactory to the Chamber, and what they're saying in effect is that we don't want to entrench those rights in a constitution. We believe that it would be better to leave it as it is, to leave it to the Legislature to ensure that basic rights are protected. But, we agree with the intent of the resolution. We accept what the Government of Canada has proposed as being basic rights which should be protected for all individuals, including the language rights which are set out in the resolution and those language rights I think go beyond the right to educate one's children, they also deal with the question of the use of two languages in the Legislature, in the reports and so on. So indirectly I would say, yes, the Chamber endorses those rights.

MR. CHAIRMAN: Mr. Schroeder.

MR. SCHROEDER: Just to clarify that. On language rights specifically, is it then your position that the Chamber supports entrenched language rights for the minority in the Province of Manitoba? What you have been saying up until now is — it seems to me that you have been on both sides of the fence —

what you are saying is that you would prefer a Bill of Rights which is not entrenched, which would include language rights. That would be your first preference. If that's not what you're saying, then I would appreciate your explaining that to me again so that I can understand what your first preference is. Is it that those language rights will be entrenched in such a way that parliament cannot or any one Legislature cannot change them, or is it your proposal that language rights although they should be put in a Bill of Rights could be changed by one Legislature later on? Mr. Kristjansson, as a lawyer, I am sure you are aware of the significance of the difference. And the difference is that if we hadn't had entrenched language rights in Manitoba in 1870 under The Manitoba Act then, of course, the 1890 Act would not have been declared ultra vires by the Supreme Court of Canada several years ago.

MR. KRISTJANSSON: Mr. Schroeder, I can only tell you what I understand the position of the Chamber to be and I think that position is set out in the Constitution. I have a different position personally than the position adopted by the Chamber; but it's my understanding that the Chamber endorses the proposals which have been put forth regarding language rights and that this would include the existing language rights as now set out in The BNA Act. That's my understanding of the Chamber's position. But what the Chamber is also saying is that while we endorse the intent of the Charter of Rights and Freedoms set out in the resolution, that is the intent of it, we think that the citizens of Canada would be better protected, the citizens of Manitoba would be better protected, if the enforcement of those rights was left to the Legislature. That's the position taken by the Chamber. They say, okay, let's leave it to the Legislature to, in effect, maintain and protect what we consider to be basic human rights. Yes, I think the Chamber has also said that all of those rights listed in the Canadian Charter of Rights and Freedoms are rights which we endorse in principle as being rights which should be available to the individual.

MR. SCHROEDER: You are making a distinction between the right to speak, for instance, English or French in the courts or in the Legislature and some of the other fundamental . . .

MR. KRISTJANSSON: Yes, but that's also a right that's being proposed by the resolution and the Chamber endorses that. They say, yes, that's a right that should be protected in the Constitution. Now it may not be protected as a basic human right of an individual, but it may be a right which is there for the benefit of anyone that wants to enforce it, just as it is now.

MR. SCHROEDER: But Mr. Kristjansson, we've seen what's happened the last time the Legislature in Manitoba assumed that there weren't entrenched language rights and they simply passed legislation eliminating the rights which in fact were entrenched; and no Legislature for 90 years decided to change that until the courts brought back the protection which had been eliminated by the Legislature in the first place earlier this year. (Interjection)— Excuse me, if you don't mind, I would like to finish. At that

time it was only brought back because of the fact that the courts intervened, and although you can have language in a federal constitution unentrenched stating that these are language rights, I'm sure you would agree with me, that 10 years from now the Legislature of Manitoba with another group similar in nature to those of 1890 could very well pass a similar resolution eliminating the right to French language. Regardless of what the position of the Chamber would be, that type of legislation could be passed if your position was adopted by the federal parliament.

MR. KRISTJANSSON: Conceded. But that's the position taken by the Chamber. They're saying, we would prefer to leave the question of those rights and their future protection and maintenance to the Legislature rather than to an interpretation put on by the courts. In other words, if it was entrenched. And I agree the Legislature might be limited, certainly one Legislature would be limited, they'd have to get the approval of several Legislatures perhaps to change an interpretation which the court might put on it, which might not meet with the wishes of the lawmakers

MR. SCHROEDER: I take it then that it is the position of the Chamber that it is the Legislatures which can best protect the minorities as opposed to the courts, because I'm sure we're all in favour . . .

MR. KRISTJANSSON: I quoted three extracts from a talk given by Premier Lyon and said we endorse that, we accept that.

MR. SCHROEDER: But I'm asking a specific question, Mr. Kristjansson. Is it the position of the Chamber that the Legislature can better protect minorities in Manitoba than can the courts?

MR. KRISTJANSSON: I think in view of the position they've taken, I think the only answer I can give you is the one I've just given you — that they feel the Legislature can do a better job than the courts. Now, wait a minute, I should qualify that to a little extent when I say a better job; perhaps they say that the Legislature can do a job that is more in keeping with the wishes of the majority of the people of the province at any time than can the courts. Perhaps that's what they've said by endorsing the principle that we don't think the Charter should be entrenched. I think I'd rather adopt that statement on behalf of the Chamber than the one I put out to you initially.

MR. SCHROEDER: That is quite a change Mr. Kristjansson. The difference between supporting the position that the majority should be able to ride roughshod over the minority as opposed to better protection of rights and freedoms. And I say that because of certain instances that we have had occurring in Manitoba's history, and not necessarily that far back. We can refer to labour legislation which doesn't give the right to organize to farm labourers for instance. We can refer to federal legislation — The War Measures Act in 1970. We can refer to the deportation of people who were born in Canada to Japan after the Second World War. We can refer to the Indian women cases we've been hearing about in the last few weeks and months and

years. In none of those cases I suggest to you, did that type of mistreatment of a minority by a parliament or a legislature ever result in that matter becoming an issue in an election campaign, nor did it ever result in a government being defeated. I could refer you as well to the padlock laws in Quebec which we've heard about during these hearings. And similarly, the same negative result occurred.

MR. CHAIRMAN: Mr. Schroeder, are you trying to argue with Mr. Kristjansson or are you trying to ask a question?

MR. SCHROEDER: Well, Mr. Chairman, I would never want to argue with anybody . . .

MR. KRISTJANSSON: I agree with him that that's the whole idea of our parliamentary system. The majority have the right to ride roughshod over the wishes of the minority, which is of course the reason why they're so many advocates of entrenching what they call basic human rights in a charter, so that the wishes of the majority cannot override the views of the minority. But that's not what the Chamber has said to Mr. Schroeder in its brief.

MR. SCHROEDER: I suppose that is why the Chamber would take that position. They're generally white, middle-class, middle-aged males, fairly successful — part of the majority who are not going to be ridden roughshod over.

MR. KRISTJANSSON: It doesn't necessarily mean that the minority are being ridden roughshod by the majority simply because the views of the minority don't coincide with the views of the majority. You've used the word, "ridden roughshod over", what does that mean? That they ride horses over them or they tramp on them, or they merely say to them, "Look minority, you've got to go along with the views of the majority because that's our way of life." Is that what you mean by roughshod?

MR. SCHROEDER: Well, Mr. Kristjansson, possibly the best way of just indicating to you what that means is to refer to the submission of the Japanese Canadian Association to the Joint Committee in Parliament on Page 10. Their submission is as follows: "Even the architects of organized discrimination recognize the difficulties of a constitutionally entrenched Bill of Rights in the United States. When the American and Canadian governments were conspiring to deport, more correctly to send to Japan because two-thirds were born here, and disperse Americans and Canadians of Japanese extraction, the then United States Under Secretary of State Edward Stettinius expressed his concern over some impediment in their grand design." I'm quoting from that particular American Under Secretary of State. He went on to state the citizenship differences, he went on to state, and I quote again, "The Canadians will probably realize that our situation is complicated by our laws relating to citizenship and the constitutional provisions regarding the native born." He's dealing with the constitution of the United States. And the submission goes on, "Thus, because of the constitutionally enshrined Bill of Rights the Japanese Americans were able to return to their homes a full nine months

prior to the termination of the Pacific War while the Canadian Japanese languished in the internment camps and were being deported, sent back to Japan and dispersed for almost four full years after the unconditional surrender of Japan when the presumed reason for their confinement had vanished." Now that is what I would suggest to you "riding roughshod."

MR. KRISTJANSSON: Well I consider what happened to the Japanese during the war to be shocking. It's understandable that people were acting on the threat of danger from invasion. Although I don't understand why there hasn't been some kind of gratuitous settlement . . . (unintelligible) . . . Speaking not as a member of the Chamber but personally, I think that there probably are certain rights, you might call them human rights which are so basic that they probably should be enshrined in some kind of a charter so that if there is to be a change it's to be a change which must be right across the country. I haven't made up my mind yet whether all of the, that is personally, whether all of the rights which the federal government is now suggesting be entrenched, whether all of those rights are so basic that they should be entrenched as a basic right. But my understanding is that the Chamber says no, they should be maintained and protected by the Legislature. But they agree with the intent of it, the intent being that those are rights which should be maintained and protected by the Legislature, according to the will of the Legislature from time to time.

MR. SCHROEDER: Thank you.

MR. WALDING: I have a few questions to put to the Chamber. The first one had to do with the very first point that you make on Page 2, I presume it is, that Canada does need a new constitution. Can you give me some instances of what could be done with a new constitution that cannot be done with the present one?

MR. KRISTJANSSON: Apparently it can't be amended because we can never get unanimity on amendment except in some rare isolated cases.

MR. WALDING: Is it not true that the Constitution has been amended many times since 1967?

MR. KRISTJANSSON: There have been many amendments to the Constitution but they've been things that are sort of additional, they haven't changed any of the existing division of powers between — well, they have, yes, to some extent. I think the Constitution should be changed to permit more flexible changes. Make it easier for changes to be made. It's difficult when you have to get unanimity of all provinces to bring about a change.

MR. WALDING: Does the Chamber have an opinion as to in what way the division of power should be changed? Does it see more powers going to the provinces or more powers going to the Federal Government?

MR. KRISTJANSSON: I don't think the Chamber has considered that question as to how the division,

if there is to be any greater division take place, no. Is that right, Mr. Reimer? I don't think the Chamber has considered that question.

MR. WALDING: So you're suggesting the matter of amendment and changes to division of powers are things that cannot be done under the present constitution. Are there any other things . . .

MR. KRISTJANSSON: I think what the Chamber is saying is that there is so much discussion between the provinces and the federal government over change and over the need for change; they talk about the division of powers, that the provinces want perhaps some greater power within Section 92, the federal government may or may not be prepared to sort of give up some of their power in order that the provinces have greater power, questions involving the Senate, the appointment of judges, all the Chamber is in effect saying is that because of all these things, because that's all you read about in the paper all the time is change and the fact that they cannot seem to agree on change, it's obvious that we need some kind of a new constitution. And all the Chamber is saying, that obviously the greatest change is one which will permit change without having to get unanimity between the provinces on each occasion.

MR. CHAIRMAN: Just before you carry on, Mr. Walding, may I ask you, Mr. Kristjansson if you could just keep your voice up a touch because the gentleman doing the recording is having a little difficulty hearing you.

MR. KRISTJANSSON: I'm sorry. Is that a little better?

MR. WALDING: Mr. Kristjansson, you've pointed out a problem that is I think obvious to everybody that there is not agreement on what changes should be made. Why are you suggesting to us that those changes would be agreed upon more easily or more beneficially under a new constitution than under the present one? What will change people's minds or attitudes?

MR. KRISTJANSSON: No, I'm not suggesting that. I am merely saying that the Chamber, what they are suggesting is the greatest change, the greatest need in the new constitution is a provision which would permit change more easily. In other words, the idea of getting unanimity between the provinces on the occasion of each change is something that is so great that it's unlikely there will ever be any change. So all we're suggesting to you is that yes, we need a new constitution because we need provision for easier method of changing. You'll never get unanimity.

MR. WALDING: So it's not the constitution itself that we need renewed, it's the method of changing it. Is that the . . .

MR. KRISTJANSSON: That is our first point. But if you ever did obtain a method of changing it you'd probably bring about the changes that might be needed in the constitution through that method and I think at this stage we should be talking about a

method of change rather than what we're going to do. Because until we get around this question of, no change unless unanimous, I don't think we're going to get any change at all. That's really all the Chamber's brief says, is that yes, we need a new constitution, let's get one that incorporates provision for change.

MR. WALDING: Thank you. I'd like to move to a new question if I may, and that is the bottom of Page 5 where you suggest a change in the wording for educational rights. The Chamber is saying to us there that the children of citizens of Canada will have certain rights. Now there is no mention of the children of residents who might not yet be citizens. Are you not suggesting there that immediately you are producing two types of rights for children? May I just tell you one further thing; that there is presently no division in Manitoba, every child resident here has the same rights to go to an English speaking, French speaking school. There is no distinction as to nationality.

MR. KRISTJANSSON: Regardless of citizenship.

MR. WALDING: So the Chamber is not suggesting that there should be a differentiation between the children of citizens and the children of landed immigrants. Is that correct?

MR. KRISTJANSSON: Well, I don't think the Chamber has really looked at it from that point of view. All they've done really is take the proposal and the proposal deals only with the rights of Canadian citizens.

MR. WALDING: Mr. Chairman, without wishing to get into an argument with Mr. Kristjansson, I would remind him that the resolution itself does speak of citizens in one part and it speaks of all people or all residents in another part.

MR. KRISTJANSSON: Well I don't think the mind of the Chamber was directed to the question of whether the rights should be equally applicable to say, a landed immigrant as well as to a Canadian citizen, so I am unable to give you the position of the Chamber on the question which you have asked.

MR. WALDING: I see. Thank you.

MR. KRISTJANSSON: For myself, I could say I don't think there should be many differences.

MR. WALDING: There is not at the moment, at least in Manitoba. I'm wondering if the Chamber is suggesting that there should be two classes of children as far as education rights are considered.

MR. KRISTJANSSON: I don't think that would be their position at all. I think if anything their position would be there should not be any difference.

MR. WALDING: Okay. Can I then move on to one further question. There is an investigation going on in this city, I believe today, it was certainly yesterday, having to do with the closing down of two newspapers in this country, possible collusion and some people have said breach of the Anti-Combines Act, you know of what I am speaking, the Southam

Group and the Thomson group closed down two papers recently. I wonder if the Chamber would view that as being freedom of the press, that if a person has a right to open a newspaper, he has the right to close it, and two persons have the right to come together to close a paper that they each own.

MR. KRISTJANSSON: I think that's an unfair question to put to us on this submission. I don't know what the position of the Chamber . . .

MR. CHAIRMAN: Mr. Kristjansson, you don't have to answer any question other than questions that pertain to your exact brief and then a delegate or a representative doesn't have to answer questions. That's why I always ask every delegation whether they would submit to questions, unless they therefore direct us. So if the question from Mr. Walding in your opinion is an unfair one to you as a representative of the Chamber you do not have to answer it.

MR. KRISTJANSSON: I think it's unfair in the sense that I'm not in a position to answer it, but I'm informed by the President the Chamber intends to make a submission tonight to the Kent Commission on that very question. So perhaps if you want to know the answer you can obtain that information by attending the hearing in question and the position of the Chamber will be outlined to you, I am sure.

MR. WALDING: And I would read it in one of the papers tomorrow morning, I presume.

MR. KRISTJANSSON: You might read it tonight before it's given, I'm not sure but it's possible.

MR. WALDING: Thank you, Mr. Kristjansson.

MR. CHAIRMAN: Mr. Desjardins. Do you have a question?

MR. LAURENT L. DESJARDINS: Mr. Chairman, I wonder if Mr. Reimer is available for questioning also.

MR. REIMER: I'm available. I'm not sure that I can answer the questions because I'm not a lawyer but I could try.

MR. DESJARDINS: Neither am I a lawyer so . . . my reason, this is not slighting Mr. Kristjansson but it would appear that he has been directed to prepare a brief and he's trying to interpret it fairly as he understands the Winnipeg Chamber would want it although in certain instances he disagrees with the content of this brief.

MR. REIMER: If I may interrupt; not the Chairman, it was the position of the Chamber of Commerce Council that . . .

MR. DESJARDINS: Did I say the Chairman? — the Chamber.

MR. REIMER: That's right. I misunderstood you perhaps. I understood you to say as the Chairman would want him to and it's . . .

MR. DESJARDINS: I meant the Winnipeg Chamber of Commerce if I said otherwise. Now I went along

with many of these things and in fact on the official languages I understand and I agree with the change should there be enshrined in a Bill of Rights, but there is a concern that I have. Mr. Kristjansson seemed to say, and I want to hear it from you, sir, that the Winnipeg Chamber of Commerce agrees and feels that the majority rules in all instances, that there are no other rights that should be enshrined and it should be all left to politicians in all instances no matter how fundamental the rights may be. Now he explained that this was not his position but he felt that it was the position of the Chamber of Commerce. I would hope that you would say that there was a mistake but can you clarify that for me, that the majority rules on anything, they can take rights and give them and . . .

MR. REIMER: I think what we're saying, Mr. Desjardins, is that we feel that, in general and of course there are exceptions, some which Mr. Schroeder mentioned when he spoke, but we feel that in general our rights in Canada have been better protected under our system than they have been under the American system. The entrenchment of rights in the Constitution, as I understand it, is more like the American system, and all the Chamber is saying that in fact we think our system is better. Now you may disagree with that and that's fine, but that's the position the Chamber Council takes . . .

MR. DESJARDINS: Fine. Let me then, there won't be an argument on this, you repeatedly have said, through Mr. Kristjansson, that you agree with the principle, the intent, of language rights. Now can you tell me that if it is left to the provinces now, that these rights will be better protected, and isn't this a case in point, an example, whereas in The BNA Act there was provision, guarantee of certain rights in Manitoba, the legislation passed an Act taking those rights away and it was only the court that returned these rights because it wasn't constitutional. You are satisfied then that that should be done and it could be changed from province to province? You talk about the unity of Canada. You think that this is conducive to unity in Canada, let the province decide what they are going to do with the minority official language? You don't think there is any need . . . A question has been asked also for many people that did not agree with the principle of entrenched Bill of Rights. They have been asked if they agreed that it should be done in the case of language rights and many of them who disagreed in general, agreed that they could accept that. Now what is your position on that, or do you have a position on that?

MR. REIMER: I am not sure if I'll be answering the question, but our position is that we think that the Charter of Rights should not be entrenched in the Constitution, that protection of rights should be left to the legislators.

MR. DESJARDINS: No matter what rights?

MR. REIMER: That's our position.

MR. DESJARDINS: Okay.

MR. CHAIRMAN: Any further questions to either Mr. Kristjansson or Mr. Reimer from members of the committee?

Mr. Einarson.

MR. HENRY J. EINARSON (Rock Lake): Mr. Chairman, I would like to pose a question to Mr. Reimer but if necessary he could seek the assistance of Mr. Kristjansson. In the discussions that we have when we talk about language rights and in a school division where we have, say, 50 percent French and 50 percent English being taught in the school and the present time we have the jurisdiction under the trustees — that's our system of operating today — and if for some reason parents whose children are being taught in another school, 75 percent French and 25 percent English, they want their children taught 50 - 50, they go to the school trustee and he denies this, do I understand, and maybe Mr. Kristjansson could elaborate on this, that those parents who feel that their rights are not being protected under the system we have of educating our children today, could go to the courts, if their language rights were entrenched, could go to the courts and seek a decision by a judge to decide and overrule that school trustee?

MR. KRISTJANSSON: We're talking about how the basic human rights should be interpreted. I would think that if you take a basic human right like language instruction right and entrench it in a Constitution, then of course, the courts are going to interpret what that right means and if the interpretation is in favour of the applicant, then so be it. That's exactly what we're talking about when we're talking about entrenchment. Now it may well be that the right, when interpreted by the court, is not what the citizen or landed immigrant or whatever the status may be of the applicant, thought was going to happen. It was going to be a far different matter then getting that changed because it involves a change in the Constitution which will involve a greater number of people than just one legislature I don't know whether that answers what you . . .

MR. EINARSON: Yes, but it poses a second question. Then having the decision made by the judge and just for hypothetical reasons or situations whereby a decision made by the judge was not in agreement with the person who is seeking the right, then what course does that citizen have when a decision has been rendered by the court or by a judge?

MR. KRISTJANSSON: What position does any litigant have now who loses a case before a judge. He's got to accept it, that's the way our law is. If he doesn't like it, it's too bad, it's unfortunate, that's the law. It's been interpreted by the judge accordingly and he must accept it and in our kind of society, that's the limitation you might say on the freedom that we have to live in our type of civilization.

MR. EINARSON: So on the other hand, Mr. Chairman, through you to Mr. Kristjansson, if those rights were not entrenched but they were left up to the Parliament and Legislatures and a decision was made through the laws of our land and that person didn't like the decision that was handed down, what course of action does that person have?

MR. KRISTJANSSON: Well if they're not entrenched, presumably if they can become the

majority they will change their representative at the Legislature, but as my learned friend has pointed out here, we might have different laws in different provinces throughout the country but the recourse in any one particular province is through their elected representatives, presumably the majority elects the people who make the laws. If you can change it, fine, if you can't, then you're subjected to it.

MR. EINARSON: So, Mr. Chairman, in spite of the fact that I might be a member of a majority government, one who may hope that would be a responsible politician, in dealing with a right that was coming from one of a minority group, could still see to it that that person in a minority group could be fairly dealt with, if it is done under the Legislatures of Parliament.

MR. KRISTJANNSON: I would expect a responsible member of the Legislature to do exactly that, protect the right of the minority.

MR. EINARSON: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mrs. Westbury.

MRS. JUNE WESTBURY (Fort Rouge): Thank you. Through you to Mr. Kristjannson. Do you feel, Mr. Kristjannson, that it is reasonable then that the rights of individuals should be changed as the party in power changes, that it should be done as whimsically as that?

MR. KRISTJANNSON: We're not saying that's what is going to happen.

MRS. WESTBURY: Well, I'd like to suggest to you that it has happened within the past three or four years.

MR. KRISTJANNSON: It happened in the past but it may not necessarily happen on every occasion. It's happened on some occasions but not necessarily on every occasion. It's one form of government that seems to have worked and all the Chamber is saying to you is we think we should continue it.

MRS. WESTBURY: That it seems to work for whom?

MR. KRISTJANNSON: It seems to work for the people of the province.

MRS. WESTBURY: For the people in power, people with the power.

MR. KRISTJANNSON: Are you going to have two kinds of government, one for those not in power and one for those that are in power.

MRS. WESTBURY: People with the power. No, I don't think we should have two kinds of government but we'd need a government that is sensitive to its minorities. Do you feel that the governments — you know, we can talk about an ideal future but we have to live with the immediate and far past and do you feel that native people of Manitoba have been fairly dealt with by the Legislatures of this province?

MR. KRISTJANNSON: I don't know. I'm not prepared on the part of the Chamber to answer that question.

MRS. WESTBURY: I'd love to get you to answer it on behalf of Mr. Kristjannson.

MR. KRISTJANNSON: There's no way . . .

MR. CHAIRMAN: To Mrs. Westbury. He's representing the Chamber as Chairman of a sub-committee and Mr. Reimer was here as President of the Winnipeg Chamber.

MR. KRISTJANNSON: I'd be glad, if you want to hold a similar meeting involving that one question, to come down and give you my personal brief on the matter. I'd like to consider my . . .

MRS. WESTBURY: I realize that Mr. Kristjannson doesn't have to answer any questions and I think it's very easy for people to be able to be selective in which questions they will answer but I think it's, I'm disappointed —(Interjection)— of course it's his right, and I'm disappointed that that is happening however because I'm genuinely interested in his reaction.

MR. CHAIRMAN: Order please. As I said earlier, both Mr. Kristjannson and Mr. Reimer are representing groups here that arrived at a consensus and prepared a brief. They may not agree with their own briefs 100 percent but they are here to present the brief and Mr. Reimer read the brief as the President and Mr. Kristjannson is the Chairman of a sub-committee, and accompanied Mr. Reimer to answer questions to the best of their ability on behalf of the Chamber, and not on behalf of either one of them as individuals.

MRS. WESTBURY: May I reword my question?

MR. CHAIRMAN: Yes, you may try again, Mrs. Westbury.

MRS. WESTBURY: In making its deliberations, did the Chamber consider the point, have the native people in Manitoba been treated fairly by the Legislatures of this province?

MR. KRISTJANNSON: That, I don't think was brought to the attention or consideration of the members of the Council of the Chamber.

MRS. WESTBURY: Did they consider this point: Have women been treated equally and fairly by the Legislatures of this province?

MR. KRISTJANNSON: I'm sure they've considered it from time to time but not at the particular time that . . .

MRS. WESTBURY: Not in preparing that brief. All right, thank you.

MR. CHAIRMAN: Mr. Schroeder, do you have a further question?

MR. SCHROEDER: Yes, to Mr. Reimer in view of his comment on the position of the Chamber on entrenched rights. And I'm just asking him to comment on the proposition that possibly there may be a feeling out there that every year we move toward more justice in society and that there's less

and less likelihood that Legislatures will ride roughshod. I had referred to the Japanese instance, the Ukrainian Canadian committee indicated to the federal committee that there were Ukrainian Canadians interned during the First World War, there were many things that happened, but I would suggest that these things don't necessarily die off and we're not necessarily getting into a society where we're getting away from those things. I would point out the uprising in the membership in the Ku-Klux-Klan in the United States in the last few years, — in fact, one of their members won the Democratic nomination for the United States Senate in the United States and fortunately was defeated but those types of things can happen. In the country of Iran, you have the majority; we have been told before this committee that the majority are killing off a minority religious sect known as the Bahai. These things are happening. I'm just wondering whether you could comment on your position in relation to the fact that it appears that society need not necessarily be getting better all the time. Do you feel that this will adequately protect the rights of the minorities, the ones who are not heard?

MR. KRISTJANSSON: I think the Chamber has put its brief to you, gentlemen, on our position regarding the question of entrenchment of the Constitution. At the present time we feel that the interests of the people would be best served by the present system of legislative rule.

MR. CHAIRMAN: Any further questions to either Mr. Kristjansson or Mr. Reimer? Seeing none, to both of you gentlemen, thank you very kindly for being with us today.

Perhaps at this time I might mention to members or persons present that the committee will be sitting till 5:00 p.m. today. I don't know whether the committee will reconvene in January or not. That will be a decision, I'm sure made in the Legislature in the next week or two. But if there are any groups that are on our list that we don't get to by 5:00 o'clock but they do have a prepared brief, if they present the brief to the Clerk or myself, that it will be recorded in Hansard just as if you had read it for Hansard purposes and copies will be distributed to members of the committee.

But to persons who wish to come and speak freely without a brief, and there are a certain number of those, we have no mechanism of handling your particular case after 5:00 p.m. today. The gentleman at the back, do you have a question?

MR. . . .: Yes, I wonder in the interests of people that would like to speak it seems that the briefs are shorter than questions, and a lot of the questions are rehashes and that there is a present cross examination which I think is really unnecessary if what the interest is is to get the briefs out. I think that's the most important thing.

MR. CHAIRMAN: I would agree with you, sir, that there is a lot of rehashing on questions but each member who asks questions at this table are members of the Legislature and each of them has a right to ask a question and he can ask every single delegation the same question if he or she wishes to.

MR. . . .: Then I suggest, sir, for those people with briefs, they also have the right to answer only those

questions that they really . . . dedicated to apply themselves and to avoid all other questions.

MR. CHAIRMAN: I'm sure you heard, sir, me saying to the Chamber that they do not have to answer any question if they don't wish to and they only have to answer the ones pertaining to their brief if they wish. That goes for anybody that appears before our committee.

MRS. WESTBURY: Even legislators have rights entrenched, Mr. Chairperson?

MR. CHAIRMAN: I'm just the Chairman of the Committee. Known to you as Chairperson. We have a number of persons that are on our list that asked to be heard today, and one at the very top of our list that we have avoided calling at this present time, is a Mrs. Friesen from Headingly. Would she be present? I have continually put your name down for this afternoon and left you at the top of the list. You are the next one I will call.

This is Mrs. Friesen from Headingly. After Mrs. Friesen, to give other persons an indication as to who I have on my list, I have an Alice Richmond, would she be present? What about Mrs. Adele Smith? You are present. Then we have Marcel McIvor from the Metis Confederacy. What about Henry Elias? Is Henry Elias present? Brenda Scarcella? Is Lawrence Peterson, or a Mrs Asselstine? That's the next eight or nine names that I have before me, so hopefully we can do Mrs. Friesen and Mrs. Smith. Mrs. Friesen, do you, firstly, represent yourself or do you represent a group?

MRS. FRIESEN: I represent myself.

MR. CHAIRMAN: And do you have a prepared text with copies.

MRS. FRIESEN: No, I do not. I have a few notes but not copies.

MR. CHAIRMAN: That's fine. You may proceed please.

MRS. FRIESEN: Thank you. Mr. Chairman, members of the committee. Democracy is indeed at work. I would like to say how pleased I am to be able to exercise this democratic privilege and speak to you today. It is a freedom dearly fought and paid for in two great wars. We must honour and respect and guard these freedoms. This, then, brings me to the reason for my being here today. It is the very grave and real concern I feel that these freedoms we have enjoyed for over a hundred years just might be eroded by the present federal government's proposed constitutional package. Hopefully reason will prevail. For 110 years, new Canada, also now known as western Canada, has been trying to get central Canada to pay attention to our legitimate complaints. Whether these complaints came from Riel at Fort Garry in 1869 or more recently regarding the natural resource management of the 1970s. We in western Canada are not an extension of central Canada but we are unique. We have different origins, a different ethnic mix, a different history. We have different thought processes and different ways of reacting. Western Canada is a distinct variety that

has been grafted on to the central Canada root stalk in 1870 and 1905.

At this time also began the great drive for immigrants by Sir Clifford Sifton. More than one-and-a-half million immigrants were attracted to the Canadian prairies between 1870 and 1915. Many came via the United States of America from Britain, Germany, and the Scandinavian countries, to name but a few. Immigrants also came directly to the great prairies from the Ukraine, from Poland, from Holland, from Austria and the Asian countries.

My ancestors arrived here in 1874 and became farmers in the Red River Valley. They chose to come to live under the British common law system of government and they struggled to survive. They also struggled to learn the English language, the language of their newly adopted Queen. They learned this language in order to be able to communicate with all the other ethnic immigrants. This then became the language that serves all minorities as a vehicle of communication. It serves as a uniting force. Through this we have managed to live and work together, not by entrenched linguistic rights but rather by mutual respect and genuine concern of human being for human being.

Our governments, both provincial and federal, allowed us to speak our mother tongue languages in our homes and churches and taught in public schools where numbers warranted. We all enjoyed these freedoms. Then along comes a man with a vision, his very own vision of the kind of Canada he would like to create. This man has said of himself, "The only constant factor to be found in my thinking over the years has been opposition to accepted opinion. In high school I had already made up my mind to swim against the tide. I have never been able to accept any discipline except that which I impose upon myself." He is indeed swimming against the tide. His dinghy manned by silent Bob and by the giver and taker of grants, will not be able to save him in western Canada.

The British North America Act has served us fairly well in the past. Canadians lived in relative harmony. If there were real problems in one of the central provinces, were these not to some extent the making of those people themselves? The struggle to open and develop a new country as vast as ours was and is a fantastic challenge. Out of this struggle evolved, under the British common law system, one of the greatest countries in the world today.

These problems we are experiencing at the present in Canada stem largely from the very limited vision of the group of three which arrived in Ottawa in 1968 as Members of Parliament. One year later rumblings began with the proclamation of The Official Languages Act. Suddenly we became hyphenated Canadians. The citizens who are neither English or French had in one swoop been relegated to third class status by this Act. Slowly small differences became magnified. Disunity had set in fuelled by the Liberal Government in Ottawa.

The spirit of sharing our natural resources from western Canada with central Canada is now viewed in a different light. Sharing seems to have taken a one-way street. A sudden increase in oil and gas prices, the discovery of potash, etc., have at last awakened our eastern Members of Parliament to the fact there is great wealth in the Prairies. The

realization at last by the human race that these resources are finite have made them even more precious.

The agricultural and hydro power resources are renewable barring any natural disaster and we have them all.

Western Canadians have always shared with central Canadians. Central Canadians are today buying my grain at less than world market prices while we are still paying protected prices on all the manufactured goods they sell to us. They are still enjoying special freight rates in hidden taxes. Prairie resources have been exploited for the benefit of central Canada too long. Alberta cannot be expected to indefinitely subsidize the home heating and motoring needs of central Canadians.

The proposed charter of human and linguistic rights to be entrenched in a new constitution by the British Parliament would remove forever the opportunity for a change of future generations of Canadians. It would indeed change the very fabric of our country in a very fundamental way. It would, as our Premier has said, move us towards a republican form of government. This is not the kind of Canada I wish to leave for my children and their children.

I am afraid of the many implications in the proposals that are not explained. What, for instance, are the implications of the proposed charter on the individual rights and freedoms re the peace and security of the public? Will the federal Supreme Court judges, who will be charged with the interpretation of this charter, understand conditions, aspirations and needs, in all regions of Canada? There are to be only three judges from outside the central Canada region. Four judges from Quebec and four judges from Ontario could make all decisions affecting all regions of Canada. And these are only a few of my concerns.

This obsession to create a new Canada has certainly blinded the Prime Minister to the fact that such action practically guarantees political explosion. Western Canadians are so disenchanted with Trudeau's federalism to the point where separatist groups are being formed, and indeed enjoying large memberships.

Now I urge this committee to set aside partisan politics and to co-operate on formulating a truly Canada recommendation.

1) I urge you to establish mechanisms for harmonizing the economic and industrial development efforts of our 11 governments;

2) To have our elected and accountable representatives retain the ultimate authority to define and reflect the basic social values of our nation; and

3) To work towards an elected and appointed Senate. We now have 104 Senate seats. This could be reduced to 100 seats and have 50 elected and 50 appointed by the provinces Senators, two Senators from each province.

Then to put all these changes to the test of longer experience before incorporating any of them in a new Constitution.

I thank you, Mr. Chairman, for your kind attention.

MR. CHAIRMAN: Thank you, Mrs. Friesen. Would you permit questions, Mrs. Friesen, from any members?

MRS. FRIESEN: Thank you very much, Mr. Chairman. I have stated my views and I will now let the rest of the people here go on.

MR. CHAIRMAN: Thank you, Mrs. Friesen. Next person on my list, Alice Richmond. Is Alice Richmond present?

MRS. . . . : Alice Richmond is not here.

MR. CHAIRMAN: All right. Mrs. Adele Smith.

MRS. ADELE SMITH: I have copies here, Mr. Chairman, if anybody wishes to have them.

MR. CHAIRMAN: The Clerk will distribute them. Mrs. Smith, are you representing a group or are you representing . . .

MRS. SMITH: I am representing myself and a fairly large family, many of them who have signed this document. This is not given as a lawyer would give it but just as an individual, a Canadian of the third generation, one who has many ethnic bloods running through her veins.

MR. CHAIRMAN: Would you like to start now, Mrs. Smith?

MRS. SMITH: Yes. Mr. Chairman, Mrs. Westbury and gentlemen. My one and only reason for appearing here today is the very great concern I have about the direction our Canada is taking. After 12 years of flagrant misuse of federal power we can have no illusions concerning the intention of Mr. Trudeau and his cohorts to alter the very fabric of our Canadian society.

Now, I don't profess to fully understand all the ramifications of Mr. Trudeau's proposed constitutional package. Even legal minds more attuned to such minutia don't always agree; but when seven of our provincial premiers, knowledgeable men all, worry about the erosion of their provincial rights, rights which were granted each province under the Statute of Westminster in December 1931, then we citizens had better pull our heads out of the sand and listen well. It's yours and my future and our children's future as Manitobans and Canadians that is being tampered with.

First, the entrenchment of language rights which in nine provinces means the entrenchment of French. This is Mr. Trudeau's pet whim and his most divisible. It is a whim which has cost us, the taxpayers, 15 million each year, according to the Secretary of State, John Roberts' own figures in the House of Commons, December 20, 1977, to pay the salaries of these animators, they could just as well be called agitators, whose job it is to demand services in French anywhere they happen to be. It is a lever placed in the proposed constitution to give a small minority, here in Manitoba about six percent, a permanent, special status to become a privileged group if you will, over the 94 percent of the rest of us.

Yes, I know Section 33 of the BNA Act gave the French Canadian certain language rights within certain places, but for a minority group dwindling in numbers, the further west we go to demand increasing rights is to fly against all common sense. There are, after all, 43, 45 ethnic groups in Canada according to a census of 1976, making Canada a multicultural mosaic.

New Canadians use one language, English, in which to communicate with one another. It was a

prerequisite to making a new life here. Did any of them use pressure on any level of government for special treatment of their language at public expense? No. Yet they have maintained their own distinctive cultures. Creating special status groups or privileged minorities amongst the majority will lead to friction, open hostility, social unrest and eventually repressive government measures to keep order.

I grew up very close to two French Canadian towns right here in Manitoba. With its church activities, parochial schools, social gatherings, each centre radiated a distinctly French cultural flavour in spite of the numerous English speaking residents living around. The French Canadian was well able to keep his culture intact without any government aid. He never expected, nor did he want, any handouts from the public purse.

Now, what changes can we look for if language rights are entrenched in a new constitution and Manitoba is forced to adopt this measure? Certainly many, if not most provincial and municipal positions will become bilingual to serve an elitist minority. This means they will be filled and then controlled by French speaking citizens only. A duplication of departments with a corresponding growth in the bureaucracy to serve in both English and French will occur. In Ottawa, bonuses have been paid to civil servants who speak French, even when the position calls for bilingualism as a qualification. This from the Winnipeg Tribune, April 12, 1979. In some government departments it will be necessary to retire or let out the English speaking civil servants to accommodate the required French speaking civil servants. The cost of the growing bureaucracy will greatly escalate the cost of running our government, and if you think this is fanciful, take a look at what has happened in Ottawa. There the bureaucracy has increased 44 percent from 1968 to 1977, most of it due to the bilingual programs.

Mr. Trudeau, who once dismissed MPs as a bunch of nobodies, would like to replace the authority of Parliament with respect to human rights by the authority of the Supreme Court whose members, and note this well, are appointed by the government in power. Unlike parliament, the judiciary is not accountable to the people through their elected representatives. As a citizen I am apprehensive of having my rights and freedoms left in the hands of men who owe their positions to the government in power, especially when that government can be returned to power by a small electoral base in central Canada as is the case today. Mr. Trudeau's government has its power base in Quebec and it certainly neither understands nor speaks for that large part of Canada which exists west of the Ontario-Manitoba border.

While on the subject of human rights, it's perhaps just as well to remember that the Soviet Union has one of the best written constitutions in the world, all rights, liberties, from freedom of speech to freedom of assembly including even the freedom of territorial secession are all there, faultless, on paper. Under the provisions of the old constitution, all Canadians have enjoyed the greatest freedom of any country in the entire world. So let us now go slowly, with a profound desire to retain the best of the old, choosing carefully and warily any new concepts which hasty leaders with questionable ambitions of

their own, might wish to place within the framework of Canada's basic laws. Because they are closer to the people, provincial governments are better able to respond to needs that differ in different parts of Canada.

For this reason, I commend Mr. Lyon for his government's challenge to the supposed reforms of Mr. Trudeau's constitutional package. Quoting from an editorial from the Free Press, October 16th, "If a provincial court challenge provides some time for sober second thought, it will be worthwhile, whatever the judges say".

Thank you. I'll leave that with you, gentlemen.

MR. CHAIRMAN: Thank you, Mrs. Smith. Mrs. Smith, would you permit questions from members of the committee?

MRS. SMITH: Well, they become very entangling, don't they, Mr. Chairman.

MR. CHAIRMAN: Yes, they do, I must admit . . .

MRS. SMITH: The same old things rehashed. I'm not a politician. I have my reasons for feeling the way I do. I do not want to become entangled and I've been here for two afternoons and I've seen how certain members will entangle.

MR. EINARSON: On a point of order here, perhaps since we had Mrs. Jensen give her brief and now Mrs. Smith, maybe you could check, Mr. Chairman, to see how many more briefs we could be listening to this afternoon. Having completed that, if we have some time available, perhaps then we could ask the witnesses some questions later.

MR. CHAIRMAN: I don't think that's the point that Mrs. . . .

MRS. SMITH: Some I will answer, and some I will not.

MR. EINARSON: We know that. Mr. Chairman, I'm just pointing out that if there is any more to be heard . . .

MR. CHAIRMAN: Your point is well taken. I think though that I must operate with consistency and I have asked everyone from Day One whether they would accept questions and I've made it very clear that nobody is compelled to answer questions from members of the committee in any way, shape or form and if Mrs. Smith doesn't wish to get involved in the questioning, and sometimes the questioning is a little deeper than it perhaps should be, you have a right . . .

MRS. SMITH: I have noticed that considerably, Mr. Chairman, and I think I have stated my views, they're carefully thought out, and views that we have lived with for a number of years and we're very pleased to have this opportunity to express them to you. There is no change, this is the feeling of many of the people I go with, many of the family, there's a large family of us in Manitoba, and they all endorse this 100 percent.

Thank you.

MR. CHAIRMAN: Thank you very kindly, Mrs. Smith, for your presentation.

Mr. Blake.

MR. DAVID BLAKE (Minnedosa): Yes, I just wanted, Mr. Chairman, to commend Mrs. Smith on her presentation. She certainly represents my views and the wishes of most of those in western Canada.

MR. CHAIRMAN: Mr. Vincent, if you would come to the microphone. If you have a question to ask the committee, let's have it recorded. Identify yourself first please.

MR. BARRY VINCENT: I am Barry Vincent. Pursuant to the suggestions I personally would be willing to, having presented my brief, then allow some one else to present their brief and remain after everyone has been heard before 5:00 and/or in January, if that was to be found in order.

MR. CHAIRMAN: I think Mrs. Friesen and Mrs. Smith have sort of set a trend and perhaps that might be the case. But we must be consistent and if members of the committee wish to ask questions and if members of the public making presentations wish to answer questions, let's be consistent.

From the Metis Confederacy of Manitoba, Winnipeg area, is Marcelle McIvor present? Mr. McIvor. Didn't I tell you last night, Mr. McIvor, some time after 3:00 you would likely get on?

MR. MARCELLE McIVOR: Thank you very much. Mr. Chairman, Mrs. Westbury, gentlemen: I believe we have come to a consensus within the confederacy that we are pro-entrenchment and we are pro-court implementation of a Bill of Rights. But I believe that the proposed Bill of Rights as we see it is negligent in many of the rights which we could have as Canadians encompass in a Charter.

MR. CHAIRMAN: Mr. McIvor, could I interrupt you for one moment and ask you if you will be reading from a presentation and if you are, will you have available copies for the committee or will you be going from notes?

MR. McIVOR: I am going from notes and have a minor presentation.

MR. CHAIRMAN: Therefore you don't have copies for the committee.

MR. McIVOR: I don't, I have one here but . . .

MR. CHAIRMAN: That's fine, nobody is compelled to bring copies but members of the committee would like to get copies from persons who have them and read along with them. It seems to be their favourite way of handling those types of presentation. But carry on please.

MR. McIVOR: There are rights which we do not see in the proposed Charter, consumer rights, the rights of Civil Service. We have a large number of people employed in the Civil Service throughout Canada and as we discovered and as the committee has not heard two of our members which were prepared to present at I believe Brandon and Swan River, because these people are within a government service of one sort or another, they have been asked from within their Service to just calm down and keep out of the political range.

Now I do not suggest that it is this committee or that it is due to the actions of this government that this has happened, but when an individual is willing to work in any organization, whether it be the confederacy or the Conservative Party, the NDP Party, the Liberal, I believe that just because that person is a civil servant they should have the right to be able to work in the context of whatever organization that they wish to as well. And as I say, two presentations were not given because the powers that be above them, have suggested that they lay low in their political activities.

We have also not seen any rights in regard to the police in Canada. Oftentimes the Metis people and many other Canadians are approached by police. Oftentimes we do not know what our rights are and I believe oftentimes the police also do not what their rights are in many situations. Rights for Civil Service and police could be considered in a Charter. Rights for children also could be included and should be included in a Charter of Rights for all Canadians.

I will go on with the presentation prepared by the Confederacy now.

The Metis Confederacy of Manitoba would like to take advantage of this opportunity to present a statement in regard to proposed Canadian Constitution. We believe a serious error is being committed in the proposed Constitution by refusing or neglecting to recognize aboriginal right and title for Metis and non-status Indian people. This serious omission to refuse to entrench these rights in the Charter reflects a lack of understanding on the part of the Canadian government. In view of the social, economic and cultural realities of the Metis and non-status Indians, a definite distinction between these people and other ethnic groups must be made. In the course of a hundred years, native people have been forced to the outer fringes of modern society. This alienation is seriously threatening a way of life and a tradition which has great historic value.

Amendment No. 24 of the proposed constitution is vague and insufficient. We believe that it should be expanded to include the recognition of aboriginal right and title of the half-breed in Canada. It is our position that the patriation of Canada's Constitution should not be allowed until this matter of aboriginal right and title be acknowledged and entrenched in it.

The Metis Confederacy of Manitoba feel that a provision must be included in which the rights of Metis and non-status Indians be articulated in a definite and clear manner. In order for Canada to consider herself a respected and honourable member of the global community, it is our opinion that she must give much greater consideration to her indigenous people.

Thank you.

MR. CHAIRMAN: Thank you, Mr. McIvor. Would you permit questions from members of the committee?

MR. McIVOR: No, I would not.

MR. CHAIRMAN: All right. Thank you, sir, for your presentation. Is Henry Elias present? Brenda Scarcella? Lawrence Peterson? Mrs. Asta Asselstine? I see a lady with her hand up. Did I call your name? Are you Mrs. Asselstine? You are Mrs. Asselstine?

MRS. ASTA ASSELSTINE: I am.

MR. CHAIRMAN: Mrs. Asselstine, are you representing a group or are you here as an individual citizen?

MRS. ASSELSTINE: I feel I represent an awful lot of people at the grassroots. I think there are thousands I can represent say that because I don't think many grassroots people are here to represent themselves. But I am in no official capacity to say that.

MR. CHAIRMAN: All right. Mrs. Asselstine . . .

MRS. ASSELSTINE: I do represent my deep concerns for Canada because I am a Canadian.

MR. CHAIRMAN: My second question, Mrs. Asselstine is do you have a prepared presentation and if so, do you have copies?

MRS. ASSELSTINE: I only have my own because it's costing so much money for me to type out and xerox all this I have. I would like to ask you one question if I may; what you would desire. If there are many people waiting to be heard maybe I could just do a vocal one providing I can have this recorded. So it's up to how many people are there that need to have a chance to speak.

MR. CHAIRMAN: Maybe the best thing, if you could just step aside from the mike and I could ask persons who are present if they would by a show of hands indicate if they are on our lists. There are four The time now being 3:35, I think that this committee could very easily hear from each of the five or six persons that are present today, if their briefs are fairly short and if the questions from the members of the committee are kept very short.

MRS. ASSELSTINE: Mine is a little bit long but . . .

MR. CHAIRMAN: Well, as I said earlier, we would be more than happy to take your printed copy and have it recorded for Hansard and if you wanted to touch on the highlights with an oral presentation, we will see that your full report gets into Hansard if it is typed.

MRS. ASSELSTINE: And read, please, because it's no good there if it isn't read.

MR. CHAIRMAN: Well, Hansard is distributed to all members of the Legislature and I am sure most members will read back for reference purposes, but we will have copies of your presentation submitted to the active members of this committee.

MR. LLOYD G. HYDE (Portage la Prairie): Mr. Chairman, point of order. I'm wondering if you could ascertain the length of brief that Mrs. Asselstine has before us.

MR. CHAIRMAN: Well, she said she has a fairly lengthy one.

MR. HYDE: No, but . . .

MRS. ASSELSTINE: It's not that lengthy because it's my handwriting and it looks like a lot . . .

MR. CHAIRMAN: Mrs. Westbury, for you and Mr. Walding, because you have shown a fair amount of interest in this committee, I almost consider you committee members except for voting privileges. And I will ask the Clerk that whatever other members receive in the way of copies, the two of you should receive them.

MRS. WESTBURY: Thank you. I just want to say, Mr. Chairman, that 15 minutes is really quite a long time, it would allow for quite a lengthy presentation and it would be more than that if we divided the . . .

MR. CHAIRMAN: Mrs. Asselstine, do you feel that you could give us your full presentation in 15 or 20 minutes?

MRS. ASSELSTINE: Well, I could start then when you want me to stop . . .

MR. CHAIRMAN: Proceed. At least try.

MRS. ASSELSTINE: Thanks very much. I feel a little sort of inferior because I do come from the grassroots and I am an immigrant and I have had to fight inferiority for many years. I'm just nicely getting over it a few years past. But anyway, I would like to tell you that this, I don't know what we're speaking for here, in a way, except to get more patriotic which is an excellent reason for being here because I think we need patriotism today more than ever before in history. And I would like to say this is what I got from the federal government, or my husband, I don't remember which was on it. They have already done the Constitution here, sending it out I suppose to everybody else if we got one. I don't understand it. Number one, they are not going to consider my views if that is so. I'll have to depend on Mr. Lyon and his government to represent my views. These are already done. That alarms me because I thought they were going to get grassroots proposals.

Anyway, Mr. Chairman, and Mrs. Westbury and all fellow citizens, I really come very prayerfully here with deep concerns and I'm not used to this kind of work so excuse any errors. I'll get my points across, I will just give you a quick survey of what I am worried about and that is I am really worried — this is off the cuff — but I am really worried about our traditions and our heritage and I am very worried that it's going to be very much eroded if we are going to be entrenched in this Constitution, all these rights. I feel we have Mr. Diefenbaker's Canadian Bill of Rights, and I have studied it with great care and I really think that's a marvelous traditional . . . it shows our heritage, it shows the people who founded our nation. We were built on the Christian heritage. I don't care if it's Catholic or Protestant or any other but it's Christian, that's the big thing, and we've got to pull together.

I would really ask that the committee or somebody would study this thoroughly because this is the one I would prefer with amendments depending on as we grow as a nation. Changes have been taking place and will be taking place but I still think we must remember our English, French, Christian heritage. That is the most important thing of all, because without that there would be no Canada.

Ladies and gentlemen, I would like to carry on with this written one.

I am a Canadian I feel in probably the purest and truest form, because when I was only eight years old and my father gave up my allegiance to the country in which I was born, therefore I had no say in it. As a class one Canadian I have gratitude and thanksgiving for being raised and trained as a good citizen by my good parents who follow the Ten Commandments. They didn't teach it but they lived it. My allegiance and loyalty to God and the Queen and family life and respect for other countries and for a healthy and hard-working lifestyle. I feel as true Canadian, I deplore the actions taken by the past governments, many years ago even, which have caused the erosion of my Canadian traditions and my heritage. We were glad to come to Canada and thankful because there was no room where we lived. My father had been in the States before and back again to my native land and then he was glad to come back to Canada.

Why was Dominion of Canada removed? Why was Dominion? Dominion comes from Psalm 22 and it gave dignity and worth and respect to Canada, as Mr. Forsie says in a new book I was reading. It gave dignity and worth and respect to Canada as a Christian country and a nation. That's number one.

In 1534, Jacques Cartier brought the fleur-de-lis, it was planted on Canadian soil and Canada was claimed for the French, of Judeo Christian heritage again. In 1763, France under General Montcalm was defeated by the English under General Wolfe on the Plains of Abraham. Again it was the people of Judeo Christian heritage, the only religion we true Canadians, who built this Canada of ours, to whom we owe a debt to, is the Indian, because his spirituality — I just attended a spirituality conference by the Indians a few weeks ago — his spirituality and traditions and heritage were taken from him. And that wasn't done intentionally but through ignorance, because we didn't know the Indians in those days very much.

All effort on that part of the Dominion of Canada must be to continue to restore the Indian people's language, culture, spirituality and traditions. There were 300 Indian languages at one time and not much remains of them. Therefore, as Canadians, the United States too, are the only countries which Indians can claim as their homeland. All sensible efforts should be done to restore Indian language and history and culture. People who settled Canada can go to Europe — I can go back to my own native land, it hasn't been taken over by the communists yet, thank God, I hope it never will be — Asia and other continents, we can find a written knowledge of our roots but the Indian has only Canada, and as yet little is written in comparison to the French and English history.

As a true Canadian, I deplore the erosion of my heritage as a Canadian, namely: (2) not only Dominion was taken away, but taking away my Christian flag. Don't let anybody tell you we are not sore at heart over that. We're sick over it. I was sick over it. I was working with Cubs and I taught them the meaning of our flag and when the new flag came I wrote to Mr. Diefenbaker, I wrote to different ones, I said, don't get rid of that flag, we don't want it taken away from us. Nobody heard us.

Canadian Ensign symbolizes strongly our heritage and for which three of my brothers fought and thousands of loyal patriotic Canadians in two world

wars. They fought for the freedoms and democracy and justice and our right for parliamentary government, religious freedom, representation by population, and other things too. This meaningful flag, or Canadian Ensign as they called it because they had not officially adopted it yet, too bad, should have been adopted as Canada's official flag in our Constitution because only the Indians and Eskimos were not represented on this flag and this neglect could have been corrected easily by having the fleur-de-lis, the three lions for England I believe it is, and one for Scotland and the fleur-de-lis for France and the harp for Ireland, and the three united maple leaves, where I fit in, at the bottom, three maple leaves joined together representing all other nationalities that came to Canada, or have founded Canada. We weren't the founding nations, I can't claim that because I'm a second generation — fashioned in beadwork. That could have been overcome, with beadwork, I sort of feel sick over that but I had envisioned and suggested that our flag as it was then could be done in beadwork representing the founding race which is from which we grew at that time. The Eskimos, I don't know, we could have done something with that too, instead of throwing the whole flag out. Fashion in beadwork, if the Indians would agree and the Eskimos would agree. This leaves only the Eskimos unrepresented on our good old flag.

Like the flag of India and different other countries, which I taught in Cubs too, everything that was shown on our old Canadian Ensign had symbolic meaning dating back as far as St. Andrew who was crucified as a martyr for his religious faith, that white cross on the Union Jack. And also the cross of St. George represented our fight against all things evil, from England, and then the cross of Ireland representing St. Patrick, who went to Gaul, France, to learn christianity, and he came back to Ireland to become its first bishop and he taught the mystery of the Trinity using the Irish shamrock. On the fly end of this wonderful flag which has been thrown out by unthinking, not very deep thinking people I'm afraid, I hate to say it but I feel it's true, on that fly end of our Canadian Ensign flag were represented the French, the fleur-de-lis, the harp of Ireland representing Irish settlers in Canada who founded Canada too, the three lions and the one single lion representing Scots and English pioneers who settled and built Canada. All other nationalities were represented, I've said that before, except the Indians and Eskimos.

All our new flag did was erase my Canadian heritage and my tradition because I have no tradition except Canada, except for the tough, hard-working, you don't eat if you don't work principle, policies, commandments which my parents gave me, thank God. I didn't appreciate them as much as I should have when they were alive which resulted in a melting pot of all nationalities who originated Canada except for the Indian and Eskimo. You see, all our heritage and traditions, to me it was lost when we lost that flag. It was lost, nobody knows and nobody cares. It's a melting pot idea now of all nationalities who originated in Canada except the Indian and Eskimo being erased completely from our new meaningless flag. When I was teaching Cubs I wrote and tried to find, what can I tell the boys about the

new flag? Nothing. They had nothing to say. So I read it into my own way and I said, well, I'm a Christian, I'm going to say, if your sins are scarlet, they shall be white as snow. That's my new interpretation for our flag which was forced upon us.

No. 3, regarding priorities, oh yes, and I want to continue with how erosion took place of our Canadian heritage. Likewise with the recently forced metric system, I don't understand it and I'm nearly 60 years old and I don't want to start all over again to learn all this new stuff. My children, too, are the same way. The celsius scale, my father, when it was very very cold, he'd say, well, I think it's 40 degrees below, I think I better take you in the sleigh box. We had to walk three miles to school back and forth and he says, and the poor old father, I used to think I was frozen when I got to school in that sleigh box but he must have been really cold when he got home, three miles back again by horse and sleigh. All these must be restored in the Constitution. I would like to see all that restored in our Constitution to make us truly Canadian. Everybody says, I don't know what a Canadian is. I know what a Canadian is, because I am one. And I think I am one of the purest because I have no nationality, I have a little tiny bit of my mother tongue, but Canada was our adopted land and we are Canadians.

Regarding priorities for a new Constitution, we true Canadians have this skeleton framework on which we Canadians have been building since The BNA Act was agreed upon in 1867 and even before that, because I can remember 1763 was the fight with French and English. In 1774 was The Quebec Act. I learned history when I went to school. 1791 was the Constitutional Act. And they divided Upper and Lower Canada into Quebec and Ontario and then later on all this kind of happened but we tend to forget, and I worry really very much about the thousands of new immigrants who are coming to Canada who know nothing about our history. I really deplore that, and I don't think, it's like the children of today who think they have to start up here when they get married, I started down there, living in two little rooms and my six children, my six brothers and sisters and my father and mother lived in two rooms. They don't know what poverty is today. Sorry, I'm off the track.

We had been building the BNA Act, it was agreed upon. We still have that skeleton in that book I was studying. Why not use it, and keep using it another hundred years instead of changing it. It was agreed upon in 1867, the confederation of four provinces, Quebec, Ontario, New Brunswick and Nova Scotia, there was not yet a Manitoba hardly at that time, and then in 1871 Manitoba emerged as a postage stamp province and Saskatchewan and Alberta just now celebrated its 75th jubilee. On Page 5 of the constitution, and that's an excellent record, I haven't read it all. This reform in 1980, there it states plainly the terms and duties for the federal government and for the provincial governments, and the amendments as necessary change can be voted upon as time goes on because we're not closing, why entrench it, we're just going to close it up. We're going to explode if you do that because we are now millions of more Canadians from all over the world, thousands coming every month, we've got to accommodate the future.

1960 saw the Canadian Bill of Rights for the recognition and protection of human rights and fundamental freedoms assented to on the 10th of August 1960. I'm referring to this Canadian Human Rights Bill, which is not accepted in the courts. Why, I ask why, is this not upheld by the courts? I have been told this approved bill does not stand up in court. This needs further explanation to satisfy my Canadian and human and fundamental rights because parts of it are ignored and our very Judeo-Christian heritage and traditions are ignored. Let no one forget the Parliament of Canada affirms that the Canadian nation is founded on principles that acknowledge the supremacy of God, and I understand they're going to make it throw out God now. That is calamity for our whole Canada. There's an element who want to do that. And it's also based upon God, the supremacy of God and the dignity and the worth of the human person and the position of the family as society of free men and free institutions and this we must not forget. Except we could add probably rights for the multicultural, like myself, multicultural groups and I suppose the Indians must be remembered in it in the preamble and it affirms also that men and institutions remain free, and this is so important, only when freedom is founded upon respect for moral and spiritual values and the rule of law.

I could say so much about the morals here because if we had our Judeo-Christian heritage properly taught and understood, we would have no worries with morals or spiritual or laws. We wouldn't have to be changing laws to suit every Tom, Dick and Harry that comes along.

And being desirous of enshrining these principles and the human rights and fundamental freedoms derived from them in a Bill of Rights which shall reflect the respect of Parliament for its constitutional authority and which shall ensure the protection of these rights and freedoms in Canada.

Therefore, the Queen, she approved this and it was consented to by the Senate and the House of Commons of Canada, and the Bill, I was going to read it but I haven't got time to read it. I have brought copies for each of you. I wish you would take it because it is really good and it's hard to read, I found. That is so important to see a Canadian Bill of Rights. Now comes in this new 1980 Bill of Rights, tells us June 10th, 1980, ensures us the Canadians, if a new Constitution is forced upon us that this will take time. Well, I'm not giving us time. I think now that we have become patriotic and become more and more patriotic, I think every citizen in Canada should have a right to come to this hearing, hearings like this. I don't say you people who are so important in leadership should just spend all your time. You've got a committee to hear all other people, I would recommend it because I think it's going to make a better Canada if we do, if every person, every immigrant knows Canada. This will take time to achieve, it says in this new one.

And also a full review that both the federal and provincial governments must participate. They have given us that reassurance and then the Government of Canada, after intensive work, it says intensive work, they promised us intensive work, they would do intensive, this should be with understanding, adopt some or all of the list of proposed items that

they have listed in that book in the new Canadian Constitution. So they are not giving us what they promised us. That's one thing I feel. If this is pushed through, this would be contrary to their statements of promise which reassured Canadians:

1) That a full review of all constitutional measures now applying to our federation be made previous to any changes, it has got to be made previous to any changes.

2) The whole task constitutes a great enterprise and will take time to achieve. Not all of it can be accomplished at once, but my question is, why then cannot Canadian government and the provinces, as well as the federal, wait until all is done if all they want is to prove is to demonstrate to the people of Canada that tangible progress is being made. We know progress is being made and why do they have to prove it to us by passing the Constitution right away. There is no need for that. Already there is tangible action being made on the Canadian Government's list of proposed items which threatens to become the subject of early adoption as part of the new Canadian Constitution. I deplore this because it is much too hasty and incomplete.

1) A Statement of Principles: The 1960 Canadian Human Rights Bill, 1960, should be re-implemented and accepted in the courts, particularly the preamble pertaining to the supremacy of God, the dignity and the worth of the human person and the position of the family in a society of free men and free institutions, and add to this, the recognition of the Indians, Eskimos, and the multicultural groups. Affirming also that men and institutions remain free only when freedom is founded upon respect and spiritual values and the rule of law and being desirous of enshrining these principles in the human rights and the fundamental freedoms derived from them in the Bill of Rights, which shall respect Parliament for its constitutional authority and which shall ensure the protection of the rights and freedoms in Canada.

I believe there never can be in Canada an entrenchment of the human conscience. I saw them on television. Entrench the conscience, and he rushed over it fast, and he rushed over the language and he rushed over a whole bunch of things and I think, how can people do that and decide that in a minute. Conscience — conscience is what you learn from your parents. Conscience is what you learn from your community. Conscience is your home life you might say. It's instilled on you from birth. That's your conscience, a human conscience. All Canadians in this Canada of ours with this hodge-podge of nationalities and religions and sex and cults and Satan worshippers, you name it, they have a conscience too and they have opposing ideas. Now if entrenched the conscience of a person, and I sure would love to have mine entrenched and I am sure they would, because there is so much we don't know, we're not God, so this must be enforced by law.

Therefore, these things if it's entrenched, it has to be enforced by law. What does that make the Prime Minister? It makes him a dictator because you have to enforce the law. We don't want that. Yes, a dictator. Is this what Canada wants in the future? I say no. Laws must be made in such a way that they can be enforced. We saw the mess we got into when

we had that massage parlour deal. We worried ourselves sick and grey-haired over that long enough and I hope it's cleared up by now.

It has been said no one can enforce law to deal with morals, ethics and spiritual values. They say, oh, you can't do that by law. Of course you can't, no way. You can't entrench law, that is, laws can't entrench morals and spiritual life. This can only be true if Christian values are at the bottom of it, our tradition of Canadianism.

So Christian values and Judeo-Christian heritage religion if it's practiced daily, we can enforce the morals and the spiritual values, study our religions and practice it daily and even then we all know we have to have laws, red lights for driving safety and so on, because Christians are often ignorant too and neglectful too and imperfect, so therefore we do need laws but sensible laws. Sometimes, though not intentional, conscience is a human being's ability to know right from wrong. Some people do not have a conscience because a conscience is developed through learning and knowledge from parents and others in the community and elsewhere. I'm reading — If all people respected the Supremacy of God, the worth of the human person and the position of the family of all races, and understood that men and institutions remain free only when all people know their moral and spiritual values and the rule of law, there would be little use for laws because people automatically would know right from wrong. That's not original. I had to really study Prince Phillip's address at the St. Boniface Hospital. This came out of it, and I knew it before but I couldn't put it into words. He did, he put into words. We would automatically know the spiritual values and morals and we don't need the laws if we already know them.

If each is practicing one's religion, Judeo-Christians conscience or at least a philosophy of life or any true religion and I must interject this, I hope you will stay overtime, I would hope I am not putting somebody else out back here. But the thing is for a philosophy of life of any true religion, conscience, because most of the people came with a . . . I know near where I was brought up, they had this little old church, the first thing they got was their church. They had to bury their dead in the cemetery in the church. Before that they used a school house to worship in. So this is it. They were mostly all Christians.

If the Government of Canada entrenches freedom of conscience and religion — and religion, think of it, that's another 2,000 years before that can happen. We can't do it right away. Where thousands today have little conscience and often no religious roots, what will become of the rest? We will become in Canada a nest of confusion and chaos. It has been predicted and rightly so, I believe, that if we abandon the Christian doctrine, we shall most certainly revert to the state of jungle warfare. The test of greatness — this is important — of the human being is the extent to which individuals can be trusted to obey self-imposed laws. That is worth its weight in gold. It's the way people themselves can do it without having laws to force one to do it. People cannot impose or self impose a religion they do not know.

I was an agnostic, I guess I was an agnostic, I didn't know religion because I had no church. I was a Lutheran and there was no Lutherans around there. We had no church at all and we never went to

Sunday School, just my father's and mother's Ten Commandments, and do good unto others, help others, and serve people, help others. So a religion they do not know, many people have a religion they do not even know, nor be guided by a conscience, some are not even guided by conscience. They do not have or know what it's all about. If people knew good morals, spiritual values and ethics, they would know right from wrong and would not disobey the laws of the land nearly so much. They would desire to be honest and do right. What or where does this all lead to?

Every Jewish, that's the Old Testament scholars, and every Christian accept the Old Testament and the New Testament, and every one of Hindu religion or Islamic faith — you name it — or any other faith or philosophy of life must know his or her religion or philosophy of life. How can anyone follow and live his or her religion or philosophy of life if one has none and many thousands don't have any. How does the atheist, the agnostic, or the Communist follow his conscience if he does not know or understand it?

Therefore, I, (a) propose and suggest first and foremost, as we look to the future of Canada with its mixed nationalities, traditions, cultures and various spiritual moral and ethical heritages, that all Canadians study and learn thoroughly the religion of one's choice or philosophy of life. Only then can people differentiate what is right and what is wrong and follow the law of the land as respectable, knowledgeable citizens of Canada. This should be the goal aimed for, but this cannot be entrenched in a Constitution because there is no law which can enforce these things. It has to come from within a person and that, after much devout family training and study, which brings me to the point of these mothers and the Status of Women — I hope I don't offend anybody. I respect women; I think women have the most wonderful, most miraculous duty to perform on earth by bearing children. Men cannot bear children, only women, so women, take heed. I'd say I wish every woman would know that. I don't think they should have children if they don't put the children first.

My son's Shepherd dog looks after her babies far better than many many mothers that I see who have their babies and leave the whole nest and let them grow up like weeds often. I don't think day care centres should be the answer either. They can look after their own kids like my parents did. We struggled hard and we worked like slaves for it.

After much devout family training and study, which is needed, if the Government of Canada entrenched conscience and religion, the Canadian government would necessarily have to provide families, parents, who would bring up a child toward a conscience to differentiate right from wrong, and not only provide religious training to Catholic schools and Hebrew schools, but to all other religions. Two thousand years are maybe not that far but certainly we can't do it today. This would be impossible with the billions of dollars debt we Canadians have today.

Therefore, I propose a public school study of the four great religions as part of school curriculum and each religion of the great religions, Zoroastrianism; Christianity; Hebrew, the Jewish faith; and Hindu or Moslem, whatever is decided upon. But they should finance their own religion just like the Hebrews have

done in the past and just like the Catholics have done in the past. Let everyone, because if they don't do it themselves, they are not going to thank you for it anyway. So, therefore, I think you only get something if you struggle for it and therefore we should have our Christianity, we founded it. We should have our English-speaking schools. I would love to learn French, too, but I couldn't do it, there were no French teachers. Finance our own philosophy of life or religion just like the Catholic schools and the Hebrew ones today have been doing so long and are still doing.

(b) Proposal that all Judeo-Christian whose forefathers founded Canada develop a mature knowledge . . .

MR. CHAIRMAN: Mr. Einarson.

MR. EINARSON: Mr. Chairman, on a point of order. My apologies to Mrs. Asseltine, because of the time element, have you much more to go, Mrs. Asseltine?

MRS. ASSELTINE: Well . . .

A MEMBER: Maybe she could continue at the end of the . . .

MRS. ASSELTINE: Yes, that would be better, thanks.

MR. EINARSON: We were trying at the earlier stages to be fair to everybody that's still left here.

MRS. ASSELTINE: Yes, that's good.

MR. EINARSON: I just wanted, Mr. Chairman, if that's agreeable.

MR. CHAIRMAN: Thank you, Mr. Einarson. If there is some time left, Mrs. Asseltine, you may finish your brief. Are Mr. Anderson and Mr. Roger Barys here? Mr. Brown.

MR. BROWN: Before Mrs. Asseltine started she said that she would be very willing to give her brief and have it printed in Hansard, so if we could do this, we could check up on the rest of her brief and that would leave her free to go.

MR. CHAIRMAN: If you would do that Mrs. Asseltine, if you would give the rest of your brief to the Clerk, we will make sure that it's printed in Hansard and whole brief will be recorded.

MRS. ASSELTINE: Thank you.

(Remainder of Mrs. Asseltine's brief)

. . . conscience and religion likewise so they can follow the Pope's, Paul II, teachings:

1. Respect for all life, the divine miracle where God's babies have a right to be born.

2. Born and not be aborted before birth in any stage after conception, unless the mother's very life is threatened.

3. The right of every child to be born into a caring, loving, responsible family where God houses them and protects them and provides parents who will provide for child's physical, spiritual, emotional and mental fitness, moral fitness and community health and fitness, all round good health of the whole person.

4. The right of children to be taught by loving parents how to live the life in No. (3), and that parents who God chose remain in the home and train their own children, especially in the first six and preferably 12 years of life, that all children may learn to look after themselves, to work, play, study, learn a trade or profession closest to their capabilities. Many mothers are leaving their babies to others to feed and train, and often to grow up like weeds. If mothers, who are the only humans to bear a child and propagate on-going life, are not prepared to look after their offspring at least as caring and loving as a mother cat or dog, they should sterilize themselves because their hearts are not in this divine place of God to raise up a child in the way he or she should go, so when he is old, he or she will not depart from it. All parents should be responsible for their own offspring and sacrifice and do her best with husband and God's help to raise her babies. The babies did not ask to be born and parents should not expect taxpayers to feed their children in school and day care and educate them unless this service can be provided for all children, if parents wish it. Selfishness and greed should not be encouraged and this is what is happening today. God gave these children to families for only 18 years or so, a trust from God, so surely parents should do their best to train a child from birth, through church, school, etc., until they can become responsible good citizens and not be a burden to the taxpayers. We live in Canada, not Russia or Israel. Day care might be a necessity in those countries.

5. What Canada's parents, especially mothers, need is help in her home so she can become a voluntary Sunday School and community worker in her spare moments, when babies are older, and not go to work for a salary, often neglecting her offspring. While babies are small, mothers should have hired help in her home to create a healthy atmosphere all around and not be weary and overworked while husbands remain breadwinners and live according to means. Status of Women should be to stay home and care for her offspring, home and community or else choose a career, marry or not marry as she chooses, but don't have children for which parents refuse to learn how to be responsible for.

6. Another proposal re Family Law should be reminded Canada is a country of Judeo-Christian heritage and Indian spirituality, and the marriage vows are "for better or for worse until death do us part". Divorce only complicates life and women should never marry a man if they refuse to work at their marriage, likewise men, to keep it healthy. There should be pre-training for marriage and health.

7. Regarding patriation of the Constitution. Not yet. Wait until Premiers agree and Government of Canada agrees with Premiers.

8. Powers affecting the economy of Canada.— Proposal or Suggestion. Salaries must be regulated according to costs to train, apprenticeship, workmanship, dedication. There is no justice at all when a talented hard-working art degree university student on the Dean's honour list after four years of university education has to accept minimum wages, and another with a few weeks learning apprenticeship receives 8.00 an hour in a Safeway store. Why should a medical doctor after years of

study and dedication, first to the public and updated learning with long hours of work, receive no more salary than a plumber? What affects the economy is lack of hard-working, dedicated, knowledgeable, honest and upright citizens who care for jobs and good workmanship rather than unions, strikes, higher wages, etc., especially leaders of Canada, politicians and city councillors who set their own wages setting the ball rolling so all others have to follow. A nation is only as good as its people. Leaders should provide personal leadership.

9. Communications including broadcasting. Stop discouraging personal letter writing, the best and oldest form of communication next to personal communication. Stop raising postage. We live in Canada, not Europe. Get back to sense and unity in communications and stop all this pornography in films on TV, all this liquor showing and smoking on films. Stop catering to specific poor ideals, for example, attitude to alcohol, drugs, etc., on TV and radios, and encourage honest, truthful news in newspapers and journalism and news medias. Choose more realistic cartoons, not all this violence and poor identity forms. For example, don't glamorize the victims of drug addictions, pill popping, promiscuous alcohol's identity with our beautiful Canada. For example, portray respect, dignity toward good work habits, love of one's job, love of cleaning home and good housekeeping and respect for responsibility and self-sufficiency, honesty, integrity and a good religious healthy life and habits. Truthful, updated, unbiased news should be on news media, and character building content, good music, songs, etc.

10. Parliamentary democratic methods of government still are the fairest method of government and freedom, providing all Canadians know what and who they are voting for. More education would help in view of the hodge-podge of different immigrants from all over the world who know very little about Canada and its true history, not forgetting the Indians and Eskimos.

11. Language Rights. I have never had the chance to learn the language of my birth. I wish I knew it, but immigrants can't be choosers because immigrants are grateful to come to Canada to work and earn a living. I had a choice of learning French or Latin as my second language after 1928 when my parents came to Canada with six children, youngest, one-and-half-year old twins, I was eight. I wish teachers had come to teach us French in school because I never could talk it after four years of French grammar. I wish more time could be devoted to better English and more interesting vocabulary in English. I would have preferred to learn my native tongue, but this would be impossible if government would have to provide teaching of all languages, religions and cultures. Therefore, those who want to promote their own language, culture and religion should pay for it themselves, like the Jews and Catholics. French should be allowed where numbers warrant, but no way any language by tax money except English for all because, after all, at the time of 1763 when the French fell to the English Quebec, Ontario and N.S. and N.B. were the only provinces by 1867, there was no west. So why force French on the west unless numbers warrant? This does not mean French should not be encouraged because the

one language, English, is not very much. I wish I could speak French but if I had my own choice, I prefer the study of Latin and good English and my native tongue which is neither French or English.

Canadian Heritage and Tradition restored. In the Charter of Rights I would propose: 1) Restore "Dominion" of Canada, Psalm 72. 2) Restore our old flag, the ensign with all its tradition and history in it. 3) Add to above flag a symbol representing Indian and Eskimo as founding race. 4) All people of Judeo-Christian heritage study and follow it in everyday life, then no problem with moral and spiritual decay, then physical, mental health and community health would become a reality. 5) Restore our Canadian traditional weights and measures system and throw out the metric. We learned the Canadian system, why throw out more of my Canadian identity? I don't like it. Who is responsible for eroding and removing what I learned in my school days? Un-learning and forcing me to think metric and Celsius is wrong and unjust. 6) Who forced "Celsius" scale on us? What was wrong with Fahrenheit? I would like my Canadian heritage and traditional teachings of my school days restored. 7) I would prefer my old flag, the Canadian Ensign, restored. It was my Canadian heritage my brothers and thousand of others fought for. (See No. (1). I prefer my Judeo-Christian heritage and tradition restored by returning "Dominion" from Psalms 72. 9) I believe that mothers, all females should be grateful for their divine role, their unique role of childbearing and accept this divine role as mother as God gave them. I need not tell you men cant bear babies, only women. 10) I believe that all life is sacred and should never be murdered. After conception there is potential for a life. 11) I believe mothers must accept role as guardian along with father, for full responsibility of caring for their children and not shirk this divine duty to God, the unborn baby from conception is what life is all about. Mothers should never abort or murder and choose rather to get sterilized than bring an innocent child into a cold unloving atmosphere where mothers refuse to sacrifice. The child never asked to be born. Therefore train all parents to become mature, loving care, unselfish God fearing, God loving parents who will train children to grow up to care for God's world and themselves and others. 12) As for priorities in a new Constitution which is unnecessary needing only amendments re language rights, we Canadians need more and better English first and then Latin and French, then the native language of each one's choice. If all races want to learn our native language in any part of Canada, let him pay for it himself except in Quebec where majority is French. The native Indian's language needs preservation. 13) A statement of principles. The 1960 Canadian Bill of Rights is accepted by Parliament and should be respected and accepted in all courts regardless of nationality or religion or judges, etc. 14) Family Law — Education is necessary in order that marriage and propagation of the races continue; responsibility of parents; prevention of divorce, promiscuousness, immorality, anti-religiousness be better understood and how it affects western civilization condemned by thinking men like Solchshyn and others. 15) More attention be given nationally to prevention: (a) avoid alcoholism, cirrhosis etc., highway deaths; (b) avoid abortions by sterilization if mothers refuse to accept

responsibility for giving birth to babies and caring for them; (c) avoid mental illness - prevention; (d) avoid mental deficiency; (e) help the congenitally diseased, the homosexual, brain damaged, the crippled and maimed through no fault of their own, the blind, the deaf, the mute, all handicapped so they may live responsibly and as normally as possible, to learn trades and professions according to potentials. 16) Rights to fresh air, healthy environment and work place. Right of a country to expect the best from each citizen and take more responsibility for one's own health, one's own self and family. Then we can survive. "Think not what your country can do for you, but what can you do for your country."

P. S. Mr. Trudeau should consider this for all he has given us is problems since he ascended the throne by glamorizing homosexuals and foolishly gave the provinces the right to lotteries which is an unjust method of taxation especially hard on the poor who can least afford them. He is so possessed with getting his picture on the dollar bill to replace the Queen's that he is creating nothing but pain and misery for Canadians.

This should be a time of rejoicing but I'm afraid Mr. Trudeau and all leaders have done a very poor job and certainly should never get increase in salaries for the chaos and misery they have created for Canadians. (Doubled in 3 years was advocated).

Why religion and Christianity must be preserved. It gave meaning to my life and God became real, and direction and faith that can't be broken I received with gratitude and grace. I did not become a committed Christian until 1959 at age 39. Since then I rejoice in our Canadian Christian and Judeo religious spiritual heritage and knowledge which was founded by the French so diligently since 1535 and by the earliest of British and United States who pioneered Canada. I do not want Hansard to record me as an agnostic, because in 1959 I became a converted, "born again" Christian. This is important for the records. We grow spiritually all through life.

Why is Mr. Trudeau bulldozing the Constitution to Canadians as though he already has decided all terms already before hundreds have a chance to be heard. Show the new Constitution likely a million dollar packet, eight separate packages. This has gone too far. Why does government not tackle the urgency of unemployment? Apprenticeship, energy, pollution, child abuse, the insane drug addictions ruining young and old and killing off our youth and next generation? There are so many more urgent problems to conquer and bringing the Constitution home (and bulldozing changes through and removing our old Constitution which founded Canada on the Judeo Christian heritage does not do any more good for progress than changing and destroying our "Dominion" and our traditional historic old flag.)

Proposal. Why not have a committee consisting of learned historians and unbiased commonsense people study the Constitution, like Mr. Lyon if he is defeated, and all ex-Premiers of each province. I believe Mr. Lyon does know the Constitution issue and also the Premiers we saw on TV.

Before anything is done or changed re the Constitution or bringing it here to Canada, I would choose that Mr. Trudeau do some real work for a change to clean up the mess of his past 11 year reign and leave the Constitution issue to more

learned Canadian scholars and historians on this important subject.

My proposal would be that the Canadian Bill of Rights of 1960 is all we need and it could be put into Constitution with the preamble regarding Indians, Eskimos and multicultural pioneers who slaved like my own family (children included) to help build the great nation of Canada those first hard 100 years.

The BNA Act should remain as the skeleton, strong as ever, with no need to change it. Amendments could continue to follow to meet needed changes as more and more countries become desirous to learn French as well as English plus mother tongue. We cannot afford to even teach good grammar and spelling English and French yet.

P. S. I was in Miami, Florida going through, and went into a store, and neither French nor English was spoken — I think it was Spanish. I was a complete foreigner in that store for clerks and all spoke no English or French.

Why our Christian religion is so basic: The mentally and morally fit do not need to be directed, controlled, checked, morning noon and night because morality among other things is to do with identifying the difference between right and wrong. Just because the majority are on a bandwagon doing their own thing does not make it right. Two wrongs never made a right.

Many people confuse morality with convention and maintain that it is established merely so as to allow the species to survive in a community. Conventions may desire that stealing and dishonesty are anti-social and should be punished as a deterrent, but only morality can make people refuse to steal and desire to be honest. Moral fitness depends upon the convictions that certain things are good and honest and other things are vile. These have to be personal convictions, they cannot be established by convention or by legislation. A person may be physically fit and mentally fit and still be an accomplished criminal or terrorist. Neither of these activities may lead to lung cancer or cirrhosis or imprisonment yet could be described as definite health hazards. Morality is not only to do with attitudes. An understanding of good and evil should also lead to better standards of personal behaviour.

Hence I suggest we need only the 1960 Canadian Bill of Rights in Canada and the restoration of the religion of Judeo Christians who founded this Canada of ours with recognition for Eskimo, Indian and the ignored multicultural peoples who helped in the founding of Canada. A country is only as good (or bad) as its citizens or people. Our true Canadian heritage and traditions should be restored. The word "Dominion" should be reinstated, our traditional ensign adopted as official Canadian flag, Fahrenheit should be brought back, also our Canadian system of weights and measures and our Judeo Christian origins which protected the moral and spiritual rights of the founding nations, France and England, and now the Indian's spirituality which for so long has been neglected.

Respectfully submitted, Asta Asselstine (Mrs. J. L.)
R.N. Mother of five and grandmother of two boys.

MR. CHAIRMAN: Mr. Anderson or Barsy? Would you come forward and state your name and do you have printed copies of your brief? Thank you very much sir, if the Clerk will distribute those. Are you representing a group or is it a personal brief?

MR. ROGER BARSY: No, my name is Roger Barsy. It is a personal brief. Mr. Anderson has declined but he has given moral support in this issue, but I am presenting it as an individual. There are many things in here that I'm talking about that's not specifically addressing the federal constitutional proposal but I feel addresses the issue itself. So with that I'll begin.

Mr. Chairman, Mrs. Westbury and gentlemen: I am making this presentation simply as a concerned Canadian. I belong to no political party and am not representing any group with a cause. I'm concerned about the degree of conflict that exists in Canada today. I agree that some conflict is healthy, but not when nothing gets resolved. The conflict in Canada, I believe, deals with a peoples relationship and with the Canadian democratic process. The proposed federal constitutional changes deal at least in part with both, and hopefully with the grace of God, the end result of the debate will yield results that will build a renewed and a more caring Canada. I am sure that we have many people throughout the world observing us as we go through this patriation process, and as a result, our thinking cannot be provincial or selfish and I pray that the Lord will guide us in our venture.

I would like to state that I am thankful for the opportunity to make my views known. I feel that it is a worthwhile exercise to get the views of the citizenry because it assists the Legislatures in getting the pulse of the people. However I do regret that some governments have already taken positions prior to this input process.

In this presentation I will simply give my views and some reasons behind them. If further elaboration is required I stand ready to go into more detail or explanation but in this case here I think I would rather wait and let the other people be heard because I think that would be more fair in this case.

I will then give brief views on the patriation question, the Canadian Mosaic, the constitutional monarchy, the parliamentary system, the Charter of Rights, and the Canadian educational system and the residual power of the national government.

The name Canada is believed to have originated from the Huron Algonquin word "Kanta" which means a village or a community and its first appearance was noted by a French explorer Jacques Cartier. The name was adopted by the French settlers for the colony of New France. This adoption of the native Canadian terminology by the French to describe the then new land should serve as a permanent reminder of the "roots" of Canada and our stewardship role.

However, in a governing sense Canada has two founding peoples, French and English. To these peoples, the democratic majority, are charged the responsibility of governing all the diverse peoples who make up the cultural mosaic of Canada. It is their responsibility to ensure Native rights as given by the Queen remain protected. It is their responsibility to ensure that all people's cultures have an opportunity to survive. However, just as importantly they have the responsibility to guide Canada towards a sense of nationhood — not regionalhood or provincialhood but nationhood. To achieve this end certain "givens" must exist.

The first given is to have our own Constitution and to that end I agree with the federal move to patriate

The British North America Act, and I stated in there with the Victoria formula but I'm saying that only because I think that from what I gather the Victoria formula was basically accepted but what I would like is that if they could have some sort of attempt to get a better formula, and I know the federal government made a proposal like that, but I think that in the final analysis that a Victoria formula, we should fall back on it because we should be able to get on with the job of doing some constitutional change.

Another given must be the entrenched language rights for the francophone and anglophone population. There should be entrenchment akin to Section 133 of The British North America Act for other provinces, especially the provinces of Ontario and New Brunswick — Manitoba and Quebec already have entrenchment. Language rights should also exist in other regions of provinces where numbers warrant it. Now I agree that it's difficult in determining the number that warrants it so to speak, but I think we should make reasonable efforts to do this.

I concur with the proposal to enshrine official language rights that provide the right to the use of English or French in the Parliaments and in the Legislatures, and I think I would correct that to mean the Legislatures of the provinces where those rights are enshrined, like New Brunswick, Quebec, Manitoba and Ontario, which I think should happen, the federal courts and the communications with the central government. I believe that if Canada is to survive as it now exists, Canadians must accept the reality of two languages. If French-speaking Canadians are to feel at home outside their regions, they must be able to at least make their way through the country. It is not unreasonable to have road signs and products and services available to them. The same applies for the province of Quebec. There English linguistic rights are necessary, not to further the separatist feared "assimilation" process, but to preserve an equality among "the peoples" that enables English-speaking Canadians to feel at home within that province.

I also believe in the thrust taken by the provincial governments of Manitoba and Ontario on French immersion for our children. I go further and say that more schools be made available to meet the "demand" for such a vital service. I believe that the Canadian character will be and should be built through this process, not through forced bilingualism. Possibly in time, Manitoba will achieve the cultural linguistic balance dreamed of by Bishop Tache, but this can only come about in an atmosphere of linguistic security and an overriding spirit of linguistic co-operation.

I believe this process is already under way and the entrenchment of what already is only serves the development process. An example of this was evidenced on a train trip that I took this summer.

While travelling west through the Rockies and while in the observation car, a fellow Canadian traveller in his late twenties made a certain comment to me that points to the reality that French-speaking Canadians and English-speaking Canadians are sharing experiences or at least interacting in a way that is different from the past. In the past I think most English-speaking Canadians have felt that they have had more in common with other English-

speaking nationalities in the British Empire than with French-speaking Canadians. The basis for this was simple and straightforward. The common language enabled them to communicate. What happened on this train at least made two English-speaking Canadians think twice about our country.

Two discussions were taking place. An American and an Australian were discussing the Florida riots and from my basic understanding of French, three young French-speaking Canadians were discussing the beauty of the mountain scenery. The accent of the Australian was so strong that I could only catch a few words, and although the American had an accent too, if it had not been for him, the topic would have remained a mystery. They seemed to understand each other however. On the other hand, the topic of the young francophones was known to my fellow Canadian and I. After listening to both conversations for approximately one quarter of an hour, he stated to me with astonishment, "You know I can understand more of what they, the young francophones were talking about, than what that Aussie is saying."

Neither of us were fluently bilingual but our cultures gave us certain basics so that we could at least understand their appreciation, that is the francophones appreciation, of the Canadian scenery. The point is here is that we're starting to share experiences together. It is these shared experiences that will build our national character and identity.

Another given is the role of the monarchy. I believe that Canada must remain a constitutional monarchy. The real power, although in the hands of the Canadian people in a democratic way, must be protected from deplorable governors, even though they claim to be the "elected". The monarch is our safety valve so that if any government that goes to the extreme in going against the best interests of all Canadians, the monarch can pull the plug so to speak on such a government and demand that it return to the people to get its proper mandate.

The monarchy must remain as apolitical as possible by not supporting any given political party, but it must guard and by doing so preserve itself the basic democratic rights of all Canadians. Such democratic rights as the right to all Canadians to vote in the election of a Legislature or Parliament or to stand for office in either institution. The monarchy should also ensure that no Legislature or Parliament sits longer than five years and that there be at least one sitting to address the problems of Canadians per year.

The appointment of the Governor-General should be on the basis of one's commitment to these democratic principles and the continuation of the monarchy in Canada.

The democratic process itself is another one of the "givens" mentioned earlier. Democracy, however, has its bad sides as Robert Michels and John Stewart Mills point out, and our civilized country must recognize these and deal with them as reasonably as possible. Canada must remain committed to the democratic process, however as a people we have to realize that as we entrench certain values that these may override others that we consider important. For example, how can there be equality of regional governing in Canada if the majority lies in eastern Canada? Petro dollars can

even the balance somewhat but the democratic structure remains and can frustrate those who feel tyrannized by the majority in the east. The federal proposal for referendums only would only heighten this bad side of democracy and would only serve to further divide our country on a regional basis, and I am against it. Strong regions are necessary to help keep the balance needed in Canada. They prevent domination of one region by the other. The legislators must address the normative question in this constitutional process of "How should the Rulers Rule?" If we need as Premier Blakeney pointed out, a double majority on decisions, then surely the Constitution must include a methodology that can achieve this goal within the democratic process. Possibly a second House is necessary that can be elected on a regional basis. I must admit that I am not sure, but I feel that this problem must be addressed honestly and candidly.

Democracy is also deficient in another way, especially when we concern ourselves with human rights and in this aspect I am referring to the fundamental freedoms, the aspects of mobility, legal rights, and non-discrimination rights. In many respects equality is not compatible with democracy, thus it is postulated that an entrenched Bill of Rights is needed to protect against the tyranny of the majority, and I want to set aside the converse argument of minority rule in democracy because that sort of can confuse the whole issue. In Canada it is argued that we should have no more padlock laws. Legislators have not guaranteed the rights of minorities, therefore the right to protect the minorities should be taken from them. They have lost the confidence of the people, especially the minorities it would seem. We should not be so quick to condemn them. Decisions were taken within the Canadian political cultural framework, that is, the parliamentary democracy and this is part of our political history. If it is the decisions that we are unhappy with then possibly the attitudes that led to those decisions should be examined as well, not just the legal process. We can entrench as many rights as we want if those rights are not accepted, no law can cause a national attitude change. One just has to look at many of the human rights laws today to get a glimpse of this. If it is unlawful to discriminate against age then it becomes unlawful to have an apartment block that in say in the private market caters only to senior citizens. Will an entrenched Bill of Rights deny the majority from expressing its own culture for fear of infringing on the culture of new Canadians? Now seemingly the two concepts can exist in a separate but equal status and that does not prohibit, it should not prohibit the expression of the majority. Unless this is done then somehow I am sure frustration will seat itself and be expressed through radicalism or through violence.

In many ways the concept of entrenched rights is a simple solution to a complex problem of relationships. Surely legal recourses should be the last recourses when we can't sort out our problems any other way. Human relationships rarely flourish on the black and white of legalism, they flourish on the grey when people have latitude to express themselves. While the law is good to tell us of the rights and wrongs it also serves to show us our inadequacies. Surely the spirit of the law is the

essence, and that is what the Lord demands of us in our daily lives, and with His help, we work through life's problems.

With this concept in mind, I endorse the present proposal that human rights be entrenched but be tempered with the present clause that the rights protected be subject only to such reasonable limits as are generally accepted in a free and democratic society with a parliamentary system of government. Although many have argued, the Canadian Civil Liberties Association the most vocal, that such a section renders the Bill worthless, I disagree to a large extent. A lawyer I am not, however the present constitutional setup still gives protection on a province by province basis and the new charter would certainly be no less than what we have now. The proposed charter then could become an entrenched code of rights and freedoms for Canadians living within the provinces. The courts would not have the last say, the people and the legislators will, however the courts will be able to define the issue and can serve as a refining process for the people of Canada and the legislators. I believe that we should give this type of an approach at least a meaningful trial period before we embark on a sudden departure from our political culture, which is one very real difference that we have with other countries, most notably the Americans.

Related to the matter of human rights and attitude is education. Education is an extremely important part of any nation. It entrenches the beliefs of the people and reinforces the values held in common. In Canada today, our national fibre is suffering from a lack of a nationally co-ordinated education program. I do not believe that the federal government should take over responsibility for it but surely a national core program is needed to give all Canadians certain basics. This core program could be done through the federal government simply co-ordinating provincial departments of education. A task force could be set up to examine how a uniform national education core program could be structured within the present constitutional framework. Such a program should include in my opinion, a curriculum of Canadian History, minimum English and minimum French language standards, and a course in studying the Canadian political system or civics. Aside from building a Canadian flavour it will allow all provincial education to be more accommodating for those who move throughout the country. Our recent past has shown Canadians are a very mobile people within the country.

The last comment I wish to make relates to the residual power of the federal government. I believe it is necessary for nationhood, and although many may dislike the personality presently leading that government, it should not detract from the inherent value of such division of power. Since we live in a democracy, we have the right to vote at least every five years to construct the type of national government we want. With the safety valve of the constitutional monarchy, I believe it is sufficient to ensure that the silent majority will not be taken to the cleaners, so to speak.

The residual power itself must be extremely rarely used and the emphasis on dispute resolution should remain towards mediation and co-operation. I believe it is through this process that Alberta and Ottawa will

resolve their differences, however if such does fail, arbitration through the courts should be seen as a constructive process. The loser must be prepared to accept the Supreme Court ruling and live within the constitutional framework. If change to that ruling is deemed necessary by the majority it must be brought about in a manner that does not deepen differences but in a manner that promotes inherent value of the majority. What value is it to promote causes of western or Quebec separation because the present constitutional framework denies regional or cultural expression? These approaches are narrow-sighted and appear unconciliatory. It should not be taken to mean however that their causes are unjust and should not be dealt with; it means that our federalism, no matter how legally defined, must remain co-operative. We must strive for the "double majority" instead of simply relying on the legal approach. In many ways our structure is more set up for a co-operative federalism concept than for the strict division of powers concept.

The Constitution of Canada is an important document but that is all it is, simply a document. The spirit of the document has to live within the people, not the people living within the "confines" of the rules.

I trust that your committee will recommend that the Constitution be changed but that equal energy be devoted to building a spirit of co-operation rather than "divisive" confrontation. I pray that the Lord will be with you in your deliberations.

Thank you. And I will stand for questions later.

MR. CHAIRMAN: Thank you, Mr. Barsy.

Four Nations Confederacy, Chief Lyle Longclaws present? Professor R. A. Gallop. Professor Gallop present.

Muriel Smith. Before you start, Mrs. Smith, I have the usual two questions that I ask most delegations, and that is, are you representing a group or yourself as a private citizen and secondly, do you have a printed brief with additional copies for members of the committee?

MRS. MURIEL SMITH: I only have this copy and one that I turned in yesterday to Mr. Reeves. I'm here as a private citizen but I am also a New Democrat candidate. So my opinions are 90 percent in harmony with the party's position and the other 10 percent are my own.

MR. CHAIRMAN: You may have noticed that for the last hour, or hour and a half, most people have been passing up their opportunity to be questioned by the members of the committee so that we can try and hear the three or four persons that are present, hopefully by five.

Would you proceed please?

MRS. SMITH: Thank you. Gentlemen, and Mrs. Westbury, I have two purposes in appearing before you today. I'd like to disagree with the position taken by our Premier, Sterling Lyon on key constitutional questions and give you my reasons for so doing and secondly, I would like to present amendments which I would like to see incorporated into the proposed resolution respecting the Constitution of Canada.

Premier Lyon has argued that elected persons are better able to protect the rights of people than are

non-elected judges, that the federal Parliament and the provincial Legislatures are the elected representatives of the people and that their supremacy is the essence not only of democracy but of the particular British tradition of parliamentary democracy which he favours.

Let me take issue, not with the principle of rule by majority which that tradition represents, but with the notion that the principle of rule by majority is all that democracy means. As I read history, a parallel theme to that of majority rule has been the theme of protecting the rights of minorities, the rights of the individual, however these may be defined, against the tyranny of the majority.

To accomplish this, we may choose either a system of checks and balances such as they have in the United States, though even there the basic law of the land can be changed by the elected majority through the process of constitutional amendment: or we may choose a system which provides an opportunity for the individual or for the minority group to take their case through the courts, arguing on the principles entrenched in an entrenched charter or Bill of Rights, knowing full well that that Charter can be amended at some future date, but requiring a larger majority than a simple 50 percent plus one, and allowing time both for the sober second thought by the ruling majority, and for the full and open airing of the issue in the public arena.

How do these two systems differ? Only in degree, the degree being the difficulty of the amending procedure on the one hand, and the clarity and progressiveness of the principles entrenched in a charter of rights on the other hand.

The system can lean towards rigidity and stagnation if the amending formula is too tight or it can lean towards gradual and thoughtful change if the amending formula is only moderately stringent, and if the will to gradually expand and extend the rights of people is alive and well and active.

I think the human rights movement in Canada today is alive and well and active. I think patriation or bringing home of the Constitution, with the best Charter of Rights we can achieve consensus on at this time, can effectively promote the cause of human rights in Canada; and I think the presence of an amending formula that calls for a double majority:

- (1) of a majority of the provinces to include both Ontario and Quebec so long as each has at least 25 percent of the population, at least two Maritime provinces, and at least two western provinces and;
- (2) of a majority of both the Senate and the House of Commons (The much talked of Victoria amendment formula)

is a good blend of factors that require the sober second thought without so inhibiting change that no progress can ever be made.

As for the vitality of the human rights movement in Canada, I think it is currently alive and well and active. I would like to see it continue to thrive. I see the human rights movement as having many components, each with significantly different roles to play. Historically, in Canada at least, citizens civil rights groups have, by pinpointing injustices in Canadian society, helped to raise the consciousness of Canadians to the plight of their fellow Canadians.

Governments, functioning as they must at the macro level of overall policy and programs, are rarely well equipped to deal with the effects of their actions — or inactions — on individuals and minority groups. Citizens need some protection against the intentional and non-intentional effects of government programs on their lives, protection that at least guarantees them some right of appeal in the short run, and some hope of changing unjust laws in the long run.

So the voluntary civil rights groups have raised our consciousness about injustices suffered by disadvantaged groups, ethnic, racial and religious groups which have endured negative discrimination solely because of their minority beliefs or origin; and by other groups such as women who, while not a minority, have nonetheless suffered negative discrimination solely because of social attitudes to their sex, which have resulted in their being cut off from the exercise of effective political and economic power.

Not only have these groups raised our consciousness about injustice; they have proposed remedies, many of them legislative, to bring about the desired change.

As a result, governments, first some provincial and then the federal, have set up Human Rights Commissions to educate the public about human rights, and to protect certain categories of persons not so much against discriminatory attitudes by their fellow citizens as against discriminatory actions. The categories of persons protected vary from province to province and the list grows longer from year to year, through the normal amending procedure, as society's consciousness evolves. The areas of activity affected generally include access to employment, housing and services at the provincial level, with the addition of the full range of employment conditions at the federal level, including a concern for inequalities between major sectors and within major sectors of the federal civil service. These commissions' activities have evolved through the activities of education; investigation, arbitration and conciliation of complaints; enforcement (including the power to fine the wrongdoer and compensate the affected person or group). More recently, particularly at the federal level, they have been moving cautiously into the areas of affirmative action, where they may approve temporary positively discriminatory actions by an employer to bring a historically disadvantaged group into a position in the work force roughly proportionate to the numbers of that group in the society at large; or even move to require such affirmative action from a federal employer; or, as a condition of receiving federal grants or contracts, from private citizens and corporations.

These commissions provide a flexible arena where the further development of human rights concepts and programs can evolve. Their work can, in my opinion, only be helped by a well written and publicly acclaimed Charter of Rights incorporated into the fabric of the Canadian Constitution. The mere existence of either the provincial and federal Human Rights Commissions or the Charter of Rights cannot guarantee that Canadians' rights will be honoured. But the existence of both can help raise the awareness of Canadians to the issues, and to the formal commitment of the governments of the day to

the principles of human rights. If the politicians and government officials do not honour this symbolic commitment, then citizens have one remedy through the ballot box.

The other remedy, unfortunately, is too often lacking and the current proposals do nothing to overcome that obstacle. Too many people are either ignorant or lack the sophistication or economic means to make use of these Commissions. If the budgets of the Commissions are kept too low so that effective education and outreach are a low or non-existent priority (currently, in my opinion, the situation with the Manitoba Human Rights Commission), or if good qualified legal aid is not readily available, most of those in need of redress through these Commissions may be excluded from the process.

The remedy, however, is not to do away with the Commissions because they are imperfect, but rather to ensure: (1) that they have enough funds to operate effectively, and (2) that a good quality legal aid system is in place, fully advertised, and adequately funded, so that all people have effective access to the remedies offered by the Commissions.

There is another potential defect of Human Rights Commissions per se. Their legislative mandate empowers them to ensure equal access to all persons, regardless of age, race, sex etc., to employment, housing, services etc. Their legislative mandate has no power to ensure that there are enough houses, in decent condition and at affordable prices; enough jobs, at reasonable wages and with safe and healthy working conditions; or enough services, of a type, quantity and quality to meet the needs that people have.

Human Rights legislation can improve equality of access. It cannot guarantee adequacy of supply. It is therefore a necessary but not a sufficient means of meeting peoples needs, and of guaranteeing their rights. The questions of quantity and quality of supply must be worked out in the political and economic arenas.

The same will be true of any Charter of Rights. It will be necessary but not a sufficient means of protecting people's rights. The political and economic arenas will continue to be of vital importance to the actual recognition of human rights, to the meeting of human needs. The danger could be that the people of Canada may be deluded into thinking that human rights legislation, or the Charter of Rights we are examining now, is a guarantee that their needs will be met with no further effort on their part to bring about constructive change in the political party of their choice, or in their place of work.

Many will argue that the Bill of Rights put forward by Diefenbaker has been proven to be ineffective. It has, witness the Drybones case and the Lavell-Bedard cases. But the reason the Bill of Rights has proven to be ineffective is not so widely known. The Bill of Rights has never enjoyed the status of primacy legislation. That means that when a conflict arises between the Bill of Rights and other legislation on the books, the other legislation prevails. The very basis of a Charter of Rights, entrenched in the Constitution, with primacy, is that such a judicial interpretation could not occur again. At least that will be the situation, if the ambiguities in the current Resolution are clarified.

Other cases where the Bill of Rights has been ineffective have involved a common law spouse who was unable to claim a spouse as a dependent, a father who claimed the same costs of family care deductions as a mother under the income tax laws, and a homosexual common law couples claiming the same rights as heterosexual couples under the income tax laws.

One other area of activity in the human rights movement seeks to deal with this gap between what is and what people would like to see become a reality in the future. The United Nations Conventions on social, cultural and economic rights, and on civil and political rights, to which Canada is a signatory, set out goals for development the meeting of human needs: health care, education, full employment, healthy environment, cultural and recreational opportunity, and the list goes on. Their mere existence (or non-existence at present) in the Resolution before us and hopefully in the Charter to come will not guarantee that the governments of the day would honour those goals in their programs, or, indeed that they even know how to achieve those goals if the will to do so were there. But their existence in the Charter would have an educational and a moral impact, reminding successive generations of citizens that they are indeed the goals of civilized nations and of the world society, and hopefully stimulating the same successive generations to renew their efforts to find the means to accomplish these goals.

Many will claim that the inclusion of such goals is an exercise in empty idealism, that non-achievement of them will re-enforce both public cynicism and governmental indifference and arrogance. There is a risk that that will indeed occur, and that the history of our future that is still unwritten will be more a tale of broken promises, paths not followed, actions not taken. That is a very real possibility. But is the risk of failure so paralyzing that we will not even be prepared to try?

I hope not because I think step (1) in making meaningful progress is to identify the problems that need solving, to bring into consciousness those human needs our efforts must try to satisfy. Step (2) is stating that the meeting of those needs is indeed our goal: as individuals, as political parties, as a nation, and as a member of the world community. This is the meaning, to my mind, of our commitment to the covenants of the United Nations.

Succeeding steps, the search for all the various ways we can act, individually and as organized collectives, locally, nationally and internationally, to meet these needs; the carrying out of a myriad of programs; the ongoing processes of evaluation and improvement of those programs, are the work of the political parties and the community and economic groupings in our society. But, to my mind, we will all, whatever our political stripe, do well to have formulated our common goals. And now, it seems to me, in the patriation of our Constitution, in the entrenchment of a charter of rights and in the commitment to the U.N. Covenants is the time to do just that.

To omit a statement of goals suggests to me either that we are too lazy to attempt to formulate any, or that the current condition of vagueness and conflicting values suits those individuals and groups

who already monopolize power in our society. Formulating clear goals is no guarantee those goals will be achieved, but it does seem to me to be a necessary and desirable first step.

The same argument applies to the question as to whether judges or legislators should be put in charge of the protection of human rights. I think the problem is poorly stated. Surely each has a role to play: the legislators in formulating clear and unambiguous laws so the judges have clear guidelines to go by, the judges in interpreting those laws as they apply to the individual case. Where the laws are vague or uncertain, the judges have great leeway to interpret. This they are likely to do according to their individual value system, admittedly conservative because of their usual age and the small "c" conservative traditions of our legal systems.

The solution to this problem is not, and I say this categorically, to give no guidelines or no tasks to the judges, or to cut off the access of the ordinary citizen to legal redress for his problems. It is to ensure that the judges receive the clearest possible guidelines to the decisions they are called upon to make. These guidelines will not be perfect. The solution is to make them better, not to run away from the entire problem.

All of which brings us to a detailed consideration of the Resolution before us.

Section 1: has the largest loophole imaginable. It is intended, according to the explanatory notes, to put some rights and freedoms beyond the ordinary reach of Parliament or a single provincial Legislature. By guaranteeing these rights and freedoms "... subject only to such reasonable limits as are generally accepted in a free and democratic society with a parliamentary system of government", the Resolution immediately puts into the hands of the judiciary the determination of what is "reasonable", of what is "generally accepted", the meaning of a "free and democratic society", with a "parliamentary system of government".

Those are very value laden words, and the values they involve are not ones on which there is clear consensus in Canada as between generations or as between political parties. To put the judges into the role of arbiters of such value debates is to put them into the hands of admittedly small "c" conservative people with more experience in assessing legal niceties than in evaluating differences of political philosophy regarding the determination of rights.

The judges are not to be blamed. The legislators are, for not making their intent clearer and less ambiguous. They should either define the limits of the Charter, or remove the power of determining what is reasonable from the courts. What if one political party thought it reasonable to control the size of landholdings of absentee landowners, of landowners who lived out of the province or out of the country, because of its commitment to more Canadian or provincial control of land resources, and to a more equitable division of an admittedly limited resource? Would a judge, committed to the principle of the sanctity of private property, uphold such a piece of legislation? Not, I suspect, unless the judge was given clearer criteria as to what would constitute the meaning of "reasonable".

The same problem arises with the term "generally accepted". What would be the test of such a

term: the opinions of colleagues at the club or of social acquaintances at the Saturday night bridge club, or a cross-section of the opinions of all political parties active in the country? The results might well be different depending on how the judge assesses such a question.

"In a free and democratic society . . .": freedom and democracy are not identical. One political philosophy, my own, recognizes the ultimate freedom as personal and psychological, but acknowledges that without the basic economic securities of either an adequate income or of access to adequate food, shelter, education, health care, employment, and input to decisions affecting the individual, and affirmative action programs to bring these conditions about, there is no true freedom. Another political philosophy might recognize the right freely to acquire and own property, regardless of whether or not other members of the community had the bare necessities, as the real meaning of freedom. And yet another more intermediate philosophy might maintain that so long as no one prohibited the access of other citizens to society's services and opportunities by any overt act, that the essential elements of freedom were present. Yet devotees of each political position might in good faith claim that they could truly interpret the meaning of "free and democratic".

The final phrase, "... in a parliamentary form of government", would seem to refer to the British tradition, but provides no guidelines that would help distinguish between different streams and currents within that broad river of tradition, so leaves the judges free to base their decisions on the "pure British" model (which is not even a federal system like our own), a more hybrid model, or a more republican franco-american model.

Why not a simple statement that any limitations should be subject to due process of law, which would ensure full publicity to any changes, and which would guarantee all individuals and groups the right of appeal in a public forum? Any exceptions should be narrowly defined rather than broadly, to guard against such travesties of justice as the deportation of the Japanese Canadians from B.C., the expropriation of their property without compensation during the Second World War, and the failure to permit them to return after the war; and the imposition of The War Measures Act in peacetime in 1973.

The suggestions which follow are offered as suggestions to strengthen and improve the Resolution. Since we are going through the process of designing a Charter of Rights, I see no reason for it not to be as thorough and as good as we can make it. What better time?

Under Fundamental Freedoms, I would like to see included those economic freedoms about which I think there is growing consensus, but which I think could be threatened in times of economic hardship. I recommend an extended (c) to read:

"freedom of association, assembly and peaceful demonstration"; and a new (d) to read:

"freedom of workers to organize, to bargain collectively, to a safe and healthy workplace, and to withhold their labour";

a new (e) to read:

"the right of workers to a say in the workplace";

and a new (f) to read:

"the right of women to control their own fertility".

Under Democratic Rights, I would like to see included some reference in No. 3 to municipal councils and similar elected bodies based on the principle of universal adult suffrage;

a new No. 6 to read:

"the principle that representation in every House of Commons and legislature of the provinces and territories shall be on a fair and equitable basis".

In section 4(2), I would suggest the word "apprehended" be changed to "imminent". This would require more evidence to justify the use of emergency powers, and should help to prevent a repetition of a precipitate War Measures Act.

I further recommend a new section (8), Rights of Privacy and Information, between the existing Democratic Rights and Mobility Rights, to read:

1. the right to individual privacy
2. the right to reasonable access for all persons to information about themselves, and to public information about themselves, in the possession of the federal, provincial and municipal governments and their departments and agencies.

Under Mobility Rights, I suggest the addition of 6(1) of:

"... and the right not to be deprived of citizenship".

I would like to see 6(3)(a) clarified to permit affirmative action programs in employment, housing and services for prior residents of a province when these residents are members of historically disadvantaged groups such as women, native people and the handicapped.

In the section on Legal Rights, I would like to see a substitution of the words "due process of law" for the words "fundamental justice". I understand that due process guarantees the right of appeal as well as the right not to be deprived of a right except through the public enactment of a law. If our legal friends can assure me that the legal concept of "fundamental justice" is as strong or stronger a concept, then I could be persuaded to accept the present wording. Under 10(b), I would like to see added the concept of financial assistance to retain counsel for those in difficult economic circumstances.

Under 11(b), I would like to see added the words:

"... in a fair and public hearing by a member or members of an independent judiciary or other independent and impartial tribunal";

and "... the right to trial by jury of one's peers in the case of a serious offence".

In the section on Non-Discrimination Rights, I would like to see added under 15(1) the factors of:

- marital status
- political belief
- physical or mental handicap
- lack of means
- sexual orientation
- language

Under 15(2), I would like to see listed as examples of historically disadvantaged groups that might be intended to benefit from affirmative action programs:

- women

original peoples

handicapped persons

A new 13(3), (4) and (5) would add a commitment by the government to make progress in the area of the economic rights of:

15(3) the right to employment and accommodation

15(4) the right to medical, educational and other public services

the full planned implementation over time of the International Covenant on Economic, Social and Cultural Rights to which Canada is a signatory.

Naturally, no Canadian citizen could win a case against the government for what the government is committed to do in the future but has not done in the present; but if it can be demonstrated that the government is making nil or negative progress in these areas, then I do think an individual or group who continues to suffer the adverse effects of such inaction should be able to go to the courts for compensation, or to secure an order to require the government to move in a positive direction.

This issue might well be one of the most controversial aspects of the entire charter, for why, you might well ask, include a right that cannot be enforced in the present or immediate future?

We all bring our own political philosophies to a discussion of a Charter of Rights. Many Conservatives seem content to leave the protection and development of rights to the slow process of evolutionary change, through common law and a slow development of statute law. Most Liberals, on the other hand, want to include civil, legal and some political rights, but omit social and economic rights. The purist Liberal argument would seem to be that if discriminatory barriers are removed to equality of opportunity, then that is enough. There are, interestingly enough, in sections 15(2) and 31, indications that true equality is not achieved only by removing barriers, but that additional supports to compensate either for historic disadvantage, or for the more extreme inequalities of health, talent or circumstance are necessary.

This Resolution does include a section on economic questions, on economic goals, but they are not part of the Charter of Rights. Part 2 Section 31, contains the commitment of the government:

1(a) to promote equal opportunities,

(b) to further economic development to reduce disparities in opportunities,

(c) to provide essential public services of reasonable quality to all Canadians. And 2, to ensure that provinces are able to provide the essential public services, without imposing an undue burden of provincial taxation.

Social democrats on the whole want social and economic rights included, and where the full exercise of civil, legal or political rights depend on adequate economic means, such as the availability of legal aid, so no one is denied full access to the courts, they will include those too.

A significant minority of Social Democrats reject entirely the notion of a Charter of Rights enforceable through the courts because their perception of the courts is that most law and the judges appointed to interpret that law are by nature conservative in orientation, protective of private property and the

status quo, and probably suspicious of progressive government action.

I think the remedy lies, as stated in the preamble, in the legislators passing laws which clearly indicate their intent. There is then a minimal area for judicial discretion, plus the added advantage of some right of appeal for the ordinary citizen against possible excesses of even a progressive central government.

Since the drafting of this charter offers a unique opportunity to enshrine the best thought Canadians can produce about the kind of society we collectively want to create, and since I don't think any Canadian would seriously argue that there is not general agreement about the above social and economic rights, I can't see any good reason for not including them. I do not think it would be a bad idea for any Canadian government, of whatever political stripe, to have to face the possibility of being challenged in the courts by citizens who believe they are being excluded from benefiting at a basic level in the social and economic wealth of the country.

Under the Languages Section, I would like to see added a statement that recognizes:

(1) the multicultural nature of Canadian society, and the continuing presence, place and rights of minority cultural groups;

(2) the possibility of using Native languages in provincial Legislatures and territories.

In the Undeclared Rights and Freedoms Section No. 24, the rights of original peoples are referred to in a most cursory fashion: "The guarantee in this Charter . . . shall not be construed as denying the existence of any other rights or freedoms . . . including any rights or freedoms that pertain to the Native peoples of Canada." I find this section unusually weak and evasive. I am not surprised that the original peoples of Canada feel betrayed by this statement. "When and how," I am sure they are asking, "are we ever to be freed from the indignity of being second class citizens in Canada?"

Admittedly, one of the problems in dealing with this issue has been the bewildering variety of rights claimed by the original peoples, and the wide differences of opinion that exist among the original peoples themselves as to what would be the best and fairest solution.

Trudeau and his government have shown considerable courage in dealing with other thorny Canadian problems. I urge them, therefore, in the interests of ensuring that our original peoples do not once again conclude that delay of justice is in fact denial of justice, I urge them as strongly as I possibly can, to revive and maintain good faith with our original peoples, brothers and sisters, to make and include in the Constitution a commitment to enter a process of negotiations that would resolve this issue. I recommend the following:

(1) that the concept of aboriginal rights and treaty rights be entrenched in the Constitution;

(2) that the preamble to the Constitution recognize as founding peoples of Canada the Indian, Inuit, Metis and non-status Indian peoples;

(3) that a commitment to initiate a process to define and honor aboriginal and treaty rights be included in the Constitution, and that the resulting definition include the obligation of the federal

government to provide enough land and resources to make aboriginal and treaty rights a practical reality;

(4) that Indian, Inuit, Metis and non-status Indian communities should have the right to education in their languages, and to preserve and promote their cultures and modes of living;

(5) that Indian, Inuit, Metis and non-status Indian communities should have the right to services by departments, Crown corporations and agencies of the federal government in their Native languages, in addition to English or French.

I strongly endorse Section 25 which gives this Charter primacy. It was the failure to clarify this situation that has made the Bill of Rights ineffective.

Section 31 on Equalization and Regional Disparities . . .

MR. CHAIRMAN: Perhaps, Mrs. Smith, at this point when you're just starting Section 31 I could interrupt and mention to you and all present that at 5:00 p.m. our hearing is concluded for today. Your second copy of your brief is with the recorder in the Clerk's office and will be printed in Hansard in its entirety.

MRS. SMITH: There are two pages left. Would you prefer to conclude now and at this time go into answers?

MR. CHAIRMAN: I know that there's a number of members of the committee on the government side that have a commitment in less than an hour's time and we have two motions that must be passed by the committee prior to winding up the day. So your brief will be printed in its entirety.

MRS. SMITH: Thank you.

(CONTINUATION OF MURIEL SMITH'S PRESENTATION)

Section 31 on Equalization and Regional Disparities is an important Section that has not received much comment. I would like to see Section 31 strengthened and clarified so that (b) would read:

(b) furthering economic development by moving more control of the Canadian economy into Canadian hands, to be developed for the benefit of all Canadians;

and new

(c) furthering economic development to reduce disparity in opportunities to contribute to and benefit from that development between both individual Canadians and the regions of Canada (also see section 50(c)) by ensuring that monies for capital investment both in industries such as housing, recreation and communication that can meet the essential needs of all Canadians, and in potential growth industries where Canadians have a comparative advantage on the world market, are available to both private and public enterprise. One of the important means of achieving this is for provinces to have control over development of their natural resources and the right to levy indirect taxation on resource production. Another means is for the federal government to centralize those economic activities such as energy in order to ensure security of supply, efficiency in pricing, and equity of distribution;

new

(d) protecting the natural environment of Canada for present and future generations;

new

(e) gradually restructuring the Canadian economy to fit into a more equitable world economic order where the well-being of all peoples can be optimized.

If economic principles are to appear at all in this document, and I think they should, then let's work to make them the very best principles that we can collectively state. Instead of being a pale image of other Constitutions written decades and centuries earlier, why not take this opportunity to make our new Canadian Constitution a pace setter.

On the question of referendum, I accept the need for a referendum in the first instance, section 38(3), as a necessary safeguard against paralysis during the patriation process where we might face the prospect of having a patriated Constitution but with no means of amending it, but I reject the concept of referendum as a general procedure (Number 42). If this section is retained however, I would like to see some guarantee that the wording of and procedures for a referendum would be under the control of a regionally representative multi-party committee of Parliament, rather than simply of the Government of Canada (Number 46).

In conclusion, the writing of a Constitution is a historic occasion. It is an important occasion. The government of the day in Ottawa has been willing to take some bold steps, some innovative steps, according to its own priorities, and to its perception of the readiness of Canadians to accept its proposals.

I urge, I implore, the government of Canada, and as well the government of Manitoba, not to use arguments of shortage of time or expedience in this important exercise to avoid making this Constitution the very best document we can collectively produce.

Canada is not the first country to write a Constitution. We have the experience of others to learn from. We have many groups of people here in Canada today and for generations to come, who will look to the Constitution not only for protection but also for inspiration and guidance, for years to come in the ongoing building of the Canadian nation. Now is the time to build an exciting document of which we can all be proud.

Simply to patriate the Constitution without any substantive content, as many of our Conservative friends are recommending, would be to me an exercise in cowardice and indecision. To patriate the Constitution without any substantive content, as many of our Conservative friends are recommending, would be to me an exercise in cowardice and indecision. To patriate the Constitution with the resolution at hand would be an act of courage, but there would still be many troublesome shortcomings. If I were a native person or a handicapped person, I would wonder why I had been left out. As a woman, I question whether the flaws in the laws as they currently operate have been adequately dealt with. As a member of one of Canada's economically weaker regions, I wonder whether the intention of the government of Canada to promote more balance development in my region is all that clear and strong.

I call upon the government of Canada, and the government of Manitoba, to listen carefully to the submissions of all Canadians, and to select from our suggestions those proposals which will make life brighter and fuller for those least able to help

themselves. The decision has been made to go ahead. Why not do so with flair and passion and an intense concern for the well-being of each and every member of our Canadian community? Opportunities missed may be opportunities lost, or long delayed.

Now is a time for courage, vision and compassion. Let us not be found wanting.

(END OF PRESENTATION)

MR. CHAIRMAN: Mr. Brown.

MR. ARNOLD BROWN (Rhineland): Mr. Chairman, it is a requirement that this committee report to the Legislature so I would like to move that this committee present an Interim Report to the Legislature.

MR. CHAIRMAN: You've heard the question? - (Interjection)- The Interim Report will list the names of all the persons that have appeared and so on.

A MEMBER: It doesn't make any recommendations.

MR. CHAIRMAN: No, it's just the resolution that was passed last July 29, said that the committee would sit. With the House opening on Thursday, we have to report to the House a day or two after, maybe three days, depending on how long it'll take to have the Interim Report printed and prepared. As Chairman I will introduce it into the Legislative Assembly.

Any questions? Mr. Schroeder.

MR. SCHROEDER: I have no objection to an Interim Report but it would seem to me that there should be some recommendation and I would hope that . . .

MR. CHAIRMAN: Mr. Brown has two motions, so I want to pass . . .

MR. SCHROEDER: You're going to have a recommendation.

MR. CHAIRMAN: I want to pass the first motion that an Interim Report will be tabled in the Legislature. All agreed? Agreed.

Mr. Brown.

MR. BROWN: I don't know if we need a motion on the next one but in that report we should request permission to complete the hearings, possibly some time in January, I suppose, so there should be a recommendation within that report.

MR. CHAIRMAN: Mr. Brown moves a recommendation that be added to the report.

Mr. Uskiw.

MR. SAMUEL USKIW (Lac du Bonnet): Mr. Chairman, I just wanted to make the point that this committee can continue working while the House is sitting, once we get past the Throne Speech.

MR. CHAIRMAN: This is a Standing Committee of the Legislature, that is correct. We were given, Mr. Uskiw, a mandate to sit between sessions and we don't have the expense money or the monies to pay for Hansard and so on after, for this purpose. We have to get that permission from the House.

MR. USKIW: That's my very point though, Mr. Chairman. I believe that the Interim Report should suggest or should indicate our progress and to suggest that this committee meet concurrently with the House sitting when it reconvenes after the Christmas break.

MR. CHAIRMAN: That is, I believe, the intent of all members of the committee. We have to ask for permission from the House in order to spend new monies on having a hearing and so on.

MR. USKIW: But it's a recommendation . . .

MR. CHAIRMAN: Yes, it's a recommendation. But we as members can't. It has to be brought in the expenditure by a Cabinet Minister. Right, Mr. Uskiw?

MR. USKIW: Mr. Chairman, as I understand it, we're not in a new fiscal year and I presume that there are appropriations approved for this committee's work. I don't believe they expire because the House is not sitting since this is a Standing Committee. It is not a Special Committee. Standing committees have always had appropriations for the fiscal year and certainly for the duration of the session. So I don't believe there is a financial problem, Mr. Chairman.

MR. CHAIRMAN: Mr. Reeves perhaps could help the two of us.

MR. CLERK, Jack Reeves: Gentlemen, my understanding of the whole thing is the fact that the committee, once having reported to the House as required by the resolution passed last July, has fulfilled its commitment. The committee will therefore require further not to reconstitute the committee but further authority to continue its hearings. That will be contained in the report. It will be following up by a resolution which I understand will be probably moved by Mr. Mercier.

MR. CHAIRMAN: What we wanted to do is two things: report to the House and secondly, recommend that we reconvene to hear the remaining persons that wish to make representation.

Mr. Schroeder.

MR. SCHROEDER: On that, Mr. Chairman, I think we are in agreement excepting that we would like that recommendation indicate that we would begin hearings after the session comes back after the Christmas break, so it would be concurrent with the session.

MR. KOVNATS: Not prior to the session?

MR. SCHROEDER: I would hope the session would start shortly into January.

MR. CHAIRMAN: All in favour of Mr. Brown's motion? Agreed. Carried.

Committee is adjourned. Committee rise.