

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON STATUTORY REGULATIONS AND ORDERS
Monday, 24 November, 1980

Time — 11:00 a.m.

CHAIRMAN — Mr. Warren Steen (Crescentwood):

CONSTITUTIONAL REFORM

MR. CHAIRMAN: Committee come to order. Gentlemen, we have a quorum. A list has been given to me by the Clerk as to persons who have indicated a wish to speak.

On the list I have a W. C. Pearson, Q.C., Barrister; a Joe Thomassen, Brandon, a member of the Canadian Council on Multiculturalism; Women's Institute, Mrs. Parker and Mrs. Edie; Group of Concerned Citizens to be presented by three persons; and the Westman League for Life; the Manitoba Action Committee on the Status of Women. Can we start with Mr. Pearson.

Mr. Pearson, please. You have, Mr. Pearson, a brief which I believe the Clerk has distributed to members of committee.

MR. W. C. PEARSON: Thank you, Mr. Chairman. May I, perhaps as the first speaker, welcome members of the committee and yourself to the sweet sunny air of Brandon. We have arranged with Saskatchewan, Alberta, and British Columbia to hold the bad weather out west of us until you people could be here and .

I might say in presenting the brief that it's been written in a bit of a busy week and you may find a number of editorial errors which I hope I can correct as I go through.

Mr. Chairman, members of the Legislative Committee, it is with some degree of trepidation that I stand before you today to offer my concerns and suggestions regarding the present resolution on the Constitution being considered by a Joint Committee of the Houses of Parliament for Canada. I should like to make my representations primarily under two main heads, namely the method being used and two, the content of the resolution which will form the substance of the joint address to the British Parliament.

Firstly, may I say that my understanding of the background to our Constitution, based not only in The British North America Act as amended over the years, and despite all our statements about our inability to amend, we have in fact amended both in areas of federal and provincial jurisdiction; for example, unemployment insurance, the pension amendments, the age limitation on judges and senators. We also inherited in the common law system of law the civil code system of law along with all the laws of England as they existed in 1867. Indeed for many years divorce cases in this country were founded on the British Matrimonial Causes Act of 1857 and what young lawyer or experienced counsel has not even in the year 1980, relied on the Statute of Frauds enacted in the reign of Charles II to save his client.

Even in the Great Republic to the south there are still cases decided on the right to use "the king's highway". Magna Carta, Habeas Corpus, and all the other landmarks of freedom in this country were a gift or legacy that were here in 1867 and are still here.

My point was simply to illustrate that in the first recital of The British North America Act appear the words, "With a Constitution similar in principal to that of the United Kingdom" encompassed far more than The BNA Act itself contains.

To return to the method, The BNA Act is an Act of the Parliament of the United Kingdom and legally only the British Parliament can amend it. Over the years such amendments have been granted on a joint address of the Canadian Houses of Parliament to the Queen requesting the United Kingdom Parliament to make the requested amendments. Over the past hundred years or so, the amendments which affected the Legislative powers of the provinces have only gone forward with the consent and agreement of the provinces. Today that ingredient is missing and that is my first concern. For, as I will indicate later, the content of the resolution affects the more exclusive area of provincial jurisdiction which the courts have used to limit the attempts by the Parliament of Canada to encroach into provincial areas under its residual authority to support legislation for the peace, order, and good government of the country.

The present federal government chose in the present debate to introduce a motion into the House of Commons that the contents of the proposed joint address be referred to a Committee of the House and Senate for consideration and report back by December 9 with any recommendations the Committee had agreed to make. This then precluded any amendments to joint addresses being made in the House, which proceedings are now available to most Canadians on their TV sets. No TV cameras were at that time allowed into Committee hearings so Canadians would be deprived of what amendments were made, the arguments in favour or against them, and if not accepted by the Committee, might never see the light of day or perhaps more properly, of the House of Commons.

After some strenuous efforts by the parties of the opposition and appeals to the Speaker, the government has yielded and allowed the TV and radio presence in the Committee. It is now the middle of November and the report is due on December 9, or it is at the time I wrote this.

Mr. Chairman, surely on a matter of such importance, the debate on the content should have been in the House where 280-odd of our representatives could speak rather than the tiny voice of 25, no matter how learned or how qualified.

Next, Mr. Chairman, we have had over the past few years a number of committees, commissions, or task forces, move across the country seeking opinions, expertise, and views on many things ranging from bilingualism to cable TV licences, to

agricultural problems. But on the question as important as making fundamental changes to the Act which creates this country, we are asked to travel to Ottawa. If our representatives can't speak and we have no input, then how can a government which proposes from now on to give us a referendum on future amendments, deny us the time now to be heard.

So much for the method, Mr. Chairman. It is legally correct, but I say to you, it is morally wrong and democratically wrong and constitutionally wrong.

A simple request passed and debated by the full House of Commons asking the Parliament, should be of the U.K., amend The BNA Act in accordance with the Vancouver consensus would, in my opinion be legally, morally, and constitutionally correct. To my regret, the federal government has chosen the method of least debate.

Turning now to the second area, the content of the address and more particularly, Schedule B, to the proposed resolution. It opens not with a ringing declaration to move the spirits of men, but with a section which might have been found in "An Act to encourage the raising of mushrooms". I quote the opening section:

"1. The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits as are generally accepted in a free and democratic society with a parliamentary system of government". And if that isn't a qualification, I've never heard one.

The Schedule then goes on to define what rights and freedoms it is talking about guaranteeing under the following headings: Fundamental Rights; Democratic Rights; Mobility Rights; Legal Rights; Non-discrimination Rights; Official Languages of Canada; Minority Education Rights; and Undeclared Rights. It is interesting to note, in all of the sections there is no "right" to own property and the "right" not to be deprived of it except by due process of law, as was set out in the Canadian Bill of Rights is also missing. One question is an economic system that relies so heavily on private ownership of property is, why such a right is not recognized as fundamental.

Before however, commenting on the content of the rights, I should like to deal with the basic question as to whether or not our rights are best protected as entrenched in the Constitution or by the members of Parliament and the Legislature. Mr. Chairman, I confess that for many years I felt that they should be entrenched as are those of our American neighbours. But in preparing this brief and based on my own experience and observation, I no longer hold that view.

Some years ago the Parliament of Canada enacted the Canadian Bill of Rights. Under our federal system of law this Act insofar as all Acts of the federal government were concerned, were to be subject to provisions of the Bill of Rights. The result of court decisions has been to narrow the applicability of the Bill to such a degree that with one or two exceptions such as the "Dry bones Case" lawyers have ceased pleading or relying on the Statute for the benefit of their clients' rights. Such I fear will be the fate of our entrenched rights.

The most common argument one hears in favour of entrenched rights is our treatment of Japanese

Canadians during World War II, could not have happened if we had had entrenched rights. Nonsense! The United States of America, with its inalienable rights and its entrenched Bill of Rights behaved the same way. In both cases, the majority deprived the minority of their rights because of the danger which the majority felt.

More seriously and more fundamentally, when we define rights and put them in a Constitution, they are subject to the amending process described hereafter, frozen. The interpretation of those rights in the final analysis will depend on nine learned judges in Ottawa. Mr. Chairman, I have the greatest respect for those judges. They are products of two legal systems and they represent, not only the practising bar, but also those from academic backgrounds and over the years have served our country well, though I am sure many of their decisions have not always been supported by all the members of my profession. But what if the decision is a 5-4 split, then our rights will be determined by one man. I would prefer to leave those rights to all the provincial Legislatures, the members of Parliament of Canada, rather than those nine men.

I suggest to you that rights are far better served by tradition, by attitude, by vigilance and by diffusion of power of the state over a number of institutions. The British parliamentary system does not have the checks and balances of the American system. I might just make the added comment here. If one looks at that opening clause that I referred to, it's simply stating that despite these rights that are given to us in the Constitution, that parliament will remain supreme. That has always been the theoretical system of the British parliamentary system, that parliament is indeed supreme. Canada is a modification of that system in which the combined powers of the Legislatures and the House of Commons in Ottawa, or the Legislature in Ottawa, encompass all the supremacy, but it's a divided supremacy.

The American system, of course, does not have that. We have executive power and legislative power, judicial power, all set out in the Constitution; that acts as their checks. Under the British system, a Prime Minister with an absolute majority in the House is a virtual dictator subject to the rights of people to protest.

I believe that the division of power in our country gives us a more powerful check, particularly when civil and property rights are left at the 10 provincial Legislatures and the power of disallowance of provincial legislation is vested in the national parliament. That's been used in such things as the press case from Alberta.

Subsection 3 of Section 6, Mobility Rights, reads as follows: "The rights specified in Subsection 2 are subject to (a) any law or practices of general application in force in the province other than those that discriminate among persons primarily on the basis of province or present or previous residence and; (b) any laws providing for reasonable residence or requirements is a qualification for the receipt of publicly provided social services. What does it mean? I don't know. I do know that The Income Tax Acts of the various provinces, indeed, the federal government used residency as a basis of applicability of their tax to a taxpayer. Does it mean we can only

get a job in a province when we become a resident under the tax laws of that province? And if one month's residence is reasonable for social services, then is six months unreasonable for tax purposes and employment opportunities? I prefer our present system as I fear entrenching my rights may in this case result in removing them.

Mr. Chairman, I should like for a moment to deal with Section 23 of the schedule. My reading of this section is that only if you move to a linguistic ghetto will your rights of language of education be preserved. How different from the system where the provinces can and do voluntarily make such educational rights available.

Turning now to Part V, Procedure for Amending the Constitution of Canada, this is part of the schedule to be enacted in the U.K. Parliament before returning it to Canada and what a strange way these amendments flow.

The amendments to be made by a proclamation issued by the Governor-General-in-Council when such amendment has been approved by, resolutions of the Senate and House of Commons, and by the Legislatures of a majority of the provinces, that is, six out of the ten must be included. (1) Any province that at any time before the issue of the proclamation had a population of 25 percent of the total population. Only Quebec and Ontario will qualify at the present time and therefore will always qualify. At least two Legislatures of the four Maritime provinces containing at least 50 percent of the population in that area, and a similar two provincial Legislatures of the four western provinces representing 50 percent of the population of that region. It is obvious that Prince Edward Island is virtually ignored in this formula. Indeed, Saskatchewan and Manitoba could not jointly by themselves pass such amendment, they require British Columbia and/or Alberta to join. The rate of flow of population to Alberta and British Columbia, Manitoba and Saskatchewan may in future attain the position of Prince Edward Island.

Mr. Chairman, it is my belief, and it is one that is substantiated by the courts, that in those areas of jurisdictions assigned to the provinces under Section 92 of The BNA Act, they are sovereign states, but now some of them may be deprived of those rights by others. It does not seem to me that the exercise of provincial rights in Prince Edward Island should be subject to change by the other provinces.

Finally, I come to Section 42. This time the same formula applies, that except that instead of the Legislature to the province, the popular vote in a referendum is the determining factor. In such a referendum our votes will be sought by the highly talented advertising agencies as if we were so many cartons of soap or other merchandise. The strange part of this section is it can only be started by the federal government who, I presume, would have the awesome responsibility of (a) designing the question, (b) designing the rules, and (c) enforcing the rules. You must remember that television, the most powerful media of persuasion, is under the sole control of the federal government. Surely such a power under Section 42 makes Section 41 redundant, for under the present Act the federal government can select either section to proceed.

Finally, Section 44 removes from the Senate any requirement to vote on such a resolution for

amendment. And it does that simply by saying that, if they don't pass the same resolution as the Commons, for the amendment, that in 90 days they don't need them. So the Chamber which was conceived as the one which would protect provincial rights has had its teeth drawn in an area where provincial rights, as we know them, can now become involved.

I should like to close with a quotation from the second edition of Canadian Constitutional law by Bora Laskin, now the Chief Justice of Canada: "Federal union was a plan whereby, through mutual concession, cultural and local loyalties could be preserved and reconciled with the political strength and solidarity of the whole. These separate loyalties were strong and their existence was keenly recognized."

Mr. Chairman, nothing has changed; we are all Canadians, but we feel a tug for the western prairies, the Ontario lakes and forests, for the crashing surf of the Atlantic provinces, or the majestic peaks of British Columbia. It concerns me and I hope others, that should this proposed resolution be acted upon in its present form, Canada, as we have known and loved it, will disappear into a unitary state where all problems will be dealt with on the basis of population, power and without appreciation of the regions or their differences. I express my appreciation for your kind attention, and more, for the opportunity to present these views. Respectfully submitted. If you have any questions, Mr. Chairman, I'll do my best to answer them.

MR. CHAIRMAN: Thank you, Mr. Pearson. Are there any questions from members of the committee? Mr. Schroeder.

MR. VIC SCHROEDER (Rossmere): Thank you, Mr. Chairman. Mr. Pearson, on Page 3 of your brief, you indicated that it is your view that the method employed by the federal government in amending the Constitution is legally correct, and you have some other reservations which many of us tend to agree with you on. I'm just wondering whether you could comment, in view of your opinion, on the necessity or logic of the action by the provincial government in its court challenge against this patriation scheme.

MR. PEARSON: I read in the newspaper the account of the question that was being put to our Court of Appeal and I can't recall it at the moment. I would make two comments on that One, if the court challenge succeeds only in delaying the approach to the British Parliament long enough for the people of Canada to understand what is being done, then it will have succeeded in my view.

Secondly, if in fact — I understand the argument, and it's mentioned briefly in getting the consent of provinces where provincial rights are being amended; that has been a convention over the last 100 years, and under the common law system, sometimes those conventions in fact become law, unwritten law, but law nonetheless. And in this particular case, there is no question that there is an encroachment on education rights, which is the sole jurisdiction of the provinces; there is an encroachment on property, civil rights in particular, perhaps not property rights. But there are those encroachments. I would argue

that because it does deal with those powers which are assigned to the provinces that then the conventions ought to be observed as they have been in the past and that one should not go to Westminster, unless one has observed those conventions. I don't know if that answers your question, that's my thoughts on it, anyway.

MR. SCHROEDER: What you're saying is that although you feel the federal government is legally correct there may be sufficient . . .

MR. PEARSON: No, what I'm saying is that the British Parliament is the only Legislature at the moment that can change The BNA Act. It is an Act of the U.K. government and it's on their books. We can't change it until we're given the authority to change it ourselves on the patriation formula, but the legal part is only the U.K. Parliament — conventions may or may not be legal. I'm not a judge, so I don't have to make that . . . I can have an opinion what they are.

MR. SCHROEDER: But you would agree, Mr. Pearson, that this court challenge will not prevent parliament from acting nor would it prevent the British Parliament from acting should it choose to act. That is, there is no way that there can be an injunction placed against either the Canadian Parliament from bringing . . .

MR. PEARSON: Provided the Canadian Parliament is acting within its jurisdiction. And I'm not sure, I haven't spent that time on the question. It's legally correct, the British Parliament is the only one that can amend it. I'm not sure that it's totally really correct that the federal government doesn't have to observe the conventions. That's an open question.

MR. SCHROEDER: Thank you.

MR. CHAIRMAN: Mr. Uskiw.

MR. SAMUEL USKIW (Lac du Bonnet): Yes. I gather from your presentation that you are completely opposed to enshrinement of any rights in a new Constitution. If I am not correct there, perhaps you would want to . . .

MR. PEARSON: No, my essential view was, and I was a great follower of John Diefenbaker, so when the Bill of Rights was enacted, I thought we finally have got something that for those who practised at the criminal bar would give us some kind of a leg up. Over the years, they have narrowed the interpretation of those rights to such a point as, you know, one simply doesn't even bother looking at it to see if it's applicable anymore. That's the tragedy of it and that's why I've changed my mind on it.

MR. USKIW: You are though in favour of patriation?

MR. PEARSON: Oh, certainly. There is no question, we're a sovereign nation and we certainly should be able to do this. It seems to me so easy just to say, send it over here with the amending formula and let's get on with it; then we don't have all these time constraints.

MR. USKIW: Given the fact that for some 50-odd years there have been — or over that period of time — numerous attempts by various Prime Ministers to do just what is now being attempted or something close to it and have never been able to arrive at a consensus, *per se*, as what you believe should be the case before the matter is proceeded with, could one realistically hope that there would ever be a consensus and that unilateral action on the part of some government would not be necessary?

MR. PEARSON: There has, in fact, been consensus on particular amendments, the unemployment insurance amendment is a classic example of where the provinces all agree. The changing of The BNA Act insofar as senators are concerned, their ages, nobody objected to that. And the Canada pension scheme was another one that was consented to, except by Quebec, and Quebec got its own scheme.

MR. USKIW: Mr. Chairman, I wish to pursue the question on the base of an amending formula being agreed to. I know that there have been agreements to do certain things over the years, but we've never been able to arrive at a consensus position on the amending formula. And now we have the position of the Prime Minister that suggests to us that it will never be achieved, so let's proceed anyway. That's really what he is saying; he doesn't believe that there will ever be a consensus.

MR. PEARSON: I don't fault the Prime Minister for proceeding; what I do fault him for is that my understanding of the First Ministers' meeting in September was, is that for the first time all 10 Premiers agreed with what was called, I think, the Edmonton or Vancouver consensus . . .

MR. USKIW: The Victoria.

MR. PEARSON: Victoria? That was the Victoria, formerly of Favell and Fulton, but this was a later one, I think, which had an opting-in provision binding for the provinces.

MR. LAURENT L. DESJARDINS (St. Boniface): The one that Bourassa opposed.

MR. PEARSON: Yes, that's right and that was an attempt and as close as they had ever got before. Now they did agree on the final day of that conference to this kind of consensus. It seems to me that the only party then opposing was the federal government who wouldn't agree with that for whatever reason and that we missed then a very simple chance to have the Constitution patriated, brought back with that consensus, the Vancouver consensus, as the amending formula. And if we had wanted to change that amending formula later on, we would have done it, we would have done it in our House, but as a result, we are now in a real battlelines position because that one government wouldn't concede at that time to that system. I don't know the reasons for it or whatever, but they didn't.

MR. USKIW: Well, would you not agree though, sir, that many of the frustrations on the part of the national government, regardless of which one it was,

over the years, was based on the fact that the provinces thought that dealing with a patriation of the Constitution and an amending formula also meant that they could extract greater things out of a new Constitution and thereby weaken the national system, and that in itself was the destructive part of this whole exercise, which lead us to the position where we now see a government moving unilaterally to avoid that very thing?

MR. PEARSON: I think I could answer that by posing another . . . Since World War II, particularly, successive federal governments, and I don't find favour with any of them in this, have, because of their taxing and spending power, moved into areas of what were essentially provincial rights by saying, we'll give you matching dollars to sign the agreement, and they moved more and more . . . Now I'm not saying we shouldn't have Medicare but that's the kind of a thing one could have amended the Constitution for if you had to. And only one province throughout all of this resisted, and that was the Province of Quebec, because it had a different tradition and a different culture and was very conscious of the fact that it was a province who existed as a self-governing group back in 1867. The rest of us were pretty poor so we took what we could get and gave away a little bit of our birthright with it each time. So eventually, when the provinces then get into a position where they, some of them, become have provinces and can afford these things themselves, they become resentful. I suggest maybe we're trying to get back some of the things they have given away, not necessarily trying to get more.

MR. USKIW: One last question. If it became evident that one way of arriving at a consensus would be to compromise on the rights question; that is, instead of going for linguistic rights and the Charter of Rights, that we limit it only to language rights, would that be acceptable to you? I say that only because of the history of Canada over the last two decades and in particular the last decade where we have had tremendous upheaval in Quebec because of a lack of co-operation and . . .

MR. PEARSON: Well let me say this, I can only speak from my own experience. I lived in Quebec and I lived in Ottawa for some ten years, I have many friends who are French Canadians, and one of things that they found difficult — and we don't think of this as English-speaking Canadians regardless of our ethnic background — is that if you were employed, hired in Montreal in a national company whose head office was in Montreal, it was traditional in national companies the way they operate, to move people as they were coming up the ladder, they got moved around. So they had a decision to make if they were going to be moved to Calgary and take over the branch office there, to take their children, who were French Canadian children and probably did or did not speak English, and their wives who did or did not speak English, move them into Calgary in a milieu which was totally Anglo-Saxon and perhaps more Americanized than any other city in Canada. And what do you do; do you accept the promotion? And to somebody, this was important.

I think that, The Official Languages Act, I have no quarrel with it, I think too many people that I know go by the, "you're not going to stuff it down my throat". I've never had anybody try to stuff things down my throat and I've lived here a long time. I do think that the formula that they came up with, the French language . . . is the two official languages; they've always been the two official languages in Quebec and in the Parliament of Canada right from Day One of The British North America Act. Where it is economically viable or where there are sufficient of them, say in St. Boniface, they can be educated in their own language, fine. But we have schools here in Brandon in which children start in French in Grade 2 ,and that's done voluntarily, and that's the part I like about it. By all means have the language rights; I have no objection to them because they recognize a basic situation. But you can't use the law to drive people, you have to let people be persuaded to go. People are much more generous when they are allowed to do it voluntarily than when you're standing behind them with a spear.

MR. USKIW: Well, yes, to pursue that one step further though. Do you agree though, that there should be a system in place in the national government, perhaps through the provincial governments as well, but in particular the national Public Service, where a Canadian citizen should be able to address his government or her government in the language that he or she speaks best or wishes to utilize. Do you agree that that should be universally available from coast to coast?

MR. PEARSON: Yes, I do, and let me go one step further. I have been involved in court cases where Native Indian people, elderly Native Indian people, who spoke only Sioux or Cree and one had to have an interpreter for them. I've grown up in this province and in the Province of Saskatchewan as a child and I remember many areas where only German was spoken, or only Ukrainian, or only Polish. The next generation that came along all speak English, but many of the original farm women in those homesteads never learned English in their lives, they never had the opportunity. I see no reason why one has two official languages. Sure, we should be able to address your court or somebody in the official languages. I'm not sure, maybe it will come with time, and education, that we will have lawyers who are bilingual and we'll have judges who are bilingual, but in some areas of the country there is something else required and that's what I mean by the voluntary . . .

MR. CHAIRMAN: Are you finished, Mr. Uskiw?

MR. USKIW: Just one final point. I recognize that the best system is a voluntary one where everyone appreciates the other's position and the differences between them. But ultimately we have to recognize that we have had a dialogue in this country on this question for a good number of years and it seems to me that there has to be some leadership and direction coming from the central government in order to keep these two founding groups sort of together, especially in light of the experience of the last decade in the Province of Quebec.

My question to you is, if we have to at least go that far, in other words, enshrine language rights even if you don't agree with Charter Rights, would you be prepared to compromise and say, well, all right, let's build in the protection for language rights and hope that we can make the necessary amendments from that point on, through a consensus as opposed to unilateral position?

MR. PEARSON: I suppose the country was built by compromise, that's been a tradition, I suppose one of the things I am objecting to fundamentally is I hate one-sided compromises, and so, yes, I'd be willing to accept a compromise, if that was the thing that had to do it. Again, I would base my fundamental concern, that once you get courts interpreting those sections, then you may find that the rights that you thought you had, you eventually don't have, or you have only a narrow field . . .

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Pearson, on Page 5 of your brief you talk about the Canadian Bill of Rights, Mr. Diefenbaker's Bill of Rights. Would you not agree, sir, that it is totally within the jurisdiction and power of the federal government, if they were concerned that the existing Bill of Rights has not been effective, that they could amend the Bill of Rights in Parliament and make it effective by making it applicable to all federal legislation, thereby retaining the best of both worlds by having a bill which is interpreted by the court in such a manner as to amend parliament and amend the electorate, it would be easily amendable in parliament.

MR. PEARSON: There are the two problems. I agree that the federal parliament certainly has a right to amend the present Canadian Bill of Rights, and the original concept was that that bill, except where specifically stated by parliament, would apply to all legislation then in being or thereafter enacted by the Parliament of Canada, and under the federal system, that would apply only to those areas where the federal government had jurisdiction.

The courts have succeeded in whittling down and I suppose one could go back and amend it to get past those court decisions or to broaden the scope that the court is looking at. The problem is that even as one read the Canadian Bill of Rights, because parliament reserved to itself the right to declare any particular Act not subject to the Canadian Bill of Rights, that's the way it was expressly, they stated that if it wasn't subject to . . . again, parliament sought to retain supremacy of parliament which was basic to the British parliamentary system and as they are doing in this present Constitution. In doing that, you run the danger then that the rights which you claim to be entrenching are in fact not entrenched at all because they are still subject to change by the parliament that enacted them. That's really a basic position and one of the things that caused me to say I would prefer to have my rights not written as I think in stone, but where parliament has always retained to itself as they did in that Act and in this one, Parliamentary supremacy. Then parliament is not bound by the Constitution and parliament under the Bill of Rights is not bound by the Bill of Rights and

they can take away any of those rights in the Bill of Rights just by legislation because they have that jurisdiction.

So, I suppose our dilemma is that if we want to have our rights engraved in stone, as the saying goes, then we may have to give up this theory of parliamentary supremacy which is so inherent in the British system of parliamentary democracy, and nobody has yet got us to that step. John Diefenbaker drew back from it with the result the court cut his bill back to where it becomes meaningless. And even in the Canadian Bill of Rights, Part II and Part III of it, made some changes in The War Measures Act, amended some sections of The War Measures Act. And The War Measures Act simply would supersede the Bill of Rights, and it did in 1970, in the October crisis. It did. It was the federal government invading private civil rights which were those under the aegis of The War Measures Act, which was specifically set out in the Canadian Bill of Rights John Diefenbaker wrote. We have no difference here, we have the same kind of clause, preserving those parliamentary rights supreme. No matter, even with your language rights, they would still be subject to that problem. That's the fundamental objection that I have to this particular resolution. We have not come head to head and said we are going to get rid of the British parliamentary system and we are going to take the American system of executive power or legislative power and judiciary kind of referee over here, and segregate these so one checks the other all the time. We have said we like the parliamentary system, we believe this theory that goes along that parliament is supreme and we're not yet prepared to change it, and until we are, the entrenchment rights becomes in my view meaningless.

I don't know if that answered your question, Mr. Attorney-General.

MR. MERCIER: No, it doesn't, but thank you anyway.

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, Mr. Pearson, I would like to pursue that questioning and I find myself in some sympathy with the statement that you have made; it seems very reasonable. There are certain things that you said, are just like motherhood, I don't think you'll find anybody opposing it. For instance, you like things to be done voluntarily. I think that every single Canadian would prefer that, but it is not always done, and then you're leaving this thing open as no longer talking about rights, but privileges.

I might have felt this a little more than you, sir, because I am a member of a minority Franco-Manitoban, and I want to be a good Manitoban, I want to be a good Canadian. I think I am a Canadian. I think it's nine generations, and eight generations on the other side. I would go along with you except that you haven't given us the solution and it's very difficult. It's easy to criticize, and I'm not criticizing you for making this criticism but there is a dilemma. It is true; I find myself a little afraid of enshrined rights. But as far as the language rights are concerned, I can't see any other way. I can't see by an Act of the Legislature, by being at the mercy

of any government that can bring a Bill like they did in 1890 saying that my language no longer is valid . . .

MR.PEARSON: That's right.

MR. DESJARDINS: . . . and I've got to change. I can't see the Province of Quebec deciding that from now on, you know, the people will all have to just speak French. I would like to see in all the nine Anglophone provinces English compulsory, at least a certain level, and then having the chance to learn French, and I'd like to see the opposite in Quebec. But the legislation, because the situation exists the way it is, it creates a division between myself and you, the groups that we represent, and I don't want that but I have to fight for everything. It is not a right, it is a privilege.

I feel that it would be some improvement if we went back and say, well, this is a partnership of two groups that want to live and co-exist in harmony, not necessarily in uniformity because I don't believe in uniformity, and I can only see the Bill of Rights as not being perfection, but at least recognizing that I can be a Canadian anywhere in Canada . . . yes, the language right. I suspect, we've never discussed this with Mr. Uskiw and myself, but he's asked that same question practically of everybody else and I feel that he has the same kind of agonizing as I have of that problem that exists. But I can't see any other solution because if you leave it, as you say, leave it voluntary, leave it to a Premier with the backlash, and wanting to be elected and worried about the people that are the majority. For instance, we had somebody in Winnipeg presenting a brief who said if they decide, majority rules. Mind you, he didn't like majority rules for the west; he didn't like that one man, one vote, but when it came to certain things that he agreed with, yes. He felt that if the people in Quebec decide there shouldn't be any English, so be it, he said, that's the way it should be. I don't believe that those rights that were given to me by these people should be taken away. I would much prefer, after your presentation, if you make a suggestion that I could buy, but I can't see any . . .

MR. PEARSON: I appreciate your problems, Mr. Desjardins, I must say that I think that these things . . . what you're essentially saying to me, as I understand it, is that, if you are a minority you have got to have some place to hang your hat, beyond this point we won't be pushed, and you would like to have some legal place where you could do that. I agree . . .

MR. DESJARDINS: Excuse me, not only legal but recognize that we don't fight, that we're in a position of always looking as if we're trying, like you said, shove something down their throat, then that's not my wish at all.

MR. PEARSON: That's right. Well, as the courts have recently held, the Legislature in 1890-odd was wrong, and . . .

MR. DESJARDINS: Oh, just a minute, that's five out of four, maybe. It could have been . . . remember that.

MR. PEARSON: That's right and again that's a point I made, could have gone the other way. That's another concern I have. I don't know, I suppose . . . I can't offer you a legal solution, I don't know of one because in my view until it becomes in the interest of those in western Canada, and I talk now for economic interests, to learn to deal in French, they won't. We're all lazy, we're all lazy, and when you're the majority you are the laziest of all because the minority must learn the majority's language.

MR. DESJARDINS: Excuse me, if I may. What you are saying is true, and that's the next step. I wasn't even at that step. You're talking about enticing or encouraging the majority English to learn French, I'm not even at that stage yet. I'm talking about myself exercising my right and I suspect that is why you were asked that question, would you compromise and until some new way . . . So I thought at least we put the language right. I suspect that that's why you were asked the question.

MR. PEARSON: I have no problem with my previous answer. If that's the compromise, certainly. There are no positives in this business in my view.

MR. DESJARDINS: Thank you.

MR. CHAIRMAN: Mr. Mercier?

MR. MERCIER: No questions.

MR. CHAIRMAN: Any further questions from any members of the committee? Mr. Einarson.

MR. EINARSON: Mr. Chairman, I'd like to ask . . . on Page 4, Mr. Pearson, you list all the rights and you indicate that one of the things that concerns you is that, and I quote: "It is interesting to note in all of the sections there is no right to own property and the right not to be deprived of it, except by due process of the law as was set out in the Canadian Bill of Rights. It's also missing." I'm wondering if you were able to find out as to why that particular right was not included.

MR. PEARSON: I suppose one of my political bent has his own opinions on those things. No, I wasn't. The American Constitution, as you recall, there are guarantees as an alienable right, the pursuit of happiness, liberty — what is it? I can't remember it now. Anyway, property is one of those that come in there. I don't know why that's left out and I wouldn't want to speculate at this point in time. All I can say is that there are some systems of government which hold that the ownership of property by private individuals is not acceptable and that they must be owned by the state, for the purposes of the state.

I don't think, in my wildest dreams, that anybody in the present government or the government party consciously believes that that's why they're doing this. I don't know why you would do it, I really don't. It was in the other one; it was in the Canadian Bill of Rights, right at the top; it came down with the freedom of speech, and the freedom of so on, and the freedom to own property, and not to be deprived of it except by due process of law. I don't know, maybe it was just a draftsman's mistake, I really

don't know, except that it's interesting that in this country, where particularly, and I speak now as one who practices in a rural area, where the ownership of our land by private individuals is the basis of our whole economic system. I don't . . . perhaps I shouldn't say this to a group of people from Winnipeg, but in my view, that's what makes this country, Western Canada, a great place to live is because we do own our own land, because we are not peasants, because we have a right to do it the way we want to do it, we have the right to maximize the use of that property for our own profit. That to me is a fundamental right and it's not mentioned here, and that worries me.

MR. CHAIRMAN: Mr. Einarson.

MR. EINARSON: Mr. Chairman, then I have another question. As you know, Mr. Pearson, you can answer or you don't have to. Because of the concerns that, and I don't want to sound as though I'm a suspicious character, but because of the concerns of many people who have suggested to me, and I would like to ask you this question having posed this first one: whether there is any remote concerns about the present Prime Minister, whether he would like to see this country turned into a republic that would be suitable to his liking?

MR. PEARSON: No. My view of that, as expressed in the . . .

MR. EINARSON: Because of this right not being in.

MR. PEARSON: No, my view of that is that because of the original declaration of accepting the British parliamentary system as supreme, that he is not moving to a republic. I may be different from everybody else in this country, but that's my view.

MR. EINARSON: Thank you.

MR. CHAIRMAN: Any further questions to Mr. Pearson? Seeing none, thank you very kindly Mr. Pearson.

MR. PEARSON: Thank you very much. It's been a pleasure, and I would like again to thank the committee for coming to us fellows in the boondocks so that we can have a chance to say our piece.

MR. CHAIRMAN: Thank you, sir. Mr. Joe Thomassen, Brandon, a Member of the Canadian Council on Multiculturalism. Mr. Thomassen, may I ask you at the outset, do you have a prepared brief? Do you have copies? Thank you. The Clerk will see that they're distributed, sir. Whenever you're ready, sir.

MR. JOE THOMASSEN: Mr. Chairman, my name is Joe Thomassen. I am a member of the CCCM, which by the way means, Canadian Consultative Council on Multiculturalism. I am appointed by the federal government and I am just speaking on my own behalf, not on behalf of the Council. I was on the committee in relation to the Constitution for the last three, four months and we discussed it all over the country and I just put down in my brief my own concerns.

Before I start I would like to say that I endorse Mr. Pearson's brief. There are two or three things I didn't agree on but you know, I'll probably get questions on this later on. But I fully endorse this and I would like to second his brief.

I may as well go on with my brief. My brief is out of three components, its a statement, an introduction and conclusion, its recommendations.

A. The statement: The proposition is put forward that the future of Canada as a nation of Canadians depends on the willingness of her people to identify themselves as Canadians despite differences and to extend to all her people a sense of participation in determining the future of Canada.

The Canadian identity has been difficult to define because of variety of languages used in Canada, some more, some less; because of the variety of cultures finding a home in Canada and because of the reluctance on the part of some to let go of the past.

It is interesting that Statistics Canada in its 1971 Census Report said, Canada's population is composed of British Isles 44.6 percent; French 28.7 percent; and the other — and the other means me — 26.7 percent. That year Statistics Canada stopped providing breakdowns for the English, Irish, Scotch, and Welsh, which make up the British Isles figures. Interesting, because in 1961 the breakdown was: French 30 percent; English 23 percent; Irish 10; Scottish 10; German 6; and you can keep on going. These figures then give a different reflection on the culture plurality in Canada and should encourage Canadians to consider concepts other than the "Founding Nations" upon which to build a definition of Canadians in light of today's circumstances.

Therefore, there is a real sense in which some Canadians belonging to several different cultural groups, Chinese, Jewish, Greeks, Dutch, Portuguese, Chileans, etc., do not perceive themselves as enjoying, defacto, the same right as other Canadians — and I'm talking about English and French.

Because to the presence of these strong forces of disintegration, the political and legal entity, Canada, is now caught up in a serious debate over constitutional reform directed at a revision of the rules and procedures by which this country is governed. It is hoped that this will prevent the drift in the direction of a formal breakup of our country. In the light of this background, the concept Canadian becomes largely a legal and constitutional reality rather than a cohesive social entity.

Introduction: Federal Government Announces Policy. Canadian ethnic minorities were particularly pleased with the government's recognition of their rights to cultural co-existence when Prime Minister Trudeau announced the Policy of Multiculturalism on October 8, 1971, and was endorsed by all the parties.

The need to have the policy enshrined in legislation has been expressed by many ethnic groups for a long time. As a group of people who wish to participate fully in Canada, ethnic groups aspire to have their cultural diversity recognized as a Canadian reality.

This was first recognized by the Special Joint Committee of the Senate and of the House of Commons on the Constitution. In its Final Report of

the Special Joint Committee, chaired by Manitoba's Senator Gildas Molgat and the Honourable Mark Macguigan, Member of Parliament in 1972, in its 10th Chapter dealing with language rights, recommendation No. 27 stated, "The preamble to the Constitution should formally recognize that Canada is a multicultural country". Recommendation No. 28 also stated, "The Constitution should explicitly recognize the right of Provincial Legislatures to confer equivalent status with the English and French languages on other languages. Federal financial assistance to support the teaching or use of other languages should be appropriate."

Then we had The First Opportunity: An opportunity for the government to introduce a policy in legislation came during the debate on the Immigration Bill, C-24, 1977. An amendment was proposed by Andrew Brewin, M.P., with the intent of amending line 19: "(b) To enrich and strengthen the culture and social fabric of Canada taking into account the federal and bilingual character of Canada", by adding: "and the multicultural nature of Canada."

Major disappointment: The government and by then the Minister of Multiculturalism voted against amendment. Senator Peter Bosa, the then chairman of the CCCM, registered his disappointment with the Prime Minister.

Marc Lalonde sees no difficulty. During his address to the CCCM annual meeting on October 27, 1978, the Honourable Marc Lalonde stated: ". . . this new Constitution will be written for Canadians and must faithfully reflect the reality of Canada today. Since this country is bilingual and multicultural, the Constitution will recognize the fact without ambiguity. I can tell you without hesitation that the government itself has absolutely no objection to inserting the word "multiculturalism" in the text of the Constitution, although the Bill on the Constitution which was made public last June, already does take into account the realities of Canada's diverse nature in an explicit manner"

I would like to add to this because I just came back from the last annual meeting in Edmonton where Mr. Chretien was there and Mr. Jim Fleming, the Minister of Multiculture, and we questioned him on these things, why it was not in the preamble and we were told that it was an oversight.

Recognition of Identity at Stake: Critics of multiculturalism often state that because the policy is interpreted differently by different groups. Some French Canadian leaders and some Native leaders fear it, some say it should be shelved. In effect we feel that this is exactly what has happened due to lack of pronouncement.

We feel that we have had an invaluable experience in dialogue with the Inuit, Metis and Dene in Canada's north. There was a clear indication that they also feel left out from the federal government as far as the maintenance of their cultural heritage is concerned. They are also asking to be treated equally in their desire to benefit from their cultural traditions.

Equality of opportunity for the first inhabitants means just as well the enjoyment of equality for their cultural rights. Why not also allow them this recognition as equal partners in the furtherance of a

Canadian identity through participation in multiculturalism — A Policy for All Canadians.

Concerns are raised when the government presents constitutional proposals which does not even mention multiculturalism in what is supposed to be the country's basic legislative document.

Concerns are raised when the government seems to treat multiculturalism as an immigrant aid program rather than recognizing the participation also of second, third, and later generation Canadians who seek links with their ancestries and cultural heritage.

Concerns are raised when the government in describing Canada as a federal and bilingual country in the new Immigration Act refuses to add the word "multicultural" even after briefs are presented.

Concerns are also raised by other incidents indicating the political wing of the government is not as enamored with cultural plurality as the governing wing states it is.

National unity depends on an adherence to certain common aims and values. But it does not require uniformity. We must be prepared to accept that our cultural diversity is a treasure rather than a burden. But it is a treasure that we can only grasp through understanding.

While English and French are our national languages, we are fully cognizant of the contribution that Canadians of other origins have made to Canadian life. Some of these were the first settlers in many parts of Canada, and those of us who came later have not ceased to add to the richness and variety of Canadian life. The preamble should set forth our conviction that Canada should be so developed that the varying cultural groups of whatever racial or ethnic origin, and notably our native peoples "Feel equally at home".

We agree that there should be recognition of the multicultural character of this country in the preamble. The official status of English and French in Canada should in no way sever other peoples from their cultural roots and the importance of this cultural richness should be underlined.

Conclusion: I cannot but stress that it is essential for the federal government to act towards the entrenchment of the policy of multiculturalism in statutory legislation. I believe that such statutory acknowledgement will substantially improve the development of a strong Canadian identity.

It is also essential that the federal government as the national government be the leader in the area of multiculturalism. Although some provinces have taken steps to entrench the policy of multiculturalism in statutory legislation, Manitoba and other provinces have not done so, and I believe one should practice in what he preaches.

I have no quarrel in patriation of the Constitution but I am generally disappointed at the lack of progress in federal-provincial negotiations on the patriation of the Constitution. The lack of co-operation between the federal and provincial governments not only prevents the tackling of other equally important national issues but also postpones the amending of the Constitution which eliminates the opportunity to include a preamble where references to multiculturalism could be included.

I propose to the federal and provincial governments the consideration of the following options: Maybe I'm going too fast; I'm going like

a Dutch train, you know. Maybe I should go a little slower. I could say it in Dutch or German better than in English probably.

Statutory Entrenchment: (A) In Preamble to Constitution - That multiculturalism be referred to and included in any preamble to the Constitution. In this preamble it should be emphasized that Canada is a bilingual and multicultural country and that multiculturalism is an integral part of Canadian identity.

(B) In Substantive Portion of Constitution - That references to multiculturalism be included not only in the preamble but also in the substantive portion of the Constitution so as to ensure recognition and protection of all ethnocultural groups.

How to Accomplish: (i) by amending section 95 of The BNA Act to include reference to multiculturalism. That particular section reads probably as follows: Agriculture, Immigration and Multiculturalism. 95. In each province the Legislature may make laws in relation to agriculture in the province to immigration into the province and to multiculturalism in the province; and it is hereby declared that the Parliament of Canada may from time to time make laws in relation to agriculture in all or any of the provinces, to immigration into all or any of the provinces, to multiculturalism in all or any of the provinces; and any law of the Legislature of a province relative to agriculture, to immigration or to multiculturalism shall have effect in and for the province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

(ii) by including in a new Constitution under "Cultural Rights" the following: a) The laws of Canada must respect cultural diversity and the right of every citizen regardless of ethnic origin, to equal opportunity.

b) The institutions of government be responsive to the policy of multiculturalism and thereby every ethnic community should be able to enjoy support in preserving its own cultural heritage and in discovering and appreciating those of other communities.

If options A or B are not feasible at this time, then I propose that option C, a Multiculturalism Act be adopted as an interim measure.

(C) A Multiculturalism Act. That the Multiculturalism Act included guarantees relating to the cultural rights of ethnocultural groups in Canada and also ensure that governmental mechanism are created to implement legislation on multiculturalism.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Thomassen, will you submit to questions from members of the committee?

MR. THOMASSEN: Yes, if it pertains to this document.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Thomassen, you are proposing an amendment to the Constitution that would, I take it, encourage provinces to make laws relating to multiculturalism. What kind of laws would you hope to see passed as a result of that?

MR. THOMASSEN: We have at the moment in the government the Department of Multiculturalism, we have a multicultural policy. I would say if the provincial government would have accepted or adopted the same policy I think this will be satisfactory for what I have been talking about. It's up to you people to look at what this policy is. I don't have it with me but it's probably . . . I have some documentation with me that I will leave here with the Chairman and it is probably documented in this brief what the policy is at the moment in Canada.

MR. MERCIER: Could you give us some examples of the kind of laws you would like to see passed?

MR. THOMASSEN: We were talking about human rights; we should have the same rights, and I know we don't all have the same rights, not all new Canadians have the same rights, although we think so, but it's not true. We have, for example, Chilean people coming into this country who are of refugee status and who are . . . In a case in Brandon, for example, we have a guy who came into Canada as a refugee. He got his driver's licence and during the night his wife got twins. In all the confusion he went over the speed limit, 40 miles an hour. He was picked up by the police, who took his licence away because he was a Chilean. They took his licence away for one year. This would not happen to me or to you but, because he was a Chilean, this was done to him.

In instances where we bring in new immigrants from Europe where there is an application in Manpower for a particular position, where a person with good qualification in Europe, not from English background, has his qualifications, cannot his job because he is not a British subject or Canadian. So we're under the same rights.

Not everybody who comes to this country, and even if you are here after three years, you should become a Canadian. I agree when you come to this country you have to become Canadian, if not, you might as well go back. But, you know, even some people don't want this one, but there are maybe some reasons. I know of some reasons because we had a sort of a commission on this set up, and we had some Irish people and Scotch and they don't want to become Canadians because they don't want to have an alliance to the Queen. So they don't want to become Canadian citizens, but these people cannot have a chance to get these positions. So people who are living in Canada are not having the same rights.

MR. MERCIER: Sir, you are telling me that the federal government has this policy that we should all have a good look at and should adopt, but you are telling me that the federal government who have jurisdiction over Immigration and Manpower — and we have a federal minister — are the level of government that are affecting or infringing upon the rights of these people.

MR. THOMASSEN: Yes.

MR. MERCIER: What happened to their policy, is this part of their policy?

MR. THOMASSEN: No, it's not a part of the policy. It is just a protection of the rights of every Canadian citizen, no matter where you came from. We have documented proof where people in the east, in particular, people from behind the Iron Curtain, are not protected by federal law. Although they are Canadian citizens, they are embarrassed and are harassed by their own country embassies, and when this is brought up to the federal level, that the government should ignore this. So there is no protection for these people there really, and why? Because here are Canadian people — okay, they just came maybe from Poland or from Hungary, but they should have the same protection like you as Canadians, born Canadians. We don't have this now. But this is not in the policy; this is not in the multicultural policy, but we just want to have this one. If this is entrenched in the Constitution, then we probably have all these rights and we should stand up for these rights.

MR. MERCIER: Give us some examples of what is in the policy then. That was my original question.

MR. THOMASSEN: The multicultural policy is, for what it is worth, I would say it's strictly a policy. It's something that was announced by Pierre Trudeau and we've been fighting to get it put in legislation already and to enrich the culture of our ethnic groups. With this one, the Canadian identity, to promote language classes on a volunteer basis, not compulsory. I don't agree even on compulsory French language either. It should be done on a volunteer basis, if you want it, you can have it. Because when I came over here, this was to be an English country and I accepted it that way. I accept, you know, it was two-language nation but I don't want to accept that we have to, like Mrs. Pearson said, we do not vote for any of that, but that's in our policy, we are . . . There are certain other rights in this policy. I don't have it with me, but I could get you a copy of it and I think you should have a copy, if in case you want to discuss it in your own group, government level, maybe.

MR. MERCIER: Sir, apart from a policy, I'm trying to determine from you what actually happens? Anybody can have a policy, but what you do with it is another question.

MR. THOMASSEN: Yes, it's a policy and whenever they see fit to use it, and most of the time around election time, federal election times, that's when the government grabs through the policy and is giving goodies away to the ethnic groups in the east to get votes. Assuming the election is over, that's when they say, okay, we can shelve it again until the next election. It's a policy but just when it's convenient for the people who made up the policy.

MR. MERCIER: Just one other question that you raised in my mind, you're suggesting, sir, that anyone who comes to Canada should have the same rights as a citizen of Canada?

MR. THOMASSEN: If we accept them as such, landed immigrated, yes, because the process before I came to Canada is so strenuous that the

people, I believe, so far as I know, are very well screened before you come to Canada, so there is no need to say to these people for the first few years, you are just an alien. There is no need for this, in particular in relation to jobs and other things. I probably would distinguish between the refugees where you have no control what comes in. You probably could say, okay, a government position should not be given for the first few years, until they become Canadians, to refugees because you never know what sits on the boat.

MR. MERCIER: Okay, thank you very much, sir.

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: Mr. Thomassen, I followed your brief with attention but I must admit that I'm somewhat perplexed on two points. If I understand the brief, you are stating that you would like to see the rights of multiculturalism enshrined.

MR. THOMASSEN: Yes.

MR. DESJARDINS: I had looked at your brief and then you made a statement, I think, correct me if I'm wrong, that you supported the previous brief. The previous brief was exactly opposite of yours, it did not recognize the enshrinement of rights. So, that's number one.

Number two, following the question of Mr. Mercier, I followed your brief on the rights of the — let's say — third group, the non-French and non-English group. I thought I followed it until you were asked to give examples, and it wasn't these people that you were referring to at all. You were referring to people that are immigrants in this country who are not Canadians. In fact, you, I think you're the president of the Dutch Canadian Association, consider yourself as one of the group, the third group. You said to the Attorney-General, well, you gave your example in that, and you said that wouldn't happen to you and it wouldn't happen to me. I think that maybe and I just want this clear; are you actually — is this brief representing the Canadians of non-French, non-English? Then the examples that you gave were not the right examples. That's something else, another problem that you feel exists are people that are not Canadians, by choice or any reason, and you feel that we are not treating them right, but the Bill of Rights dealing with the Canadian Bill of Rights you accept is valid for all, for what it is, for what it's worth. It's the same for you, for myself, or the Attorney-General, or any Anglo-Saxon or Anglophone. Right?

MR. THOMASSEN: Yes.

MR. DESJARDINS: You were talking about the policies. I think it is an accepted policy in Canada and in Manitoba that, sure, it might be bilingualism but multiculturalism. The policies that you were talking about seem to be there in Manitoba as much as federally. I think you were saying that the policies enacted by the federal government should be enacted by the province and, in fact, I think then in Manitoba, that exists ever since that we — I don't know if you remember the Congress that we had

about 10 years ago, in that there were many policies and much money spent for that.

I, like the Attorney-General, am not too sure of really where your main concern is for the protection of these people. I am not too sure of exactly — I would also like to have an example of where your rights are not accorded.

MR. THOMASSEN: The first example, in relation to Mr. Pearson's brief, I said I partly agreed in this belief —(Interjection)— not in everything. Certain things I did not agree on.

The second is in relation to the rights of new Canadians and we should . . .

MR. DESJARDINS: Excuse me, sir. Not new Canadians, Canadians newly arrived in Canada, but not Canadians yet.

MR. THOMASSEN: Yes.

MR. DESJARDINS: All right. That's not the same thing.

MR. THOMASSEN: I gave an example of that Chilean and his driver's licence, but I have documentation where we talk about landed immigrants who are Canadians now, who are not protected by this right. I got a brief from the east, in particular, where we have more immigrants from behind the Iron Curtain.

I have to agree with you that Manitoba is one of the provinces where we have a fairly good, I would say, multicultural policy, but it's only a policy. You can do with it whatever you want. You can take it and say, okay, we forgot about it, but if it is entrenched in the Constitution, then I think the provincial government should entrench it in their legislation too, like they do in Alberta. In Alberta, they have this one, but not in Manitoba.

MR. DESJARDINS: Mr. Chairman, if I may, to the gentleman, I don't want to prolong this, but you mean to tell me that if this was followed and enshrined in the Constitution, you have your first choice, the laws of Canada must respect cultural diversity and the right of every citizen regardless of ethnic origin to equal opportunity. What if that was in? What would be different here in Manitoba? You say they are only policies. What would be different? What is it that would be safeguarded? I'm all for safeguarding it, but I don't really understand that.

MR. THOMASSEN: If you have a statute in legislation, then we have a safeguard that whenever there is a statute, everybody has that right and we can come to the government and say, okay, it's in the statute, we want this one. Now, if it is only a policy, we cannot go to the government, we cannot go to the provincial government and say, okay, we want this one, we should have the same rights.

MR. DESJARDINS: You don't care to give us one example that you mean of a certain right that would be protected?

MR. THOMASSEN: All is that you probably have, if we want to go into the same committee what they did in the east in relation to harassment by

embassies of different ethnic groups, we will find in Winnipeg exactly the same, where I'm pretty sure the Chileans — and we have them at Brandon, I know it's done in Brandon where the Chilean government harassed Chilean refugees. Now you can say, okay, but they are not Canadians yet, so we don't have to look after them. But I mean if we bring in these people as refugees, then at least we should protect them, that none of these Chilean embassies or whatever these people are, spies, harass these people. We have them at Brandon, we have Chilean spies coming into Brandon to talk to the Chilean groups. I am pretty sure if you want to have a committee on this one, you will find that Winnipeg would be probably twice as bad. You probably have it on the Italians, too, and because they are non-Canadians yet, because they are on the refugee status, we don't give no protection.

MR. DESJARDINS: I think I know what you're saying, but I can't see where a Bill of Rights could change that. I don't think we can dictate to an embassy, or if they want to harass somebody, we say certain things are not legal. You can only go so far, but if you have the free speech, you can't stop them from talking.

We don't agree with what the present Chilean government is doing. We agree with you without any difficulty at all, but I find it difficult, and again, you're not talking about — I was lead to believe that we were talking about multiculturalism, that group that are not French or English, but you're talking about new Canadians, or immigrants, or landed — which I feel they should have rights, I'm not saying they should not, but this brief doesn't seem to be the same thing.

MR. THOMASSEN: But I'm talking now about the French in St. Boniface and I'm talking about the Ukrainians in Winnipeg, and in Dauphin, and about the Dutch in Winnipeg. There are certain things we don't have a right on. Okay, I'm a person, I came here 23 years ago and I made the point that after I became a Canadian in five years that I took these rights. I made it known that I want the same rights. That's why I became a Canadian, but certain people, they know they don't that they don't have the right and they are landed immigrants.

MR. DESJARDINS: Thank you.

MR. CHAIRMAN: Any further questions? Seeing none, thank you very kindly, Mr. Thomassen.

MR. THOMASSEN: Thank you.

MR. CHAIRMAN: The next person or persons on my list are the Manitoba Women's Institute. Your presentation, ma'am, has been distributed by the Clerk to the members of the committee.

MRS. MARION McNABB: Yes, so I understand.

MR. CHAIRMAN: It is signed by four or there are four names indicated there. Would you tell us which one you are?

MRS. McNABB: I am neither Mrs. Parker nor Mrs. Edie, I'm Marion McNabb, the President-Elect of the

Manitoba Women's Institute from Minnesota. Mrs. Parker and Mrs. Edie would have been with you had they been able to get on to the agenda in Winnipeg, so I am here as their substitute in Brandon today, and happy to be with you.

MR. CHAIRMAN: Thank you.

MRS. McNABB: The Manitoba Women's Institute is a voluntary non-partisan, non-denominational, non-sectarian organization, with some 2,000 members in 110 branches spread throughout the province of Manitoba. Since the Institute movement was founded in Stony Creek, Ontario in 1897, the Organization's motto has been, "for home and country", therefore, we are concerned about our country Canada.

Our members at the local level have been asked to make themselves informed about the Canadian Constitution's 1980 proposals, and to communicate their thoughts, opinions, and ideas, directly to their MP's, MLA's and other government officials, and to anyone in position of authority related to this subject. However, the executive of the Women's Institute welcomes the opportunity to make a brief general statement to your committee.

We believe in Canada as one country. We support the concept that each Region should be encouraged to develop to its fullest potential within Canada, taking into account geographical differences, resources and other relevant factors.

We support changes in the composition of the Senate, that would provide equal representation from all parts of Canada at the Senate level, so that regional differences could be reflected and addressed apart from the House of Commons.

We believe The BNA Act should be returned to Canada without any amendments. If the purpose of patriation is to give independence from Great Britain, we cannot support the present proposal that would amend the constitution prior to its return to Canada.

We cannot concur with the proposed amending formulas in Canadian Constitution 1980 for the following reasons:

Since the federal and provincial governments have failed to agree to an amending formula in the last 50 years, it is unrealistic to expect this within two years.

Referendums often do not represent or reflect the best interests of those affected by the decision. Too many variables enter in referendums. For example, who words the question, how much advertising and by whom. Legislation which provides vetos in perpetuity is not consistent with rapid population shifts and social changes which characterize society today and on into the foreseeable future.

We support the Manitoba position that a Charter of Human Rights not be written into the Constitution. We presently have the basic freedoms imbedded in various statutes at both the provincial and federal level, which we may only lose by having these statutes superseded by a charter. We agree that democratically elected representatives rather than the courts should be our front line of protection.

Canadians who have had the opportunity to travel to other parts of the world surely realize how fortunate they are to live in probably the freest country in the world where we have freedoms of

speech, religion and press, to name a few. The very fact that some of the most oppressed peoples have enshrined charters of rights is enough reason to pause. It is only the will of the people that will decide how legislation works.

We deplore the actions of the federal government in taking unilateral action, since at the present time, approximately one-half of the geographic area of Canada is not represented in the government in power.

In closing, the Manitoba Women's Institute will continue to support the concept of one Canada, but one in which all areas are treated fairly. Very respectfully submitted.

MR. CHAIRMAN: Mrs. McNabb, would you permit questions from members of the committee, in respect to your brief?

MRS. McNABB: To a limited degree, and certainly not of a legal nature.

MR. CHAIRMAN: Yes. Mr. Mercier.

HON. GERALD W.J. MERCIER (Osborne): Mrs. McNabb, then just very generally. On the first page, your point number three, you support changes in composition of the Senate that would provide equal representation. I take it what you mean there, equal representation from the provinces?

MRS. McNABB: Or the regions, particularly of Canada.

MR. MERCIER: Okay. Have you given any thought to the appointment of that equal representation? Could you support, for example, one-half of the members of the Senate appointed by the federal government and one-half by the provincial government?

MRS. McNABB: Well, we haven't gone into this.

MR. MERCIER: You haven't gone that far? That's fine then. Thank you very much.

MR. CHAIRMAN: Mr. Uskiw.

MR. USKIW: Yes, I'm most intrigued by your observation that we have not been able to agree over 50 years of discussion and negotiation, and that your organization feels that two years is too short a time frame in which to come up with a solution. It seems to me that the reverse is the case; that because it's been 50 years since attempts have been made to deal with this question and every attempt has failed, that it's probably credible on the part of the Prime Minister for having put a time limit on it this time, so that we do confront the issue properly and judiciously, and do it in the knowledge that we must meet a certain deadline in order to bring to Canada the Constitution, and to amend it as we want to amend it. Seems to me that's a credible part of the Prime Minister's position, is to say, let's get on with it and let's do it. I think otherwise we will have another 50 years of nothing, because I don't believe, and I ask you whether you believe that it is possible to have a consensus ever, unless there was some

sort of target date or objective that is put forward in advance?

MRS. McNABB: That may very well be, quite true, and we could carry this on for another 50 years and not be any closer to it. I personally would like to see it taken out of the realm of partisan politics and dealt with by people who understand the situation and get down to the business of repatriating the Constitution for the benefit of all, and not with any particular people having an ax to grind situation.

MR. USKIW: Yes. I'm pleased if you feel that there perhaps is a need for target setting to achieve this goal.

The second question I have is the question of supporting the Manitoba position on the Charter of Human Rights, and I put this question to you, as I did to the first witness here this morning, and that is, would you or your Association be prepared, given the fact that we have had such a period of heartache, if you like, in Canada over the last couple of decades on the question of language rights — would you be prepared as a compromise to go at least that far, entrenched language rights in the new constitution and separate that from the Charter of Rights per se?

MRS. McNABB: Yes, I think so, if I understand it properly.

MR. USKIW: Now the last point. Your position here seems to be that because the government isn't represented by members of parliament in that government from all regions, that somehow you feel that their actions should not be taken at this time. You know, it's a problem of Canada, and it's a problem of Manitoba, if you want to examine it in depth. If you look at the representation in the Manitoba Legislature, it's almost analogous to representation in the House of Commons.

We have the southern southwestern part of Manitoba represented by Conservative members of the Legislature and the mid-province and the north are represented by New Democrats. Somehow, this province has divided itself that way, for whatever reason. I don't believe that any government in power, whether it be the present government in Manitoba or the one prior, is somehow at fault because of the way that their members have been elected and the regions that they happen to represent. Likewise, I don't know that I could draw any fault to the federal government for that having occurred. Whatever government . . . you know, the Diefenbaker government was probably in the best of all worlds having had almost all the seats in Canada at one point in time; but that is not realistic, and therefore I would hope that you do not take the position, and I would like you to clarify that, that because the Government of Canada now does not have members of parliament from Western Canada that it is not your government. Although I've never voted for that government, ever, I believe it is my government, I respect it as such. Would it be your position that you would accept that they have a right to govern, notwithstanding the fact that we don't have representation from western Canada?

MRS. McNABB: Oh, well, yes, I believe in majority government, certainly.

MR. USKIW: That's the point I'm trying to make. Okay. That's fine.

MR. CHAIRMAN: Mr. Blake.

MR. DAVID BLAKE (Minnedosa): Thank you, Mr. Chairman. Mrs. McNabb, on the first point on Page 2, or No. 5 I should say, Item 1 — since the federal and provincial governments have failed to agree on an amending formula in the last 50 years. I think it should be pointed out that there was complete agreement by the premiers to have the constitution in Canada, either sent here or brought back, without being amended, and agree on an amending formula once it's back here. I think it's the wish of the present Prime Minister to have it amended, or the federal government, to have it amended before it comes back. Would you agree that that's where the present hang-up is that's brought in the decree of a two-year time limit on it or . . .

MRS. McNABB: Well, I would think that's probably, yes, where the hang-up is. I don't understand personally, the legal terms and the problems, but it seems to me that people are saying, "Why can't we bring the Constitution back to Canada, get it here and have it ourselves and then go to work on it to our own satisfaction"?

MR. BLAKE: That's right. I think there was some agreement on that, to have it here and have it amended once it's in Canada, and the problem seems to arise from the fact that if the British Parliament makes some amendments it may be easier to have them done over there before the Constitution is in Canada. If there could be some agreement on that I don't think there would be a problem in having it go on another 50 years. The country probably should have the Constitution in Canada, and it probably should have been here a long, long time ago, but it hasn't seemed to have presented a problem before, and it's creating a great one now that I think is overshadowing many many other problems that we have.

MR. CHAIRMAN: Any further questions to Mrs. McNabb from members of the committee? Seeing none, thank you very, very kindly for appearing.

MRS. McNABB: Thank you.

MR. CHAIRMAN: Group of Concerned Citizens, presentation by Keith Baker, Charles Turner or J. D. McKeand. Your presentation, sir, is being distributed by the Clerk now. Would you identify yourself, please.

MR. KEITH BAKER: I am Keith Baker.

MR. CHAIRMAN: Keith Baker. You can proceed, sir.

MR. BAKER: Members of the committee, Mr. Chairman. It is our belief that those who govern least govern best. That is, the closer government is to the people the better government will be, for who knows their needs and wishes better than the people

themselves. This self-government is true democracy. Ours has been eroded over the years and must be returned to the people before unity will prevail. This not only is in the realm of the federal government, but in all governing bodies, provincial, municipal and school boards. We have little say in major decision making.

In this presentation we would entertain interruption at any time if some part does not seem clear.

Common sense must enter into all our discussions that take place in the preparation of a Constitution for the people of Canada and must not be rushed. It is far too important a matter. We believe you will get this common sense from the common people more so than from the professionals as their training develops a bias, that is, their job is to protect their own turf.

It is not the legitimate role of government to do for the people what they can and should do for themselves. The prime role of government should be to maintain law, order and the general conditions which encourage the exercise of personal initiative and responsibility by the people in looking after their own welfare.

According to the Statutes of Westminster, 1931, the provinces were given imminent domain, and they were given the responsibility of developing a Constitution and a central government of Canada. This has never been done, so in reality we have been governed centrally by supposition. Therefore, our central government does not have the right to develop a Constitution for the people of Canada. This authority should come through the sovereignty of the provincial governments. Therefore, we are doubting the authority of Ottawa to patriate The British North America Act.

No other country in the world looks to the parliament of another country for the shaping of its Constitution. This premise could only be supported if we believe that Canadians are the only people so incompetent that they cannot work out a solution to their constitutional problem, and so biased they cannot be trusted to deal fairly with the various interests concerned.

We agree with the Manitoba provincial government's desire for a Canadian Constitution. The Constitution should be written by Canadians with the authority of the provincial governments.

We disagree with the federal proposal on official language rights being entrenched in the Constitution. The implementation of Section 16, Part I, would discriminate against unilingual Canadians as employees of all provincial institutions. For example, the Armed Forces, RCMP, Post Office, Department of Health and Welfare, in fact, in excess of 600,000 would have to be bilingual, regardless of what part of Canada they live in. Canadians in Western Canada may have to speak French to sell gasoline at a Petro-Canada service station. A unilingual French-speaking Canadian in Quebec should have the same problem. It is best to leave language rights as a provincial responsibility.

Section 91 of The British North America Act which deals with the money supply of the nation must be included in a new Constitution in its original intent, that is, parliament shall have the sole right to create the credit and the currency of the nation.

We support the principle of the provincial government being the servant of the people and the federal government being the servant of the provinces, and thus of the people. This we feel is true democracy. There seems to be a reversal of proceedings now, so as to suggest that the provinces and the people are the servants of the federal government. We are being told what is good for us and what we should think and amendments are made to Acts by Orders-in-Council, not by the true democratic process.

We support the principle that the area of sovereignty of the federal government be limited to defence, foreign policy, postal services, foreign trade and such matters as the provinces may voluntarily designate; all other questions such as education, housing, resources, etc., being the responsibility of the provinces.

We support the creation of a Canadian Senate, with equal representation from each province, directly elected by a system of proportional representation which enables the most widespread representation. We desire such a Senate to have the power to amend legislation, to initiate legislation and to act as a balance to the House of Commons.

We support the inclusion of the principle of the initiative referendum and recall, enabling 20 percent of the electors to petition at any time for any proposal to be decided by referendum or to recall a member of parliament and hold a by-election.

We support the establishment of a Supreme Court of Canada consisting of one judge appointed by each province. Human rights should consist of equal treatment for all and special treatment for none.

We take exception to a Bill of Rights being entrenched in a Constitution. For example, the right to own private property or firearms is not included in Mr. Trudeau's proposed Constitution. Does this mean these rights will be denied to us forever? Does this mean everything not included in Trudeau's proposed Constitution will be denied? Section 24, "Undeclared Rights and Freedoms" appears to be reassuring, but is it?

We must not move too quickly on this very serious Constitutional matter. Remember the old adage, "Marry in haste, repent at your leisure." Thank you.

MR. CHAIRMAN: Mr. Baker, would you permit questions from members of the committee?

MR. BAKER: Yes, I will.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Baker, your brief covers a lot of points and comes right to the point. On Page 3, you indicate you would support a Supreme Court consisting of one judge appointed by each province. Do you have any thoughts on other federal court judges — like in Manitoba, County Court, Queen's Bench and Court of Appeal judges are all appointed by the federal government. Do you think those judges should be appointed by the provincial government also?

MR. BAKER: That was not the intention implied by this brief. I think that would be unnecessary.

MR. MERCIER: On the creation of the Canadian Senate with equal representation from each province directly elected, would you see those elections being held concurrently with elections to the House of Commons?

MR. BAKER: I would assume that they would . . . see, the House of Commons may not last its full term and I would expect the people elected to the Senate to last their full term.

MR. MERCIER: You would want to see a fixed term for the Senate then?

MR. BAKER: I would think so.

MR. MERCIER: You say they would have the power to amend legislation, initiate legislation. Would they have the power not to approve legislation passed by the House of Commons?

MR. BAKER: That is exactly right.

MR. MERCIER: How many numbers, did you give any thought to the numbers . . . ?

MR. BAKER: Not really, no.

MR. MERCIER: As long as it's equal?

MR. BAKER: That's right.

MR. MERCIER: Could you explain just a little bit more your comment about Section 91 of The BNA Act? Why do you make that statement?

MR. BAKER: I think a nation has a tough time being sovereign if it isn't in control of its own currency and money supply. The people that drew up The British North America Act thought it wise to include it then and I think it is still wise. There is a section of this major in the American Constitution and I am aware that Mr. Lincoln used it on more than one occasion. And I think it would help our economy a great deal.

MR. MERCIER: What do you see is the problem with the Constitution now in this area?

MR. BAKER: This Act is not being applied. The money supply of the nation is being supplied to us by private banks rather than by the government.

MR. MERCIER: You don't think that's controlled through the Bank of Canada?

MR. BAKER: It's controlled to a certain extent but all the money supply is still owned by the banks and we're paying rent on it all the time in the form of interest, and it results in large national debts that are causing us a great deal of problems at this time.

MR. MERCIER: In the United States there has been some discussion of an amendment to their Constitution that would require a balanced budget. Would you support that kind of amendment to the Constitution?

MR. BAKER: I don't think you can have a balanced budget unless Section 91 is applied. Under our present system of finance, I believe it would be impossible and if it is balanced under present conditions there will be severe economic repercussions, depression, whatever.

MR. MERCIER: I take it from your brief that you don't support the time limits that the federal government has imposed.

MR. BAKER: Absolutely. No, there's no hurry whatsoever. I am not in any way in favour of seeing this present federal government involved in setting up a Constitution for Canada for all time.

MR. MERCIER: I take it, you then would think that the amendments to the Constitution should be agreed to by the provinces before they proceed.

MR. BAKER: Absolutely. I would give the federal government very little say in what the Constitution should be. I think it should be the product of the people with the provinces. The federal government should be the result of what the provinces decide. The federal government should get its authority from the provinces.

MR. MERCIER: Thank you very much, sir.

MR. CHAIRMAN: Mr. McGill.

HON. EDWARD McGILL (Brandon West): Mr. Chairman, Mr. Baker's brief, doesn't address itself directly to the question of patriation of our present Constitution but refers frequently to a new Constitution.

MR. BAKER: That's right.

MR. McGILL: Do I understand from that, that you are prepared to leave The BNA Act where it presently resides in Westminster and that we should address ourselves to creating a new Constitution entirely?

MR. BAKER: Well, as I understand it, The British North America Act is an Act of the British Parliament and as such is not the Canadian Constitution. We exist as a country without a constitution. And I think we need one.

We have been governed under The British North America Act and The British North America Act, as I understand it, was drawn up in 1867 and became this Act of British Parliament, with the express purpose of giving the Governor-General in Canada the rules and regulations under which he would govern the colony of Canada, and The Statute of Westminster 1931 removed Canada from that colonial status and since 1931 we have not had a constitution. As we said in the brief, we have been ruled or governed by supposition. Everyone supposed the federal government had the right to do this and so they did and everyone abided by it, but I don't think it has been legal thing and it's not been the right thing. At that time the provincial governments should have got together and formed a federation and gave certain rights to a federal government, a central government. They never did

that. I think it can be done yet and should be done yet. I don't think we can bring The British North America Act home. It's not something you can take away from the British Parliament.

MR. MCGILL: So it is your position and the position of your group that Canada has operated as a country and a nation without a constitution since 1931?

MR. BAKER: That's right. I think each and every province in Canada at this minute is sovereign within its own right.

MR. CHAIRMAN: Mr. Uskiw.

MR. USKIW: Yes, there are points in particular that I would like some clarification on. You state that the federal government ought to be the servant of the provinces and the provincial governments ought to be the servants of the people in those provinces. Given that context, how could we then have national standards, that is, all Canadians enjoying a basic education, or basic medical care, or basic hospital care if that were the case? How could we ever have a national standard of services and pensions, if you like, whatever?

MR. BAKER: That might not happen under those circumstances. I can see in my own community we have some families that a higher standard of living, if you will call it, than others do and it could very well be the same with provinces. Some will be more wealthier than others and if they choose to get together as provinces and share up or divide up or however you want to put it, I think that should be within the provinces' jurisdiction to say whether they will do that or not.

MR. USKIW: Well, if you were to pursue Medicare, as an example, I believe — I think everyone agrees with this point — that is, that if the federal government didn't introduce and finance 50 percent of Medicare that we probably wouldn't have it with the exception of the province of Saskatchewan which pioneered it. It wouldn't be a national program. Would you agree that it should or should not be a national program?

MR. BAKER: I think health care is very important; it should be available to everyone. I think if Section 91 of The British North America Act had been applied for the last 100 years we would be wealthy enough that we could afford these things without federal government taking it away from us and giving it back.

MR. USKIW: That now gets me to the other question; a government being wealthy enough and therefore we should be able to afford it. Manitoba isn't the wealthiest province, but it has decided in its wisdom that the public will cover the costs of medical treatment and hospital treatment, without direct taxation to the beneficiary.

Alberta, on the other hand, has about seven or eight billion in its Heritage Fund, and it still has Medicare premiums that ordinary citizens have to pay whether they can afford to or not. So wealth doesn't necessarily mean that it will be used

adequately to provide for the needs and services that people require. So how do you translate your new methodology of creation of wealth into the sharing of that wealth for the benefit of all Canadians?

MR. BAKER: I would say that in Alberta's position, if they decide to do it that way they are completely within their right to do so, and I have no quarrel with it. If Manitoba wants to do a different thing, then they can do it.

MR. USKIW: What then would your position be if they decided that they wanted to abolish the whole concept of Medicare?

MR. BAKER: If the people of Alberta are still willing to elect that government, then they are within their right to do so.

MR. USKIW: That brings us full circle now because in your opening paragraph you suggest that we have little say in the major decisions that governments make, and you now come back to the position if the people elect a government they will live by their decisions or they will defeat the government and elect a different government. Why then is that not adequate with respect to our present arrangement and as you describe in your opening paragraph?

MR. BAKER: The present arrangement, exactly what?

MR. USKIW: Well, in your opening paragraph you suggest that we have too much government and that we have little say in what the governments decide to do for us, and now you say but if the people of Alberta vote in a government then that's fine, they should do what they want to do and they have a chance to vote.

MR. BAKER: I'll expect that government to be elected on that particular platform.

MR. USKIW: But once they are, they have a right to govern for a period of time.

MR. BAKER: That's right.

MR. USKIW: Okay. So then how does that fit in with your statement, that you don't want to see government, you say the least government is the best government, and now you're relying on government doing things.

MR. BAKER: I'm not relying on the Alberta government doing this particular thing. The people in Alberta, they may decide that they don't want a government-sponsored health program, but if they decide that, that's their business. I don't understand the conflict, I don't understand what you appear to be trying to make a contradiction.

MR. USKIW: No, but that is true positively for Medicare or negatively for Medicare. If a government decides no, it is a decision of government. If government decides yes, it is a decision of government.

MR. BAKER: All right.

MR. USKIW: So a government is interventionist even if it says no.

MR. BAKER: All right.

MR. USKIW: Okay.

MR. BAKER: It's only interventionist if they had it and then it said no.

MR. USKIW: So, as I read your position, you would rather see more no governments than yes governments with respect to providing of services and standards for people in . . .

MR. BAKER: I would like to be able to afford my own services, that would be the ideal situation.

MR. CHAIRMAN: Are there any further questions to Mr. Baker? Mr. Einarson, just before you start, is there any other members of the committee that wish to question Mr. Baker. If not, we will finish with Mr. Baker's presentation and the questioning before we break for lunch. Mr. Einarson.

MR. EINARSON: Mr. Baker, I'm interested in this on the first page here. According to Statute of Westminster 1931, the provinces were given imminent domain, and they were given the responsibility of developing a constitution and a central government of Canada. I know Mr. McGill pursued this point here a little bit, but do I understand you to say that the Governor-General, as of 1931, had no legal responsibilities insofar as administering the warrants and all the rest of it that came within his domain — the Governor-General of Canada?

MR. BAKER: I was reading something on that, and I'm sorry I can't remember exactly what it was, but I would not be surprised if that was the case, yes.

MR. EINARSON: Another matter too that Mr. Uskiw was pursuing. We talk about Medicare being provided by the federal government, and I was just wondering — there's one comment I'd like to throw in here in the discussion, in the way in which it was presented to the provinces, whether they accept it or whether they didn't accept it. Were you aware of the conditions . . . because of the fact that Medicare has been one example used.

MR. BAKER: The conditions you speak of being that . . .

MR. EINARSON: That provinces accepts it or whether they didn't accept it, as a national Medicare scheme.

MR. BAKER: The condition you speak of though is if they accept it then they are financed by the federal government, and if they do not accept it then they are not financed, they lose money, is this what you mean?

MR. EINARSON: Well the condition was that if they accept it the federal government financed it 50-50. If they did not accept it the 50 percent of the federal government share was still left on the table, and the

province had no jurisdiction over that 50 percent. Were you aware of that?

MR. BAKER: I was aware of that, yes.

MR. EINARSON: I'm just wondering if that is one of the things that you are concerned about and you're critical of, of a government when they present a proposal to the people of Canada.

MR. BAKER: That's exactly right.

MR. EINARSON: Thank you.

MR. CHAIRMAN: Any further questions? Seeing none, thank you very kindly, Mr. Baker.

MR. BAKER: Thank you.

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, before we adjourn could we find out if the two briefs that we have listed, will they be the only briefs left? So we can make arrangements . . .

MR. CHAIRMAN: To the persons present, the list that I have before me and that other members of committee have before them is the West-Man League for Life, Linda Jones, and the Manitoba Action Committee on the Status of Women, Bev Peters and Carol Potter. Are these people present? Are there any other persons that wish to make presentations who are not on the list we have? Then maybe, can I ask both those groups that are present what is the approximate length of your briefs?

LINDA JONES: First of all . . . (Inaudible)

MR. CHAIRMAN: Okay. And the Manitoba Action Committee on the Status of Women.

MRS. PETERS: I would not think it would take more than half an hour, maybe 20 minutes at the least.

MR. CHAIRMAN: All right. Then my next question is to the members of the committee. Having heard that, can you give me some direction, is it your desire to carry on for another hour or would you like to break and then come back. Mr. Uskiw.

MR. USKIW: Mr. Chairman, it appears that there may not be more than 45 minutes to an hour. It seems to me if these people are prepared to proceed now that it shouldn't be a problem to the committee to hear them out and then we can wind up the day, rather than having to come back.

MR. CHAIRMAN: Well, let me ask other members of the committee. Mr. Brown.

MR. BROWN: Mr. Chairman, we really have no idea whether there might not be somebody else coming in this afternoon that might want to present a brief that is not on our list, so I would suggest for that reason that we break at the present time, we return in the afternoon, and if any other people appear that would like to present briefs, that we hear them.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: I agree with Mr. Brown. I was going to point out, I don't think the Action Committee on the Status of Women wanted to be heard until after 2:30, they have other people . . .

MR. CHAIRMAN: Then the committee will recess until 2:30 or 2:40, in that area. I'm told that the room will be locked. We can leave our material.