

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON STATUTORY REGULATIONS AND ORDERS
Monday, 17 November, 1980

Time — 10:00 a.m.

CHAIRMAN — Warren Steen (Crescentwood)

CONSTITUTIONAL REFORM

MR. CHAIRMAN: Committee come to order please. We have a quorum and as members of the committee, I think they've been supplied with the lists of persons who have indicated through the Clerk's office a desire to appear before this committee.

We have a few persons from outside of the City of Winnipeg that have asked that they be permitted to appear before the committee today. We have two persons who can only appear this morning — Dr. Doyle from Ste. Anne, a medical doctor, and Sidney Green, MLA, who is leaving for Ottawa at noon today. We have two others persons who have indicated that they can only appear today but they don't specify a.m. versus p.m.

Perhaps before we hear any of the seven persons who have indicated that today is the only day they can appear before the committee, maybe Mr. Mercier would like to make a statement or a comment.

HON. GERALD W.J. MERCIER (Osborne): Mr. Chairman, on a procedural matter, you received and I received a copy of a letter on behalf of the Société Franco-Manitobaine with respect to their brief and a request that simultaneous translation service be available for them to make their representations to the committee.

I had indicated last week in response to some questions from the media that we were attempting to provide a simultaneous translation service for the constitutional reference to be heard in the Court of Appeal within the next few weeks. My advice now is that will not be necessary for that court case, and if the committee is agreeable, Mr. Chairman, on an experimental basis and without setting any particular precedent for any future meetings of the committee or the House, I would suggest to the committee that we would do our best to provide a simultaneous translation service for the Société Franco-Manitobaine tomorrow, I think, when they are to present their brief. If that is agreeable to the committee, Mr. Chairman, we will attempt to have that available for tomorrow. We have to confirm that the translators will be available, but we will do our best to provide that service.

MR. CHAIRMAN: Mr. Desjardins.

MR. LAURENT L. DESJARDINS (St. Boniface): Mr. Chairman, I would agree with this in principle, but I think that there could be some form of amendment. I wonder if while you have got the translators here if there are any others that wish to avail themselves of the same service. I see some names on today — and with the understanding that it would be done only on

the one day though, that you would move them to tomorrow. I see George Forest, I don't know, I think I got a copy from him that he had requested the same thing — copy of a letter to you, and I would suggest that we ask these people and try to group them together with the understanding that they would have to be here the same day to save on the cost, not have the translators here for two days straight.

MR. CHAIRMAN: Mr. Desjardins and to members of the committee, would you accept my suggestion that at 10:00 a.m. tomorrow morning we hear Mr. Forest first and others who wish to have their presentation in French, we hear them and complete those persons first tomorrow and then go back to our regular schedule?

MR. MERCIER: Mr. Chairman, we will do our best to have them available for tomorrow. I expect to have that confirmed some time this morning as to whether or not they'll be available. If they're not, we may have to set another date to hear them when the service is available, but we'll know later this morning.

MR. DESJARDINS: With that understanding, and trying to co-operate, Mr. Chairman, that we put it up to the other people on this list that might want to, if this service is available, that might want to take advantage of it, but with the understanding that they would have to be going on the same day, if they're available.

MR. CHAIRMAN: All right. To the members of the committee, is it agreeable that we try and hear the persons who have made special requests first and then go on to others? As all of you are aware, we have a very lengthy list of persons who wish to make representation and we, as a committee, did not set any guidelines or rules as to time limits. I would ask all persons making representation to be aware of others and extend the courtesy to others that they do wish to make presentations, and ask members of the committee to be aware of the fact that it is a lengthy list when it comes to questioning, etc.

The two persons, I indicated earlier, that wish to speak this morning and were only available, and I've had a third one indicate to me, Mr. Vaughan Baird, that he's only available this morning and that is why he is present. Could we take them in the order that they're printed — Dr. F. P. Doyle of Ste. Anne first and then Mr. Sidney Green, MLA, second, and then Mr. Vaughan Baird, third. Is that agreeable to the members of the committee? (Agreed.)

MR. CHAIRMAN: Agreed. Is Dr. Doyle present? Dr. Doyle, would you proceed with your presentation, please.

DR. DOYLE: Thank you, Mr. Chairman. The background for my presentation . . .

MR. CHAIRMAN: May I interrupt, Dr. Doyle? Do you have copies of your presentation for members of the committee?

DR. DOYLE: I just have two copies, sir.

MR. CHAIRMAN: Would you present one or both to the Clerk, please. Please carry on, sir.

DR. DOYLE: The background for my presentation. I would like to thank the Government of Manitoba for granting this opportunity to express an opinion on the Canadian Constitution. My opinion, though personal, reflects my experience as a Canadian-born Manitoban, who, exposed to an anglophone upbringing, had the additional opportunity of gaining at a later date a thorough knowledge of the French language. Thus I have the very good fortune of appreciating the anglophone mentality, and additionally, of understanding the francophone element, which understanding was acquired in both the provinces of Manitoba and Quebec.

I have served the community over the years as a physician, school board trustee, member of the Manitoba Health Services Commission, Director of the former l'Association d'Éducation de la langue française du Manitoba, Regional Director of the Council of Christians and Jews, and in various other public posts. During those years I have learned the extraordinary advantages of knowing two languages, and hence, of being exposed to the positive aspects of another culture. This has led me in turn to a greater appreciation of the cultures of still other fellow citizens, all of which has enriched my personal life and enabled me to appreciate our country the more.

It is my wish therefore to express my support for the proposed resolution respecting the Constitution of Canada as a method not only of assuring certain basic rights to our citizens, but of establishing a foundation upon which to build a more stable and lasting nation.

I believe that after so many years of effort that this first positive step of Patriation, Charter of Rights and Freedoms, and equalization can be a significant accomplishment for the security and the pride of our citizens. Although it may be considered incomplete, it would appear far from final, and in my view does not prevent the subsequent entrenchment of other rights, whether individual, provincial or federal.

I welcome the entrenchment of the freedoms, and additionally of the democratic, legal and mobility rights, as well as the non-discrimination and language-of-education rights. The latter are more relevant than might appear at first consideration. We need go no further than Manitoba to realize how the right to French education has been buffeted over the past many years by provincial change. It is of note, nevertheless, that the present Manitoba Government is sympathetic to French education. In view of the compromise and the minimal nature of the proposals on language-of-education rights, the latter should be accepted, I believe, by all provinces.

I find it, however, unfortunate that the use of either English or French in the Legislatures, the courts, statutes and records of all provinces may not be established as it would in Manitoba and Quebec. However, this is not nearly as important in my view

as the language-of-education rights and, furthermore, the other provinces are not prevented from such entrenchment in the future. Hopefully, they will follow the lead established by Quebec and Manitoba.

I believe that except for the Amending Formula, that the other elements of the proposed Resolution on the Constitution should not pose serious obstacles to acceptance by most Canadians. However, even with respect to establishing a formula for amendment, it would seem that simply extending the two-year time limit would not necessarily contribute to the finalization of the process. Furthermore, superior modalities to a referendum have so far eluded our leaders, except perhaps for the alternative methods which are actually proposed in the Resolution. In any case, the Resolution would still allow opportunity for at least two years in which other possibilities of amendment may be developed. On the other hand, the December 9, 1980 time limit, set by parliament for reception of the report from the Special Parliamentary Joint Committee, appears unseemly short given the large number of hearings.

Recommended change.

There is one area which I would draw to the attention of the committee for specific action:

It is my view that it is most important that under the section of the right to life and the security of the person, that the right to life of the unborn child must not be forgotten. This fact, I believe, should be established in the wording of the section.

Conclusion.

I understand that the government of Manitoba, though not against patriation itself, is against the method and package of patriation, and to this end has sought a ruling in the courts. It would be a happy event indeed if constructive recommendations for legitimate changes could be effected within our own Canadian family to lead us to the realization of the Canadian Constitution in the most just and acceptable way possible. Hopefully, we may replace what has become the somewhat ridiculous spectacle of division before the world, by an example of compromise based on understanding.

When one hears the multiple objections with respect to rights made in good faith from many individuals and sectors of the nation — the provinces, the native peoples, the educators, the handicapped, etc., one begins to wonder whether it is possible to ever establish the Constitution. But surely we may be assured that the rights to be entrenched in the Constitution are basic human rights, which are common to all our peoples, and to every individual in every part of Canada. Surely these basic rights can only lead to the benefit of all Canadians and can be built upon but not abrogated, nor because of their nature somehow deny other rights that we now enjoy. It is nevertheless most important that the authors of the Constitution take special note of these many concerns.

In summary, I would urge the Government of Manitoba to support the proposed Resolution on the Constitution with the specific proviso concerning the right to life of the unborn child, and with special attention to rights generally. I sincerely believe that the Constitution will increase our sense of direction and of personal security, as well as our pride in Canada and in being Canadian, and that it will lead ultimately to a better understanding between the

peoples of our nation, the provinces and the federal government.

I thank you, Mr. Chairman.

MR. CHAIRMAN: Dr. Doyle, will you permit questions from members of the committee?

DR. DOYLE: Sure.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Dr. Doyle, while you expressed some general support for the entrenchment of a Charter of Rights, you made reference to the rights of an unborn child. I point out to you, without getting into any great discourse over what the Supreme Court of the United States have said, that generally they have said that the legislatures and elected people in the United States cannot interfere with the right of a woman to have an abortion. Now, Dr. Doyle, I suggest to you that that is an example of the kind of decision that can be made by non-elected persons. Judges appointed for life, can make a decision binding on a country, in this case the United States, perhaps in Canada, under an entrenched Charter of Rights, that would not be acceptable to you and to perhaps a majority of the citizens of that country.

Now, are you suggesting, sir, and are you in favor of non-appointed or of appointed people, appointed for life, making those kinds of decisions binding on the whole country, binding on you, and thereby you not having any recourse to your elected representatives — the only way of changing that kind of decision would be by amending the Constitution, we have seen how difficult that is. I suggest to you, sir, if you have that concern in this particular field, did you really want to support entrenchment of a Charter of Rights, where decisions will be made by people not responsible to you?

DR. DOYLE: Yes, I would, provided of course, that particular right can be established. Now, you will notice the way that I worded it, that the right to life of the unborn not be forgotten. I think that there are ways certainly of bringing this into the Constitution without abrogating that right.

MR. CHAIRMAN: Mr. Parasiuk.

MR. WILSON PARASIUK (Transcona): Mr. Doyle, thank you very much for your presentation. I think you have obviously been concerned about this topic and I think we welcome your presentation and others that will come forward through the course of these next two days.

With respect to Mr. Mercier's question, he brings in the case of the United States and the fact that according to their set of constitutional provisions some court cases have in fact ruled in favour of abortion. Are you aware of any particular provisions in the constitutional package or in the present constitution, The BNA Act of Canada, which provides for abortion on demand as is the inference that I draw from Mr. Mercier's question? Are you aware that exists right now in what we have?

DR. DOYLE: Not to my knowledge.

MR. PARASIUK: Thank you. Are you suggesting in your presentation that the Manitoba government withdraw the court challenge that it is presently taking before the courts. You are expressing some general agreement with the position that has been taken by the federal government; you have basically in my estimation expressed that as a Manitoban in terms of what you think is best for Manitoba. Do you think it is in Manitoba's interest that the government of Manitoba be dealing with this matter by going directly to the courts?

DR. DOYLE: I would have rather that this procedure not taken place, but in view of the fact that it is now going ahead, I suppose that there is no harm in listening to what the courts would have to say concerning the matter. But I would have rather not have seen this happen. I was alluding in my presentation particularly to going to Europe. I think it's unfortunate that our situation here in Canada, our constitution has been bandied around in Europe, in England, and this to me seems to not be very good for this country. It's unfortunate that we are exposed to such a spectacle and this is one of the things — it's more the external situation than the internal situation.

MR. CHAIRMAN: Are there any further questions to Dr. Doyle? Seeing none, thank you very kindly, Doctor, for your presentation.

DR. DOYLE: I thank you very much, Mr. Chairman.

MR. CHAIRMAN: Our next person is Mr. Sidney Green, Q.C., M.L.A. Mr. Green. May I ask Mr. Green, do you have a prepared text, and if so, do you have copies?

MR. SIDNEY GREEN (Inkster): Mr. Chairman, I'm sorry, I don't, but I gather you will have one as soon as Hansard prints it.

MR. CHAIRMAN: Thank you, Mr. Green. Proceed please.

MR. GREEN: Mr. Chairman, and members of the committee. I am appearing here at this Constitutional Committee because it is virtually the only opportunity to express publicly and in a formal way constitutional positions before the horses leave the barn even though the door is presently open.

I want to make it clear that I am going to deal with two positions, one very briefly. The first is patriation. I want to say that the position of the government of Manitoba as far back as 1976 — I believe it was the first government that took that position — is that the Constitution should be patriated, plain and simple, and immediately, and we supported the right of the federal government to do that. I must say, Mr. Chairman, that the federal government in this respect is right when it says that the provinces were the ones who prevented that procedure because the provinces have continually said that patriation must be tied to amending formula.

As far as the government of Manitoba was concerned, although it is not a serious question and although it is much more symbolic than it is real, we felt that it would be preferable to all of the people of

Canada to have this question dealt with by the federal government saying that what presently resides in Westminster would reside in Ottawa, and I think that that would alleviate the obscene scene that Dr. Doyle has pointed out, of us now becoming involved in the parliaments of Great Britain, not with regard to the simple question of patriation, but as to what laws will govern the federal government and the provincial governments. And that would never be, Mr. Chairman, it would never be that parliament would be discussing Canadian legislative positions, either at the federal or the provincial scene if we were dealing with simple patriation. But we are not dealing with simple patriation, we are dealing with a fundamental significant profound change in the manner of parliamentary democracy in this country and how this country will operate in the future. Because the federal government is asking the parliament of Great Britain to make a law deciding as to how all future parliaments, both at the provincial and federal scene, will be governed, and in that respect this particular parliamentary majority — which is not the greatest parliamentary majority that was ever obtained in Canada — is asking for a right to do what no previous parliament has ever presumed to have the right to do, and what it says that no future parliament will have the right to do. So this parliament claims a wisdom which was not claimed by any past parliament and which it precludes to any future parliament. And that is, Mr. Chairman, a question as to whether we are going to have parliamentary democracy as we know it, which presumes, and I want to make this clear, legislators do not confer rights either by stating them or declaring them.

According to the common law principles of Great Britain under which we operate, the citizen has every right except that which has been expressly taken away by parliament. Parliament cannot confer rights, it can only take away rights, and what we are going to is a system whereby parliament declares rights and then these rights are not interpreted by parliament, but are interpreted by people, a judiciary, who is appointed, which is not responsible to the public, and which for the future, in the absence of a constitutional amendment, and we know how difficult that is, has these items under their jurisdiction.

Mr. Chairman, this is not a small matter. The fact is, if you will look throughout the world and see which countries have had constitutional bills of rights entrenched and which have not, you will not find that rights exist in greater number and with greater respect in countries which have constitutional bills of rights. As a matter of fact, if there was a bias, I would say it was in the opposite direction, that countries which are governed by the principle that the citizen has every right except that which has been taken away, have a greater respect for rights, and furthermore, and what is more important, the character of the people is such that they say that eternal vigilance is the price of liberty and they continually watch to see that rights are not taken away.

Mr. Chairman, I submit to you that that is the basis, not what the laws say, but the feelings of individuals as to their rights and what they will do about them when either the courts or any other power tries to take them away is the key issue as to whether you will have rights and when these

members of the Legislature last year voted to permit a doctor to forcibly take a blood test and pass it on to somebody who is a stranger to the citizen who has that test taken, I say that we have been willing to be rather passive about what our rights are and that is the danger, which will not be corrected by a constitutional bill of rights. As a matter of fact, it will be made more difficult.

I want to, Mr. Chairman, deal with the history in this matter. It is my submission that constitutional bills of rights have continually been used, or at least have been used in a specific example, which is very close to us, as a means of preventing social and economic change. Those political parties who believe that the status quo is not the basis upon which they wish to exist, who believe that their future should provide greater social and economic equality to the citizens of society, should be the last parties who are calling for an entrenched bill of rights. I am surprised and shocked that that is not the case with regard to this entrenchment.

Mr. Chairman, the following things were held unconstitutional by the Supreme Court of the United States, the following categories of things, and I want to put a caveat here. We do have court decisions as between federal and provincial rights and we can't avoid that in a federal system, and we will continue to have it. The difference is that in Canada there has always been an understanding, and I believe it is the law, and in this I disagree with the Manitoba position, that the federal government could obtain a constitutional change and therefore when the federal government used its spending power to make available medical care throughout this country, although there were two threatened lawsuits, one by the government of Manitoba, one by the government of Alberta, the knowledge was that first of all the federal spending power had been traditionally used in that way and would probably be upheld, but secondly, the reaction would have been so strong by the citizens of this country that the federal government would have had no difficulty in obtaining a constitutional amendment to permit it. Therefore nothing happened and Medicare was achieved. That was not the case in the United States nor would it be the case if we pass this entrenched Bill of Rights.

These are the things which the United States Supreme Court held to be unconstitutional:

An Act for the Relief of Farm Mortgages; The National Recovery Act, which is broadly referred to as The New Deal; a coal code which provided for labour provisions and for the regulation of the selling of coal; railroad pensions; industrial planning; minimum wages for women, minimum wages for men, minimum wages for anybody; the regulation of ticket brokerage in the State of New York; the charges of employment agencies in the State of New York; the restraint of competition in the ice industry — that would be similar, Mr. Chairman, to our milk legislation; a petroleum code — significantly, this is in the '30s; The Agriculture Administration Act; the Federal Graduated Income Tax; the labour provisions of the coal code; The Municipal Bankruptcy Act; the right of Congress was held to be unconstitutional to say that slavery will not exist in the territories of the United States. That act was struck down by the United States Supreme Court on the basis of an

entrenched Constitution and Bill of Rights, and minimum wages generally, which I have referred to.

Now this is well documented, Mr. Chairman. In Schlesinger's book, "The Politics of Upheaval", three full chapters are devoted to the struggle between Roosevelt, who was referred to as the socialist, and the Supreme Court, because the Supreme Court decided to strike down as unconstitutional all of Roosevelt's legislation. And here are the comments that were made by intellectuals at that time vis-a-vis an entrenched Bill of Rights. This is Reid, Powell, Harvard Law School:

"If the court is going to pick up new strange clubs to swat anything that it doesn't like, the subject of constitutional law will be as stable as a kaleidoscope operated by an electric battery." He feared that the court by its novel application of the privileges and immunities clause had created a fresh set of weapons with which to defend property against legislation. And again, "The processing tax under AAA" — this is The Agriculture Administration Act — "it seemed was not a proper exercise of taxing and spending power because it imposed contractual obligations on those accepting federal grants. It therefore became a coercion designed to force farmers into a plan to regulate agricultural production." Federal grants were given on condition, as we have done on numerous occasions, that the farmer who received them would do a certain thing. This was held to be unconstitutional.

The doctrine that conditioning a federal grant cancelled the federal spending power he suggested would wreck the operations of government. This is what one of the dissenting judges said.

Seven coal-producing states filed briefs supporting the government's contention that the Act did not endanger state's rights and that federal regulation was the only solution for the coal industry. Sutherland, speaking for the majority, declared the labour provisions of the act unconstitutional in spite of the fact that they had not been put into effect and that therefore the court was presented with no concrete question involving them.

Further commentary, Mr. Chairman, and this is by Presidents of the United States. Nearly every forceful President in American history has come at one time or another into collision with the court. When he did he discovered a surprising resonance among the people. "You seem to consider the judges as the ultimate arbitrators of all constitutions", wrote Thomas Jefferson. A very dangerous doctrine indeed and one which would place us under the despotism of an oligarchy." The opinion of the judges", said Andrew Jackson, "has no more authority over Congress than the opinion of Congress has over the judges, and on that point the President is independent of both."

And then Abraham Lincoln: "If the policy of the government upon vital questions affecting the whole people is to be irrevocably fixed by the decisions of the Supreme Court the instant they are made in ordinary litigations between parties and personal actions, the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of that eminent tribunal."

Theodore Roosevelt: "One way or another it will be absolutely necessary for the people to take the control of the interpretation of the Constitution. We

cannot permanently go on dancing in fetters. For the last thirty years there has been a riot of judicial action looking to the prevention of measures for social and industrial betterment which every other civilized nation takes as a matter of course, and in some way or another this riot must be stopped."

Woodrow Wilson: "The most obvious and immediate danger to which we are exposed is that the courts will more and more outrage the common people's sense of justice and cause a revulsion against judicial authority, which may seriously disturb the equilibrium of our institutions, and I can see nothing which can save us from this danger if the Supreme Court is to repudiate liberal courses of thought and action."

Robert LaFayette, "When the constitutionality of the law is tested Congress ought to have a right to overrule the decision of the Supreme Court which, of course, they can't."

"It would be difficult to conceive of a real advance towards social justice in the United States," said Donald Richbert, a New Deal intellectual, "that has not left or would not leave a vast wreckage of just judge-made law in its pathway."

"Tom Connally, "The real issue before the people of the country today is whether government should regulate and control vast aggregations of wealth or whether they through the Supreme Court shall dominate and run government. If the system of judicial law that is being written in defiance of state legislation and of congressional legislation is continued, there is no human power in America that can keep the Supreme Court from becoming a political issue nationwide in the not too distant future."

As early as March, 1935, Edward F. McGreedy, the Assistant Secretary of Labour — this is a man who is now part of the administration — told a Labour audience, "With stupid judges on the Bench, it is up to the workers to organize to such an extent that their economic strength will make it unhealthy for a judge to defy." I think that's a pretty wild statement made by an assistant Secretary of Labour, but that's the kind of thing that was aspired by the Supreme Court, merely deciding that it was going to stop the New Deal. Then, I consider this statement to be probably the best one.

There was a decision of the Supreme Court which was completely contrary to the will of the people and the outcry was immediate. "This means," said Hugo Black, "that 120 million people are ruled by five men. There has been a great deal of talk about the sanctity of the Constitution," said Burton K. Wheeler, "but I suggest that constitutions are made for men, not men for constitutions."

On what does the Supreme Court base this claim for power? "The Supreme Court now in effect, for all practical purposes" said George W. Norris, "is a continuing constitutional convention. The people can change the Congress but only God can change the Supreme Court."

"So long as we intend to remain a free self-governing people," said Donald Richbert. "We cannot sanction any effort to establish the worship of a man-made document and reverence for its human institutions as a state religion."

Near Aimes, Iowa, six figures in black robes representing the justices who voted against the AAA

were hanged in effigy and the import of the decision went far beyond AAA. "It was" wrote Arthur Croake, "a decision so broad that few New Deal acts before the court now seem to have any chance of being upheld."

"It is a sad commentary on our form of government," said John L. Lewis, "when every decision of the Supreme Court seems designed to fatten capital and starve and destroy labour."

"Every worker of every class," said Dan Tobin, "is pledged tonight to President Roosevelt as a result of the decision today." Finally, in June with the minimum wage case, it alienated everybody. Even Herbert Hoover said, "Something should be done," the ex-President said, "to give back to the States the powers they thought they already had."

There are numerous additional quotes, Mr. Chairman, and I really want to get on with what I have to say, but they are contained in the politics of upheaval with three chapters dealing with how the Supreme Court tried to upset the New Deal.

"The basic grievance of the New Deal" wrote Robert H. Jackson, "was that the court has seemed unduly to favour private economic power and always to find ways of circumventing the efforts of popular government to control or to regulate it."

Now some of you will say, yes, but that's history and we are going to be in a better situation. Well, let's get to existing cases in this country, Mr. Chairman. I suppose the most important one — no, I shouldn't say that — one of the most important ones, which has been a subject of some controversy amongst the people of this country for several years, has been the issue of the right to life. I suggest to you that Mr. Doyle doesn't need his amendment. Mr. Doyle doesn't need his amendment.

When the Constitution proposes that there be a guarantee of life, liberty and the security of the person, I suggest to you that Mr. Borowski, who now has a cause of action in the court, and we can see it in current western weeklies, saying that the federal government has no right to enact legislation with regard to the giving of money to therapeutic abortion, that his first case was thrown out of court. His second case, he has now succeeded; he has got leave to appeal.

Now this issue has been in considerable controversy. Mr. Doyle says he wants to put it in so that it's no longer a matter of controversy, that there are no two questions on it and I am surprised to hear that some of the people who talk most about an entrenched Bill of Rights fail to see the significance of what could happen in the abortion case. There is no guarantee that it will come out like the Supreme Court in the United States. It may be that this guarantee of the right to life will rule out all therapeutic abortions, will rule out abortions except as it existed under the previous Criminal Code and maybe worse than that. The people who say that they believe in an entrenched Bill of Rights say that they are prepared to accept that decision, which I find inconceivable, or that they are prepared now to seek the constitutional amendment to undo what the Supreme Court has said about the right to life. That's not hypothetical. That is now before the courts, and with a constitutional change, what is being done is taking that out of the realm of public discussion and putting it into the hands of courts

and lawyers to decide what shall be done and the legislators will say we have no power over this question because the court has said that we cannot provide for an abortion other than — and then there will be some rule, presumably as it was under the old Criminal Code.

Another section, Mr. Chairman. Some of the people who argue most about an entrenched Bill of Rights, I find that they are similar people who believe in affirmative action program, who believe that there should be a special law prepared, that people have certain rights because they are an impoverished group and all motives are fine, say that they also believe in a Bill of Rights. Well, in the Athabaska Tribal Council versus Amico Canada Petroleum Company Limited, the Government of Alberta had a Bill of Rights — and let's not misunderstand what the argument is. Canada has a Bill of Rights; it is merely not an entrenched Bill of Rights. Mr. Diefenbaker, although he enacted a Bill of Rights and they had 206 people in the Legislature, did not presume to say that a future government with 250 seats was not just as smart as he was and could change. That is what we have today.

What is now being suggested is an entrenched Bill of Rights and when one thinks that this is being advocated by people who believe in social and economic change, Mr. Chairman, it brings to my mind the suggestion that if I'm going to fight a battle to take a certain position, that the first thing that I would do is run over to the other side and build an impregnable trench which would protect that position. That is what an entrenched Bill of Rights seeks to do and the word "trench" is an apt description of what is happening. What happened in the Athabaska case is that there was a Bill of Rights and the province then went into an affirmative action program and the court said that the affirmative action program contravenes the law with regard to discrimination against race, creed, color, or religion. And so, because that case happened to happen in time, there is Section 15 of this Act, which first of all declares that everyone has the right to equality before the law, protection of the law without discrimination because of race, nationality or ethnic origin, and then it says, "This section does not preclude any law, program or activity that has as its objective the amelioration of conditions of disadvantaged persons or group."

So they get in an amendment before the position takes place. But now a court decides whether that affirmative action program is indeed affirmative action program, does do those things, not the Legislature, a court starts administering, and that is in fact what has happened in the United States. They had to go and say when bussing shall take place, at what rate integration shall take place, and I'm not saying that these are bad things. I'm saying that in Canada we have the means of doing them through parliamentary government.

Let us remember that the United States of America is the most sophisticated system in the world set up to ensure that the public will never be able to obtain power, and they have done it. They have got two legislatures, the Congress and the Senate. Nothing can happen without either one. Then the Executive is separated and they don't have to do it or it can veto it, and then if even all these agree,

there is the Supreme Court of Canada, and that's why you do not and never have had a party that has gained any significant power in the United States that is based on social change and economic change, because it's against the law.

In the United States it's not that socialism is undesirable. It has been made illegal and that is what is being sought, and if it's not being sought, that is the kind of thing that can be done by an entrenched Bill of Rights and why would anybody want to do it? I even have to respect my counterpart, Mr. Lyon, in this connection. I disagree with Mr. Lyon's concept of government, but he has always been prepared to fight it out. He has always been prepared to say you present your way and I will present my way and one will win and one will lose. What the people now say, what Mr. Trudeau says is, we will pass a law and then make it illegal for you to change that law. We won't even be able to change it. There are going to be five arbitrators there. I believe, Mr. Chairman, I don't think that there will be much argument, that I am before the courts of the province of Manitoba as much as any other lawyer and have as profound a respect for the courts, but I have never wanted the power to seek social and economic change to be put into the hands of the judges rather than the legislators.

Now what are the issues, which I can show the members of the committee, will be put into the hands of the judges? I have already discussed the abortion issue.

Capital punishment. I have always been opposed to capital punishment, but I have always been prepared to fight it out because I think imposing abolition on the large majority of people will not result in abolition, it will result in vigilanteism. Under this constitutional Bill of Rights, where it says that there shall be no cruel punishment, it is open for a Supreme Court of Canada to say that hanging is cruel. I happen to think it is cruel. It's not really nice. It's a cruel form of punishment. So the Supreme Court could declare capital punishment by hanging. Maybe they will find a nice way of doing it, although I doubt it. They will have a right to declare it unconstitutional.

Now all of those people, who say that they want the Legislature to do something about it, will be in a position of saying that they have lost their right to govern. I would happen to agree with the decision, but I will never agree that it should be decided other than by the people of Canada, because that will do more harm than good, so that could be taken out of the realm of ordinary politics.

Censorship, Mr. Chairman, the right to free expression. The courts could go one of two ways. It could say that free expression does not include the right to display obscene subjects or it could say that it does. Up until now we have been prepared that the elected representatives of the people will debate that question and try to do the people's will on that question. What we will have in the future is that will be taken out. As a matter of fact, I guess there are certain politicians who would like to say take it away. I'll tell my citizens that it's not up to me, it's up to the Supreme Court. It's a very convenient way of avoiding responsibility but it does not make for good responsible government. Interesting, Mr. Chairman.

The right to work. The very question that we have debated here back and forth for years, the question as to whether a person shall have a compulsory deduction of union dues, whether he is a member or not, to pay for the expenses of the union. It could well be decided by the Supreme Court. As a matter of fact, I am certain it would be decided by the Supreme Court. I am certain that union shops would be decided by the Supreme Court. I am certain that right to work legislation will be decided by the Supreme Court on the basis of the provisions in this bill, which talk about a right for a person to be able to work anywhere in Canada, and I am certain, based on what I have read in the politics of upheaval, that a person will take these questions, have them decided by the Supreme Court and then, if the Supreme Court decides that a person doesn't have to pay union dues because it is contrary to his freedom of conscience which is mentioned here, then I have to get the governments of Quebec and six other provinces, representing over 50 percent, to pass laws saying that the Supreme Court doesn't know what it is talking about.

Now is that what people want? Do they call that the creation of right or is that the elimination of right? Calling it a Bill of Rights doesn't confer rights any more than saying freedom of information, as was used to be said in this House, will provide more information and will not provide more secrecy. For those glib intellectuals who say how can you argue against rights, they are doing themselves an injustice. They are doing the other side of the argument an injustice and they are giving force to the kind of argument that used to be advanced by the Manitoba Peace Council — "If you are against us, you are against peace. If you're against the Bill of Rights, you're against rights." That's nonsense.

There are two sides to this question and generally Bills of Rights have been created in countries, which previously did not have rights, where there was an overthrow of government and where there was a Declaration of Rights and one can hardly say, as a matter of fact, that's what happened in the United States. It's exactly what happened in the United States. But England has not, in my opinion, been less solicitous or has had less solicitude for the rights of its citizens than has the United States of America, and has also had a government which is responsible, and with response to the need for economic and social change.

Another one, Mr. Chairman. I happened not to have been a fan of the Hate Literature Legislation. In 1962 I was asked by my constituents to come out on the hate literature question and I said, "Look, if I deal with that question, I'm going to come out against legislation", at which time they immediately told me to shut up, because I said I'd prefer to know that the literature is there, who is printing it and to fight it with good literature, with love literature as against hate literature, on the assumption that the people will be more responsive to what is intelligent than to what is stupid. But there is now hate literature legislation and many people who believe in entrenchment to the Bill of Rights say they want Hate Literature Legislation. I am fairly certain that it is open to the court. Indeed it is probably a better legal decision that the court would say, under the right to freedom of expression, that hate literature legislation

is ultra vires of the federal government and that hate literature is permitted.

Now, Mr. Chairman, that won't trouble me a great deal because I believe that the best way to combat it is to combat it, but it will trouble those people who want it and say that they also want an entrenched Bill of Rights.

Mr. Chairman, the school question. Mr. Desjardins and myself have been at opposite ends of this question, but it seems to me we've always been willing to say that we are willing to try to advance our position so that it commends itself to the people. The Supreme Court of Canada could say one of two things; that if a person is of a certain religion and that is not taught in the schools, he's entitled to have his money paid to him to set up his own school. They can say that or they can say that the schools will not teach religion and therefore the government has no freedom of conscious reasoning, that the government can't finance one religion or the other. They can say two things. Mr. Desjardins would not be prepared to accept one of the decisions; I would not be prepared to accept the other. So why are we giving it to somebody, who we don't know what he's going to decide, to make that decision in advance, and we don't know what the decision is going to be? Now that's not my idea of democratic government and the exercise of democratic power, and responsible government.

Mr. Chairman, there's another one - the fish case, and this is not hypothetical, Mr. Mercier will know about it. We started a new fish processing plant. We started the Freshwater Fish Marketing Corporation. We said that we were not going to use the old ones, and we didn't, and we didn't buy their goods. The Supreme Court of Canada came to the peculiar decision, and I say it is peculiar, that their right to carry on business represented property, the right to carry on business, not the property, the right to carry on represented property, and the government had to compensate them for that property just as if they were purchasing it as a going concern. This act says that you will not property without just compensation. The Supreme Court decision presently says that if you want to take it without compensation, you have to say so specifically in the legislation. This bill says you can't do it even if you say so.

Under this legislation, applying the Supreme Court's decision on the fish case, when we took over the rights to provide our own automobile insurance to ourselves, we would have had to pay goodwill to every company operating in the insurance business in the province of Manitoba. Socialism would not be something that would be undesirable. It would be something that is illegal, and the people who belong to a party, saying that they want social and economic change, supporting an entrenched Bill of Rights, I repeat, are putting up a trench on the opposition front, which is impregnable and which they can't go over before they start to fight the battle.

Mr. Chairman, there is now requests with regard to Indian questions. There is requests with regard to women's rights. I believe that all of these people have rights. I believe that one of the big problems with regard to our native peoples, the Indian peoples, is that it was entrenched in the Constitution under Section 91, and they didn't gain a great deal out of that entrenchment. If you will examine the conditions

under which they live, you will see that they did not gain a great deal under that entrenchment. To now entrenched positions, which would say, and this is what they're asking — that there will be no development of the Northwest Territories without the consent of the Indian peoples who are there, would be self-defeating to the Indians because no one would accept it even if it was the law, there would be found some way of weasling out of it.

To say, Mr. Chairman, that the wealth of the country, the provinces, belongs to the provinces and have future decisions on that question interpreted by the Supreme Court, would be to undo all the federal protection that we've had now with regard to an energy policy. Interestingly enough, Mr. Chairman, would it lead to the conclusion which some people are willing to suggest they believe it? That if billions of dollars of wealth were discovered in our Northwest Territories, and I use the word 'our' advisedly, that wealth would belong to the 40,000 people living in the Northwest Territories, to do what they would with it at the expense of the rest of Canadians. Well, Mr. Chairman, it is preposterous that 26 million people would put themselves in that position vis-a-vis 40,000, and I don't say that it's a tyranny of the majority, I say that it's only right that it not be so. I've never recognized that this land belongs to any individual or group of individuals, it belongs to all Canadians. To do that, Mr. Chairman, would not only be the height of absurdity, it would be the furthest thing from anything that I know of that goes by the name of Socialism — the furthest thing.

Mr. Chairman, somebody says, well it can be amended. Why? First of all, we had difficulty amending up until now. The amending formula would represent a further hurdle in this trench that one has to overcome. But the biggest problem, Mr. Chairman, is what it would do to the democratic process. In that bill there are numerous areas, which the Supreme Court could use to cover issues which have been the matter of constant and constructive debate by members of legislative assemblies and parliaments throughout this land, as to what is right and what is wrong, and which the people have had a knowledge that the debate has taken place and a participation from time to time in the debate.

What this would do is to say the groups hire lawyers, the debate is no longer one of what is right, it's one of what is legal, and how do we get our argument through to this judge or that judge. I know what that is all about, Mr. Chairman, and I tell you that I personally would not suffer by it. I am certain that I would get my share of constitutional questions bonanza from one side or the other or both. But it, Mr. Chairman, would be far less satisfying to me as a person who believes in the parliamentary process than going before the public, than going before a legislative opinion, and arguing not what some judge will say is legal or illegal, but what is right, just and equitable, and will commend itself to the people of this country, and on which I will seek their support. That will be the essential difference. It will be an essential difference of character that is taking place, and there will be a difference of character. Because don't get the naive notion that if there was a government, a federal government, that found that its views or its legislative program was being undone by the Supreme Court that would not figure a way of

dealing with that question. The question of who was appointed and how reliable he is would become a very important question, and we would not have clinical decisions by a Supreme Court, but we would have a continuing and growing amount of manipulation between governments and the courts, so as to see that somehow the legislative will of the people and the needs and exigencies of any economic situation are dealt with.

I'm going to close, Mr. Chairman, by saying that it's interesting that this presumed majority, parliamentary majority, and it's not that big, and it certainly doesn't represent the majority of the people in the country, is the one who's telling us that it will protect the civil rights of the people.

We've had two examples of how it's done this. One was The War Measures Act, which is comparable to the interment of Japanese during the war, as comparable a violation of civil rights, and the second was the Anti-Inflation Board controls, which were a violation of all of the principles of free collective bargaining both on the part of the workers and on the part of their employers.

This government presumes to say that it will pass a law and that law is better than anything that could ever be dreamed of in the future and therefore shall not be changed. If parliament was satisfied on the question of the validity of its position, why would it not patriate and then get these changes by way of amendment, which is going to ask you to do in the future. The entrenchment Bill of Rights. A great thing? Repatriate? Now you have a constitution. Do you want an amendment? See if you can get what they are asking the future generations to get in order to change those laws.

That is my submission, Mr. Chairman.

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

MR. GEEN: Yes, Mr. Chairman.

MR. CHAIRMAN: Are there any members of the committee who wish to ask Mr. Green a question? Mr. Einarson.

MR. HENRY EINARSON (Rock Lake): Mr. Green, first of all, I want to thank you for your presentation and as you all are aware of it, I have always been an admirer of your comments that you have made both inside the House and outside.

You gave us a review of the pros and cons of the whole matter that is before us, before the people of Manitoba and before the people of Canada. There is one question I would like to ask you. Could you tell me how many judges compose the Supreme Court of Canada?

MR. GREEN: At present, there are none. There have been decisions in the Supreme Court of Canada which have gone 5-4, and many of the New Deal decisions, which I have referred to, were 6-3 decisions and 5-4 decisions, so you are not getting a clinical statement. You're getting a philosophical statement. If there is anybody who thinks that a judge who happens to be of strong Catholic persuasion and I respect that, can think clinically in the same way as one who is of strong Protestant

persuasion or of Jewish religion persuasion, on the question as to whether where life begins and when and where it can be taken, then they are naive in the extreme. They are fooling themselves.

To suggest that it's going to be a question of law, there is no such thing as a clinical question of law, and many of the cases that I fought in labor matters dealt with this very question, because Legislature passed a law. They did somebody a great favor. They said everybody has a right to be a member of a trade union. Now people did look around saying, "What did they give me? I always had that right." When did a person not have a right to be a member of the trade union? But then the courts went on to say, having been given that right by the Legislature, you can only exercise it in certain ways. Where it used to be legal for you to walk in front of a store and say, "This man is unfair to me," it is now illegal unless you get certified, unless you have applied for conciliation, unless you go through the conciliation procedure, unless you give notice to commence collective bargaining, and then it may or may not be legal, we will see.

Perhaps the best example of this came out the other day in the Free Press with regard to the Anti-Scab Legislation, as to how judges treat it. The head of one of the biggest unions in Quebec says, which I am happy that I had the foresight to say more than three years ago, "The law is a failure." That first of all the courts are now talking about what is re-hiring and if you hire a contracting company, that is not re-hiring, and if people do it voluntarily, that is not a breach of the law, and we don't know whether the strike is legal or illegal and we'll have to find that out before we invoke the law. All of these things will become the province, not of the people who have rights now, and I defy anybody to show in those legislated rights, which Mr. Trudeau and his parliamentary majority are so generous as to confer upon me and which I have never asked for because I will fight for them rather than let them be taken away from me. Almost every single one of them has been given by parliamentary government, and with regard to the French language question, that is entrenched in the existing Constitution insofar as it's use in the courts, etc.

Insofar as education is concerned, it's my position, Mr. Chairman, that we will go much farther in this area by convincing the legislators of the various provinces that it should be done, rather than we will by a Supreme Court decision, because if you look at the Act, it says, "Where the population warrants it, that will be a matter of continual legal argument." While it is being argued it will not be there and then the people who want it will have to accept the decision of the court as to what it means. So I believe that I do not have to again show my credentials vis-a-vis my commitment to the use of French as an official language in the Province of Manitoba and as to the desirability of more and more people in our country speaking French, but it's not going to come by this Constituion. As a matter of fact, it might be hurt by the Constitution, because the existence of French as a language in Canada will depend on the existence of a province where French is the spoken language. French is the spoken language in only one province in Canada and can be the same as English is in Manitoba, and that's in

Quebec, and this Constitution might prevent the Quebecois from making Quebec as French as Manitoba is English.

MR. EINARSON: The second question, is it correct to say that the appointments of judges are made by the Prime Minister of the country?

MR. GREEN: Yes, it's made by the Lieutenant-Governor by and with the advice of the Cabinet. I suppose he has to have support.

MR. EINARSON: Third question, Mr. Chairman. Many people have been concerned and wondering what is in the back of the mind of the Prime Minister of this country today and I would like to ask you? You can answer if you wish to. Is it the ultimate goal of the Prime Minister to turn this country into a Republic?

MR. CHAIRMAN: If you don't wish to answer that question, you certainly don't have to.

MR. GREEN: I would be contrary to an entrenched Bill of Rights no matter which Prime Minister brought it forward. If it was Mr. Trudeau who brought it forward, I would be against it. If it was Mr. Clark who brought it forward, I would be against it. If it was Mr. Broadbent who brought it forward, I would fight like hell and be against it. I have not changed my position in this connection and from my understanding of my work within a political party, that was the position of at least the majority of the people in its Legislative Caucus, that we would not be in favor of entrenched Bill of Rights.

MR. EINARSON: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Blake.

MR. DAVID BLAKE (Minnedosa): I just wanted one comment from Mr. Green, Mr. Chairman. He referred briefly to the interment of the Japanese Canadians during the War. I would like him to comment further on that. In your opinion, do you feel that the rights of groups such as that would be protected with the entrenchment of a Bill of Rights when a country was at war, a group that may be considered by the government of that country to be subversive in some way? Do you think their rights would be protected under an entrenched Bill of Rights?

MR. GREEN: Mr. Chairman, Mr. Blake. I have never under-estimated what can happen with the tyranny of majority. I have always been concerned that the democratic process can result in a hysterical government and a hysterical leader, and that government and that leader could have a very bad effect on my rights and that is why I say that the population of a country has to be on continual vigilance against such things and not being themselves to be protected by a Bill of Rights.

I am just as afraid of a tyranny of a minority, perhaps more so, and I don't see that a tyranny of a minority is more to be respected than a tyranny of a majority. When there is hysteria in the country, such as there was in 1970, and if you want to see which people really believe in a Bill of Rights, see which

people stand up and say, "We won't do it, we're going to defend those people and we're going to speak against the government," such as David MacDonald did in your group, one person; and see which people say, "We can't say anything now because the times are not right." Go back to 1970, and you will find that some of the same people who are now talking about entrenched Bill of Rights were saying that we can't speak now. We can't speak now. The only time that it is important to speak with respect to civil rights is when you are going to be incarcerated or else looked upon with abomination by the people because you are speaking, because that's when rights are endangered. Find the people who have done that and trusted them more on the question of civil rights than you are now in trusting the person who did it, which is Mr. Trudeau. What did he say? How far are you prepared to go? Can any of you forget that scene, walking out into Parliament and the reporter saying, how far are you prepared to go? "Just watch me." That person is going enshrine my rights?

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Green, I assume in view of your position and in view of the Prime Minister's stated intention to proceed with the Federal Constitutional Proposal without the concurrence of the provinces, and in spite of the opposition of a majority of the provinces to the concept of the entrenchment of a Charter of Rights, that you would support those provinces who have referred this matter to various courts of appeal as a last resort, granting that the best way to resolve this matter is between the level of the governments in a political way.

MR. GREEN: Mr. Mercier, I'm going to be perfectly consistent. I wouldn't let the courts decide this question one way or the other. Mr. Trudeau is going to go ahead and do this thing. I believe that he has the parliamentary right to do it, just as he has the parliamentary right, if he can get a majority, to say that every fifth citizen will be disposed of. The parliamentary right — I'm not going to say that the courts are going to protect me from that Parliament. I want the people of Canada to protect me from that Parliament and I want them to undo the people who are doing it.

I say, Mr. Chairman, that there has been an abdication on the part of intellectuals who know what this question means and who are running around saying, first of all, hiding the question under patriation. There is no argument about patriation, although I agree that the provinces behaved very badly on this question, but there is no argument on the question of patriation, and putting the Bill of Rights in as a means of a package and putting the British parliamentarians in the terrible position not of legislating that there will be a Constitution to be dealt with in Canada, but legislating as to the rights of citizens, which they have never done for themselves. The British Parliament has never enacted a Bill of Rights for themselves, and they are being asked to enact one for the Legislatures and Government of Canada. Interestingly enough, Margaret Thatcher, who sees the writing on the wall and now wants to legislate for the future

governments, wants to enact an entrenched Bill of Rights in Britain, and the Labour Party is diametrically opposed to it, because she wants to make the things that the Labour Party stands for to be illegal.

MR. CHAIRMAN: Mr. Parasiuk.

MR. PARASIUK: Mr. Green, do you know of any countries which have Bills of Rights? For example, does Sweden have a Bill of Rights? Does West Germany have a Bill of Rights? Does the Netherlands have a Bill of Rights, Denmark?

MR. GREEN: There are many countries who have Bills of Rights. I know of no countries where Bills of Rights have given more rights to the people than the common law of England, which says that you have all those rights except those which are taken away. I also know that Russia has a very nice-sounding Bill of Rights. In Russia, according to the Constitution, anti-Semitism is a crime punishable by death. Ha] Ha] I know that many of the Argentinian countries have Bills of Rights.

I say that there are ways in which these things come about, but what has happened in Canada that needs to have them brought about? The protection of the French language? If so, limit the entrenchment to language rights. We made that concession when we were the government. Even though I don't happen to believe that it is the best way, you all know me to be a very flexible and compromising person. If that's the great fear, then legislate an entrenched language right. It won't do you any good, but legislate it.

MR. PARASIUK: The reason why I brought in some of the other countries is that you paid particular attention to the American example which, I believe, has a right-of-property provision within their Bill of Rights. I don't know whether the Bill of Rights proposed for Canada has that provision. It's my understanding that . . .

MR. GREEN: It says, "Life, liberty and the security of the person" and the security of the person will be interpreted by the Supreme Court to mean property.

MR. PARASIUK: I don't want to debate with you in this forum because I don't think this is a debating forum, but that's again your interpretation.

MR. GREEN: No, it's not my interpretation, it is a possible interpretation of the Supreme Court. You cannot say that they won't do that. I can say that they may do it and if they may do it, why should I give them the opportunity of doing it?

MR. PARASIUK: Getting back to known facts, you have said that some of the people who are proponents of the Bill of Rights are those people who were quite silent in 1970 when The War Measures Act was proclaimed. You mentioned a person called David MacDonald, who at that time was a member of the Conservative Caucus federally who voted against The War Measures Act. If I can recall correctly, the facts of that circumstance, David Lewis, the Leader

of the New Democratic Party nationally at that time and Tommy Douglas, the former leader . . .

MR. GREEN: Tommy was the leader.

MR. PARASIUK: Tommy Douglas, the leader and David Lewis, who then became leader, who are both proponents of the Bill of Rights, did in fact at that time speak out very forcefully against The War Measures Act and did at that time very forcefully vote against it.

MR. GREEN: First of all, I have never heard Tommy Douglas say that he is in favour of an entrenched Bill of Rights. He was the Leader of the New Democratic Party at that time and he definitely spoke against it and so did the New Democratic Party group in Parliament, I believe, with one exception. I believe that Max Saltzman may have voted with the government, but I know that in the Province of Manitoba that was not the case, and when I was talking about looking people, I was talking about looking here and I know what happened then. With regard to Mr. Douglas, I wouldn't say that — I could speak for David Lewis but I haven't heard Tommy Douglas say that he is in favour of an entrenched Bill of Rights. I have not heard David Lewis say that he is in favour of an entrenched Bill of Rights. I have heard them say that they are in favour of Bills of Rights and Mr. Douglas enacted a Bill of Rights in the Province of Saskatchewan.

We enacted and I voted for human rights in the Province of Manitoba with great misgivings, but because I am so flexible and compromise, I voted for it, but I would not vote for an entrenched Bill of Rights. There are certain places at which I break and I would break on the question of voting for an entrenched Bill of Rights. I don't see how I can presume that I have the wisdom of the ages today which governs you tomorrow, when you have a different opinion, and that's the presumptuousness that is taken upon themselves by people who say that they can say today what shall govern for the same legislators tomorrow.

MR. CHAIRMAN: Are there any further questions to Mr. Green? Seeing none . . .

MR. GREEN: I know that Cy Gonick was the outspoken opponent of The War Measures Act in the Province of Manitoba and he was not treated very nicely on that account.

MR. CHAIRMAN: Thank you, Mr. Green. Mr. Parasiuk.

MR. PARASIUK: Was Mr. Green answering a question there or making a statement? I wasn't sure.

MR. GREEN: I am making a statement. If it is difficult for you to understand that, I am making a statement.

MR. CHAIRMAN: Are there any other questions to Mr. Green from members of the committee? Seeing none, thank you, Mr. Green, for your presentation.

MR. GREEN: Thank you.

MR. CHAIRMAN: The next person on my list is Mr. Vaughan Baird. Mr. Baird. Mr. Baird, I ask you the first question, do you have a printed brief?

MR. VAUGHAN BAIRD: I have one that can be photostated.

MR. CHAIRMAN: You have only the one copy which you will read from.

MR. BAIRD: Yes, actually.

MR. CHAIRMAN: Would you leave it with us at the conclusion of your presentation?

MR. BAIRD: I will.

MR. CHAIRMAN: All right. Proceed, Mr. Baird.

MR. BAIRD: Mr. Chairman, and gentlemen, I want to first off thank those people who pushed that the public should be heard on this question and I want to thank them sincerely. I'll say this, I was disappointed to read in the Free Press just last week, the statement that Manitobans weren't really interested in the Constitution. Well, when the horses are out of the barn and you shut the barn doors, what can you do? Even I felt discouraged coming before you today because the government has taken a stand. They haven't heard from the public, and I am a member of the public, I am not a member of the Legislature like Mr. Green, but I am the other side of the coin. I believe in an entrenched Bill of Rights.

He mentioned Margaret Thatcher. Well, Mrs. Thatcher on looking at it and being pointed out to her and seeing how government regulations and government powers go forth on destroying of the freedom of individuals, they are taking away rights all the time. Why not say what some of those rights are so the people can point to them? When they entered the Common Market they signed a Treaty and in that Treaty there is a Bill of Rights and people say, "Britain does now have a Bill of Rights." So she is going to put it before the Parliament and say, "Look it, we signed that Treaty, we are bound by the Treaty, and there is a Bill of Rights in that Treaty of the European Government."

Mr. Green also mentioned Diefenbaker, but I suggest to those who are interested, read Mr. Diefenbaker's memoirs. Mr. Diefenbaker said, "It is the first step, my Bill of Rights." He wanted an entrenched Bill of Rights and goes on and says in his Volume III, "The protection of the dignity and worth of a human person is one of the most important functions of government."

There are those that feel that it is not necessary to have a charter of basic rights and freedoms or an entrenched Bill of Rights. We today are living in an era of codification of laws. Thousands of laws are being put into statutes and regulations which restrict the right of a Canadian citizen. We codify everything of what man cannot do. Why do we not codify what are his basic human rights to warn and protect from all would-be trespassers.

Some say this is contrary to our parliamentary system, but since 1867 we in Canada have had entrenched rights, the division of powers between

the federal and provincial governments to be more specific. We hear people say, "It will be the courts that decide." Yet right today our government is proceeding in the courts, trying to get them to say we have rights. It rather seems when an individual, who feels his rights and wants them entrenched, wants the protection of somebody outside of the majority to say those rights are protected, and yet they go to the courts to say we have rights. Why can't the individual with his entrenched freedoms?

Manitoba has had its language and certain educational rights entrenched in The Manitoba Act, which was passed by the Imperial Parliament to make sure no legislature could override those rights. All parties have gone on record favouring adoption of a Human Rights Charter. Both in 1972 and 1978, joint House-Senate Parliamentary Committees unanimously supported the federal government's proposal on that behalf. The Canadian Bar Association Committee on the Constitution has lent its full support for an entrenched Bill of Rights. One can say no Bill of Rights is perfect and even the Right Honourable John Diefenbaker felt this was the first step.

If one does not enshrine fundamental human rights in a Bill of Rights, there is no limit to the restriction which can be imposed on an individual.

We have recently seen the Blaikie case in Quebec, where the Legislature tried to override those entrenched rights of the English-speaking Canadians, and the Forest case in Manitoba, where the rights of the French-speaking Canadians have been overridden for 90 years by a Legislature violating entrenched rights.

Warren J. Newman in his thesis on the Blaikie and Forest case stated: "The Attorney-General of Manitoba intervened on behalf of his government counterpart, creating the spectacle of a province that had attempted to suppress the language rights of its English-speaking minority, finding itself an eager ally in a province that had managed to strip identical rights from its French-speaking minority."

The learned Chief Justice Deschenes of Quebec Superior Court in his leading decision that was upheld by the Supreme Court of Canada stated: "It was the intention of the Fathers of Confederation to remove the question of the use of the two languages, English and French, from the possibility of the arbitrary or capricious or even very simply of the wish perceived legitimate by the majority, whether English in the Central Parliament or Francophone in the Legislature of Quebec. They intended that this provision remains intangible and secure from all legislature intervention by one or other of the elected Assemblies."

With an entrenched Bill of Rights, legislation which violates human rights of Canadians can be called to account before a court of law. If the rights of an individual are not protected by the entrenched rights then those rights can be overridden by a legislative majority as they have tried to do in the recent cases of the Blaikie and Forest.

Legislatures can be tolerant or ignorant of minorities and their special rights. Those who opposed entrenchment hold the collective and majority rights must take priority over the individual and minority rights. It is my submission that the majority rights end where the minority rights begin.

Without the protection of the liberties of the individual we can see the erosion of the liberties of our society. No law is perfect and notwithstanding it is entrenched, it can be amended and perfected just as the United States of American has amended its Constitution. Remember this, United States has amended its Constitution on many occasions. We have seen Watergate in United States and some hold that as a terrible example of democracy. I think it is the best enema democracy has had in North America.

The other side of the coin, the government of the day was not able to hide behind a veil of secrecy. It was accountable not only to the people, but to the law of the land. The divine right of the President or of one man was once more struck down in that he was not above the law.

No government in Canada should be above the law. We are a federal state with the division of powers of certain rights as already entrenched. Gallup Poll shows that 91 percent of all Canadians feel that our Constitution should guarantee basic human rights.

Mr. Green mentioned a number of cases, but we must remember in the United States they have a division of powers between the federal and the state, and the repository of powers resides with the state and what Mr. Roosevelt was trying to do was take over state rights in the majority of those cases mentioned. That is why the Supreme Court of the United States was saying, "Look it, you are taking over state's rights and the repository of powers are with those states."

Our Bill of Rights must not be just guiding principles but must be entrenched so that the judiciary can apply it and override legislative and administrative actions which violate our fundamental freedoms. It has been stated that the purpose of constitutions are to keep government off the backs of people.

Gentlemen, I am going to close because there is a number of people who would like to be heard from, notwithstanding we feel the hour is too late, the door is shut, dissevered governments have taken stands, both federally and provincially.

In John Diefenbaker's speech to the nation from Winnipeg over CBC on the 10th of June, 1948, he stated as follows: "A Bill of Rights for Canada is the only way in which to stop the march on the part of government towards arbitrary power and to curb the arrogance of men clad in a little brief authority." Mr. Diefenbaker was for an entrenched Bill of Rights, an entrenched.

Mr. Green, you were out of the room at the time, but I suggest you read his Volume III.

MR. DESJARDINS: Mr. Chairman, on a point of order.

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: I don't think that we should allow this, because we will have a lot of problems.

MR. BAIRD: Sorry, I apologize.

MR. DESJARDINS: I think the meeting shouldn't be interrupted and we don't want a debate between the

people that are here to present briefs to the committee.

MR. CHAIRMAN: Mr. Baird, would you address yourself to the committee only please? Carry on.

MR. BAIRD: Yes, Mr. Chairman. I am keeping my submission brief because there is a number of people who want to be heard. I think there would be a lot more if decisions hadn't already been made.

MR. CHAIRMAN: Would you permit questions, Mr. Baird?

MR. BAIRD: Certainly.

MR. SAMUEL USKIW (Lac du Bonnet): Mr. Chairman, I am very intrigued by the analysis of the American situation involving the President of the United States. At least that is the example, sir, that you were using. A person that you said was not above the law and yet my recollection, sir, is that the people, his aides, who were protecting him under his direction were all sent to jail but he was not, and therefore I would like you to elaborate how you conclude that Mr. Nixon was above the law of the United States?

MR. BAIRD: Let me put it this way. I say, in my opinion, he was not above the law. He had to resign the highest office of their land and we must remember that the President who succeeded him gave him a pardon, so then you are not above the law. He had to obtain the pardon from the authority of the government.

MR. USKIW: Just to pursue that one more time, sir. I think it is a well-known fact that he had a major role to play in the dealings with his successor before he gave up office and therefore he was certainly not treated in the way that all of the other people that were involved were treated. He was given an exemption from the law.

MR. BAIRD: Some think that the place he will take in history and having the embarrassment of resigning, etc., was penalty enough, and that was the decision of Mr. Ford, the President then, deciding to heal his nation and get it back on the track of work. Otherwise, you were going to divide the nation more.

MR. CHAIRMAN: Mr. Walding.

MR. D. JAMES WALDING (St. Vital): Thank you, Mr. Chairman. I am not a member of the committee, but I assume that won't prevent me from asking a question.

MR. CHAIRMAN: No, I have recognized you Mr. Walding, proceed.

MR. WALDING: I wanted to ask a question, Mr. Baird, following your presentation. I notice in Schedule B of the Proposed Resolution that Article 1 under the Charter of Rights and Freedoms says that the rights and freedoms are subject only to such reasonable limits as are generally accepted in the free and democratic society. I would like to ask you what reasonable limits are and whose reasonable

limits will they be and who will set the reasonable limits?

MR. BAIRD: I think that is where The War Measures Act enacts and the government of the day would make that decision. If we have, and I sincerely hope we never have again that The War Measures Act will be invoked as it was, and I think that is the door opening for that.

MR. WALDING: For clarification then, what you are saying is that these privileged rights and freedoms are set out in here but Parliament can decide what the limits are?

MR. BAIRD: In certain emergencies it has what they would class emergency powers, yes.

MR. WALDING: Other than emergency powers, who sets the reasonable limits?

MR. BAIRD: The government itself may try and set reasonable limits by passing, for instance, things under the Criminal Code, and they say that this is the law and while Mr. Green has pointed out that there are certain things that may not be permitted because it is in an entrenched Bill of Rights, but the government of the day will certainly — there is going to have to be, shall we say, with the Criminal Code and with the question of rights, there will be decisions decided on how far the government can go in that regard.

MR. WALDING: The government will decide for itself how far the government can . . .

MR. BAIRD: Yes, and then the courts will be called on possibly, if somebody contends that they have gone too far, then take it to court. Just like our government today is taking it to the court, they feel the federal government has gone too far.

MR. WALDING: Then it will be up to the courts to decide what reasonable limits are and what they are not . . .

MR. BAIRD: That is right, and I am one of those that have a respect for the courts. Mind you, many times I don't agree with their decision, but I have respect enough that they are away from the heat of political battle that they can make what I consider what they think is a fair and just decision, but later if the Government of Canada and the people of Canada don't consider it right they can amend that Constitution just as the United States have amended their Constitution.

MR. WALDING: I would like to explore one different facet. At the time of the Quebec Referendum it was suggested by the "Yes" forces that a sovereignty association was necessary in order to satisfy the aspirations of the people of Quebec. It was said on the other side of the argument that if the Referendum was defeated that there would be a renewed federalism and the aspirations of the people of Quebec could be taken care of within the federal system and with the new Constitution. Do you see this proposal for changes in the Constitution as satisfying the aspirations of the people of Quebec?

MR. BAIRD: I question that but I'll say this just to start off with on the basics. I am not in favour, I'm one of those who are not in favour of referendums. I don't believe it's our type of system of government. I was only speaking on entrenched Bill of Rights but the way you can amend this by referendum and the federal government setting up the rules itself and plus it can spend millions of dollars on advertising, I don't agree with that.

Now with regard to the question of the referendum, that type, and saying well, we're going to satisfy the aspirations of Quebec, I would say Quebec is just as violently opposed to what Mr. Trudeau is doing, at least the government, I should say. Now the government is as violently opposed to what Mr. Trudeau is doing as the government of Manitoba. But there are those, if you take the Gallup poll, who say, "We favour entrenched rights," 91 percent of Canadians say, "We favor entrenched rights." But now if you asked me who are in favour of entrenched rights, do I favour referendum, I say no. I say we elect our representatives and those people study the questions and they make the decisions and if we don't like it, we defeat them at the polls.

MR. WALDING: Mr. Baird, the question was not on referendums itself, or whether you favour them or not. The question had more to do with what is called the new federalism. Do you see these proposed changes in here as being renewed federalism, whatever that phrase meant?

MR. BAIRD: Yes, and that's why I question it because I think we're more divided today than we were before this came out and before the Budget came out. It's all political. But I would say when they talk about renewed federalism, I think the country is more divided today than ever. So I cannot buy that. All I am saying today, there is many things I would like to deal with in that proposed amendment but I think you take one point and my one point is entrenched Bill of Rights. But any questions, I'm open.

MR. WALDING: Thank you. No more questions.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Baird, it seemed to me that you indicated you agreed with the decisions in the United States Supreme Court that were cited by Mr. Green in his submission previous to yours on the basis that in the United States under their Constitution, there is a division of powers and that the proposed legislation affected the States' powers. Is that right?

MR. BAIRD: In a number of the cases that were cited, and that's why the Supreme Court struck it down, is my submission, is that Roosevelt was trying to take over state jurisdiction and make it federal jurisdiction when it was the question, it belonged to the States. That's my point.

MR. MERCIER: You would agree, Mr. Baird, that we have under our Constitution in Canada, a division of powers between the federal government and the provincial governments.

MR. BAIRD: Yes, definitely, and that's why we have entrenched rights already and we've taken it since 1867 to the court and we used to go right to the Privy Council.

MR. MERCIER: Then you would agree, Mr. Baird, that civil rights are within the jurisdiction of the provincial governments.

MR. BAIRD: No. Property and civil rights come within provincial but those civil rights are restricted under the peace order and good government clause and the question of a Canadian citizenship. My attitude is that any Canadian can move from Prince Edward Island to Alberta or to Manitoba. There are those who would state that civil rights, they can restrict people buying farmland, a Manitoban can be restricted from buying farmland in Saskatchewan or P.E.I., I say no. You're coming within the Canadian orbit of a federal government and you've got to watch it there and I am violently opposed when a statement like that, that civil rights are completely provincial controlled. No sir, we have Canadian rights too. And just as the freedom of information, freedom of press is a federal right; freedom of religion is a federal right decided when the Premier of Quebec, Duplessis, tried to strike down the Protestant minority and they said, "It's freedom of religion." When Alberta, with their Alberta Press Act tried to strike down freedom of press, I'll never forget, Time magazine in Ontario was banned. Why? Because Time magazine criticized the Premier of Ontario. Unfortunately the case — Hepburn, yes, it was Hepburn — but to me there are those freedoms that are national.

MR. MERCIER: You don't think those freedoms were national in the United States then?

MR. BAIRD: I do believe those freedoms are national but certain bills that were mentioned were decided on questions as to whether they came within the state orbit. That's what I am saying.

MR. MERCIER: Where there is reference to minimum wage cases, do you think that is provincial or federal or is it not both?

MR. BAIRD: It can possibly be both. Now if we're talking about United States, let me put it this way. The federal government of United States has assumed great powers. It only has those powers which the states gave to it. It doesn't have any other powers and they have to look into their Constitution which says, "What did the states give to the federal?" But over the years, the federal have assumed mass powers which, according to constitutional experts would say were highly improper, and Roosevelt was the one who led the great lead on that.

MR. CHAIRMAN: Are there any further questions to Mr. Baird? Mr. Einarson.

MR. EINARSON: Mr. Baird, I would like to ask to start off with, one question. Is it your understanding, I think it is mine, that all Premiers across Canada agreed with the Prime Minister that the Constitution

be patriated from Great Britain to Canada? Is that your understanding?

MR. BAIRD: That is my understanding. That is in the recent one but as Mr. Green pointed out previously, it was the provinces that blocked it. Let's put it this way. It's amazing. One day we think one way and we said, oh no, we don't want patriation because they were scared. Once it was patriated, we hadn't got an amending formula. And it was Quebec really, who blocked it because they saw the question. They blocked the question of patriation because it was brought back. They could never get rid of the English speaking rights in Quebec. It was in the Constitution and they didn't have the amending formula so they blocked it at that time until they have a veto power. I'll say this, if you go into it, this veto power of certain provinces and they will have it for all time, is disgraceful. As long as you have 25 percent of the population now, Quebec and Ontario, and say fifty years from now, if Alberta and Saskatchewan and Manitoba each have 25 percent, Quebec still has the veto power even though she may have lost it, or Ontario. But what I am saying, Mr. Einarson, the provinces do at one time say yes, we're in favor of patriation. I think everybody is in favour of patriation. But when we patriate it, how do we amend it? And that's the big hang-up. Now this one proposes amendments by referendum and I find that frightening and especially when they control our taxpayers' dollars and can publicize with millions of dollars and saying we've got to do this, by television, radio, and sign boards.

MR. EINARSON: Second question, Mr. Chairman, to Mr. Baird. Is it your understanding that the Prime Minister would like to patriate the Constitution through an amended formula being done in Great Britain before it comes to Canada?

MR. BAIRD: Yes, it's my understanding that his desire is doing that and I go along with what Mr. Green says and I go farther. We're taking it to courts but our courts have no control on Great Britain. They're Canadian courts and it's only a resolution of the House of Commons. It's a resolution of the House of Commons. It's not an Act. It's resolved. It's a resolution, so you haven't got an Act. I question very strongly taking it to court, I really do. But any decision by our Canadian court will only be psychological because it has no jurisdiction in Great Britain.

MR. EINARSON: Mr. Chairman, on the question I just posed about an amending formula to the Constitution before it comes back to Canada, is that not one of the criteria that you just mentioned about Ontario or Quebec having a veto power? Is this not what the Prime Minister has in mind what he would like to see happen, and is this not a real danger that I, talking to people in western Canada, not see a real danger in it?

MR. BAIRD: I think it's a frightening danger when it comes to the question as to how he is proposing to amend the Constitution and I say this, it's very frightening for all Canadians, very frightening for all Canadians. When you consider you control the

publicity, the rules, and how you can get things passed, it's just mind boggling, what is going to happen in that regard, if you have a person in power who is acting improperly. But even though he is not acting improperly, I find it frightening.

MR. EINARSON: Thank you, Mr. Chairman.

MR. CHAIRMAN: Are there any further questions to Mr. Baird? Seeing none, thank you, Mr. Baird, for your presentation.

MR. BAIRD: Thank you very much, Mr. Chairman, and gentlemen, and I appreciate being heard.

MR. CHAIRMAN: Earlier I indicated that there were three parties from out of town that would like to be heard today. The first one is Reeve Dennis Heeney from Brandon who says that he cannot appear at the Brandon hearings. Is Reeve Heeney present?

MR. DENNIS HEENEY: Mr. Chairman.

MR. CHAIRMAN: Would you like to proceed to the lectern, please? Do you have copies of your presentation, Mr. Heeney?

MR. HEENEY: Yes I do, Mr. Chairman. If I may, I would like to make a few remarks that are not in my text.

MR. CHAIRMAN: All right, carry on.

MR. HEENEY: First of all I wish to take the opportunity to thank the government of Manitoba for this opportunity and I am only sorry that the government of Canada did not see fit to do the same. I would share the sentiments of some of the former speakers who feel that maybe it is somewhat belated but nevertheless it's better late than never.

I think one philosophical thing, or a couple that I would mention before getting into this presentation is that I believe there is no such thing as a free lunch. I think that everybody has to pay sooner or later, whether you're talking about rights or whether you're talking about economic matters and the concept of something for nothing or the welfare state is simply a progression towards communism and I think that communism, whether it has been indicated by some people in the United States that communism is being financed by financial moguls, not only in the United States but in Europe and if this is true and it has not been denied, then I see no difference to the gun at my head, whether it's a communist holding it or a capitalist. Therefore my main concern is simply that the democratic rights of all Canadians be protected in our Constitution.

Do you wish me to proceed then with my text?

MR. CHAIRMAN: Yes, please carry on, sir.

MR. HEENEY: Gentlemen, at the present time Canada has no Constitution even though — and I interject — even though we keep referring to the BNA Act as our Constitution. We have The British North America Act and this is an act of British parliament. There are many arguments in favour of retaining this system, our traditional ties with the British Commonwealth and the monarchy. But since

our relationship with both has been relegated to that of a formal role only then perhaps it is time that we had a Constitution written by Canadians and for Canadians.

It's vitally important however, that first of all, all the people of Canada have an opportunity to be actively involved in the drafting of this document since it deals with basic rights and principles. The fact that these issues are fundamental to democracy places the whole matter of constitutional reform above party politics.

2. We must determine what a Constitution should do or should not do for us, i.e., should it replace some of our political system or should it simply refer to interpretation of the law?

3. We must agree to an amending formula that will ensure that in the future the basic rights of all Canadians are protected in a manner which clearly indicates a definition of democracy that is acceptable to all Canadians.

What then is this definition of democracy?

The most widely used definition was expressed by Abraham Lincoln. He said, "Government of the people, by the people, for the people." According to Winston Churchill this still remains the sovereign definition of democracy. However, my personal favorite is John Gaylesworthy who quoted that "The measure of a democracy is the measure of the freedom of its humblest citizens." Now democracy in practice often falls short of its idealistic objectives but it should not however prevent us from continually striving to improve this system.

Events in recent majority federal governments indicate that in fact, democracy and the rights of people are diminishing and I'll give you some examples.

1. The present Prime Minister is seeking patriation of The BNA Act with an amending formula without the unanimous consent of parliament and the provinces. This has not been done in the past and puts the British parliament in an awkward position and forces them to take sides. Such a thing should not happen and need not happen if democracy were allowed to function to the extent that the people of Canada approached the British government only after they had reached agreement.

2. After the 1979 and 1980 federal elections, both governments found themselves without representation in certain areas, Quebec in 1979 and western Canada in 1980. Both times the Prime Ministers appointed defeated candidates and members of rejected political parties. This showed their disdain for the people who had exercised their democratic rights and elected people of their choice. In my estimation this is a flagrant abuse of democratic rights.

3. Federal and provincial politicians are continually making conflicting statements on various subjects, but in all cases they claim to be speaking for the people. On matters as fundamental as the constitution and democratic rights, then no one can speak for that individual but himself.

4. The present system of representation by population has resulted in a majority federal government in which one-half of this country geographically has no representation.

5. The present federal government has authorized the spending of up to six million dollars of taxpayers

money to promote a constitution formulated by one individual without consultation with the people of Canada, and it's rather ironic that those of us appearing today are doing so at our own expense because we have to oppose the views taken by the Prime Minister.

6. The Quebec Referendum was validated by the Prime Minister and the Leader of the Opposition. The people of Quebec were promised a better deal if they rejected sovereignty association, yet there has been no suggestion that the people of the other nine provinces could have the same choice. It is discriminatory to allow Quebecers the right to decide their future without allowing the people of the other nine provinces the same option. In addition, the results of that referendum have been misinterpreted by both politicians and media. The actual vote was 60-40 in favor of federalism, but it must be recognized that 20 percent of the voters in Quebec are English speaking and most certainly would not vote for something that could deprive them of their language rights. Now if this 20 percent are not counted the result is 50-50, with those voting no doing so because of a promise from two political leaders, who had no right to make those promises without the agreement of the other nine provinces.

Now, there are infinitely more examples of an eroding democratic system. No doubt a portion of this is attributable, and I think a large portion, to an apathetic and ill-informed electorate. This does not mean, however, that the present actions by those in responsible positions is acceptable. In regards to an amending formula, it's a very important part of this new Constitution, and since we are dealing with basic principles rather day to day legislation, such a formula will be little used and must be quite rigid to protect the people from majority governments who make changes, which though suitable to them are not wanted by a large percentage of the population. This formula should continue to be one of unanimity, which has worked well for 113 years. This unanimity should be between the federal and provincial governments, or on the unanimous consent of Parliament in a free non-party recorded vote.

The Language Rights:

English is the universal language, and it has not yet been practically demonstrated that the benefits of having two official languages offset the animosity and inconvenience that it has caused. Quebecers of French origin are not unanimous in their concept of a workable dual system. Indeed, the present Government of Quebec is opposed to having The Official Languages Act included in a new Constitution. I would support language rights as stated in The BNA Act only insofar as they apply to the use of French in Parliament and the federal courts. In all other instances English should, by tradition and practicality, be our only official language. I also support the right of each province to declare as their official language whatever one the majority of their residents favor.

If there is going to be such a change as suggested by the Prime Minister, then it should occur only when the majority of Canadians have so decided. They should accept or reject the proposed change by a separate referendum held in each of the other nine provinces, and not a national referendum such as the

Prime Minister has suggested. To do otherwise is undemocratic and totally unacceptable.

I have no objections to the section on legal rights. They are desirable and inherent in a democratic society, which presumes innocence until guilt has been proven, but we must be careful, however, that justice is not obstructed by becoming overly protective.

The section on democratic rights, in my opinion, is the most important and significant part of this Constitution. If democracy and the basic framework for governments to operate in are ensured then human and individual rights will be protected. This can best be achieved by including some basic procedural rules for governments in our Constitution. If they are omitted then we could very well end up with a system similar to that in the USSR. As a people we must insist that included in this section are changes that will limit the powers of governments and particularly individuals within those governments, such as the Prime Minister and the provincial Premiers. To be truly a free democratic society we must have some protection from arrogant and dictatorial majority governments. This can be achieved by including some checks and balances into our present system, and I should like to suggest the following changes which may help achieve this:

1. The division of powers as is presently laid out in The BNA Act is quite satisfactory to me, but there should be a more definitive role for the federal government in resource control. This role will be decided by consultation between federal and provincial governments. If there is now unanimous agreement on the principal of equalization payments, then it would seem in keeping with this to consider that if Alberta oil belongs to Alberta, why then should not Canadian oil belong to Canadians. This is simply to say that equalization means that the "have" provinces are to help the "have nots", and if this is the responsibility of the federal government then they must have some access to resource revenue which is our prime source of financing.

2. Federal and provincial elections should be held every four years instead of five and on a pre-determined date stated in the Constitution and not at the whim of the governing party. If and when minority governments are elected, they should be required to fill out their term the same as majorities. History has shown that some of our most productive governments, as far as the people are concerned, have been minorities.

3. Public disclosure of campaign funding. Now this may not be apt for inclusion in the Constitution, but I make mention of it because it seems that no political party is in favor of this kind of legislation even though in the past they have promised to do so. Prime Minister Trudeau, prior to the 1972 election, promised in his campaign that he would include this kind of legislation if he was elected and it's never happened, and the opposition parties have never insisted that it do. If political parties have nothing to hide, then let's have this legislation. We need protection from governments who may allow themselves to be controlled by large corporations and financial institutions who have financed their campaigns. Since politicians will not deal with this matter in the proper way then we should insist that it be in the Constitution.

4. Proportional representation. The 1980 election results, and to a lesser extent 1979 results, indicate that representation by population must be reconsidered as the status quo in determining the make-up of governments. We need proportional representation or something similar so that all regions and all special interest groups have an opportunity to place their concerns before Parliament and be assured of a fair hearing.

5. We should have the right to elect not only our MP, but also our Prime Minister. Now an alternative to this would be to elect at large the Speaker of the House, because someone in Parliament must be accountable to the people, and that isn't happening in the present party system. We should also move to reduce the powers of the Prime Minister and provincial Premiers so that we move away from the present dictator concept and put government back to Parliament where it belongs. It's interesting that municipal governments who receive their procedural direction from provincial governments are far more democratic, that is in my opinion, than either of the two senior levels. And this is largely due to the non-party system, which allows elected representatives to vote according to the wishes of their constituents and/or their conscience. The head of the council acts more in the role of an adviser, rather than the principal legislator.

6. We should abolish the Senate as it presently exists, and replace it with one that has equal representation from each province. These members should be provincially elected or appointed for the same term as the MP's, and this new Senate would have power to initiate, amend and veto parliamentary legislation. They would serve as a check and balance in the system.

7. The Supreme Court judges should be appointed, one from each province and their term should be for a limited time, but not necessarily four years, it should not be for life.

8. And finally, the most important of all, a special clause must be included, and I have second thoughts about this, in the new Constitution. This clause would allow 15-20 percent of the electorate of a constituency, province or the country as a whole to, by petition demand and receive an election of an MLA, MP, or provincial or federal government.

Such legislation would seldom if ever be used, but it's existence would act as a deterrent for irresponsible politicians. Surely the calling of an election by the electorate is not less democratic or reasonable than the present system which allows politicians to go back to the people because they simply are dissatisfied with the democratic choice that was made by those people.

The classic example of this situation was the 1979 and 1980 Federal Elections. In 1979 the politicians were not happy, at least some of them, with the results of that election, so they demanded that the people vote again. And yet in 1980 when the results showed that the majority was almost one-half of that country having no representation in the government, there appears to be nothing that the people can do to correct this situation short of separation, and surely the power of recall in the hands of the people would be a more sensible and democratic alternative.

In conclusion, I would stress once again that in my opinion, which I believe is shared by the majority of Canadians, we would see our new Constitution serving us best by protecting us from dictatorial governments, and I would insert in here, I would rather have the power of dictatorships be with the governments than with the courts. I would certainly agree with Mr. Green on that, rather than enabling these same governments to continually gain more and more control over our lives.

I would like to close with two appropriate quotations referring to the subject. One from the former British Prime Minister, William Gladstone, "The unity of a state is inevitably strengthened and promoted, not retarded, by granting local autonomy to its component parts and that over-centralization creates hazards and brings ultimate destruction", and from Woodrow Wilson "The history of liberty is the history of limitations of governmental power, not the increase of it."

If we truly believe in a free democratic system, then let us return power to its rightful owners, the people, and let us further enhance that meaning by placing these objectives in a new Constitution. In this way we will not only declare to the whole world our belief in democracy, but we will leave to our children the most precious of all legacies — the freedom of choice.

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

MR. HEENEY: Yes.

MR. CHAIRMAN: Mr. Parasiuk.

MR. PARASIUK: Yes, I just want to clarify what you mean on Page 3 when you're talking about language rights, are you saying that the English minority in Quebec should not have any minority language rights. Is that what you are saying on Page 3 when you say the provinces should be in a sense unilingual, and that would be determined by a referendum held in each province, is that what you're saying?

MR. HEENEY: Yes.

MR. PARASIUK: So that there would be no English minority rights in Quebec.

MR. HEENEY: If the people of Quebec decided that way that's true, and the same would apply to every other province.

MR. PARASIUK: Okay, I just wanted that clarified.

The second point was on Page 4. Are you saying then when you're talking about your division of powers, you are saying that the federal government should have a role with respect to resources; are you then saying that the federal government should have a role in setting oil prices, and in distributing some of the wealth they derive from oil between provinces? Are you in favour of that position?

MR. HEENEY: I suppose in general terms I would say yes, but that's dangerous to be generalizing in that regard, but I would rather say that the federal government should have some jurisdiction in a

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central form, but that that pricing and arrangement be arrived at by agreement between the provincial governments and the federal governments.

MR. PARASIUUK: Right. Okay, then that means you wouldn't be in favour of the position which seems to be adopted by Premiers Peckford and Lougheed, who say that they want complete total control over resources in all facets, and for example, the Premier of Alberta would like to set the price of oil unilaterally, and since he really doesn't set the price of oil but the sheiks in the Middle East set the price of oil, that would mean that the price of oil would be set by the sheiks of the Middle East, and in a sense confirmed and put into effect by Premier Lougheed from Alberta. Do you agree with that particular position that has been taken by the Premier of Alberta with respect to the underlying issue in the whole constitutional debate, mainly power between the provinces and the federal government?

MR. HEENEY: I think you're talking about two things, the pricing, and I think the pricing should be left to the free market system in the world, supposedly free market, but division of powers, I'm opposed to the provinces having complete jurisdiction over the resources. I would think that as a country we cannot exist unless that's shared federally.

MR. PARASIUUK: Thank you.

MR. CHAIRMAN: Mr. Blake

MR. BLAKE: Dennis, you mention in here that resource revenues was the prime source of financing. That could be, I'm not sure of that. I felt that it might be some other source, such as income tax, it might far exceed that, but I just wondered if you had some basis for that, or if it was one of the prime sources maybe?

MR. HEENEY: Typing error, it should not be "the" it should be "a".

MR. BLAKE: Yes, okay that's fine, I thought maybe there was something there that . . .

MR. HEENEY: But it is a principle source.

MR. BLAKE: All right, one further question. Are you in favour or opposed to entrenching in the Bill of Rights the rights and freedoms that have been suggested?

MR. HEENEY: I believe that if the principle of democracy works in Parliament that it's not necessary. I would prefer it to rest with Parliament where it can be changed to the will of the people rather than to have it in a Constitution because it's been pointed out that the Russians have the most probably eloquent Constitution in the world and it doesn't mean a thing. The United States have a very eloquent Constitution, and they still have ghettos, and they still have problems with poverty, and they still racial discrimination, after what, 200 years, so obviously Constitution doesn't solve it. If the collective will of the people isn't there the Constitution is nothing.

So I think we're over-emphasizing the rights of Constitution, except when we put down what you may or may not do. As long as there's no Constitution fine, but if it becomes very detailed, then it becomes very dangerous, whatever it says.

MR. BLAKE: Thank you very much, Mr. Heeneey. Thanks, Mr. Chairman.

MR. CHAIRMAN: Are there any further questions from members of the committee? Seeing none, thank you very kindly, Sir, for your presentation. Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, may I make a suggestion before we proceed. I wonder if we could go on and prioritize or number the people that will be appearing to help them out this afternoon, to see what we can do if they are here.

MR. CHAIRMAN: To you, Mr. Desjardins, and other members of the committee, there are three others that I have had indicated to me that are from out of town, a Mrs. Edna Graham from Pinawa, a Mrs. Friesen from Headingley, a Mr. Lorne Parker representing the Farm Bureau who resides out of the city of Winnipeg. Are any or all three of those persons present? I see one. Is that Mrs. Graham or Mrs. Friesen?

MRS. EDNA GRAHAM: I'm Mrs. Graham.

MR. CHAIRMAN: All right.

MRS. GRAHAM: If I could ask the committee to continue sitting perhaps for 10 minutes, my talk is very short, it only takes about three minutes.

MR. CHAIRMAN: We were planning to sit till 12:30.

MRS. GRAHAM: Good.

MR. CHAIRMAN: All right. To you with your question, that is the next three that I was proposing to entertain and then I would go to the two others that asked that they be heard today and that is a Mr. Jeffrey Plant and Mr. Vic Savino, representing the Law Union of Manitoba. They have requested today to be heard and that they could not be heard tomorrow. So that would be my next five.

MR. DESJARDINS: Mr. Chairman, then would it be the intention to follow those as they are on the list?

MR. CHAIRMAN: Yes, I would follow the list as is. Mr. Kovnats.

MR. ABE KOVNATS (Radisson): The last of the list you have a Mr. Kenneth Emberley and Mr. Walker, who also prefer to present on the 17th, which is today. Would they be the next two in line?

MR. CHAIRMAN: All right. They are after 4:00 p.m., I believe.

A MEMBER: Right.

MR. CHAIRMAN: Yes. Well, when we get to 4:00 p.m., let's see if we've gone through the five that

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wish to be heard today and then we can perhaps go to those persons. Is that agreeable?

MR. DESJARDINS: We're not making a decision. I think that if you're saying that you're going to go with Mrs. Graham, Friesen and Lorne Parker then you follow the list but then you are saying that it's 4 o'clock.

MR. CHAIRMAN: There are persons that have asked to be heard.

MR. DESJARDINS: So these people might be waiting here till 3:30 or so and then you jump them and go to the one at 4 o'clock. I think we should decide that today because it's no use having them wait all day.

MR. CHAIRMAN: I'm open to suggestions from members of the committee. I know it's very very difficult to place one party ahead of another one and be fair to all, but the normal practice is that we try to look after out-of-towners first and I have listed five now. Let us see if the committee would agree to this suggestion that the five that I have listed that have asked for today and when we have concluded with those five, let us see what the time of the day is and where we sit at that particular time. How is that?

MR. DESJARDINS: Mr. Chairman, I have no objection to the five and after that I think maybe we should follow this, follow the list the way we see it now including the second page, they would come after the first page because it's not fair at 4 o'clock and say, oh, we quit. These people have been here and now we go to Page 2. This is what I don't want to see happen.

MR. CHAIRMAN: I can see your point because there are people who . . .

A MEMBER: Those are after four, that's all he's saying.

MR. DESJARDINS: That's right, but the others should follow. They shouldn't lose their place.

MR. CHAIRMAN: To Mr. Kovnats, there are people that are listed on the list that are not in the first five that I've read off that I know that are present and what Mr. Desjardins is saying is that all of a sudden at 4 o'clock, are you going to deny them the right if they were to be the next person and go to that list that is requested, speaking privileges between four and five.

MR. DESJARDINS: Because it might be, Mr. Chairman, if I add also, I think that the committee has decided that if in two days we're not finished we will come back to Winnipeg and it might be to accommodate these people that we might have an evening sitting because certain people apparently can't be here during the day, that's the way I take it. But I mean we shouldn't disturb today and tomorrow and follow the list. Okay.

MR. CHAIRMAN: It's my opinion that some time tomorrow we will decide whether additional Winnipeg

hearings are necessary and at what time they should be held.

MR. DESJARDINS: Right.

MR. CHAIRMAN: All right, Mrs. Graham. Mr. Kovnats.

MR. KOVNATS: I would hope that maybe we could have some indication as to the order in which tomorrow would be followed. Would the ones not heard today that are listed as November 17th be heard in the order that they are listed on the 17th start tomorrow on the 18th?

MR. CHAIRMAN: With the exception that the French translation, Mr. Forest would be first and others that have asked, that there is the Société franco-manitobaine.

MR. KOVNATS: That would be my recommendation, Mr. Chairman.

MR. CHAIRMAN: Because Mr. Mercier has said that it does take some time to arrange for the equipment and it is expensive. We don't want those persons involved just to be sitting here doing nothing. So that would be the way we would start tomorrow morning and then we will go back to the list as to where we finished off.

MR. KOVNATS: That's acceptable to me, Mr. Chairman.

MR. CHAIRMAN: Is that agreeable to the members of the committee? All right, Mrs. Graham from Pinawa. Do you have copies of a presentation?

MRS. GRAHAM: Yes, there are some copies here. I don't know whether there is enough. There are 12 or something there.

MR. CHAIRMAN: That should be sufficient. Mrs. Graham, carry on, please.

MRS. GRAHAM: Yes. I would like to say this is just a small voice from a Canadian and it won't match these learned briefs that you have been listening to up to this point, but first I would like to thank this committee for giving me this opportunity to speak. I have come to speak for Canada. I am a fifth generation Canadian. My ancestors came from Scotland to Nova Scotia and from Nova Scotia they migrated to Ontario and from Ontario to Manitoba. My ancestors helped to settle and develop Canada, some of them fought and died for Canada. This background has always made me feel that I am a Canadian. Canada is my homeland.

I support Mr. Trudeau's efforts in patriating our Constitution with an entrenched Bill of Rights and an amending formula but no one government and no one man can build a national community alone. I hope and I think there are many Canadians who will join him in this historic struggle. If he is not successful this time it will be a long time before we have another Prime Minister who will have the courage to try again.

Do you remember the fight over the Canadian flag? The Conservatives accused Prime Minister

Pearson of dividing the country, alienating the west, and catering to French Canada. The Conservative Party are using similar tactics now, yet the flag has been a unifying force. Who would want to return to the Union Jack now as our official flag? I believe that in the long run our new Constitution will have a unifying effect on Canada, in spite of the discord occurring now.

It seems to me in this disagreement over the Constitution that some of the provincial Premiers and the Conservative Party are doing great damage to our country; they are trying to turn Canadians against one another. They are using these deeply emotional issues to divide the country, fanning the feelings of alienation wherever they can find them. This is unprincipled political opportunism at its worst because it means the future of our country. They are seeking to divide our country for their own short-term political goals.

Mr. Lyon's objections concerning an entrenched Bill of Rights seems to me to stem, not from his concern for Canadians, but from his concern with his own political power. He maintains that our rights are protected by the parliamentary system but I notice he is not using the parliamentary system to fight the entrenchment of a Bill of Rights; he is using the courts. Why shouldn't a private citizen have the same right to the courts to protect our rights? We are the people and this is our country. The rights of Canadians should be equal no matter which province they choose to live in.

True unity is based on the goodwill of all Canadians for one another. I am convinced that Canadians have this goodwill. We are all Canadians, let us work together to show our goodwill for each other. If we do this we will build a better Canada for us all. Thank you.

MR. CHAIRMAN: Mrs. Graham, would you permit questions from members of the committee?

MRS. GRAHAM: Yes, I would.

MR. CHAIRMAN: Are there members of the committee that wish to ask Mrs. Graham any questions? Mr. Schroeder.

MR. VIC SCHROEDER (Rossmere): Thank you, Mr. Chairman. Just to comment to Mrs. Graham . . .

MR. CHAIRMAN: A comment or a question?

MR. SCHROEDER: It's a comment. I would just like to thank you very much for the presentation which puts into words what I believe many Canadians feel about what is happening and about the Constitutional amendment. Thank you.

MR. CHAIRMAN: Mr. Blake.

MR. DAVID BLAKE (Minnedosa): Yes, I also would thank Mrs. Graham for the time and trouble she has taken to appear before a committee such as this because it's not the easiest thing for ordinary citizens to do. I assume that she is probably the president of the local Liberal Association in her area, but regardless of that . . .

MRS. GRAHAM: May I make a comment on that?

MR. BLAKE: Certainly.

MR. CHAIRMAN: You can answer Mr. Blake's question when he has finished asking the question.

MR. BLAKE: I agree with some of the items in her presentation, that the rights of Canadians should be equal no matter what province they live in, things of that nature. I don't agree, of course, with the comments that she has made about the stand taken by the Premier in connection with the entrenchment of the Bill of Rights and the methods that have been used to go about it. I think, Mrs. Graham, you will agree that it was agreed by all of the provincial Premiers that the Constitution should be brought back to Canada. There was no question about that; there was complete agreement by the Premiers that an amending formula was agreed upon in Vancouver and that once the Constitution was brought back that then it could be amended. Now, if that is not your understanding, I would like your comments on it.

MRS. GRAHAM: Yes, Mr. Blake. First, I would like to say that I have only voted Liberal once in my life; and further, like to the points that you raise, I'm not here to argue legal points, or for that matter even political points. I just feel that this argument and this struggle that is going on seems to be between politicians and not between the Canadian people. I just think you would have liked to have heard from a Canadian.

MR. BLAKE: If I comment, as I mentioned, we are certainly pleased and we hope that more people like you that have feelings such as you have expressed to us this morning come forward because I get the impression, in talking in different areas that I have visited, there is more of an awareness being created now and more of an understanding on the Constitution since these meetings have been started or since the televised debates on what happened in the last number of months have been watched and talked about by the people. I don't think anyone was really concerned that much until the last year or two about the Constitution, until it became in the limelight. Be that as it may, I think it has done much to enlighten Canadians, but it has also done much to fuzzy the particular scene that we face with economic problems and whatever. But people like yourself coming forward to committees like this and presenting your views is certainly what the committee was struck for and we thank you for taking time out of your schedule to come.

MR. CHAIRMAN: Before I recognize any other members of the committee to ask questions, if they would like to, can we keep our questions to questions to the delegates and rather than applauding them for coming forward or asking or giving references to what their political allegiances might be. We have about 30 persons that wish to appear before this committee. We have only allotted two days and I asked at the outset that if we could ask members of the committee if they would show some leadership in asking brief questions and perhaps various delegates would give us brief answers.

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Mr. Uskiw, you're next.

MR. USKIW: Yes, I have one question of Mrs. Graham and that is whether or not you would go along with the idea of an entrenched language rights, as opposed to entrenchment of all rights.

MRS. GRAHAM: I would be particularly in favour of that.

MR. USKIW: You would compromise on the question?

MRS. GRAHAM: Yes, but after hearing Mr. Green, perhaps I have second thoughts on the Bill of Rights.

MR. USKIW: Okay, that's good, that's fine.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mrs. Graham, on Page 2 of your brief you make reference to, "They are trying to turn Canadians against one another. They are to divide Canadians." Is it not the fact that it is the federal Constitutional proposal that is dividing this country?

MR. CHAIRMAN: He asked it in a question form, not a comment, but you don't have to answer questions. You just said that you would do your best and that's all we ask from anybody.

MRS. GRAHAM: Well, it's not my feeling. I feel that we need a new Constitution and it seems to me that if the politicians wanted a new Constitution that they could work it out, but it seems to me they just want to argue.

MR. MERCIER: Mrs. Graham, then you feel that this Constitutional proposal of the federal government should be worked out between the federal government and the provinces?

MRS. GRAHAM: No, within the federal parliament, I think. I think it would be very difficult for the federal government to get agreement from the provincial Premiers. It seemed to me that when I watched the Premiers' Conference.

MR. MERCIER: So your view would be that it should be worked out in Parliament as to what should be agreed upon. You would therefore disagree then with a unilateral approach by the federal government without the consensus in the Federal Parliament?

MRS. GRAHAM: It seems to me they have some consensus at the moment and perhaps they will have more consensus when the committee hearings are over.

MR. MERCIER: Is it not the fact that the position of the Opposition in Parliament is that the Constitution should be patriated as soon as possible with an amending formula and the one that is being suggested is the so-called Vancouver consensus on which there has been substantial agreement?

MRS. GRAHAM: Substantial agreement amongst the Premiers or the Premiers of the province only?

MR. MERCIER: Yes. Are you suggesting that the Federal Government should work that out with the Opposition or should they proceed in an unilateral way?

MRS. GRAHAM: I hope they will be able to work it out with the Opposition?

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: Mrs. Graham, then if you want cooperation and if you agree with Mr. Mercier that there should, you would hope, be some cooperation at the federal level, would you think that this should carry in the provincial field, where there should be some cooperation instead of a government going unilaterally to the courts on certain things before listening to the people in the Opposition? Would you feel that what is good in the federal field would be advisable provincially also?

MRS. GRAHAM: It is my feeling that this package that the federal government is proposing does not infringe a great deal on provincial powers and that when the Constitution comes home that the provincial Premiers will have two years to decide on an amending formula and to me they should be able to do it in that two-year period.

MR. CHAIRMAN: Mr. Brown.

MR. ARNOLD BROWN (Rhineland): Thank you, Mr. Chairman. I would like to ask Mrs. Graham to comment on — that Prime Minister Trudeau, if he has his way, a good portion of the Constitution will be done by the British Parliament. Is she concerned about this? Do you think that we should be looking after our own Constitution or would you like to see some other government addressing themselves to the terms of our Constitution?

MRS. GRAHAM: It seems to me that it is just left over from the days when we were a colony and we have to go to the British Parliament for our Constitution. I don't see any other way of doing it.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Thank you, Mr. Chairman. Mrs. Graham, you have spoken in favour of the entrenched Bill of Rights and Freedoms and the very first clause under that section says that those rights and freedoms are subject to such reasonable limits as are generally accepted. Do you have an opinion as to whose reasonable limits should prevail?

MRS. GRAHAM: Well, I would think your — I have never thought of it until this moment, so I would think your representative, yes, your parliamentary representatives, that these would be the people who would decide that question.

MR. WALDING: Mrs. Graham, you might have heard some previous discussions . . .

MRS. GRAHAM: Not really.

MR. WALDING: . . . which suggest that once you lay out a charter of rights and freedoms that it is

then up to the courts to make those decisions and set the reasonable limits. Would you be comfortable to leave these reasonable limits within the view of the judges?

MRS. GRAHAM: If the Bill of Rights just spells out human rights, yes, I would. I think our human rights could be adequately protected by our courts. The reason I say this is because I think the average citizen in Canada feels without power. Even though we vote we still feel we have no power and this would give us, perhaps wrongly, but give us a feeling that we had more power over our own lives if we felt we could take a government to court. That is why I put that in there, but after listening to Mr. Green I must admit he is very persuasive.

MR. WALDING: Just to follow up from your last reply. Do you feel then that the average Canadian would be more likely or would feel easier about taking a case to court or approaching a judge, rather than phoning his MLA or Member of Parliament or local-municipal representative?

MRS. GRAHAM: Yes, I do, because it is usually minority rights that are infringed upon and minorities in a majority government have very little power.

MR. WALDING: On the other hand, it doesn't cost anything to make a phone call to your MLA, and it only costs 17 cents to write a letter. If you write your MP it doesn't even cost you 17 cents. Yet to take a matter to court is obviously involved in a substantial number of dollars from those people. Do you not feel that people would much rather phone their local representative than institute an action in the court if they felt their rights were being infringed upon?

MRS. GRAHAM: Oh, I am sure that would be their first step, yes.

MR. WALDING: Moving on to a different area, you are in support, as you have said, of this particular Resolution. Can you give an example to the committee of how the economy of the country or of Manitoba would be benefited from such a Resolution?

MRS. GRAHAM: Of course, I had never given any thought to that either. I just think that it would have a unifying effect on all of Canada. It would make all feel more like Canadians, just like our flag has. It would give us something to refer to that was truly Canadian, just like our flag is, and perhaps if we all felt more like one country that this might have a beneficial economic effect. That is all I can say.

MR. CHAIRMAN: Before I recognize you again, Mr. Walding, it is 12:30. We have agreed as a committee to take only an hour and one-half for lunch. Do you have many more questions?

MR. WALDING: I believe I had two more questions.

MR. CHAIRMAN: Mr. Hyde and Mr. Parasiuk, can I get an indication from you as to . . .

MR. WILSON PARASIUK (Transcona): Mr. Desjardins . . .

MR. CHAIRMAN: Mr. Desjardins, he had asked your question.

MR. PARASIUK: I was going to ask the same question.

MR. CHAIRMAN: Mr. Hyde, do you have many questions for Mrs. Graham?

MR. LLOYD G. HYDE (Portage la Prairie): One.

MR. CHAIRMAN: Just one. Perhaps we could have those three questions and then break for lunch. Mr. Walding.

MR. WALDING: Mrs. Graham, I wanted to ask you if the passage of this Resolution would do anything to control the rate of inflation or whether it would produce any more jobs in this country?

MRS. GRAHAM: Probably not.

MR. WALDING: Second and last question, Mr. Chairman. Can you think of any beneficial program or action that could be instituted under a revised Constitution that could not be done under the present Constitution?

MRS. GRAHAM: I think if we had an amending formula that worked, probably a lot could be done, but at the moment we don't.

MR. WALDING: Can you give us an example?

MRS. GRAHAM: Well, the division of powers for one thing perhaps. After watching that Western Premiers' Conference it seemed to me that the federal government was quite willing to give up some of its powers that they felt could be handled better locally and perhaps if we get a Constitution back that works, this will turn out this way.

MR. CHAIRMAN: Mr. Hyde.

MR. HYDE: Mrs. Graham, I can't claim to be a fifth-generation Canadian, but I want to assure you that I am a Canadian and can claim possibly close to being a fourth generation, but your comments in regards to the Canadian flag, I don't believe that there was a majority at all of Canadians over all that disagreed with the idea of our own national flag, but I suggest to you, Mrs. Graham, that possibly it was the manner in which the present government chose to enforce upon us, just like they are today when it comes to our Constitution.

MRS. GRAHAM: Who remembers it now?

MR. HYDE: I want to make it be known on record that I believe in the Constitution.

MR. CHAIRMAN: Mr. Hyde, can I interrupt you. The purpose of talking or speaking to delegates that appear before us is to ask questions, not to disagree with their briefs. This debate that it appears that you want to carry on could easily be done in the Legislative Session when it starts on the 11th.

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MR. HYDE: Thank you, Mr. Chairman, I definitely will carry this one.

MR. CHAIRMAN: I have got to ask all members if they would restrict their questioning to short questions to our delegates and not disagree or agree, or compliment them or anything else upon their briefs or else we will be here for umpteen weeks.

I see no other questions. Mrs. Graham, thank you very kindly for appearing before. After lunch Mrs. Friesen from Headingly, Mr. Lorne Parker of the Farm Bureau, Mr. Jeffrey Plant, and Mr. Vic Savino, in that order.

The room will be locked. We will break for lunch. We will reconvene at 2:00 p.m.

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