



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

STANDING COMMITTEE
on
PRIVILEGES
and
ELECTIONS

31-32 Elizabeth II

Chairman
Mr. A. Anstett
Constituency of Springfield



MG-8048

VOL. XXXI No. 48 - 10:00 a.m., FRIDAY, 30 SEPTEMBER, 1983.

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Second Legislature

Members, Constituencies and Political Affiliation

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

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PRIVILEGES AND ELECTIONS

Friday, 30 September, 1983

TIME — 10:00 a.m.

Proceed.

LOCATION — Winnipeg

CHAIRMAN — Mr. Andy Anstett (Springfield)

ATTENDANCE — QUORUM - 6

Members of the Committee present:

Hon. Ms. Dolin and Hon. Mr. Penner

Messrs. Anstett, Brown, Mrs. Dodick, Messrs. Eyler, Enns, Graham, Lecuyer, Malinowski, and Nordman.

WITNESSES: Dr. William F. Shaw, on behalf of some interested groups in the Province of Quebec.

MATTERS UNDER DISCUSSION:

Proposed resolution to amend Section 23 of The Manitoba Act.

* * * *

MR. CHAIRMAN: Order please. We have a quorum, ladies and gentlemen.

The first item of business, the Clerk has received the resignations of Messrs. Fox, Adam, Bucklaschuk and Lyon and Ms. Phillips. Replacements, as I understand, are Messrs. Eyler, Penner, Enns, Mrs. Dodick and Ms. Dolin. Is that agreed? Can I have a motion to that effect? — (Interjection) — Thank you, Mr. Malinowski. Agreed and so ordered.

I would like to ask the co-operation of the media in making the public aware of the extension of the hearings that was agreed to yesterday to next Monday and Tuesday, so the public is aware that they have been extended. The Clerk's Office will be advising everyone on the list that the additional dates are available. They have been phoning people to let them know what's happening in terms of the committee's progress.

In addition, anyone who wishes to follow along any presentations that are provided in French this morning, for those who are not familiar with the French language, radio receivers, such as those that members have, are available from the technician behind the simultaneous translation booth. Please feel free to sign out one of those receivers if you want one.

The committee agreed on Wednesday to hear Dr. William F. Shaw this morning, so rather than continue with the list where we left off yesterday, the first item of business then is to call on Dr. Shaw.

Dr. Shaw, please.

DR. W. SHAW: Thank you very much, Mr. Chairman. Ladies and gentlemen . . .

MR. CHAIRMAN: Could you wait one moment please, while the briefs are distributed?

DR. W. SHAW: It's interesting, Mr. Chairman, that when Bill 101 was being studied and we had a parliamentary commission in Quebec, I was sitting on that side listening to people who were presenting briefs. I assure you, the example being set by Manitoba and the clear investigation of the issues in this thing is exemplary.

In an attempt to explain who I am and why I am appearing before this committee, I would like to give you some of my background in the question of language rights. My name is Dr. William F. Shaw, and I am a dental surgeon practising in Pointe Claire, a suburb of Montreal in Quebec.

I was the immediate past member of the National Assembly for the provincial constituency of Pointe Claire serving from 1976 to 1981. I am the Vice-President of The Freedom of Choice Movement, which has been lobbying for English language rights in Quebec since 1978, and who have been financing and promoting their various court challenges of The Charter of the French Language, Bill 101. The court challenges that we have been involved with are the Allan Singer case, involving the language of signs, and the traffic ticket challenges, including the MacDonald case, which will soon be heard, after much difficulty, before the Supreme Court of Canada.

I am also the Vice-President of the West Island Citizens' Association, which has been acting to inform Quebecers of the provincial government's intrusion into the constitutionally guaranteed rights of school boards and trustees. We are particularly concerned with the Levesque Government's Bill 40, which will abolish our school boards in the Province of Quebec.

I am also the co-author of the book, *Partition: the Price of Quebec's Independence* with Mr. Lionel Albert, with a Forward written by Senator Eugene Forsey. The book deals with the myth of separation and how Canadians have been threatened with the break-up of Canada. Our thesis is that if Quebec were to elect to separate, it would only occur after negotiations which would lead to the partition of Quebec with more than two-thirds remaining part of Canada.

The purpose of this presentation to this committee is to address the situation in Quebec and Canada, as we see it, and to try to make you aware of how we feel that any action that you would take would reflect on our community and on language rights in Canada as a whole.

You have already heard from a representative of Alliance Québec on this subject. We are in serious fundamental disagreement with Alliance Québec on this and on many other issues, and we feel that to allow the representation of Alliance Québec to be interpreted as the consensus of the Quebec non-Francophone community would be improper. In fact, we feel that we more closely represent the consensus of the general opinion of the non-Francophone community in our province, in spite of the fact that we receive no funding from the Office of the Secretary of State.

Some examples of our differences of opinion are:

1. We insist that the English language is an official language in Quebec, English being an official language of Canada, and Quebec being a province of this nation. Alliance Québec treats this thesis as unobtainable, as both the Parti Québécois and the Quebec Liberal Party have legislatively proclaimed French as the only official language in Quebec.

2. We insist that in Canada as a free nation the language of signs is the prerogative of the citizen. Government may act to choose to restrict signing to either of Canada's official languages, but most certainly the private sector should have the right to use any language they choose in their signs. The position of Alliance Québec is that the Quebec Legislature has the right to legislate the language of signs. They insist only that English may also be used in areas of Quebec which are predominately English speaking.

3. We believe that there must be freedom of choice in the language of work, including the use of languages other than English or French. Alliance Québec accepts the right of the Government of Quebec and of Canada to legislate the language of work.

4. We believe that parents have the right to choose the language of public instruction, either English or French for their children. Alliance Quebec accepts the right of the Government of Quebec to restrict this right, insisting that English speakers who were educated in English in one of Canada's provinces, have the right to opt for English language education in Quebec or the Canada clause and that's all. It accepts the government's right to prevent French-Canadians from opting for an English language in Quebec. We believe that every Canadian, including French Canadians, should enjoy that freedom of choice.

There are many other areas where we sharply disagree with Alliance Québec, and we therefore felt that it was imperative that this committee hear our view as well so that the representation of Mr. Eric Maldoff of Alliance Québec is not perceived as a reality.

Mr. Maldoff told this committee on Tuesday, September 6th, 1983, that: "We have felt compelled to present a submission to this committee in order to correct any misunderstandings concerning the English-speaking community in Quebec. Despite the pressure on our community exerted by our current government, we continue to receive more basic services in our language, including universities, school boards, hospitals and social services than do our counterparts in Manitoba."

This is a cliché being expounded by Alliance and the Federal Liberals. The President of the Liberal Party of Canada, Ms. Iona Campagnola, told a talk-show caller in Montreal that she shouldn't complain about Law 101 as everyone knew that Quebec's Anglophones had it much better than Francophones did in the rest of Canada. Imagine having known the tragic exodus of 400,000 Quebecers, because we're Canadians, including 40 percent of Anglophones between the age of 18 and 35 because of language legislation, and we have no right to complain. What a tragic misrepresentation of the truth!

Let us transpose Law 101 to Canada and examine how Manitoba Francophones, and indeed all Canadian Francophones, would be treated if the word "English" were exchanged for "French." Understand too, that

Quebec's Anglophones are as numerous as all the Francophones in the rest of Canada and had established their own education, health and social services in a very comprehensive way before provincial governments became involved in those services.

Canada, under this scenario, including Manitoba, would proclaim English as the only official language. It would establish a Surveillance Commission to ensure that there was compliance with the powers of public enquirers, not subject to civil or criminal pursuit in cases of excesses in their actions. Imagine these enquirers going to the City of St. Boniface or Cornwall in Ontario or Moncton in New Brunswick as Quebec's language police went to Greenfield Park in Quebec. I attached a press clipping at the end of this to show effectively what happened. The language police would say, take down your parking signs (Parking, by the way, happens to be a French word, but it's not acceptable to the Office de la Langue Française), no bilingual tax bills, no bilingual municipal stationery. Get your anglicization certifications would be their demands. Some brave mayors, like Steve Olynyk of Greenfield Park, would resist, but most would comply for fear of having their government grants withdrawn.

Imagine the small businesses, the Kosher Butcher, the small stationer, the Greek Restaurant or the Chinese Restaurant. The language police would be there to tell them that signs had to be in English only. Otherwise, they would be taken down by the police and the owner fined. This is necessary to preserve the Canadian identity.

Imagine the small local hospitals and social services, such as homes for the elderly and the handicapped. Francophones helping francophones, but the language police would be testing the professionals for their ability to speak English, asking questions totally removed from the jargon of their service. More than 50 percent would fail to demonstrate enough skill to pass, in spite of demonstrating successfully that they had served their English-speaking patients.

Imagine a service, an essential service like an intensive care unit, being condemned after a long and insulting enquiry, including litigation, because an English citizen complained that her mother wasn't allowed to die in English, because the professionals were talking to each other in French.

Imagine a company working in French, providing goods and services in the French language to a French language market, often mostly for export, being told that they must work in English, and that the committee of English-speaking workers would be established to ensure that this decree was carried out. The company would even be restricted from sending bilingual advertising to its customers.

We could go on and on with reams of examples, like the legal students and so many other things, but the most important aspect of this legislation is its social and psychological effect. It deliberately and vindictively denies the existence and legitimacy of an entire community. We are made to exist as second-class citizens by legislation that cannot be described as anything but legislated discrimination. It denies our existence, our contribution and attacks our basic freedoms. No French-Canadian in this country is subjected to this kind of legislated invasion of their rights. It is humiliating and denigrating, and every

Canadian should be deeply ashamed that such a statute exists in the provincial legislation of a supposedly enlightened, civilized western democracy.

Mr. Maldoff also said: "... the provision of English services has certainly not led to any loss of job opportunities or upward mobility for Francophones within the Quebec Civil Service."

This is an incredible remark. During the Bourassa régime in 1975, non-Francophones represented less than 1 percent of the Quebec Civil Service, and this percentage has declined since then. The language in the Quebec Civil Service is French. Even civil servants in the Ministry of Education responsible for Protestant education are Francophones, some of whom have a meager knowledge of English.

We conducted a survey of the Federal Civil Service in Quebec, and found that there, too, non-Francophones represented 5 percent or less of the personnel, and that percentage is also shrinking, in spite of a growth in participation of Francophones throughout the Civil Service in the rest of Canada. We broached this subject with Mr. Max Yalden of the Office of the Commissioner of Official Languages. To him the intention was hyper-representation of the minority. He acknowledged the lack of this approach in the Civil Service in Quebec, stating his intention to take action in this regard. Since then however, the percentage of non-Francophones in the Federal Civil Service in Quebec has fallen.

It is a mistake to blame the language excesses in Quebec on the Parti Québécois Government. The discrimination in hiring in the Quebec Civil Service and Crown corporations occurred long before 1976, and Robert Bourassa's Bill 22 was only slightly milder than Bill 101.

The real villain is the Federal Government. They have been working effectively here and in New Brunswick and Ontario, lobbying and financing lobby groups to press for French language rights in these provinces and in all the provinces of Canada. But in Quebec the reverse has been the case. In October 1977, the Prime Minister suppressed an Official Report from the Federal Department of Justice showing Bill 101 to be unconstitutional. Actually we have - if I can take an aside at this time - we have approached the government, through The Access To Information Act, to attempt to get this report, only to be told that it's being classified now as a Privy Council document not accessible by the new Access to Information Act.

They funded La Société Franco-Manitobaine and Les Francophones hors du Québec. They have also funded Alliance Québec. During the past 10 years, the Federal Government has provided in excess of \$70 million to support these lobby and pressure groups fighting for the expansion of French language rights across Canada. It has provided \$3 million to Anglophone lobby groups in Quebec, basically to Alliance Québec and its predecessor, the Council of Quebec Minorities, both of which were presided over by Mr. Eric Maldoff. Other language groups have asked for financial assistance and for the most part, without success.

Yes, the Federal Government has made a major effort for the promotion of French language rights in Canada, a just and honourable goal. However, during the debate on the new Constitution and the Charter of Rights, the Government of Canada bought full page ads in French language newspapers in Quebec assuring French

Canadians that nothing in the legislation would weaken Bill 101. And I have attached at the end of your copies, a copy of one of these ads that was in La Presse. If you'll notice under linguistic rights, if you can have them translated, they have assured the people of Quebec that Bill 101 would be protected and the statute of the French language as its official language in Quebec protected.

If you examine our famous new Charter of Rights and Freedoms, you will note the clear definition of French language rights in New Brunswick and in the jurisdictions of the Government of Canada. You will see conspicuously absent any reference to English language rights in Quebec. Section 59 of the new charter even exempts Quebec from complying to certain sections related to language. The reciprocative rights envisaged by the Fathers of Confederation, having the rights enjoyed by Francophones in the general government being the same as those enjoyed by Anglophones in the local government in Quebec were carefully ignored.

The Fathers of Confederation were very concerned to avoid the problems we are now facing as a nation when they met in Charlottetown and in Quebec to negotiate the principles that were used in drafting the new British North America Act in Westminster in December, 1866.

The initial discussions took place while our neighbours to the south, the United States, were winding up their bloody Civil War. In his opening remarks at Charlottetown, Sir John A. MacDonald stressed the need to establish a strong central government overseeing the activities of the regional governments to avoid the mistakes that led to the American Civil War. Indeed, the most pressing reason for the Westminster government to establish a centrally governed British North America was to prevent American post war expansion. Certainly there was never provision made for the unilateral separation of a province. Quebec has no more right to separate, with the territorial claims associated with it, than does the Dene nation of the Northwest Territories, indeed even less. The subtle promotion of the threat of Quebec separation has been promoted by the Federal Government to increase their leverage.

The Fathers of Confederation also gave careful consideration to the granting to the French language an official status in Quebec and in the general government. It is clear that these rights were given with the clear understanding that if they were abused, the Federal Government would act to correct this abuse. As an example of this intent, here are some excerpts from the pre-Confederation debates. I quote, Sir Narcisse F. Belleau, Address to the House of Canada West, on February 14, 1865:

"The Honourable Member for Wellington, Mr. Sandborn laid great stress on the danger which might be incurred by the Protestant minority in the local Legislature of Lower Canada. He fears that they may not be sufficiently protected by the Catholic majority in respect to their religion, their schools and possibly their property.

"I heard this remark with pain; but I can tell him that the Protestant minority have nothing to fear from the Catholic majority of that province. Their religion is guaranteed by treaty and their schools and the rights which may be connected to them are to be settled by

legislation to take place hereafter, and when that legislation is laid before the Houses, these members, who so greatly tremble now for the rights of the Protestant minority, will have the opportunity of protecting that minority. They may urge their reasons and insist that the Protestants shall not be placed in a position of the slightest danger.

"Even granting that the Protestants were wronged by the local Legislature of Lower Canada, could they not avail themselves of the protection of the Federal Legislature? And would not the Federal Government exercise strict surveillance over the action of the local Legislature in these matters?"

In these debates and I quote Sir Etienne B. Taché: "But there may be a portion of the inhabitants of Lower Canada who at first glance might have a reason to complain, greater than the French Roman Catholics; these were the English Protestants, and why? Because they were in a minority but I think if they took the trouble to consider the subject, they would be satisfied and reassured with the scheme.

"Much has been said of the War of Races, but that was extinguished on the day the British Government, by which all its inhabitants without distraction of race or creed were placed on a footing of equality. The War of the Races found its grave in the resolutions of the 3rd of September 1841. We are so situated that there must be mutual forbearance."

And I get back again to this reference.

"I believe that French-Canadians would do all in their power to render justice to their fellowsubjects of English origin and should it be forgotten that if the French Canadians were in a majority in Lower Canada, the English would be a majority in the general government and that no act of real injustice could take place even if there was a disposition to perpetuate it, without it being reversed there."

The Federal Government is morally and constitutionally mandated to apply the Constitution in Canada. It had the powers and the means to intervene when language legislation was first introduced in Quebec. They chose not to act. We suggest that this was a deliberate omission allowing for the abuse of English language rights to lever for greater French language rights in Canada. This is to us the shame of today's Canada. The government is knowingly allowing heinous legislation to remain as a statute of a Canadian province in order to blackmail the rest of Canada into extending more French language rights to Francophone minorities in the rest of Canada.

Mr. Maldoff and Alliance Québec have asked you to proceed unilaterally as "an unequivocal commitment to justice and respect." We suggest that any action taken without reciprocal action taken in Quebec and by the Federal Government would be being in complicity to this blackmail.

Mr. Maldoff, Alliance Québec and the Federal Government warn of dire consequences if you don't proceed with the resolution. "The Canadian Federation would be seriously damaged and the Quebec Government's independence option strengthened as a consequence," says Mr. Maldoff. Mr. Gerald Godin, a Minister in the Levesque Cabinet responsible for the Minorities, on a talk show in Montreal, suggested, "We might have to squeeze the Anglos a little more." Ladies and gentlemen, this is blackmail.

Having said this, I would like to get to the purpose and reasoning for my appearance before this commission. I will begin in the French language as it is vital that my intervention not be misinterpreted.

Clairement, M. le président, les droits linguistiques existent présentement au Manitoba. La décision de la Cour suprême dans la cause Forest a proclamé que la section 23 doit être respectée.

Néanmoins, la décision de la Cour d'appel du Manitoba dans la cause Bilodeau a déclaré que la décision de la Cour suprême était directive et non pas obligatoire. Nous voulons que la cause Bilodeau soit délibérée par la Cour suprême car nous croyons que notre Constitution est obligatoire.

C'est aussi clair que la section 133 est encore obligatoire dans la province du Québec. Le gouvernement du Canada a donné dans la nouvelle constitution, les droits aux francophones au niveau fédéral et dans la province du Nouveau-Brunswick, mais les droits des anglophones du Québec n'ont pas été traités.

Si vous introduisez une résolution sur les droits linguistiques au Manitoba, cela établira le précédent que l'initiative appartient aux provinces. En effet, vous allez donner de la crédibilité à la loi 101 et au droit d'une province d'agir dans le domaine des droits linguistiques.

Vous avez besoin d'accepter le danger que cette forme d'intervention par une loi provinciale peut ainsi être effectué au Manitoba, même avec les garantis constitutionnels, tel que nous l'avons vécu au Québec. Si nous voulons établir au Canada des vrais garantis linguistiques, il faut qu'ils soient appliqués de la même façon partout: aussi bien au Manitoba qu'au Québec. C'est donc la responsabilité du gouvernement fédéral et de la Cour suprême d'établir les exigences des droits linguistiques tels que définis dans la Constitution.

Par leurs actions c'est clair que le gouvernement fédéral ne veut pas intervenir au Québec, mais il est en même temps très actif en pomouvant les initiatives provinciales. C'est difficile pour les Manitobains d'accepter l'extension des droits linguistiques au Manitoba tant que la Loi 101 existe au Québec.

La bonne voie serait de procéder avec la cause Bilodeau et de faire agir la Cour suprême et le gouvernement du Canada. De cette manière, les droits linguistiques des Canadiens seront clairement établis, et les garantis des Manitobains seront valorisés. Autrement, vous allez voir la détermination des droits linguistiques par les caprices des corps législatifs provinciaux et le Canada continuera vers une politique de deux pays.

Mr. Chairman, a Montreal weekly in a headline suggested that I want Manitoba to drop French language rights. Nothing could be further from the truth. French language rights exist in Manitoba. The Forest decision proclaimed this clearly, vindicating Section 23 of The Manitoba Act and declaring The Manitoba Languages Act of 1890 ultra vires and inoperative.

What I'm saying is that the province should not proceed via resolution under Section 43 of the new Canada Act. This will not protect the French language rights in Manitoba, but it will act to legitimize Bill 101 in Quebec. The critical question in Bilodeau is not the legitimacy of language passed in the English language only, it is whether the Forest decision is directory or mandatory.

If the Supreme Court rules that it is mandatory, and if we have a constitution, I cannot see how it could rule otherwise. It will confirm French language rights in Manitoba, but it will also allow our court challenges to proceed and have their decision mandatory in Quebec.

If, on the other hand, you proceed to initiate legislation concerning language rights, you will confirm the precedent that Quebec has set in introducing Bill 101, that the province has the right to determine language rights in spite of constitutional guarantees.

This will please the Federal Government, as it would then be able to keep its promise not to interfere with Bill 101 in Quebec.

I understand their concern in this area as French Canadians have been propagandized into believing that Law 101 is vital to their survival. If the Government of Canada had spent the millions they have on promoting French language rights on demonstrating to Franco-Quebecers that the language law is a vicious negative piece of legislation that hasn't enhanced the French language and culture, but has isolated and alienated it at a great social and economic expense, not only in Quebec but in all of Canada, the declaring of Law 101 ultra vires would be inconsequential.

I know that this cannot be done overnight, but I suggest that this Provincial Legislature could start the process in motion.

If this government decided that the resolution were to be suspended pending the result of Bilodeau and other cases concerning language rights presently before the Supreme Court, it would be of extreme value.

It would allow the clarification of these language rights to be determined. These would obviously be more equitable as the application would have the constraint of acceptability by the Provincial Legislatures including Quebec.

It would also demonstrate whether or not these rights were mandatory on the Provincial Legislatures or simply directory as was determined by the Manitoba Court of Appeals.

It would move the Federal Government into pressing for more negotiation with the provinces for a more consistent national language policy; a policy that is not only just and fair, but practical and achievable.

You would be putting the onus on French Canada to accept that they too have concessions to make to the end of some language peace and harmony in our nation.

The alternative is proceeding unilaterally in language rights. Manitobans are justly incensed that your government is making concessions while Quebec has Law 101. The Quebec Government will proclaim that Manitoba is only doing what Quebec already does - and you'll have Eric Malloff to confirm it - and Manitoba accepts Quebec's right to decide her language policy. Canada will continue to move towards a more unilingual Quebec in a more bilingual Canada and the double standard will certainly create increasing tensions.

We in Quebec will have to continue our fight for language rights, but with the handicap of a precedent that weakens our constitutional position. A recent study shows that Anglophone enrolment in Quebec schools will drop by 45 percent in the next five years. This is a serious symptom of the damage to our community. Quebec is being de-anglicized and the more this happens, the more likely the weakening of the nature of our nation.

We know that the intentions of this government are noble and positive. My hope is that the goals can be achieved more effectively and with more lasting value for all of Canada if the nation as a whole participates in their achievement.

Canada's language problem can be resolved with good faith, understanding and justice. Our Federal Government has allowed language to be divisive and promoted the environment of abuse and confrontation. It must be held as much to blame for Bill 101 as it is for the backlash against two official languages here in Manitoba and elsewhere in Canada.

I ask you to take a positive step. Tell Mr. Trudeau to refer Bilodeau immediately to the Supreme Court, affirming that Manitoba will abide by its decision. But tell him too, that he should refer Bill 101 to the Supreme Court as well. It is time for the double standard to end.

MR. CHAIRMAN: Thank you, Dr. Shaw. Questions for Dr. Shaw? Mr. Penner.

HON. R. PENNER: Dr. Shaw, thank you for a very interesting brief, in some ways a novel approach to a difficult problem. I'd like, in the main, to discuss that approach with you, or at least to have it clarified. Are you aware, incidentally, that Section 23 of The Manitoba Act replicates Section 133 of The Constitution Act 1867?

DR. W. SHAW: Very much sir.

HON. R. PENNER: Is it not the case, incidentally that because Section 133 of The Constitution Act 1867 provides certain language guarantees for Canada and Quebec that some of the provisions of Bill 101 have already been declared unconstitutional?

DR. W. SHAW: It is true that in the Blaikie decision, the section involving the courts and the Legislature was declared ultra vires and inoperative, and as a matter at the lower courts, sir, they actually suggested the whole bill was unconstitutional, but the Supreme Court rendered a very narrow decision. It's unfortunate that when these narrow decisions are rendered, we have to go back to the courts to get further clarification of what is happening and in Blaikie they did go back and get a second decision that expanded it very very slightly.

But if the narrow interpretation of Section 133 is going to be applied, then obviously Franco-Manitobans will suffer from the same kind of constraint, regardless of how you introduce a resolution into the new Constitution.

I'm suggesting that yes, there are language rights that are vested in Section 133 and reproduced in 23 of The Manitoba Act and they should be looked at very seriously by the Supreme Court, so that we can have an open and positive and wide version of what the interpretation should be. I'll give you a specific example. In our initial traffic ticket case, which happened to be called the Walsh case, there was a decision brought down by Judge Hugessen in the Superior Court of Quebec, and that decision said that the Crown also was a person. Now how this reflects - and I understand you had a previous constitutional expert by the name of Stephen Scott here - and I think it was Stephen Scott in his report to the Gendreau Commission that

first introduced this concept that the Crown is also a person. Now how that affects the narrowness of Section 133 is this. It says that in the Crown being a person, and if the Crown elects to use the French language, because it says either the English or the French language may be used by any person, it means that the Government of Quebec can use only French, or you can go into a court before a judge and the judge will talk to you in French, and your only rights before that court would then be that you, as a person, could use your choice of language. Now that, sir, is an example of very narrow interpretation of Section 133.

Now if we want to really vindicate language rights, it's not enough just to say we're going to make English and French official languages. We have to say, what does that mean and it is the Supreme Court's role to function in this way, and that's why I say it is very important that the decision in Forest go to the Supreme Court and be confirmed via the Bilodeau as being either directory or mandatory. I'm absolutely convinced that, if we have a Constitution, it has to be deemed as being mandatory. Have I answered your question, sir?

HON. R. PENNER: In part, but we'll continue to see if I can get further clarification. In your view, you have said that the Supreme Court has given narrow interpretations to you, you would hope for wider interpretations. By that, do you mean that it is your reading of Section 133, and it follows Section 23 of The Manitoba Act, that in fact it is wide enough in its present terms to invalidate these draconian provisions in 101 that relate to the language of commerce and signs and things of that kind?

DR. W. SHAW: Most definitely.

HON. R. PENNER: But the Supreme Court has not ruled that way.

DR. W. SHAW: Because it hasn't had an opportunity, because these cases haven't even been passed to the Superior Court. The Quebec Home and School Association has had a case on the rolls for five-and-a-half years.

HON. R. PENNER: I don't understand that answer, because you did tell me that, in Blaikie, the Supreme Court chose to give a narrow ruling.

DR. W. SHAW: Now I would like to speak to that because, in Blaikie, there was the inside route right to the Supreme Court. In Forest, it was pretty darn quick. In Bilodeau, there hasn't been much trouble, but in any other cases that I know, being sort of the prime mover in all the traffic ticket cases in Quebec, and we had to go through nine traffic ticket cases before we could get one that will be even listened to in the Supreme Court, and without any help whatsoever from the courts of the Province of Quebec, we had to go by a special provision of The Supreme Court Act to get that case heard.

HON. R. PENNER: That's the MacDonald case.

DR. W. SHAW: That's right. Now when you see two kinds, this is another example of the double standard,

the double standard in the access of the court system, the double standard in the funding. The Secretary of State has funded Forest, has funded Bilodeau, it's funding Merecure(phonetic) There is Levesque's case in Alberta. Finally, it is funding MacDonald, but only at the level of the Supreme Court.

I noticed reading, because I've been following the Bilodeau case, it was federal lawyers from the Ministry of Justice who were doing the principal interventions in Bilodeau before the Manitoba Court of Appeals. Well that set the example, Sir, of that double standard.

HON. R. PENNER: I'm trying at the moment just to discuss the legal implications, because they are tremendously important since you come here and suggested to us that we should just go by the Supreme Court route. I just want to be clear on what you understand may happen, so that we can be beneficiaries of your judgment on that.

You have said that the Supreme Court, in considering the implications and effect of 133 and 23, have taken a narrow view. Let me just for a moment put this question to you. If it has been the case, and I would agree with you that the Supreme Court here, as elsewhere, has taken the road of narrow or strict interpretation, then another route which might be considered - you would agree, would you not? - would be constitutional amendment to make clear that there is a wider protection for language rights in either 133 or Section 23.

DR. W. SHAW: Now I would like to try to explain to you why that is just the opposite of the truth. For example, if 23 exists . . .

HON. R. PENNER: I don't think it's a question of truth, it's a matter of opinion.

DR. W. SHAW: All right, of course. My feeling's have tainted even the truth.

If 23 exists and is vindicated, then the clarifications of what it means is critical to its application. If, on the other hand, you approach the solution to this problem by introducing a resolution using 43 of the new Charter of Rights and Freedoms, you haven't gotten clarification of 23. You have also, again, just written down that in the Province of Manitoba certain English and French languages are official languages, and the interpretation of that can be just as narrow. In other words, you can have that in the Constitution. We have Section 133 in the Constitution as a vested right, clearly, and we have Bill 101. Do you understand the difference?

On the other side of that coin, if you do introduce this resolution, and Rene Levesque is saying, Manitoba's just doing what we have done, they have the right to decide what their language direction is just like we have in Quebec. He is saying that regularly. If you introduce this resolution, what you are doing is confirming that he's right.

HON. R. PENNER: Let me just, along this same line, put one additional question to you so I can be sure what you're saying. You have agreed with me that the Supreme Court has tended to take a very narrow interpretation of constitutional law, particularly in this area. Right?

DR. W. SHAW: That's true, Sir.

HON. R. PENNER: And in doing that in the Blaikie case, they only invalidated part of 101 and they didn't get to the other parts of 101 which are particularly offensive, and I would agree with you that they are. Is that right?

DR. W. SHAW: That's true, Sir.

HON. R. PENNER: So I'm saying to you, if that is what the Supreme Court has done and is likely to do, would it not be an alternative to amend the constitutional language to make it clear, by the political process, that we want these other language rights to be protected?

DR. W. SHAW: As I've tried to say half-a-dozen times, the real key to clarification is to go to the Supreme Court and ask for that clarification. For example . . .

HON. R. PENNER: Knowing that they won't give it to us?

DR. W. SHAW: Then you go again. Every provincial Legislature has a Department of Justice. For example, the reason why Blaikie was asked for a review, an expansion in its parameters, was the Department of Justice of the Province of Quebec said, clarify what you mean.

The mechanism of getting clearer directives from the Supreme Court are within the purview of each of the provincial Legislatures, the mechanics are there. The other side is that every time, as a Legislature, you pass a law or introduce a resolution, it is a number of words on a piece of paper that then become subject to interpretation. You're not achieving any step forward, but the danger in this particular thing is the precedent that, if you introduce this resolution, what you are saying is that Rene Levesque also has a right to introduce Bill 101, and that is what concerns us.

We feel that the Supreme Court, in our traffic ticket challenge, should throw out Bill 101 just like they threw out the Manitoba Languages Act.

HON. R. PENNER: I now move to the second phase of the desire for clarification. It's your view, I take it, that on a wide interpretation of 133 or 23, that it would invalidate those sections of Bill 101 that deal with the language of business and signs and things of that kind.

DR. W. SHAW: Can I give you an example? The Constitution or Section 133 says, "any person." The Province of Quebec has arbitrarily divided persons into natural and moral persons. I don't see this in the Constitution and certainly the Supreme Court should speak to it. If the Supreme Court says that person, the intent of . . . this person was persons, period, and that the splitting between natural and moral persons was not their intent - I believe that's a direction it would take - it would mean that everything that involves language, concerning the language of signs, concerning the fact that French is the official language of Quebec, Article 1, Title 1, would be thrown out. If we could just take Article 1, Title 1, and say that French and English are the official languages of Quebec, then throughout

the bill, wherever it says the official language, would just completely emasculate the bills.

HON. R. PENNER: Following this point a bit further, Section 133 and Section 23 is very specific in terms of how it applies language guarantees. If it applies it to the Houses of the Legislature, the records and journals of those Houses, pleading process in the courts and acts, how, in your view, does either 133 or 23 apply to private language of commerce in signs and so on? That's what I can't just follow.

DR. W. SHAW: Well, let's take the two parts. In other words, the first part being that Section 133 has a commitment to the language of the legislatures and the courts, etc., and the Blaikie decision has made that much more expansive. In fact, it has said that "any quasi-judicial body", I mean it has really expanded, to the effect that there should be a further interpretation and the interpretation was asked of the Supreme Court to deal with whether or not that meant, for example, municipalities, school boards. Did it mean the local administration, for example, of professional associations, and they said, "quasi-judicial means anybody that can make regulations are subject to the requirements in Section 133." Now, all of a sudden, we're expanding language rights immensely if we continue in this direction.

I submit, Sir, how marvelous that would be. All of a sudden we would have a set of rules in Canada that people understood better. You know, it's like in a baseball game when the umpire is the only one that really understands the rules it makes it very difficult for the players. Or, if one team uses one set of rules and the team uses a different set of rules, it's very difficult for people to enjoy the playing of the game. The whole key here is that we have a set of rules, but they need to be expanded upon and clarified so that language rights have a quality, instead of just being pieces of words on pieces of paper.

HON. R. PENNER: Dr. Shaw, I'm in total agreement with you on that, but I still want to know how a Supreme Court interpretation of either 133 or 23 can do that at all, never mind better than a Constitutional amendment when 133 . . .

MR. CHAIRMAN: Order please. I think if the question ended there it would be in order. When you start to say "when," you start to debate.

Dr. Shaw.

HON. S. LYON: Mr. Chairman, I don't think the Attorney-General needs any defence from me, but I think that is rather restrictive. He's putting a very legitimate line of questioning. We all want to hear the answer. The Chair is interfering with that and I say to the disadvantage of the committee, with respect.

DR. W. SHAW: I think that is an important question, Sir. Could you just repeat it so I don't misinterpret it?

HON. R. PENNER: I'd still like to know how, given the very precise wording of 133 and 23, even with the expanded definition that the Supreme Court gave in

Blaikie of the term "courts" to include quasi-judicial tribunals, that would act as a constitutional bulwark against legislation like Bill 101 that says you can only use French language signs.

DR. W. SHAW: If, for example, we establish that English and French are official languages in the Province of Quebec, then that section of Bill 101 that says that signs must be in the official language is modified. I think that the continuation on the right of people to use signs in whichever way they wanted to should be continued in the Charter of Rights. I think there are a tremendous number of legal ways of proceeding.

The difficulty to date, Sir, is that all of these challenges have been done under tremendous cost and duress because individuals have had to take them to court. Ask me about it because, with nine traffic ticket challenges, I can tell you that's a very expensive endeavour and the Singer case on the language of signs. But if, as I suggest, the Province of Manitoba says, yes, we want to know and we'd like Bilodeau to be ruled on; and if you are unhappy with the results, you go back with the Government of Manitoba's resources to the Supreme Court and say, we want more clarification. All of a sudden, you take the onus of fighting for rights off the shoulders of a MacDonald and, for that matter, a Bilodeau or a Forest, and that to me is a positive direction.

HON. R. PENNER: My final question in this series is that, knowing the narrow interpretations the Supreme Court has given so far, you still prefer to go to the Supreme Court and hope that they'll give a wider interpretation, rather than go the route of a constitutional amendment?

DR. W. SHAW: I think, Sir, that you have to give the court the opportunity to rule. The legislator is still there with his potential to act. In other words, I have said here that before you act you delay procedure until you get a ruling. That doesn't remove the right of this Legislature to act in the future if they are unhappy with exactly the parameters that they have received.

HON. R. PENNER: That takes me then to what I think will be my last series of questions, and that is dealing with the Bilodeau case and outcome of the Bilodeau case. You've taken the view that the language of the legislation is mandatory and that's the kind of ruling you are looking for in the Supreme Court, I take it?

DR. W. SHAW: That is correct, Sir.

HON. R. PENNER: Do you know what the precise issue is before the Supreme Court?

DR. W. SHAW: Yes, it is basically whether or not the Forest decision is mandatory or directory, and whether legislation passed in the English language only is, in fact, inoperative and ultra vires. I'm suggesting that those two issues should be addressed, because I'm sure you being in justice, you know that the courts will have to act in a manner which can be complied with. I think that if the Supreme Court were to rule on the requirement of the Province of Manitoba to act in

translation of their bills, they would have to respect the requirements of that demand and allow the necessary time to have this effected. What will happen at the same time though is that there will be a clear clarification, and I mean clear clarification as to what our Constitution means. If we don't get a decision from the Supreme Court on that, that our Constitution in Canada is mandatory, we really have a very weak constitutional system.

HON. R. PENNER: Dr. Shaw, if I may just preface my question by pointing out to you that the exact issue in the Supreme Court in Bilodeau is the validity of two particular statutes: The Summary Conviction Act of the Province of Manitoba and The Highway Traffic Act. What do you think, if you have an opinion on the matter, would be the legal situation in Manitoba if the Supreme Court were to rule that our Summary Conviction Act was invalid?

DR. W. SHAW: I'm absolutely convinced, Sir, that the Supreme Court could not put the Province of Manitoba in a position where it couldn't administrate its traffic and other administrative duties. It may require it to translate that act and it most probably would do so because it's a critical act that should be translated, but it would also have to provide you with the necessary time to do it. So I don't think that the project of having the Supreme Court tomorrow declaring a bill being ultra vires and inoperative which is a fundamental part of the administration of a province. I am rendering an opinion, sir, but I think that the Supreme Court could not act so irresponsibly, it wouldn't.

HON. R. PENNER: So that what you see happening, and that's why you're asking us to go to the Supreme Court, is the Supreme Court will say, you have to translate all of your laws to keep them valid and go ahead and do it?

DR. W. SHAW: Right, and give you the necessary time to effect these translations. That would follow, and that's effectively what this resolution primarily is doing. It's writing down the guidelines as to what parameters that you have. I think that you would get the same deal, if I can use that word, from the Supreme Court, but at the same time you'd also get a ruling about mandatory as opposed to directory.

HON. R. PENNER: You say that we would get the same deal from the Supreme Court. Do you think the Supreme Court could, given its jurisdictional powers, say that there was only 400 out of the 4,500 statutes that we had to translate? Do you think they'd do that?

DR. W. SHAW: No, I think that the Supreme Court would act as all courts do, and make their decision achievable.

HON. R. PENNER: How?

DR. W. SHAW: That, I think, would be the Supreme Court's role to demonstrate.

HON. R. PENNER: I will conclude simply by saying, Dr. Shaw, that I appreciate your brief. You have started

out by a very pessimistic view of the Supreme Court and its narrow rulings, and end up with an optimistic note about the Supreme Court. I'm not sure I could share that optimism.

DR. W. SHAW: Thank you.

HON. S. LYON: Dr. Shaw, may I first, and I know I probably echo the sentiments of the Attorney-General, say that from your performance thus far - I don't know anything about your qualities as a professional dentist - but if you ever want to try a new profession, you're well on your way to becoming a reasonably good lawyer.

The thesis that I found interesting in your brief was that Manitoba should - and if I'm wrong, you can correct me - proceed to court with the Bilodeau case, No. 1; No. 2, that you thought that the Supreme Court would find that Section 23 was mandatory, rather than directory.

DR. W. SHAW: Yes, sir.

HON. S. LYON: But No. 3, you then thought that the Supreme Court would apply not draconian conditions to that mandatory finding, but in effect would treat it as being directory and would give time for the translation of the statutes. Am I right or wrong?

DR. W. SHAW: If you could remove the "treat it as being directory." I think they would provide the necessary time frame to effect the requirements of the mandatory aspect of the decision. I think they would. I think that makes common sense, and this is the key to a Supreme Court decision.

HON. S. LYON: But the basic proposition, as I read it and I haven't reread it for a few weeks, of the judgment of the Manitoba Court of Appeal, as I recall it, put forward by those speaking on behalf of Bilodeau was that all of the laws of Manitoba passed since 1870 were invalid because they had not been translated into French. Right? If that is the basic proposition, how do we get around this?

If the court does find that section was mandatory, and no court heretofore has so found, how would you get around the result that Bilodeau seeks, which is to invalidate all of the laws of Manitoba which is far-fetched, as you indicated, and no reasonable court in my estimation would ever find it? But how would you get around it if the Supreme Court found Section 23 to be mandatory and said, as a result of it's being mandatory, then all of the laws of Manitoba are invalid? Isn't that a pretty dangerous result for everybody?

DR. W. SHAW: I really feel, that the Supreme Court couldn't act in that way, and I think that we are in a civilized Western society. They're going to act in a way that is achievable by the Province of Manitoba, because otherwise the Province of Manitoba would be forced to take remedial action to protect their administrative system.

For example, when the Blaikie decision came down - and I happened to be a member of the Quebec Legislature at that time - we had a problem of validating all the legislation that had been passed since Bill 101.

So an omnibus bill was passed by the provincial Legislature, declaring the English language versions of all the bills that were passed as being legal legislation. In fact, they didn't, because there were too many regulations. It was impossible for them to do that, and all of the translations weren't effected.

Now that didn't mean that they didn't comply with the decision of the Supreme Court. What it meant is that they respected the decision of the Supreme Court, because they knew that every piece of legislation that they had would be in jeopardy before the courts if they didn't take an action.

For example, they were trying at that time to nationalize the asbestos industry in the Province of Quebec, and they had a case before the courts. If they didn't act to legalize their legislation by accepting the Supreme Court decision, well then their case in the attempt to nationalize the asbestos industry would have been set aside. So they had to act not because they wanted to comply, but because they had to comply.

I think the same thing would happen in a Supreme Court decision here. If the attitude of the Manitoba Government was that, yes, we will comply, it doesn't necessarily mean the following day it would have to be complied with. That wouldn't make the administration of these laws illegal and ultra vires.

HON. S. LYON: I drew the impression from your comments, Dr. Shaw, that if you had your druthers, you want first Bilodeau to go to the Supreme Court and you want Mr. Bilodeau's proposition to succeed in part. That is, that Section 23 is mandatory.

DR. W. SHAW: Yes, sir.

HON. S. LYON: That's a very interesting proposition. You want that to happen in order that your case against Bill 101 in Quebec can be buttressed. Is that right?

DR. W. SHAW: No, I think first of all that we do have a set of rules for this country, and it is a Constitution. The Supreme Court has already ruled in a certain way concerning 23. I think that as Canadians respecting our legal system, we should respect the fact that we have as a statute or a part of our Constitution certain requirements under Section 23, and that they are mandatory and imperative on provincial Legislatures.

Now having said that, I think that it is also necessary to move in the direction of getting better clarification of what language rights mean. I don't think we should use the comparison of what the Federal Government has done in its interpretation of The Official Languages Act, because we are going beyond language rights there and we're going into a kind of special status situation. I think that this would help us, as Canadians, resolve some of those problems as well.

For example, I think one of the concerns that Manitobans feel about the extension of French language rights is that they are going to get a photocopy of what's happening in Ottawa, and as a Manitoban right now, very few of them can aspire to a senior position in the Federal Crown corporation or in the Federal Civil Service. They're sort of systematically excluded and I think that has to be corrected in Ottawa as part of the interpretation of The Official Languages Act. But again,

I think we're using the rule book in achieving these ends, rather than taking initiatives which can be misinterpreted and used by another government, to promote its end of confirming its right to do something which I think it has no right to do.

HON. S. LYON: On the question of your motivation - no more than Mr. Penner or anyone else around this table, would I question it or question the nobility of it - but your motivation primarily, as I read from your brief, is to strengthen the case that you are making on behalf of the legitimate group in Quebec for the abolition or the amelioration of Bill 101 in that province because you feel - most would say justifiably - that it is unconstitutional.

DR. W. SHAW: I think, sir, that in proceeding in the direction I am recommending, that our constitutional rights will be preserved, where, as in moving via resolution, our constitutional rights will be impaired.

HON. S. LYON: Have you had the opportunity to read the legal opinions that the government received, which the Attorney-General tabled in the Legislature - oh, some months ago now?

DR. W. SHAW: No, I have not, sir.

HON. S. LYON: Would you be surprised to find out that at least one of the advisors recommended for different reasons, albeit the course of action that you recommending, namely that the case should be allowed to mature, go to the Supreme Court, await the Supreme Court's judgment and then take any legislative action that was necessary to follow through on what the Supreme Court said. Would that come as a surprise to you?

DR. W. SHAW: Well, I'm glad to hear that, sir.

HON. S. LYON: That was only one piece of advice, I hasten to add so that the Attorney-General will . . .

HON. R. PENNER: I'm being very calm.

HON. S. LYON: . . . understand that I'm trying to be fair in the matter.

A MEMBER: For a change.

MR. CHAIRMAN: Order.

HON. S. LYON: You mentioned on a different topic, Dr. Shaw, that you and your group were participating in a number of trial cases in the Province of Quebec on the constitutional theme or on constitutional themes somewhat similar to Bilodeau and Forest in Manitoba. May I ask if those cases are subsidized in any way by the Secretary of State or by the Government of Quebec or by any other government in Canada?

DR. W. SHAW: Well we took nine . . .

HON. S. LYON: I shouldn't say - I correct myself. Governments don't have any money. Subsidized by the

taxpayers of Canada, the taxpayers of Quebec or the taxpayers of any other province in Canada?

DR. W. SHAW: We have had nine traffic ticket challenges, as I tried to describe earlier, and we have finally - through I think the skill of our Attorney, Mr. Walter Rusten (phonetic) - managed to use a section of The Supreme Court Act to have the right of appeal confirmed. At that point, and I'll be very candid about this, we approached the Secretary of State's Office, as we had been approaching almost monthly before for subsidization as these other cases have had, and we approached them and we said clearly, if you don't fund us, we're going to ring all the bells saying here it is, here it is again and we had a commitment from private sources to continue the case anyways. At that time, finally Serge Joyal decided maybe we had a factum that was valuable and maybe it was time to begin to subsidize the case and at that point, only at the Supreme Court level at the request for appeal, did they begin any financing.

HON. S. LYON: The cases that you have before the court, somehow or other I got the impression from what was contained in the brief, that they are in suspension until such time as Bilodeau is dealt with. Is there some (inaudible) . . .

DR. W. SHAW: Well that is the unofficial opinion that we have from the Clerk's Office because they won't give you an official opinion and I don't blame them. An unofficial opinion is that we will be hearing from them after a decision has been made about Bilodeau.

We have another case, for example in the Alan Singer case which is suspension for what reason, I do not know. I suspect that there is good reason, but I'm not especially convinced that it's at reasons to our benefit that they are being delayed but this is not the first time in the Province of Quebec we've dealt with cases involving constitutional rights being delayed by the courts.

HON. S. LYON: You mentioned in the course of your - I think in response to the Attorney-General - that the agreement that is before this committee deals in large part with translation and a time frame for that translation. Do you wish to add anything to the statement? Would you not agree that the agreement deals not only with translation but, if I may say so, more importantly with the intrenchment of French Language Services, not heretofore contemplated in Section 23?

DR. W. SHAW: Or, for that matter, in any of the sections dealing with language rights. I think that language rights and language services are two different things. I think that the language services should be the prerogative of the administrations of the provinces. Obviously there has been action taken in the Province of Manitoba to extend French Language Services as part of recognition of the need to respect French language rights. I think, in order to really have rights, first of all they have to be confirmed and vindicable and that as a result of that the services will be provided. That's an administrative response to a legal obligation and this

again is my opinion, but I think that's the way it should be.

Certainly that's the way it is appreciated by the Federal Government because they have Section 133. They have the new Charter of Rights and Freedoms and they have, as an administrative vehicle, The Official Languages Act. I think that this is the way it should be approached in the Province of Manitoba and you know introducing legislation in the Province of Manitoba, as far as extending French Language Services are concerned, will have no negative effect on our constitutional rights in the Province of Quebec. That would be a very positive step. We could say, now you see they're extending language services via legislation, but if you take a position that is going to entrench something, that, to me, is going to weaken our position because it is suggesting that the initiative is a provincial one in this area.

HON. S. LYON: That's a very interesting point of view that hasn't been expressed in quite that way before the committee, at least in my hearing. You are aware then, Dr. Shaw, are you, that the insertion by the government of French Language Services in the agreement to be entrenched was, as described by them and by others, the quid pro quo or the consideration that motivated Mr. Bilodeau, the Franco-Manitoban Society, and the Government of Canada to conclude the agreement to adjourn the Bilodeau case sine die or perhaps forever. Are you aware of that fact?

DR. W. SHAW: Yes, yes. And I think that's a mistake by Bilodeau. I think it's a mistake by French-Canadians in the Province of Manitoba to not confirm their language rights. I mean, here you are at the verge of having something confirmed in the Constitution by having it stamped as being mandatory, and you fall off and accept the candy at the side which says, we're going to provide some language services as part of a constitutional amendment, etc., etc., but that service is still covered by the jurisprudence which is the Appeals Court of the Province of Manitoba. So in other words, they are really compromising, rather than strengthening their language rights.

HON. S. LYON: Dr. Shaw, if I understood your brief properly, you point out what is a given to those of us who have looked at the Constitution in any detail, a given in Canadian history, that if Manitoba were to proceed with this agreement and to entrench French Language Services in the Constitution, we would be the first province in Canada to have done so.

DR. W. SHAW: I would believe that, sir.

HON. S. LYON: To be fair, aside from New Brunswick, the conditions contained in the new Canada Constitution Act affecting only New Brunswick.

DR. W. SHAW: I think, in effect, even there the definition is a little narrower than the one that you are proposing in the resolution. There again, is services a constitutional guarantee, or is it really an administrative guarantee? I mean, the Legislature has to have some powers to adjust in this area. If the right is there, then the services

have to follow as a product of the right. I would think that what we should be seeking here is confirmation of the right, rather than the vehicle of the service.

HON. S. LYON: So I take it, Dr. Shaw, the policy that was previously being followed with respect to French Language Services by a number of governments, but more particularly in the recent past by our government which announced an extended program of French Language Services in Manitoba, and then initially by the Pawley Government in March of 1982 announcing confirmation of that program and further extension as a matter of government policy, you find no objection to that procedure at all.

DR. W. SHAW: That's very positive, and that's exactly what is happening in the Province of Ontario. I mean, Premier Davis has extended French Language Services to the extent that even Franco-Ontarians are saying that they are the best served French-Canadians in Canada. You know, in the Province of Ontario, you can actually ask for a French language trial. It's the only place in Canada where you can do that, and they make the arrangements for it to occur.

HON. R. PENNER: No, no. You can do it in Manitoba.

DR. W. SHAW: Now you can do it in Manitoba. I'll tell you, you cannot do it in Quebec.

A MEMBER: You mean, in English.

DR. W. SHAW: That's right. You can't ask for it in English in Quebec. It is the discretion of the judge after the Hugeson (phonetic) decision.

HON. S. LYON: You mentioned in the course of your brief - I wanted just to confirm or get some clarification on this - that the backlash that you visualize occurring in Manitoba with respect to the constitutional initiatives of the government have their origins, at least in part, in the experience or in the example that Manitobans have been able to witness from the Trudeau form of bilingualism as applied across Canada since 1969.

DR. W. SHAW: That is so true. I could give a beautiful example of this, sir. I was in Antigonish, Nova Scotia, taking my son to a hockey school, and happened to meet some of the members of the RCMP who were there. Their complaint was that the position of corporal in that detachment was allocated to someone who was Level C bilingual. This is Antigonish, Nova Scotia. There was a resentment there, because these constables would like to get promoted to corporal. They said, this would be very easy for us if we could get an appointment in the Province of Quebec so we could work in the French language for awhile and have an opportunity to improve our French so that we could have an opportunity to take this corporal's exam and be posted as the senior detachment commander in the Town of Antigonish, Nova Scotia.

I asked the Commissioner of Official Languages if he would investigate that, because I felt that why couldn't these people who wanted a transfer into the Province of Quebec be granted such transfers because

that's bilingualism. That's practical bilingualism, giving someone an opportunity to expand their knowledge of a second language, a super idea. The resistance was, well this is a French language territory. So it's not bilingual.

You see, this is the reason why there is resentment in a place like Nova Scotia. There's an equal kind of resentment, because I'm sure there are Manitobans all over the place who have met the same kind of resistance in dealing with either Air Canada or the Canadian National Railways or with CBC or with the federal Civil Service, examples of this kind of negative approach of The Official Languages Act as it deals with them.

I could tell you, because I have files of cases which are just cold-blooded acts of discrimination through the vehicle of The Official Languages Act. So I can understand how this ripple effect is getting through.

On the other side, we, in Quebec, often say that the rest of Canada doesn't give a damn about us. I don't think that is true, but most Canadians feel as if there is not much they can do for us. That, I understand. There's a kind of quiet empathy, but at the same time they feel, in this case, that this is a way to manifest, hey what the hell's going on here? In Quebec, they have unilingualism, and we're being forced to accept bilingualism.

I can understand that as being the negative side of what the Federal Government's attitude had been in Bill 101. I am sure, sir, that if Bill 101 or Bill 22 had been declared ultra vires by the Supreme Court six or seven years ago, the people of Manitoba would be continuing to expand their interests in the French language and want more French Language Services and more bilingualism in the entire marketplace. But because they are living with another province that wants to play with a different set of rules, there is a normal and natural reaction.

HON. S. LYON: Are you aware, along that line of thought, Dr. Shaw, that the government in its publications sent to all citizens of Manitoba has said, in effect, that the agreement that they seek to constitutionalize - and I'm paraphrasing what's in the publications - will not involve Manitoba in the Trudeau kind of bilingualism?

DR. W. SHAW: Well I'm glad they are recognizing that kind of bilingualism as well.

HON. S. LYON: As an aside, I say, they're recognizing the reaction of the people as you have described them. It's a pity they're not recognizing that the impact of their legislation may be just the same as the Trudeau form of bilingualism.

DR. W. SHAW: I think, if I may, that the key here is the kind of marketing that has been put to the legislators in Manitoba, that this is in the interests of national unity. You've heard that word. It's unfortunate, I think there was a very positive attitude by the Government of Manitoba thinking that this would contribute to national unity. I'm suggesting that was because the issue was misrepresented to them and what they would be more effectively doing to contribute to national unity would be to make people feel that we do have national

unity by creating a result that would contribute in that direction.

HON. S. LYON: Those are all the questions I have for the moment. Thank you, Mr. Chairman, and thank you, Dr. Shaw.

HON. R. PENNER: I have a few more questions for clarification flowing from some of your answers to Mr. Lyon. Bill 101 was passed in 1977, was it?

DR. W. SHAW: That's correct, sir.

HON. R. PENNER: Prior to 1977 had the Province of Quebec fulfilled its constitutional obligations with respect to printing of the statutes in both languages?

DR. W. SHAW: Yes, they did, sir.

HON. R. PENNER: So that you had, after the Blaikie case, a body of law that after 101 had been passed in French only.

DR. W. SHAW: That's correct. In many cases, the law itself or the bill itself was published in the English language and it was provided to you as an additional copy if you wish, but in the regulations for example all the statutory instruments were just left as not being required. I think still today, sir, that the statutory instruments involved with the legislation passed in that period are not completed in

HON. R. PENNER: So that for most of the legislation passed from 1977 to 1979 in French only, there already existed an English version?

DR. W. SHAW: Yes, sir.

HON. R. PENNER: And I understand that it was for that reason that the Quebec Legislature was able, indeed, to live up to the mandate of the Supreme Court by an all night session just enacting it.

DR. W. SHAW: All they did is pass an omnibus bill.

HON. R. PENNER: Yes, and formally enacting the English versions which were already available as laws of the Province of Quebec.

DR. W. SHAW: Well, that, as I say, sir, is what was the pretense. Now, if we're going to take the reality, they affectively said that all the English versions of the laws that were presented, there was not one of those bills that had any of the amendments that were put through the Legislature during their deliberation included. In other words, if you were to take that particular bill to the courts and challenge it as not being an English version of this act, I am sure that every bill would have been found to be an incomplete translation. So if you want to take the nowness of the approach, the Quebec Government has not really complied with the decision either.

HON. R. PENNER: And it was your answer, I believe, that they felt that they must comply, and I think these

were your words, it would follow that the next day someone could go into court as in the asbestos case and say we've got a defence because it was passed in one language only - the statute.

DR. W. SHAW: That's correct, sir.

HON. R. PENNER: Well, wouldn't the same thing happen in Manitoba?

DR. W. SHAW: It could well do so. Now let's take that example, right? Because the courts are rational people and the courts have to understand the requirements of the administration of the province. Let's take in a major case, such as the acquisition of asbestos or even more important was the no-fault insurance which were two very critical pieces of legislation which could have involved billions of dollars of litigation, especially the no-fault insurance. There was and there still are cases that could be brought to the court suggesting that the legislation was ultra vires.

Let's take for example that one piece of legislation, the no-fault insurance. We've always said, supposing Bobby Hull was run over and incapacitated and his maximum benefit would be \$18,000 a year, it might well be that he has the resources to take the Government of Quebec to court and by demonstrating that the particular bill was not really enacted in compliance with the Supreme Court regulation and you could have a very interesting case. So there is no doubt that that is there as a potential.

But on the other hand, if there was a case, for example in a traffic ticket, where someone was stopped by the RCMP on the highway going 75 miles an hour in a 40-mile-an-hour zone and the fellow took that same case to the courts and said, well, I may have been driving that fast but the law was illegal. The courts would say, too bad, \$70 or whatever. I think that there is a big difference in other words of administrative laws and other types of laws as far as their danger in creating a kind of chaos in the courts.

HON. R. PENNER: I don't quite understand that. If the Supreme Court in effect had said that the law is invalid in one language only, how could a lower court say, I don't care about the Supreme Court decision, I'm fining you anyway.

DR. W. SHAW: I think that the defence of using that as a means of avoiding prosecution, certainly a lower court could render that way, the person could take it to a higher court and he'd waste his money.

HON. R. PENNER: And what if, as in Manitoba, the person said to the provincial court that The Provincial Judges' Court Act under which you purport to sit is in one language only?

DR. W. SHAW: Take that to court.

HON. R. PENNER: To which court?

DR. W. SHAW: Right.

HON. R. PENNER: Court of Queen's Bench . . .

DR. W. SHAW: All you're doing to me, sir, is confirming that the Supreme Court could never declare all those bills as being illegal and inoperative.

HON. R. PENNER: The second question is: you seemed to, when you were talking about Bill 101, have some support for at least one provision or I'm not sure that you suggested it was in 101 or should be in 101, namely that English and French are official languages?

DR. W. SHAW: I don't think that English and French should be in Bill 101 because I think the act itself is ultra vires and inoperative, but I think that English and French are official languages in the Province of Quebec.

HON. R. PENNER: And should be so declared?

DR. W. SHAW: And they should be so declared by the Supreme Court of Canada. Then the effect of that will have its application on Bill 101. In other words, our suggestion is that we don't challenge Bill 101, we vindicate the Constitution. We have the Constitution speak to what these rights are.

HON. R. PENNER: And you want to vindicate the Constitution through the Bilodeau case in Manitoba?

DR. W. SHAW: Yes, that would help us, sir.

HON. R. PENNER: Thanks loads.

DR. W. SHAW: It's part of the traffic ticket group and there certainly has been a group I must say.

HON. R. PENNER: A couple of more questions. You seem to talk about French Language Services in terms of administration, I thought you did say that the right to services should be confirmed, I believe Constitutionally and then you find a vehicle for administering it, is that position?

DR. W. SHAW: No, I'm saying that the rights should be confirmed.

HON. R. PENNER: Yes, the rights should be confirmed.

DR. W. SHAW: In other words, if I can give a specific example, I'm saying that the term any person may use either the English or French language and I think the Fathers of Confederation in using that term conferred on the citizen the right to use either the English or French language and it then behooves the administration to comply with that choice. Now that is the key to services. How does it comply with that choice? Does it set up a French Language Service? Does it provide bilingual persons? These are all administrative requirements. But if we get a judgment from the Supreme Court of Canada that says that what it means, in the Constitution when it says, either the English or the French language may be used by any person, it means that the choice of language belongs to the citizen and the obligation to comply with that choice belongs to the state.

HON. R. PENNER: Well we're more or less on the same wavelength. You did refer in terms of constitutional

guarantee for these services, not only to Section 133 of The BNA Act, and 23 of The Manitoba Act, but to the Charter. You're aware that Section 20 of the Charter spells out, in constitutional language, the right to services? It spells out in the way that 133 doesn't the specific right to services, communicate with and receive services from in both languages.

DR. W. SHAW: That's right. I understand that.

HON. R. PENNER: What they're talking about is the constitutional . . .

DR. W. SHAW: But that is in the Constitution, and I accept that if this is as a result - and because these are exactly the terms that the Premier of New Brunswick used. He said, we are now going to apply Section 133 to the Province of New Brunswick.

So if the courts accept that was the intent of the legislator, that we're going to now apply Section 133, then it's not necessary to rewrite the Constitution, it is there, the intent is there, and the judgment of the court should be, in my opinion. That is what they meant, they meant that the right of the citizen to choose is entrenched; and that the provision of the services is the obligation of the State. How is the administrative requirement of each of the provinces to decide?

HON. R. PENNER: So you're saying that is already implicit in Section 133 and 23.

DR. W. SHAW: That is my feeling, Sir, and that is one of the reasons why I'm very concerned about the way the Charter was written, because as you know, there is no reference to the rights of the English language minority in the Province of Quebec.

HON. R. PENNER: I understand that. If you're saying that this right to services is already implicit in 133 and 23, what objection is it that you have to making it explicit?

DR. W. SHAW: My objection is that the initiative is coming from the Province of Manitoba.

HON. R. PENNER: And you want it to come from the Supreme Court.

DR. W. SHAW: I think it should come from the Supreme Court. If it comes from the Supreme Court, it's saying that, yes, you have this obligation, but it also says that in the Province of Quebec the obligation is still there. But if this initiative comes from the Province of Manitoba, then Rene Levesque is going to say, well Manitoba established what the ground rules are. We have elected not to, and we're not going to extend those services. That is why I am suggesting that the Bilodeau route will protect the rights of French-language Manitobans, and it will also keep the doors open for us to achieve those rights in Quebec.

HON. R. PENNER: If the Supreme Court finds the way you want it to find?

DR. W. SHAW: Well then you could always reintroduce this resolution, Sir.

HON. R. PENNER: While we're floundering, trying to defend our laws in the courts?

DR. W. SHAW: No, Sir. I mean, you could call this resolution before the House the following Tuesday.

HON. R. PENNER: What House? The Legislature of Manitoba is enacted, according to The Legislative Assembly Act, enacted in one language only. The Legislature would be invalid.

DR. W. SHAW: That would be an interpretation of a draconian ruling from the Supreme Court which I cannot believe they could render.

HON. R. PENNER: We've suffered from some of them before. Thank you very much. It's been most interesting Doctor.

DR. W. SHAW: Thank you very much, Sir.

HON. R. PENNER: Indeed, I would agree, for once, with the Leader of the Opposition that you might well choose a legal career, and may you pursue it successfully in Quebec.

DR. W. SHAW: Thank you very much.

MR. CHAIRMAN: Any further questions for Dr. Shaw? Mr. Doern.

MR. R. DOERN: Mr. Chairman, to Dr. Shaw, the Allan Singer case, I think some of us are familiar with this case in the sense of it's been in the newspapers and so on; this is the sign case. What was the problem there with Mr. Singer in the view of the Quebec Government?

DR. W. SHAW: Mr. Singer has a small stationary shop which probably has 50 feet of frontage. For the last 35 years he's had a sign, "Allan Singer, Printers and Stationers." The Office de la Language Française told him that the sign had to come down, and it had to go up in French only. He said, no, I'm not going to change my sign. So the Office de la Language Français laid charged against Mr. Allan Singer. We jumped with joy, because we thought that at least we'd have an opportunity to take this section of the bill to court.

Unfortunately, the courts have moved very slowly, and we felt that the first time we went to court, we would get - I said to myself, how could a judge in this country rule that it is illegal to have a sign in the English language in the Province of Quebec? And one did. So we're waiting to go to appeal on it but, unfortunately, Mr. Singer associated himself with another case which was introduced by the Positive Action Committee taking that Section of Bill 101 to court. That case has been delayed, so that whole progress, the whole procedure - because I would have loved to have seen a federal court judge, or a judge of the Supreme Court, render a judgment that said that it was illegal to have a sign in the English language anywhere in Canada. I would have loved to have seen the Supreme Court of Canada rule that way, because every law journal in the world would have jumped and said, what kind of nuts are

they in Canada? But we have been tied up in that case, and we haven't been able to proceed.

MR. R. DOERN: To Dr. Shaw, what would they do ultimately? They can obviously take Mr. Singer to court, and what if he still refused to remove his sign? Do they have a crew that goes around and smashes signs or removes them, or do they remove the person and put him in jail?

DR. W. SHAW: Actually, they do have regulations that provide for the Commission de Surveillance - we call them the tongue troopers - to come by and remove the sign, and send the bill plus a fine to the person whose sign is involved. Unfortunately for the tongue troopers, this case is in litigation before the courts so they cannot act until there is a decision of some sort in this case. So the sign is still there in English.

MR. R. DOERN: Do the tongue troopers wear jackboots?

DR. W. SHAW: No, some of them are just young kids. It's almost a shame to see this kind of activity, when you take a university student and you tell him, go into that store and go into that school and check to see if the sign is "Sortir or Exit", or check to see if there's anything anywhere that's in the English language.

MR. R. DOERN: You are a dental surgeon. What about your signs? Have you had any problems there?

DR. W. SHAW: I have a sign bilingual on my door, because more than 60 percent of my patients are French-speaking. It says, "Dr. William F. Shaw, Dr. Arnold G. Randolph, Dental Surgeons, Chirurgien Dentiste." I advertise in the newspaper that way. I am allowed to advertise in the newspaper bilingually or unilingually for that matter, but the Office de la Langue Française hasn't given me a chance. I would have loved to have taken that one to court, too, but they haven't bothered me so far.

MR. R. DOERN: What about signs inside an office or a building or a premises?

DR. W. SHAW: Not if they have any access to the public. If they're closed and it's your private office, you can have whatever you want. But if it's a place of business, an excellent example, if this is Petro-Canada, Petro-Canada has service stations all over the Province of Quebec, unilingually in French, because they say that they have to comply with Bill 101 in the Province of Quebec. Here in the Province of Manitoba you'll notice they're all bilingual, but in Quebec they're unilingually French, because the requirements of Bill 101 is that you're not supposed to really see any English signs. It is deemed to have compromised the French character of the Province of Quebec.

MR. R. DOERN: I'm not quite sure what the effect of the legislation is. Is it that you cannot have an English-only sign and that you must have either a French-only sign or a bilingual sign? Is that the legislation?

DR. W. SHAW: No, the legislation is that you have to have a French-only sign. Some allowances are made

for small business with less than five people, like small restaurants and there they can be French and another language. You might see the odd Greek restaurant with French and another language, or a Chinese restaurant. It's very funny to see these great big signs that used to be up there taken down and replaced with a — (Interjection) — Well no, Ruby Foo's has been able to convince l'Office de la langue française that it was a tradename, but you're not allowed to have the apostrophe "s". You'll notice Eaton's in Montreal is not Eaton's. It's Eaton. Pasquelle's is not Pasquelle's, it's Pasquelle and they've complied. Steinberg's - remember Steinberg's? It used to be apostrophe "s." It's now Steinberg.

MR. R. DOERN: Are you telling me that an English business that has an apostrophe has to then remove the apostrophe?

DR. W. SHAW: Yes.

MR. R. DOERN: Again I'm not clear on your own example . . .

DR. W. SHAW: Oh by the way, that was before Bill 101. That was Bill 22.

MR. R. DOERN: Your own example. You have an office in a building?

DR. W. SHAW: Yes.

MR. R. DOERN: And you have a bilingual sign on the door?

DR. W. SHAW: Yes we do and it's in violation.

MR. R. DOERN: Oh, I see.

DR. W. SHAW: The only thing that certain municipalities have been allowed to have bilingual signs under Bill 101, if they have a certain category. The City of Point Claire which is 85 percent Anglophone has been put in that category, so the hospital has a bilingual sign on it and our building has a bilingual sign. Some things are allowed in two languages, correct.

MR. R. DOERN: You mean the tongue troopers haven't seen your sign or they make certain allowances?

DR. W. SHAW: In certain situations they make allowances.

MR. R. DOERN: Can you explain as well the logic in a prominently featured case, in regard to signs in Quebec, of a harmless calorie calendar that a number of women had. These were French-Canadian women working in some office. In the back room of their office was an area in which they could make coffee, etc. They had an English-only calorie counter wall chart and they were told to take that down. Are you familiar with that case?

DR. W. SHAW: Yes I am, and if you will understand how the l'Office works, is that any citizen can lay a

complaint with l'Office de la langue française. They don't have to identify who they are or you know come to court and l'Office de la langue française has to investigate it. So in this case someone working in that - it was I think a Bell Telephone Office - complained that there was an English sign up and l'Office de la langue française came and investigated. I must say, in that case, they didn't make an issue of it, but the fact was it demonstrates the pervasiveness of something that says, all I have to do is phone l'Office de la langue française and they're going to send someone to investigate that. Like that case where the poor doctor went through that hell because somebody was complaining that the patient died and couldn't die in French. That to me was an incredible judgment and it's a blot for all Canada.

MR. R. DOERN: You also made reference to a book that you've written or co-authored, "Partition: the Price of Quebec's Independence," and there's a forward written by Senator Eugene Forsey (phonetic). Are you a friend or acquaintance of Senator Forsey?

DR. W. SHAW: Yes I am.

MR. R. DOERN: Does he share or endorse the views expressed in your book?

DR. W. SHAW: Oh I think so, yes. He wrote the forward.

MR. R. DOERN: Could you indicate what, in particular, main thesis was in that book that Senator Forsey also shares?

MR. CHAIRMAN: Mr. Penner on a point of order.

HON. R. PENNER: I know you have, and I think in terms of the legal discussion, allowed a little latitude on the main legal thesis, but now we're getting into Forsey's endorsement of some thesis in some book. I think that is out of order and is an unnecessary waste of the committee's time.

MR. CHAIRMAN: I have some reservations with regard to the point of order, because Dr. Shaw in his brief clearly refers to the book, talks about the thesis of the book, and I think it's a legitimate question to ask for an expansion of that thesis - if I can, I'll try and give you a page reference.

MR. R. DOERN: Page 2 at the top.

MR. CHAIRMAN: Page 2? Yes, and certainly the thesis is roughly outlined there and I think Mr. Doern's question for an expansion of that thesis is certainly in order. Dr. Shaw.

DR. W. SHAW: Thank you, Mr. Chairman. I, many years ago, before 1976, was concerned that there was this attitude in Canada that all of a sudden the citizens of the Province of Quebec could sit down and have a referendum and vote themselves out of Canada unilaterally, and that none of the consequences of this kind of a decision would have any bearing on what the rest of Canada felt about this decision.

So I began some research and I found, for example, that in 1933 in Western Australia there was such a referendum, voted themselves out of the Australian Confederation, and subsequently, further research showed all kinds of precedents for this sort of direction. The Parti Québécois was using their rationale as the right of self-determination and I personally don't deny the right of self-determination. What we wanted to tell a story of in this book, is that if there was a decision to break up Canada and that there was a separate country that was going to be established, it would be established after negotiations and these negotiations would take into consideration, most importantly, the interest of Canada as well as the interest of this new state.

So we go into a great deal of detail in outlining more or less what would happen and I think it's an important document that should be read by those people who are intimidated by the threat of separation. I'm told every day, look Shaw, what happens, you know what'll happen if they declare Bill 101 ultra vires? They'll all vote yes in the referendum, and I say, so what? If that's their reaction to justice, let them vote yes in the referendum and then let's sit down and see if they want to pay the price of separation and I have never been intimidated.

I'll never forget that referendum period in Quebec. It was hysterical. Friends of mine would come back from vacations to make sure they voted. I have never seen political activity so vigorous. I think that in our particular section, we had over a 90 percent turnout at the polls when they were going to the old folks home, and taking people, that kind of paranoia - to me, is absolutely incredible. I remember a remark made by a past representative of Canada on the Commonwealth Association who said that when Pierre Trudeau allowed the referendum to take place, he effectively gave Rene Levesque a gun knowing it wasn't loaded, but nevertheless he also established the precedent that he could take that gun another time when it was loaded with six bullets. I agree, I think that was a tragic thing.

I know that in the City of Winnipeg, for example, is coming under a great deal of pressure because it wants to hold a referendum. I understand Mr. Maldoff and some of his friends are actually sending people, wanting to vindicate Section 23, because it wasn't enacted in both languages. But that kind of expression of opinion will be criticized because it would draw a poll of an attitude, and yet when we had the referendum in Quebec there was no human cry that we should block this kind of poll because it was in itself seditious and unconstitutional.

But, nevertheless, you asked me the question, what does my book talk about? My book talks about the reality that should be part of general knowledge and, that is, if Quebec ever decided by a referendum to separate, it would have to pay a price and that price would be partition. If it's necessary perhaps, and that's the direction we have to go, it might be a little better to have a little less Canada with a lot more justice.

MR. R. DOERN: Dr. Shaw, again, on Page 2, you talk about Alliance Quebec and the different groups, etc., could you give us a quick enumeration of which groups purport to represent the non-Francophone community

of Quebec? We know of Alliance Quebec, could you tell us something about your group and any other groups that there are?

DR. W. SHAW: There must be a dozen or so groups in Quebec attempting in their own ways to promote English language rights. I happen to belong to two, one is called the Freedom of Choice Movement; another one is called the West Island Citizens' Association. There is another one that is headed by a Mrs. Zimmerman called Quebec for All, which is very active. Alliance Quebec tied up a couple of groups including Positive Action and the Council of Quebec minorities. There are groups, for example, in the eastern townships called the Townshippers and there is one up in the Gaspé called Cassa. There are many groups.

MR. R. DOERN: Is there any way you can estimate the membership or support of Alliance Quebec in terms of numbers as opposed to dollars? We know they have lots of dollars.

DR. W. SHAW: I really don't know. They have had a very strong promotion with meetings all over, and they do have chapters in many locations in the Province of Quebec. I would say that their active membership would be maybe 3,000.

MR. R. DOERN: Could you indicate what your membership is roughly?

DR. W. SHAW: Active membership that is continually on our mailing list is about 1,800 members. We had more, but we lost a few to the exodus.

MR. R. DOERN: You have applied for funding of those groups that you mentioned, how many of them receive financial support from the Secretary of State?

DR. W. SHAW: Alliance Quebec is the principle recipient. I know Cassa receives a contingent grant and so does the Townshippers. I don't know, because they are associated with Alliance Quebec indirectly, of other groups that receive funding.

MR. R. DOERN: Has your organization or these other organizations applied for funding that was denied?

DR. W. SHAW: Yes.

MR. R. DOERN: On what grounds?

DR. W. SHAW: They asked us to join the Council of Quebec Minorities and we had such a strong difference of opinion because the Council of Quebec Minorities would not - you see, we were asked to join as a member group of the Council of Quebec Minorities. The Council of Quebec Minorities refuses to accept as a part of their program the promotion and protection of English language rights in Quebec. So therefore we found it impossible to join them and therefore we were refused funding.

MR. R. DOERN: Does Alliance Quebec belong to that organization?

DR. W. SHAW: No, it replaced it. Alliance Quebec replaced the Council and another group called Positive Action.

MR. R. DOERN: Are you telling us that they are not fighting for English language rights in Quebec?

DR. W. SHAW: I can't say that they're not fighting for English language rights. They are dealing with (a) that Bill 101 is there to stay and that we had better try and find some accommodations that make it a little more palatable. So they're dealing, for example, in whether or not a nurse should take a language test if she gets promoted from one place to another; or whether or not a physician who failed his language test should have another right to take the test; or whether some students who have borderline rights for access to an English language school should have their rights defended before the Commission de la language francaise. You know, they are dealing with the little tiny things. With respect, they're dealing with the major issues as being unobtainable or impractical to seek at this time. In other words, their suggestion is that we can't go for our full language rights because we may get a whole bunch of people to vote "yes" in the next referendum.

MR. R. DOERN: So do I understand then that they accept 101 in principle and they are working within it, and you are opposed to 101 and are working to overturn it?

DR. W. SHAW: That is correct.

MR. R. DOERN: You also mention on the bottom of Page 2, "The Quebec Liberal Party and the Party Quebecois have legislatively proclaimed French as the only official language in Quebec. Was this since the ascendancy of the Party Quebecois or did the Quebec Liberal Party do this under Bourassa?"

DR. W. SHAW: Under Bourassa. Bill 22 made French the official language of Quebec. It introduced things like francization; it introduced the language tests for professionals; it restricted access to English language schools. It involved itself in the language of signs; it allowed something for bilingual signs, which the Party Quebecois has gone a step further and insisted on unilingual signs. I mean I find it absolutely incredible that even a level of bilingual signs is being tolerated. Do you realize there is only one other country in the world with legislation concerning the language of signs, and that's Qaddafi's Libya?

MR. R. DOERN: Did the Federal Government ever challenge Bill 22?

DR. W. SHAW: No, but Bill 22 was challenged and with a very strong corp of lawyers: Frank Scott, who was the past Dean at McGill; T.P. Howard, who was one of Quebec's leading constitutional experts. Senator Forsey was part of that team. They did get a negative judgment in the first Duchesne decision in Quebec, and were taking it to the Supreme Court.

The Supreme Court then ruled that it was redundant because new legislation had been passed. Their position

still was that there were damages as a result of the original Bill 22, and it should have been allowed to go to the Supreme Court, but they were unsuccessful in continuing the case.

MR. R. DOERN: You also mention on Page 4 that there has been an exodus of 400,000 Quebecers, including 40 percent of Anglophones between 18 and 35, because of language legislation. Is that exodus continuing unabated?

First of all, what is happening; and secondly, what do you think will happen in the next decade unless something is done?

DR. W. SHAW: The exodus really began to develop its amplitude in 1970 with the situation with The War Measures Act and the activities of the FLQ. Then it slid back. I have a graph showing the actual numbers and the rate of exodus, and the effects of various influences on that exodus in the last 15 years. But nevertheless, Bill 22 markedly increased that rate of exodus and, of course, Bill 101 went even further.

What is happening in Quebec is that the essential character of the economy has been compromised. Where, for example, in 1965, Montreal was the centre of the insurance industry in Canada, there were approximately 94 business, companies, doing primary business, that is other than sales, in the City of Montreal. Of course, as soon as the language pressure began to be exerted, and I assure you this took place before the Parti Quebecois' ascendancy, they began to move. Now at this time, that section is moved effectively to Toronto. We have, instead of over 90 companies in the City of Montreal, we have less than 15.

An area like the pharmaceutical industry, in 1975, Quebec had 74 percent of Canada's pharmaceutical industry. They reckon that by 1985, it will be 15 percent.

If we take the electronics industry, you have the same kind of figures. If you take money and banking and the trust companies, you have the same kind. In other words, we are having a structural loss. In each of these cases, it's essentially a loss of Anglophone jobs.

In other words, when all of these people left the Province of Quebec, they didn't just leave themselves. They took their economic activity. So it has had a dramatic effect on the tax base of the province. Even Bourassa has accepted that, since the Parti Quebecois came to power - he doesn't want to talk about his period - that the attrition of the basic tax base of the Province of Quebec has dropped by \$3 billion.

These changes, I'm afraid, are not going to make much difference. Right now, if we abolished Bill 101, we are not going to recover these areas of activity. What it might happen is allow new fundamental areas to either continue or expand.

For example, there are three principle economic areas of activity that still continue to be carried on primarily in Montreal: aerospace, the transportation and the communications industry. The reason why they are still strong in Montreal is because they have a strong Federal Government support system. In other words, if you did away with the Air Canada base which used to be here in Winnipeg and then, of course, was moved to Montreal because that's where all the airplanes were; if we took the same thesis, we would move it to Toronto, because

that's where all the aircraft go to bed. That's 8,000 jobs primarily, and then all the support services like Canadian Pratt Whitney, Rolls Royce, etc. So a whole segment of the economy would be compromised.

If we took, for example, the transportation industry which includes Air Canada, Nordair - I think Eastern Provincial's down in the Maritimes now - but Canadian Pacific, Canadian National, if we moved them to where the centre of their activity was, it would be devastating to the structural economy of the City of Montreal.

Right now, there are approximately 1 million non-Francophones left, and they're involved primarily in the service industry and in these primary sectors. I think that they can be expanded. There could be some recovery. But if nothing positive isn't done soon, natural forces will move those primary sectors out of Quebec. The figures that we're looking at, for example, in school enrolment will just be expanded.

MR. R. DOERN: What is the impact of this on employment or unemployment? You give us illustrations here. Does this mean that the rate of unemployment has been rising ever sharper and then there's sort of a vicious circle of demands for more federal positions, etc.?

DR. W. SHAW: Of course, every time you lose a primary job, you lose five additional secondary jobs. It really is a load. Where Quebec, for example, in 1965, in the question of transfer payments was almost a payer, it is now a receiver. It is my understanding that we'll make up the Quebec budget this year; one-third from taxes, one-third from deficit and one-third from transfer payment. So all of Canada is paying for this mismanagement.

MR. R. DOERN: Were you born and raised in Quebec?

DR. W. SHAW: Yes, I was.

MR. R. DOERN: And you took all your schooling there?

DR. W. SHAW: At McGill.

MR. R. DOERN: What has been your personal experience in terms of your friends and relatives? Are they leaving in ever-increasing numbers so that you feel some morning you'll wake up and you'll be the only one left?

DR. W. SHAW: The last one out closes the light.

MR. R. DOERN: What has been your experience from your school mates and etc., etc., over the last decade or so?

DR. W. SHAW: Perhaps it was best to demonstrate it. When I went to a wedding of one of my nieces in Toronto, and we had almost 150 people at that wedding who were all either direct members or indirect members of my family, all of whom were originally from Montreal, the only people who were there at that wedding from Montreal were my brother and his wife and my wife and I. That's what was left.

MR. R. DOERN: So 146 people left out of a 150.

DR. W. SHAW: That's right, in my particular family circle.

MR. R. DOERN: But you're willing to stay and fight?

DR. W. SHAW: I'm just too stubborn. I might include my father and mother who moved after retirement with their house paid for. I said, why are you leaving? I mean, your house is paid for. Your pension is here. He said, we've just had enough. We just can't cope anymore. I don't want any more of this hassle. This underlying attitude is the tragedy of that environment.

MR. R. DOERN: So in addition to the facts of the law and the context, people feel under siege or harassed.

DR. W. SHAW: Oh yes. I think that if you asked the average Quebecker, he would feel that his children most certainly should leave. They themselves most certainly would probably prefer to leave if they could maintain the lifestyle that they had someplace else. It is a tragedy. It's a shame that every Canadian should be aware of.

MR. R. DOERN: Just a couple more questions, Mr. Chairman. You gave an illustration about language police or tongue troopers this morning to a radio station about a deaf-mute falling into a problem with the language police. Can you explain how that worked?

DR. W. SHAW: It was one of the cases that was brought to my attention when I was a member. It was not the Language Police in this particular case, but a regulation that was sent out by the Department of Highways, requiring that all foremen hire only those people who could communicate with them in French. One of the people that was released was a deaf-mute. It happened to be because he was English-speaking - not English-speaking I guess. He had an English name, anyway.

That particular event was five lines in the Montreal Gazette in 1978. That's the tragedy. That kind of cold-blooded discrimination which shouldn't be tolerated in a Western society should never have taken place, but it does and, in its own way, is still continuing.

I'll give you another example. Right now, the school boards are under siege. We have a new bill called Bill 40, and it's going to abolish our school boards. Part of the problem is that the bureaucrats in the Ministry of Education now have insisted on little things. For example, all of the workers who work in the Ministry of Education, including the cleaning personnel, now have to take language tests. It's not exactly a pleasant situation.

MR. R. DOERN: My final question is: what is happening then is, whether or not - your last illustration - one deals with the public or whether or not one really has to speak as part of one's function, they are making all sorts of linguistic requirements on jobs from sweeping the floors up. You're telling me that these jobs - you have to be bilingual to mop a floor or clean a carpet or carry a letter to the post office?

DR. W. SHAW: In some cases, in some cases. Effectively, it's active de-Anglicization.

MR. R. DOERN: Like who is doing this? Is this the legislation, or the overzealous bungling bureaucrat who's doing this?

DR. W. SHAW: Sometimes it's the private sector. Sometimes it's a company that says, well we're operating in Quebec. We're now going to make our Quebec operation French. So everybody who is non-Francophone, even if they're bilingual, gets a transfer notice by their company. Now this is an indirect response to the law. It isn't the law making the company make everybody in that particular operation a Francophone, but it is in response to the whole environment of the province. The decision is being made in the boardrooms in California and Great Britain and all over the place that, okay, we'll do in Quebec those things which we can do in French and we'll use Francophones to do it. So even the private sector is effectively squeezing out non-Francophones.

MR. R. DOERN: Thank you, Dr. Shaw.

MR. CHAIRMAN: Mr. Enns.

MR. H. ENNS: Thank you, Mr. Chairman. Through you to Dr. Shaw, in response to one of Mr. Doern's questions, I believe he indicated that the Quebec Liberal Party recently or now under the rising ascendancy of Mr. Bourassa supports Bill 22. Is it fair to infer that you see no substantive changes to Bill 101, should the Government of Quebec change when we must assume it would be a Liberal Party that would . . .

DR. W. SHAW: That is correct. It's quite obvious that Mr. Bourassa is the front runner in this particular race. His position is that he will make certain accommodations under Bill 101. He'll institute the Canada clause in education which will mean very restricted - I think it represents maybe 4 or 5 percent of the people involved in access to education. He will allow some English signs in certain places, but the essential areas of activity like language of work, which are essential - for example, we have, through strong government intervention, some high tech activity.

We have the people who built the sort of Canadarm out in my West Island area of the city, and they have to hire people. They're having a great deal of difficulty hiring people not because of the children's access to school, but because of the wife's desire to work. In other words, today when you're an engineer and you have a certain kind of expertise, you come as a package. Part of this package is that the wife now has expertise as well, and she'd like to teach or do some nursing or work in a field that is in her expertise. They're finding that the wives, because they don't speak French, are sort of excluded from the labour market, and therefore resigned to staying at home. So they won't take these positions.

There was a case of one engineering company that had a major contract that was located in the West Island, trying to recruit engineers. They sent a group over to London to do some recruiting. They had 45 engineers that were being looked at for this particular project, which was a major sort of telecommunications project for Saudi Arabia. Not one of the 45 would come to Quebec, so they moved to Ottawa so that they could have the expertise that they needed.

Of this group of engineers, many were French people from France. They just did not want to come to an

internationally-recognized sick environment. You don't have to go very far. I assure you, the U.S. knows it's sick. In Great Britain, they know it's sick. They know it's sick in Italy, and they certainly they know it's sick in Greece, because they have compatriots that live in Quebec.

MR. H. ENNS: Dr. Shaw, should a change of government take place at the next general election in Quebec, do you yourself or the organizations that you're involved with foresee a continuing struggle to bring about the language justice that you and your organization see?

DR. W. SHAW: That's right, without question, Sir. As a matter of fact, what we have to do is convince the man on the street Quebecois that Bill 10 1 is destructive. We have to get that message through to them. One of the reasons why I'm here at this particular meeting is that some feedback will get back. There will be some shame felt that permeates through. Because as long as someone can come to Manitoba and say, look, we Anglophones in Quebec have it better off than Francophones in Manitoba, then the Francophone in Quebec is saying, well why - you know, Shaw is making a big fuss about the way things are in Quebec, but it's really not that bad.

That, I think, is hurtful to Francophones, because it is our whole province that is suffering very seriously from the effects of a piece of legislation. Unless it is completely abolished, it will not be perceived as having been changed, and this message we have not gotten through to the average French-Canadian as yet.

MR. H. ENNS: Dr. Shaw, on Page 4 of your brief, you indicate, of course, that you're aware of Mr. Maldoff's visit to us and you quote from the Alliance . . .

MR. CHAIRMAN: Mr. Enns, could you pull the mike a little further forward?

MR. H. ENNS: . . . presentation to this committee. I want to assure you, we received Mr. Maldoff with considerable interest here in Manitoba. He not only presented a brief and position to this committee, but prior to that also visited with the individual caucus rooms of the political parties here in Manitoba. When you go on to say, in conclusion, on Page 4, after quoting Mr. Maldoff, that this is a cliché being expounded by the Alliance and Federal Liberals, would it be unfair - or correct me if I'm wrong - to infer an alliance between the Alliance group and the Federal Liberals?

DR. W. SHAW: That wouldn't be unfair at all. As a matter of fact, if I can show you an example of that, when Alliance Quebec was established and they got their funding, they went to Guilford Street, which is the Quebec Liberal headquarters and hired young Mr. John Parasella, Jeffery Chambers, right from the Quebec Liberals, and one other person I think the son of an ex-member - what's his name? - anyway they hired a number of people right from the Liberal Party headquarters. They made no bones about it as far as that was concerned but they said, at the same time, "we are an apolitical organization."

MR. H. ENNS: Dr. Shaw, my purpose for asking these questions, any organization of course can and ought to be able to associate itself with no political group or party, that's their choice. However, the Alliance group, as represented by Mr. Maldoff, then in your opinion very much puts forward the Trudeau line with respect to the whole language question in this issue, is that a further inference that I can draw from you . . .

DR. W. SHAW: Yes, you most certainly can draw that inference, exactly. In other words, the Federal Liberal position on language access to schools is the Canada clause. So the position of Alliance Quebec is the Canada clause.

MR. H. ENNS: But, Mr. Shaw, the present government in Manitoba, the Attorney-General, in particular, has assured Manitobans that we will attempt to avoid federal implementation, you know, mode of language rights in Manitoba, and we will carefully avoid that approach in Manitoba. Would you not then concede that there seems to be some inconsistency here in leaning on and looking to the advice of Mr. Maldoff and the Alliance on this question by this government?

DR. W. SHAW: I can understand why the government . . .

HON. R. PENNER: On a point of order.

MR. CHAIRMAN: Point of order please. Mr. Penner, on a point of order.

HON. R. PENNER: Going back to your ruling with respect to extraneous material, we see here an example of it. Mr. Enns has put a proposition to Dr. Shaw, which is completely wrong and then asks him to comment upon it as if it were the position of the Government of Manitoba. That is wrong in principle and it's wrong with respect to your rulings. That is an extraneous statement that has no basis in fact, and Mr. Enns knows it.

MR. H. ENNS: Mr. Chairman, on the same point of order. I may be wrong, I have been wrong before, but it's still possible to voice an opinion on this committee, whether it is correct or not. The Attorney-General indicates that it's wrong, that the Provincial Government does not accept the advice from Alliance Quebec or Mr. Maldoff on the language question here in Manitoba. I'm pleased that the Attorney-General has put that on the record.

MR. CHAIRMAN: Order please. Further comments on the point of order?
Mr. Penner.

HON. R. PENNER: Mr. Enns is being just a little cute. He knows that he can express opinions in the proper form and in the proper way. We're talking about a ruling in this committee with respect to putting extraneous material. I don't need Mr. Enns to put words in my mouth or in the mouth of the government. God knows I can find a better translator of that.

MR. CHAIRMAN: It doesn't help much as a contribution to the point of order.

Mr. Lyon.

HON. S. LYON: On clarification, I wonder what is exciting the Attorney-General. The proposition, as I heard Mr. Enns enunciate it, was the similar proposition that I put some time ago to Dr. Shaw, namely, that the Government of Manitoba, in its information sheets sent out at great expense to the people of Manitoba, is saying to the people of Manitoba in its propaganda, this is not the Trudeau form of bilingualism that we're attempting to constitutionalize in Manitoba. Is that what he is objecting to?

HON. R. PENNER: No, that's different.

HON. S. LYON: All right. I just want the record to be clear.

MR. CHAIRMAN: With respect to the question of whether or not the matter raised by Mr. Enns is relevant, I have some difficulty, I'd appreciate Mr. Enns restating the question.

MR. H. ENNS: Mr. Chairman, I wish to facilitate the working of this committee. I have some further questions, I'll go to another subject matter and not disturb the sensitivities of the Attorney-General.

I would like to ask Dr. Shaw about the question of privileges or rights of minority groups, other than French and English. This committee has heard a rather impressive array of spokespeople, persons, men, women, telling us about the need for the resolution currently being contemplated by the government to protect these other ethnic minority groups. We heard a very interesting representation just last night from the Italian Canadian group who brought us some disconcerting stories about the problems that that particular ethnic group had in Quebec, but were speaking to us in this committee about the need for the passage of this resolution to help resolve their issues, or to guarantee that other ethnic minority groups would not be . . .

MR. CHAIRMAN: Question please.

MR. H. ENNS: . . . harmed in any way. Would you care to help us, Dr. Shaw in elucidating what this resolution before us will do in terms of those other ethnic minority groups' rights?

DR. W. SHAW: I think it's sort of tragic that the Parti Québécois, and their predecessors, have arranged that we feel that there are three groups involved here. You know, there's the English and there's the French and

there are the others. That's not the truth. The reality is that it's the French language rights and, I'm sorry to say, French language powers that are in the issue and everybody else, whether they consider themselves English speaking or not, are the other side of the coin. I can understand, for example, a group from the Italian community in the Province of Quebec coming here and asking you to move on this resolution because they have also been, to a certain degree, propagandized that, if you pass a resolution, Rene Levesque is going to say, well, I'm going to give you a few more rights in the Province of Quebec because those nice guys in Manitoba extended some more rights to Francophones in Manitoba. I think that anyone who believes that would have to say, how did the progression begin? I mean ever since we had a national inquiry on bilingualism with the B and B Commission, there has been an expansion and a greater openness towards the French fact in Canada and more efforts, not only at the federal level, but in every province in Canada to recognize the French fact and every time there was an additional effort in that direction there was expanding unilingualism in Quebec. It just has not followed that doing one thing positively would be followed by something in reciprocation, positively, as a matter of fact, the opposite has been the effect.

This is the reason why, although Mr. Maldoff and Alliance Quebec can say pass that law because you're going to be nice guys and it will be perceived in Quebec that they should do something too. I don't believe that's true. I think it will be perceived that you are confirming their right to do as they bloody well please, and that is the danger.

That's the big difference in opinion between what we feel and what Alliance Quebec feels. I am no longer looking for a demonstration of goodwill by the rest of Canada to be perceived as reason for expanding my rights as a Quebecker. I want now to make sure that I have my legal rights so that, if they don't respond positively, I still have some means of vindicating them.

MR. CHAIRMAN: We've reached our normal hour of adjournment. Mr. Enns, do you have quite a few more questions? I still have three other members on the list.

Mr. Lecuyer, did you want on the list as well?

Dr. Shaw, are you able to return at 2:00?

DR. W. SHAW: Yes, I will.

MR. CHAIRMAN: Is that agreed? (Agreed)

The hour of adjournment having arrived, committee is adjourned, and we'll reconvene at 2:00 p.m.

(Translation will appear in Appendix at end of all committee hearings.)