

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON STATUTORY REGULATIONS AND ORDERS

Tuesday, 18 November, 1980

Time — 10:00 a.m.

CHAIRMAN — Mr. Warren Steen (Crescentwood).

MR. CHAIRMAN: Members of the committee, as agreed to yesterday that we would start off this morning with the simultaneous translation and it is my understanding that we have two delegations, one representing the Société franco-manitobaine and Mr. George Forest. Are the representatives or representative of the Société franco-manitobaine present?

Mr. Kovnats.

MR. ABE KOVNATS (Radisson): Are we on simultaneous translation at this point?

MR. CHAIRMAN: No, we will be in a matter of moments as soon as the delegation proceeds.

MR. KOVNATS: What channel would we be on?

MR. CHAIRMAN: Four, I am told.

MR. KOVNATS: I see.

MR. CHAIRMAN: Would you introduce yourself and carry on, please.

MME GILBERTE PROTEAU: Bonjour Messieurs. Je suis Gilberte Proteau, présidente de la Société franco-manitobaine.

En commençant ce matin je voudrais vous dire que c'est pour nous une très grande joie de pouvoir vous adresser la parole en français et d'être assurés que nous sommes compris. Voilà 90 ans que nous voulons reprendre ce grand droit que nous avons et finalement ce matin, je suis très heureuse d'être la première à m'en servir. C'est avec beaucoup de joie que je m'adresse donc à vous en français et j'espère que le gouvernement qui nous a permis cela ce matin continuera de le faire et que ça deviendra une très belle tradition dans notre province.

Je passe maintenant à notre document. La langue française au Manitoba, ressource renouvelable de première importance. Ce document a été préparé par la Société franco-manitobaine et la Société historique de Saint-Boniface, la Fédération provinciale des Comités de Parents et le Conseil Jeunesse provincial.

Le document est bilingue; vous pouvez donc suivre sur le document si vous l'avez en votre possession.

Aperçu historique: En 1874, Louis Riel avait dit, "tout ce que nous recherchons, c'est l'application de l'Acte du Manitoba. Rien de plus, mais également rien de moins".

C'est un extrait du journal "Le Manitoba" qui a paru le 12 février 1890. La correspondance n'était pas signée. Abolition de la langue française. "La législature a voté hier soir l'abolition de l'usage de la langue française comme langue officielle dans les

débats et procès-verbaux de la chambre. Le débat a été très long et s'est fait entre MM. Prendergast, Jérôme, Martin de Portage la Prairie, A.F. Martin, Fisher, Roblin qui était le grand-père de Duff Roblin, Wood, Campbell de Winnipeg, S.J. Thompson et Harrower.

"Voici quel a été le vote - contre l'abolition: Prendergast, Norquay, Gelly, Martin de Morris, Wood, Marion, O'Malley, Jérôme, Lagimodière, Gillies, Roblin, pour un total de 11.

"Pour l'abolition: Greenway, Martin (Portage), MacLean, Smart, MacMillan, Hettle, Colclough, Campbell (Souris), MacKenzie, Thompson (Norfolk), Jones, Young, Morton, Smith, Dickson, Winkler, Crawford, Thompson (Emerson), Lawrence, Sifton, Graham, Campbell (Winnipeg-Sud), Harrower et Fisher, pour un total de 24.

"Comme on le voit, la majorité a bien fonctionné. Nos amis ont combattu vaillamment, leur attitude mérite les plus grands éloges. Le procureur-général peut se réjouir, et il se réjouit; mais qu'il prenne garde que ce mépris bien arrêté des droits imprescriptibles de la minorité française du Manitoba ne crée d'embarras ailleurs dans la Puissance. La tenacité, la persévérance du Canadien-français sont connues: on ne le persécute pas impunément, et c'est une persécution qu'on nous fait endurer en ces temps. Qu'on lise le débat qui s'est fait à la chambre; a-t-il été avancé un seul argument capable de justifier l'action du parti ministériel? Non! Tout a été fait par une majorité sourde, et, comme dit le proverbe, 'il n'est pire sourd que celui qui ne veut point entendre'."

Avant d'aller plus, je voudrais faire remarquer que les votes contre l'abolition au total de 11 étaient tous unanimement des votes conservateurs et les votes pour l'abolition au total de 24 étaient tous unanimement des libéraux. C'est un fait historique assez intéressant.

Deuxième partie: Pourquoi développer la langue française au Manitoba?

Trois raisons surtout servent à expliquer pourquoi il est essentiel au gouvernement manitobain d'encourager et de voir au développement de la langue française au Manitoba. Ces trois raisons sont d'ordre historique, économique et enfin philosophique et politique.

D'abord, au niveau historique, l'entrée du Manitoba dans la Confédération canadienne en 1870 et la section 23 de l'Acte du Manitoba en particulier ont eu un effet positif sur tous les Canadiens français de l'époque, tant au Québec qu'au Manitoba. Nous Canadiens-français, nous nous croyions vraiment dans notre pays à mari usque ad mare, car le fait français était répandu d'un océan à l'autre. Nous étions la nation "canayenne", fière, forte et heureuse de se construire un pays avec nos compatriotes anglophones. En un mot, nous étions chez-nous, tant bien à Rimouski qu'à St-Eustache. En plus, les provinces de la Saskatchewan et de l'Alberta, à ce temps-là appelées les Territoires du Nord-Ouest, étaient aussi bilingues car elles étaient sous la

jurisdiction du gouvernement fédéral. Effectivement, le Canada français était une réalité.

On connaît tous par contre ce qui est arrivé en 1890 et 1916 au Manitoba. L'annexe I donne un bref aperçu de ce qui est arrivé ailleurs au Canada vis-à-vis le fait français.

Les questions suivantes se posent alors. Un gouvernement a-t-il le droit d'abolir d'un trait de plume des promesses et des garanties avancées envers un peuple? La réponse est "Non" bien sûr. Si les gouvernements, qui sont les auteurs des lois, ne les respectent pas, comment alors peuvent-ils en attendre autant de leurs citoyens? Une deuxième question se pose aussi; un gouvernement a-t-il le droit moral de refuser de rectifier un droit violé par un de ses prédécesseurs, même si ce droit fut violé il y a plus de 90 ans? Encore une fois, la réponse est "Non". Autrement comment est-ce que les membres qui forment ce gouvernement pourraient-ils justifier leur objectif, qui est le bien-être de tout leur peuple?

La deuxième raison pour développer la langue française au Manitoba en est une d'ordre économique. Le Docteur René-Jean Ravault dans une thèse intitulée "Some Possible Economic Dysfunction of the Anglo-American Practice of International Communication", développait une rationalisation, qui s'applique très bien au Canada et qui sert à expliquer les avantages économiques dont peut bénéficier une nation qui compte des citoyens parlant des langues différentes. D'abord, selon le Dr Ravault, la crise économique dans laquelle l'Amérique du Nord s'enlise de plus en plus profondément depuis une dizaine d'années est due en partie à l'unilinguisme et au monoculturalisme anglo-américain. Dans un article intitulé "We're Tongue-Tied", (Newsweek, le 30 juillet 1979), le Sénateur Fulbright affirmait sans équivoque:

SIMULTANEOUS TRANSLATION:

Good morning, sirs, I am Gilberte Proteau, president of the Society franco-manitobaine. Do you hear me? We are told that channel 3 is the Ukrainian channel. However, there are no Ukrainian interpreters.

To start with this morning, I would like to say that it is a pleasure to be able to address you in French and to be assured that we will be understood. It is ninety years since we have wanted to tape the rights which are ours and finally this morning I am pleased to be the first to use it. I am happy then to be able to address you in French and I hope that the government, that has permitted us to use this right, will continue to do so and it will become a tradition in our province.

I will pass now to our document, French In Manitoba, A Primary Renewable Resource

This document was prepared by the Society franco-manitobaine, the Historical Society of St. Boniface, Federal Provincial Society of France, and the Provincial Conseil Jeunesse.

This document is bilingual and you will be able to follow this document if you have it in your possession.

A brief historic perspective: In 1874 Louis Riel stated, " all we wish is the application of The Manitoba Act, nothing more, but then equally, nothing less." This is an excerpt from The

Manitoban, which was published on February 12th, 1890. The correspondence was not signed.

"The Abolition of the French language: Last night the Legislature voted the abolition of the use of French as an official language in debates and minutes of the House. The debate between Mr. Prendergast; Jerome; Martin of Portage la Prairie; A. F. Martin; Fisher; Roblin, who was the grandfather of Duff Roblin; Wood; Campbell from Winnipeg; S. J. Thompson and Harrower was lengthy.

"This is a breakdown of the vote. Against abolition: Prendergast; Norquay; Gellely; Martin from Morris; Woods; Marion; O'Malley; Jerome; Lagimodiere; Gillies; and Roblin, for a total of 11.

"For abolition: Greenway; Martin from Portage; MacLean; Smart; MacMillan; Hettle; Colelough; Campbell from Souris; MacKenzie; Thompson from Norfolk; Jones; Young; Morton; Smith; Dickson; Winkler; Crawford; Thompson from Emerson; Lawrence; Sifton; Graham; Campbell from South Winnipeg; Harrower; Fisher, for a total of 24.

"It is evident that the majority worked well. Our friends fought valiantly. Their attitude was praiseworthy.

"The Attorney-General may rejoice and rejoicing he is, but he should beware that this dogmatic contempt of the indefeasible rights of the French minority in Manitoba does not create embarrassment elsewhere in the government. The perseverance and tenacity of the French-Canadian are known; one does not persecute him with impunity, and persecution is what we are forced to endure at this time. One is but to read the debate which took place in the House; was there a single argument presented able to justify the action of the party in power? No. It was all done to a deaf majority and, as the proverb says, "There is none so deaf as he who will not hear"."

Before continuing I want to tell you that the vote against abolition of 11 was all Conservative votes and the 24 for it were Liberal votes. This is a historic fact that was well documented.

The second part, Why Develop The French Language In Manitoba: There are three primary reasons upholding the importance of overseeing and encouragement the development of French in Manitoba by the provincial government. These three reasons are historic, economic and, finally, philosophical and political by nature.

At the historical level, the entrance of Manitoba into the Canadian Federation in 1870, and the particular Section 23 of The Manitoba Act had a positive effect on all French Canadians of the time, as well in Quebec as in Manitoba. We, French Canadians, truly find ourselves in our own country "a mari usque ad mare" for the French fact was established from sea to sea. We were the "canayen" nation, proud, strong and happy to build a country with our Anglophone compatriots. In a word, we were at home, as much in Rimouski as in St. Eustache. Moreover, the provinces of Saskatchewan and Alberta, then called the Northwest Territories, were also bilingual for they were under federal jurisdiction. Effectively, French Canada was a reality.

On the other hand, we know what happened in 1890 and in 1916 in Manitoba. Annex I gives a

brief resume of what took place elsewhere in Canada vis-a-vis the French fact.

Consequently, one would ask the following questions. Does a government have the right to abolish, by a stroke of a pen, promises and guarantees given to a people? The answer is, of course, no. If the governments, who are authors of the laws, fail to respect them, how can they expect the same respect for the laws from their citizens? A second question too is asked; does a government have the moral right to refuse to correct the transgression of rights by one of its predecessors even though the transgression took place more than 90 years ago? Once again, the answer is no. Otherwise, how could the members of the present government justify their objective, which is the development of all of its people?

The second reason for developing French in Manitoba is an economic one by nature. Doctor Jean-Rene Ravault, in a thesis entitled "Some Possible Economic Dysfunctions of the Anglo-American Practice of International Communication", developed a rationale which applied well to Canada and which serves to explain the economic advantages of which a nation that has citizens speaking various languages might benefit.

According to Dr. Ravault, the economic crisis in which North America has become more and more engulfed in the last few years is, in part, due to Anglo-American unilingualism and uniculturalism. In the week of July 30th, 1979, in an article entitled Tongue-Tied, Senator Fulbright unequivocally affirmed:

MME PROTEAU: "Our linguistic and cultural myopia is losing us friends, business and respect in the world. Unfortunately, foreign language and cultural studies have often been discouraged at the high-school level because many guidance counsellors believe that this kind of knowledge has little commercial value, but this perception is obsolete. Already one out of eight jobs in industry and one out of five in agriculture depend on international trade. Many more positions may soon require the secondary skill of a foreign language. The general feeling is that language skills can be purchased as needed. This is a strange notion if one can visualize the rapid-fire talk and signals used when a contract is being negotiated and gauge the handicap under which an American competes with foreigners facing him at a conference table. The foreigners are usually capable of communicating quickly with one another while the American must rely on the accuracy of an interpreter from another culture."

Le Docteur Ravault citait aussi le rapport Perkins qui rend compte des résultats de l'enquête menée par la Commission présidentielle sur les langues étrangères et les études internationales. Intitulé "Strength through Wisdom, A Critique of U.S. Capability", Perkins recommande fortement de maximiser cette ressource économique extraordinaire que constitue les minorités linguistiques et culturelles nord-américaines.

SIMULTANEOUS TRANSLATION:

Doctor Ravault also quoted the Perkins report which detailed the results of a Presidential

Commission enquiry on the foreign languages and international studies entitled: Strength Through Wisdom, a Critique of U.S. Capability. Perkins strongly recommended the maximum use of this extraordinary economic resource encompassed in the North American linguistic and cultural minorities.

"Special attention should be given to encouraging ethnic and other minority groups to enter linguistic and international studies and to build on their existing linguistic resources so they may contribute more to American education, diplomacy and international business. State authorities should encourage the contribution of the thousands of ethnic language schools operated by language minorities to enable their children to master the language of their forebears".

Si cet argument est valable pour les États-Unis, ne l'est-il pas d'autant plus pour le Canada. N'y aurait-il pas avantage à construire sur ce qui existe déjà? La minorité francophone du Manitoba est une ressource économique renouvelable de première importance. Dans ces temps d'incertitude économique, quel gouvernement, peut se permettre d'ignorer ou même de voir disparaître n'importe quelle de ses ressources. Plusieurs exemples servent à démontrer comment la langue française est un atout économique ici même au Manitoba. Citons le Festival du Voyageur qui attire plus de 400,000 participants sur une période de dix jours chaque année; ce festival augmente sensiblement le chiffre d'affaire de commerçants, hôteliers et restaurateurs de Winnipeg. Nous pouvons aussi parler de l'attrait touristique de St-Boniface qui contribue au gagne-pain de plusieurs centaines de personnes dans notre ville.

Ici, je voudrais faire un petit aparté sur le journal le Free Press d'hier soir. Il y a un article en page un signé Michael Doyle qui s'intitule "Foreign Aid Vow Praised". A l'intérieur de cet article M. Young qui s'adresse au Canada et qui dit:

SIMULTANEOUS TRANSLATION:

If this argument is valid for the United States, would it not be more so for Canada? Would there not be advantage to building on that which already exists? The francophone minority is a renewable economic resource of prime importance. In such times of economic uncertainty, what government can allow itself to ignore or even see disappear any of its resources? Several examples can serve to demonstrate this economic fact in relation to the French language in Manitoba. The Festival du Voyageur attracts annually some 400,000 participants, many of whom come from other areas of Manitoba and from neighbouring states. This Festival is an important source of revenue to hotel and restaurant owners across the city. Also, the touristic attractions of old St. Boniface contribute to the livelihood of several hundred individuals.

Here I would like to depart slightly. In last night's Free Press there was an article on Page 1 by Michael Doyle, entitled, "Foreign Aid Vow Praised." In this article he stated, is there someone who is a Mr. Young who is here speaking to Canada saying:

"Your bilingual basis really helps in Africa particularly. British and U.S. governments tend to concentrate on English-speaking African nations whereas Canada's status as a French-speaking nation opens it up to about half the countries in Africa, nations normally under the influence of France." Cela nous donne donc accès à deux fois plus de pays seulement en Afrique.

Enfin, il y a une dernière raison d'ordre philosophique et politique qui sert à expliquer pourquoi le fait français est important pour le Manitoba. Nous voulons ici vous citer in extenso des extraits d'un texte d'un éminent Manitobain, pour qui les francophones gardent encore en général un très bon souvenir. Ce texte fut prononcé le 20 octobre 1965.

"Nous avons tous un intérêt vital en ce qui se passe au Québec. Je suis un de ceux qui croient que sans son fait français, le Canada n'est probablement pas viable, car il serait alors difficile, sinon impossible, de maintenir une culture canadienne distincte de celle des États-Unis. Or j'ai l'intention bien arrêtée que le Canada vive. C'est un intérêt personnel éclairé qui anime ma préoccupation de notre évolution et m'enhardit de chercher à lui faire éviter une orientation qui pourrait être fatale à nous tous.

"Le point de départ de notre argumentation c'est l'idée que toutes les institutions humaines, politiques, religieuses, économiques, éducationnelles et sociales, sont au service des citoyens, et non pas les citoyens au service de ces institutions. Elles sont bonnes dans la mesure qu'elles sont capables de pourvoir au maximum de bien-être et d'épanouissement de ses membres. Elles sont donc possible de ré-examen selon le critère de leur utilité. Elles sont aussi, sujet aux exigences de la permanence et de la stabilité qui sont essentielles à leur bon fonctionnement, révisables."

Je cite toujours. "Cette idée est si clairement dans la meilleure tradition de la civilisation occidentale, et si conforme à l'idéologie qu'on appelle "humanisme chrétien" qu'il est impossible de ne pas lui accorder un enthousiaste accueil. Mais si le principe est excellent, il ne faut pas oublier que le terme d'un voyage est déterminé autant par la route choisie que par le point de départ. Il est donc fort désirable d'examiner les directions possibles de notre évolution pour voir où elles mènent. Il est évident, par exemple, que tous les bienfaits de cette évolution auront été futiles si le résultat final doit être l'extinction de la culture canadienne à langue française."

Dans les années '60, le Québec a vécu une élection provinciale où un des candidats avait comme slogan, "Égalité ou Indépendance". Cet éminent Manitobain en parlait de la façon suivante: "Mais il y a tout de même une alternative à l'indépendance du Québec. Cette alternative, c'est l'égalité, une égalité vraie, substantielle, permanente, a mari usque ad mare. Comment l'atteindre cette égalité? Par le peuple canadien tout entier adoptant pour sienne l'idée de base de la révisibilité des institutions et l'appliquant à l'institution qui est la clef de voûte de notre union, la constitution.

"L'objet de cet exercice? La re-création, la re-formation et la ré-affirmation de notre Confédération, dont l'essence est la ré-conciliation fraternelle de

deux nations au sein d'un même état (appelons-ça "la reprise du Canada). L'instrument? Une constitution nouvelle; pas un repitrage, un recollage ou un reclouage de la veille. Pas un rapetassage dans les coulisses où la candeur a fait place au cynisme et la vérité est une commodité d'occasion. La méthode? Une conférence constitutionnelle plénière, justement et efficacement représentative des peuples canadiens, où il sera reconnu qu'il existe des droits nationaux (collectifs) aussi bien que des droits personnels, et que certaines garanties sont trop vitales pour être négociables. A telle conférence, il serait possible d'examiner la conception verticale du Canada qui produit, surtout dans le domaine des relations entre les deux races fondatrices, un provincialisme trop artificiel et trop étroit pour bien desservir nos intérêts communs, afin de la remplacer par une conception horizontale plus conforme à l'idée de la confédération originelle, et plus apte de permettre à tous les Canadiens de se sentir de plus en plus chez eux n'importe où au Canada.

"On entend si souvent ces jours-ci l'expression 'unité nationale', qu'on se croirait au milieu d'une campagne électorale. Je ne minimise en rien l'importance de l'unité nationale, mais je tiens pour plus importante encore la qualité de cette unité, parce qu'elle en est la condition. Il ne faut pas nousurrer qu'une fois accomplis la noble tche de re-définir nos relations comme peuples et comme individus, et de cimenter notre union, le travail sera terminé et nous pourrons nous reposer sur nos lauriers. Une tche plus difficile encore nous attend - celle de restaurer à nos institutions canadiennes politiques, culturelles, et sociales leur base essentielle d'indépendance économique.

"Si nous ne voulons pas que tous nos efforts de canadianisme aient été en vain, il nous faut acquitter notre hypothèque américaine raisonnablement, honorablement et sans détrimment au bien-être général. Il y en a d'autres parmi nous pour qui le nationalisme canadien est vieux-jeu, rustique, paroissiale et pas du tout sophistiqué. Ils se disent internationalistes, sans se rendre compte qu'ils ne sont que des acolytes de nationalistes étrangers plus fins qu'eux. Il y en a d'autres encore parmi nous qui n'accordent de valeur qu'à ce qui est mesurable en termes de dollars ou de plaisirs. Pour eux la culture matériellement supérieure des États-Unis est irrésistiblement attrayante. Enfin, il y a ceux qui sont tout simplement indifférents.

"La grande question de notre génération sera celle-ci: est-ce que le peuple canadien saura trouver en lui et faire prévaloir une volonté d'être canadien plus puissante que les forces érosives du découragement, de l'internationalisme et de l'indifférence?

"Si le nationalisme canadien triomphe, le Canada vivra. Sinon, le Canada va mourir. Dans cette lutte, nous, qui croyons qu'un nationalisme canadien sain et positif, rejetant tout anti-américanisme et tout chauvinisme, est quelque chose de bon pour notre peuple et pour le monde, nous serons heureux, dis-je, de marcher de front avec nos compatriotes canadiens-français chez qui la vertu de patriotisme n'a jamais fait défaut lorsqu'ils ont été traité de la façon conseillée par Sir John A. MacDonal: "Traitez-les comme une nation, et ils agiront comme un peuple libre - généreusement"."

Dans la troisième partie, nous voulons ici parler des principes à inscrire dans une nouvelle constitution canadienne. Il est entendu que la nouvelle constitution dans son entier intéresse les Franco-Manitobains. Par contre, dans ce mémoire, nous voulons nous en tenir le plus possible à ce qui a trait aux droits linguistiques en général, et à l'application de ces droits en particulier. Il est important de comprendre ici que nous travaillons sur les principes de ce que nous voulons voir appliquer au Manitoba car ce sont les principes que la province devra elle-même mettre en application dans notre province.

Dans les préliminaires d'une constitution, nous voudrions voir les trois choses suivantes. 1) Une nouvelle constitution fondée sur la double réalité de l'association de deux peuples fondateurs et de dix provinces est nécessaire, et ceci sans préjudice aux droits des autochtones. 2) Une nouvelle constitution doit être mise en vigueur par un mécanisme strictement canadien. 3) Une nouvelle constitution doit reconnaître que le français et l'anglais sont les deux langues officielles du Canada.

Au préambule, premièrement, le préambule de la constitution doit affirmer la pleine souveraineté du Canada. Deuxièmement, le préambule de la constitution doit énumérer les objectifs de la fédération, notamment: le respect des libertés fondamentales, des droits linguistiques individuels et collectifs et des libertés démocratiques; le principe de la redistribution de la richesse nationale; l'affirmation de la place particulière des deux peuples fondateurs au sein des institutions canadiennes; l'importance pour les gouvernements provinciaux de reconnaître leur communauté minoritaire officielle et de prendre les mesures nécessaires en vue de donner une plus grande réalité à l'égalité des peuples fondateurs.

Troisième partie: Comment atteindre ces objectifs. En plus, le système gouvernemental, soit le parlement et les assemblées législatives provinciales doivent établir les moyens pour garantir les points suivants: premièrement, les droits fondamentaux individuels et collectifs.

Deuxièmement, les droits individuels qui doivent s'étendre aux libertés publiques et politiques, et à l'élection libre et démocratique des gouvernements.

Troisièmement, les droits linguistiques individuels qui doivent s'étendre aux domaines suivants: - le droit de s'exprimer en français ou en anglais devant le parlement fédéral et les législatures provinciales; le droit à la traduction des lois, des archives, des comptes-rendus et des procès-verbaux du parlement du Canada et des législatures de toutes les provinces; le droit aux services en français ou en anglais dans les bureaux des gouvernements fédéral et provinciaux et des sociétés d'État situés dans les capitales et dans les régions de sorte qu'il devienne normal de transiger avec son gouvernement dans sa langue; le droit d'utiliser le français ou l'anglais devant les tribunaux canadiens ainsi que dans les procédures et document des cours; le droit à des procès tenus entièrement dans la langue française ou anglaise dans toutes les provinces et devant les tribunaux établis par le parlement du Canada; le droit à l'enseignement dans leur langue maternelle pour les enfants de tous les citoyens canadiens de

langue officielle et ce dans des écoles homogènes de langue officielle.

En quatrième partie de ce troisième chapitre: Les droits collectifs.

En plus d'inclure dans la constitution un ensemble de garanties minimum devant assurer la liberté et l'égalité des citoyens sur le plan individuel, il faudrait ajouter une série de droits collectifs qui permettraient aux minorités officielles d'atteindre sur le plan social et culturel un statut égal à celui de la majorité. Cette reconnaissance des droits collectifs exige que les gouvernements agissent suite aux revendications d'une communauté minoritaire officielle en vue d'assurer à celle-ci l'octroi de pouvoirs ou de services sans lesquels elle ne peut pas se développer en son plein potentiel. L'obligation constitutionnelle à laquelle donne lieu les droits collectifs est double: elle comprend la reconnaissance de la collectivité officielle en situation d'infériorité et la mise en oeuvre de mesures spéciales devant pallier à cette situation de fait.

Ces droits collectifs prévoiraient donc que les collectivités linguistiques minoritaires de langues officielles auraient droit à des institutions distinctes dans les domaines pédagogiques, culturel et social.

En conclusion. A son inauguration de 1960, John F. Kennedy disait "Ne demandez pas ce que votre pays peut faire pour vous; demandez plutôt ce que vous pouvez faire pour votre pays".

La collectivité francophone du Manitoba ne demande que de pouvoir continuer à mieux contribuer à son pays, et ce à tous les niveaux, économique, culturel, social, politique, récréatif. Nous vous demandons par contre une seule chose: s.v.p. laissez-nous le faire dans notre langue. Si comme gouvernement, vous êtes d'accord avec ceci, nous pourrions à ce moment-là coopérer avec vous pour développer cette ressource naturelle d'une part pour le bienfait du plus grand nombre de Manitobains et d'autre part pour une union canadienne réelle et fondée sur le principe du respect des individus et des peuples.

Comme législateurs, vous avez un énorme défi devant vous; mais tout défi est aussi une occasion de construire et d'évoluer. Nous vous suggérons d'utiliser la pleine créativité de vos ressources humaines pour imaginer ce que pourrait être le Manitoba linguistiquement et culturellement riche. Les associations francophones qui vous présentent ce mémoire réitérent leur volonté de coopérer avec vous dans ce sens.

Unissons-nous à nouveau comme nous l'avons fait il y a cent dix ans au Manitoba. Nous pouvons ensemble donner l'exemple des bases d'une nouvelle Confédération canadienne adaptée aux exigences d'un deuxième siècle de vie. Nos petits enfants nous en remercieront.

En conclusion, l'éminent Manitobain que nous avons cité in extenso un peu plus haut était l'honorable Duff Roblin, à ce temps, premier ministre manitobain. Ce discours avait été prononcé à Trois-Rivières en 1965. Personne ne peut s'empêcher de noter comment ces paroles gardent toute leur juste valeur même aujourd'hui en 1980.

Je voudrais maintenant passer à l'annexe I - Aperçu historique de la limitation du fait français au Canada et revoir avec vous quelques-uns des faits

historiques les plus saillants face au fait français au Canada.

En 1871, au Nouveau-Brunswick, une loi supprime les écoles catholiques et interdit l'enseignement du français dans les écoles. En 1877, une loi interdit l'enseignement du français à l'île du Prince-Edouard. En 1980, abolition des écoles françaises publiques au Manitoba dans l'abolition des écoles confessionnelles qui étaient à ce moment-là confessionnelles françaises catholiques et confessionnelles et confessionnelles protestantes anglaises. Interdiction aussi par une loi spéciale de l'usage du français des les cours de justice et à la législature du Manitoba faisant de l'anglais la seule langue officielle au Manitoba. En 1892, le Conseil des Territoires du Nord-Ouest interdit lui aussi l'enseignement du français. En 1905, rattachement de l'Alberta et de la Saskatchewan à la Confédération. Le premier ministre fédéral, Wilfrid Laurier, doit sacrifier les droits linguistiques des francophones de ces deux nouvelles provinces.

En 1912, le Keewatin, l'un des districts des Territoires du Nord-Ouest, interdit à son tour les écoles confessionnelles et l'enseignement français sur son territoire. En 1912, publication en Ontario du Règlement 17 qui interdit l'utilisation du français comme langue d'enseignement dans tous les milieux scolaires de la province. En 1916, au Manitoba, suppression de l'enseignement du français dans toutes les écoles publiques.

Je suis maintenant prête en collaboration avec mon collègue, M. Ronald Bisson, à répondre à toutes les questions que vous voudrez bien me poser.

SIMULTANEOUS TRANSLATION:

This gives us access to at least twice as many countries, even only in Africa.

Finally, there is a last reason, philosophical and political by nature, which serves to explain why the French fact is important to Manitoba.

We wish to quote in extenso the extracts of a speech of an eminent Manitoban for whom, in general, the francophones have a fond memory. This speech was made on the 20th of October, 1965.

"We all have a vital interest in what is going on in Quebec. I am one of those who believe that without its French fact, Canada is probably not viable, and it would be difficult, if not impossible, to maintain a Canadian culture distinct from that of the United States.

"Now, I have a very definite intention that Canada live. It is therefore a personal interest which prompts my preoccupation in our evolution and encourages me to seek to help it to avoid a direction which may well be fatal to us all.

"The take-off point of our argument is the idea that all human institutions; political, religious, economic, educational and social are at the service of the citizens and not the citizens at the service of the institutions. They are good only inasmuch as they are able to provide the best possible well-being for the development of their members. They are therefore liable to re-examination according to the criteria of their effectiveness. Subject to the demand of permanence and the stability which are essential to their proper operation. They are also to be revised.

"This idea is to be clearly in the finest tradition of occidental civilization, and so conforming to what we call "Christian humanism" that it is impossible not to receive it with enthusiasm.

"However, if the principle is excellent, one must not forget that the end of a journey is as much determined by the route that is chosen as by the point of departure. It is therefore very important to examine the possible directions of our evolution and to see where they lead. It is evident, for example, that all the benefits of this evolution will have been futile if the final result is to be the extinction of the French speaking Canadian culture."

During the 1960s, Quebec went through an election where one of the candidates had as his slogan, "Equality or Independence". The person we are quoting was giving his opinion on a slogan: "But there is surely an alternative in Quebec independence. That alternative is equally a true equality, substantial, permanent, a *mari usque ad mare*."

"How do we get this equality? By having all of the people of Canada adopt as their own the basic idea of re-examination of institutions and applying it to its institutions which is the keystone to our union, the Constitution.

"The object of this exercise? The recreation, the reformation and the reaffirmation of our Confederation whose essence is the fraternal reconciliation of two nations in the heart of the state. Let us call it the recovery of Canada.

"The instrument? A new Constitution, not a replastering or repatching the old, not a patch up in the wings, but sincerity by which the cynicism and truth is an occasional commodity.

"The method? A plenary constitutional conference, justly and effectively representative of the Canadian cultures, where it will be recognized that certain national collective rights exist as well as personal rights, and that certain guarantees are too vital to be negotiable.

"Such a conference would make it possible to examine the vertical concept of Canada which produces a too artificial and too narrow provincialism to serve well the common interests, particularly in the area of relations between the two founding races, and replace this by a horizontal concept more in accord with the original idea of Confederation and more likely to allow all Canadians to feel more and more at home anywhere in Canada.

"I'm not minimizing in any way the importance of the national unity, but I believe it to be more important still the quality of that unity that is its basis.

"We must not delude ourselves in thinking that once the noble deed is accomplished of having redefined our relations as peoples and as individuals, and of having cemented our reunion, the work will have been done and we may rest upon our laurels.

"If we do not wish that all our efforts of Canadianism be in vain, we must discharge our American obligation reasonable, honourably and without detriment to the general welfare.

"There are others amongst us for whom Canadian nationalism is old hat, rustic, parochial and very

unsophisticated. They call themselves "internationalists" without realizing that they are but the acolytes of foreign nationalists much more clever than they.

"There are still others amongst us who see value only in that which is measured in terms of money or pleasure. And, finally, there are those who are simply indifferent.

"A basic question of our generation will be this: Will the Canadian people be able to find within it a will to be Canadian which is more powerful than the erosive forces of discouragement, internationalism and indifference?"

"If Canadian nationalism triumphs, Canada will live; otherwise, Canada will die. In this struggle, we who believe that a wholesome, positive Canadian nationalism which rejects all anti-Americanism and all chauvinism is a good thing for our people and for the world. We will be happy, I say, to walk abreast with our French-Canadian compatriots whose virtue of patriotism has never failed when they were treated in the manner suggested by Sir John A. MacDonald, "Treat them as a nation and they will behave as a free people — generously."

Number 3. Principles to be inscribed in a new Canadian Constitution: It is understood that the Constitution as a whole interests Franco-Manitobans. However, in this brief, we wish to discuss mainly the questions of linguistic rights and the implementation of these rights.

First, a new Constitution based on the double reality of the association of two founding peoples and 10 provinces is necessary, and this without prejudice to aboriginal rights.

Secondly, a new Constitution must be put into practice by a strictly Canadian mechanism.

Three, a new Constitution must recognize that French and English are the two official languages of Canada.

In the Preamble: The preamble of the Constitution must affirm Canada's complete sovereignty.

Secondly, the preamble of the Constitution must enumerate the objectives of the federation which are: the respect of fundamental freedoms, individual and collective linguistic rights and the democratic freedoms; the principle of redistribution of national wealth; the affirmation of a particular place held by the two founding peoples within Canadian institutions; the importance of the Provincial Governments to recognize their official minority community and to take necessary measures with a view to giving a greater reality to the equality of the two founding peoples.

Third point, How to achieve these objectives: The governmental system, that is, Parliament and Legislative Assemblies must establish the means by which to guarantee the following points: The fundamental individual and collective rights; the individual rights that extend to public and political freedoms and to free democratic election of governments; individual linguistic rights which must cover the following areas: the right to French or English expression before the Federal Parliament or Provincial Legislatures; the right to translation of laws, archives, minutes and procedures from the Parliament and Legislatures of Canada in all provinces; the rights of services in French or in

English in the provincial and federal government offices, and government services located in the capitols and elsewhere in the region so that it becomes normal to transact business with one's own government in one's own language; the right to use either French or English before the Canadian courts as well as in the procedures and documents in these courts; the right to trials held entirely in French or in English in all provinces and before the courts established in the Canadian Parliament; the right to official language minorities to have their children educated in the mother tongue in schools of their own language.

Fourth Portion, Collective Rights: Further to insuring the basic individual freedom and the equality of the individual rights, the Constitution must include a series of collective rights to guarantee to the official minorities a social and cultural status equal to that of the majority. These collective rights would be translated into government action when an official language minority group requests services in its language to ensure its full development. A constitutional obligation follows the recognition of collective rights at two levels; firstly, it implies recognizing official linguistic communities in a minority situation and secondly, it implies special measures to offset the position of inferiority brought about by this situation. These rights would lead to the establishment of distinct social, cultural and educational institutions for an official language minority.

In conclusion, John F. Kennedy in his inaugural speech in 1960 said, "Do not ask what your country can do for you, but ask rather what you can do for your country".

The Manitoba francophone community asks but to be able to continue to better contribute to the community at all levels, be they economic, cultural, social, political, recreational, etc. We ask but one thing: please let us do it in our own language. If as a government you agree to this, we will then be able to co-operate with you to develop this natural resource for the benefit of the greater number of Manitobans on the one hand, and on the other for a true Canadian union based on the principle of the respect of the individual as a people.

As legislators, you are facing an enormous challenge; every challenge is also an opportunity to build and develop. We would suggest you use this full creativity of human resources in order to imagine what a linguistically and culturally rich Manitoba might be. The francophone associations which are representing this brief, reiterate their willingness to co-operate with you in this direction. Let us unite once again as we did 110 years ago in Manitoba, in order to undertake, with you, the recovery of Canada. We in Manitoba would together give the example of the basis of a new Canadian Confederation, adapted to the needs of a second century of life. Our grandchildren will thank you for it.

In conclusion, the eminent Manitoban whom we quoted in absentia above, was The Honorable Duff Roblin, who was at the time Premier of Manitoba. The speech was delivered in Trois-Rivieres in the

province of Quebec in 1965. One cannot help but note how appropriate it remains to this day.

I wish to pass on Annex 1, An historic resume of the restrictions of the French fact in Canada. Let us take a look at some of the French facts, the main ones, vis-a-vis, the French fact in Canada.

In 1871: In New Brunswick, a law is passed abolishing catholic schools and for bids the teaching of French in the schools.

In 1877: A law forbids the teaching of French in Prince Edward Island.

In 1890: The abolition of French public schools in Manitoba. The prohibition of the use of French and these were separate schools and this should apply to them too. There was also prohibition of the use of French in the courts of the Legislature of Manitoba making English the only official language in Manitoba.

In 1892: The Council of Northwest Territories was also prohibited teaching in French.

In 1905: The inclusion of Alberta and Saskatchewan to Confederation. The federal Prime Minister, Sir Wilfred Laurier must sacrifice the linguistic rights of the francophones in those two new provinces.

In 1912: Keewatin, one of the districts of the Northwest Territories, prohibits also denominational schools in the teaching of French in its territories.

In 1912: Ontario publishes Regulation 17, prohibiting the use of French as a teaching language in its teaching institutions in the province.

In 1916: In Manitoba, abolishing the teaching of French for all public schools.

I will perhaps now, in collaboration with my colleague, Mr. Bisson, I will be happy to answer any questions you wish to pose.

MR. CHAIRMAN: To members of the committee, are there any questions to the delegate?

Mr. Kovnats.

MR. KOVNATS: First of all, Mr. Chairman, before I ask any questions, would my questions be translated into French to be presented to the people that will be answering the questions?

MR. CHAIRMAN: I would think so.

MR. KOVNATS: How do they get the translation?

MR. CHAIRMAN: They will have to get one of the earphone sets.

MME PROTEAU: Ce n'est pas nécessaire. It's not necessary.

MR. KOVNATS: I think we're set up for simultaneous translation, Mrs. Proteau, and I think that we should follow the routine for simultaneous translation. I do understand that you are quite conversant in both languages. If this is the manner in which we are going to carry on, then I'll carry on.

MR. CHAIRMAN: Proceed please.

MR. KOVNATS: I have not been a supporter of your views concerning the separation of Quebec

from Confederation, but I think that you're here and you are to receive a fair hearing and I am prepared to give you a fair hearing. What could the provincial government do at this time to implement what you're asking?

MME PROTEAU: Premièrement, le gouvernement du Manitoba doit d'abord reconnaître en principe que nous existons non seulement en tant qu'individu mais aussi en tant que collectivité. Ce n'est pas facile, nous savons, de donner à une minorité quelle qu'elle soit des droits linguistiques pour la simple raison qu'une minorité n'est jamais regroupée en entier dans un seul endroit. Elle est dispersée à travers la province. La reconnaissance du groupe francophone comme un groupe collectif et comme une minorité collective lui donne une entité particulière et facilite de beaucoup l'application de moyens pour lui donner des services. Le principe de la reconnaissance du groupe comme groupe collectif est la première chose que l'on doit faire. Si on ne veut pas reconnaître les francophones comme groupe, comme collectivité, que l'on peut servir par des moyens concrets, ça ne donne pas grand'chose d'aller discuter des moyens ensuite.

SIMULTANEOUS TRANSLATION:

To begin with, the provincial government of Manitoba must recognize that in principle we exist not only as individuals but also as a group. We know it is not easy to give a minority, no matter which it is, linguistic rights simply because of the fact that a minority is not always recognized and is not always situated in one area, it is dispersed around the province. The recognition of the francophone group as a collective minority gives it an empathy that is particular and would facilitate more easily the possibility of giving it services. It is a principle of recognizing the group as a collective group, which is the first step that has to be taken. If you do not want to recognize the francophones as a collective group, who can be served by specific means, there is very little point of discussing the means by which it can be done on this point.

M. RONALD BISSON: Je pourrais donner peut-être quelques exemples de services que pourrait offrir ce gouvernement à la minorité francophone du Manitoba, la minorité officielle du Manitoba. Un exemple, je crois qu'il serait simple à ce gouvernement de mettre sur pied un service de langue française qui pourrait être sous le ministre des Affaires culturelles et ce service offrirait à la population qui le désire toute une série de services en français soit dans le milieu, soit au niveau interne du gouvernement. Ce que je dis c'est ceci: je ne crois que c'est possible, et peut-être même souhaitable, de vouloir bilinguiser toute une fonction publique. On a vu avec d'autres expériences que ça ne fonctionne pas très très bien. A ce moment-là, étant donné que nous sommes quand même une petite minorité, nous sommes que six pour cent de la population, il serait possible je crois de concentrer dans un ministère toute une série de services qui pourrait desservir les gens qui le veulent. Alors ça n'incombe en rien une pression sur les gens qui ne sont pas bilingue. Par contre, le gouvernement rend

un service réel à la population qui le désire. a c'est un exemple. Je pourrais vous donner d'autres exemples; il y en a beaucoup. De fait, cette fin de semaine, nous avons eu une rencontre à St-Boniface au Collège. Il y avait au-dessus de 250 participants francophones qui ont discuté de cela toute une journée: "Qu'est-ce qu'il nous faut pour pouvoir vivre en français ici même au Manitoba". Là-dessous les délégués ont donné toute une série de services et si vous voulez, moi je serais très prêt à m'assoier avec vous dans un autre temps et vous les remettre.

SIMULTANEOUS TRANSLATION:

I could give you some examples at the moment of certain services that might be offered by this government to the francophone minority of Manitoba, the official minority of Manitoba.

One example, I believe, it would be easy enough for this government to establish a service, a French-speaking service, and at that time, as I said, a French language service which could be under the Cultural Minister's govern, and it could be offered to the population which would desire to receive it, a series of services given in French, either in a locality or in the specific areas of government.

I am trying to say that I don't believe that it's necessary or even a desire to establish as a bilingual situation a unilateral government service. We know what problems that can give. We are only 6 percent of the population. We realize that we could concentrate in one particular area of the government a whole group of services that would be available to the people desiring them. The government could give an actual service to a part of the population which needs these services but concentrated under one area of government service.

This weekend, for instance, we had a meeting at the college, there were over 250 French-speaking participants, who discussed on this question for the entire day. What do we absolutely need in order to live as French individuals in Manitoba? They suggested an entire selection of services which we would be appreciative of having and I can certainly pass this list on to you later if you would like to see it.

MR. CHAIRMAN: Mr. Kovnats, do you have a second question?

MR. KOVNATS: Yes, Mr. Chairman. What I had been thinking about, we are discussing the Constitution, whether it should be initiated into the Constitution by written in stone, whether it should be suggested, whether it is the rights now that the Franco-Canadian has and we're sort of taking it into the Manitoba scene, but I think I have to look at the whole picture, the whole of the Canadian scene. How would you suggest, and I'm looking for suggestions, on how we can protect these rights and these suggestions in Manitoba through the Canadian Constitution?

M. BISSON: Pour répondre à votre question, M. Kovnats, je dois vous dire que déjà dans la Constitution canadienne il existe une protection pour le Manitoba et c'est évidemment la section 23 que

vous connaissez très bien. a c'est un exemple qui protège pour le Manitoba le droit de parler en français dans l'Assemblée législative et dans les cours de la province. Ce que je dis c'est qu'on peut maintenant étendre ces droits-là à d'autres niveaux, par exemple au niveau des écoles. Je me souviens très bien qu'en 1978 à Montréal les premiers ministres du Canada, c'est-à-dire les premiers ministres des provinces, ont tous adopté le principe de l'enseignement de la langue de la minorité officielle. Et notre premier ministre était un de ceux qui était d'accord avec ce principe. De ce côté-là, ce que vous me poser comme question, vous avez déjà une réponse. a déjà été fait en terme de principes maintenant, il s'agit de continuer son application.

SIMULTANEOUS TRANSLATION:

Can I answer your question, Mr. Kovnats? I must say that already within the Canadian Constitution there exists a protection for Manitoba and it is Section 23, which you know is one example which protects for Manitoba the right to speak in French in the Legislative Assembly, as well as in the provincial courts. What I am saying is that we could now expand those rights to other levels, for instance, to the levels of the school. I remember in 1978, the Premiers of the provinces adopted the principle of the teaching of the official minority language and our Premier was one of the ones who was in complete agreement with the suggestions. This has already been done in principle, now it's a question of continuing the application of this rule.

MME PROTEAU: Est-ce que ça répond suffisamment à votre question?

SIMULTANEOUS TRANSLATION:

Does this sufficiently answer your question, Mr. Kovnats?

MR. KOVNATS: To some degree. Merci beaucoup. Si tu parles plus lentement, je te comprends. (Translation not available)

MME PROTEAU: Vous avez fait beaucoup de progrès en français.

SIMULTANEOUS TRANSLATION:

If you speak slower, I understand you. You have made great progress in French. Thank you.

MR. KOVNATS: Merci beaucoup.

MR. CHAIRMAN: Mr. Mercier

HON. GERALD W.J. MERCIER (Osborne): Thank you, Mr. Chairman. There has been a great deal of controversy over some of the provisions in the proposed Charter of Rights with respect to minority language educational rights and the use of the phrase "where numbers warrant". I wonder if you could give the committee the benefit of your views on that subject.

MME PROTEAU: Quand on parle de "là où le nombre le justifie", ça met un droit conditionnel à la population. Or, nous sommes d'avis que ou nous avons des droits ou nous n'avons pas. Si nous avons des droits, il doit y avoir moyen de les respecter

sans mettre des conditions. Et chaque fois que l'on dit "là où le nombre le justifie", on met une condition au droit. Une constitution devrait élaborer sur les droits et ensuite il pourrait y avoir des règlements pour l'application de ces droits. Je sais bien que "là où le nombre le justifie" dans l'esprit de bien du monde, c'est un moyen pratique de résoudre un problème très difficile. Mais]là où le nombre le justifie" ça devient très restrictif et ça limite le droit énormément. Ensuite qui décidera quel nombre justifie quoi? Ce seront évidemment les provinces qui conserveront par exemple en éducation le droit de gérer leur système d'éducation. Si une province décide qu'il faut 50 enfants pour qu'il y ait suffisamment d'enfants pour justifier un programme français, alors dans un village où il y en a 30, ces 30 enfants-là n'ont pas le droit à leur éducation.

Je crois qu'il y aurait moyen tout en enlevant "là où le nombre le justifie" de trouver par la suite après la Constitution, les moyens propices pour répondre effectivement aux droits des francophones des provinces de l'Ouest et de l'Est et des anglophones de la province de Québec de répondre correctement à leurs droits tout en tenant compte des difficultés administratives que ça peut causer. Parce que c'est bien sûr s'il y a seulement deux personnes de minorité officielle tout à fait dans le nord de la province, qu'est-ce qu'on fait face à des écoles. Or il y a peut-être moyen de s'en sortir si on ne se restreint pas avec cette histoire de "là où le nombre le justifie".

SIMULTANEOUS TRANSLATION:

When we speak, "there where the number justifies it", it establishes a conditional right for population. We feel that either we have rights or we don't. If we do have rights, there must be a way by which you respect them without establishing conditions and every time we put down the clause, "there where the member justifies it", we establish it a condition on this right.

One should establish rights and then followed by rules for the application of these rights, not conditions. I know that in the spirit of many people the citation of, "there where the number justifies it", is reasonable but it becomes very restrictive. It limits the right to a phenomenal amount.

Who is going to decide what the magic number is that will justify this? The province which wants to maintain the rights to govern his own educational rulings. However, if the province decided there has to be 50 children to justify a French course for a possibility of teaching in French, a village that only has 30 children then has to sacrifice these rights to studying in its own mother tongue. One should really study the rules in order to answer properly the needs of the francophones in the west, and the anglophones in Quebec consider the possibility of giving them their rights while considering, too, not putting in clauses that are going to cause all sorts of problems.

After all, one must not be ridiculous. If there are two English-speaking people in a northern development which is entirely French, you're not going to run around demanding the impossible, but do remove the clause, "there where the number justifies it", because it becomes restrictive.

MR. CHAIRMAN: Do you have a second question, Mr. Mercier?

MR. MERCIER: No, thank you.

MR. CHAIRMAN: Mrs. Westbury is next.

MRS. JUNE WESTBURY (Fort Rouge): M. le président, je ne suis pas un membre de ce comité,

SIMULTANEOUS TRANSLATION:

Mr. Chairman, I am not a member of the committee,

MRS. WESTBURY: but I wish to speak anyway. You asked for questions from members of the committee. I don't have a copy of the brief, Mr. Chairman, and I wonder if it would be possible for me to receive copies of the briefs that have been presented to date. I was a little late as well, and I apologize for that. I have been away on an emergency and I just got back late last night.

I gather from the presentation that you are asking also at a federal level for these same linguistic rights for the English-speaking minority in Quebec because you have made a point about linguistic minorities here which would apply equally to Quebec in the same situation as the Franco-Manitobans' rights in this part of the country. That is correct?

MME PROTEAU: Oui, c'est bien sûr que si nous réclamons des droits pour la minorité francophone dans les neuf provinces du Canada où la majorité est anglophone, nous réclamons les droits semblables ou identiques pour la majorité anglophone du Québec.

SIMULTANEOUS TRANSLATION:

Yes, if we request rights for the francophone minorities in the nine provinces of Canada where they are minorities, obviously we also require the same rights for the anglophone minority in Quebec.

M. BISSON: Et là-dessus, Mme Westbury, je voudrais ajouter un peu. Pour revenir à la question de M. Mercier, je crois que ça se retouche. Lorsqu'on parlait tout à l'heure de "où le nombre le justifie" dans la question scolaire, lorsqu'il y a eu des présentations sur le Bill 31 pour la Loi scolaire, un de mes amis qui s'appelle Armand Bédard, avait fait une présentation pour demander qu'on reconnaisse dans la Loi du Manitoba les écoles françaises. A ce moment-là il donnait un exemple que je crois très pertinent. Au Québec, la minorité anglophone contrôle à tous les niveaux ses institutions scolaires. Même dans une région comme l'est du Québec où la minorité anglophone est vraiment minoritaire dans le sens qu'il y a très très peu d'anglophones sur un grand territoire, ils ont leur propre commission scolaire. Il y a deux secondaires anglophones et quatre ou cinq écoles élémentaires anglophones. Alors à ce moment-là, ce droit-là s'applique déjà à la population du Québec anglophone.

SIMULTANEOUS TRANSLATION:

On this, Mrs. Westbury, I would like to add — to come back to Mr. Mercier's question, too — when we spoke a while ago of "there where the number justifies it" in the schools, the school question,

when there were presentations on Bill 31 for the school rights, a friend of mine, Armand Bedard, had made a presentation requesting that the law of Manitoba should recognize the French-speaking schools in Manitoba. He gave an example at that time which I find pertinent. In Quebec, the English minority at all levels controls its own school institutions, scholastic institutions, even in the east of Quebec, where the English minority is really a minority in the sense that there are very few of them, it's a huge territory. They have their own school board; there are two primary schools and a couple of high schools. Already this right has been applied to the anglophone minority in Quebec.

MR. CHAIRMAN: Mrs. Westbury.

MRS. WESTBURY: Thank you. But under your recommendation, those would be intrinsic and basic rights, rather than something that is sort of granted by a government or by the local community, as really has been the case in the past.

MME PROTEAU: Oui, voilà. Actuellement, il y a certains droits très très de base qui sont reconnus, par exemple, au Manitoba le droit à ce service de ce matin. Mais autrement, tout le reste c'est des droits qui sont tolérés. C'est des services que l'on tolère et qui reste toujours un privilège. Ce ne sont pas des droits, ce sont des privilèges que l'on tolère et ça reste sous la bonne volonté des gens qui gouvernent: soit des commissions scolaires ou des représentants municipaux ou provinciaux. Alors si on parle de droits et de droits inscrits dans une constitution, à ce moment, c'est une reconnaissance officielle de ce qu'a un peuple et de ce qu'a droit un peuple.

SIMULTANEOUS TRANSLATION:

Yes, actually there are certain rights that are basic rights that are recognized; for instance, in Manitoba through this interpretation service this morning, but everything else are rights that have been tolerated, the services that have been tolerated and they always remain a privilege. It isn't a right; it's a privilege that we are given and this remains under the auspices of the governing body, either the school boards or municipal societies or provincial governing bodies, and if we are talking of rights and rights of a Constitution, one should establish the fact that it is an officially recognized right to the population.

M. BISSON: Et pour continuer dans le même sens, Mme Westbury, dans notre document vous allez lire à l'annexe I, la restriction du fait français au Canada entier. Nous avons donné des exemples à partir du Nouveau-Brunswick à l'île du Prince-Edouard, en Ontario, au Manitoba, en Saskatchewan et en Alberta. Or vous voyez qu'est ce qu'on discute ce matin n'est pas et je répète n'est pas strictement une affaire d'un petit groupe de francophone à St-Boniface qui vienne voir leur gouvernement à Winnipeg pour avoir des privilèges: c'est réellement une affaire nationale. A ce moment-là, il y a un argument que justement M. Roblin avait développé pour Trois-Rivières en 1965. Nous pouvons nous regarder de deux façons. D'une part d'une façon

verticale donc strictement à l'intérieur de la province où on peut dire, "ils sont seulement 40 000, ça vaut pas la peine". Ou nous pouvons nous regarder d'une façon horizontale à travers le Canada où nous sommes sept millions de Canadiens-français. Pour sept millions, ça vaut la peine. Et je crois que c'est ça un changement d'attitude profond qui est requis de bien des gens dans ce débat constitutionnel. Nous devons commencer à nous regarder comme Canadiens Coast-to-Coast d'une façon horizontale pour les droits des minorités de langues officielles.

SIMULTANEOUS TRANSLATION:

In order to continue in the same sense, Mrs. Westbury, in our document, you will read in Annex 1, the restriction of the French fact in Canada in general. We gave examples going from New Brunswick, Prince Edward Island, Ontario, Manitoba, Saskatchewan and Alberta. You will see that which we discussed this morning is not, I repeat, is not, strictly a question of smaller groups of francophones in St. Boniface who are coming to see their government in Winnipeg to obtain a few more privileges.

Actually, it is a question of national right and Mr. Roblin, in Trois-Rivieres in '65, had developed this thing. We can look at it from two points of view; on the one hand, on a vertical level strictly within the province, where we can say there are only 40,000, you know, why bother? Or we can look at it at a horizontal level going right across Canada, where we are 7 million French-Canadians, and for 7 million people, it is a point of value, and it requires a fundamental change of attitude. We have to look at ourselves as Canadians coast to coast and at the horizontal levels in order to recognize the rights of the official minorities.

MR. CHAIRMAN: Mrs. Westbury.

MRS. WESTBURY: Yes, Mr. Chairman. Would you then comment on the statements as quoted in the media by our Premier to the effect that the best way to protect the rights of people is through the provincial legislatures. I think you have been saying that these rights, as far as Franco-Manitobans are concerned, have not been protected as through the legislature. Would you comment on that please?

MME PROTEAU: Nous serions plus qu'heureux de pouvoir dire qu'en effet les assemblées législatives nous ont toujours protégés. Mais ce n'est pas le cas et l'Annexe que vous avez au document le prouve. Il y a énormément plus de preuves que celles-là. Celles-là sont les preuves de base. Il reste que quand on a cité au tout début du document ce qui c'était passé à la législature du Manitoba 1890, il y a eu un commentaire qui a été fait le journaliste et c'était ceci: tout a été fait par une majorité sourde. Or quand tout est laissé à la législature, il s'agit qu'il y a à la législature une majorité ce qui sera toujours le cas face à une minorité, comme de bonnes raisons, une majorité qui veulent pas comprendre, qui ne veulent pas savoir, qui ne veulent pas écouter et ça y ait, la minorité n'a plus rien à dire. Alors il reste un seul recours dans un cas comme celui-là, c'est un recours à la justice. Et c'est malheureusement le cas à travers le Canada; les

législatures ne nous ont pas protégés. Nous aimerions pouvoir dire oui, en effet, c'est notre meilleur moyen. Mais l'histoire ne nous a pas prouvé cela.

SIMULTANEOUS TRANSLATION:

We would be very happy to say that the Legislative Assemblies have always protected us, but it is not the case. The Annex you have with this document proves it. There is a great deal more proof; these are just basic proofs, but there is a great deal more proof that Legislatures have not supported us.

When we speak at the beginning of the document, of that which passed in Manitoba in 1890, those are comments made by the journalists which was everything was done by a just majority. If everything is left to the Legislature, one must consider that in the Legislature there is a majority obviously, either that or you're working with a minority. That majority does not want to hear, to learn, to listen, and the minority has nothing to say.

Now, there is only one recourse in that kind of a situation, and that is a recourse to justice, and unhappily this has been the case right across Canada. The Legislatures have not protected our rights. We would like to say that, yes, it is our best way, but history has proven it otherwise.

M. BISSON: Et là-dessus, je voudrais renchérir un autre point pour renforcer ce que vient de dire Mme Proteau. Je ne veux pas être partisan politique quand je donne ma réponse. Si on regard ce qui c'est passé au Manitoba depuis 1890, et là-dessus M. Desjardins pourrait vous en conter longuement. Le travail qui s'est espacé sur une période de 30 à 40 ans pour faire reconnaître seulement que le cours de français dans les écoles publiques du Manitoba, ça prit effectivement à peu près ça, 30 à 40 ans. Alors moi je me dis si ça prend une législature, un gouvernement 40 ans pour reconnaître l'enseignement du français, du sujet français, comment est-ce qu'on peut espérer que ces mêmes législatures vont garantir toute une autre série de droits. Ce n'est pas possible.

Et deuxièmement, lorsque vous faites référence, particulièrement M. Lyon, moi je trouve une position qui est étrange. C'est que M. Lyon ne veut pas de droits linguistiques dans la Constitution parce qu'il ne veut pas que les cours aient une suprématie sur les assemblées législatives ou le gouvernement. Par contre, lui-même amène le gouvernement fédéral en cours pour être capable de prouver son point. Alors je me demande est-ce qu'il veut, lui, garder ce droit pour lui-même d'amener le fédéral en cours et pas nous donner ce même droit à nous comme minorité officielle au Manitoba.

SIMULTANEOUS TRANSLATION:

On this point I would also like to re-enforce what Mrs. Proteau said, and I feel slightly politically partisan in giving my answer, but when you consider what happened in Manitoba from 1890 — Mr. Desjardins could refer to this — in a period from 30 to 40 years the amount of work that was done to have a course in French recognized in the schools in Manitoba took about 30 to 40 years, just to allow a course to be accepted in the

schools. Now if it takes the Legislature 30 to 40 years to recognize the value of teaching a French course in school, how can you expect that the same type of Legislature is going to guarantee all of your rights?

You also refer to Mr. Lyon, I feel that I'm in a strange position really, and that is that Mr. Lyon does not want to establish the linguistic rights in the Constitution because he does not want the courts to have a supremacy on the Legislatures. Consequently, he himself brings the federal government into court in order to protect his own point of view. Now I am wondering, what does he want? Does he want to keep this right only for him? He has the right to bring the federal to court for something he doesn't like, but he doesn't want to grant us the same kind of right as a minority in Manitoba.

MR. CHAIRMAN: Mrs. Westbury.

MRS. WESTBURY: Thank you, Mr. Chairman. I would just like to say what a pleasant surprise it was to come in and find the simultaneous translation available, at least to members of the committee.

MR. CHAIRMAN: Mr. Parasiuk, did I see your hand up earlier? Mr. Parasiuk.

MR. WILSON PARASIUK (Transcona): I just want to get an amplification of some of the answers you gave to Mrs. Westbury's questions with respect to the requirement of an entrenchment of language rights.

Your Appendix talks about restrictions of the French fact in Canada; it's factual, it's documented and it is in a sense a damning case against the way in which anglophones have treated francophones. At the same time, there is concern by anglophones in Quebec and anglophones outside Quebec about a similar type of trend that may be occurring in Quebec. If you document, if you took the experience since 1970, although at present the anglophones in Quebec have far greater linguistic rights with respect to institutions and schools than francophone minorities in the rest of Canada. There nevertheless is some type of trend to restrict those rights and there is a concern that this restriction may continue beyond what exists right now. It may in fact parallel what has taken place in the rest of Canada with respect to the francophones.

Given that, do you think that we may be able to strike again some type of bargain between the francophones in Canada, many of whom are in Quebec but many of whom are outside of Quebec, and the anglophones in Canada, many of whom are outside of Quebec but some of whom are in Quebec? Do you think we can strike some type of bargain by an entrenchment so that both groups, in fact, can feel some confidence that those rights won't be taken away and therefore they can then turn their attention to other positive things as opposed to trying all the time to defend themselves against that which is happening right now and that which they fear may happen five years down the line?

MME PROTEAU: C'est sûrement possible. Mr. Lévesque lui-même d'ailleurs avait déjà il y a plusieurs années, proposé aux provinces des échanges de droits, si on peut dire "des bargains" francophones hors Québec, anglophones du Québec. Maintenant, je dois vous dire que le problème est complexe; les solutions ne sont pas faciles et je vous assure que je suis bien contente de ne pas être dans les souliers de Pierre Trudeau.

SIMULTANEOUS TRANSLATION:

It is certainly possible. Mr. Levesque himself, several years ago, proposed to the provinces certain exchanges of rights, let us say, bargaining rights, for the francophones outside Quebec with equal rights to the anglophones in Quebec. The solutions are not easy. The questions are complex, and I am very happy not to be on the shoes of Pierre Trudeau.

M. BISSON: Je voudrais peut-être renchérir un peu à ce que vous dites, Mr. Parasiuk. Il faut comprendre d'où est venu, dans la Confédération canadienne, cette question de droit pour les minorités. Là, je ne veux pas refaire tout un cours d'histoire, mais je crois qu'il est essentiel de comprendre que la seule et unique raison que dans l'Acte de l'Amérique du Nord britannique, nous avons une protection pour la minorité. C'est parce que la population anglophone minoritaire du Québec de ce temps-là l'exigeait. C'était le père de la Confédération, Galt, qui disait si nous n'avons pas les droits pour notre minorité protestante au Québec, nous ne voulons pas entrer dans la confédération. Or cet aperçu historique, je crois, est assez important. a commencé là.

Maintenant je voudrais renchérir sur un point qu'a dit Mme Proteau: est-ce que c'est possible de faire des marchés - une minorité à l'intérieur du Québec, des minorités francophones à l'extérieur du Québec, un peu comme des hôtages. A ce moment-là, si on pouvait le faire, moi je dirais oui. Si le bien-être de la minorité anglophone au Québec va garantir notre bien-être au Manitoba, je dirais oui, allons-y. Il y a un petit problème. Vous vous souvenez sans doute dans la Loi 101, c'était si je ne trompe pas l'article 26, mais je ne suis pas certain, le gouvernement du Québec proposait aux provinces des traités de réciprocité en éducation qui disait ceci: Si vous développez des écoles françaises dans vos milieux pour notre population, nous allons développer des écoles anglaises dans notre milieux pour votre population. Parce que vous savez que selon la loi si un anglophone de Winnipeg déménage dans la ville Québec aujourd'hui, il n'a pas accès à l'école anglaise. Il doit aller à l'école française. Il ne faut oublier non plus que si un Québécois est transféré à Victoria, lui non plus n'a pas d'accès à l'école française, il doit aller à l'école anglaise.

Or si le traité de réciprocité était proposé il y a déjà quatre ou cinq ans, et aucun gouvernement provincial n'a accepté ce style de traité, donc pour venir à question: est-ce que c'est possible, la réponse est "oui" s'il y avait une volonté politique des gouvernements d'agir dans ce sens. Et tant et aussi longtemps que cette volonté politique n'y sera pas, il ne sera pas possible de dire tout va bien partout. a va être impossible.

SIMULTANEOUS TRANSLATION:

I also want to add to something you said, Mr. Parasiuk. One must understand where this question of rights came from in the Canadian Constitution. I am not going to give you a history course, however, it is essential to remember and to understand that the only reason that in The BNA Act we have the protection for our language, it is because the anglophone minority at that time demanded it, they demanded it.

Galt, the Father of Confederation at the time, said that if we do not have these rights for our Protestant English minority in Quebec, if we do not have these rights, we will not go into Confederation. Now that's where it began.

Now I'm going to enlarge on a point that Mrs. Proteau brought out. When you ask, is it possible to make deals or bargains — a minority within Quebec and minorities outside Quebec are a little like hostages. At that point, if it was possible to make deals, I would say certainly. If the well-being of the anglophone minority in Quebec was equally guaranteed for the well-being of the francophone minority in Manitoba, I'd say great, go ahead.

But remember Law 101, I think it was Article 26 — the Quebec government proposed to the provinces reciprocity treaties, so to speak, in Education, which stated this: "If you develop French schools in your area for our population, we will develop English schools in our area for your population." Now this is what he suggested. As you know, according to the law, if an anglophone from Winnipeg moves to the City of Quebec today, he does not have access to an English school. He must go to a French school. One must not forget either, that if a Quebecker is transferred out of Quebec to Victoria, he also does not have access to the French school, he has to go to an English school. So these reciprocity treaties have been proposed about five years ago, and there wasn't a single provincial government who accepted this type of treaty.

Coming back to your question, stating is it possible? The answer is "Yes", there was a political desire of the governments to behave in this way, and as long as that political desire is not there, it will be impossible to say that everything is going well everywhere, it will be impossible.

MR. PARASIUUK: Basically, we've come up with two general methods. One would be to try some system of bilateral negotiations, where in a sense the minorities are almost hostages in that process of bargaining between provinces which hasn't been too successful to date, but could be something that is pursued politically over the course of the next five, ten, twenty years, and which, I think, would consume a fair amount of our time.

Secondly, another approach would be to entrench those types of minority official linguistic rights in a Constitution, have it guaranteed, and we could move on to other aspects. Which of the two methods would the Society Francophone prefer?

MME PROTEAU: Vous savez, on peut jaser longtemps de choses-là. Mais la protection des droits est supérieure au marchandage des minorités.

SIMULTANEOUS TRANSLATION:

You know, we can talk about this forever, but the protection of rights is far superior to the bargaining of the minorities.

MR. CHAIRMAN: Mr. Desjardins.

M. LAURENT L. DESJARDINS (St. Boniface): Oui, si on reconnaissait nos droits, nous francophones ici au Manitoba, si on nous donnait les moyens d'exercer ces droits, est-ce que je peux voir des difficultés, est-ce que cette minorité francophone peut coexister avec les anglophones en harmonie, en unité. ou si vous voyez une possibilité d'enrichir ici la province du Manitoba. Est-ce que vous pourriez élaborer sur ça?

SIMULTANEOUS TRANSLATION:

If one recognized the rights of the francophones in Manitoba, if you gave us the possibility of exercising our rights, can you foresee any difficulties for this French minority? Could it exist with the anglophones in harmony, in union, or can you foresee the possibility of enrichment of the province of Manitoba? Could you expound on that?

MME PROTEAU: Selon ce que l'on peut voir et selon ce que l'on peut espérer, je pense que si on avait une protection officielle de nos droits et si on avait des institutions qui appartiennent à notre collectivité et qui desserveraient notre collectivité, il me semble que ça enlèverait beaucoup de tension entre les anglophones et les francophones. On a déjà parlé un peu, il y a quelque temps, de bilinguisme un service public. Quand on parle de bilinguisme une province, les gens pensent toujours ah il va falloir bilinguisme le service public. Là les gens sortent toujours avec cette histoire de "they're going to stuff French down our throat" et puis ça fait peur. a peur aux gens. Mais quand parle de droits collectifs et quand on parle de desservir une collectivité avec des services organisés pour la collectivité, ça n'enlève rien à la majorité; ça ne les dérange plus; et ça fait un service parallèle plus petit et parfois limité dans la géographie parce qu'il n'y a pas des francophones partout ou parce qu'on ne peut pas nécessairement établir des services partout. On s'arrange pour qu'il y ait accès au service. Il me semble que ça désamorcerait complètement cette énorme tension qui existe actuellement et cette peur qu'on beaucoup d'anglophones qu'on va les dévorer quoique je me demande comment six pour cent de la population peut en dévorer 94 pour cent.

SIMULTANEOUS TRANSLATION:

According to what we can see and what we can hope for, is if we had a guarantee of protection, an official one. I have had institutions that belong to our minority and our group. It seems to me that it would relieve a great deal of tension between the francophones and anglophones.

We have already spoken of bilingualism in the Public Service, but when you talk about bilingualism in the Public Service in a province, everybody panics and says everybody is going to have to speak French and they are going to stuff French down our throats, and it really frightens them. But when you talk about collective rights and the rights of a group, and the services

organized for this group, it doesn't take anything away from the majority. It doesn't disturb them, but it gives a parallel service that is smaller, limited possibly geographically, because after all, you don't find the need everywhere, so the services will be placed in such a way that they will be accessible to those who need it. It would certainly relieve this incredible tension that exists and the panic that exists in the hearts of the anglophones wondering whether or not we're going to eat them alive — how we could do that, I don't know, but however, there is a fear.

MR. CHAIRMAN: Do you have second question?

MR. DESJARDINS: No, that's fine.

MR. CHAIRMAN: Are there any other members of the committee that wish to question our delegation? Seeing none, I thank you very kindly for your appearance.

MME PROTEAU: (French spoken but transcription not available) Merci beaucoup.

SIMULTANEOUS TRANSLATION:

We have other copies of the report for the journalists and they will be available. Thank you.

MR. CHAIRMAN: Is Mr. George Forest present? Are there any other persons wishing to make a presentation and use the simultaneous translation?

Mr. Kovnats.

MR. KOVNATS: I would like to ask, was Mr. Forest advised that simultaneous translation was available to him at this time?

MR. CHAIRMAN: I'm told that the Clerk was in touch Mr. Forest this morning.

MR. KOVNATS: Fair enough. Thank you very much, Mr. Chairman.

MR. CHAIRMAN: I'll ask once again. Are there any other persons present that wish to make a presentation and use the translation service?

M. DONALD SCOTT: Monsieur, mon nom est Donald Scott. Je suis capable de dire quelque chose en français aussi et si tu veux la plupart de ma présentation est en anglais mais je peux commencer peut-être avec quelque chose en français, si tu veux. Aujourd'hui si c'est possible seulement ce matin, je veux faire ça maintenant mais si possible plus tard aussi peut-être je préfère ça plus tard. a dépend de vous autres.

SIMULTANEOUS TRANSLATION:

My name is Donald Scott. I am able to say a few words in French and I would like to make my presentation, however, I could say a few words in French if you would like it. Today, since it is possible to have the service this morning, it is fine, I do not mind when you would like to have it, if you wish it now or later.

MR. SCOTT: It's up to you guys. Most of my presentation is in English. It is virtually all in English,

but I can make some responses and whatnot in French. I can start off in French if you wish.

MR. CHAIRMAN: What is the desire of the committee? Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, if I may, the services are here and if the gentleman wants to avail himself of the possibility, I think we should hear him.

MR. CHAIRMAN: Are you Mr. Don Scott, sir? Just before you start with your presentation, sir, would you introduce yourself and tell us who you represent if you are representing a group.

MR. SCOTT: No, I'm not representing a group. My name is Donald Scott. I am an individual at this point in time.

MR. CHAIRMAN: And you wish to make your presentation in French?

MR. SCOTT: No, I'm going to make the basic presentation in English, but I will start off with a preamble in French, and remarking in particular on some aspects of the former presentation.

MR. CHAIRMAN: The reason I ask that, sir, is that we have the translation services available for people who wish to make their presentation in French. Mr. Forest was the second person who notified the Clerk's office of a desire to do so. He doesn't appear to be present, yet your name is down about seven or eight further down on the list and there are other people who are ahead of you. Just because you want to do a few lines in French, I don't think that you should come ahead of half-a-dozen or a dozen other persons unless you want to make the major portion of your presentation in French.
Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, let's be fair. I don't think that the gentleman knew that this would be available. You yourself asked if there was anybody else who wanted to take advantage of the service. He indicated that he would and I think that we should hear him. Of course, if it's just a way to appear before the others, if he's not going to use it at all, then we won't know until it's too late. I don't think this will be appreciated, but I think that the important thing is this gentleman seemed to be an anglophone who is making a gesture, and I would like to hear him with his presentation in French and then his main document read in English.

MR. CHAIRMAN: All I was trying to do, Mr. Desjardins, was establish whether Mr. Scott was trying to get ahead of about a dozen other persons by opening in French.

All right, Mr. Scott, would you proceed, please.

M. SCOTT: Merci, M. le président.

Dans ma présentation juste avant par la Société franco-manitobaine, on a demandé dans les questions, les droits de l'éducation française partout dans le Canada et l'éducation anglaise au Québec. Dans mon expérience, comme je suis né en Ontario, mais j'ai passé de l'âge six à 22 ans en Nouvelle-Écosse et après ça un an au Québec. Pendant ce

temps au Québec, c'était juste après le War Measures Act, juste après la crise d'octobre. Pendant ce temps, j'étais au Lac St-Jean, Saguenay, Lac St-Jean, dans les villes de Jonquiére, Chicoutimi et St. . . . Juste à côté de Jonquiére, il y a la ville d'Arvida. Arvida, incédemment, c'est un nom composé par le premier président de Alcan qui s'appelle Arthur Vincent Davis et les première lettres de son nom font le nom d'Arvida.

Dans Arvida, il y a une population anglophone, pas tellement gros mais assez gros pour donner une éducation anglaise aux enfants de sa population. Cette population, et c'était avant le câble, les services câbles de la télévision, a eu un poste de Radio-Canada anglais, un poste de Radio-Canada anglais pour télévision aussi et c'était une expérience qui n'était pas la même dans tout le Canada à ce temps. a c'est en 1970. Le peuple de cette ville, les anglophone en général, au Québec a eu les droits qui n'étaient presque pas comparables dans une autre province dans tout le Canada.

Ici après la partie de la Constitution qui était proposé maintenant par M. Trudeau, ne donne pas nécessairement plus de droits à une famille ou une famille au Québec anglaise ou à une famille française au Canada. Malheureusement encore, c'est encore à cause du nombre. It depends on the number of people. Si la population s'ajuste, on est capable peut-être. Mais c'est quoi le principale pour les nombres? C'est 100 familles? 10 étudiants? C'est quoi les nombres? Et ce problème, c'est donc un gros gros problème où les populations ici dans les petits villages au Manitoba, en Saskatchewan et dans les autres provinces aussi, la Nouvelle-Écosse aussi, dans les villes de Ste-Anne et au Cap Breton, il y a quelques villes aussi où l'on a besoin d'éducation française pour les étudiants.

Si les autres provinces ont eu plus . . . pour donner le respect à cette proposition autrefois, peut-être . . . l'éducation dans la langue française donnée aux étudiants dans toutes les provinces dès la première année à l'école et pas de la septième année. C'est peut-être un peu . . . de notre système ici que la deuxième langue nationale se commence dans la septième ou huitième année à l'école et pas dans la première année.

Au Québec, quand j'étais à St. . . j'étais un professeur d'anglais et l'anglais a commencé, et ça c'est dans l'an 1971, le français a commencé dans la deuxième année à l'école et c'était dans un petit village au Lac St-Jean. Lac St-Jean est aussi français comme Arborg est anglais ou que Brandon est anglais, la même chose. Mais dans cette partie, il y a dix ans maintenant, le Québec donne une instruction en anglais depuis la deuxième année à l'école. Pour nous autres, on a pas commencé ça encore et particulièrement ici au Manitoba où le Manitoba est une province bilingue sous la Constitution avant que le droit de 1890 je pense, où les français ont perdu leur droit. Je trouve ça bien triste que maintenant au Manitoba sous la décision de la Cour suprême, l'année passé, qu'elle n'ait pas commencé de . . . pour donner les langues d'instruction dans les écoles anglaises en français depuis la première année: pas toutes les classes, mais une classe chaque jour pour une heure, pas moins d'une heure en français.

Il n'y a pas une personne, un professionnel que j'ai entendu qui a dit qu'une deuxième langue fait ça

plus difficile pour un étudiant dans le cours en général. Nous avons les spécialistes de New York, les spécialistes des autres pays en Europe et aussi maintenant ici au Canada. Ils étaient justement en conférence ici juste la semaine passée, je pense sur le sujet de plus d'une langue dans l'école. Et presque toutes ces personnes ont dit qu'un étudiant qui a le bénéfice de plus d'une langue avait plus de possibilités de monter dans sa carrière académique.

Le français n'est pas une chose . . . qui arrête le progrès d'un étudiant; ça aide le progrès d'un étudiant. . . . d'un autre système de penser. Le français, il pense qu'on ne parle pas comme l'anglais et ça c'est la raison que des personnes comme moi et les autres qui apprennent une deuxième langue ont de la difficulté à parler dans une autre langue. a c'est à cause que notre langue ne s'est pas ajustée et notre "mind" ne s'est pas ajustée de penser dans l'autre langue. Et avec ça, le "mind" devient plus flexible quand le "mind" est capable de penser en plus d'une langue. On ne pense pas seulement sur une voie, on parle sur les deux voies. Si on a la possibilité d'apprendre une autre langue, une langue slavique ou quelque chose comme ça, c'est encore plus à l'avantage d'un étudiant.

Sur le sujet des droits de la langue dans la Constitution, moi je préfère bien sûr que la langue soit donnée dans les droits, pas avec les numéros . . . pas une loi conditionnelle mais une loi qui est vraiment forte dans la Constitution, pas au sujet de la législature pour un avenir comme on a eu en 1890. Avec ça si je peux commencer ma présentation en anglais.

SIMULTANEOUS TRANSLATION:

Thank you, Mr. Chairman. In the previous presentation by the Societe franco-manitobaine, the question of rights to French education in Canada was mentioned as well as education in English in Quebec. From my experience, I can state that I was born in Ontario and lived in Nova Scotia and then in Quebec. During my period in Quebec, it was just after The War Measures Act, after the October crisis, and during this period I was in Lac St. Jean, Saguenay district, in the the town of Jonquiere, Chicoutimi, and right next to Jonquiere, there is the town of Arvida. Arvida is the name proposed by the first president of Alcan, whose name is Arthur Vincent Davis, and the first letters of his name were established in the name of Arvida and consequently this was why the town was called this. The population is English but sufficiently large to give English education to the children of this population. The population lived there well before cable television was available. There was a CBC radio station established in English for the population, as well as a television station established in English for the population. The same was not done right across Canada, but this was before 1970. The people of this town, the anglophones in general in Quebec, received the rights that were not anywhere near comparable to the rights given other minorities in the rest of Canada.

Now, the guarantees in the Constitution established by Mr. Trudeau, suggested by Mr. Trudeau, do not give more rights to the English people in Quebec, but once again it depends on

the numbers of people. If the population is justified, we can possibly have our rights, but it is not a principle of numbers. What is the number? 10? 20? This problem is a huge problem when the population in small towns in Manitoba, in Saskatchewan, in other provinces also, in Nova Scotia, and in some of the Maritimes, there are small villages where schools and French schools are available for the students. If other provinces had more intention to give respect to this whole proposition in the past, possibly we could have seen the teaching in French in other provinces from Grade 1 and up instead of from Grade 7 and up. It may be a joke as far as our system is concerned when the second national language starts in the seventh grade or eighth grade of school and not at the very beginning year, the first years.

When I was in Quebec, and this was in 1971, French was started in Grade 12, in the tiny village of Lac St. Jean. It's a tiny town like Arborg. Ten years ago, Quebec has been giving teaching in English from Grade 2 on. Especially in Manitoba, Manitoba is a bilingual province by our Constitution and well before the law of 1890 when French was removed as a right. I think this is very sad that this should happen and that last year the Supreme Court should have established the intention of giving the teaching from Grade 1 up in French as well as in English, not necessarily in all classes but every day for a certain length of time have the teaching in French.

I have heard the remark made by professionals saying that a second language makes things much more difficult for an individual having two languages. Now, that's absurd. We had a constant thrust . . . stating that the school that he was representing had more than one language in it and that a student that had the benefit of more than one language showed himself much more adept, and went further ahead in his academic as well as his professional career.

A second language is not something that stops the progress of a student or that damages his own knowledge of his language. In reality it increases it. They think that someone speaking French does not think like a person speaking English. That's absurd. That is proposing that one language does not equate another. They complement one another; they increase your understanding and broaden your vocabulary. Actually, the mind can shift from one to the other quite easily and it simply enhances the one you already know. and if you have more than two languages, you are in an even better situation.

Now, the establishment of the rights of languages within the Constitution, I think, is very important. I think that it should be a right that is given, not based on numbers, but as a fundamental right, not a conditional right, but a right is strong within the Constitution and not subject to the Legislatures as we have seen in the past in 1890.

Now, if I can pass on to my presentation. My formal presentation in English, I will pass to this now. Thank you.

MR. CHAIRMAN: Please carry on.

MR. SCOTT: It is with some degree of pride that I am able to stand before you today and present my opinions on Manitoba's constitutional position. It is with a great deal of disappointment that I and my fellow citizens, who are sufficiently concerned about the Constitution that we are taken the time to prepare and present briefs, find ourselves making an honest public input after the government has decided to go to court, and in fact has presented a fifty-one page submission to the court.

MR. CHAIRMAN: Before you carry on, Mr. Scott, do you have additional copies of your presentation?

MR. SCOTT: No, I am sorry, I don't have the services of a photocopier and it is all handwritten. I will give it to you or give it to the Clerk to photocopy upon completion. I think you will find it interesting even if you have to follow through without having a written text on it.

It is obvious that a Conservative Government has no real intention of listening to our briefs or in alternating in any way their dogged opposition to the entrenchment of a Charter of Human Rights and a Constitution.

In preparation for these discussions I have gone back into our earlier beginnings, and the evolutionary process has brought us to this point in time in the history of our Constitution. I have learned that as early as 1763, and these are all preambles to our Constitution, you cannot forget things from the times of the Conquest or even prior to that when we are dealing with the Constitution. You can't just start at the talks as they started back less than a year ago now, the current session of talks, you have got to go back through the whole history, I think, to get a decent perception of where we stand in our Constitution and where we are moving to today.

As early as 1763, under The Treaty of Paris, religious rights were granted to Roman Catholics to practice their religion without the fear of prosecution. The Quebec Act of 1774 reconfirmed this, along with the French Civil Code, and that is pertaining to property and civil rights. Public law, however, remained under the English system and this included criminal law. This distinction between private and public law has remained throughout the past 206 years with the evolution of our country through the first Canada Act of 1791, The Act of Union in 1840, and The BNA Acts of 1867 and subsequent.

There has always been a division between private and public law. The private law is derived from its concepts of civil rights and property. It deals with the property and its uses, to successions, to contracts, towards status of persons, and commercial matters. Public law, on the other hand, in 1774 and subsequently, has dealt with the rights as are consistent with our allegiance to His Majesty or Her Majesty, and subjection to the Crown and Parliament. It is under this jurisdiction that civil liberties and hence, human rights, are found, and as such are regulated by criminal law.

Thus, I suggest to you that the inclusion of a Charter of Human Rights in the Constitution will not infringe upon a provincial jurisdiction under Section 92(13) of The BNA Act, dealing with property and civil rights, because they fall under public law, which includes criminal law and not under private law or

civil law. This class of law is, of course, under federal jurisdiction now, and will remain so, because to have anything different would lead to the eventual evolution of different systems of law in each province, thus Balkanizing Canada.

General freedoms, such as freedoms of speech, of the press, of association, and of religion remain outside the provincial sphere. The field of criminal law contains the basic individual freedoms even though it may not define them. Laws of this nature, wrote the Privy Council, and this is the judicial committee of the provincial council in Russell versus the Queen back, I believe it was in 1912 that laws of this nature are designed for the protection of public order, safety and morals, which subject those who contravene them to criminal procedure and punishments belonging to the subject of public wrongs rather than civil rights. This was subsequently upheld in Ouimet versus Basin, where a province attempted to prohibit theatrical performances on a Sunday. The first reference to the case of Russell versus the Queen, of course, was dealing with prohibition.

Thus, if some rights and freedoms are entrenched in our Constitution, this does not preclude other non-specified freedoms from being maintained under the remaining Criminal Code. That is to say, we would have the best of both worlds; some rights or freedoms firmly tied to the Constitution, while other existing and future rights still protected through our federal criminal law. I see no contradiction in this dual role over our human rights and our fundamental freedoms. It's not a contradiction, it's a complementary action.

To promote exactly the opposite trend in the future of this infant country — and we really are when you look upon the history of Canada with its mere 113 years compared to other nations, in particular in Europe, that have been in existence for hundreds of years, and our own mother country of England — that the Fathers of Confederation built Section 94 into The BNA Act, which enables provinces to give up specified areas of jurisdiction under property and civil rights to the federal government in order to build a greater degree of unity in law across the country. Was this done by a group of men building a country based completely on the compact theory, or was it the rational act of men who saw our country to the south being torn apart by civil wars at the same time that they were trying to piece together a new country to be known as Canada?

The USA has a very decentralized Constitution, or had a very decentralized Constitution in their original Constitution, with most rights vested with the individual states. Failure to distinguish between civil rights and civil liberties, or human rights, may be said to be a major cause of the American Civil War. In Canada, we can be thankful that the jurisdiction of public law, which contains criminal law, was never delegated thus to the provinces.

The provincial link is that the administration of law is mostly provincial, and for the purpose of safeguarding freedoms, administration is important as a definition of the law. Thus, while the basis of the laws is under federal jurisdiction, the co-operation of the provinces is essential for justice to be carried out to the fullest extent. I think this was very clearly brought forward yesterday, although just the first

part of it brought forward, in a presentation by, was it Mr. Ross from the Communist Party, and with questions by the Honourable Attorney-General, Mr. Mercier, quoting the very eloquent human rights that are entrenched in the Constitution of the USSR. They might be entrenched there, but there is no administrative system for them to be carried out, and therefore they are useless, and this is a problem that we have with any form of law, is you can pass as many laws as you wish, but if the law does not at the same time have the mechanism behind it where the citizen can turn to and come back to challenge the Legislature, then the law is not worth the paper it is printed on; as is the case in the USSR and as was the case in the southern United States as well, that bastion of freedom that we are well acquainted with.

It was with profound disappointment that I do not see my provincial government pursuing this co-operative role, and in fact, presurring the federal government to strengthen a Charter of Civil Rights, by striking what has been referred to as the "Sterling Lyon phrase" of Section 1, wherein our guarantees to rights and freedoms are subject only to such reasonable limits as are generally accepted in a free and democratic society with a parliamentary system of government. That one clause can possibly throw out the whole rest of the Charter of Human Rights, and that is the thing that I would like to see this province, in respect of the people of Manitoba, fighting against, and to try and remove that clause, and have it either replaced totally or eliminated totally from the charter.

To this phrase, I can only say that where extraordinary powers exist, some government in the future will try to use them. It's happened time and time again in other countries, and there's no reason to exempt Canada and our future from that either.

Mr. Lyon and several of his Progressive Conservative counterparts across the country, with the notable exceptions of Premiers Davis and Hatfield, have attempted to use the issue of parliamentary sovereignty as an argument against the entrenchment of a Charter of Human Rights in the written Constitution. We, in Canada, fortunately are not in Great Britain. In Britain, no bill is beyond Parliament. Even the Magna Carta can be pushed aside by a despotic ruler in time of depression, war or whatever, by simply having his majority repeal or amend that sacred charter. History has proven to us it has not happened, hopefully the future will prove to us that it will never happen in England, but it does not mean that some despotic ruler as a Hitler couldn't come along and change that. I don't have that faith in the human life or in our future, that we will never have that kind of a despotic ruler coming to our fore.

Canada's Parliament is not so sovereign. We are a federal state where there are jurisdictions in which the federal government cannot interfere, and which therefore eliminate its total sovereignty. Within its spheres of jurisdiction assigned to them under The BNA Act, Parliament and the Legislatures are generally supreme. Exceptions to this are the areas which are already entrenched within our written Constitution, and these include Section 133, The Use of the English and French Language; Section 20, The Right to an Annual Session of Parliament; Section 50, The Right to a New Parliament Every Five Years; Section 51, The Right to Representation of a

Population; Section 93, The Right to Separate Schools; and Section 99, The Right to an Independent Judiciary. Every one of these rules protects a fundamental freedom, and every one is a limitation and a sovereignty of either the Dominion Parliament or the provincial Legislatures, or both. Thus, the grounds for claiming the downfall of our parliamentary system of government by entrenching human rights is pre-confederation rhetoric.

Premier Lyon claims that we, in Canada, have had a pretty good record in recognition of human rights. When one looks about other countries records, perhaps he's correct, but when we take a closer look at our own record, we have some pretty horrendous skeletons. During the First World War, paranoia seemed to set in with regard to freedom of speech. An Alberta judge remarked in a decision in 1916, that there have been already more prosecutions for seditious words in Alberta in the past two years than in all the history of England for over 100 years, and England has had numerous and critical wars in that period of time.

After the Russian Revolution a new wave of paranoia set in with words, some of which our Premier still likes to use today, Bolshevik, Communist, Red, Socialist, pacifist, anarchist and even foreigner were used to detain or deport persons. During the 1919 Strike and the one big union movement here in Winnipeg, the Honourable Mr. J.S. Woodsworth was arrested and jailed for quoting the prophet, Isaiah, in public. Canada passed the notorious Section 98 to the Criminal Code, making it a crime to belong to any counter status quo political organization, party or a union. Strikes were virtually illegal. It took a mere 10 days to push through Parliament and made it unlawful to belong to any association which the government believed existed to bring about governmental, industrial or economic changes within Canada by force or violence, or which teaches or defends such use. Membership was punishable by 20 years in prison. The penalty for a simpler definition of sedition was increased from 2 to 20 years and that was here, actually in Winnipeg, where the actions took.

Just as intolerable were the changes to The Immigration Act, which made it disgustingly simple to deport people if thought undesirable under The Immigration Act. All through this time, it must be noted, England was having an equally tough time but passed no such infringements on civil liberties and freedom of speech. People were deported from Canada under the changes to The Immigration Act without a fair trial. Often they are uprooted, shipped by rail to Halifax, where a Board of Inquiry of three officers nominated by the Minister of Immigration — no legal requirements for their background, no requirements virtually at all or at all for these appointments were needed. The hearings were in private. The defendant needn't even be present to be tried and the counsel, his counsel, if a destitute person had a chance of getting one, especially when he was shipped away from Winnipeg, or Vancouver, or wherever to Halifax to sit there and await trial, could not use any of the accepted rules of evidence that are in our traditional courts because these were all exempted. This unqualified board just needed to declare any evidence as being trustworthy. Naturalized citizens were not exempt from this wild

law either, as they could have their citizenship revoked if the Governor-in-Council so decided. No reason need be given, just a boot on to some stinking ship that was waiting to transport D.Ps from Canada, people that Canada listed as D.Ps or declared D.Ps.

In 1931-32, 239 citizenship certificates were revoked. Deportations in 1931-32 of landed immigrants totalled 7,034. I understand that many of these people were deported just because they were unemployed during the Depression and their local municipalities didn't want them on their bread lines or, perhaps, on the employment lines as well. Many apparently went to even worse fates under the rising fascism and dictatorships of continental Europe. In Canada, work camps were also set up where unemployed men were herded to keep them off the streets and off the job lines. My father worked on some of these camps and as a teacher with the Frontier College and has a little he wishes to tell his grandchildren of the conditions they lived under. Depressions are also rampant times apparently for charges of sedition. In Montreal, 10 persons were charged in a short period of time, 1930 to 1933, no war, just a Depression.

The disgraceful treatment of Japanese Canadians during the Second War, and the attempt to deport 10,000 immediately after the war under cooked-up charges of having them signing things under the pressure of war, that they wanted to go back to Japan. These are indications of the depth to which we are capable of sinking. The complacency of our moral majority during all of this time makes all those Canadians old enough to have understood what was happening at the time as guilty as our government of the day.

A few years ago, CBC's "As it Happens" played a series of wartime radio broadcasts depicting Canada's propaganda, and not only the propaganda, but the racism during the war against its own non-waspish citizens of which I, if anybody, am one as you can tell by name. The hard working, destitute and discriminated against Japanese, citizens yet, were made out to be dirty Japs who were going to take over your herring seiners in British Columbia, your salmon boat and to use you and turn you into a deckhand.

As recently, and we mustn't forget that abrogations towards human rights are much more recent than the things that I've stated here back in the first half of our century, as recently as 1970 we had the arrest of some 500 persons in Montreal, end result of the The War Measures Act and Pierre Trudeau's interpretation of apprehended insurrection. I say it wasn't apprehended, it was imagined. It was imagined in his mind; it was imagined in the former Premier Bourassa's mind. I'm proud of the NDP members who stood and voted against the introduction of The War Measures Act and I'm in sympathy with my former Premier from Nova Scotia, the Honourable Robert Stanfield, who regrets ever having accepted the government's misguided advice.

I remember the October crisis well and I can say that at the time I wasn't shocked at its implementation, as I imagine many of you were not as well. Like most Canadians I didn't know any better. Had I lived in Montreal and seen the army, the fear and the hatred for what was being done to

innocent people, I'm sure I would have acted differently and it would have been different for me. Nonetheless, I am saddened that I didn't protest in some way at that time. Distance is such an insulator and at the time I guess I was also in the Faculty of Business Administration at St. Francois Xavier University and that faculty is not known, or was not known and still isn't known to be terribly interested in such a matter as civil liberties or human rights.

I have both great respect for mankind's capacity to improve himself and an equally great fear of man when he is on some mindless rampage. I have watched the evolution of medicare and legal aid in Canada and have walked through the memorial to the hundreds of thousands of human beings who suffered and were murdered in Dachau. I have studied, walked and talked with Chileans, who on their way to work in the mornings, during and subsequent to the military coup by the junta in Chile, saw bodies tossed alongside the river after an evening or after evenings, I should say, of government massacres.

Given these precedents, I think it is quite easy to understand that for us, as citizens of Canada, we can only entrust our human rights to our Constitution. The Charter as built into the Constitution must certainly be a great deal stronger than the one we presently have, and should go with the direction to the judiciary as the Honourable Gordon Fairweather, Chairman of the Canadian Human Rights Commission has suggested. The self-defeating clause in Section 1 must be amended so that the guarantees to our rights and freedoms are the last vestiges of our rights to go and not among the first in a time of crisis. Free and democratic societies have too many atrocities behind them for me to put my faith in. Our own parliamentary system of government has set a precedent of few freedoms in a time of government overkill or imagined overkill. It may be likened to a poison, I suggest to you. It is not the minute necessarily, long-term dosages that will necessarily kill you, but rather the higher dosage or the slightly above dosage when your natural defences are down, that is the lethal part.

Because of past abuses of the The War Measures Act, I propose that the word "apprehended" in the Constitution be replaced with "imminent" or such other phrase in Section 4(2) as apprehended means simply imagined. I do not like the idea of any future or present Prime Minister imagining that 20 people are going to bring a nation to its heels. In Sections 8 and 9, the clause accepts on grounds in accordance with procedures established by law would possibly allow these sections to be sidestepped by the Legislature, such as was proposed here in Manitoba by The Manitoba Energy Authority Act, which would have permitted an inspector to enter premises without a warrant and demand to see and to seize any records or property that, in his opinion, were relevant. There's no backing of law; there is no warrant of law. He is able to walk in, and if he thinks so, he can take away whatever he wishes. It's sort of going back to the same principles that they used in the changes to The Immigration Act in 1919. I think that is totally unacceptable and I think that our Legislature should be prohibited from being able to do that.

Section 11(c) should have the right to trial included and there should be limitations on secret trials, such as the infamous Peter Treu case in Montreal. Native peoples' rights should be recognized in the Constitution and defined fairly specifically so that land claims and other entitlements are ensured. Similarly, traditionally disadvantaged groups such as women and the disabled deserve mention. Previously, I've already covered my ideas towards the entrenchment of the rights to both languages in education, so I won't bother going into that again here.

One area which has been left out of the new Constitution proposals is freedom of information. I would like very much to see this principle embedded in the Constitution as it is in Sweden, where they have had very strong freedom of information legislation since 1776, two hundred and six years and they have managed to get along quite well with it. Since 1949, it's been embedded into their Constitution, the freedom of The Press Act of 1949. When it was passed, it was put into their Constitution and their Constitution states, this Act that is in the Constitution states, "to further free interchange of opinion and general enlightenment every Swedish citizen shall have free access to official documents". There are exceptions that are listed in that, such things as security, state and what not, and are defined, but they define things specifically enough so that the government cannot then call and try and put the whole platitude of things before it has been defended on both sections.

Economic rights are also not mentioned, not for individuals at least, only for provinces. Constitution negotiations are extremely strained at this point in time because of the intransigents of our present Prime Minister Trudeau and also Premiers Bennett, Lougheed, Lyon, Peckford and Levesque. I don't think that there will be that much change if Ryan was there either, probably. One factor that gives us a glimmer of hope, perhaps, in the not too distant future, is that the Prime Minister and two or three of the more inflexible Premiers will not be at the bargaining table as they will have either retired or have been defeated by the people. I do not expect that we will ever have the 11 political chieftains of this country in unanimity, but I do believe that an honest negotiator package is possible. It is not the subject matter that is at fault, but rather the players. I just ask for your considerations here if two of the Premiers that are at the table right now were not there and were replaced, and I'm speaking specifically of Premiers Bennett, if he was replaced by David Barrett and if Premier Lyon was replaced by Howard Pawley, the difference and the difference in attitudes that you would have throughout the whole thing. (Interjection)— Wait a while, give him a chance. Give electoral people a chance, I should say.

It is very peculiar that Manitoba should be heading the charge against the federal state at a time when we are becoming a ward of the federal state with equalization payments. The equalization payments at the present time are increasing at a faster rate than our own source revenues. For example; of the total increase in forecasted revenues for the 1980-81 fiscal year, which is 193 million or 11.4 percent increase, 475,250,000 or 39 percent comes from

equalization. Our own source revenues now represent only 59 percent of the increase in revenues, whereas a historic level of our own source revenues was between 58 and 63-1/2 percent, and that includes periods prior to the new Fiscal Arrangements Act of 1978, which gave the province another 9.143 points of personal income tax points. With that additional income we should be up around 65 or plus 65 percent, not below 60 percent as we are currently.

In 1976-77, as a comparison, the actual increase in equalization over the previous year was only 17-1/2 percent, less than one-half the current level which indicates that on a national average, Manitoba is doing very very poorly economically.

The 1976-77 over 1975-76 increase, by the way, was approximately the same percentage increase as we have today of 11.6 percent, and yet we have today over twice the amount of equalization coming through on a percentage basis.

In conclusion, I must reiterate my belief that we need a Charter of Human Rights entrenched in our Constitution. I have not heard any province, and in particular Manitoba, oppose the inclusion of the principle of equalization in the Constitution so that we may continue to gain the benefits under such a system. It is sad not to see the same enthusiasm for individual rights as it is for provincial rights. Finally, and this is a partisan comment I will be taking I'm sure, but I personally do not want to have any of my future rights entrusted with a Manitoba Premier, Sterling Lyon, who identifies himself as being on the same side of General Pinochet in a Fascist Chilean junta. Thank you very much.

MR. CHAIRMAN: Mr. Scott, will you permit questions?

MR. SCOTT: Certainly.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Scott, on the last subject you raised on the question of equalization, are you aware, sir, that at the First Ministers' Conference in September, a majority of the provinces endorsed a draft which Ministers had developed during the summer on equalization and was known as the Manitoba-Saskatchewan draft, which was the strongest statement relating to equalization in terms of binding the federal government and the provinces to that concept?

MR. SCOTT: Yes, I am.

MR. MERCIER: And that, in fact, the provision that has been introduced in the federal constitutional proposal is the weakest possible commitment to equalization. Are you aware of that?

MR. SCOTT: I don't like the wording of many things in our constitutional proposal as I have already said to you in several aspects. Even if it is weak, at least it is there. What I wished I could have seen from the provinces, Mr. Mercier, is the same keenness towards entrenching the individual's rights, and economic rights in particular perhaps or including economic rights as you have for the provinces.

MR. MERCIER: I wonder, sir, if you would answer the question. Are you aware, sir, that the strongest statement on equalization was done between Manitoba and Saskatchewan, known as the Manitoba-Saskatchewan draft, endorsed by a majority of the provinces, and that the . . .

MR. SCOTT: Has that been published, sir? Has it been published and given out because I haven't had a copy. I wish I did have a copy.

MR. CHAIRMAN: Order please, order please. Mr. Schroeder, on a point of order.

MR. VIC SCHROEDER (Rossmere): Yes, Mr. Chairman, on a point of order. It would seem that if that document has been made public, it would be legitimate to ask about it, but if it is another one of the documents that the people who are appearing before this committee have not had the opportunity to examine, then I would suggest that the question is far out of order.

MR. MERCIER: The question is not out of order, Mr. Chairman, if he's not aware of it, fine, he can say he's not aware of it, yes or no.

MR. SCOTT: Okay, I was aware that the provinces were . . .

MR. CHAIRMAN: Mr. Scott, do you wish to answer Mr. Mercier's question?

MR. SCOTT: I will, sure. I was aware that the provinces have been trying to push for a stronger basis of equalization and have it entrenched in the Constitution. I'm not aware of the wording of that, for the very reason that it hasn't been put forward to us.

MR. MERCIER: Mr. Scott, you, at the beginning of your presentation, appeared to complain of the opportunity to be heard with respect to the Constitution. What is your view of the deadlines in the procedures established by the federal government with respect to their proposal?

MR. SCOTT: Equal as to my opposition to holding hearings here after you've already gone through court, I think they're ridiculous.

MR. MERCIER: What is your view of the federal proposal?

MR. SCOTT: I think it's ridiculous for them to have the limitations that they have on it now. The Prime Minister, when he introduced it, he asked that all the members of the House and whatnot would be able to address it. I did not like the action of closure, although there have been examples or comparisons used to the closure in the pipeline debate, and until they go through the next three steps of closure, I wouldn't want to compare one with the other. I'm hoping that when the committee reports back to the Legislature or to the Parliament of Canada, that he would not have closure, and he would have a chance for every member of parliament to address it.

At the same point in time, I do not like the idea that the public input has to be in by the 22nd of

November to the federal side. I'm also asking for a possibility to go and address the Parliament of Canada, the joint committee on the same matters, and I do not like the restrictions here as well.

MR. MERCIER: Sir, in your comments you refer to the situation in England, and you hoped that a despotic ruler would not come into power in England, and would change the terms of the Magna Carta.

MR. SCOTT: Yes.

MR. MERCIER: Do you really think, sir, that if a despotic ruler came into power in that or any other country, that an entrenched Bill of Rights is going to do anything to stop his actions?

MR. SCOTT: An entrenched Bill of Rights as we have in Canada with our federal system, sir, and I think you should be fairly aware of this, is that no matter what the changes to the Constitution or the redrafting of an amending procedure is going to be, one is going to have to have provincial acceptance, and the possibility or the likelihood of having a despotic ruler come into Canada is, I would hope, remote. The possibility of him ramming through changes to a Constitution would have to go over, or you'd have to also have six or seven or 50 percent, whatever the formula comes off with, of despotic premiers. I think the likelihood of that coming in hand is exceptionally remote, and I pray to God that it won't happen to our country.

But then at the same point in time, I must say I don't think there's any historians here that are old enough, but not very many people would have expected Hitler to come to power in Germany either, and he came. So many things are possible, but because of our federal system Hitler would not have the same possibilities if he became the Prime Minister of Canada, because to make the changes in the Constitution, that I am proposing be entrenched in the Constitution, he would have to have the acceptance of the majority of the Premiers in this country. Quebec would have a veto, Ontario would have a veto, you'd have to have 50 percent of two provinces representing 50 percent of the Maritimes, or three, I think, and two provinces representing 50 percent of the population of the west, that combination, that is just additional security, and that's why I believe in a federal state, sir.

MR. MERCIER: I take it, sir, from your presentation, you're favour of an entrenched Charter of Rights, which would give to the judges of the Supreme Court in Canada the final determination of what phrases, like freedom of religion, meant.

MR. SCOTT: The Chairman of the Human Rights Commission, the former distinguished Conservative member of the House of Commons, The Hon. Gordon Fairweather, has suggested that when a charter does go ahead, that it go ahead with direction to the judiciary. There could even possibly be the establishment of a joint committee to guide it through like there are in some countries. I believe the US has a constitutional level of court, so that the people who are deciding upon these things are

experts in the field. I like that very much. I would like to have, not just the hands of the judiciary, just to have them given carte blanche a new Constitution, but have them given a Constitution with direction. I'm not exactly sure just how that whole system functions but this certainly can be given, and an intent given with the Constitution as it is presented to the justices.

MR. MERCIER: Could you clarify this direction? You know, cases are decided and . . .

MR. SCOTT: I wish I was Gordon Fairweather, I'm not.

MR. PARASIUK: Tell him to get in touch with Gordon Fairweather.

MR. SCOTT: Yes. Well, that's a possibility. He made his presentation yesterday, or two days ago, and the transcripts of that are available. I would suggest that for the enlightenment of the whole committee, that the committee do that.

MR. MERCIER: Well, the proposal, sir, in the entrenched charter is that the judges of the Supreme Court in Canada would make the final decisions on the interpretation of those phrases, just as judges in the United States now make final decisions on what such terms as freedom of religion make, and the only way you can change those decisions is by amending the Constitution, which would be a difficult process.

MR. SCOTT: You also have the Appellant Section, sir, and that is why you have appeals going one way and another way in a judicial system, so that you don't just get one judge doesn't — you have to have a majority of nine judges on the Supreme Court when it comes to it. So I'm not worried about one judge having a hand at writing our Constitution. There are generally dissenting judges. Very few decisions, I don't know of any decisions regarding human rights that have gone through in Canada that there have not been dissenting judges, and their opinions are brought up in subsequent cases. The decision of a Supreme Court, a precedent is not cast in stone, as a Constitution, and Mr. Lyon keeps referring, and gentlemen along here keep referring to a Constitution entrenched in stone. Well, it's not entrenched in stone, because you will have some sort of a procedure in the future, and I don't know what it is at the present time, but there will be some process to be able to change a Constitution. So, if something is changeable through a process described in a Constitution, then certainly it's not cast in stone.

I don't expect we are going to have amendments to our Constitution every other day, but if you look at any other place, look at the United States, the number of amendments that they have taken to their Constitution now. There's been a great number. It takes time. The whole evolutionary process. God, look how long it's taken us to get to where we are today in Canada's Constitution, at least towards the changes of it. I don't think that this document goes near far enough. I would like to have something in here towards a better representation, as was initially intended in The BNA Act in the appointment of

judges. I'd like to have some provincial participation in that, a regional participation. In that you would have less of a chance of the same political party always, and if they're in power forever and ever in Ottawa, of having the rights to be able to appoint the Supreme Justices.

I would like to see, as was initially intended in the Constitution, that the Senate be something representative of the regions. Quebec, in my readings of George Stanley, who is another scholar, and buys very much your concept of compact theory I might add, as opposed to Frank R. Scott, who doesn't deny the compact theory, but he gives more towards the idea of creating a strong unitary state.

But Quebec, from what I've understood and read, and I have gone back and read the debate of the 1865 with the proposed resolutions, the Quebec Resolutions of 1865, and have read through what eventually went and ended up going to England, come home as our BNA Act, and in that the people of Quebec, and the representatives from Quebec, at that point in time, believed that their guarantees, and they gave up guarantees when they went into Confederation, and the previous Canada, which was Upper and Lower Canada or Canada East and Canada West, for any bill to pass, and to be applicable to the both sides, you had to have a majority of the two sides of the House. If a bill just passed in Upper Canada's side, it did not apply to Lower Canada, and that was a guarantee and they did not have rep by pop at that time. After George Brown, and this is one of the main reasons for Confederation if you go back and look at it, one of the principle pushes behind Confederation by Ontario, was that you would get representation by population. Initially, Ontario did not want it, or what is today Ontario did not want it, because Quebec had a higher population than Ontario did, and they wanted representation, equal representation, from two sides. That's where you had this duality, you had two Attorney-Generals, Attorney-General East and Attorney-General West, MacDonald and Cartier. Pretty well all your portfolios were dual portfolios. When Quebec came into Confederation . . .

MR. MERCIER: Yes, just out of consideration for the other delegations, you might just answer their questions.

MR. SCOTT: Well, you're asking, you're saying, am I satisfied with this? I'm saying I'm not satisfied with this, and I'm expanding upon that and saying other areas are not satisfied with it as well. I'm saying that I don't think Quebec would have ever come into Confederation in the first instance, if it would have thought that the rights that it had would not have been guaranteed by the Senate, which it understood would have. They were somewhat misguided at the time, thinking that the Maritimes were always going to join them and gang up on Ontario, I think. But, at the same point in time it's very, very dubious if we would ever even have had Canada as we know it today, if the Senate had not been in there, but the Senate unfortunately has never evolved into the mechanism that we should have had, and I would like to see that corrected in this.

MR. MERCIER: Sir, one last question. The Winnipeg Free Press today has a short article in it in which it reports on a US Supreme Court decision yesterday, which outlawed the posting of the Ten Commandments on classrooms walls in public schools, because in their opinion that violated the US Constitution's guarantee of religious freedom. It was a 5-4 decision, and points out how only five people out of nine can make a significant decision, which affects American society. You are then in favour, sir, of having five judges appointed for life, not accountable to the people, deciding an issue like that rather than the people through their elected representatives.

MR. SCOTT: First off, they're appointed, I believe, to age 75. Are not all the Supreme Court Justices? They're not appointed for life.

Secondly, there is a provision that they can be repealed or they can be taken back, I believe, in their Constitution. The likelihood of it is very, very minuscule, I might add, and furthermore, I do not like necessarily the idea of saying what can be posted and what can't be posted. To me, if one can come back on freedom of speech at the same time and say that you should be able to post something in a school room under freedom of speech, the same as you can say it under freedom of religion, and then wait until the Supreme Court of the United States has that action. I do not like the idea of always referring whatever we're going to be doing in our future to what the U.S. does in theirs. We're not the same, we don't think the same, we're vastly different countries. We don't live upon a system where you're suing your neighbour every other day and I don't want to see that ever evolve in Canada and I think we'll be protected through our courts of that.

MR. CHAIRMAN: Are there other questions for Mr. Scott? Mr. Schroeder.

MR. SCHROEDER: Thank you, Mr. Chairman. Yesterday we heard a brief in which it was indicated that entrenchment of a Bill of Rights not only somewhat inhibited the progress of society or left wing political parties but in fact that it would practically make them illegal. You have indicated this morning that Sweden has a Bill of Rights and I would ask you to comment on the position that an entrenched Bill of Rights would in some way prohibit or inhibit social justice.

MR. SCOTT: I don't see how it could possibly inhibit social justice. There are no examples that I know of where you have human rights and civil liberties written in where you would have a Parliament that would have the authority to take those away. I don't want to have that. It's put in a Constitution, the opportunities for taking those rights are just about gone and to say that it would impinge upon any groups, right, left, or whatever, I fully respect the position — I don't fully respect the position, I fully respect the right of the West-Fed, or whatever they are called, Organization that came and give their briefs yesterday. I see no wrongs with that whatsoever. If Section 98 of the Criminal Code was still in, there could well be prosecutions against them for coming in and saying some of the things that

they might be proposing today in Canada, because this governmental change, economic change, and whatnot, I don't want to see that. Wasn't it Voltaire who said that anyone should be able to say under freedom of speech what they wish to say and he will defend to his life the right of that individual to say that, even though he may strongly disagree with it? That is the principle I would like to see entrenched for us to hold on to.

MR. SCHROEDER: You have indicated that there are a number of areas in which both the federal government and provincial government have violated human rights in the past century and up to 1970. You referred to the treatment of the Japanese and a number of specific instances, and, of course, the argument of those who are against entrenchment of rights is that Parliament will protect people's rights and if Parliament does not protect people's rights, then what will happen is that the people will throw these people out, the elected people who have somehow derogated from your rights will then be defeated at the polls and people who are more in tune with people's rights will replace them. Can you tell me of any single instance where the government, which has perpetrated the wrongs you refer to, was subsequently defeated as a result of perpetrating these wrongs.

MR. SCOTT: In the late Thirties, late Twenties, you had a Liberal government, in the early Thirties you had a Conservative government, I believe. Who was the Prime Minister at the time of the changes . . . no, it wasn't. It would be Liberal government all the way through, in 1919, they stayed through right until the Thirties, and after that time I might add that I think it was finally repealed in 1936, which would have been under a Conservative government of R.B. Bennett, that they tried three or four times unsuccessfully to repeal Section 98 of the Criminal Code and each time it was passed by the House of Commons to throw it out, and it was reinstated or re-enshrined by the Senate. Finally, I think it was in 1936, they finally got rid of the ruddy thing, but it took them from 1919 or from January 3rd, 1920 until some time in 1936 to get rid of it.

You also had, as far as the idea of a government that will be thrown out by the people, our government is elected for four or five years. In four or five years you can do one heck of a lot of damage and the people don't have the right to call that government to question until the end of its period of office. I don't like the idea of giving a person five years. Look what Chile did in five years, for God sakes. It didn't have to have 15 years, it did it all in the first couple of months, not all of it, but a good amount of it. That sort of thing, if you go by a mandate of relying on the people to throw this government out, you don't have a heck of a lot of mandate. The government could even do away with elections if they are not somehow entrenched in the Constitution, so I don't think that the people really have any — I won't say faith, I think we do have a great faith in the legislative system, I certainly do, but I'm not going to enshrine my future to a Legislature or to aspects that are subject purely to the Legislature and the Womens Legislature.

MR. CHAIRMAN: Mr. Schroeder, are you through with your questioning?

MR. SCHROEDER: Yes.

MR. CHAIRMAN: Mr. Parasiuk then.

MR. PARASIUK: I want to hone in on one point and that's the question of equalization, which I think is a very important part of the constitutional discussions. You indicated the extent to which Manitoba, because of the poor performance of its economy, is having to rely more and more on equalization, which is developed through a federal process, to in fact derive enough revenues to continue with at least a medium level if not certainly a restrained level of services. You provided the documentation in that respect.

Mr. Mercier today has said that in the secret discussions that took place between federal and provincial officials that Manitoba and Saskatchewan have proposed a very strong position with respect to equalization. None of us have seen those documents yet, but I in fact know those are the documents you gave us from the transcripts. The point is, have you ever heard Manitoba, in the last one-and-a-half months, put forward any position with respect to improving any of the constitutional proposals that are before Parliament, because if you can recall Premier Blakeney went to a meeting of the Premiers hosted by Sterling Lyon, and he wanted to put forward a number of proposals to the federal government that would improve the constitutional package. The other Premiers, or a majority of those Premiers, decided not to proceed with any type of improvements but rather that three provinces would immediately take the matter before the courts, therefore freezing any type of discussions with respect to constitutional reform. Have you heard publicly what the Attorney-General has just told us today, namely that Manitoba would like to improve the constitutional package by improving the whole aspect of equalization, which is so vital to Manitoba's long term interests?

MR. SCOTT: The reason I came here is because I'm not terribly satisfied with what has been put forward in the Constitution and I'm even less satisfied that the Province of Manitoba is not taking a more positive stance in trying to improve the Constitution, improve the proposals, rather than continually detracting from them and wanting to toss the things out. That's the reason I came.

MR. PARASIUK: Are you also aware that there is not unanimity with respect to the whole question of equalization; that Premier Bennett is very much against the types of equalization that we've had in the past; that Peckford himself is dubious about equalization; and that these two Premiers are amongst the strongest allies of Premier Lyon in his attempt to stymie this whole process of constitutional reform in the courts.

MR. SCOTT: I am aware that these two Premiers are backing Mr. Lyon up in his attack against the entrenchment of the Constitution of Human Rights and other aspects of the Constitution but I'm not, I

must admit, aware that they were specifically against equalization.

MR. CHAIRMAN: Are there any further questions to Mr. Scott? Seeing none, thank you very kindly, sir.

MR. SCOTT: Merci beaucoup, monsieur.

MR. CHAIRMAN: We have a problem. This is a question to the members of the committee. I have seen Mr. Forest's brief. It's about 15 pages in length. I'm told that the translation people are here until 5:00, or they are contracted until 5:00. Should we hear Mr. Forest and split his presentation into two halves over the lunch hour or should we take somebody who feels that they can make their presentation in 20 minutes or less?

Mr. Desjardins.

MR. DESJARDINS: I think, if it is a suggestion, I would go along with him. If somebody can indicate that they have a shorter brief, it might be better that we could hear them now.

MR. CHAIRMAN: First, maybe we can ask Mr. Forest if he minds having his presentation split into two halves.

MR. FOREST: (French spoken but not transcribed)

SIMULTANEOUS TRANSLATION:

Mr. Chairman, if you will allow me I would prefer to have my presentation delayed to this afternoon.

MR. CHAIRMAN: Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I think that we had made arrangements that the presentation be made in the morning when the translators —(Interjection)— Mr. Chairman, I have been waiting in anticipation for the presentation of Mr. Forest and am I to be denied that presentation at this time?

MR. CHAIRMAN: No, Mr. Forest has asked if he could be first on this afternoon so his presentation isn't split in two halves. Mr. Mercier, do you have a suggestion?

MR. MERCIER: I was going to suggest, Mr. Chairman, that we move on to the Catholic Women's League, who are next on the list, and I understand they have a short brief.

MR. CHAIRMAN: Is there a representative from the Catholic Women's League present?

MRS. EVELYN WYRZYKOWSKI: Yes, Mr. Chairman.

MR. CHAIRMAN: And do you have a short presentation?

MRS. WYRZYKOWSKI: Ours is not short, but we feel that we also could have stood up and begun something in a few words of French and been able to present ours at the time that Mr. Scott did and we did not do that. We did not become forceful, we sat back, and we really would not like to be interrupted, nor do we think it's fair that someone else is going to present another brief and we have been on the list

for a long time and we've been very patient with that.

MR. CHAIRMAN: We also have the Women's Institute which is represented by two ladies that are from out of town who have asked me if they can be heard today because of travelling some distance to the city.

MRS. WYRZYKOWSKI: I also have travelled some distance from the city, but I'm just pointing that out. I realize that is a priority and we have been respecting the priorities and the ruling of the committee.

MR. CHAIRMAN: All right, Mr. Forest prefers to not be interrupted, the Catholic Women's League prefers not to be interrupted. We have two alternatives; we can either break for lunch now and have an extra long lunch hour or we can ask if there is someone next in line after the Catholic Women's League who feels they can do their presentation in 20 minutes or less.

All right then, is Dennis Cyr here?

MRS. WYRZYKOWSKI: Mr. Chairman, we'll choose to begin reading and you could break at 12:30 and we'll be back.

MR. CHAIRMAN: All right then, we'll proceed with the Catholic Women's League. Would the representatives of the Catholic Women's League introduce themselves?

MRS. BERNADETTE RUSSELL: My name is Bernadette Russell. I am the President of the Manitoba Provincial Council of the Catholic Women's League of Canada. Evelyn Wyrzykowski is going to share the brief with me, we'll both be doing the reading.

Mr. Chairman and Honourable Members of the Legislative Committee, we have printed the recommendations of our brief on the first couple of pages. You will also note that in our brief at times we refer to Appendix A and Appendix B. We did not see the need to duplicate these Appendices but should any member want to see them or want copies, they can be made available at a later time upon request.

The Catholic Women's League of Canada was formed in 1920, incorporated in 1923 as a union of Catholic women of Canada. It is dedicated to the upholding and defence, in the public as well as in the private sectors, of Christian values and education in the modern world; to contributing to the understanding and growth of religious freedom, social justice, peace and harmony; and to recognizing the human dignity of all people everywhere and has, over the past 60 years, presented its views on current issues of concern at the national, provincial and regional levels. The most recent presentation includes a statement in 1976, "The Right to Life — a Basic Norm of Society" and the statement in 1979 on "Human Rights" as well as briefs incorporating resolutions passed at annual national conventions.

This organization, structured in such a way that each individual member has the right to make her views known at the parish, diocesan, provincial and

national levels, is thus able to present the collective views of over 116,000 Canadian women, gathered within this framework, at the same time being cognizant of the regional differences of its members. We, in Manitoba, represent approximately 3,400 members.

Since it is only the national organization of English-speaking Catholic women in Canada, the Catholic Women's League is aware not only of its right but its deep responsibility to address you with its concerns at this time when Canada is proposing to make its Constitution Canadian.

MRS. WYRZYKOWSKI: Our preamble then: "I am a Canadian, a free Canadian, free to speak without fear, free to worship God in my own way, free to stand for what I think right, free to oppose what I believe wrong, free to choose those who shall govern my country. This heritage of freedom I pledge to uphold for myself and all mankind."

These sentiments were expressed by the Right Honourable John G. Diefenbaker, Prime Minister of Canada in 1960.

Twenty years later, in 1980, the Prime Minister of Canada, the Honourable Pierre Elliott Trudeau said to the Liberal Party of Canada: "For 53 years, politicians have been trying to bring the Constitution back. Ten different and distinct attempts during the terms of six different Prime Ministers and politicians have always failed. And that's why it's up to you, the people to decide that this matter must be done."

After all this time and these many attempts, only now is the Parliament of Canada coming to grips with the many individual issues which concern the lives of all Canadians. The provincial governments have been given ample opportunity to express their aspirations as well as their very real fears for the role of their jurisdictions within a united Canada. Many others of us have more recently recognized the importance for us to speak out.

During these same 20 years, the Catholic Women's League of Canada, sometimes known as the CWL, has repeatedly made representations to the government of Canada and, indeed, to the governments of the 10 provinces on matters of vital concern to Canadians such as fetal experimentation, Canada pensions, pornographic and obscene publications, gun control and family law reform. Therefore, we are taking this time to pull together some of these, our concerns, which we believe relevant to the issue of constitutional reform, pursuant to our motto for God in Canada.

MRS. RUSSELL: In 1977, one of the League's most important resolutions to the government of Canada was on the subject of national unity and bears repetition at this time. "The National Council of the Catholic Women's League, in convention assembled, affirms to the government of Canada its belief in and support for the goal of national unity and its willingness to work with any other organization toward that goal."

The British North America Acts under which Canada has operated for over 100 years have confirmed and reconfirmed certain understandings and procedures by which Canada have regulated various aspects of their daily lives. Before any final decisions are made to entrench or alter these, the

Catholic Women's League of Canada wishes to make its views known to those responsible for the repatriation of the Constitution.

MRS. WYRZYKOWSKI: So that the topics that we have chosen to speak on are varied and have a number of recommendations contained in each as you will observe from the summary of recommendations. We will begin with the first one, The Parliamentary System.

MRS. RUSSELL: We are concerned that constitutional change be viewed by the federal government and the provinces as an opportunity to unify the country. The critical decisions as to the division of powers between a federal government and each provincial government must be made in light of the necessity for Canadian unity and the acknowledgement of the rights of individual citizens.

The Catholic Women's League of Canada agrees with the principles expressed in "The Constitution and the People of Canada" that one of the objectives to be attained in a Constitution for Canada is the protection of basic human rights and also agrees that the best means of obtaining the objectives of our Canadian society is the continuation of the parliamentary system which affords to citizens the protection of their fundamental rights, ability to participate in the democratic processes, the maintenance of institutions which will properly reflect the interest in both orders of government and the ultimate protection of citizens by the courts.

In a country as broad geographically and as diverse economically, culturally and socially as Canada, a central government by those elected from across the country representing a wide variety of interests, backgrounds and occupations is essential. A parliamentary system provides a forum for discussion and debate by those elected representatives and a central government provides a framework for the implementation of the decisions made in Parliament.

Universal suffrage and the rights of all citizens to stand for office, periodical elections and annual meetings of legislative bodies, all cited in "The Constitution and the People of Canada" are among the political rights the CWL endorses as proper guarantees in a Constitution.

At the provincial level as well, a parliamentary system serves the widest possible representation and provides the structures for the implementation of the democratic principles considered to be important. An obligation to also establish such a parliamentary system within the provinces is properly the subject of a provision in the Canadian Constitution and it is imperative that the rights of the individual citizen within each province be safeguarded.

While the Federal Parliament must have the legislative authority over such areas as the national economy and international trade, unemployment insurance, the defence of the country, the monetary system, and marriage and divorce, etc., other matters are more properly within the jurisdiction of the provinces. These would include such authority as regulating the provincial economy, agriculture, education, municipal institutions in the province, property and civil rights.

MRS. WYRZYKOWSKI: We would like to point out to you that on the list of summary of recommendations, there is a recommendation we just read that is not listed there, and that is the one of an obligation that a parliamentary system ought to be spelled out in the Constitution and that the Legislative Assemblies ought also to be responsible to safeguard the human rights of citizens. It's the only one that's not listed there.

The Senate: Concomitant with our Canadian concept of a truly parliamentary system, in effect a provision for checks and balances, is the idea of a Senate that is part of the legislative process but separate from that part of the Parliament now known as the House of Commons.

The Senate as now constituted under The British North America Act has powers, immunities and privileges as defined by the Act of the Parliament of Canada. Only its structure is dealt with in The BNA Act.

It is the view of the CWL that a Canadian Constitution should include the provision not only for the organization of the Senate, but also include the powers, immunities and privileges of those sitting in the House. The Catholic Women's League of Canada supports the inclusion in the parts of the Constitution dealing with the Senate of provision for members from each of the provinces so that the interests of the provinces may be properly represented and also supports the inclusion of a provision enabling the provinces to determine their respective representatives in the Upper House. The inclusion of provincial representatives should in no way preclude appointments through and by the federal government. This new Upper Chamber would create a truly unique Canadian system reflecting our mosaic of diverse cultures, ages and walks of life and would be a more effective forum for the discussion of regionally-based concepts.

One-half of the population of Canada is female, and in recent years women have taken their places in society and politics, and their abilities have become available to the public sector. In spite of this, however, there are only nine women currently in the Senate. We emphasize that a Constitution needs to include provision for a method whereby it is ensured that there will be the appointment of a significant number of women to the Upper House. The discussion document, "Women and Constitutional Renewal" makes the statement, "It cannot be that the lack of qualifications is keeping women out." We of the CWL believe that a time of constitutional change makes it opportune for us to request that governments reaffirm their commitment to equal opportunity for women. That reform of the Senate could allow for a broader view of the basis from which the selection of Supreme Court justices be made.

I quote from the Women and Constitution Renewal document, "The very cautious performance of our Supreme Court in human rights areas may be in part attributable to the fact that the judges are drawn from a very narrow group: successful, middle-aged, white, male lawyers.

"Having a more representative composition in the approving group may ensure over the years that potential judges with different backgrounds are sought out." Therefore, we believe that a certain

number of women justices should be added and we further recommend that a court be drawn from a wider group in society than is now the case.

MRS. RUSSELL: Education: The objectives of Confederation as expressed by the government include the promotion of national economic, social and cultural development, including the opportunity for education. The British North America Acts have provided for individual differences by setting out in Section 93 a guarantee of denominational schools and the retention of a system of separate or dissentient schools. For over one hundred years parents have been assured that no provincial authority can affect the right or privilege of a minority in relation to education.

The CWL most emphatically endorses the right of children to education and the rights of all Canadian parents to schools of their choice. This includes schools which are chosen because of language or because of religion.

Because of the gravity of this provision in The British North America Acts, earlier this year the Catholic Women's League of Canada passed a resolution at the national convention dealing with the matter as follows:

"WHEREAS in view of the continuing Constitutional discussions at the federal-provincial level;

"THEREFORE BE IT RESOLVED that we, the National Council of the Catholic Women's League of Canada, do direct member councils to make written representation to their Premiers insisting that in any review of the Canadian Constitution the rights of parents to denominational schools as presently enshrined in The BNA Acts, Section 93, be preserved; and,

"BE IT FURTHER RESOLVED that as a national council we make our views known to the Prime Minister of Canada; and,

"BE IT FURTHER RESOLVED that without prejudicing present denominational rights in any way, we insist that the federal government recognize in any Bill of Rights the right of other minority groups to choose an education for their children which conforms to their legitimate requirements."

We urge the government of Canada in its deliberations on repatriating the Constitution and on entrenching the Bill of Rights to provide every guarantee that the fundamental rights of parents to choose the type of education required for their children will be upheld and will be funded by the appropriate jurisdiction. The newly organized Federation of Independent Schools in Canada has brought together most federations, associations and independent schools for the purpose of exchanging ideas, educational concerns and to develop common approaches in governmental areas, particularly at the national level. In addition, the Federation by its nature and makeup will hopefully act as effective liaison between other existing national associations and so strengthen the educational bonds and forces in Canada.

Rights of children under the Charter of Rights and Freedom: In the interests of clarification and concern for the clear understanding of the role or responsibility of the family in relation to dependent children, we question the intent of the Act in relation

to, everyone has the following fundamental freedoms including conscience, religion, opinion, expression, etc; every citizen of Canada has a right to vote; everyone has the right to life, liberty and retain counsel; everyone has the right to equality before the laws and equal protection of the law without discrimination because of age, race, colour, religion, or sex.

Since there is no definition of person, everyone, or every citizen nor is there any separate reference to rights of a child, our concern is that the interpretation of the wording of person, everyone, or every citizen, would or could be all inclusive of living persons of all ages.

Some of these rights are not now deemed appropriate for a child and there is a need to spell out specific rights and safeguards for the protection of children.

The way the Constitution reads now, it seems to us that too much is being left to be resolved in the courts.

MRS. WYRZYKOWSKI: Mr. Chairman, I recognize that it's approaching 12:30. Would you like us to stop at this point and proceed after lunch?

MR. CHAIRMAN: I see that your Family Life portion is two-and-a-half pages. Yes, we'll break for lunch now and start with you at 2:00 p.m. on Page 10 of your brief.

MRS. WYRZYKOWSKI: Thank you very much.

MR. CHAIRMAN: Committee rise.