



Second Session — Thirty-Second Legislature  
of the  
**Legislative Assembly of Manitoba**

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**STANDING COMMITTEE**  
on  
**PRIVILEGES**  
and  
**ELECTIONS**

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31-32 Elizabeth II

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*Chairman*  
*Mr. A. Anstett*  
*Constituency of Springfield*



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**VOL. XXXI No. 11 - 2:00 p.m., WEDNESDAY, 7 SEPTEMBER, 1983.**

**MANITOBA LEGISLATIVE ASSEMBLY****Thirty-Second Legislature****Members, Constituencies and Political Affiliation**

| Name                                 | Constituency       | Party |
|--------------------------------------|--------------------|-------|
| <b>ADAM, Hon. A.R. (Pete)</b>        | Ste. Rose          | NDP   |
| <b>ANSTETT, Andy</b>                 | Springfield        | NDP   |
| <b>ASHTON, Steve</b>                 | Thompson           | NDP   |
| <b>BANMAN, Robert (Bob)</b>          | La Verendrye       | PC    |
| <b>BLAKE, David R. (Dave)</b>        | Minnedosa          | PC    |
| <b>BROWN, Arnold</b>                 | Rhineland          | PC    |
| <b>BUCKLASCHUK, Hon. John M.</b>     | Gimli              | NDP   |
| <b>CARROLL, Q.C., Henry N.</b>       | Brandon West       | IND   |
| <b>CORRIN, Brian</b>                 | Ellice             | NDP   |
| <b>COWAN, Hon. Jay</b>               | Churchill          | NDP   |
| <b>DESJARDINS, Hon. Laurent</b>      | St. Boniface       | NDP   |
| <b>DODICK, Doreen</b>                | Riel               | NDP   |
| <b>DOERN, Russell</b>                | Elmwood            | NDP   |
| <b>DOLIN, Hon. Mary Beth</b>         | Kildonan           | NDP   |
| <b>DOWNNEY, James E.</b>             | Arthur             | PC    |
| <b>DRIEDGER, Albert</b>              | Emerson            | PC    |
| <b>ENNS, Harry</b>                   | Lakeside           | PC    |
| <b>EVANS, Hon. Leonard S.</b>        | Brandon East       | NDP   |
| <b>EYLER, Phil</b>                   | River East         | NDP   |
| <b>FILMON, Gary</b>                  | Tuxedo             | PC    |
| <b>FOX, Peter</b>                    | Concordia          | NDP   |
| <b>GOURLAY, D.M. (Doug)</b>          | Swan River         | PC    |
| <b>GRAHAM, Harry</b>                 | Virden             | PC    |
| <b>HAMMOND, Gerrie</b>               | Kirkfield Park     | PC    |
| <b>HARAPIAK, Harry M.</b>            | The Pas            | NDP   |
| <b>HARPER, Elijah</b>                | Rupert Island      | NDP   |
| <b>HEMPHILL, Hon. Maureen</b>        | Logan              | NDP   |
| <b>HYDE, Lloyd</b>                   | Portage la Prairie | PC    |
| <b>JOHNSTON, J. Frank</b>            | Sturgeon Creek     | PC    |
| <b>KOSTYRA, Hon. Eugene</b>          | Seven Oaks         | NDP   |
| <b>KOVNATS, Abe</b>                  | Niakwa             | PC    |
| <b>LECUYER, Gérard</b>               | Radisson           | NDP   |
| <b>LYON, Q.C., Hon. Sterling</b>     | Charleswood        | PC    |
| <b>MACKLING, Q.C., Hon. Al</b>       | St. James          | NDP   |
| <b>MALINOWSKI, Donald M.</b>         | St. Johns          | NDP   |
| <b>MANNES, Clayton</b>               | Morris             | PC    |
| <b>McKENZIE, J. Wally</b>            | Roblin-Russell     | PC    |
| <b>MERCIER, Q.C., G.W.J. (Gerry)</b> | St. Norbert        | PC    |
| <b>NORDMAN, Rurik (Ric)</b>          | Assiniboia         | PC    |
| <b>OLESON, Charlotte</b>             | Gladstone          | PC    |
| <b>ORCHARD, Donald</b>               | Pembina            | PC    |
| <b>PAWLEY, Q.C., Hon. Howard R.</b>  | Selkirk            | NDP   |
| <b>PARASIUK, Hon. Wilson</b>         | Transcona          | NDP   |
| <b>PENNER, Q.C., Hon. Roland</b>     | Fort Rouge         | NDP   |
| <b>PHILLIPS, Myrna A.</b>            | Wolseley           | NDP   |
| <b>PLOHMAN, Hon. John</b>            | Dauphin            | NDP   |
| <b>RANSOM, A. Brian</b>              | Turtle Mountain    | PC    |
| <b>SANTOS, Conrad</b>                | Burrows            | NDP   |
| <b>SCHROEDER, Hon. Vic</b>           | Rossmere           | NDP   |
| <b>SCOTT, Don</b>                    | Inkster            | NDP   |
| <b>SHERMAN, L.R. (Bud)</b>           | Fort Garry         | PC    |
| <b>SMITH, Hon. Muriel</b>            | Osborne            | NDP   |
| <b>STEEN, Warren</b>                 | River Heights      | PC    |
| <b>STORIE, Hon. Jerry T.</b>         | Flin Flon          | NDP   |
| <b>URUSKI, Hon. Bill</b>             | Interlake          | NDP   |
| <b>USKIW, Hon. Samuel</b>            | Lac du Bonnet      | NDP   |
| <b>WALDING, Hon. D. James</b>        | St. Vital          | NDP   |

**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON PRIVILEGES AND ELECTIONS**

**Wednesday, 7 September, 1983**

**TIME — 2:00 p.m.**

**LOCATION — Winnipeg**

**CHAIRMAN — Mr. Andy Anstett (Springfield)**

**ATTENDANCE — QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Penner, Plohman, Storie and Uskiw

Messrs. Anstett, Brown, Graham, Lecuyer, Malinowski, Nordman, and Sherman.

**WITNESSES:** Ms. Sybil Shack and Mr. Abe Arnold, Manitoba Association for Rights and Liberties

Mr. Ken Reddig, Concerned Mennonites Group

**MATTERS UNDER DISCUSSION:**

Proposed Resolution to amend Section 23 of The Manitoba Act

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**MR. CHAIRMAN:** Ladies and gentlemen, we have a quorum. When we adjourned at 12:30 p.m., Mr. Arnold and Ms. Shack were at the podium. Would you please come forward? I believe Mr. Lyon had the floor and was asking questions.

Mr. Lyon.

**HON. S. LYON:** Thank you, Mr. Chairman. When we adjourned, Mr. Chairman, I was directing a couple of questions to Ms. Shack and Mr. Arnold about possible, certainly the apprehended exacerbation of public opinion which had occurred consequent upon the announcement by the government of its intention to extend French Language Services within the public service and to entrench those extended services.

Without attempting to paraphrase Ms. Shack, she reiterated what she had said earlier; that there had been in her experience an anti-French feeling in Manitoba long before this series of amendments was presented, and, if I heard her right, this had the effect of bringing this out. To some extent, she thought perhaps this was a healthy ventilation of some of the undercurrents that are prevalent in our society.

She didn't say it, but I drew the implication from her remarks that she wasn't at all surprised at that situation because it really was part of the human condition which manifests itself not only in Manitoba or in Canada, but in other places that she mentioned, although interestingly enough she didn't mention Ireland, which is probably one of the greatest examples of continuing, centuries-old problems that no one seems to have an answer to.

Staying with the same point, I would like to get the opinion of either Ms. Shack or Mr. Arnold on this proposition. After the Forest case was decided by the Supreme Court, the Government of the Day - and I was speaking on behalf of the Government of the Day in the Legislature - announced that, of course, we would accept that the rule of law had primacy in our parliamentary democracy, and that we would move immediately by way of legislation to give effect to the Forest case. In that connection, I would like to have comment from the Manitoba Association of Rights and Liberties as to whether or not they apprehended at that time, with that announcement being made by the Government of the Day, was there any tearing of the social fabric manifested in Manitoba, or did that seem to be reasonably well accepted?

**MR. A. ARNOLD:** Well we don't seem to recall there was too much of a fuss about it at that time, although probably I would prefer to go back and look at the papers and see what really did happen. Let's say at the very least, it has receded somewhat into the area of recent history. We know that certain things were done. In terms of our organization, the organization was in its beginning stages at that time. I don't know at what particular point the matter came forward, so I don't think we're really in a position, unless Sybil has something to add, to comment in any great detail about that. Certainly we have to acknowledge it did not stir up the kind of situation that has come about at this time with the latest proposals.

**MR. CHAIRMAN:** Ms. Shack.

**MS. S. SHACK:** I think the difference probably lies partly in the fact that the other was the acceptance of a court ruling, and this is the initiation of what people perceive as something new.

**MR. A. ARNOLD:** And to prevent and to avoid, to forestall some kind of a court ruling.

**HON. S. LYON:** Mr. Chairman, through you to Ms. Shack and/or Mr. Arnold. Would it be fair to say that there was a perception at the time that while the reinstatement of Section 23 was being done as a result of a court order, that did represent a pretty fundamental change in the Constitution of Manitoba because of the purported annulment of Section 23, which took place in 1890?

**MR. A. ARNOLD:** Yes, it certainly did. I think when we were preparing this brief and we consulted with a number of lawyers, it was pointed out to us that, for example, on the first page we put in the words, "carry forward the development of the French language rights," because of the recognition of the fact that the first steps resulting from these court actions was taken by the former government.

**HON. S. LYON:** Your records would disclose, I take it, Mr. Arnold, whether or not the Manitoba Association of Rights and Liberties even contemplated making a brief to the Government of the Day or to the opposition about this change, which did affect certain fundamental rights of the - I think following Mr. Prince's example, I should say the Canadiens du Manitoba, rather than the modern terminology - French Manitobans - their rights were affected by this judgment, yet I don't recall any brief that the government received from your association, either commending the government or criticizing the government for the approach that it was taking, similar to what we have here today.

**MR. A. ARNOLD:** That's true. We did not make any presentation at that time. Now I cannot tell you precisely because I am not sure at what date the legislation was introduced.

**HON. S. LYON:** The winter of 1980.

**MR. A. ARNOLD:** The winter of 1980, okay. Well, then I would say that probably it did not appear to us at that time to be a matter that was going to arouse special concern. Do you recall anything about it?

**MS. S. SHACK:** I can speak only for the Legislative Review Committee of which I was a member in 1980. At that time, it was a very unstructured kind of committee. We met very briefly during the noon hour and rushed through consideration of bills before the House. I don't remember that particular bill coming up for consideration. We may have been remiss in 1980. I am quite sure that if the same kind of legislation appeared today, we would have made a presentation regarding it.

**HON. S. LYON:** In retrospect, do you recall having any personal criticisms, Ms. Shack, in your capacity with MARL, as to either the legislation which the government brought forward, the speeches surrounding the legislation as it was brought forward, or the methods of implementation that the government of the day adopted for the bringing into force again of Section 23 in Manitoba?

**MS. S. SHACK:** No, I really have no recollection of it. That doesn't mean that it didn't take place. It merely means that I don't necessarily recall it.

I might add that one of the disabilities of aging is a disappearance of part of the memory process, along with my hearing. So the fact that I don't remember doesn't mean that it didn't take place, but I do not recall.

**MR. CHAIRMAN:** Mr. Arnold.

**MR. A. ARNOLD:** I should just add briefly to say that the procedure has been that we have considered presentations when we felt there was some danger of some infringements of rights. Possibly, and I cannot recall exactly what happened, if we did look at that particular bill, we didn't consider that there were any particular problems involved at that time; whereas in this case, we know that there are problems involved.

**HON. S. LYON:** Mr. Chairman, I'm sure the witnesses will please understand that I am not trying to say that absence of comment means approbation. What I am trying to elicit from MARL is the fact that contrary to the methodology adopted by the present government in the bringing forward of amendments and so on, there was nothing that you can recall at the present time that you were critical about in the manner in which the former government handled the reimplementation of Section 23 as a result of the Supreme Court judgment.

**MR. A. ARNOLD:** I don't recall anything.

**HON. S. LYON:** Then, subsequently, the government that I had the privilege to play some role in announced that we were going to embark upon the extension of French Language Services in Manitoba not as a result of the Forest case, but as something that appeared to march reasonably and naturally hand-in-hand with the requirement, Section 23 being back in force, that people under the Constitution were then permitted to use French or English in the courts, were permitted to use French or English in the Legislature, and also under Section 23, that the Acts of the Legislature had to be printed in both languages. Consequent upon that, the Government of the Day announced - as the Attorney-General helpfully reminded us - announced later in 1980 that there was going to be a French Language Services Program established in the province, as a matter of government policy. Can I ask, when that announcement was made about moving into a new field of French Language Services, do you recall any public disruption that was caused by that announcement?

**MR. CHAIRMAN:** Ms. Shack.

**MS. S. SHACK:** No, Mr. Chairman.

**HON. S. LYON:** Was there anything in the methodology that was adopted by the government, with respect to the extension of French Language Services as a matter of government policy, that you found the need to criticize?

**MR. CHAIRMAN:** Mr. Arnold.

**MR. A. ARNOLD:** I don't recall anything at that time. At this point I would say, we could already begin to do a little bit of historical evaluation of what happened; but failing that opportunity I don't think I could make too many comments about it.

**HON. S. LYON:** In fact, do you recall whether MARL made any representations to the Government of the Day, or to the particular Ministers who are charged with the responsibility - in those days the Honourable Norma Price, the Minister of Cultural Affairs, and the Honourable Gerry Mercier, the Attorney-General - did MARL make any representations to either of those Ministers or other representatives of the government critical of the manner in which the government was moving to extend French Language Services in the province?

**MR. CHAIRMAN:** Ms. Shack.

**MS. S. SHACK:** No, Mr. Chairman, not to my recollection.

**HON. S. LYON:** And then, subsequently in 1981, when the government announced that a French Language Secretariat was to be established in Manitoba - I may have that date not quite correct - I think it was in September of 1981. Pardon me, I was right in the first instance on March 20, 1981 the French Language Services Secretariat was announced in the Legislature by myself. That was a small Secretariat that was established to do liaison work amongst all of the departments of government to see, in a reasonable way, where French Language Services could be offered to the people of Manitoba. Do you recall any disruption occurring in Manitoba as a result of that announcement?

**MR. CHAIRMAN:** Ms. Shack.

**MS. S. SHACK:** No, Mr. Chairman, but I would like perhaps to add an extension to my answer of a simple negative, to explain that it hasn't generally been our policy to pat governments on the back when they do what they should be doing. Normally we go to governments to tell them what they have done, or what they contemplate doing that we don't approve of. In this case, in the matter of these proposed amendments, there were public hearings, there were matters in the bill about which we had concern and it was these matters of concern that were brought primarily to the attention of the Attorney-General and of the opposition. So I think we have been following a fairly consistent pattern. On occasion when there is something that struck us as particularly needing support, we gave our support; but when we believed that the government is doing what it should be doing by right, we didn't feel that it was necessary to give the government an extra pat on the back because it was doing the right thing. I think perhaps that is a more productive answer than simply a negative, to say no, we didn't do anything. I think we are explaining why.

If we undertook to speak to every piece of legislation of which we approved and even of every piece of legislation of which we disapproved, we would get totally bogged down because as I explained to Mr. Lyon, as I explained earlier, this is a totally volunteer organization operating through volunteer committees. The time that we can give to anything is limited. Professional time has been given, I must say, very very freely on the part of members of the legal profession who are interested in MARL of all political shades and not merely representatives of the current government or representatives of the last government, of the previous government, so I think perhaps that might explain our answer of no.

**HON. S. LYON:** Whatever it's worth, Mr. Chairman, Ms. Shack and Mr. Arnold were cognizant of all of those movements that were being made by government at the time and for reasons that Ms. Shack has explained, chose not or did not make any representations to the government either critically or in terms of approbation as to what was going on.

Subsequently, when the government changed in November of 1981 the New Democratic Party came

into government, a fact that I'm sure would not go unnoticed by either Mr. Arnold or Ms. Shack. The Government of the Day announced in March of 1982 that it was continuing the French Languages Program and the Secretariat that had been established by the predecessor government and was, as well, announcing a few extensions of the program that had previously been announced by our government. Did MARL at that time make any representations to the Pawley Government, either critically or in an approving way of these extensions or this reiteration of the French Language Program and the Secretariat?

**MS. S. SHACK:** Not to my knowledge.

**MR. A. ARNOLD:** This brief is the first time that we have dealt with the issue of French language rights.

**HON. S. LYON:** Your recollection, I presume - because we're now getting into a period that will be fresher in all of our minds - your recollection in 1982 when the Pawley Government announced its continuation of the French Language Services Program, there was no outcry from the Conservative opposition or from the public about that program, was there?

**MS. S. SHACK:** Not to my recollection.

**HON. S. LYON:** So really what we're getting down to then, to get back to the original point that we were talking about before luncheon is the manner, as you have pointed out in your brief, in which the Pawley Government has brought forward its intentions to entrench French Language Services, its motivation which you have also criticized in the settlement of a case, it is these factors really - am I right in thinking - that have caused much of the dissension, much of the tearing of the social fabric which has now caused the Manitoba Association of Rights and Liberties to appear before this committee today with a brief which, while generally supportive of the government's thrust, is at the same time sharply critical of a number of the provisions contained in the amendment. Is that not true?

**MS. S. SHACK:** I think that perhaps the content of what Mr. Lyon has said is substantially true. The emphasis perhaps is different from the emphasis that Mr. Arnold and I might put on that content.

We were concerned that the process was not giving sufficient input from the general population and from various groups. We were concerned that it might exacerbate the feelings of people who perhaps had not already voiced those feelings, but in whom those feelings existed. Therefore, we brought this matter to the attention of the government. We would have brought it to the attention of any government who proceeded in that particular fashion.

We are very pleased that the government has taken remedial steps not only in response to our presentation, but in response to the input of various other groups and individuals who have a similar point of view. That does not in any way alter the fact that we have adopted as policy of the organization support for the principles of this proposal. It seems to me that the principles of

the proposal are what are important at this point and not the method of introduction which is now in the past.

The point that we would like to make is that these principles should now be incorporated in law, and the process, having been remedied, should pass into limbo as where it should have been in the first place.

**MR. A. ARNOLD:** Mr. Chairman, I would like to add and I believe Mr. Lyon has indicated that when the Pawley Government first came into office, they did follow somewhat in the steps taken by the previous government in continuing the extension of French Language Services but then I think they were placed in a different situation when the new court case came to a head. I understand that this reached its climax some time last spring, I think in May. I myself, in fact, was out of the country at the time so I didn't find out about this until I got back; but I do understand that the way in which the thing developed in the Supreme Court of Canada is what has had an effect on the way in which the government proceeded with its plans for the introduction of these constitutional amendments.

I must say that I personally did not learn of some of those things until our recent meeting with the Attorney-General when we presented this brief for the first time. So I think the circumstances had changed somewhat and I don't think I could quite go along with Mr. Lyon when he says that something happened to the fabric to create this dissension as a result of the government's action. I think it was a combination of circumstances, the court action and the government trying to act in response to the court action which brought this to a sudden outburst of public attention which exposed the negative feelings that exist about the situation.

I think the previous government was fortunate in being able to move along at a somewhat more leisurely pace because the previous court case was settled and it could follow up on that court case in a more leisurely way. I think there was a stronger imperative, the present government felt a stronger imperative of a deadline to prevent a more serious court decision. At least that was their view of the matter and this is why they undertook to act in this particular way. I think it's by way of clarifying it and I feel that this should be understood in dealing with the question. This does not mitigate whatever criticism we have made of the way in which it came about.

**HON. S. LYON:** Well, Mr. Chairman, I take it that the final words that Mr. Arnold has just used confirm what is my understanding, namely, that Ms. Shack and Mr. Arnold stand behind the brief that they have presented to the committee wherein they were sharply critical - if that's too strong the witnesses can ameliorate the terms - sharply critical of the government because of the methodology which the government had adopted in bringing forward these amendments so I take it what Mr. Arnold has just said is corroboration of that statement in his brief. He will know where that can be found exactly. I know I read it and marked it.

The second paragraph, first page: "MARL supports the basic intent of this constitutional amendment not because it was developed as the result of an accord with a particular group in order to resolve a lawsuit,

but rather because it carries forward the development of French language rights which were abrogated in 1890 in an unconstitutional manner. We are therefore in accord with these amendments to entrench French language rights and ensure better protection for the French-speaking minority. At the same time we are concerned that the restoration of French language rights in Manitoba should not be done so hastily as to set back the growing trend toward education in French as well as English. We are also concerned that the need for recognition of French has been presented to date in a manner which has aroused unfair and unwarranted hostility among certain sectors of the public."

Then it goes on, "It is our view that in a day when government services are so pervasive, to deny the limited extension of French Language Services which is now proposed, is to deny French-speaking Canadians a facility which they should have available to them. "Unfortunately the manner in which the government arrived at its decision and announced its intention to bring forward the French language constitutional amendment has also contributed, albeit unintentionally, to the arousal of negative feelings and fears." I notice the "albeit unintentionally" that is inserted in the comment and I take that as being the modification that you speak of in terms of assessing where the responsibility lies for the kind of disruption which has caused you to appear before this committee with a long brief, which while approving in principle what the government is doing, is as I say sharply critical of the methodology which the government has adopted, both in the process and in the substance of the amendments themselves.

Is it not then fair to say to you, as I presume you are reasonable observers, that the methodology that was being adopted by the previous government and, indeed, by the Pawley Government up until it became confused over the Bilodeau case, was the best methodology in the public interest of Manitoba, if that had been followed, if there had been no constitutional amendment proposed, you wouldn't even be here, would you?

**MS. S. SHACK:** I'm not sure, Mr. Chairman, that we wouldn't be here. It would depend on what the act, whatever it was, would have been. I know that MARL has made presentation on a wide variety of bills ranging all the way from The Medical Act to these constitutional amendments. I'm not sure that I agree with Mr. Lyon that we wouldn't have been here if it hadn't been for all the fervour, we might have been in any event.

We were critical of a process, as Mr. Lyon has pointed out. We are pleased, as we have both said, to know that the government has, perhaps belatedly, taken steps to receive the kind of public input. This does not alter our position that we stand for the content of the proposals and we feel very strongly, as Mr. Arnold said earlier and as we say in our brief, that this whole question should be removed from the area of partisan politics and should be taken at its face value as something that is needed for the betterment of the people of Manitoba and of the country as a whole. If a consensus can be arrived at so that partisanship disappears from the discussion and from the final acceptance, it would do much to relieve the kind of divisiveness that Mr. Lyon has mentioned.

As I said earlier, I think a good deal of the problem will disappear with time but it might leave a residue of bitterness that perhaps would be dissipated totally if we could move away from the partisan aspects of the consideration of the principles incorporated in this proposed bill.

**HON. S. LYON:** Mr. Chairman, on that point, I'm interested in the use of the word "partisan" because we all have different interpretations of that word. Some sage once said, "Everything is political."

Mr. Chairman, through you to Ms. Shack. What do you mean by "if we could get rid of the partisan approach that has been taken?" Taken by whom?

**MS. S. SHACK:** Well, probably taken by both parties in the House. But if I may be perfectly honest, I have sat through these hearings from yesterday morning without pause and I have noticed that the Leader of the Opposition is constantly bringing in the political aspect, that is, bringing forward the division between the parties in the House. At this point it seems to us - I think I can speak for our organization - that these kinds of divisions, who was to blame, who wasn't to blame, what we did that was good and what the other fellow did that was bad. These things should not be important at this stage.

What is important is whether the content of this bill works towards the betterment of the people of this province and the advancement of good will and unity within the country of Canada, leaving out who was to blame and who wasn't to blame, and who did what first or who did what last.

**MR. A. ARNOLD:** I just wanted to add this point to reiterate that. In developing this brief, our objective was to achieve consensus and we did succeed in achieving consensus among M.A.R.L. members, from a group of MARL members coming from all three major political parties in this province, two of which are represented in the House. We feel that to turn Mr. Lyon's question around about partisanship, if the two sides, the government and the opposition, could come to a consensus position on this issue, no matter what it is, then I think it would play a strong role in allaying the fears that exist about this question in the elements of public mind.

**HON. S. LYON:** Let's get down to specifics, Mr. Arnold, on that point. Would the Conservative Opposition be guilty, under the indictment of partisanship that you generally lay, because it took a firm stand which resulted in the NDP Government changing its mind and having these hearings - the very hearings which you came here to applaud this morning? Was that a partisan act on our part, yes or no?

**MR. A. ARNOLD:** No, no, that would not be a partisan act, but I don't think that the opposition in this situation consciously indulged in a partisan act; but in the course of debate, you get partisan forms of expression, and this is what I think contributes to playing to the fears that exist in some elements of the public mind.

**HON. S. LYON:** On that specific, of the role of the opposition literally enforcing the government into the

sets of hearings that we have at the present time, the Premier of the province having refused these hearings on the 17th of June of this year, the opposition then keeping up the fight and these hearings resulting from that fight, you say there was nothing partisan about that.

Can you tell us if there was anything, if you had the opportunity to read the overly long speech that I made with respect to the resolution itself on the 12th of July, if you had the opportunity to read that speech, can you tell me if there was anything partisan in that speech when I was talking about the principle? I realize, Mr. Arnold, I'm placing myself in your hands, realizing that you and Ms. Shack are both well-known members of the New Democratic Party, but I place myself in your hands. You read the speech. Was there anything partisan in that speech?

**MR. A. ARNOLD:** Well, I've looked at the speech. I can't recall everything that was in it, but I think there were probably a couple of partisan comments in there.

**MR. R. DOERN:** More than one?

**MR. A. ARNOLD:** I would think so.

**MS. S. SHACK:** We should point out, Mr. Chairman, that we're not here as members of the New Democratic Party, and the fact that we are members of the New Democratic Party has absolutely nothing to do with the contents of this brief. This brief was arrived at by consensus, as Mr. Arnold has pointed out, of representatives of three political parties, speaking as individuals, with an interest in and a concern for human and civil rights.

Our political membership really has nothing to do with the case. This is one of the things that concerns us a little bit, that it has become a matter even here of a discussion of what political party we belong to. It seems to me that one of the human rights, one of the civil rights as well as human rights that we're defending is the right of people to have political opinions which the holding of these political influences do not affect what stance they take publicly, or what positions they hold publicly outside of the government. So this is the kind of partisanship, I think, that we are talking about. This brief is totally removed from the political arena as far as we are concerned, because it was arrived at by consensus of people of different political complexes.

**MR. A. ARNOLD:** Mr. Chairman, I think I can add that this brief came about through exactly the same or similar process to another brief that we presented on The Farm Lands Ownership Act, which was widely quoted in a favourable way by members of the opposition during the debate on that bill in the House.

**HON. S. LYON:** Mr. Chairman, I am a Conservative and I am proud of that fact. Ms. Shack is a New Democrat; Mr. Arnold is a New Democrat member of the party; I presume they're equally as proud of that fact, are you not?

**MR. CHAIRMAN:** Order please, order please. Mr. Lyon, the initial reference to political affiliation after the

description of the brief as having been one that was prepared by a committee and then reflecting on the political affiliation of the individuals was questionable at that point. The last question you have asked I think is questionable in terms of expediting the business of the committee.

**HON. S. LYON:** There will be many more questions, Mr. Chairman - I forewarn you - there will be many more questions about affiliations. The questions that I was asking were not questions with respect or motivated in any way by ill will because Ms. Shack, who has been an ornament to the education profession in this province for many years, is a well-known and I think proud member originally of the CCF Party, now of the New Democratic party; and if I am describing her as being in a state of grace with a party that she wishes to disavow, I'm sure she will. She is a very forthright woman, a woman who has a good reputation in this province. She's not ashamed of her New Democratic Party affiliation. I don't think Mr. Arnold is afraid of his New Democratic Party affiliation. Why are the members of this committee afraid to have citizens identified as Conservatives or New Democrats? That's not a matter of order at all.

**MR. CHAIRMAN:** Mr. Lyon, with respect, the purpose of questions in committee is for purposes of relevance related to the briefs that have been presented and related to the resolution. There have been questions asked in the past relating to the status of the respective groups, the position of the members, the number of members, budgets, etc., but to pursue whether or not someone is proud of being a member of a political party when that membership is not part of the presentation and it's a group that does not have a political affiliation certainly does not appear to be relevant and I would request that that line of questioning not be pursued.

Mr. Doern to the same point of order.

**MR. R. DOERN:** On the point of order, Mr. Chairman. I think it is in order to ask somebody their political affiliation. It think it is in their personal right to refuse to answer the question or to answer it any way that they wish. They are not compelled to answer. It's not an unkind low blow. I think it's a legitimate question and I don't see any reason why a member of this committee cannot put that question. We are all members of political parties and I think that nobody is ashamed of that. I don't see how that could be construed as a question that is somehow or other derogatory or detrimental to that person who is being questioned. It's a perfectly legitimate question, but it is not one that one must answer.

**MR. CHAIRMAN:** With respect Mr. Doern, I did not suggest that the asking of political affiliation was per se out of order. I said, and I requested that the matter not be pursued when a group has stated that they are representatives of all political interests, are strictly a non-partisan organization. Okay, they've stated that for the record to this committee. Then, to pursue the matter of political affiliation of individual members, serves no purpose and is not relevant to the discussion because

the matter of partisan status has been established and certainly those questions have been asked in the past. My concern is keeping questions in this committee relevant; that's all.

Mr. Graham.

**MR. H. GRAHAM:** I think it's highly improper for the Chairman to involve himself in a debate with members of the committee. His job is to run this committee and to let the members ask questions of the witnesses, and let the witnesses put forward their proposals and their suggestions.

**MR. CHAIRMAN:** Mr. Lyon, please proceed.

**HON. S. LYON:** Mr. Chairman, on the point in question, however, you will recall, and the record will show, I didn't ask the question. I took it as given that everyone in Manitoba knew that Ms. Shack and Mr. Arnold were members of the New Democratic Party. I have known for years. I said, I put myself in their hands knowing that they are members of the New Democratic Party. I have more faith in them apparently than some of the members of their own party.

**MR. CHAIRMAN:** Further questions? Mr. Lyon.

**HON. S. LYON:** Yes indeed. You're not going to offend the tender sensibilities of the members of the government opposite.

In the brief that you presented, Ms. Shack and Mr. Arnold, I believe it was Mr. Arnold - and you can correct me if I'm wrong - who used the term that you supported - this was in your verbal evidence - the carrying forward of the idea of rectifying the historic deprivation of rights that, I believe, you said was implicit in the amendment.

Can we focus our attention for a minute on the amendments themselves, and tell us what, in your view, is being "restored" - I put that word in quotation marks - that was at one time ever taken away from the French community in Manitoba? In other words, do these amendments really, aside altogether from the translation portions, do they not really represent new matters unrelated to the original Section 23?

**MR. CHAIRMAN:** Mr. Arnold.

**MR. A. ARNOLD:** What we said in our brief precisely was "this carries forward the development of French language rights," and to that extent, I believe it represents new matters that have been brought forward, but I think to go into further detail on that would be difficult for us, unless Sybil wishes to comment. From my own point of view, not having the legal background on it and not being completely familiar with . . . We know that Section 23 was restored under the previous government with the introduction of the French Language Services which they undertook, and this is a carrying forward of that idea, but I could not define for you where Section 23 leaves off, as it was restored, and where the changes precisely are now being introduced, unless Sybil has some further knowledge.

**MR. CHAIRMAN:** Ms. Shack.

**MS. S. SHACK:** Mr. Chairman, I can only refer back to what Professor Bailey said last night. Time doesn't

stand still and no way would people want to go back to the situation whatever it was - even if they wanted to they couldn't - in 1890. Therefore, any legislation that is brought forward can't be a repetition of what disappeared in 1890 or 1916, it had to be something that would meet current conditions, therefore, it is bound to differ from what was the status of the law in 1890 and in 1916. It would be unreasonable for any government to try to turn history's pages back almost 100 years. This is obviously different from what was on the books in 1890, though I don't have before me what was on those books.

The composition of the province is different; the population patterns are different; the urban/rural patterns are different; the country is different as a whole. In 1890 we were a colony, in spite of Confederation. In 1983 we're an independent nation. So this is not a going back, it is obviously a moving forward, but it is nevertheless a restoration of some of the rights that were abrogated in the 1890 legislation.

**HON. S. LYON:** If I may say so, Mr. Chairman, Ms. Shack was doing beautifully until she used the word "restoration."

**MS. S. SHACK:** I withdraw that term, you're quite right, Mr. Lyon.

**HON. S. LYON:** You withdraw it? All right.

**MS. S. SHACK:** I should have known better than to use it.

**HON. S. LYON:** Just for the record, Mr. Chairman, because I know Mr. Arnold and Ms. Shack do wish to be precise and I certainly commend them for it, Section 23 of The Manitoba Act of 1870 is very brief, I'll just read it into the record.

"Either the English or the French language may be used by any person in the debates of the Houses of the Legislature, and both those languages shall be used in the respective Records and Journals of those Houses, and either of those languages may be used by any person, or in any pleading or process, in or issuing from any court of Canada established under The British North America Act, 1867, or in, or from all, or any of the courts of the province. The Acts of the Legislature shall be printed and published in both those languages."

Now given the fact that was what was restored by the Supreme Court judgment in 1979, after the Forest case was decided upon, and that the Legislature in 1980 then purported to repeal the 1890 legislation, are we now in agreement, having disposed of the word "restored," that the amendments brought in by the government, which represent I say a vast extension of Section 23, that those amendments do not relate to any restoration of rights at all, but are entirely new amendments which go well beyond anything that was anticipated in Section 23, which I have just read to you? Can we agree on that?

**MS. S. SHACK:** As we said, it's a carrying forward of the kind of thing that was begun earlier. It isn't entirely new, it's a progression.

**HON. S. LYON:** Well everything's evolutionary, as Mr. Prince said yesterday, everything's evolutionary to some extent, I think we can agree on that.

Mr. Chairman, through you to Mr. Arnold or Ms. Shack, we deal with some of the objections that I understand the Attorney-General was dealing with this morning. On Page 4 you say - "MARL now advances a number of specific suggestions and comments." Then they are enumerated 1, 2, 3, 4, 5, 6, 7, 8, 9.

Without getting into the substance of each of them would it be fair to say, that while you approve in principle of the extension of French Language Services in Manitoba that you, and your organization, feel it is equally important that each of these nine amendments be included in the government's package before it is passed by the Legislature, and by the Parliament of Canada?

**MR. CHAIRMAN:** Mr. Arnold.

**MR. A. ARNOLD:** Well I think we have put these forward as suggestions. Some of them have already been acted upon in the proposed amendments brought forward. We're not certain whether we accept entirely the proposed amendments that happened but some of them are satisfactory - some of them I think, leave themselves open to further discussion - but we would hope to see changes made reflecting the substance of these proposals but I don't think we have ever said to any government - maybe on the rare occasion - I don't think we've really ever said to any government that if they don't accept our suggestions then the legislation should not be proceeded with. The government has to make up its own mind on the way in which it wants to proceed with the legislation, and whether or not it is going to accept our recommendations.

We have been quite happy with the fact that over the five years that we've been in existence that numerous suggestions that we have made have been accepted in regard to changes in legislation by the former Conservative Government as well as by the NDP Government. I don't think we would say that we disavow the government because they don't accept all of our suggestions exactly as we put them forward; that would be hard for us to sustain I think.

**HON. S. LYON:** Where your brief states, Mr. Arnold, on Page 4, under Item 2, "MARL has a serious concern about the provisions for enforcement of rights contained in Section 23.8, subsections 2-5. These sections give the courts the power to approve plans for changing the administration of a government agency to ensure the protection of French language rights. We do not think that the courts should be granted this power."

You're not at all hesitant when you make that statement. You would like to see that change made.

**MR. A. ARNOLD:** Right.

**HON. S. LYON:** Then when you go on to say, "Administrative changes should be made by the administration. The proposal to give the courts power to impose administrative plans is inconsistent with the government's justification for agreeing to the amendment in the first place." A very significant point.

Could we hesitate there for a moment and just ask for your further elucidation of that sentence. "The proposal to give the courts power to impose

administrative plans is inconsistent with the government's justification for agreeing to the amendment in the first place." Does that mean a government that is hesitant, in fact, shows almost abject fear of letting the Bilodeau case go to the Supreme Court, is on the other hand prepared to turn over a whole area of policy-making to the very courts that it's afraid to let the Bilodeau case go to? Is that what you were saying?

**MR. CHAIRMAN:** Ms. Shack.

**MS. S. SHACK:** I think we were saying something very like that; perhaps not in quite as strong terms as Mr. Lyon has used. But the legal people on our committee I think, were almost all in agreement, even though the clause was permissive, that this was giving too much power to the courts to interfere in the day-by-day administration of the laws as it would become. There was a fear that too many trivial matters that should be settled at the local level would go forward to the courts for settlement.

Now the Attorney-General pointed out this morning something that we already knew, that this was a permissive clause; that is, the court may do so but once the court has the right to do so the court may well exercise that right and this did concern us.

**HON. S. LYON:** Mr. Chairman, through you to Ms. Shack, or Mr. Arnold. Did either of you have the opportunity to read the legal opinion that was given to the Attorney-General by Mr. Kerr Twaddle, Q.C., in April of 1982, concerning the implications of the challenge to the validity of Manitoba statutes and the available options? Have you had the opportunity to read that legal opinion which was tabled by the Attorney-General?

**MR. A. ARNOLD:** No.

**HON. S. LYON:** May I read to you a sentence or two from Page 11, of that legal opinion, and ask for your comment upon it? So as not to have to read too much to you, I hope you'll accept my statement, that what Mr. Twaddle is referring to here is the kind of extension that we find in the amendment that is before us at the present time, that is, the extension of French Linguistic Services which the government's attempting to entrench, and I quote from Mr. Twaddle's opinion.

"The difficulty with the suggested extension of constitutional rights is that the extent to which bilingual services must be made available is unknown. At present the government can itself decide, and alter the provision of such services on grounds of cost, or lack of demand as perceived by the government. If the obligation is constitutionally entrenched the courts will determine what 'significant demand' is, and when 'it is reasonable due to the nature of the office.' If the obligation is construed more widely than the government thought would be the case the government is nonetheless bound by the interpretation of the courts."

Mr. Twaddle's words, which I have just read to you and which will be fresh to you, do you find yourselves in agreement or disagreement with the advice that he gave to the government on that point?

**MR. CHAIRMAN:** Ms. Shack.

**MS. S. SHACK:** This is a very difficult question for me to answer because I would have to answer it as a person, and not as a member of the committee, which I don't really think I should be doing at this time.

There are parts of that statement that I might well agree with as a person, and our brief suggested similar reservations. Perhaps again not going quite as far as Mr. Twaddle did in the statement that Mr. Lyon has just read. Again I feel the disability imposed on both Mr. Arnold and myself by the fact that Mr. Newman, who was going to handle this part of the brief, hasn't been able to be here.

**HON. S. LYON:** Mr. Chairman, through you to Ms. Shack. I detect no disability on the part of the witnesses before us. They're both answering the questions in a very creditable way and they don't have to worry about their absence of legal advice at all because sometimes that's a benefit rather than a hindrance.

But where you do say in your brief - "Administrative changes should be made by the administration," that's really what Mr. Twaddle was saying. If you entrench these matters the government will lose control over them and they will then be decided; administrative matters will be decided by the courts, and if the court makes a decision that the government disagrees with and the public disagrees with, the government is then impotent, powerless to do anything about it if French Language Services are entrenched. If on the other hand the sane, sensible, reasonable policy that was being pursued by our government, by the Schreyer Government, by the Roblin Government, the Weir Government, in the early stages by the Pawley Government, to have French Language Services brought in as a matter of government policy, that disability, pointed out by Mr. Twaddle, pointed out by the Manitoba Association of Rights and Liberties, doesn't exist, does it?

**MS. S. SHACK:** Mr. Chairman, I should remind Mr. Lyon that although in our brief we objected to this area being turned over to the courts, we do not object to the general principle of entrenchment as a protection for the overall rights of people. It is in the area of administration we feel that the courts should not have as much power or be given as much permission to use power as is in the proposed amendment, but we are not objecting to the overall principle of entrenchment. On the contrary, we agree with it.

**HON. S. LYON:** On that point, which is an interesting point, Mr. Chairman, to Ms. Shack, without trying to confound or confuse anybody because I would be confounded or confused if I were asked this question, how do you achieve entrenchment of French Language Services, as you say you favour, without giving over to the courts all of the powers that the courts must have to give it back to them? How do you do that unless you have an opting-out clause, unless you have a provision which permits the Legislature of Manitoba to override a decision of the court which it feels is not in the public interest?

**MS. S. SHACK:** I'm not sure whether Mr. Lyon is making a statement or asking a question in this regard.

**HON. S. LYON:** I'm asking a question. I am genuinely - I don't understand your position in that you say you support entrenchment, but you don't want the results of what you support.

**MS. S. SHACK:** There is a difference between the administration and the policy-making process in government, as I know Mr. Lyon well understands. The policy is entrenched but the administration of the policy should not be subject to niggling appeals to the court, that is, if there are minor changes in the administration that individuals may object to, they should have recourse to other sources before they go ultimately to the court, but not every administrative change should be subject to court supervision.

**MR. A. ARNOLD:** What we are saying, just in addition, is that it should not be necessary to submit every plan for administrative change to the court for approval but if there is some appeal that has to be made to the court, the court will have a right to deal with it. But where plans have to be made to carry out the provisions of these amendments, the plans should be made by whatever administration is set up by the government to do that without having to take every plan to the court.

It is only where a plan fails to meet satisfaction and somebody feels it's not right, then they have a right to appeal to the court, but not to take it to the court in the first instance to get approval.

**HON. S. LYON:** Do you agree that one of the problems with entrenchment, however, is that - if I may use the overworked and street analogy - it's like being a little bit pregnant? You can't be partially entrenched. Isn't that true? I mean no offence, but it's an apt analogy.

**MS. S. SHACK:** As a matter of fact partial entrenchment is possible because only part of our laws are entrenched in the Charter in our Constitution. Not all our laws are entrenched, therefore there is certainly room for partial entrenchment; that is, certain things that can't be altered, certain things that deal with the rights of individuals that are entrenched. Other things are not necessarily entrenched.

I can't really see, with all due respect, the validity of this particular argument.

**HON. S. LYON:** What I am genuinely searching for to solve the dilemma which you, I think, quite properly pose, Ms. Shack, is this. How would you achieve this limbo state of entrenchment in which the courts are denied the right to make judicial decisions about administrative matters? How would you do it, because I agree with you, I don't think the courts should be making those decisions at all.

**MS. S. SHACK:** I think again, this is a matter for the government to decide. As I think we said early on in our presentation, the role of organizations like ours is to draw attention to matters that need concern, that need change, that need righting of wrongs. It is the function of governments to work out manners and ways and means in which these changes take place. Our role is to criticize and to suggest and to speak more

on general principle than on the minutiae of writing laws. We have people in government who are equipped to do that sort of thing.

As I said earlier, perhaps if I had the legal background that Mr. Lyon has, I might be able to come up with a less waffling kind of answer, but not having that ability, I can only say that there must be ways of doing it. If there is something that needs to be done, then there are always ways to find of doing these things.

**MR. A. ARNOLD:** You see, our brief says in this section that, "If the government fails in individual cases to offer adequate protection in the matter of the language rights amendment, then the courts may declare that failure and require the remedy to be made. The courts, however, should not have the power beyond declaring the failure and requiring the remedy to be made."

That point, it appears to me, is covered in 23.8, "Anyone whose rights under Section 23.7 have been infringed or denied may apply to the court for a declaration to that effect," etc. I think the people who drew up this section of our brief, the lawyers, had in mind that Section 23.8(1) would be sufficient without subsections (2) and (3), without the following subsections which spell out the taking of plans to the courts.

**HON. S. LYON:** Does that really meet the dilemma that your brief and Ms. Shack's statements, I think, properly point out, where the ultimate authority is the courts; that the decision-making really is transferred from the legislative branch to the judicial branch, and that there is no way really of dividing that?

If the court is ultimately going to be the body which will approve the administrative plan, then in effect the court is, as in the United States - the example given, bussing - the court is determining really a legislative matter in a judicial atmosphere with all of the potential for attendant disruption which we have seen in the United States where courts have gotten into matters that are really no business of the court in the parliamentary system. They may well be in the republican system, but we are not a republic, thank God.

**MR. A. ARNOLD:** The two active lawyers on our committee who are unfortunately not here today - one of them is out of town - both agreed, or I would say they would tend to disagree with Mr. Lyon in respect to what they've put into this brief and what our committee agreed to insofar as the role of the courts; that they are not concerned, they are not afraid of letting the courts deal with the aspects of this matter to the extent that we have suggested it in our brief.

**MS. S. SHACK:** Mr. Chairman, Mr. Lyon used the term "legislative." Now I think Mr. Lyon knows, as the rest of us do, that any law is subject to appeal in the courts; that is, if somebody wants to challenge the validity of the law, he can do so in the courts. We are not talking here in this chapter about legislative matters; we are talking about administrative matters. There's a difference between legislative matters which set policy, and administrative matters which carry out that policy.

**HON. S. LYON:** Without worrying the point any further, I think the words used in the brief are certainly clearer to me.

"MARL has a serious concern about the provisions for enforcement of rights contained in 23.8. These sections give the courts the power to approve plans for changing the administration of a government agency to ensure the protection of French language rights. We do not think that the courts should be granted this power."

I say Amen. I don't see any difference between your lawyers and me on that point at all.

**MR. A. ARNOLD:** Except that they would accept this point, 23.8(1), I think would be acceptable. It's the subsequent paragraphs of that section that they would perhaps suggest ought to be dropped.

**HON. S. LYON:** They go on to say though - I presume it's their words - "We consider it a misuse of the court system to require that this be done." I agree. I think it is a misuse of the court system; so I am trying to find out now where you differ from me.

**MS. S. SHACK:** At the outset of our statements regarding the brief some hours ago, and I think before Mr. Lyon arrived at the meeting, I made the statement that in this area we are in substantial agreement with some of Mr. Lyon's positions and so we have been in some matters in this area, but I wish to emphasize again that we're talking here about interference with administrative matters, not with legislative or policy matters.

**HON. S. LYON:** In the course of discussion this morning, there was some question about numbers of civil servants that would be required. I don't recall that in your brief, but I think again it was in the viva voce or in the verbal, the oral . . .

**MR. A. ARNOLD:** We didn't raise it. It was raised in questions.

**HON. S. LYON:** It was raised in questions, yes, and it was taken almost as granted that because the government had said that this would only require 300 or 400 bilingual civil servants, that that was given, that was established. How do we know that when the courts ultimately will be the ones that make the determination?

**MS. S. SHACK:** No one has any way of knowing, nor does anyone have any way of knowing whether the courts or the government or a negotiation between the government and its employees will arrive at those decisions. It isn't necessarily the courts who will arrive at those decisions.

**HON. S. LYON:** But aren't we really, as Mr. Twaddle has said, as your own lawyers have put into your brief, aren't we really, if we adopt the government amendments and enshrine them - to use that misnomer - in the Constitution, are we not then really losing control over the numbers of people who will be hired and, in effect, allocating that administrative and policy-making function to the courts? We don't know how many people are going to be hired.

**MR. A. ARNOLD:** Well, it doesn't seem to me that the question of how many bilingual positions are going to

be created, it should be a subject for the courts to decide. It seems to me that has to be decided in the course of what seems practical and practicable for the provision of services. Perhaps that is one of the reasons for the amendments that we have suggested in regard to the courts. I don't think the government intends going to ask the courts how many people ought to be hired.

They will have to make a decision on their own, and to the extent that this gets tied in with administrative plans becomes part of an administrative plan and that may be an additional reason for not taking the administrative plans to the courts. So to that extent, I would agree with Mr. Lyon; but regardless of how many bilingual positions are eventually created, the process and the protection against possible discrimination of unilingual persons will have to be the same. It'll have to be done by a process of negotiation.

**HON. S. LYON:** My note of the comment - I believe it was made by Mr. Arnold this morning - was that the numbers question - and he can correct me if my recollection is wrong - was really a straw-man approach, that the numbers were not important and it was not a reason in itself for failing to carry the amendments forward. I believe those were your words, Mr. Arnold.

But, and this is hypothetical, if the courts, stimulated by zealots of one sort or another, were besieged by a series of cases saying our abstract rights demand this, that and the other thing; and you're up against constant threats such as the government presumes itself to be in from the Bilodeau case, although very few other people see a threat there, how does this become a straw man when government really has no control over the numbers anymore?

Government can say it's 300; but the courts, egged on by zealots, fanatics and so on, can push that well beyond 300. I am not trying to get you or myself excited over this, but the figure of 300 is not a real figure because no one knows. Mr. Twaddle says he can't tell the government how many civil servants they will require, because once it's entrenched it's out of the government's hands.

So would you reconsider, in the light of that comment, Mr. Arnold, are you prepared to reconsider your statement that the numbers matter is really such a straw man? Isn't it a real matter? Doesn't it go to the heart of entrenchment?

**MR. A. ARNOLD:** I really don't see how we're going to get the demands for an inordinate number of bilingual staff people. I really don't see it. I think one has to try to understand how the second case, the Bilodeau case, came about. I mean I haven't analysed it myself, but I think it's worthy of analysis.

It seems to me that there was somebody around who was in a hurry and tried to force the issue, and the government felt itself under some duress and this is why it went about introducing these proposals in the way in which it has. It doesn't seem to me that this is going to be repeated ad infinitum. Our brief says that after this section dealing with the call for changes in regard to the extent of court involvement, we say that while we support the adoption of the constitutional amendment, resolution, we do not believe it will validate

all statutes against future attacks on similar grounds, but we have to be prepared to see a future court test case. In other words, it may be there will be another test case, but that doesn't mean to say that we should avoid creating a climate where we have to go running back to the courts for every possible change. To that extent, I think, we are in agreement, but that doesn't mean to say we have to be afraid of even one further court test case.

**MS. S. SHACK:** Mr. Chairman, governments are much more subject to yield to public pressure than the courts. Courts tend to be rather conservative - small "c" conservative, Mr. Lyon - in their rulings and are not subject to the same kinds of pressures that governments are and entrenchment is really a protection against changing governments and the pressures that swaying public opinion has, or varying public opinion has on them, rather than concern that the courts would yield to that kind of public pressure.

**HON. S. LYON:** Well, because Mr. Arnold has raised it, Mr. Chairman, let's look at the Bilodeau case for just a moment. The basic proposition in Mr. Bilodeau's suit against the Government of Manitoba is that all of the laws of Manitoba passed since 1870, from the very beginning of our province, are invalid because they weren't translated into French at the same time. Would MARL support that proposition?

**MR. A. ARNOLD:** I think we'd have to get legal advice.

**HON. S. LYON:** Well, as reasonable and practical people, and I accept what Ms. Shack says, the courts are less subject to the vicissitudes of public opinion than, say, Members of the Legislature, but as reasonable and practical people, can you imagine any court in Canada saying that all of the laws of a province are invalid and that you've got to go back to 1870 and recreate your Legislature? Isn't that rather a silly proposition?

**MS. S. SHACK:** Mr. Chairman, we said in the introduction to our brief that MARL supports, I quote, "MARL supports the basic intent of this constitutional amendment, not because it was developed as the result of an accord with a particular group in order to resolve a law suit, but rather because it carries forward the development of the French language." So that we didn't really see the reason for it as being particularly important or valid. The reason for it is that it's something that needed to be done.

**HON. S. LYON:** In other words, Mr. Chairman, MARL would have preferred the government to have approached this matter from a higher idealistic standpoint and said here is something that should be done in the long-term interests of the people of Manitoba, not because we have a legal case in front of us which has been dismissed at trial, and which has been dismissed at the Court of Appeal, and which is probably going to be dismissed in the Supreme Court, but because it's the right thing to do, but the government didn't say that did they Ms. Shack?

**MS. S. SHACK:** Mr. Chairman . . .

**MR. DEPUTY CHAIRMAN, G. Lecuyer:** Mr. Penner.

**HON. R. PENNER:** On a point of order, Mr. Chairman. Mr. Lyon is free to do what he wants in the House or committee or in court and distort premises, but I will not tolerate that. The premise put to the witness, and the witness cannot be expected to have read every word in the House and in the debates, is an incorrect premise and I would refer to my speech in Hansard introducing this memo, and it is not at all true that in advancing this proposition the government said the only reason why we're doing it is because of the court case. That was certainly the occasion, but we made very clear what we believed to be our historic and a moral and constitutional obligation and I say, as a point of order, that a proposition should not be put to the witness and the witness has to respond when that proposition is probably wrong.

**MR. DEPUTY CHAIRMAN:** Mr. Lyon to the same point of order.

**HON. S. LYON:** On the point of order, Mr. Chairman, I read from a letter dated December 17, 1982 from the Attorney-General of Manitoba addressed to Mr. G.W.J. Mercier, Q.C., MLA for St. Norbert. "Dear Mr. Mercier: As you may be aware, negotiations have been taking place between the Government of Manitoba and representatives of the Franco-Manitoban community. In order to avoid the potentially drastic effects of an adverse decision in the case of Robert Joseph Albert Bilodeau versus the Attorney-General of Manitoba et al, this case was due to be heard by the Supreme Court of Canada in the first week of November, 1982 and now stands postponed until the January 1983 list of the Supreme Court while negotiations continue. Negotiations have reached the point where I have submitted a draft proposal to the President of the Société Franco-Manitobaine for further consideration by the SFM and the Franco-Manitoba, generally, and ultimately by the government, depending upon that response."

Mr. Chairman, this letter is a matter of record, it's been tabled in the House by me. Now if the Attorney-General - and I accept what he says - that subsequently the government attempted to graft on higher ideals for its motivation, but here was the motivation for the government to proceed with these ill-considered amendments, in the first instance, because of its abject fear of a case which even its own legal advisor said verged on having an infinitesimal chance of succeeding in the Supreme Court. So let's not try to paint pictures of high-mindedness on the part of the government when their own words betray what their real motivation was.

**MR. DEPUTY CHAIRMAN:** To the same point, Mr. Minister.

**HON. R. PENNER:** Yes, to the same point of order. Firstly, I'm glad again that it's a matter of public record that the Leader of the Opposition was in possession of a draft of this agreement as early as December 17, 1982 and remained absolutely silent about it from that time until it was raised in the House five months later, and accepted no responsibility for his position as the

Leader of the Opposition whatsoever, not even a reply to myself saying, hey, I think you've got a problem. Not a public statement, not a question in the House, nothing; he remained silent. I'm glad that again is a matter of record.

Secondly, the record will speak for itself that whenever I have spoken on this matter, I have made it - and the Premier, not just myself - the Premier made it absolutely clear that we recognize while that is the occasion, certainly, for doing it at this time, that is, entering into these discussions - which took place, incidentally, over a period of about a year-and-a-half - all we said, and I repeat for the record, that it is our approach that this, in fact, is something which bears with it an historic, a moral and a constitutional imperative; let the record be clear on that.

**MR. DEPUTY CHAIRMAN:** May I remind all the members that we are here to hear the briefs presented and then to question the presenters on clarifications on their briefs. Mr. Lyon would you proceed with your questions?

**HON. S. LYON:** Thank you, Mr. Chairman. I didn't raise any point of order.

Getting on with the point, however, as to the motivation, the avoidance of the Bilodeau case, and I would say almost palpable futility of that kind of a proposition, even without the benefit of legal advice. I take it Ms. Shack and Mr. Arnold, that the idea of creating the kind of chaos, as the courts described it, which would result from the approval of that proposition advanced by Mr. Bilodeau, was dismissed in the trial division, dismissed in the Court of Appeal, and I take it that as people of common sense, albeit not with a legal background, you would dismiss it just as equally, would you not?

**MS. S. SHACK:** Mr. Chairman, I really don't know how to answer that question, because I'm afraid that I lost the drift of it before we reached the end of it.

I come back to our brief. Our brief said merely that we support the legislation because we think it's a good thing, not because of an agreement that the government made, not because of the Bilodeau case. We're not really concerned with the motives that produced it or didn't produce it. What we are concerned with is what is in the bill. We approve of those principles, and that's really why we're here.

Much of the matter that we have discussed around it really has not been pertinent to our case. Our case is merely that we believe that the content of this bill is important. The bill therefore should be carried through, and we would prefer to see it go forward with the consent of both parties in the House so that it develops in an atmosphere of agreement rather than in an atmosphere of hostility and divisiveness.

**MR. CHAIRMAN, A. Anstett:** Mr. Lyon.

**HON. S. LYON:** Just so we'll be quite sure on this point, if the bill is in the opinion of the opposition, if the bill is in the opinion of MARL requiring at least nine major amendments - it's not a bill, but a statutory amendment - if a statutory amendment in the opinion

of the Union of Municipalities almost unanimously, if a statutory amendment, constitutional amendment in the opinion of the Urban Association of Manitoba almost unanimously is palpably a bad bill, would you still have us proceed with it and try to act as political medicine men of some sort, and sell some snake oil off the back of a wagon and say, what is bad is good? You are not advancing that proposition, Ms. Shack, are you?

**MS. S. SHACK:** I'm not quite sure how I'm supposed to answer that question. This is the sort of question that you answer, you know, do you love your father better than your mother or whatever. It's a hypothetical question.

The principles of this bill, we agree with. We would like to see the bill go forward. Inevitably, in almost all legislation, there are things that we will disagree with. There are things that we will agree with strongly. There will be things that we feel lukewarm about. We feel that it's important that this kind of entrenchment of the rights of French-speaking people become law in Manitoba. Though we have reservations and concerns which we have voiced to the government, we still feel that this bill should go forward.

Almost all legislation arises from discussion and compromise; almost no legislation that is contentious goes forward unchanged. The government has made moves to amend certain parts of the bill, with which we disagreed, and taken into account some of our objections. We hope that after these hearings, they will take into account some of the other objections voiced by us and by other groups. We would hope that the opposition too will have a look at its stand, and consider the possibility of supporting at least those parts of the bill which they feel are for the betterment of the province and the country as a whole.

It has been a concern as it has been to Mr. Lyon and it has been a concern to Mr. Penner and to other people here, that so much heat has been generated, sometimes more heat than light, as a result of the discussions. We would like to see a little more light and a little less heat.

**MR. CHAIRMAN:** Mr. Arnold.

**MR. A. ARNOLD:** Mr. Chairman, with respect to Mr. Lyon, there are nine points involving recommendations in this brief, but only four of them actually suggest possible amendments. The government, I think, has already addressed three out of those four in its proposed amendments which have now been circulated.

We have not reached a final position on the revised amendments, but certainly there is an indication on the part of the government that it's willing to address these concerns. On the question of batting averages, I think we might have to be prepared to accept that.

**HON. S. LYON:** I am reminded by one of my colleagues, Mr. Chairman, following through on the point that Ms. Shack made, that of some 130 or 140-odd bills that the government presented to the Legislature this year, there were only a minority that the opposition took umbrage with and fought, and they were bad bills.

In short, my longer question to you is this: you being people of principle, the members of the opposition being

people of principle, you would not expect us to accede to a bill or accede to a statutory or constitutional amendment which we feel is palpably wrong and not in the public interest of Manitobans just so there would be harmony and joint feeling on a matter that, had another course been followed, there would have been no social division in the province at all. We didn't create the course that caused the trouble. Why should we be asked to approve something that is bad? You wouldn't want us to do that, would you, Ms. Shack?

**MS. S. SHACK:** Mr. Chairman, naturally I would never ask Mr. Lyon to do anything that's bad.

**HON. S. LYON:** Spoken like a good pedagogue.

**MS. S. SHACK:** Mr. Chairman, I would not make that comment, nor do I have to instruct Mr. Lyon in the duties of the opposition. He doesn't need my advice on that matter. The duty of the opposition is to oppose. The duty of the opposition is also to help in the government of the country and the governing of the country. As in playing a game, there is a loser and a winner, but the loser is often just as important to the game as the winner.

**HON. S. LYON:** That's why we're here.

**MS. S. SHACK:** That's why we're here. In no way would I suggest to Mr. Lyon what he should do or shouldn't do in opposition. What I am saying is that most legislation arrives finally at a point of compromise where possible. When there are matters of deep principle involved, sometimes that compromise is impossible. Then the majority, of course, has its way and the opposition has to accept the will of the majority. This is the form of government under which we live. So I think that answers Mr. Lyon's question, if I gathered the gist of it.

**HON. S. LYON:** On this issue I believe you said previously, Ms. Shack, that you would not want this issue to be decided in accordance with the will of the people either as expressed by way of referendum or indeed by way of general election. Do I understand you correctly?

**MS. S. SHACK:** I said that it is the duty of a government to govern. If the people disapprove of what that government has done in office, the people turf that government out; that again, is the privilege of the electorate on a majority basis but while that government is the majority in the House, it has a responsibility to govern. The opposition has a responsibility to oppose to a point, but it must also recognize the responsibility of the government as the majority party elected duly by the electorate to carry through its plans of government. The opposition opposes, makes its point very strongly, holds forth as much as it thinks advisable, but knows that ultimately the majority in the House has to have its way, or else our whole system of government breaks down.

**HON. S. LYON:** Not always. The further point was made in the brief on Page 7, which I believe you commented

upon earlier to other members around the table, you say this: "If the constitutional amendments can be revised to meet the concerns of the MGEA, the Manitoba Government Employees Association, then it may be assumed that there will be the necessary protection for unilingual English speaking persons in government service."

I wanted to ask - and if I'm being repetitious here you can certainly tell me - have MARL or you as spokespeople for MARL or the lawyers looking at this on behalf of MARL come up with any suggested amendment which would modify the French Language Services in order to provide against this form of apprehended discrimination, which I think you correctly point out, have you come up with any formulation that would help?

**MR. A. ARNOLD:** Mr. Chairman, through you to Mr. Lyon, no, we have not gone into this point in detail. We did have a brief contact with a representative of the MGEA and we were informed that there were discussions going on with the government - and I understand that the MGEA is going to be speaking here later and at that time we'll probably hear as to what progress has been made - but we assume that the government would be carrying on the necessary discussions with the MGEA to assure this kind of protection. If the MGEA wanted to call on some of our people for any advice or assistance, I'm sure they would be happy to discuss it with them as well. I'm sure the MGEA has its own resources and if it wishes to, we'd be happy to get together with them. We didn't go into that in any more detail. We felt MGEA could handle it together with the government.

**HON. S. LYON:** Mr. Chairman, I think the observation to MARL, to its membership, that I think they were well advised to raise that point for concern by the committee, as indeed, I think they were wise on Page 5, when they stated, "While we support the adoption of this constitutional amendment resolution at this time, we do not believe that it will validate all statutes against future attacks on similar grounds as those of the Bilodeau case. We should be prepared to see a future court test based on this constitutional amendment, but we should not be running back to the court for every possible administrative change that might become necessary."

May I commend MARL again for making that statement - a statement by the way that is in contradiction to statements made in some of the government propaganda wherein the government tried to leave the impression that these amendments would solve all future court cases - I'm glad that MARL knows it will not solve all future court cases; that indeed as Mr. Twaddle has pointed out to the government, their own legal advisor - although they seem to be deaf to his advice - these amendments if passed in the original form, will not guarantee any stoppage of attacks on the whole process by fanatics, by zealots or others over whom reason has no control.

Mr. Arnold, I wonder if I could read to you a statement that was made by Chief Justice Freedman in the judgment in the Forest case when he said in the Court of Appeal, and this was subsequently affirmed, as you

are well aware, in the Supreme Court: "I do not think I go beyond my judicial function to suggest to all concerned that constitutions can be made to work only if the spirit of them is observed as well as the black letters they contain, and if there is a disposition on the part of all concerned to make them work in a practical and reasonable way without, on the one hand, intransigent assertion of abstract rights and without on the other hand, a cutting down and chipping away of those rights."

Would you associate yourself with those remarks? Would MARL associate itself with those remarks of the Chief Justice?

**MR. A. ARNOLD:** I think so. I think perhaps we should apply them to give these propositions a chance. Sybil Shack has drawn to my attention, this is in response to the previous comment about the court cases, in the government's document "Constitutionally Speaking" where Mr. Penner was quoted in response to various questions and when asked, why the constitutional amendment now? Part of his answer was in regard to the Bilodeau case, he said, "This kind of court case has no winners. Two legal constitutional lawyers said that while it was not likely, it was entirely possible that the Supreme Court could decide that all Manitoba laws were invalid, and if this happened, it would mean legal chaos." Then to avoid that risk, that's one of the reasons why the settlement was negotiated, including withdrawal of Mr. Bilodeau's case in agreement for a constitutional amendment.

Now, of course, we've talked to various lawyers as well and we got the same kind of answer; they said that it is not likely that the Supreme Court might make that decision, but they agreed that there was nevertheless no reason for us, for MARL, not to support these propositions because the Supreme Court might not make the decision which would throw us into legal chaos.

**HON. S. LYON:** Yet at the same time, I think wisely, you made comment in your brief that you found a contradiction in terms for a government saying it feared going to the Supreme Court on Bilodeau, yet it was prepared to let the Supreme Court and other courts make all the decisions on French Language Services.

**MR. A. ARNOLD:** Well, we've taken our positions on the resolutions.

**HON. S. LYON:** There was some mention made at the beginning, in response, I think, to other questions of government support for MARL, which is a private organization. Can I ask, for my own edification, did not some of that government support start in the time of the Conservative Government or has been of more recent vintage or what?

**MR. A. ARNOLD:** No. Actually, I think we were about to come to the Conservative Government for support when the election took place.

**HON. S. LYON:** We missed.

**MR. CHAIRMAN:** Mr. Lyon, further questions?

**HON. S. LYON:** Am I right, Mr. Arnold, in recalling that the Attorney-General of Manitoba, the present Attorney-General, was a charter member of MARL?

**MR. A. ARNOLD:** Well, he wasn't quite a charter member, but he was one of the early members of the organization.

**HON. S. LYON:** And MARL receives - I know because I see the Orders-in-Council and I see the estimates of the Attorney-General - an annual sustaining grant from the Province of Manitoba or does it get special . . . ?

**MR. A. ARNOLD:** It is not quite a sustaining grant. The money is mostly earmarked for special projects. For example, last year we spent the funds in two special areas, one being a conference on legal representation of children which took place at the law school with an attendance of over 100 people including many lawyers, judges, etc., and the other one being in the area of race relations and racial discrimination, so those have been the special areas. Of course, those projects have administrative costs too, so some part of it has gone to administration.

**MR. CHAIRMAN:** Mr. Lyon.

**HON. S. LYON:** Mr. Chairman, to Mr. Arnold. My recollection, from looking at the orders, would be that the range of Provincial Government support has been on the area of about 25,000 to 75,000.00.

**MR. A. ARNOLD:** No, no.

**HON. S. LYON:** Not 75, 25?

**MR. A. ARNOLD:** No, no 25,000 this year, and it was almost 30,000 the previous year.

**HON. S. LYON:** Well that's niggardly for this bunch, you should go after them for more. How much support, or do you receive, I believe you said you received some support from the Secretary of State in Ottawa, as well?

**MR. A. ARNOLD:** Well, we have had but we haven't had anything this year, believe it or not; no funds yet this year from Secretary of State.

**HON. S. LYON:** Well what proportion of your budget would be funded in an average year, take this year, by the taxpayers, opposed to private solicitations that I presume you make?

**MR. A. ARNOLD:** Well, first of all I should say we get money from the United Way, so we have about \$100,000 budget, of which about \$21,000 is coming from the United Way. Last year we raised about another \$20,000 from our own membership. Other contributions have come from other foundations, Winnipeg Foundation; Jewish Foundation; some organizations; church foundations; and some proportions from Secretary of State in past years; and in year and last year from the Provincial Government.

**HON. S. LYON:** So you'd be, at the present time, what? Somewhere in around 35 percent, 40 percent, would be government support, or would it be that high?

**MR. A. ARNOLD:** Well considering as I say some are special Summer Canada Grants and things like that, it could be up around there, yes.

**HON. S. LYON:** Thank you, Mr. Chairman.

**MR. CHAIRMAN:** Mr. Sherman.

**MR. L. SHERMAN:** Thank you, Mr. Chairman, through you to Ms. Shack and Mr. Arnold. I only have a few questions, Mr. Chairman. The contents of the MARL brief have been very thoroughly and helpfully explored in the exchanges that have taken place over the last little while between the delegation and my leader, but I do want to ask a couple of questions.

I want to make a point at the outset for the record, Mr. Chairman, that I wish to commend the Manitoba Association for Rights and Liberties for the brief that has been presented to the committee. It's a straightforward brief; it is direct and to the point; it is openly honest and candid about the objectives that it seeks, and the objectives that it supports. There is no equivocation here; there is no smoke screen; there's no pussyfooting around about all the wonderful things that this is going to do for other ethnic communities in the province. It makes the point clearly that "MARL supports the basic intent of this constitutional amendment . . . because it carries forward the development of French language rights which were abrogated in 1890 in an unconstitutional manner. We are, therefore, in accord with these amendments to entrench French language rights and ensure better protection for the French-speaking minority."

Now that, Mr. Chairman, is something that everybody can understand. It's put very directly and honestly, and frankly is a refreshing position, from my perspective, to be put before this committee, so I commend MARL for that direct and straightforward initiative.

May I turn now to a question, Mr. Chairman, based on the next sentence in the opening segment of the MARL brief. I quote that sentence "At the same time we are concerned that the restoration of French language rights in Manitoba should not be done so hastily as to set back the growing trend towards education in French, as well as English."

I would ask Ms. Shack and Mr. Arnold whether it is the view of MARL that the manner in which the government has proceeded, or is the MARL brief saying that the manner in which the government has proceeded does contain within it the seeds of dangerous setback, or dangerous retrogression, with respect to the progress that's already been made? Does MARL see this approach, taken by the government up to this point in time, as likely to set back the growing trend towards education in French, as well as English?

**MR. CHAIRMAN:** Ms. Shack.

**MS. S. SHACK:** We hope that nothing will set back this very desirable trend. We were concerned before the public hearings, and before the educational

campaign, that the misunderstandings that centered around the legislation might do precisely that. There's just no doubt about it inat they were very profound misunderstandings as to what the legislation intended. We thought, at the time we drafted this brief, that some of those misunderstandings might have been cleared away before the legislation was introduced, rather than afterwards. We believe that these hearings will serve the purpose of dissipating some of that misunderstanding.

Personally I must say I have found the last two days very interesting, very tiring, but very interesting. To date we have heard very little contrary to the legislation. I assume that, in the next few days, you will hear the other side of the case presented to you, perhaps as strongly, but I hope not as logically, as it has been by the people who are in support of language rights. I don't know whether that answers Mr. Sherman's question, Mr. Chairman.

**MR. L. SHERMAN:** Well, I think it does, Mr. Chairman, but just perhaps to zero in a little more precisely on the point. Does the association believe that this is a "hasty restoration" of French language rights that is being sought, regardless of the arguments and the positions that have come to light as a consequence of the committee meetings that have been convened and got under way earlier this week?

The government still is proceeding on a course of action which is very little different from the course of action that it first proposed in the legislature four months ago, except that it has been persuaded, successfully by the opposition I might say, to put the issue in the public arena and permit the people of Manitoba to comment on it; but your brief makes reference to concern about a restoration of French language rights that might be undertaken too hastily and, therefore, might set back that growing trend towards education in French, as well as English, that we all laud. I would put the question once again, just so that I understand your precise position on it. Do you believe that the process being followed by the government is too hasty and is liable to raise that danger?

**MS. S. SHACK:** You mean the passing of this legislation?

**MR. L. SHERMAN:** Yes.

**MS. S. SHACK:** No, I don't think it will. I think that the implementation has to be done carefully, and I'm sure it will have to be because of the very exigencies of the situation. It will have to be introduced by degrees, not today it goes into force, and today this service is available everywhere this instant, all these people are going to be replaced by people who can provide the service the day after tomorrow. I don't think this is the way we hope, and I'm sure that this isn't the intention of the government because processes work, and governments generally work very slowly in the implementation of new administrative procedures. I think the manner in which the bill will be administered is going to be very important. I would trust that the government would note the need to move with due haste, or whatever the term was, in the American

situation. I think in the amendments, they have suggested that the terms of the bill would go into force according to the needs, that is, not all today, the day after tomorrow.

I think if this is done, if the bill is administered, if the terms of the act are administered with sensitivity, as Professor Bailey pointed out yesterday, and with due feeling for and respect for all the people who are affected by it, not only the French-speaking people, then there should be no problem. In fact, the ultimate result would be a better feeling throughout the province on the part of everybody, but the implementation is important.

**MR. A. ARNOLD:** Mr. Chairman, I believe I can say that the hastiness has really been eliminated with the Legislature going into recess in order to hold these hearings in an atmosphere of greater calm than is possible if they were held while the Legislature was still sitting and all the other pressures of the Legislature were on. So I think that has been eliminated.

In fact, in an earlier draft of our brief, we were, in fact, calling for this kind of slowing up which did take place. We changed another part of the brief for that purpose. We probably should have changed the wording on that slightly, too, before it was finally presented, but it escaped us. So you'll have to forgive us for the words "hastily" remaining in there.

What we are more concerned with is the educational aspect, and I draw your attention to the fact that on Page 2 there is another paragraph dealing with the whole question of the need to improve educational opportunities for French language courses for all students in the province.

**MR. CHAIRMAN:** Mr. Sherman.

**MR. L. SHERMAN:** Thank you, Mr. Chairman. I would then ask Ms. Shack and Mr. Arnold whether they would say that their association's position on this fundamental point differs in any significant way from the position that has been taken on this subject throughout by the opposition in the Legislature.

**MR. A. ARNOLD:** Which point are you referring to?

**MR. L. SHERMAN:** If I may paraphrase your earlier answer and Ms. Shack's earlier answer to my previous question - and you can correct me if I stand to be corrected - what you have said is that the association's position is that proceeding on the initiative proposed by the government is an exercise that should be embarked upon with care and caution; that careful examination of the present and the future is required; and that we should proceed with caution.

If that's a proper paraphrase of the condition or the anxiety that MARL cites on Page 1 of its brief, I am asking you whether you would say that your association's position on this fundamental point differs in any significant way from the position that the opposition has taken on this subject since last May?

**MR. A. ARNOLD:** As we recall it, the opposition originally wanted to have this put off to intersessional hearings. It has absolutely agreed to the compromise

proposal which we supported to have it go into hearings during a recess in the present Session. We commended both the government and the opposition for agreeing to have these hearings during a recess rather than an intersessional situation, because we felt the government was not being unreasonable in trying to aim for that December 31st deadline. So, hopefully, that can still be met.

When the amendments hopefully are adopted, they do provide I think for reasonable time for implementation. So it's during the period of the implementation that there can also be a period of quieter discussion and explanation so that more people can come to understand and accept the idea that the French language is not all that threatening.

**MR. L. SHERMAN:** Mr. Arnold, I appreciate that. In other words, the basic difference that remains or that might have existed between MARL's position and the opposition's expressed position on this subject revolved around the period of the public hearings and a question of whether it should have been an intersessional committee that was convened or a committee that would meet during a recess to the Legislature. But MARL believes, as the opposition had suggested very strenuously through some considerable debate in the House, that this kind of public forum, public examination, cautious assessment and evaluation of this subject was urgently required in the interests of all Manitobans. MARL subscribes to that position.

**MS. S. SHACK:** I think the major area of disagreement between MARL and the opposition is in the question of entrenchment of rights.

**MR. L. SHERMAN:** Mr. Chairman, I want to ask the delegation about partisanship too. There had been some reference made to partisanship. You know, presumably the Manitoba Association for Rights and Liberties stands for rights and liberties.

I would ask Ms. Shack and Mr. Arnold whether they would not concede that the institution of parliamentary democracy is probably the original association for rights and liberties, is probably the fundamental association for rights and liberties; and that institution is made up obviously of a government component and an opposition component; and that the Manitoba Association of Rights and Liberties would defend the opposition's right to the liberty to oppose?

**MS. S. SHACK:** Entirely.

**MR. A. ARNOLD:** Absolutely.

**MR. L. SHERMAN:** Then could I ask Mr. Arnold and Ms. Shack, Mr. Chairman, how they think subjects of any nature, and particularly subjects of such a fundamental nature as this, can be dealt with in other than a partisan way in a parliamentary democracy. There seems to be some attitude on the part of Mr. Arnold and Ms. Shack, Mr. Chairman, that there has been some unhealthy partisanship that has crept into this examination.

How would you see a subject of this nature being dealt with in any other than what you call a partisan

way, when it goes to the very heart of the decisions of a free democracy?

**MS. S. SHACK:** There are matters that come up in the House that really are non-partisan in nature, and such should be recognized. That is, it isn't the duty of an opposition - and I feel like a school teacher now when I'm saying this. It is not the function of an opposition to oppose everything. It is the function of an opposition to oppose those things where there is fundamental disagreement, not to create disagreement, merely to oppose. I think there is a difference between these two stances. I don't know whether I make myself clear or not.

**MR. A. ARNOLD:** I think I would repeat the example I cited of the manner in which the Canadian Constitution of 1981 was finally adopted, where it went through a whole process of partisan debate and non-partisan submissions before a parliamentary committee. In the end, the House of Commons voted for it on a virtual consensus basis with the majority of members of the federal Conservative Party voting with the Liberals and the New Democrats to support, to approve the Constitution. So that's the way you have partisanship to begin with, but you end up on consensus, which leads to a non-partisan decision.

**MS. S. SHACK:** Mr. Chairman, the very creation of a committee like this, which is supposed to be a non-partisan committee, is an example of the kind of thing that should happen, non-partisan in the sense that it is prepared to listen to the whole group and perhaps come up with a recommendation as a group.

I have sat on many committees where we started out with utterly opposing points of view and arrived somewhere around the middle at a compromise kind of situation. Now this may not be possible in this particular area, the philosophical differences may be too profound, we don't know. But there are areas where this is possible. Without sounding too much like a schoolteacher or a preacher, being an NDPer - a former CCFer teacher-preacher - the opposition as well as the government has a responsibility not to oppose merely because it's an opposition.

**MR. L. SHERMAN:** Well Ms. Shack, I can assure you I don't mind you sounding like a schoolteacher or a preacher. My sister is a schoolteacher. My father was a preacher.

**MS. S. SHACK:** We have a lot in common.

**MR. L. SHERMAN:** And I'm a Conservative, but that doesn't bother me. But I think that the responsibility of the opposition, with all respect - and I hope I don't sound here like a politician - but the responsibility of the opposition goes beyond merely the responsibility to oppose and then to constructively join with the government in what the government may wish to do. The opposition member, like the government member has a responsibility to represent his or her constituents and to reflect the feelings of his or her constituents and to come before committee examinations of this kind and treat with associations like MARL and educate

MARL in the same way that MARL educates us, with respect to feelings that are held very sincerely by a large number of Manitobans. So I think that you and I are probably not at odds on that point, but we may be approaching it from different perspectives.

May I just conclude by asking you if you can give me assurance that MARL is now happy in the service, is now happy with the condition and the point to which we have come in the examination of this issue? I take it that MARL had serious reservations at one point in time; that there was divisiveness being fostered; that there was partisanship being practised. Is MARL now satisfied that the process being followed here, which was initiated and generated by the opposition and which wouldn't be taking place if it weren't for the opposition, is now providing the association and other Manitobans with their rightful legitimate opportunity to make themselves heard on this subject?

**MS. S. SHACK:** We've already complimented the government on holding these hearings and the opposition for calling for these hearings.

**MR. L. SHERMAN:** So anyway, at this point, there is no destructive partisanship on this issue that troubles MARL? MARL accepts this as a constructive stage in the process? Can we be assured of that?

**MS. S. SHACK:** As a matter of fact, one of the interviewers this morning asked us how we perceived these hearings and I think that both of us said we found them very interesting and constructive, though there were times when we felt that presenters were being treated as if they were hostile witnesses in a courtroom.

**MR. A. ARNOLD:** We didn't feel we were treated . . .

**MS. S. SHACK:** No, we said we thought we had been treated very kindly.

**MR. L. SHERMAN:** I would just say, Mr. Chairman, I would hope that Mr. Arnold and Ms. Shack don't feel that they have been treated as hostile witnesses in any way, and I would hope that MARL would not regard the opposition as a hostile opposition on this point. I think everybody around this table and all appearing before this committee are trying to do their job as they see it and as best they can in the interests of the future of the province. Thank you, Mr. Chairman.

**MR. CHAIRMAN:** Thank you, Mr. Sherman.  
Mr. Arnold.

**MR. A. ARNOLD:** Any more questions?

**MR. CHAIRMAN:** Yes, Mr. Lecuyer.

**MR. G. LECUYER:** Just to follow on the last comment on which Mr. Lyon belaboured for some time, wherein the government was portrayed as opposing these hearings forever during the debates in the House. I'd like to mention the fact that from the outset, we announced public committee meetings and that we had agreed to public hearings just for the elucidation of the presenters here, we agreed to public hearings on

June 29th (sic), so that you don't get the impression that we fought these until the dire end of the House.

Mr. Lyon suggested that for the last 20-odd years, successive governments have introduced services and extended services in the French language and that these services were progressing gradually, a drop at a time, a crumb at a time, and that gradually as this was happening, that no anti-French feelings were being aroused or very little flack and suggested this was perhaps the way of controlling anti-French feelings, as compared to entrenchment of the rights. I would like you to comment, if you do not feel that perhaps in proceeding in such a slow manner over all these years, that such a process, rather than entrenchment, is perhaps not in itself to a large extent responsible for maintaining that flack, this anti-French feeling for the very fact that it was always surfacing a bit at a time.

**MR. A. ARNOLD:** Well, Mr. Chairman, I think I said before that I felt in regard to what has transpired before the present proposals and the present constitutional amendment introduced, that I would like to be able to do a historical evaluation of the progress made by previous administrations. Mr. Lyon has suggested one interpretation and Mr. Lecuyer has now suggested another interpretation, and I think that justifies the fact that we really should have a historical evaluation of the situation and if I had the time, I would like to do it myself, but probably I won't, so we really can't make a definitive comment. It may be that the concerns expressed by Mr. Lecuyer have some justification to them, but certainly we cannot make a definitive response on that point at this time.

**MR. G. LECUYER:** I thank you for that anyway. Perhaps Ms. Shack, who's been in the field of education throughout these years will have experienced, as I have being a former teacher myself, some of these anti-French feelings gradually through the years. For instance, measures were introduced to gradually allow the implementation of teaching of French until the passing of Bill 113 in 1970, which was followed by the implementation of the Bureau d'Education Français, where each time these measures were introduced and you probably experienced those, these anti-French feelings did surface or resurface each time. If they had been entrenched, there might have been a period as you had indicated, where these feelings might have been expressed, but then they would have been in the short term or in the longer term accepted.

**MS. S. SHACK:** As I said earlier, Mr. Chairman, it is very difficult to change attitudes and to accept any kind of change and anytime any change is implemented there is resentment of it from people who are often not even directly affected by the change, but who feel threatened by it, even though they're not affected by it. The anti-French feeling, as I said earlier, has been endemic, I suppose, in Western Canada and it has surfaced from time-to-time. I gave an illustration earlier today of a school meeting where two irate fathers got up and really almost disrupted the meeting because of the statement that French was compulsory in Grade 7 in that particular school, and no way were they going to have it stuffed down the throats of their children, which I think is a

rather peculiar expression anyway for a language. — (Interjection) — Yes, they're worse than that.

So it's hard, as Mr. Arnold has said, to evaluate the kind of reception. One of the things that has been very encouraging has been the great acceptance in the urban centres of the French Immersion Programs. I think that is very encouraging and this is something, as our brief has pointed out, and that Mr. Arnold has mentioned several times, that we would like to see spread to the rest of the province because the educational process is a very important one; but the educational element in legislation is also important and we believe, as an association, that the entrenchment of these rights is important from the educational point of view, as well as from the protective point of view, that is, it protects people against the vagaries of public opinion, swings back and forth of public opinion, and the emotionalism that is created in crises.

Education fundamentally is going to make or break the French fact in Western Canada and this is an educational process, these meetings are educational, the bill itself is educational. The implementation of the bill will be educational if it's handled tactfully and well.

**MR. CHAIRMAN:** Mr. Lecuyer.

**MR. G. LECUYER:** Following on that comment, I just would like to ask one more of Ms. Shack.

Do you feel that it is strictly the entrenchment of French Language Services, or perhaps equally, or perhaps not even more, the substance of the amendments, in other words, the provision of French language rights, that is, creating opposition or anti-French feelings?

**MS. S. SHACK:** Yes, I think both are. I think the general public doesn't really understand, or much of the general public doesn't understand what entrenchment means, and the term is bandied back and forth without really very much meaning in the discussions that I have heard, in private discussions that I have heard on the subject. I am always surprised at the depth of prejudice that exists in people whom I had always considered both liberal minded and intelligent. As I said, it's endemic, and how one routs it out is going to be a problem that all of us, as citizens of this province, are going to have to deal with, not just government, not just the schoolteachers, but all of us in private conversations and in our own public and private attitudes.

**MR. CHAIRMAN:** Mr. Arnold.

**MR. A. ARNOLD:** We understand that the opposition takes its principle position in opposition to entrenchment, but I don't think that is necessarily the perception of what the problem is in the public mind. I have the feeling that the public, to the extent that they are concerned about, are concerned about the notion of bilingualism. It's to win acceptance for the idea that bilingualism is not a bad thing and it can be a good thing. That's what we have to get across to the public.

**MR. CHAIRMAN:** Mr. Lecuyer.

**MR. G. LECUYER:** I'd like to thank Ms. Shack and Mr. Arnold for their brief. Thank you very much.

**MR. CHAIRMAN:** Mr. Storie.

**HON. J. STORIE:** Thank you, Mr. Chairman. Just one final question and perhaps this question will help clear up in the minds of some members opposite, Mr. Sherman's concern about what non-partisan involvement in these hearings might mean. I would ask Ms. Shack or Mr. Arnold if the comments of the new Leader of the Federal Conservative Party, when he described the initiative of the government as being a laudable one, would in their view be a non-partisan comment?

**MR. CHAIRMAN:** Ms. Shack.

**MS. S. SHACK:** Well, this again is a matter of judgment. I think the Leader of the Federal Conservative Party truly believes in a bilingual candidate. He, himself, is bilingual and he is taking a Canadian stand on it rather than a partisan stand, and I think the Conservative Party as a whole, federally, has taken the same stand. The former Leader of the Conservative Party took exactly the same stand so this issue really has ceased to be a partisan issue at the federal legislative level.

**MR. A. ARNOLD:** Yes, Mr. Chairman, we have suggested that the opposition should try to emulate its federal counterpart in relation to dealing with this issue, and we hope that they will find a way towards that position sooner than later. — (Interjection) — Well, that's okay too.

**MS. S. SHACK:** If you can come together so much the better.

**MR. CHAIRMAN:** Mr. Storie.

**HON. J. STORIE:** Just one final question. Mr. Chairman, through you to Mr. Arnold, would you agree as well that over the course of your interrogation, if I can use that word, of the last few hours, you would agree that there has been a sense that members opposite, and particularly as exemplified by the comments from the Member for Fort Garry; that there is substantial agreement that the extension of French language rights should proceed, and that the fundamental issue appears to be hinged upon the question of entrenchment and that it appears, at least in some quarters, that there are any number of other, in some respects, extraneous issues that have been attached to it, that there is a remarkable degree of consensus on the direction that we should be proceeding. The question is whether it should be entrenched or not.

**MR. A. ARNOLD:** I would hope that there is a movement towards consensus.

**HON. J. STORIE:** Thank you, Mr. Chairman, and thank you to Mr. Arnold and Ms. Shack.

**MR. CHAIRMAN:** Thank you, Mr. Storie.  
Mr. Enns.

**MR. H. ENNS:** Mr. Chairman, through you to the representatives from MARL. I only have the one

question that I've posed to them. I apologize for not having heard their total presentation but throughout the portion that I heard I think, particularly from Ms. Shack but from Mr. Arnold as well, we have as legislators been asked to set aside our partisanship on an important question such as this. I have to agree that there are fundamental issues that occur from time to time that one wants to be very careful about how we play the game, if you like, in the legislator.

This question is prompted by Mr. Arnold's observation just a few moments ago that pointed out to us that on the very heavy matter of drawing up a new Constitution for this country the Liberal Government of the Day, Mr. Trudeau, who made no bones about the fact that this was a priority of his of some longstanding wanted to have it, I suppose, passed through the Canadian Parliament at a time when he was still around but, nonetheless, went through the arduous task of seeking that consensus that you are asking us to arrive at (a) firstly, with the provinces; and more importantly, in the House as Mr. Arnold commented, that on a virtually unanimous basis, the Canadian Constitution was agreed to in the House. I believe this is the kind of an issue that only can be approached that way, and that some attempt should have been made in the Manitoba House to have arrived at that consensus.

My leader has read into the letter, as he indeed has tabled the letter, we were informed in late December that an agreement had been arrived at, or was being in the process of final negotiations, hardly an opportunity to bring about that kind of consensus. That kind of consensus . . .

**HON. R. PENNER:** Where is the question - on a point of order?

**MR. H. ENNS:** I am getting to that question. We have been, I think, quite properly asked repeatedly by particularly Ms. Shack that on this fundamentally important issue, we should lay aside our partisan cloaks and worry about the overall effect that this has, the actions that this resolution can have, and the manner and the way in which it's presented.

Would MARL not - and this is the question, Mr. Attorney-General - would MARL not agree; would MARL not even at this time counsel the government - and I don't often counsel the government to do what Mr. Trudeau does on his heavy constitutional package which he successfully brought through the Canadian Parliament - would MARL not now counsel this government to begin that process of reaching that consensus so that a position, an accord can be arrived at that has to be, in my judgment, agreed to by all parties or at least next to all parties in the House?

I don't think we can - and we are only speaking of the two. I don't think, in the words of Chief Justice Freedman, you can proceed with this kind of a proposal without that accord.

**MS. S. SHACK:** I don't think we're prepared to answer that question. We have made the suggestion that we hoped that the parties would get together and use a non-partisan approach and that we stand by that suggestion. I think we counsel both parties in this case.

**MR. CHAIRMAN:** Thank you, Ms. Shack.

**A MEMBER:** We hoped that you were actually into that process.

**MR. CHAIRMAN:** Order please. Mr. Penner.

**HON. R. PENNER:** Through you, Mr. Chairperson, since preeminently a person, a human being - I think almost all of us can say that - up to this point, the declared position of the opposition is against entrenchment and the declared position of the government is for entrenchment. What consensus do you see between those two positions? Quasi-entrenchment, up-in-the-air entrenchment, walk-the-fence entrenchment - entrenchment one day but not the other?

**MR. CHAIRMAN:** Order please. Ms. Shack.

**MS. S. SHACK:** Mr. Chairman, in our brief, and this is what we have to go on because we have no right to make decisions for ourselves here as individuals when we speak for an organization, our brief favoured entrenchment.

**HON. R. PENNER:** Thank you.

**MR. CHAIRMAN:** Further questions by members of the committee?

Mr. Arnold.

**MR. A. ARNOLD:** If there are no more questions, I would like to end up with a non-partisan comment.

**MR. CHAIRMAN:** Proceed.

**MR. A. ARNOLD:** I just want to remind all the members of the Legislature they are invited to a luncheon in honour of C. Rhodes Smith, former Chief Justice and former member of this Legislature, on September 23rd.

**MR. CHAIRMAN:** Thank you very much, Mr. Arnold. Thank you, Ms. Shack. Both of you, thank you for coming here and making your presentation on behalf of MARL and your answers to the lengthy series of questions.

The next name on our list is Mr. Ken Reddig, Concerned Mennonites Group.

Mr. Reddig, please. Please proceed, Mr. Reddig.

**MR. K. REDDIG:** Mr. Chairman and members of the legislative committee, this brief has been prepared by an ad hoc committee of persons of Mennonite background. The committee has reviewed the agreement between the SFM and the government and those parts of The Manitoba Act of 1870 and the Charter of Rights which refer to the use of French and English.

Our purpose in making this presentation is to express our support to the French community in its efforts to give Manitobans the right to use French as stipulated in the agreement between the Provincial Government, the Federal Government and the SFM.

It is our opinion that the Mennonite community and the public generally support the efforts to have French recognized as required in The Manitoba Act of 1870. We believe that Manitobans want to live within the requirements of this act and to do so as quickly as possible and without great debate or controversy.

With respect to the present agreement, we think the SFM has been fair with the people of Manitoba in accepting a limited translation of only some 500 relevant documents and a reasonable timetable for the translation and introduction of French in the Legislature and courts of Manitoba and their respective records. This part of the agreement will help avert legal chaos and avoid the translation of many documents which may be of historical interest only.

We also believe that the more controversial aspects of the agreement, namely 23.1 and 23.7, are acceptable and implementable in Manitoba. We do, however, recognize that the Mennonite community as such has a wide range of opinion as to the merits and long-range implications of these two sections. In giving our support to the agreement, we would ask for greater clarity on the meaning of "French as an official language" (23.1) - and here's a change - "where there is a significant demand" (23.7) and "central offices" (23.7). We believe that detailed clarification on these three points would greatly enhance support for the agreement by all.

I would also add that it is my understanding, from just very briefly reviewing the draft amendments as tabled by the Attorney-General, Mr. Roland Penner, yesterday, that clarification on these points has, to some extent, been given.

As part of our belief, we would like to make a strong point of the fact that the French community has listened to and supported the interests of other minorities. We want to say this because we feel the French community has at times been unfairly portrayed in this regard. In this context, we would like to point out that all minority groups, including Mennonites, enjoyed a generous language policy in Manitoba up to 1916, due largely to the presence of a French community.

Thanks to recent legislation, it is again possible to send children to bilingual programs where the language of instruction may be in a language other than English or French for 50 percent of the school day. For us, as Mennonites, I may add that this means German immersion, which, as some of you know, is in the north end of Winnipeg. We believe this language option was supported by the French community to the benefit of all minority groups.

The French community also played a prominent role in the federation of independent schools by supporting the establishment of aid to private and independent schools, and we presently have three Mennonite schools in Winnipeg enjoying such aid to their schools.

The presence of a large French community in Canada has helped the Mennonite community in having its initial military service exemption agreement with the government recognized. It is our hope that further positive intergroup relations can be developed.

The Mennonite communities of Manitoba have in their 110 years of relations with the Governments of Manitoba and Canada enjoyed the support and goodwill of both the Franco and Anglo communities. Our support for the French minority is not to be interpreted as an anti-English expression. The Mennonite communities in North America have for most of their 300 year history of settlement found themselves standing, as it were, between English and French struggles and aspirations for colonization and nation building. These struggles and the pressures of other minorities, we believe, have

built the foundation for minorities to be recognized and supported in Canada.

It is this history and our long participation in it that encourages us to learn about and support the rights and aspirations of other minority groups, be they aboriginal, official, racial or religious.

**MR. CHAIRMAN:** Thank you, Mr. Reddig. Questions for Mr. Reddig?

Mr. Doern.

**MR. R. DOERN:** Thank you, Mr. Chairman. I wonder if you could clarify something which is repeatedly mentioned and really is something that I think is probably obvious historically, and that is that there is a great deal of reference being made the last day or so to the 1916 loss of language privileges and schools, etc. Was this the result of wartime hysteria?

**MR. K. REDDIG:** Mr. Doern, that was certainly a part of it and I think it was a combination of factors. If you look at the record, there were a variety of things that occurred at that time. Part of the wartime hysteria also was anti-German and Mennonites of course being German-speaking, became involved in part of that as well. So that's correct.

**MR. R. DOERN:** I'm saying if we're trying to assess whether or not this was just a shift in mood or what the basis was for the government action in 1916, would it be correct to say that that was the primary fact or the basic motivation of the Government of the Day, namely, that they believed that because of wartime hysteria, people were opposed to certain languages and certain ethnic and cultural groups and that therefore this was a time to make a move. I'm asking you that because I think there's another question and that is a concern about the fact that there were various cultural and linguistic groups that were teaching in various languages and there must have also been a concern on the part of some people that if everybody's speaking their own language or exclusively focusing on their own language, that there then wouldn't be a common language or a working language. So I ask you the first part which is, was that in fact the basic concern or motivation behind that government action, namely, wartime hysteria right in the middle of World War I? — (Interjection) — Well, I don't care whether it was liberal or conservative. I'm simply asking the question.

**MR. K. REDDIG:** I think it is definitely a factor. However, I would say there were a multitude of factors at that particular point, so I wouldn't want to isolate one and say that this is the motivating factor, but there were numerous factors at that particular time. It was one of them, yes.

**MR. R. DOERN:** Was there also an expressed concern on the part of people that with so many cultures and so many languages, and I suppose a lot of these schools were rural and therefore maybe one school and one particular community, was there also a concern on the part of the government or some segment of society that the result would be that we wouldn't have a society because if you went to that part of Manitoba, they'd

be talking German; if you went there, it would be French; if you went there, it would be Icelandic; if you went there, it would be Ukrainian? Those kinds of concerns I don't think exist anymore in this province but I'm saying at that time, was that also a motivating factor in eliminating those schools?

**MR. K. REDDIG:** If one reviews the literature which has been written within the past 25 years on the subject of that particular era and in fact the first 20 years of this century, one would undoubtedly come to the conclusion that what you're saying is correct insofar as all the cultural minorities, the large influx of immigrants into Canada and particularly into Manitoba at that time, there was a concern on the part of the Anglo majority as to what was going to happen. They didn't know what was going to happen in a situation like this, and it was a new one for them.

**MR. R. DOERN:** I would assume that at least on two particular factors which were probably the key factors of that day, one being a war and of course people's emotions run rather high under those circumstances; secondly, the fact that there was a concern that if these schools continued then society would be fragmented, that both of those conditions do not prevail today and therefore we don't have to concern ourselves with them. Consequently, I would ask you what your main concern today is in regard to the teaching of German, in regard to the Mennonite community? What concern do you have? Why do you feel that you have to, for example, support the entrenchment of French Language Services in the Constitution? In what way will this help you?

**MR. K. REDDIG:** We feel that the French, as we've indicated in the brief, because of the bilingual nature of Manitoba and of Canada from 1870 on, it enabled various immigrant groups such as Mennonites when they came into Canada to enjoy to some extent the freedom of being able to teach their schools in the language of their particular ethnic roots. Therefore, we feel that this has continued and I understand what you're saying about that era of 1916, but we conclude that even today, the fact that we do have the possibility of having a German immersion program in Manitoba is due, we feel, to a large extent because of the fact that the whole controversy, the whole matter of language rights, has been a topic that has been on the forefront of the public in general in Manitoba, and therefore we have benefitted as another minority group, albeit a small minority group, because of this.

**MR. R. DOERN:** Is it your contention that by entrenching French Language Services and making French an official language that this will assist the teaching and the extension of German culture in Manitoba?

**MR. K. REDDIG:** I would say rather that once we take French - if we can say this - out of the domain that we are no longer a bilingual country, therefore, all other minorities would definitely suffer if that would ever happen. So it is our opinion that as long as we do have a bilingual country other minority groups, other language groups, can continue to enjoy the freedoms which they now have.

**MR. CHAIRMAN:** Mr. Doern.

**MR. R. DOERN:** So you're trying to protect the German language and the teaching of German and the Mennonite faith by entrenching French in the Constitution?

**MR. CHAIRMAN:** Order please. It was indicated yesterday that displays from the gallery are not permitted in committee.

Mr. Doern, please proceed with your question.

**MR. R. DOERN:** I have asked my question, Mr. Chairman. This strikes me as peculiar, and I wonder whether Mr. Reddig could explain how this works.

**MR. K. REDDIG:** I think we're talking basically here about language rights, we're not talking about the Mennonite faith, any other faith for that matter, we're speaking simply about language rights. I would say, yes, due to French language rights in Manitoba we, as a minority group, that is Mennonites, speaking not just one but actually two languages, both low German and what we call high German, which is known as regular German to most people, have benefitted from that.

**MR. R. DOERN:** Mr. Chairman, it would seem to me that Mr. Reddig and his supporters should - I'm talking logically now - be arguing that the German language should be entrenched in the Constitution, and perhaps the Ukrainian language should be entrenched in the Constitution, in addition to the French language. Why isn't that your position? If you are concerned about the German language, why are you fighting for the entrenchment of another language? Why don't you fight for the entrenchment of the German language, and the Ukrainian language, and the French language, that would be a logical position, and Polish?

**MR. K. REDDIG:** I would say that had Mennonites been in Manitoba before 1850, and had we been a significant minority at that time, and it had been included in The BNA Act that German was one of the official languages, certainly I would support that. As it is we are not of that status.

The other thing is we are of a minority, a small minority; perhaps not so small in Manitoba, but if you take Canada as a whole we are not a very large minority group.

**MR. R. DOERN:** Do you think there is some merit - I mean, right now I assume you are encouraging people to be bilingual in the sense of speaking German and English - do you think that it is useful to now encourage people to become trilingual? Instead of saying to a young person learn German, you're now going to say learn German and French, and you think that will, therefore, somehow or other raise up the German language and encourage people to study German.

It would seem to me, Mr. Chairman, that a lot of people would say why study German, it's a waste of time; let's just drop the German, study French, get a job and go on. How is this going to help young people enroll in German courses and be interested in German culture?

**MR. K. REDDIG:** It's my opinion that the more languages one knows actually the broader one's experience, the better one is qualified for any kind of position.

**MR. R. DOERN:** Well, that's true now, that's always true.

**MR. K. REDDIG:** Therefore, I will use a personal example. Both of my children - if I may, Mr. Chairman - are in French Immersion. My wife teaches not only French, but she also teaches German. We definitely hope that our children will be trilingual in the next couple of years. I see no problem whatsoever in children learning two, three, even more languages, it's very possible. We've often limited our children by saying a child is only able to speak one language or two, without being mixed up.

I, for example, grew up speaking only low German, and learned English at school. I've never suffered for that. In fact, it's helped me a great deal in other studies so I just simply do not see a problem there.

**MR. R. DOERN:** Mr. Chairman, I'd just say, in passing, that my daughter has four years of French, and four years of German.

The other question I wanted to ask you - a couple of more questions actually - you have chosen what I regard as a peculiar name, namely, the Concerned Mennonites. I wonder why you chose that name? Does that suggest or indicate that other Mennonites, who hold a different view, are not concerned or unconcerned? Why do you strike that particular name?

Secondly, how many members do you have? How many people are you speaking for?

**MR. K. REDDIG:** The name Concerned Mennonites was simply a name that we chose in order to identify ourselves in some particular way. When we heard that these hearings were going to be held we got together as quickly as possible just by telephoning a few people, some of our friends, and we got together this particular committee, prepared this brief, and actually did not know when we would be able to present it.

So on your first question, yes, it's just a broad section of people who are concerned about it. I would say the committee itself is composed of approximately 20 persons at this time.

**MR. R. DOERN:** Have you approached any of the large Mennonite churches or organizations for support?

**MR. K. REDDIG:** We have not, due basically to the fact that these hearings have come up, in many ways, rather suddenly. Most of our churches are deliberative bodies in the sense that a position on a subject like this would have to be taken at its annual conventions. Most of those have already occurred during this past summer before we knew that we were going to be involved in this, therefore, we just simply did not have the time nor the opportunity to make any appeal to any of these bodies.

**MR. R. DOERN:** Are you aware of the fact that the German Society of Winnipeg which is a very large and

old organization, and the German Canadian Business and Professional Men's Association have both said that they do not favour the government proposals?

**MR. K. REDDIG:** I've heard of that, yes.

**MR. R. DOERN:** Are you aware of the fact that many Mennonite businessmen belong to the German Canadian Business and Professional Men's Club?

**MR. K. REDDIG:** Yes.

**MR. R. DOERN:** I think my final question, Mr. Chairman, is do you have any concern about the costs of bilingualism in Canada and in Manitoba, the fact that there are hundreds of millions of dollars being spent annually to promote bilingualism and biculturalism? We've seen some examples of that here at this committee, in fact, people come here who are heavily funded from the Federal Government and come from afar, and some come from close, and receive hundreds of thousands of dollars to support their organizations. About \$200 million a year is spent on government B & B programs, and I think for all other ethnic and multicultural groups, etc., only a figure of some \$20 million, if that, is spent.

I'm just saying, do you have any concern, first of all, about the costs of bilingualism, and do you have any concern about the fact that such a high percentage of funds to all ethnic groups is spent on the French community, as distinct from the German, Ukrainian, etc., Polish - not to forget my colleague.

**MR. K. REDDIG:** I have concern where any of my tax dollars are being spent, and certainly have concerns where that is being spent unduly. In this case, as I understand the agreement, the cost would not be nearly as astronomical, for example, as we've heard the possibility where this would go to the Supreme Court and the horrendous costs that would be incurred if all the statutes had to be translated, etc., etc., and I think that's been referred to numerous times during the course of today. Therefore, I consider that the costs are really rather minimal in terms of the proposal, as I presently understand it, and the agreement between the Manitoba Government and the SFM, so therefore I would heartily endorse this particular agreement.

**MR. CHAIRMAN:** Mr. Doern.

**MR. R. DOERN:** You said earlier - I don't know if this is your wording or mine - something about to the effect of feeling threatened, or perhaps that's how I construed what you said. If the French language or French Language Services are not entrenched in the Constitution, are you seriously suggesting that the Mennonite community and the German language group will be threatened or will feel threatened in Manitoba and in Canada; will feel that any day now the government will come and close down all the programs? Is this a real concern or is this just a rhetorical device?

**MR. K. REDDIG:** I don't know that I used that particular wording. If I did, perhaps I've been misunderstood.

**MR. R. DOERN:** Then let me say that it's my wording and not yours. Do you feel threatened? Do you feel,

because you express that concern, that if the French go, then we go too? I am saying that, to me, shows a feeling of being threatened, a concern, maybe a paranoia. Do you feel threatened? Would you be threatened unless this was entrenched in the Constitution? Could you then sleep at night; and unless it was done, could you not sleep at night?

**MR. K. REDDIG:** I can only sleep at night. I never have had such problems. Therefore, I think the words - threatening - paranoia - are really the wrong words to use here. I would say simply that we have benefited. We feel that we, as Mennonites, a German - I would say - religious ethnic group, have benefited because of the French community and their stance in trying to obtain language rights. We as Mennonites have definitely benefited from that, at least as far as I read Manitoba as well as Canadian history.

Therefore, I would say that I want to support this particular agreement simply because I think it also ensures that down the road my particular ethnic group, Mennonites, the German community - and I would say I would support for all other communities, be they Polish, whatever - that these rights will also be ensured down the road.

**MR. R. DOERN:** My final question, Mr. Chairman, is this, doesn't the case for the extension of the German language, or the use of the German language or the studying of German or the studying of German in our schools, doesn't that case stand on its own feet? I mean, can't that case be made on its own merits? Is it necessary to go to the other communities and ask for their support?

Is this a case of all for one and one for all, or can't the German community and the Mennonite community simply make their own case on their own, make their own points without going to other groups and asking for their support - we'll support you if you support us or unless this happens, this won't happen - can't the case be made on its own merits? Won't it stand alone?

**MR. K. REDDIG:** I would say, as I think Ms. Shack indicated earlier, the previous speaker, that when one does not work towards a particular end and does not put any effort towards that end, one does stagnate. I think it's the same in business, what have you. You continually work towards a particular end that you are interested in and however that may be you continue to plug away at it. In this case, we think that it's very logical for us, as a minority interested in German language rights, also very interested in French language rights - I want that to be clear; we're not just self-seeking and self-serving here - and other minority rights, that we have to work together. We have to continue plugging away at it. We can't just let it ride and say, okay, now we've got it; therefore, we don't have to do anything anymore.

**MR. R. DOERN:** Thank you, Mr. Chairman.

**MR. CHAIRMAN:** Mr. Penner.

**HON. R. PENNER:** Mr. Reddig, you have developed, in the course of your presentation and in answering

questions, several linkages between other minority languages and the French minority language, one of which was based on, in fact, a feeling of community, which incidentally I may say I don't find to be a very bad thing at all.

On Page 2 of your brief, another linkage which you draw is based on - you give the example of events in 1916, and you talk about the withdrawal of rights for the Mennonites "due largely to the presence of a French community" - of some reference to wartime hysteria. The French, I believe, were allies of Canada in the First World War, were they not?

**MR. K. REDDIG:** Yes.

**HON. R. PENNER:** So the notion that the French minority language rights were done away with, if I may use that term, because of wartime hysteria, doesn't seem to bear close analysis.

**MR. K. REDDIG:** I think what we're referring to there is what happened specifically to some of the Mennonite communities at that time, and I don't know if I should digress into a long historical tirade here, but some of you are aware of the fact that a large out-migration of the population of southern Manitoba, particularly known as Old Colony Mennonites, left Manitoba, moved to Latin America, Mexico, Brazil and other places; and just as an aside, always kept their Canadian citizenship, and within the last 12-15 years have been moving back to southern Manitoba again.

They, because of the fact that they could not at that time hold their schools entirely in German, therefore pulled up roots and in 1922 on, for the next few years, moved to South America. I trust I am generally answering what your question is, Mr. Penner.

**HON. R. PENNER:** Yes, my point is that you've drawn a link between the withdrawal of rights to the French community and at the same time, the withdrawal of rights to the Mennonite community.

Do you draw a link between what happened to the French community in 1916 and the fact that in 1890, their constitutional rights were abrogated by an illegal act of the Legislature?

**MR. K. REDDIG:** Yes, but we do not refer to that in this brief; but we're cognizant of that, yes.

**HON. R. PENNER:** My final question, Mr. Reddig, is this; that in the past 20-25 years, particularly, but perhaps more likely 20 or 15 years, there has been a very strong movement with respect to women's rights and every human rights legislation in the country, federal and provincial, deals with the question of discrimination on account of sex, and the equality rights section of the Charter does likewise. My belief that the

enforcement of these provisions exceeds, through the various Human Rights commissions, \$150 million a year; do you think that that's too costly, that we ought to give up paying that money just to defend women's rights?

**MR. K. REDDIG:** I'm not familiar with that enough to assess precisely what the program is, I'm not sure of all of the ramifications of it, I'm just simply aware of it. I would say, however, that we, as Mennonites, have had a stance of what we term biblical non-resistance which is also known as passivism to some, which is basically, in a very layman's way of stating it, a position where we defend the rights of the minority and we feel, in solidarity - if I may use that term - with the minority and wish to promote the rights and make sure, as far as we are able, that people who are in a minority do have the rights which we believe they deserve.

**HON. R. PENNER:** I take it from your answer then that you do this as a matter of conscience and moral value and you do not put a price tag on those rights which ought to be defended.

**MR. K. REDDIG:** I don't think one can ever put a price tag on conscience or moral values, yes.

**HON. R. PENNER:** Thank you.

**MR. CHAIRMAN:** Mr. Brown.

**MR. A. BROWN:** Thank you, Mr. Chairman.

**MR. CHAIRMAN:** Sorry, Mr. Brown, I wasn't watching my watch. We have reached the hour of adjournment. Mr. Reddig, are you available to return this evening at 7:30?

**MR. K. REDDIG:** Yes, I would be.

**MR. CHAIRMAN:** Mr. Reddig, Mr. Brown will be the first up to ask questions at 7:30.

The hour being 5 o'clock, committee is adjourned and stands adjourned till 7:30 this evening.

**MR. R. TALLIN:** Would it be satisfactory to make the French version amendments . . .

**MS. M. PHILLIPS:** Just a minute, he's asking a question.

**MR. R. TALLIN:** Is it agreeable to the committee to make the French version amendments as shown on the sheets?

**MR. CHAIRMAN:** Agreed? (Agreed)  
Committee rise.