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Legislative Assembly of Manitoba

STANDING COMMITTEE
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PRIVILEGES
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Chairman
Mr. A. Anstett
Constituency of Springfield



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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Second Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PRIVILEGES & ELECTIONS

Wednesday, 7 September, 1983

TIME — 10:00 a.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. Andy Anstett (Springfield)

ATTENDANCE — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Penner, Plohman, Uskiw and Storie

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

WITNESSES: Mr. Danny Waldman, Manitoba Association for Bilingual Education

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

MATTERS UNDER DISCUSSION:

Proposed Resolution to amend Section 23 of The Manitoba Act.

* * * *

MR. CHAIRMAN: Committee come to order. We have a quorum.

When we adjourned last night at 10:30 p.m., Mr. Waldman, representing the Manitoba Bilingual Parents Association was at the podium, and Mr. Sherman was the next person on my list of members asking questions. Mr. Sherman.

MR. L. SHERMAN: Mr. Chairman, through you to Mr. Waldman. Mr. Waldman, thank you very much for agreeing to come back this morning. I hope that the sort of the interruption and the resumption of your appearance before the committee this morning doesn't strike anyone as having any particular significance or being any major thing. I had not wanted to delay the adjournment of the committee last evening at 10:30. I just had a few questions that I wanted to ask you, and I apologize if it's inconvenienced you by bringing you back here this morning. I thank you for being here.

With respect to your brief, and your unofficial ad hoc comments on the subject, particularly in response to questions asked by Mr. Doern, Mr. Waldman, I have a few questions because I have some difficulty in understanding the basic motivation for the position that your association has taken as articulated by you, and I would be grateful if you can help me with it. In your answers to Mr. Doern, you emphasize virtually exclusively your belief in the desirability of being able to speak more than one language. I would doubt there would be any of us who would dispute the desirability of that kind of ideal and that kind of capability, but your brief doesn't make any mention of that whatsoever.

The brief as proposed by the Manitoba Association for Bilingual Education and submitted by you deals

with other arguments entirely. I'm just wondering whether the basic position that you represent is as laid out in the brief, or your basic position is that the reason for proceeding with this initiative proposed by the government is because it's a good thing for people to be able to speak more than one language?

MR. CHAIRMAN: Mr. Waldman.

MR. D. WALDMAN: Actually it's a combination of both areas. The questions last night that I was getting from Mr. Doern were directing me slightly off of the actual brief. I feel personally that being able to handle more than one language is to the advantage of anybody. As far as the brief is concerned, we feel that within the proposal as stated now, it's to the advantage of the people of the province to accept it as is, as it's stated in the brief, both from the point of rights of Franco-Manitobans and also from the point of rights of other minorities.

MR. L. SHERMAN: In other words, you would agree, Mr. Waldman, that given that it's desirable to be able to speak more than one language, and I certainly agree with you on that, it is not necessary, nor on an international basis is it demonstrable that the only way that you or I or anybody else can bring ourself to the point where we can speak more than one language is by proceeding in the manner in which this government is proceeding and making certain numbers of languages official.

MR. D. WALDMAN: I feel at this point that the rights of languages within either the provincial or federal level, if not guaranteed, then can be revoked at any point. I feel very strongly that as it was done simply in 1890, it could be done again as far as The Heritage Language Act in Manitoba, which I'm very proud of and that I've worked with it. It's given us tremendous advantages but, tomorrow in theory, The Heritage Language Act could be revoked, could be turned around. Everything that we've worked for, everything that we've come such a long way in regards to it could be lost in one fell swoop.

MR. L. SHERMAN: So your position essentially, Mr. Waldman, is that without entrenchment, without official sanction of the kind proposed here that opportunity is always going to be at risk. Is that your basic position on it?

MR. D. WALDMAN: Yes. That unless there is the guarantee in writing that it takes no work whatsoever to turn around and cut it out completely. That it's just as easy to turn around tomorrow and say, fine, we will not honour the French situation and that we will not honour The Heritage Language Act and we'll not honour anyone of a dozen other cultural rulings that have gone through.

MR. L. SHERMAN: Well, Mr. Waldman, I'm just trying to bring this down to a perspective that for me, and for many people who discuss this matter with me, really identifies and zeroes in on what is really at issue here. That's the reason for my line of questioning.

You mentioned last night that you'd spent considerable time in Europe and that in many of the countries in which you spent some time it was common place for people to be able to speak two and three and four languages, but when you come to Manitoba, here we are, we're some sort of island of linguistic inability. I'm sure he didn't mean it precisely in those terms because certainly Manitoba is not an island exclusive unto itself in that respect.

If one looks at Manitoba in terms of the North American context or even in terms of some nations in Asia, Japan in particular, where I would propose to you that an infinitesimal fraction of the population can speak more than one language. But the point is that in many of those European countries where people have a capability in three and four languages, there is only one national language. For example, you and I have met many people in France who can speak four languages, and you and I have met many people in Germany who can speak four languages or five languages, but there is only one national language in those countries.

In other words, what I am proposing to you is - and I'm not arguing the point about the recognition of the fact that this is a bilingual country, that's a given - desirable as it may be to have two official languages in Manitoba, what I am proposing to you is that is not an argument for guaranteeing that people can speak more than one language. People can speak more than one language in many countries which recognize only one official national language. Would you not agree? Basically if you want to be able to speak four or five languages, what you have to do is make the effort to learn and master those four or five languages.

MR. D. WALDMAN: As somebody else had said yesterday, there are a number of other countries that do have more than one official language: Switzerland, Belgium, Israel. There are probably a bunch more.

One of the things that I had intended with that statement is that by having an understanding of the language, the terms within the language, all the terms that are non-translatable from one to another, you develop a certain understanding of the other culture. Through the understanding of the culture, it helps to bring the peoples together, which was the point I was trying to raise with it. If you understand the finer points of the language, you understand the thought processes better of those people and it brings them together.

One of the things that I am looking at very seriously here is that as long as you have a French entity and an English entity with no communication between the two on whatever level, whether it be government, on the street corner; as long as there is no communication, you have no possibility of unification. One of the things that we have been working very strongly for within our organization is a certain unification of the ethnic minorities, whatever they may be, as we've done with the German, Ukrainian, Hebrew programs. If you're looking for something diverse, there are three of them.

We have come together with a certain understanding that it can be done.

I feel that, to a large extent, the whole problem now is that of a humanitarian issue in that there should be a certain understanding and a certain acceptance from the Anglophone community to the Francophone community and back. I feel that at this point a great deal of the discussions are pushing it further apart as opposed to bringing it together.

MR. L. SHERMAN: Mr. Waldman, that brings me to a question having to do with a reference and quotation in the brief presented by Mr. Léo Letourneau yesterday on behalf of La Fédération des Francophones hors Quebec. On Page 5 of that brief, La Fédération states that, "The Manitoba Association for Bilingual Education . . ." which is the organization for whom you are speaking at this point before this committee, ". . ." emphasized in a letter . . ." and here I'm quoting directly, Mr. Chairman, from La Fédération's brief, ". . ." addressed to the Francophone weekly, "La Liberté", which appeared last July 22, that the rights of the Francophone community are indissociable from those of Manitoban minority communities' . . . "

Did that statement appear in a letter to La Liberté from your association, Mr. Waldman, and does that fairly represent your association's position with respect to minority rights?

HON. R. PENNER: I wonder if the rest of the quote shouldn't be put to Mr. Waldman, if you don't mind, Mr. Chairman.

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

HON. R. PENNER: I am just suggesting to you, Mr. Chairman, he might want to put to Mr. Waldman so that his memory is fully refreshed the last clause of the quote.

MR. L. SHERMAN: Certainly, Mr. Chairman. The full quotation reads, "that the rights of the Francophone community are indissociable . . ." which is the word on which I wanted to base some questions to Mr. Waldman, "that the rights of the Francophone community are indissociable from those of Manitoban minority communities (and) that the denial of these rights to a community prevents other communities from obtaining rights."

MR. D. WALDMAN: I had signed that letter with Mr. Harry Schellenberg and Myron Spolsky. It was meant as a support, and we do definitely feel, as I had stated before, that if the rights of any one ethnic minority are curtailed in any way, shape or form it can directly affect any other minority.

MR. L. SHERMAN: Mr. Waldman, is it the association's view though "that the rights of the Francophone community are indissociable from those of Manitoban minority communities"? I would have thought that the position that many spokesmen supporting the government initiative are taking is precisely the opposite; that the rights of the Francophone community are quite distinguishable from those of other Manitoban minority communities.

MR. D. WALDMAN: The rights that we're looking at at this point is not from the legal point, from the legislative point, but just from the point to exist freely with all the rights. We feel that if any of the rights are taken, then it affects every other minority group within the province, within the country.

MR. L. SHERMAN: But you're not saying here, Mr. Waldman, that the special rights, which most of us, I think, would acknowledge, obtain and exist where French-speaking Canadians, Francophone Canadians, are concerned like the special rights which obtain and exist where English-speaking Canadians are concerned also exist for all other ethnic components which make up our Canadian mosaic. You're not saying that.

MR. D. WALDMAN: I'm sorry, could you repeat that please?

MR. L. SHERMAN: I'm wondering whether the statement to which I refer is saying that the rights of the Francophone community and the rights of the other ethnic communities which make up our society are essentially the same. I'm wondering if you're saying that the initiative that you're taking in supporting extension and entrenchment of French Language Services and French Language Rights is an initiative that you are also prepared to take with respect to other ethnic communities.

MR. D. WALDMAN: At this point our association has been approached by other communities within the province for help. We've offered whatever organizational help we can. We've been approached once by the Filipino community and we've also been working with the Portuguese community and the Italian community. We will support any rights of any ethnic organization that need help in any way, shape or form. We feel what we're trying to develop within our ranks is an association, a co-operation, between all the ethnic minorities. There is no reason why the Jews can't support the Germans, the Ukrainians can't support the Italians, or you know, any other combination of two, three, four or five. We feel that you cannot differentiate between one ethnic community to the other in as far as rights are concerned.

MR. L. SHERMAN: But, Mr. Waldman, does that extend to recognition and entrenchment of language rights for other ethnic communities?

MR. D. WALDMAN: Yes.

MR. L. SHERMAN: That's an interesting answer, Mr. Waldman. I appreciate it. I appreciate having it on the record. It opens up rather spectacular visions of a Canadian mosaic that we haven't approached yet.

MR. D. WALDMAN: I think the answer to that would have to be justified in that at this point that's not a real consideration. I don't believe the Ukrainian community at this point is looking for entrenchment of Ukrainian within the Canadian Constitution, not this week anyway. But we feel vis-a-vis the French, that it should be in that they are in a slightly different position

that the other ethnic groups are in and this has to be taken into consideration also.

MR. L. SHERMAN: But is it fair to conclude, Mr. Waldman, on the basis of your last two answers, that part of the association's motivation for supporting this government's initiative is a long-range desire - I'm not challenging the desire I just want to know - to have a Manitoba in which several national languages are entrenched, officially enshrined and recognized as working service languages.

MR. D. WALDMAN: At this point we're more than willing to settle for French.

MR. L. SHERMAN: Thank you, Mr. Waldman. That leaves me pondering our exchange.

In your actual brief, Sir, there are two points that I would appreciate some clarification on. You made five basic propositions.

I just have two other questions, Mr. Chairman, one on each of two of those propositions. They're proposition No. 1 and No. 3.

Proposition No. 1, the association says, "We believe that the proposed amendment is concerned with the reinstatement of linguistic rights that Franco-Manitobans were deprived of in 1890."

Mr. Waldman, is it not the reaffirmation of Section 23 that has reinstated those linguistic rights? And, in fact, does the amendment not go much beyond that reinstatement?

MR. D. WALDMAN: What we're looking at at this point as stated, the reinstatement of the linguistic rights, if we can get them back or to a greater extent we're very pleased. We're interested in seeing - if we can come back to the Act of 1890 and then upgrade it three steps further to everybody's satisfaction, I'll be more than pleased. If we can get more than is initially offered, I'm not going to say no.

MR. L. SHERMAN: Mr. Chairman, one more question if I may to Mr. Waldman. Mr. Waldman, in thesis No. 3 in the association's brief, the association says "Our support for the proposed amendments arises from our concern over the erosion of Canada's many cultures." Admittedly, the thesis goes on from that point, Mr. Chairman, but the salient point is the one contained in that first sentence.

Mr. Waldman, does the association really believe that there is an erosion taking place of Canada's many cultures? Leaving the question of French Language Rights aside for the moment, but looking at the society to which you and I belong in Manitoba, wherein there are a great many tangible evidences of the pride that we take in the culture weave of our society, do you believe, and does the association really believe that Canada's many cultures are experiencing an erosion here, or is this basically a reference to the Native cultures, and to the French language?

MR. D. WALDMAN: You answered it partially yourself. You can look at the Native cultures, you can look at the English culture in Quebec, which is running into some difficulty at this point from the legal point, and

difficulties within the communities. The Heritage Language Act that was brought out, I think has done tremendous things for the different ethnic cultures within the province. I feel, at this point, there's quite a lot more that could be done to strengthen the organizations, both from the point of education, from the point of Legislature. I think you could probably sit down and look at a number of different - you know if you want to get into a sociological discussion on problems within communities, you can look at the Jewish community or anything else. There's been a fair amount of erosion there as well - its problems, internal as well as external pressures. To have the support of the community at large for these different ethnic groups is invaluable. I'm not knocking the support that's being received now. I would just like to see that come through three, four, five times as much.

MR. L. SHERMAN: I want to thank Mr. Waldman for his helpful answers and again for agreeing to come back this morning to complete this part of the committee's work. Thank you.

MR. CHAIRMAN: Any further questions by members of the committee? Seeing none, Mr. Waldman, thank you for appearing on behalf of the Manitoba Association for Bilingual Education.

Next on our list is the Manitoba Association for Rights and Liberties.

Before we ask them to come forward, I have three resignations from the committee from Mr. Parasiuk, Mr. Santos and Mr. Eyer, and I understand that Messrs. Plohman, Uskiw and Malinowski are to replace those. Will someone so move? Moved by Mr. Penner. Is that agreed? Agreed and so ordered.

Mr. Arnold, Ms. Shack please.

MS. S. SHACK: Thank you, Mr. Chairman, and members of the committee for hearing us this morning.

The Manitoba Association for Rights and Liberties, known as MARL, is a non-partisan organization with members of every political opinion. Our membership is truly a cross-section of Manitoba's population: ethnic, religious, political, social, economic, and vocational, I might add. Our common purpose is the enhancement and protection of human rights and civil liberties in this province. It is from this perspective that we take the position presented to you today.

The brief itself was forwarded earlier, both to the government and to the opposition. Our Legislative Review Committee and officers of our association have met with representatives of the government, but have so far not been able to arrange a meeting with the opposition caucus or key members thereof.

MARL supports the basic intent of this constitutional amendment, not because it was developed as the result of an Accord with a particular group in order to resolve a law suit, but rather because it carries forward the development of French language rights, which were abrogated in 1890, in what has been declared an unconstitutional manner. We are therefore in accord with these amendments to entrench French language rights and to ensure better protection for the French-speaking minority.

We have already, in our brief and in our visit with the Attorney-General, made known our criticisms of

the process of introducing the bill with so little prior consultation, advice, and preparation of the general population. We are pleased that the government has responded to the widespread concern regarding the process and is holding these hearings. Parts of our brief are now not applicable, since some of our concerns and similar concerns expressed by other organizations and individuals have been recognized in the amendments circulated yesterday morning.

MARL supports, without reservation, the general principles of the bill. First to ensure the rights of French-speaking Canadians in this province, by making services in French available as appropriate in government offices and departments; and secondly, to entrench in the constitution those rights, thereby reaffirming the parity of the two national languages, English and French. We do however, have some concerns regarding the proposed constitutional amendments and some suggestions to make, even though some of the amendments have already been covered. Let me refer now to our brief again.

The wording of the bill is from time to time unclear and imprecise. Now some of this wording has been cleared up, but in the clearance it seems to us that other ambiguities and uncertainties have been included. For example, Section 23.7(1)(b), which eliminates school boards from the necessity of providing service in French, that we think might be interpreted by some government, at some stage - some government that perhaps has not had the opportunity of listening to the various organizations and taking part in the discussions leading to the formulation of these amendments - might lead some of those governments to exclude, for example, the teaching of French from the schools or might suggest that school boards are free of the necessity of providing French Immersion classes. We think that this amendment to the amendment should be looked at again and we, as a body, would like to have it discussed once more by our committee to make sure that there is no possible ambiguity in its interpretation.

Now if we may go again to another section of our brief, one which caused a great deal of concern in our organization, and I might say particularly among the legal members - well we're all legal members - among the lawyers on our committee. MARL has a serious concern about the provisions for enforcement of rights contained in Section 23.8, Subsections 2 to 5 and here we have some small sympathy with Mr. Lyon's expressed concerns about turning matters over to the courts, totally to the courts. These sections give the courts the power to approve plans for - and we emphasize this - to approve plans for changing the administration of a government agency to ensure the protection of French language rights. We do not think that the courts should be granted this kind of power. Courts are primarily intended for the settlement of disputes between individual litigants. We recognize that the courts also have a role in determining questions of constitutionality on points of law. They are not, however, the proper arena - I should say, perhaps not quite as positively - they are not, our legal advisors suggest to us, the proper arena for approving administrative plans.

We consider it a misuse of the court system to require that this be done. In a courtroom, the rules of evidence do not ensure that all matters that should be taken into account would in fact be given proper consideration

before the approval of an administrative plan. Once the constitutional amendment is adopted, its implementation rests, or should rest, with the government. Administrative changes should be made by the administration. If the government fails in individual cases to offer adequate protection in the matter of the language rights amendments, then the courts may declare that failure and require the remedy to be made. The courts, however, should not have the power beyond declaring the failure and requiring the remedy to be made. The proposal to give the courts power to impose administrative plans is inconsistent with the government's justification of agreeing to the amendment in the first place. According to the pamphlet, "Constitutionally Speaking," the government feared from the Bilodeau case which led to the accord that, "at best" there would be a requirement from the Supreme Court of Canada that Manitoba translate all its laws and regulations in an "unrealistic" time frame. If, to the Government of Manitoba, the possible Supreme Court decision is, at best, unrealistic, why does the government want to give powers of implementation to the courts?

Now, we were hoping that Mr. Newman would be here in time to speak to this section of the brief and we beg your indulgence to hear him if he does arrive in the next little while, while we are still before you.

While we support the adoption of this constitutional amendment resolution at this time, we do not that it will validate all statutes against future attacks on similar grounds as those of the Bilodeau case. That is, no matter what the legislation is, there will be people who will want to challenge it in the courts and that, we think, is a legitimate way of handling the situation. We should not be running back to the court for every possible administrative change that might become necessary.

Canada is a signatory to the International Covenant on civil and political rights. The covenant guarantees protection against discrimination on grounds of language, among other things, and Section 27 guarantees, without I believe the notwithstanding clause, the rights of linguistic minorities. Anglophones in Quebec and Francophones in Manitoba may use the Covenant to seek protection of their respective language rights, so may the speakers of other minority languages. This does not, however, relieve us as the people of Manitoba from the need to include a similar kind of protection in our legislation. Manitoba, as part of Canada, is also a part of the Covenant.

There should be a clear understanding - and this is a point that we would like to make very clearly because there seems to have been some confusion in some of the other presentations as to the stand that organizations were taking on this point. Our stand is quite clear, we think. There should be a clear understanding that the bill gives full approval to the principle of English and French bilingualism. We have suggested that, or we have recommended that on Page 6, Item 4, of our brief.

Though other heritage may gain government and other support for the maintenance of the cultures of their speakers - we agree heartily that they are entitled to this kind of support - no language, other than English or French, has any right to constitutional equality in Canada. That is these are the two national languages with their rights entrenched. Other languages must be

protected. They must have the full rights that they now have, and that is our next point.

Item 5, on Page 6. I'm not going to read it word for word. Acceptance of that fact should carry with it the clear understanding that minority languages, that is the heritage languages, must retain the rights and privileges they now have and there must be no discrimination against those people who use them.

Now, we're not going to detail all these rights, but examples of the kinds of rights that heritage languages now have were illustrated by the previous speaker: the right to be taught in public and private schools, the right to give evidence in court with the help of an interpreter, if necessary; the right to have legal information translated for them if they require it to make their case in court; the right to publication by the way, which is a very important right and one that has been denied in some places in the world; the right to give evidence as I've said. In fact, the position of heritage languages will probably be enhanced rather than threatened by the entrenchment of French as a first, rather than a second language.

I think, Mr. Waldman, the previous speaker, made a very good presentation in this regard, that English and French, French is no longer a second language, it is a first language; that is English and French are the first languages, therefore there is place for a second language, both in the school system and in common use in the country. Many of us were brought up in exactly that way. That is, we had two mother tongues and learned a third really as our second language.

No discrimination - by the way we have set forth this case on Pages 6 and 7 of our brief. We feel strongly, too, because we, as a group, represent very often the rights of minorities, often very small minorities, that are threatened by the will of the majority in our country and in our province and in our society generally. We feel, therefore, that the rights of minorities have to be very carefully guarded in what is, as one of the speakers said last night, a liberal democracy - small "l" liberal democracy.

There should be no discrimination against unilingual Anglophones or Francophones, particularly in the matter of employment. Bilingualism should be required only when the job requires it. This appears on Page 7, Item 6 of the brief.

Now, I'm going to ask Mr. Arnold to carry on from here for the rest of our presentation and would ask the committee to address questions following our presentation both to Mr. Arnold and to me.

Thank you.

MR. A. ARNOLD: Thank you.

Yes, there are three more points in our brief, Point 7, 8 and 9, relating to the additional reasons for protection of French Language Rights in Manitoba in relation to the fact that 26 percent of the total population of Canada is French speaking and, of course, we heard a great deal about this yesterday from the presentations of Eric Malloff and Alliance Québec. His presentation tends to confirm the points that we made in this section of our brief and that these proposed amendments, I don't have to read the whole thing, but I should emphasize these proposed amendments would help to ensure the fulfillment of the mobility rights section of the new Charter of Rights.

Of course, I think it was also demonstrated by the contribution made yesterday, the fact that there is an important linkage, an important linkage can be made between the rights of the Anglophone minority in Quebec and the Francophone minority in Manitoba.

Attention was also drawn to the fact that Section 23 of The Manitoba Act, which grants equal rights to English and French in the Legislature, were granted this before the courts in 1870, was patterned after Section 133 of The British North America Act, granting the same rights at the federal level and in Quebec in 1867. Just as Manitoba in 1890 passed legislation contrary to Section 23 denying Francophone rights, Quebec under the Parti Quebecois passed legislation contrary to Section 133 denying Anglophone rights. The Supreme Court of Canada heard and decided together the Forest case from Manitoba, reasserting the primacy of Section 23 of The Manitoba Act and the Francophone rights, and the Blaikie case from Quebec, which reasserted the primacy of Section 133 and Anglophone rights.

So it should be clear that the proposed Manitoba French language Accord is likely to have a positive effect on the future of English language rights in Quebec.

Finally in this section, we know that the whole thing is drawing national attention and that, if we watched the news last night, we'd know that these hearings were on the national news right across the country. So I don't think any more need be said about that.

I would like to make a couple of additional comments relating to the discussions and arising possibly from the last paragraph of our brief which says:

"We hope that the Manitoba Government and the official opposition will make further progress away from narrow partisanship to resolve this issue in an enlightened manner for the benefit of all Manitobans and all of Canada."

There are a couple of other points to be commented on in this connection. I think it should be clear that our organization stands for freedom of speech and freedom of expression, but even the right to freedom of expression cannot always be absolutely unlimited or free from restraint. Such freedom of expression should be guided by the exercise of moderation, tolerance, good manners and the avoidance of forms of expression that may indicate prejudice against other people. When we attend an information meeting, as we did at the International Inn some time ago, and we hear booing when the Dean of the Law School got up and said a few words in French, this obviously indicates some anti-French feeling.

That was not the first time. There was a suggestion by one of our eminent citizens, who will be speaking here later I believe, that was the first time this happened in Manitoba. In fact, it was not the first time, because I recall to my personal recollection that it also happened when the Unity Task Force appeared in Manitoba a few years ago. When somebody got up and began to speak in French, they were booed.

If the singing of "Oh Canada" in French at a hockey game is booed, it's the very same thing. It indicates anti-French feelings, and I don't want to use any other words to describe it but you know what other words can be used. This is the kind of thing we have to try to eliminate, these anti-French feelings. The issue was dealt with yesterday by Professor Bailey, I think, to

some extent, so that we don't have to go into it in great detail. But we must learn to listen to each other, rather than to respond with catcalls or boos at something we don't want to hear.

I think that those people who have been opposing this and who have been talking about the fact that there are a lot of people in Manitoba who don't like this bill, the repetition of this being a bad thing, the repetition of that fact only helps to convince people that it's a bad thing without them really understanding what it's all about.

We talked to one member attending these hearings who told me yesterday, she's afraid that they are going to be forced to learn French. Now I don't believe and we don't believe that anybody is going to be forced to be learn French because of these amendments. We think the opposition has a responsibility to get this across the same way as the government does. This should be a shared responsibility.

Now with regard to the question of the proposal that this might be done by referendum, we oppose this very strongly that there should be a referendum vote on this question. Manitoba is not governed by referendum. We have a representative and responsible form of government, democratically elected, with provision for public input through hearings such as these. I should say, this is about the eighth or ninth time that our group has appeared before these public hearings this summer. I think it's about the 45th brief that we have presented since our organization was established five years ago. This is the vehicle for people to make their views known.

We know that there is going to be one referendum on the City of Winnipeg election this fall, and that has to do with the question of disarmament, but that is an overriding thing which has nothing to do with Manitoba legislation and is a very exceptional situation. If we look at other examples of referenda in Canada we know about, we all recall the referendum in Quebec, the separatist referendum, but there was another example which also was divisive. That goes back to the Second World War when there was a referendum put about conscription. We know that the whole country voted in favour of it, but Quebec voted against it, and that was a very divisive way of doing things as well. So we don't feel that there is any need for a referendum.

Finally, as I have already mentioned, we feel that the opposition does share a responsibility with the government to see that this issue is eventually cleared up to the satisfaction of all concerned. There is a precedent in the way in which The Constitution Act of 1981 was finally adopted. We know that the Prime Minister of Canada tried to push it through in a big hurry. He was prevented from doing so. The Progressive Conservative Party at the national level played a very important role in that. There was a long period of the exercise of democratic hearings in which many people from across the country had the opportunity to put their views forward.

I made it a point to look into the question of what the final vote was on the question of the new Canadian Constitution. I learned that The Constitution Act, 1981, was passed by 246 Yeas to 24 Nays, which means that it had a very strong consensus with most Progressive Conservatives voting, with most Liberals and most New Democratic members in the House of Commons to support The Constitution Act as it was finally presented to the House of Commons.

So I hope that is the kind of precedent that might be followed when these amendments finally go through for their vote before the Legislature.

Thank you, Mr. Chairman.

HON. R. PENNER: Ms. Shack in her presentation raised a concern that the proposed amendment excluding specifically municipalities and school boards from the reach of 23.7(1) might be interpreted in such a way that it could derogate from the teaching of French in the school system. That puzzles me, because there can't be any doubt, nor indeed have I heard any doubt until now, that 23.7(1) speaks specifically to one entity, and one entity only, namely the head office of courts, quasi-judicial or administrative bodies, Crown Corporations, agencies of the Government of Manitoba. It speaks to the head office. Other than on the theory that anything is possible how is it assumed that anyone could interpret the head office to mean teaching in a classroom? I'm really puzzled by that.

MS. S. SHACK: I have no trouble with that kind of interpretation because head office itself is an ambiguous term. Is it the head office of the school board? If it's the head office of a school board then certainly it exercises control over what is taught in the schools. That is if a school is teaching something out of line then the superintendent, or the school board which makes the policy can say - no, it is not our policy to have French taught in this school. As a matter of fact this is happening right now where certain schools have been set aside for French Immersion, and certain schools have been passed over for French Immersion as the case may be.

The other possibility is that it could go higher to the Department of Education. Another government . . . well, Mr. Penner is shaking his head. But it could possibly be interpreted that way. Not by this government perhaps, not by the next government, but this is something that is going into the Constitution for all time, or at least it's going to be very difficult to amend, therefore there should be no possible ambiguity, or misunderstanding, or possibility of misinterpretation.

We understand clearly now, I think, what the bill is supposed to do, and what this amendment is supposed to do, but in time to come courts interpret differently, and the populace interprets differently. That is the ordinary person on the street who has not had the exposure that this committee, and our organization, and other organizations like ours who have made presentations have had. This becomes ancient history in 20 years, or 25 years, but this is in the Constitution 50 years from now.

MR. A. ARNOLD: The resolution as it now stands does not mention municipalities or school boards. It was only mentioned in discussion that any involvement by them would be voluntary. There was an assumption that this might go beyond being voluntary. I think we would suggest that the assurance has to be given that it will be voluntary rather than to exclude them, rather than to say they are completely excluded.

HON. R. PENNER: Well, I'm finding some difficulty with both answers.

First of all with respect to the answer by Ms. Shack, who expressed a concern about the Department of Education, is it not the case, I direct your attention to 23.7(1)(a) that indeed the head office of any department of government is included. So it can't possibly be the case that this particular exclusion affects the head office of the Department of Education. Would you not agree with that?

MS. S. SHACK: It does not exclude the head offices of school boards however.

HON. R. PENNER: That's right. It does not exclude, because of 23.7(1)(a) there is no exclusion of the head office of the Department of Education.

MS. S. SHACK: Right, understood . . .

HON. R. PENNER: Okay. You're familiar as well, are you Ms. Shack, with those provisions of the Charter which cover minority language education rights? You would agree that those are supreme in any event?

MS. S. SHACK: As we said in our original presentation, we feel that it is of value to include these in the Manitoba Act as well.

HON. R. PENNER: With respect to 23.8, and the statement in the brief which was amplified in presentation - this is a statement on Page 5 - that the courts, however, should not have the power beyond declaring the failure and requiring the remedy to be made. So I take it that you do agree with the general principle that there should be a remedial power in the courts.

MS. S. SHACK: Yes, they should. There should be a remedial power in the courts but the courts should not be given the power to set administrative procedures or, as our lawyers at least, interpreted this section to say.

HON. R. PENNER: Just apropos of that I note on Page 9, that this brief was prepared with the assistance of, and I note two prominent lawyers, David Matas, and David Newman. You seem to have covered some parts of the political spectrum there. Leaving that aside, Mr. Matas, of course, is known as, and I believe Mr. Newman as well, very strong supporters. Certainly Mr. Matas, probably the strongest supporter of the Charter in Manitoba and nationally.

I draw your attention to Section 24 of the Charter where the following power is given to the court. "Anyone whose rights or freedoms, as guaranteed by this Charter," and I state parenthetically that it includes much the same kind of provisions with respect to services for Canada as is being proposed here, "have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances." In other words it gives a blank cheque to the courts. First of all, I'm just wondering how your lawyers who strongly support that wide-open remedy, now come across as critical of a much more restricted remedy?

MS. S. SHACK: We are in the difficult position of not being able to speak for the lawyers personally but we know that our group approved of this particular section because the feeling was, or the belief was, that there should not have to be recourse to the courts for small administrative, or minor administrative changes. That section suggested that was the way of handling a situation that really shouldn't be handled that way.

I think the stand taken when we met with Mr. Penner earlier, or last month, was that if the courts decided that an administrative procedure was wrong, or was totally wrong, then there should be recourse to the court, and the court might say - now this procedure is wrong, we disapprove of it, come back and give us another approach in line with the philosophy or the theory underlying the Charter, or the proposed amendments. I think that this was the kind of approach that we were suggesting.

HON. R. PENNER: Thank you for that answer.

Looking further into the proposed remedial section I draw your attention to 23.8(2) which begins this question of what a court may do because 23.8(1) simply says you can apply to the court, to make a declaration, and your brief supports the notion of at least making a declaration. Are you aware that 23.8(2) says - where a court makes the declaration it may order the institution. In other words the court does not have to get involved at all in an administrative plan, it simply may say - there's a right here seeking a remedy, do something. Are you aware that it's discretionary, the court is not required to, in fact, approve or call for a plan?

MS. S. SHACK: On the other hand, the power is there. It's permissive and it is there. We think it should not be in the area of administration, that there may be an appeal to the courts. The courts, as I've said before would say, a remedy is necessary following these general principles, come up with a plan.

HON. R. PENNER: Let's just take a hypothetical case. The court has been applied to by someone who feels aggrieved; namely, that the services that required to be delivered under 23.7(2) are in fact not being delivered, that there is some significant demand that is not being satisfied by a bilingual capacity. The court, in order to make a declaration, would have to make a finding of fact one way or another, would it not?

MS. S. SHACK: Yes, I assume.

HON. R. PENNER: Yes, it would have to say, yes, that demand is there, or no, it isn't. It would have to do that at least in order to determine significant demand, would it not?

MS. S. SHACK: Right.

HON. R. PENNER: So it would have taken that step. Then in order to decide whether once the demand is there and it is being met, it would have to have evidence and fact of what the government is doing, what the government's actually operative plan is, would it not?

MS. S. SHACK: I suppose it could, yes, but it isn't necessary that it do it. Again, I say, it could say this

is wrong, this person has been wrong, remedy the wrong and draw up a plan that will eliminate this kind of wrong.

HON. R. PENNER: But there's a preliminary state.

MS. S. SHACK: I'm sorry, may I interrupt, Mr. Chairman. I'm sorry but I am not a lawyer, as you well know, Mr. Chairman and Mr. Penner, and I'm really not equipped to speak on these legal points. I would much prefer to have the answers coming from people who are more versed in this area than I am. I feel that anything I am saying now is what I think or believe, rather than what our organization might support or not support.

HON. R. PENNER: I certainly appreciate that and I'm trying, in fact, not to put legal questions to you. If I could amplify the question and make that clear, in view of our agreement - it's common sense and I knew you would agree with that - that in order for the court to decide whether there is a wrong, it has to make a finding of fact as to whether or not there is (a) demand and (b) that the government is not doing enough. It would have to go that far before it could come to the conclusion that something more has to be done.

MS. S. SHACK: I would think so.

HON. R. PENNER: Yes. So in effect to go that far, the court indeed has to look at some elements of government administration.

MS. S. SHACK: We're not suggesting that the courts should not look at any elements of administration. I think we've pointed out the fact that there will be items coming up, undoubtedly out of this constitutional amendment, and coming before the court. What concerns us is that the courts would be interfering in the administration and the normal administration of a department or of the carrying through of the will of the government.

I think this is the concern that was expressed quite strongly, not only by the two gentleman whose names appear on the brief, but by other members of the committee who are also lawyers.

HON. R. PENNER: You'll forgive me if I just go back over the ground one more time because you had agreed with me, that in order for the right to be meaningful, there should be some recourse to the court and the court should have some power of remedying the wrong.

MS. S. SHACK: Yes.

HON. R. PENNER: Okay. So to that extent you accept a notion of - I'll use your term - court interference.

MS. S. SHACK: Well, perhaps I shouldn't have used the term court interference to begin with. Having discovered how careful this committee is in its use of language, I should have been more careful in the language I used. But I think that what we are concerned about, and I'm simply repeating what I said before, we are concerned that minor administrative detail would clutter the courts and because of this need to bring administrative changes to the courts, changes would

be held off and might often run contrary to the will of the government and to the intent of the original proposed amendments. That's as far as I can go in answering it.

HON. R. PENNER: Well, I'd certainly agree with you, that one would not welcome anyone taking to court minor administrative matters, but we do agree that people should be able to go to the courts to seek a reference.

MS. S. SHACK: Oh yes. I don't think there's any doubt of that and I think we've said this several times through the brief. We feel, too, that cases similar to the Bilodeau case might well be brought before the courts, even though this bill itself might be, or this proposal itself might be challenged in the courts.

HON. R. PENNER: You're not saying, are you, that matters arising under that section of the proposal which deals with services should not be brought to the courts?

MS. S. SHACK: No, we're saying that legitimately there will be challenges. We're not saying there should be no challenges. We're simply saying that administrators should be allowed to administer and that every minor administrative change shouldn't go to the courts for ratification or for change.

HON. R. PENNER: I'll certainly agree with that. We have agreement that people should have recourse to the courts with respect to the service section and the court should have the power to remedy and we have agreed, have we not, that before the court can make a decision, as to whether or not anything should be done, it has to make a decision whether what is being done is insufficient. That part has to go.

MS. S. SHACK: Right. I think that in every brief we have presented, where rights are challenged or where people feel that there has been infringement of rights, the right of appeal is very necessary, the right of appeal to the court is necessary and I think the same is true here.

HON. R. PENNER: I'd like to thank the Manitoba Association for Rights and Liberties very much for its very thoughtful and very constructive brief. The association may note perhaps if it wishes, with some sense of triumph, that one of its recommendations, in any event, has seen the light of day in a proposed amendment tabled by myself yesterday.

I would also like to note, Mr. Chairman, for the record that both in this brief and indeed all of the briefs that I've heard during the Legislative Session, there was a sharp critical edge to the Manitoba Association for Rights and Liberties and it's quite apparent the fact that it receives a small government grant hasn't tempered its critical faculties.

MS. S. SHACK: If I may just speak to that for a moment, Mr. Chairman. One of the points we were going to make was the fact that we've received funding from a number of sources and we feel no obligation to our funders in the sense that we have to agree with them . . .

HON. R. PENNER: I've heard that.

MS. S. SHACK: . . . in the sense that we have to - that we have gone to Ministers of more than one political complexion with our suggestions and complaints, and we propose to do so whether we get grants or we don't get grants. We are very grateful for the grants we get, because it makes it possible for the large number of volunteers in our organization to do the kind of work that they have to do with the small support that our money gives us in the way of staff, but we feel absolutely no conflict of interest and no need - to use a horrible word - to pander to our funders.

MR. CHAIRMAN: Thank you, Ms. Shack.
Mr. Brown.

MR. A. BROWN: Thank you, Mr. Chairman. I would also like to say that I do appreciate the brief that you are presenting before this committee. I would like to ask a few questions on some of the statements that you have made. My questions are related either to Mr. Arnold or to Ms. Shack, whoever prefers to answer.

On Page 1, you say in the second paragraph, "We are therefore in accord with these amendments to entrench French language rights and ensure better protection for the French-speaking minority."

On Page 4, under No. 2, you mention that, "These sections give the courts the power to approve plans for changing the administration of a government agency to ensure the protection of French language rights. We do not think that the courts should be granted this power."

Now this is really the difference between the government and the opposition right there. This is where we run into a problem. I think we both agree, the government and the opposition, as to the amount of French language that we would like to see in Manitoba at the present time. We are concerned, however, about what entrenchment is going to do.

You say that you are in favour of entrenchment, but at the same time you would like to see the Provincial Government be in charge to determine how far we're going to go and how far is going to be necessary; that the Provincial Government should be in charge of determining this. Now how would you propose that we accomplish both those things?

MS. S. SHACK: I have two answers to that. The first one really isn't an answer. I think that it is our business to suggest, as it's the business of the courts to suggest, where there is a wrong that has to be righted or a job that has to be done, then it's the responsibility of the government to figure out how it should be done. This is why governments are elected. So that is my first answer to that question.

The second answer to it is perhaps a little more definite. I think that I said earlier in the introduction to this brief that we agree to some extent with Mr. Lyon's reservations regarding the powers of the courts. As the reply to Mr. Penner's question illustrates, one of the ways in which we have that agreement is that we think the power of the courts should be limited to the extent that it doesn't interfere in the day-by-day administration of the law. This, we think, should be

perhaps strengthened in the proposed amendments to The Manitoba Act. This belief should be strengthened, this restraint on the power of the courts to interfere in the day-by-day administration of government policy.

MR. A. BROWN: I would like to pose the same question really to Mr. Arnold also who, I believe, is a lawyer and who undoubtedly has . . .

MS. S. SHACK: Neither one of us is a lawyer. We're sorry to say. Sometimes, we're sorry, not always, but we can take the question as notice, Mr. Chairman, and go back to our committee with the question if we can't answer that.

MR. A. BROWN: Very good, Ms. Shack, because I was going to ask him whether he knew of a way in which the Provincial Government would be able to control the amount of French that was going to be used in Manitoba if we entrench the French language in Manitoba. So my question was going to be the same to him, but if he is not a lawyer then maybe we should just leave that for the time being.

You made a statement that the language of minorities would be enhanced as a result of entrenchment. I wonder, could you clarify that statement. Could you tell us how the language of minorities would be enhanced as a result of entrenchment?

MS. S. SHACK: May I, Mr. Chairman, try to respond to Mr. Brown's first question, the question he hasn't put to us because we are not lawyers.

MR. CHAIRMAN: Certainly.

MS. S. SHACK: I don't think it is necessary for the government to try to control the amount of French that's used. I think the amount of French that is used will grow according to the desires and needs of the people of Manitoba. I don't think there have to be any controls on that. There are controls right in the proposed legislation as to where French is mandatory but, as far as the spread of the use of French is concerned, we as a group are hoping that French as the second national language will spread in its use. We see signs of that, because so many parents are interested now in making sure that their children receive an adequate French education.

I must admit to a real sense of envy as I heard the two first presenters to this committee yesterday morning switching from English to French and from French to English with total comfort. There is nothing I would want more for the children of Manitoba than for all of them to be able to do that if the schools were adequate and could teach the language properly, because I think there is, as the previous speaker said, a tremendous advantage in knowing and using and understanding totally another language. Understanding a language means understanding a good deal about the culture of the language. Any culture that we are exposed to and that we learn to understand and accept and even to criticize is valuable to us.

Therefore, I don't think there should be any controls on the spread of the use of French. I think there should be controls as long as the people of Manitoba require

it on the availability of services in areas that perhaps don't require those services. That, I think, is already implicit in the proposed amendments. I don't know whether this answers Mr. Brown's first question or not.

MR. A. BROWN: It does in part. I too wish that I could speak French. The area that I represent is 17 percent French-Canadian, and I would like nothing better than to be able to speak French. I hope that at some time or other that I will be able to learn French. Yes, I speak German. I speak two languages in German, as I demonstrated in the Chamber the other day. I would also like to be able to speak French.

But I think that the concern is this, and I was going to get into this a little later on but, while we're on that particular discussion right now, we might as well continue along with this line. The concern is that if we entrench the French language in Manitoba and we have further court cases which undoubtedly we are going to have - now some of these are going to be of a frivolous nature. I would just like to again put forward a hypothetical question or a possibility that could occur.

Let's say that a town like Pilot Mound, for instance, and let's take the traffic tickets which we already have had. If somebody received a traffic ticket in the Town of Pilot Mound, which is mainly predominantly an English-speaking small, rural town, and if this person said, well it is not in French, I will not pay this traffic ticket. And he's going to take it to the Supreme Court, the concern is this: that the Supreme Court is going to say, well, Manitoba has officially adopted to be officially bilingual and they're going to rule that Pilot Mound will have to provide this service in French because of this one court case. Now, that is the concern that the people, that the municipalities have, that the communities have. When we entrench something, if we do not entrench it and the Provincial Government is in charge of these things, then we can just say that this is a frivolous nature. Now, don't you see this as a problem? Don't you see that this possibly could be occurring and that then things will get out of control as far as the Provincial Government is concerned and some areas, some municipalities will be forced into providing French Services?

MR. S. SHACK: Well, as far as the hypothetical traffic ticket is concerned, it seems to me that one of the easiest ways to handle that is to print the ticket in both English and French. I mean, the breakfast foods have done it for a long time and the detergents and so on, and I can see no reason why traffic tickets shouldn't be printed in both languages. That would remove the first problem.

The second problem, if it came to a court case, might be solved. Again, I don't speak as a person with any background on the matter. It could be solved equally easily by a lawyer from St. Boniface or somebody who is French speaking from the neighbourhood, from one of the neighbouring towns and a judge who understands French come in and try the case in Pilot Mound. It wouldn't be necessary to set up a whole French court to do so. Incidentally, if somebody received an English-French ticket and he was a traveller from Japan, he would be entitled to a hearing in the courts in a language that he could understand and it would be necessary

to get a Japanese interpreter to handle his case for him.

So, I think that this kind of hypothetical case is more in the minds of people than actual problems. If something gets to the Supreme Court as a traffic ticket has already done and it's settled there, then it is settled.

MR. A. BROWN: We have been using traffic tickets so far and you say that you see no problem with printing traffic tickets in two languages. But, would that not then, at the same time, suggest that all the by-laws of that particular community would have to be printed in two languages and that services would have to be made available so that this could be dealt with in two languages?

MS. S. SHACK: I think, if I have read the section as amended correctly, the municipalities are specifically released from that necessity.

MR. A. BROWN: That is where entrenchment comes in again. We are not certain under court cases what is going to happen if we entrench two languages. That's where the problem comes in and that's where the concern is. But, Mr. Chairman, I would like to move away from that particular area right now and . . .

MR. CHAIRMAN: Order please. Mr. Brown.

MR. A. BROWN: . . . I would like to ask Ms. Shack how she sees by entrénching the French Language that the language of minorities will be enhanced as a result of this.

MS. S. SHACK: I listened with care last night and part of this morning to Mr. Waldman making a very good case in that area, and I think I repeated something of what he said earlier in my brief, Mr. Chairman.

The fact of the matter is that we have two national languages and it exists as a fact. The learning of a third language then becomes a regular part of a school program, or could easily become a regular part of a school program. Now, when I went to school we learned three languages regularly. I must admit, French not too well. Still, I took all through my junior high and high school, I had French, Latin and, of course, the teaching was in English. So the learning of Latin wasn't hampered in the slightest by the fact that I was also learning French. In fact, it was enhanced by that fact.

Any language, particularly in the Indo-European, I'm in an area that I find very interesting, but any language that belongs to the Indo-European group of languages is related, and having learned English and French, it is immediately easier to learn Italian, Spanish, Ukrainian, German, because these all have a common parentage and they have a very similar grammatical structure.

So, in that way, the learning of an extra language, particularly a language that has world-wide usage and world-wide acceptance as a language of culture and of literature as well as of law enhances the learning of the other languages. It makes the learning of the other languages easier.

The other way was one that I mentioned earlier, the fact that we have two languages entrenched as languages of the country and in a sense almost

mandatory to be learned, mandatory for children to learn. Then the so-called third language that many of them are learning in their community schools or in their parochial schools or in their Saturday morning schools, that language really becomes a second language and has a place in the public school system, just as Latin for many years had a place in the public school system.

— (Interjection) —

I think I taught Mr. Graham some of the Latin, some of the French.

MR. A. BROWN: Thank you, Ms. Shack. Mr. Chairman, I'll let somebody else have the floor.

MR. CHAIRMAN: Mr. Doern.

MR. R. DOERN: Ms. Shack, how many years now has your association been in existence?

MR. A. ARNOLD: We were established five years ago.

MR. R. DOERN: I heard some reference made to 45 briefs and 9 briefs in regard to this question recently. I was wondering . . .

MR. A. ARNOLD: What I said was, this was about our 45th brief to the Legislature on a whole of variety of subjects since we were established and I think the eighth or ninth brief on different pieces of legislation this Session.

MR. R. DOERN: I see. I understood that as perhaps that you had spoken at the various public hearings, etc. In any event, could you tell me whether your organization has spoken on this particular question in other years or whether this is the first year that you have made a submission to the government on an annual basis or any other basis concerning the question of French Language Rights, etc.?

MS. S. SHACK: I'd like to answer this. The Legislative Review Committee, Mr. Chairman, from which this brief emanated, by which this brief was prepared and then submitted to the body, sits for a specific purpose, meets for a specific purpose. We examine every item that comes up in the Legislative Assembly, and we react to it. This is a reaction to something that came up in the Legislative Assembly.

We also reacted to a number of other items that have come to public attention. For example, the Social Allowance Paper, we reacted to that. That was a paper that concerned us, because it dealt with human and civil rights.

We are a volunteer group. We have limited time and limited money for office facilities, typing paper, everything else that goes into the preparation of a brief. Therefore, it is not possible for us to look ahead. We wish it were. There are many many things that we would like sincerely to tackle, but it is impossible for us to tackle all of them. So we have to operate very often almost on a crisis basis. That is, when something comes up in the Legislature, our committee reacts to it almost automatically. We have read well over 100 bills this year, and have reacted to - I can't remember how many of them, eight or nine of them this year. There are

others to which we might have reacted if we'd had the time and the personnel.

I think we have always, as an organization, favoured the rights of Francophones. We reacted to the cartoon to which Mr. Doern referred in one of the sessions yesterday in defence of the minority which we felt was being damaged by that cartoon. This is the kind of thing we normally do. This is the way we have to conduct our business.

We also, I should say, undertake research in areas where we hear or know or it has been brought to our attention that rights have been infringed upon. We have done considerable studies in the area of Native rights, for example, and the rights of the so-called visible minorities. This is the first time that I, in my experience on the Legislative Review Committee and I've had three - I guess this is my fourth year on it - have presented a brief on the matter of language rights.

MR. R. DOERN: So your normal procedure is to react or respond to legislation or situations as they develop.

MS. S. SHACK: We wish we had the resources to go beyond that. Occasionally, when we get help from the Secretary of State or from the Provincial Government, we can hire students to help us out, and we do conduct research into areas.

For example, we've done a great deal of work in the area of patients' rights, though there hasn't been any legislation coming up on that. We did a good deal of work in the area of police powers before the bills even came before the House, because it was an area of concern.

We operate through committees, and various committees look at different aspects of human and civil rights. The Legislative Review Committee reacts to government actions and government papers.

MR. R. DOERN: Some people have steadfastly maintained that there has been a terrible injustice to the Franco-Manitoban community extending for the past 90 years. My question again to be more precise is: since this is an injustice in the eyes of some people and not of others, has your association then not made any statement on the situation before?

MR. A. ARNOLD: This is the first time that the matter has come up in terms of a piece of legislation. So this is the first time we have reacted to it, but certainly, in reacting to it, I think we accept the fact that this is attempting to move forward to correct a historical injustice which this government didn't start. It was started by the previous government. But nevertheless, these proposed amendments to The Manitoba Act are carrying forward the whole idea of rectifying the injustice to the Francophone community.

MR. R. DOERN: Ms. Shack, you mentioned that you had responded to - was it a cartoon in *La Liberté*? I'm not sure. You referred to a cartoon. Was there some cartoon drawn to your attention that you reacted to and made a statement on or wrote a letter about?

MS. S. SHACK: If I'm not much mistaken, it was Mr. Doern, Mr. Chairman, who raised this point in one of the questions yesterday.

MR. R. DOERN: So you are now going to look into this?

MS. S. SHACK: No, no, I merely used this as an illustration of the fact that we react to things as they crop up on a crisis basis, because these are things that are brought to our attention and we feel that we have to make a response in the interests of the defence of the rights of minorities. So we do respond. We have responded in various ways on a crisis basis to these items. But we stand always, whether we respond publicly or not, for protection of the rights of minorities, and we stand against the denigration of minority groups, whatever those groups happen to be and no matter how small they happen to be.

Now as it happens, I belong to several minority groups. I belong to a religious ethnic one that represents only 1.1 percent of the population of Canada, but I think we deserve to have our rights protected just as much as the rights of those who represent 17.6 percent or 45.8 percent or whatever.

MR. R. DOERN: I assume that you also look into the rights of individuals and the protection of individuals in addition to groups, minority or otherwise.

MR. A. ARNOLD: Yes, we certainly do, Mr. Doern. We do deal with individual cases and try to assist them in referring them to the proper government agency where that is the proper thing to do, or to the proper place where they can get the help for their own individual problems.

MR. R. DOERN: Then I might suggest, following what perhaps I said and Ms. Shack said and now I say again, that if you are interested in examples of inciting hatred or racism or stirring things up, you might examine the regular weekly cartoons in *La Liberté* and some of the articles which strike me as extreme and insulting and perhaps would fall into your purview. Perhaps as a result of reading them, you might find that you wanted to respond to that particular newspaper, because I know that some people in the French Canadian community are rather upset at the kind of language used and the type of illustrations that are a regular feature of that publication.

MR. A. ARNOLD: If I may respond to that very briefly, Mr. Chairman, we did respond in one instance last year to a cartoon that appeared in *La Liberté*. We are not regular readers of *La Liberté*, but since Mr. Doern has drawn the matter to our attention, maybe we can take a look at some of the recent issues and see whether there is some matter that should be responded to or should be commented on.

I think the reason why we responded last year was because the issue really came out of the pages of *La Liberté* and became an issue of general discussion. If it was an issue simply restricted to *La Liberté*, we might not necessarily respond.

MR. R. DOERN: I read it every day, and I read your comments.

MR. A. ARNOLD: If the thing that he is referring to is a matter which is generally discussed and we just

haven't seen it, well we would take a look at it and maybe we would respond.

MR. R. DOERN: Mr. Chairman, on Page 7 of the brief, Point 6, this to me is a very key point. The association says, if I could quote, "... offering protection against discrimination for unilingual French-speaking residents of Manitoba. We should endeavour to ensure that there will be protection from discrimination for all people who are unilingual English or unilingual French."

Now I put this question to you. The government in its legislation appears to be designating and defining, 400 positions in the Civil Service, boards, commissions, agencies, etc. There is no question that somebody in those departments and somebody in those agencies is going to be designated as bilingual, and that they will therefore have preference. How are you going to protect a unilingual Manitoban in that situation, or are you just going to readily accept those designations, and then talk about protection for unilingual Manitobans in other positions? Because once that is allowed, or once that decision is made, it seems to me there is very little that one can do. So could you give me a practical illustration of how you're going to protect the unilingual English person in Manitoba?

MR. A. ARNOLD: Mr. Chairman, in response to Mr. Doern, I believe that the government is already in discussion with the Manitoba Government Employees Association in regard to some of these problems. Certainly, there is a need for protection for the unilingual English-speaking persons in government service, and it seems to me that where a position which was occupied by a unilingual-speaking person, it may be determined with full justification that position should become bilingual, this may cause some problem for an individual, but I think it becomes a factor in the collective bargaining system and there should be protection for that person.

There are other times, I think, when it's found necessary sometimes to move a person from one job to another so that it would be possible, if it is established beyond a doubt that a certain position must become bilingual and the present document is not bilingual, then surely that person would have protection, and would be moved perhaps to another position without any loss of seniority, or status, or salary, or whatever. I think that would be the way to approach it.

MR. R. DOERN: Well, Mr. Arnold, my point is this to try to be more specific. You're going to entrench several hundred positions, and this will then be law, it will be a part of the Constitution of Canada. You say that your answer to that is we will protect these people who may lose their positions by guaranteeing them some job security or job opportunity somewhere else. Is that your answer that, of course, given a government action, then there is nothing that you can do about it. You know, I agree with your aim and with your intention, it's an admirable one; namely, to protect the unilingual person, but if the government entrenches several hundred positions your answer to me seemed to be that then you would argue in terms of fair treatment for that person in some other area of government. So in other words, you'd be helpless in that situation. You'd be unable to protect the unilingual person in that situation.

MR. S. SHACK: I think, Mr. Chairman, that Mr. Doern knows that there's a vast labyrinth of employment in the Provincial Government, and there are many positions that are on the same level. These positions are not being entrenched, these positions will change from time. In certain areas a bilingual person will be needed for the job, and others the bilingual person will not be needed for the job. Nor will this act, or could this act be implemented the day after tomorrow. For example, on the day after tomorrow there won't be a general housecleaning in which all unilingual people will be swept out and replaced by bilingual people for several good reasons. One of them is that there are not going to be enough bilingual people to take these positions, or people unilingual in French, so that the process is going to be a gradual one. Attrition is a very powerful force in a large body of employees, and gradually as positions empty they are filled by the people with the required job skills.

Again, as Mr. Arnold pointed out, this is a matter of negotiation between the employees and the government. Provincial Government employees do have protection under their collective agreement. They have protection under the other laws of Manitoba, as well as under these proposed amendments. There will undoubtedly be problems. There'll be problems that the Manitoba Association for Rights and Liberties might be called upon to discuss the various levels with the Human Rights Commission and in other places. But if we are going to have the kind of thing that we are proposing, then these things must happen, and people must be found to fill these jobs, and the people who may be temporarily displaced will have to be protected by their union and by their employer both.

Again, I think that this is a straw man kind of approach to the problem. Any change is very threatening to large numbers of people. The uproar about metric for example was just unbelievable, simply because people didn't understand what it was about and why. Practically any change that's made, if you change the birthdate for school admission from the end of December to the end of November, if you want to close the school there's an uproar because people resent change, and yet change is a necessary part of our society; without it we stagnate.

MR. CHAIRMAN: Mr. Arnold, did you wish to add to that answer?

MR. A. ARNOLD: Well, I gave the example of a unilingual position that might be converted to bilingual, but in fact we don't know how many. I think the number of unilingual positions that is going to be converted is not all that great. It seems to me that the area where bilingual positions are mainly going to be created is in the area of the need to provide translation services and that sort of thing, so that even if there are a total of 400 position that are going to become bilingual, it seems to me that the fears are really greatly exaggerated. That's my own feeling about it. That it's going to cause some problems, that they have to be worked out equitably, but that is not a reason for saying that this program should not be carried forward.

MR. R. DOERN: Well, I therefore sort of understand what Ms. Shack said as the following, that although

there will be an attempt made, and I hope it is made to protect the unilingual citizen, particularly in government, that protection may simply be lateral transfer, and that what may happen in effect is that it'll be protection in another position. There will be a loss of a position, and then the protection will be tantamount to ensuring that person has employment in another area but, of course, that would be after they lost their position, due to the fact it was designated as bilingual, or promotion opportunities were designated as bilingual.

MS. S. SHACK: I think, Mr. Chairman, Mr. Doern is misreading what I have said. I said, quite clearly, and Mr. Arnold also said quite clearly, we hoped and believed that it would not be necessary for people to lose the status of the position; that there are lateral moves that are advantageous to the person being moved, not necessarily disadvantageous, that there's no reason why a person couldn't be promoted rather than demoted, if the occasion called for it, that there will certainly be some disruptions, as there always are when radical changes are being made or when philosophies change in the field of employment. There have to be and they're not all bad, some are good. I can point to half-a-dozen illustrations in my professional lifetime when this sort of thing happened.

For example, when teachers' salaries were geared to their qualifications, there was terrible heartache and there was a great deal of resistance to the change. In the end, it served to raise the standard of teachers' qualifications and the standard of teaching in this province. There was disruption and unhappiness on the part of individuals, who were protected as much as possible from the consequences of the change, but the change had to be made, and the change has to be made, and we hope that the disruptions will be as minimal as they can possibly be and that the employees themselves will use their power - and they are powerful in their organization - to make sure that there is no disadvantage or there is as little disadvantage as possible to the people whose jobs might have to be changed.

MR. R. DOERN: I think it was Mr. Arnold who said that he was not in favour of a referendum. I would ask you whether you would also be opposed. A referendum may, in fact, be a gentler forum for discussion than a general election. I wonder what your views would be in regard to the government delaying the legislation and putting it in their election platform and going to the people on that basis and then having a public discussion or dialogue? Because then that would be an appropriate forum it would seem, in the sense of some people say it's representative government and we mustn't have referendums and politicians make up their own minds and they represent the constituency, etc., etc. Would you favour a government that took a position, made it clear, went to the public, and tried to sell its idea on that account?

MR. A. ARNOLD: Mr. Chairman, yesterday Professor Bailey said that he did not think this should become an election issue and I think we have to agree with him. I don't think this should be treated as a partisan

question, as a partisan political question. I think we recognize that the rectification of the injustice towards French language rights was started by the previous Conservative Government; it is being continued by this government. It is my understanding that the criticism from the opposition relates to the way in which it was being done and not necessarily whether it should be done. So it seems to me that this should not be made a partisan political issue and that the government, together with the opposition, should be able to resolve this.

MR. R. DOERN: Again to Mr. Arnold.

MR. CHAIRMAN: Order please. Ms. Shack, did you also want to respond?

MS. S. SHACK: May I speak to that original question on the referendum. Referenda are traditionally very dangerous methods of government. Really they represent very little more than public opinion polls and a referendum may produce one result on the 1st of January and another result totally on the 1st of April and a third result on the 5th of June. We've all noticed how the political parties have changed in their popularity in a period of a few weeks. They are often based on waves of feeling, rather than on considered thought. We have, as Mr. Doern has stated, a representative, responsible form of government. Governments, business of governments, is to govern. If, at the next election, the people disapprove of what that government has done during the term of office, that government is turfed out and we've seen that happen on more than one occasion on the provincial, as well as the national scene.

One-issue elections are also not politically sound. The government may take a stand on one issue and maybe have totally different policies of which the electorate may approve, if they are put to the electorate. One-issue elections are very very dangerous. They prove very little - not even the public will. They prove the burst of feeling at a moment of time, rather than the continued beliefs and deep-down opinions of large numbers of people. So on that basis alone, that referenda tend to be a kind of mob response, rather than the considered response that a government ought to be making, as a result of public input.

Now we spoke very strongly against the way in which this government handled the process of bringing this matter to the attention of the public. That is, we believed that these hearings should have taken place earlier, that there should have been more public input earlier, but that is now water under the bridge and we are having the input now. This is the way laws should be made and not by referendum.

Now there are major issues that have been debated perhaps for years and on which public opinion has been strongly formed, where a referendum might be acceptable. There are others, well, very local issues, I would say, I remember an issue in the town from which Mr. Graham comes, when I was there. There was a vote on whether the town should have a beer parlour or not and the council, in its wisdom, decided that they would hold this referendum after the teachers left, because there were seven teachers in the school and

they thought we would vote against it. They held the referendum after we left and the referendum was defeated. If we had been there it would have passed, because we didn't like our young boys going to the next town to get drunk and driving home on a dark night on mud roads or on slippery roads. So referenda are fine for local issues and even then, they don't meet the specific need, but at least they're based on a single issue.

MR. R. DOERN: So one of the major points you have just made and you have made before to the government and through the media, which was in the newspapers and in your brief again, is that a constitutional amendment should not be rushed, that adequate time should be taken to discuss it with the public, dialogue with the public and to get public feedback? Is that correct?

MS. S. SHACK: Yes. And we think this is exactly what has happened and we are pleased that this opportunity has been given. We are pleased also that rural Manitoba is going to have an opportunity for its input and of course people have the right to speak to their local MLA and make their feelings and their beliefs felt. Obviously, that's precisely what they're doing.

MR. R. DOERN: Would you also agree that there should be wide-spread public support for any constitutional amendment?

MS. S. SHACK: I think that laws are educational as well as legal; that is, they perform the function of educating. I think that this matter has been debated, will have been debated, the opportunity will have been given for people to change their minds. Whether we have a 51 percent majority or a 49 percent majority in favour really is not of major significance. I marked papers for years and I could never find the difference between 49 percent and 51 percent on a paper. I think the same is true on a popular opinion. Today you might have 49 percent of the people who are for it, tomorrow 49 percent of the people against it.

I think, again, it is the function of the government to govern. It's the responsibility of the government to accept responsibility for governing.

MR. A. ARNOLD: Yes, in that connection, about wide-spread public support, the fact is that in this issue there is considerable public misunderstanding due to the belief over many years that English is good enough for everybody and the mere fact that we are doing something to advance French Language Rights is perceived and is being fostered as something that's being shoved down people's throats, which we know is not so.

But there are other examples where a law is passed or a vote is taken by the Legislature which doesn't necessarily always accord with public opinion as in the question of capital punishment, both in this country and in England. In England they just had another vote and they voted down capital punishment. The Parliament voted down capital punishment even though probably public opinion in England may support capital punishment. So, it's not a given that in every situation

the government must absolutely abide by what the particular poll of public opinion may say at a particular moment in time.

MR. R. DOERN: The last area I'd like to check with you is this: does your association have a - I think you've mentioned this already, but for clarification - you're arguing in effect that Manitoba should be become officially bilingual. Do you also favour the municipal governments being bilingual?

MR. A. ARNOLD: Mr. Chairman, no, we believe that the proposal that was advanced previously of some municipalities instituting bilingual services on a completely voluntary basis is the right way to go. We hope that the amendment now suggested by the government is not going to completely exclude the possibility of some municipalities offering bilingual services.

MR. R. DOERN: A final question, Mr. Chairman. Do you have a position or an attitude in regard to other provinces? For example, would you like to see every Canadian province officially bilingual? Is that also a logical position for you or an extension of your position in regard to Manitoba?

MR. A. ARNOLD: Well, Mr. Chairman, our responsibility and mandate is within the Province of Manitoba. As Canadians, I think we would be in favour of the principle of extending French Language Services throughout the country in the same way as we mentioned in our brief about the greater opportunities for mobility rights, etc., that there should be to the extent possible, within the framework of each province, we would probably favour it, but it's really not our mandate to put forward a definitive position on what other provinces should do.

MR. R. DOERN: Would you agree, Mr. Arnold, that the application of a standard will vary depending on local circumstances so that, for example, the Manitoba approach might vary significantly from that adopted in any other province, that local conditions, local population, past history, etc., are also major factors here, that you wouldn't have a uniform bilingualism in each and every province, but one that might be, say, a Manitoba solution as opposed to some other?

MR. A. ARNOLD: We have regional situations in the country and the issue has to be dealt with at the regional or provincial level in each part of the country.

MR. R. DOERN: Thank you very much.

MR. CHAIRMAN: Mr. Graham.

MR. H. GRAHAM: Thank you very much, Mr. Chairman. The questions that I have, I would like to address both to Ms. Shack and also Mr. Arnold. I have to say that many of the questions that I had originally contemplated, some of them, have been answered already.

In Mr. Arnold's presentation, he made reference to the original meeting, I believe, that was held at the International Inn, an information meeting where he expressed his concern about the hostility that was prevalent at that meeting.

I note also, Ms. Shack, on the first page of your brief in the last sentence of the second paragraph, you state: "We are also concerned that the need for recognition of French has been presented to date in a manner which has aroused unfair and unwarranted hostility among certain sectors of the public. I think it's a concern of mine and I'm sure it's a concern of yours too, that there should be hostility in this province towards any proposals. I would wonder if you would care to identify the cause of that hostility. Is it because of the fact that this proposal will make Manitoba the second official bilingual province or is it because of the manner in which the presentation has been made or what, in your estimation, are the causes of that hostility being prevalent?"

MR. A. ARNOLD: Well, I think I did make some reference to that in my earlier comments. I don't think that the hostility arises merely because of what has happened now, the fact that these proposals have been introduced. I think that what has happened is that the introduction of these proposals has brought to light the fact that there is anti-French feeling in this province. Now, that doesn't necessarily mean that it is justified. I think ways have to be found to overcome that feeling. But that is the unfortunate truth of the matter. But that doesn't mean that, because there is anti-French feeling, therefore these proposals should necessarily be abandoned. A way has to be found to help the public to understand or those elements that have these feelings to understand that there is no substance to their fears. I mean, the feelings have to be based on something. They're based on fears or they're based on the belief that one language is good enough for everyone. They are based on the bad teaching of history, as Professor Bailey brought out yesterday. This is what it's based on.

So I don't think it is good enough to say that because some sections of the public perceive this in a negative way, that therefore the proposals should not be proceeded with. I think this is the basis of it. Unfortunately, there is this fear of French. It's a fear perhaps that what the majority did in curtailing and in abrogating French language rights back in 1890 might happen now; that the tables might be turned, which is virtually impossible. But this is the unreasonable fear that exists in some quarters, and it seems to me that, as I've said before, the opposition as well as the government have a responsibility to try and allay those fears.

MS. S. SHACK: Mr. Chairman, may I respond to that?

MR. CHAIRMAN: Ms. Shack.

MS. S. SHACK: The hostility to French long predates these proposed amendments. It has existed as long as I can remember, even in the days when I was learning French and in the days when, I am ashamed to say, I was teaching it. I think perhaps I have to accept some responsibility for that, because one of the reasons is the poor teaching of French so that children came to hate it as a school subject. It was uninteresting, and we turned kids off by the way we taught it in the schools. But it's an antipathy that's deeper than that.

Most of us have prejudices against things that we can't understand. It bothers people. I have heard people say, well I just can't stand it when I get into the elevator, and those people were talking Ukrainian. They feel threatened by the fact that they can't understand it. They can't understand. They feel that they're talking about them; that the people who are talking the other language are saying something against them. So that any language breeds hostility in non-speakers who don't understand the fact that everybody has a language and that everybody's language is of equal value.

The hostility too is partly, I might say perhaps unfairly, based on religious differences. That is, there is a fear of the fact that the majority of French people perhaps are Catholic, whereas the majority of the English-speaking population in certain areas are Protestant. That's an element that appears not only in Canada, it appears in Belgium and in Switzerland and in other parts of the world as well. So there are many reasons. There isn't just one reason.

These proposed amendments really have neither contributed to nor ameliorated the reasons. They're there. The hostility is there, and only through the kind of education that we can offer through the schools and through the laws of the land and through the media can we get rid of that kind of hostility. Until we get rid of it, it's an unhappy world that we live in, whether it's hostility against the French here or it's hostility against the English in Quebec or it's hostility against the Jews in Russia or wherever. It's bad.

MR. H. GRAHAM: Mr. Chairman, I thank both of you for the answers you have given me so far. I think probably Ms. Shack is on the right course when she talks about the educational system and the education of the children in our province. Having served as a school trustee for some period of time, I know I was concerned about the education of children and still am.

My No. 1 concern is that while we all want to see, all want to arrive at the same conclusion, probably the method by which we do it, this is where we may have our differences of opinion. I happen to, I think, agree with Ms. Shack that education is probably the key to making Manitoba a truly French and English-speaking community.

It does cause me concern to see this hostility, because I represent a constituency that has a French-speaking community and I have noticed a difference over the last 15 or 20 years. That difference seems to be widening, rather than narrowing. It is a matter of concern.

The other question that does bother me though is whether the enshrinement of these rights in the Constitution will alleviate that concern or aggravate it. Would either of you care to comment on that, whether the enshrinement or entrenchment in a Constitution of language rights will do anything to improve or to, in fact, do the opposite?

MS. S. SHACK: Mr. Chairman, if I may respond to that, I think perhaps in the short run it might create hostility because feelings are high. They are exacerbated by the press and by the media and by our discussions and so on. There is a great deal of talk going on. But like a lot of things, they froth up when they're new and

fresh, and then they settle down. I think that in the long run, this kind of thing is going to improve. I can't see that it can do anything but improve the situation and the understanding between two groups in the province. In fact, as other speakers have said repeatedly, this understanding may spread beyond the two groups.

I don't like to use the term "Anglophones" because there are many of us who are Anglophones, but we're not of British background. We are not of the majority background. When Professor Bailey said last night that he was middle-class, highly educated and belonged to the male boss structure, I can say that I am at the other end of the scale. I come from a working-class background. I am educated through my own efforts and the ambitions of my family and I am female, which puts at least two out of three strikes against me, on that one count. I also belong to another minority that is rapidly becoming a majority; that is, to the group of the elderly, of the old.

So I am concerned and I believe that the rights of all minorities will be enhanced by the fact that there is recognition of and acceptance of the two major language groups. Eventually the hostility that is generated perhaps, that has boiled up like froth on beer, or on ginger ale which is what I was drinking last night, that froth dies down. Then what's left is the substance, and the substance will be sound, and that it would improve the situation rather than otherwise.

MR. H. GRAHAM: My final question is for Mr. Arnold.

Mr. Arnold, I refer to the second last paragraph of your brief, on Page 9, where you state "We hope that the Manitoba Government and the official opposition will make further progress away from narrow partisanship to resolve this issue."

I put forward to you, Sir, the case that I believe that the government, and the opposition wish to achieve the same goal. That the issue is not a partisan one at all, but rather one of the manner in which we go about achieving that end. Is that a correct position for me to take?

MR. A. ARNOLD: Well, I would certainly agree with that, but I have to say that I think the way in which the discussion has gone on in some quarters is that it has been made to appear as a partisan issue, you know, even suggested it should become an election issue, that sort of thing. I'm not saying the opposition has suggested that, but it has been suggested. — (Interjection) — Pardon. Well maybe you did, okay. Well we wouldn't agree with that. We don't think it should be an election issue. I think if it's going to be treated in a non-partisan manner, we should be able to find a way around it without forcing it into an election issue. That would be our feeling.

I think you have to find some say of finding common ground, and I cited the President of the Federal Progressive Conservative Party, which ultimately did in its overwhelming majority vote in favour of The Constitution Act, and the Charter of Rights, which was finally adopted by the House of Commons.

MR. H. GRAHAM: I have no further questions, Mr. Chairman, but I would like to thank both Mr. Arnold and Ms. Shack for the opportunity of listening to their wisdom this morning. I appreciate their comments.

MR. CHAIRMAN: Thank you, Mr. Graham.
Mr. Storie.

HON. J. STORIE: Thank you, Mr. Chairman. I'll direct this question to either Mr. Arnold or Ms. Shack.

One of the points that you made, I think both of you made in your brief this morning was that part of the problem that we're experiencing is a result of misinformation. The suggestion has been made that a referendum should be held, and I think your response was that because of the misinformation, because of the uncertainty on the part of many individuals about what the proposal really means that wouldn't be a good idea.

I think we had an example earlier that maybe you can comment on, about how that comes about when we talked about the issue of unilingual jobs and what this particular amendment might mean. Is it not accurate to say that the previous government, by way of the establishment of the French Language Secretariat, was in the process of creating and extending French Language Services, that the issue of enshrining or entrenching this particular amendment in Manitoba's Constitution is quite separate from the provision of services, and that those positions were being created, bilingual positions were being created, already by the previous government, certainly the commitment was on the part of this government to do that, that the position that Mr. Doern took earlier really is a red herring, and that we were committed to providing those services in any event? We feel that, and I think we've seen agreement on both sides of the committee today, there was an injustice that needs to be corrected, and this is a mechanism for doing that. Is there not an injustice? Is this not a mechanism for correcting it?

MR. CHAIRMAN: Oh, that's where the question is okay?

Ms. Shack.

MS. S. SHACK: Well, I took it that the original question was for or against entrenchment. The reason for entrenchment, of course, and the reason for an entrenched constitution, which is entrenched of course only to a degree because it can always be changed following certain difficult procedures, is that governments do vary. Good things are established by one government and followed by the next government, and by the next government, but the third government comes along and has different ideas.

Times have changed perhaps, and there are reasons. There's a war perhaps, or there's a great depression, or there's something else that upsets the status quo, and this becomes the sore spot, and it's wiped out. It can be wiped out by an act of legislation without any trouble at all.

If you go back again to the matter of the rights of the Japanese, and the Japanese were not the only people who suffered during the Second World War. If the rights of the Japanese, of all minorities, had been entrenched as they are now, that could not have happened because the government would have had to go through tremendous upheavals of opinion in order to institute that kind of thing. This is the reason for entrenchment, to make it more difficult to wipe out a good thing.

Now, let's take Medicare, for example, which is in a different category, but still it is something that was established in Saskatchewan over the protests of a great many people. It was established, it was accepted, but it would take only a government who was opposed to it to wipe it out. All they'd have to do was pass a law to wipe it out. Entrenchment puts that kind of protection around what we consider a right. It makes it more difficult for changes of government, for fleeting changes of public opinion to wipe out a right.

HON. J. STORIE: Mr. Chairman, what you're suggesting, and I assume that it is a principle of MARL, that rights whether they be language rights or other human rights, should not be a matter of courtesy.

MS. S. SHACK: No, they're rights, they're not courtesies. Now the matter of booing in public is a courtesy, and the protection from it is a right. It's a breach of courtesy, but protection against it is a right. That is you're entitled to be protected against that kind of humiliation.

HON. J. STORIE: One further question, Mr. Chairman.

Again this relates to comments, questions, that you have answered previously, but the suggestion was that a concern has been expressed that the entrenchment of French Language Services will create some inequality for unilingual English-speaking Manitobans. I was wondering whether given that in the Charter of Rights that everyone has equality before the law, and that's established under Section 15, however, there is provision for affirmative action programs. There is provision for the action to be taken to ameliorate certain situations, and I wondered whether the extension of services is in any way an affirmative action program?

MR. A. ARNOLD: Well, I don't think we put that into the category of affirmative action. I think we're just trying to further improve the correction of an injustice to the entrenchment of French language rights. We don't suggest that all rights have to be entrenched. We do have the Charter of Rights, which is now entrenched, but even with the entrenchment of the Charter it takes legislation in many areas through additional legislation to make sure that rights are protected. I don't think that entrenchment applies in every given situation, and I think that affirmative action is something which applies to other kinds of situations and other kinds of areas where rights are affected, not in the question of language rights, I don't think.

HON. J. STORIE: I was referring specifically to the issue of employment.

MR. A. ARNOLD: Oh, well in employment, well, affirmative action applies in employment in regard to certain other groups. I don't think that the number of individuals who may be affected because they're unilingual necessarily need an affirmative action program. They will just need some kind of individual attention, which I think can be provided for under the terms of a collective bargaining agreement.

MR. CHAIRMAN: Mr. Storie.

HON. J. STORIE: No, that's fine.

MR. CHAIRMAN: Thank you.
Mr. Lyon.

HON. S. LYON: Mr. Chairman, just to pick up on a point that was mentioned when my colleague, Mr. Graham, was speaking. He was asking the question whether or not the actions of this government, the manner in which it has brought forward the proposed amendments which you in your brief have criticized quite sharply, if those actions by way of entrenchment have not, in fact, exacerbated the situation in Manitoba and caused divisiveness within the social community of our province? Ms. Shack's answer, as I recall, was: "Well, all change causes some ripples. You're going to have problems no matter what you do and ultimately . . ." I think the words were, ". . . when the froth settles down, the substance will be sound after the froth has left," or words to that effect.

I'd like to pursue that line of thought with you a bit and ask perhaps, first of all, this question: as I sit looking at some of the previous First Ministers of this province, I can readily identify four, at least, in whose administrations forward steps were taken to advance French Language Services in Manitoba and also to considerably advance French Education in Manitoba. None of those four administrations sought to entrench any of the changes they were making. They were making them as a matter of government policy through statutes passed by the Legislature of Manitoba and there was none of the divisiveness apparent that we see and feel in Manitoba today because of this issue being brought forward, I suggest, in the way it has.

Would that not, on reflection, perhaps cause Ms. Shack or Mr. Arnold to revise their view as to the desirability of entrenchment if one of the admitted results of entrenchment is divisiveness within the social fabric and the social community of our province, is entrenchment worth that?

MS. S. SHACK: Mr. Chairman, if I may reply to Mr. Lyon. I must, I'm afraid, disagree with the thought that the divisiveness is something new that has been generated by this particular piece of proposed legislation. The hostility and the divisiveness was there. It was there, not only below the surface, but very obviously it was there during the sittings of the B and B Commission, if you remember. It came out very strongly at that time. It had nothing to do with this amendment which wasn't even thought of at the time.

I have encountered it repeatedly in the school situation. I remember very forcefully, if I may speak on an ad hoc ad persona basis. I had a very forceful evidence produced at a meeting that I had the last year I was principal at River Heights School, when we had a meeting of perspective Grade 7 parents, parents of children who were going to enter Grade 7. In explaining the program at the school, we said that French was compulsory for all children at the Grade 7 level. There were two gentlemen in that audience that absolutely disrupted the meeting. Nobody was going to force French down their children's throat and so on. I think you've heard all the rhetoric on the subject. This was nine or ten years ago, before this was

produced. So this feeling of hostility was endemic in the province. If this proposed legislation brought it to the surface, perhaps it's good that it has surfaced and it can be dealt with as something that is open and can be discussed and misunderstandings perhaps can be cleared away.

It's very hard to change prejudice. It's very hard to change bias for reason, because bias is very seldom based on reason. It's based on feeling, on faith or lack of faith. Still, reason does prevail in many cases, and at least when the matter is produced and brought out in the open as this seems to have done, it has maybe acted as a catalyst in that it has brought to the surface feelings that were there, but they were there and they have been there as long as I can remember. They were there in the years when I was teaching in high school French, which I shouldn't have been, by the way.

MR. A. ARNOLD: Yes, just one or two additional points. I think that in regard to the fact that the previous governments were also gradually advancing French Language Rights, that's true, of course, but I don't think any of them were faced with the particular situation that this government found itself faced with in the light of this particular court case which moved them to act in this particular way.

I think the other thing that can be said with regard to the froth settling down is that we can also help it to settle down once these proposals are adopted and that some effort can be made to provide some understanding and education to the public on what it's all about and to show that in fact it will not cause any great threat to the overwhelming majority of the population of Manitoba.

HON. S. LYON: The government, since the introduction of the amendments back in May, more particularly in recent weeks through a very expensive ad program and so on, has been at great pains, much to the chagrin of Lise Bissonnette and other commentators in Quebec, has been at great pains to try to tell the people of Manitoba that this is not the Trudeau type of bilingualism. This is a made-in-Manitoba brand of bilingualism, it's not the Trudeau type of bilingualism. Do you agree with that approach of the government?

MS. S. SHACK: Well, I'm really not taking a political stand on this. I think I agree that this isn't the Federal Government type of bilingualism. There is no intention to put on vast educational campaigns to make judges and councillors and so on bilingual. It's quite different in that regard. As far as the advertising campaign is concerned, this is a government responsibility and really is not pertinent to what we're talking about. How they defend their policy is their business.

HON. S. LYON: I was getting more at the point, do you agree with the thrust of that position which the government is now taking, which, in effect, is trying to deny that it's making Manitoba bilingual, whereas at first it was puffing its chest and saying, yes, Manitoba is going to be bilingual; now they're saying, oh no, it's not going to be bilingual in the way that you think. It's certainly not going to be bilingual in the way that Trudeau made Canada bilingual. That's the effect of the government ads. Do you agree with those ads?

MS. S. SHACK: I'm afraid that I haven't read the ads. I'm probably very remiss in that regard, but I haven't paid very much attention to them and . . .

A MEMBER: "Constitutionally Speaking"?

MS. S. SHACK: Not even "Constitutionally Speaking." Advertising doesn't really affect my opinion on subjects. I don't make my decisions on the basis of advertisements. As far as the content as outlined by Mr. Lyon, I think that Manitoba is being made partly bilingual, in the sense certain areas are going to have to be bilingual and in certain areas French is going to have to be accepted as a service being made available to people in this province. With that regard, I agree heartily.

I think I would disagree with a massive campaign to re-educate adults in order to make them bilingual, if they have no opportunity to use the language later. I think on that basis, much of the federal campaign has failed, not all of it, because in some respects and in some areas it has succeeded, to my personal knowledge.

So, no, I suppose nothing that's undertaken with good will is a total failure, but I don't see that approach being used in Manitoba and I don't think it's intended in the proposals outlined in this legislation, at least it didn't come through to us as that type of bilingualism. As a matter of fact, in a sense, I suppose some of the people who will be holding jobs and making services available in French may be unilingual in French - there's no reason why they shouldn't be in those particular areas where only French is required - so that bilingualism, though it's a desirable end, may not be the total end.

MR. CHAIRMAN: The hour being 12:30, Mr. Arnold and Ms. Shack, are you available again at 2:00 p.m.? I still have other persons on the list who wish to ask questions. Mr. Lyon will be continuing at 2:00 p.m.

Committee stands adjourned until 2:00 p.m. this afternoon.