

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON STATUTORY REGULATIONS AND ORDERS
Wednesday, 26 November, 1980

Time — 10:00 a.m.

CHAIRMAN — Mr. David Blake (Minnedosa).

CONSTITUTIONAL REFORM

MR. ASSISTANT CLERK, Mr. Richard Willis: Gentlemen, if the committee could come to order, we have a quorum. As the first item of business, we have received the resignation of Mr. Warren Steen, who was a member of the committee and the chairman, so the committee is currently without a chairman. Are there any nominations for chairman? Mr. Brown?

MR. ARNOLD BROWN (Rhineland): I would like to nominate the Member for Minnedosa as Chairman.

MR. SAMUEL USKIW (Lac du Bonnet): I'll second that.

MR. ASSISTANT CLERK: Is that agreed? (Agreed) Mr. Blake.

MR. DAVID BLAKE (Minnedosa): Thank you very much, gentlemen. Now that you've got me muzzled, I won't be able to ask any questions of the witnesses. I guess our first order of business should deal with the resignation of the chairman, Warren Steen. We have a letter from him. It's been proposed that Mr. Gourlay replace him on the committee. Will we require a motion to that effect, Mr. Clerk?

MR. ASSISTANT CLERK: Yes.

MR. LLOYD G. HYDE (Portage la Prairie): Mr. Chairman, I'll move that Mr. Gourlay be sitting on the committee.

MR. CHAIRMAN: Moved by Mr. Hyde. Do we have a seconder?

MR. SAMUEL USKIW (Lac du Bonnet): I'll second that.

MR. CHAIRMAN: Mr. Uskiw. Before we call for presentations, Doug, did you wish to . . .

HON. DOUG GOURLAY (Swan River): Yes, I just wanted to take this opportunity to welcome the committee to Swan River. I believe most of the committee members have attended this community in the past and it's a pleasure for me as the local MLA to welcome you all to the constitutional meetings. We are pleased that you were able to hold a meeting in Swan River and I hope that we have a good number of presentations to be heard today. Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you very much, Doug. Speaking, as chairman, I can thank you for welcoming us. It's always a pleasure to get back to

Swan River. I've enjoyed all my visits here, enjoyed my stay here.

For the benefit of those members in the audience, I'll introduce the committee members. For no other particular reason other than seniority, and in recognition of my good friend, Sam Uskiw, I'll start from my left: the Honourable Gerry Mercier, the Attorney-General. Gerry has been very active in the Constitution matters. Gerry represents the area of Osborne in the city of Winnipeg. Sam Uskiw, former Minister of Agriculture who represents Lac du Bonnet constituency. Henry Einarson, Member for Rock Lake, which in the Glenboro-Pilot Mound area. I represent the Minnedosa area. Our Clerk, Rick Willis, and the Honourable Doug Gourlay, who you all know. Arnold Brown, the Member for the Rhineland constituency, and Lloyd Hyde, the Member for Portage la Prairie, and Abe Kovnats, who represents Radisson in Winnipeg.

Now we're open for presentations. I don't know whether we have a list of those presenting briefs, so the first person who would like to present a brief, would they kindly come forward to the podium and address the committee.

Leonard Harapiak. Leonard, you're going to have first kick at the cat.

MR. LEONARD HARAPIAK: Thank you, Mr. Chairman. I have not only the first kick at the cat but I guess I have a first opportunity to speak to a Legislative Committee of this sort. So it is with a little bit of anxiety that I approach this task.

I would like to thank you people, as our MLA has, for coming to Swan River to give us an opportunity to express our views on the matter of the Constitution. I speak to this committee as a Canadian first, and then as a Manitoban, unlike a notable Prince Edward Islander, who has referred to himself as an islander first, a maritimer second, and a Canadian thereafter.

I think our view of the world is changing. Outlooks are becoming more global, and I think it is undesirable at a time like that to assume positions which are more parochial. This view is not meant to deny that there are certain responsibilities which are assigned to different levels of government, be they local, municipal governments, provincial or federal. It is meant to convey the message that we should be broad enough in our outlook that we recognize the role of the federal government, and that the role of the federal government not be reduced to something of little significance and we should not be attempting to establish a number of principalities based on short-term and selfish aspirations.

It is my own feeling that the majority of Canadians are in agreement with the patriation of The BNA Act which presently defines the major elements of our federal system, and I agree with most Canadians also that the task is not a simple one. I've watched with disappointment and frustration, and am sure I share that frustration and disappointment with the people who are actually involved in the process, as

we have seen our leaders unable to come to agreement on sharing of responsibilities or on the basis on which to bring the Constitution home. It could be argued the failure results from inflexibility on the part of the federal government in other instances because of the protectiveness of provincial jurisdictions.

And then entering into all of that is the matter of the amending formula, which makes it extremely more difficult and we find ourselves in an awkward position where I think we all want the Constitution to be brought home but we don't know how to do it.

Following the failing of the constitutional conference, on October 6 I believe it was, the Prime Minister unveiled his package of constitutional reform, and following that of course we had each of the provincial jurisdictions establishing their position with respect to patriation.

I would like to speak to two of the amendments that are referred to in the reform package dealing with The BNA Act. One being the entrenchment of a Bill of Rights and the second being the entrenchment of the principle of equalization payments from rich provinces to poor provinces for provision of basic services. And I choose to deal with the second issue first because I suppose it is an issue which has general agreement. It seems that this principle which has been in place for some 25 years now was generally agreed to by the provinces, that this sharing arrangement allows for poorer provinces to maintain a reasonable level of basic services. It should be noted that some of the provinces which were previously "have not" provinces are now the "have" provinces, and this is true of Alberta. Alberta was the recipient of the equalization payments at one time; for the current year they would not be. I think reference to this points out well that our relative positions as provinces change over a period of time and that we cannot make a decision only on what is best for today but that we must consider what might happen in the future and so many of those things we cannot predict. But we must not become too comfortable in our present situations.

On the issue of entrenchment on the Charter of Rights, my position I think would be one of opposition to that of the position taken by the provincial government. It seems that most people are in agreement that their should be a guarantee of fundamental freedoms, democratic rights and legal rights, along with other rights. The point in debate then seems to be whether these rights are more secure in a Constitution or in acts of Parliament and Legislatures. We presently have a Bill of Rights which is an Act of Parliament but I am told that a weakness of this arrangement is that this particular Act of Parliament cannot overrule any other federal or provincial legislation and that makes it awkward to establish just which has priority.

There have been arguments put forth to suggest that any attempt to list rights is in itself restrictive in that we can assume that we have all rights except those that are listed as excluded. There may be some validity to this argument but my position I guess is that the world is imperfect, legislation is imperfect and I would feel more secure with a list of inclusions rather than a list of exclusions, and I ask the question whether there is not more security in having these rights in the Constitution which can be

amended provided that the amending formula is agreed to, rather than in an Act of Parliament or the Legislature. Both can be changed, but we would agree, even if the amending formula were developed, that it would be more difficult to bring changes to the Constitution. That, to me, seems to lend an element of stability to it.

The Premier of this province has argued that entrenchment of rights would reduce the power of the province and I guess in some respects that might be true, but I think we should separate whether we are speaking of trying to maintain power of the province or when we're speaking of the Charter of Rights whether we're talking about the rights of individuals. And it might be that in entrenching a Bill of Rights that in order to guarantee the rights of individuals there might be some imposition on the power of the province.

I ask this committee to exert its influence, to ask the government of Manitoba to change its position with respect to the entrenchment of the Bill of Rights.

Further, I would like to point out that some people appointed to the United States is an example of a country in which the Bill of Rights has not guaranteed individual rights. Granted, there are problems; as I said earlier, I don't know of a system that is perfect. But a survey by Amnesty International, and I don't know the items that were included in the survey or just how the survey was conducted, but the survey showed that the United States ranks ahead of Canada in terms of human rights and political freedoms. They have a Charter of Rights in the Constitution. A Charter of Rights in a Constitution will not by itself guarantee these rights but it does provide a basis from which to work.

I ask the question also, would an entrenched Bill of Rights make it necessary for us to choose between judges and legislators, because I think that is the question that is being posed as well, that we are in a sense abdicating our responsibility and leaving that with the judiciary. I have some trouble with that because it seems to me that with all legislation that is in place, at some point if there is a question we do refer it to the judiciary, and if the legislation is inadequate would the elected representative not have the opportunity to amend or replace this legislation? I don't see that the Charter of Rights is written in stone, and within that charter there would be the guarantee of the democratic rights that would seem to secure our ability to deal with amendments and changes. But again, I must refer to the amending formula and I recognize that that is a troublesome issue.

It is interesting to note that while there is that concern about the role of judges if a Charter of Rights was entrenched, I believe that the government of Manitoba along with others are at the moment asking the courts to rule on the matter of whether or not patriation is itself legal. So on the whole matter we have gone to the judges — I don't know if we have any choice in the matter, but we are asking the judges to give us a decision in this matter, but yet we seem to be cautious about the matter of judges interpreting a Charter of Rights at some later date.

I would like to conclude with some general concerns of mine, not concerns regarding the two specific areas that I've mentioned. I think that we in

western Canada, I'm speaking now of a person in western Canada, not only as a person in Manitoba, has to be careful not to yield to a temptation that we're being subjected to at this time. We find ourselves in a position of economic influence which we have not been accustomed to. No longer are we in western Canada sort of the frontier or the backwoods of the hinterland. There have been problems of tariffs and freight rates which have been a source of aggravation to the west, and perhaps there has been too great a concentration of influence in central Canada. Now we have in western Canada, two commodities, energy and food, which are causing the centre of influence to shift our way. And as we deal with the issue of the Constitution, I think we have to not yield to the temptation to, shall we say, do unto them as they have in the past done unto us.

Canada as a country is very young, and we have had growing pains, and there have been some inequities in the system. What we should put in place at this time, if we have the opportunity to go ahead with it, should be based on a positive image of the future of Canada rather than selfish and regional interests. Surely there will be regional advantages to different parts of Canada from time to time, but those who enjoy an advantage at a particular moment in time should not isolate themselves from the rest of Canada.

I'm troubled by the talk of western separation. We had Dick Culver of Saskatchewan proposing the annexation of western Canada to the United States with a unionist movement. In recent weeks it has become very fashionable in Alberta to attend sizable meetings to discuss western separation, and I heard on the radio as I was driving to work this morning that I think just outside of, in Calgary perhaps it was, that a group of some 1,700 people gathered and they received a fairly enthusiastic response to the issue of separatism. That concerns me immensely. I'm told that the majority of the people in attendance are people associated with the oil industry and from the Chamber of Commerce, but I think that is an over-simplification of the case; that the question that comes to mind for me is whether the goals and interests of the individuals involved in these movements goes beyond the period of time when the fossil fuels will be depleted. I'm concerned that their outlook is somewhat short term. And when we're talking about the fossil fuels, I think there are figures to show that we are talking in terms of light oil, something like five years; heavier oil, something beyond that. But in terms of, hopefully, our existence as a nation, we are really talking about a very short period in time where fossil fuel will be the source of power for Alberta, in particular.

In summation, I would like to make the following points: I would like to see the Constitution patriated; I favour the entrenchment of a Bill of Rights and I support the entrenchment of an equalization formula. I regret that I cannot make some firm suggestion for an amending formula. I suppose in admitting to that I'm recognizing the difficulty of the problem and I think the legislators, both federal and provincial, have been troubled by that same issue. So I don't pretend to be able to answer that for them.

Surely, we as Canadians can patriate the Constitution without fragmenting Canada. Perhaps there is a glimmer of hope as our leaders move across political lines in an attempt to reach a solution. We saw Premier Davis of Ontario giving really unqualified support to the Prime Minister; we see Blakeney of Saskatchewan and Lougheed of Alberta finding some common ground; and here in Manitoba we see Sterling Lyon and Sid Green both opposed to the entrenchment, if not for the same reasons. As long as political flexibility is not replaced by regional rigidity, I think a solution can be reached.

I wish to close, not on a negative note, but I hope that the government of Manitoba having committed itself to challenging this issue in the courts will not leave the information that they glean from these hearings to be insignificant. My concern is perhaps that these hearings should have been held at an earlier date. It may have provided more of an opportunity to give direction. Thank you.

MR. CHAIRMAN: Thank you, Mr. Harapiak. Will you submit to questions from members of the committee?

MR. HARAPIAK: Yes, I will.

MR. CHAIRMAN: Thank you. If there any questions that you don't care to answer, of course you are perfectly free to decline.

MR. HARAPIAK: Thank you.

MR. CHAIRMAN: Mr. Mercier.

HON. GERALD W.J. MERCIER (Osborne): Sir, you refer to the timetable for these hearings. I ask you, sir, if you agree with the timetable developed by the federal government involving the meetings of ministers during the summer months for four or five weeks and the suggestion from the Prime Minister that these matters had to be resolved at the meeting in September, and deadlines in parliament closure, deadlines for the joint House of Commons Senate Committee to receive submissions by December 9th and report. Do you agree with the arbitrary deadlines imposed by the federal government?

MR. HARAPIAK: It's difficult for me to answer that very frankly. I'm not trying to avoid the issue but I don't, as a person here, removed from the political discussions and I'm not sure of the mechanics of people getting together . . . It may be that that time line was too short.

MR. MERCIER: Well, sir, the deadline for the hearings by the House of Commons Senate Committee is until December 9th. They are only meeting in Ottawa; they are not meeting across the country. They are arbitrarily selecting those people whom they wish to hear from. Do you agree with that format . . . ?

MR. HARAPIAK: I would hope that there would be a better opportunity for people from western Canada to address that committee and certainly if they were to have meetings in western Canada, I'm not aware of any taking place, but if there were those meetings,

certainly it would provide more of an opportunity for western Canadians.

MR. MERCIER: Sir, to go back to the beginning of your presentation, you referred to a quotation from Premier MacLean of Prince Edward Island. Do you have any evidence that he said what you said he said?

MR. HARAPIAK: I am quoting that from the last issue, I believe it was, of the "Manitoba Teacher". That is a quotation from a document. It appears as a quotation.

MR. MERCIER: I just want to say, sir, there's been a suggestion, I've heard from another member of the committee that those words were said by Premier MacLean and we have searched the transcript of the First Ministers Conference and been unable to find that quotation.

MR. HARAPIAK: I chose not to identify him as the speaker, but you have. But in the quotation it was attributed to Premier Angus MacLean.

MR. MERCIER: You have indicated, sir, that you agree with the majority of Canadians who favour patriation which includes our government in Manitoba. Do you favour the amending formula that is being proposed by the federal government in their proposal, the Victoria Charter formula, which would give Ontario and Quebec a perpetual veto?

MR. HARAPIAK: I suppose in a way it would be nice to be able to have each provincial jurisdiction have the same authority in that respect, but I have difficulty resolving that with numbers of people involved. I'm not sure what the figures are in terms of population, but Ontario certainly has a sizeable percentage of the population along with Quebec. If there wasn't the problem of population disparity, I would like to see each province having the same power, but I don't know how you resolve the question of giving, say, each province the same authority but you'd take into account that there is a larger percentage of the Canadian population in that.

MR. MERCIER: Sir, there was another formula that was in general agreed to by the provinces, referred to as the Vancouver consensus, whereby amendments could be made by two-thirds of the provinces with at least 50 percent of the population giving the dissenting provinces the right to opt out of amendments where they affect a province's jurisdiction but it has the advantage of, no amendment could be approved without the federal government's approval, so that would protect the national interest; and the right of opting out protects a smaller province's interest. Would you agree with that kind of . . . ?

MR. HARAPIAK: On the surface, not knowing some of the other possible ramifications, but just on the surface, that is more appealing to me.

MR. MERCIER: Well, on the entrenchment of a Charter of Rights, would you agree sir, the issue is not whether the provinces who oppose the

entrenchment oppose human rights, but the issue is over how best to protect human rights.

MR. HARAPIAK: Yes, I think I stated that in my presentation, that we have general agreement that we should have a guarantee of those rights, but the discussion is on how the rights would best be guaranteed or secured. I do not want to leave the impression, if I did, that the province of Manitoba was opposed to human rights. I don't propose that in any way. I think our point of discussion is on how to best secure them.

MR. MERCIER: Then, sir, you indicated you would feel more secure with rights entrenched in the Constitution.

MR. HARAPIAK: Yes.

MR. MERCIER: In what way, sir, would you feel more secure.

MR. HARAPIAK: I don't know how you define to someone why you feel secure, but if it's listed, if it's stated, if it's spelled out clearly, it seems to me to be easier to identify and in that way perhaps it contributes to a feeling of security for me.

MR. MERCIER: You have no problem then with, for example, leaving words "freedom of religion" to be interpreted by judges?

MR. HARAPIAK: Perhaps I have a naive faith in judges, in the judiciary, but at the moment I'm not uncomfortable with that.

MR. MERCIER: Sir, there have been a number of decisions in the Supreme Court of the United States, and we have to look to the Supreme Court of the United States for the experience they've had in this area because there they have an entrenched Bill of Rights and the judges make the final decisions, and those decisions cannot be changed except by amending the Constitution, which is a very difficult process.

In New York they had a case where the school day began with the following prayer: "Almighty God we acknowledge our dependence upon Thee and we beg Thy blessings upon us, our parents, our teachers and our country". It was held by the Supreme Court of the United States that the U.S Constitution's provisions against an established religion meant at least that it was no part of the business or government to compose official prayers for any group of American people to recite. Do you agree with that kind of decision?

MR. HARAPIAK: You're asking if I were the judge, would I have voted in that way? — No. But I would follow up with the comment to say that I don't think judges are infallible nor are legislators infallible and I think to suggest that we are going to have the Bill of Rights entrenched and turn it over to the judiciary that there would never be a problem, if I'm naive in some respects, I'm not naive in that respect.

MR. MERCIER: Could you put your finger, sir, on the exact problem? I agree with you that both legislators and judges make mistakes. With

legislators, sir, you can change them, with judges they are appointed for life or till age 75 and they are not accountable to the people. Do you agree with that?

MR. HARAPIAK: Yes.

MR. MERCIER: In another case, sir, the City of Eugene, Oregon, had a 50-foot lighted cross erected on a hill almost exactly as the City of Montreal has an illuminated cross on Mount Royal. This was declared to be a violation of the principle of separation of church and state. Do you agree with that decision?

MR. HARAPIAK: I don't think we would be uncomfortable with that in Swan River. I think in fact if you go to the east side of town we have a church with a cross on it and I've never heard any objection to it.

MR. MERCIER: In another case, sir, a suspected participant in a narcotics conspiracy was indicted and released on bail. While free on bail he met a co-conspirator who was also out on bail. They went for a ride and parked in a New York street. The two accused had a long discussion of their participation in a conspiracy which was very incriminating. However, one of the conspirators had decided to go state's evidence and consequently the car was bugged by the police. The court majority threw out the incriminating evidence on the grounds that the accused had been denied his guarantee of right of counsel and against compulsory self-incrimination. They reasoned that the co-conspirator was acting as a government agent and so the accused should have had his counsel present. It's under the Bill of Rights. Do you agree with that decision?

MR. HARAPIAK: That is getting to sound like something very close to home and I'm not just sure where that matter is now. Is it not before a legislative committee in Manitoba?

MR. MERCIER: Well the question is, the interpretation of right to counsel.

MR. HARAPIAK: I don't think I could give you a meaningful answer on that. I think . . .

MR. MERCIER: Do you not think, sir, that the court cases in the United States have extended the right to counsel too far?

MR. HARAPIAK: That is a possibility and I think that we have had opportunity to make reference to that at different times when we've been talking about the rights of individuals as opposed to the right of the larger group, and certainly at some point, you know, in an attempt to protect the right to guarantee, the rights of individuals, if you sacrifice the rights of the larger community, whatever the community is, there is that possibility, yes.

MR. MERCIER: Why, sir, do you think almost every candidate for the presidency in the United States, as part of his platform, has indicated he wants to change the philosophy of the judges who are

appointed to the Supreme Court of the United States?

MR. HARAPIAK: I have no idea.

MR. MERCIER: Do you think it's because they have the feeling that the people of the United States do not agree in many cases with the judgments of the Supreme Court?

MR. HARAPIAK: I think we can point out the cases where there are disagreement, but I wouldn't wonder if there are statistics to show how many cases we could point out where there is agreement. Certainly I am going to agree with you that there are going to be . . . I think with any major case, if you go to the public, there will be somebody that disagrees with the judgment. I don't think it would ever be possible to find unanimous agreement from the public with the ruling of a judge. So, if you're asking for opinions, I think we should ask how many cases are there where there was agreement from the general public. Certainly there's going to be disagreement.

MR. MERCIER: One last case, sir, and I think you'll have some special knowledge of this area. The appellant deliberately used a gross obscenity four times at a school board meeting attended by at least 40 children and 25 women. He was convicted under a New Jersey statute which provided that any person who uttered loud or offensive or profane or indecent language in a public street or other public place is a disorderly person. It was held by the United States Supreme Court that this law was a violation of the appellant's right of freedom of speech.

MR. HARAPIAK: I have no difficulty disagreeing with that one. But I'm wondering what would happen here in Manitoba presently if that did happen. You say there was no conviction in that, but if in Manitoba, if the person came to the school board meeting here and that did happen, in the absence of a Bill of Rights, what action would be taken against that person? I'm not sure if that has any . . .

MR. MERCIER: It could be an offense under the Criminal Code. You still, sir, have no problem with leaving these matters to be determined by Supreme Court, the membership of which is not accountable to the people and in a way you have no idea how they will interpret these various . . . ?

MR. HARAPIAK: Okay. I want to react in this way. A judge can be removed, can he not?

MR. MERCIER: No.

MR. HARAPIAK: For no reason, is there absolutely no reason for a judge being removed from the Supreme Court?

MR. MERCIER: They have been removed for some sorts of conduct, but it's very, very rare, extremely rare. Not because of the kinds of decisions they've made, it's for personal conduct.

MR. HARAPIAK: But where there are problems . . . what we are bringing into question here is the judgment of the judges and not the legislation. I'm

wondering in how many of those cases where there is what seems to be an awkward judgment, is that a problem with some of the legislation that is in place or does it mean that the judge was incompetent? I recognize that at some points that is going to be the case. The judge, you know, as we said before, is not infallible, so he could make an error, but where there seems to be a judgment which doesn't deal with the case properly, does that necessarily mean that it is incompetence on the part of the judge or could it be legislation which is difficult?

MR. MERCIER: Sir, you don't have to answer this question at all if you don't want to but it is related to a subsequent question that I would like to ask you about the Charter of Rights and Freedoms. Do you have any views on abortion?

MR. HARAPIAK: Yes.

MR. MERCIER: The Charter of Rights and Freedoms in part says, "Every one has the right to life". The questions have been raised, "who is everyone?" Does that include an unborn child or doesn't it?

MR. HARAPIAK: That is a difficult one to answer. I am . . .

MR. MERCIER: Do you think the final binding decision should be left to the Supreme Court to decide in what instances abortion should be allowed or should that be the job of the elected people?

MR. HARAPIAK: I don't know that I could answer that just off the top of my head.

MR. MERCIER: There is another clause that says, "Every one has the right not to be subjected to any cruel and unusual treatment or punishment". In the United States in a number of decisions that has been interpreted to mean "to outlaw capital punishment". If in fact as is reported on a daily basis, a majority of Canadians favour introduction or return of capital punishment, do you think that decision should be left to the Supreme Court to decide whether capital punishment is allowed under the Bill of Rights or should it be a decision of the elected representatives?

MR. HARAPIAK: I guess I would have to go back and ask you, if that is in place in the United States now, I know there are some jurisdictions within which they exercise capital punishment, there are some within which they do not — how do those people handle it?

MR. MERCIER: There have been a number of cases recently in state appeal courts outlawing capital punishment in those states under the Bill of Rights. Do you think that's a decision to be made by judges who are not accountable to the people or by their elected representatives?

MR. HARAPIAK: It is an issue which I guess has been addressed in Canada, in recent campaigns that has come up and I think as political people there hasn't even been agreement there, so I am not sure that the legislators themselves are in agreement as

to whether they want that responsibility or whether it should be with the courts. I couldn't answer that either now.

MR. MERCIER: You are saying to us as a previous candidate, you would prefer that decision to be made by judges and you would not want to make that decision as an elected representative?

MR. HARAPIAK: If I had to make it as an elected representative, I would.

MR. MERCIER: Who do you think it should be made by, judges or by elected people?

MR. HARAPIAK: Come back to what I said before, that having the faith as I do in the judiciary, I would not be uncomfortable with the judges making it, but if the legislation was in place that it was the responsibility of the elected representatives and if I was one of those elected representatives I would not shirk that responsibility.

MR. MERCIER: What is your view, sir, of entrenched language rights?

MR. HARAPIAK: I would like to see, I think I am comfortable with the wording that is in place somewhere "where numbers warrant". At the moment I suppose the only consideration I have is for groups and I am from a minority group originally in terms of language, that there be some consideration given to other minority language groups. I recognize the difficulty in determining the extent to which you go in this matter, but I would not be uncomfortable with the entrenchment of language rights.

MR. MERCIER: How far do you think those should be entrenched, to what . . .

MR. HARAPIAK: I have difficulty with that because I am not sure just on what kind of a continuum we are speaking, to what point it could go. Just at the moment I am not sure to what points it could go.

MR. MERCIER: Courts, legislatures, provincial institutions.

MR. HARAPIAK: I suppose where numbers warrant but then it comes back to the definition of numbers, what is a sufficient number? I could not give you a percentage figure right at the moment.

MR. MERCIER: Thank you very much.

MR. CHAIRMAN: Mr. Uskiw.

MR. SAMUEL USKIW (Lac du Bonnet): Yes. Mr. Harapiak, I would like to ask you whether or not there was a need for compromise on this question, that is the question of entrenchment of rights, whether or not you would be prepared to accept a modified entrenchment proposal, namely language rights as opposed to the Charter of Rights.

MR. HARAPIAK: I think in the whole process, I spoke initially about the need not to be rigid and I think certainly if it came to the point of

compromising and saying, okay, we can include this, say, entrenched language rights but not the other, it's better to have part of a package I suppose than none at all.

MR. USKIW: The other question I have has to do with the fact that I believe most people appearing before this committee are sort of dealing with these questions without knowing the full import of what is indeed the federal proposal or without knowing whether they are accurately interpreting the federal proposal. And because of that I think it puts the witnesses appearing before this committee at some disadvantage since they're somewhat in no man's land and any kind of a legal mind can place them in an awkward position on any series of questions. But I am going to try to do that with you with respect to legal rights and I would like to know how you would interpret them.

It says here that everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice. Now, first of all, how do you interpret who a person is? What is a person? I'll clarify what I am getting at. Is a person someone that exists after conception or after birth . . . how would you interpret that section? I'm not sure how a court would, that raises a question in my mind, but how would you interpret that?

MR. HARAPIAK: I think my own interpretation would be that a person comes into being after conception.

MR. USKIW: Okay, so that's one interpretation.

MR. HARAPIAK: Yes.

MR. USKIW: What would your attitude then be if the courts ruled that a person isn't a person until after birth and therefore would rule on their decisions on that basis?

MR. HARAPIAK: I would be uncomfortable with that.

MR. USKIW: Yes, that's our dilemma, I think. The other one is "right to life", which is mentioned here, and if a judicial body, if the Supreme Court said that the entrenchment of legal rights provides that everyone has a right to life — and it's really following up Mr. Mercier's question — and therefore this country could never establish a penal system with capital punishment ever again. Some people are for and some are against and I appreciate that there are reasons for taking either position. What would your position be on that kind of interpretation?

MR. HARAPIAK: Are you asking me what my interpretation would be with respect to capital punishment?

MR. USKIW: Yes, how do you interpret the right to life? Does it include or exclude capital punishment? In other words, does this mean that there shall not be capital punishment? You see, I don't know how to interpret this either; I don't know how nine judges are going to do it. That's why I ask you, what do you think it means? It's a tough one, I appreciate that.

MR. HARAPIAK: Just off the top of my head, it could exclude capital punishment.

MR. USKIW: Although it depends, depends what . . .

MR. HARAPIAK: But it would appear to me, just looking at it very directly it could exclude capital punishment. I was going to go further on that, but I won't because it takes us into a debate for or against capital punishment.

MR. USKIW: Well, those two points, I think, illustrate the point I made in my opening remarks, and that is that I believe most people appearing before this committee don't fully understand or perhaps can't imagine the extremity of positions that may be taken by a judicial body on these questions and, therefore, they are truly at a disadvantage to give us an input on this question without having that kind of knowledge or ability to know that.

MR. HARAPIAK: I agree with you on that, that is why, when I come to a committee of this sort, I don't come proposing to be an expert. I think I'm coming to give you my opinion on these issues to the extent that I know them. I agree you with wholeheartedly that it's impossible for the average person who has contact with the issue through the media, watching six o'clock news, or picking up the daily newspaper or the weekly newspaper, to be as much in tune with the particular issues as people such as yourselves who live it day by day.

MR. USKIW: Would you believe — this is a tricky one again — whether legislators, parliamentarians, should have the right to decide the economic mix of this country and from time to time to change that economic formula, in other words, the right to intervene at any time, as we did in Manitoba with the introduction of Autopac? Would you believe that the province of Manitoba had the right to do that or would you believe that that should have been subjected to a decision of the Supreme Court of Canada before it was implemented?

MR. HARAPIAK: I don't suppose you would accept it if I said I was giving you an unbiased opinion. No, I am comfortable with that decision and I think I have to go back to what I said here, is that there is need to reassess our positions from time to time, because what exists, for example, in western Canada did not exist some years ago and what would have seemed appropriate some years ago would not be appropriate now. So I would agree and I would hope that a Charter of Rights would not exclude the possibility of the government intervening in that way — anything in the Constitution would not interfere with it.

MR. USKIW: So then my last point is that would I be accurate in stating that the present wording or proposal or resolution is probably not worded adequately enough to satisfy you so that you might be able to make a most intelligent presentation and formulate an opinion based on actual knowledge as to how this could be implemented . . .

MR. HARAPIAK: That's correct.

MR. USKIW: You find yourself at some disadvantage because of the wording?

MR. HARAPIAK: Yes.

MR. USKIW: Okay.

MR. CHAIRMAN: Any further questions for Mr. Harapiak? Mr. Mercier.

MR. MERCIER: I think there some other rights in here that could, for example, interfere with an affirmative action program, say, for employment of native people in the north? Do you not think those are decisions that should be made by elected people?

MR. HARAPIAK: That is one example I would feel comfortable with, yes.

MR. MERCIER: Following along Mr. Uskiw's questions and my own previously, would it be fair to say you would now perhaps have some doubts about the language used and the manner in which rights might be interpreted by nine judges appointed by the Liberal Party?

MR. HARAPIAK: Dare I turn around to take a look? No, I think right from the outset that I said, you know, if it's a matter of making a choice at this time, entrenchment - non-entrenchment, I'd lean toward the entrenchment, but I think that there is room for some middle-ground, is there not?

MR. CHAIRMAN: Mr. Einarson.

MR. EINARSON: Mr. Chairman, through you, I'd like to ask Mr. Harapiak — and I think if I heard your comments earlier and what you had to say in regard to the lack of co-operation amongst the provinces in this whole matter of our Constitution, are you aware that all Premiers across Canada were unanimous in patriating the Constitution from Great Britain to Canada? Is that your understanding?

MR. HARAPIAK: In terms of wanting it patriated?

MR. EINARSON: Yes.

MR. HARAPIAK: Yes, I think that's correct.

MR. EINARSON: You understand that to be correct?

MR. HARAPIAK: I think we have to go back to the Vancouver meeting that you referred to. I think it was at that point that there was some agreement and there was even agreement on the amending formula, was there not? I think that's correct — or consensus agreement.

MR. EINARSON: Yes. But in view of some of the questions that have just been asked, for instance — and I can appreciate your problem, such as Mr. Uskiw says, we even have problems and I do — that would you agree if the Constitution was patriated and nothing was done to it until it came back to

Canada, merely patriation of the Constitution from Great Britain back to Canada, and if there was any changes to be made, rather than make them in Great Britain, to be made in Canada by Canadians?

MR. HARAPIAK: Certainly, I would prefer that it had gone the way that there was some agreement in Vancouver but that seems to have broken down. I guess what concerns me as a Canadian now in that that process has broken down, we see some unilateral action being proposed, and certainly, if there is a choice between some co-operative action and unilateral action, I would much rather have the former.

MR. EINARSON: That rather than unilateral action by the Prime Minister?

MR. HARAPIAK: Yes, if it were possible.

MR. EINARSON: Okay, thank you.

MR. CHAIRMAN: Are there any further questions of Mr. Harapiak? Mr. Uskiw.

MR. USKIW: Yes, one last question. If it were practical and possible, would you accept the need for a time limit on bringing this question to a head, that is, the amending formula, not only the patriation? Would accept in principle that there has to be a time limit on the assumption that if there is and it will never get done, as it has not been able to get done over the last 50 years to date?

MR. HARAPIAK: Yes.

MR. USKIW: All right. So the compromise position then would be that if the Constitution were brought back unamended, provided that it had to be amended within two years, five years, whatever, that would be an acceptable approach?

MR. HARAPIAK: But is it not within that current proposal for reform, are they not allowing a two-year period of time to come to some agreement for amendment? Is that not written within the reform package? There is a time limit in a sense there already and to me, again as an outsider, it seems like that two-year time limit is reasonable in terms of achieving a task, except when you look back at what has not happened over the last 50 years, then you get a little uneasy. But yet it seems to me that two years should be a reasonable period of time. But again, that is from a person on the outside. It may be that it should be slightly more.

MR. USKIW: Okay.

MR. CHAIRMAN: Mr. Mercier, do you have another question?

MR. MERCIER: Just following it up with one other question, because part of the amending formula, there is one set out and it may be changed by agreement between the provinces or by referendum, do you think the interest in Manitoba with five percent of the population of Canada, do you feel happy that they can be protected in a referendum?

MR. HARAPIAK: I am uncomfortable with a referendum. I would be comfortable with having something happen before it got to that stage. I would much rather we didn't get to that stage. I am uncomfortable with a referendum.

MR. EINARSON: Did you say, "uncomfortable"?

MR. HARAPIAK: Uncomfortable, uncomfortable.

MR. CHAIRMAN: All right. No further questions, gentlemen. Thank you very much, Leonard, for taking time to appear before the committee with your views.

There is a large pot of coffee ready and I think before we hear the next presentation, if . . . Is there anyone here with a brief or a presentation before we adjourn for coffee or before we adjourn for lunch? There is another brief here? All right, would those who would like a cup of coffee just avail themselves of the hospitality of the committee or whoever has provided the coffee and then we'll get back to hearing the next brief.

Gentlemen, we have our quorum back in place. If we could proceed with the next brief. If you would come forward and identify yourself for the Clerk and for the record. Would you identify yourself for the Clerk and do you have a copy of your brief?

MR. CON ARTIBISE: No, I do not.

MR. CHAIRMAN: Just notes you have?

MR. ARTIBISE: Yes, I have.

MR. CHAIRMAN: Fine, proceed.

MR. ARTIBISE: My name is Con Artibise. My last name is spelled A-r-t-i-b-i-s-e. I am a citizen of Swan River for the past year-and-a-half or two years. I appreciate the opportunity to be able to speak to this Legislative Committee. I appreciate the opportunity that has been given to the citizens of Manitoba so that I, in my humble way, can express my views on the Constitution repatriation, on the amending formula and the Charter of Rights because I want to speak in a very general way. I am certainly no expert, I'm not a lawyer, I'm a manager, and as a result I don't have some of the expertise that you have.

I feel that the Constitution should be brought home and I think it should be done quickly, in fact right now. I feel that it should be brought home with an amending formula, and I will speak to that in a few minutes through my notes, and I feel it should be brought home with a Charter of Rights. I have some concerns about the Charter of Rights as I know it and probably if there are questions it may even bring out more of my concerns, but I do have concerns.

I think we should be patriated; after all, we're — and I know you have heard this — but we are 113 years old, coming. I think as a leader in the world as far as an industrialized nation is concerned, as a very very stable country, I think we need to be able to say we want to change our Constitution, we want to be able to develop our Constitution and we want to be able to say yes ourselves. It is something like, if I was married and I went out to buy a car, I raised the

money and I'd been married for 12 years, made all the deals and then I had to go and ask my father whether I could buy that car or not; that's the way I feel right now about Canada and that bothers me a great deal. I think with gentlemen like yourself, with legislators right across Canada and in Parliament, with the people and the knowledge that we have, we can do that ourselves very easily. We don't need to go and ask someone.

Now I realize that Britain probably would never say no, but it's the fact that we have to ask and I don't think we should have to do that. That is a very strong and personal opinion.

I think if we were able to say to ourselves as Canadians, this is my Constitution and we can change it however the system works out and that's to come, we're not sure now but it is to come. It would give us a lot more internal and self-confidence. We would become as the Quebecers did say over the years, "Maitre chez-nous" — "Masters in our own home" — and I think that's important. It is important to me that I am master of my own home.

As I mentioned, we are approaching our 113th birthday. In fact, and I think a lot of people forget this, that Canada is one of the oldest politically unified nations in the world. We're older than Germany politically. We're older than Italy politically with the Constitution. We didn't own it but it was still ours. True, and I think that's important, we have the age, we have the techniques, we are known as people who discuss things well, we talk things out, we work things out, we've never had an internal revolution, we've been able to work things through and I think we know how to compromise. How else can a country as diverse as ours; diverse in geography, diverse in natural wealth, diverse in man made wealth, and with the diversities of people stay together, if we didn't know how to do these things.

According to the poll just released by the Canada West Foundation, I am sure many of you saw it, fully 90 percent of the people of Western Canada polled, wanted to stay in Canada and wanted to stay together. I realize this is an aside but I think it strengthens my point, that we know what we are, we know what we are and we want to be what we are. Better than 76 percent of these same Western Canadians, and we hear a lot about dissent in the west, think we can solve our internal problems ourselves. To me that's saying something, that's saying that we know what we want. The majority of Canadians in Quebec said the same thing. They said, "I want to be Canadian".

I state and I still feel very strongly that we have the tools and the means that will make us absolute masters with our Constitution at home.

To carry on with the next point that I want to bring to your attention and from my personal point of view, but there is no use having a Constitution at home, there is no use using the word that we do, "patriate" or "Constitution" unless we have a way to amend it. I agree with the stance of the federal government, the two things go together. Bring The BNA Act home, it's right now just an act of the British Parliament, and we should have a process of amending it. The proposal, as I understand it and I stand to be corrected, is that the amending formula would be that all provinces and the federal

government must agree after it is patriated for the next two years and then if there is no agreement that we would move in the direction of the Vancouver Agreement that was made in Vancouver this past summer, and all the Premiers at that time I understand agreed. If I am wrong, I would stand to be corrected, but that's the way I understand it. To me that makes sense. It gives us a two-year hedge. To the former speaker you were saying, do you need time limits; I feel we do.

In the third year if there is no new accord as I have mentioned, the process of amending it would be agreed to as what the Premiers have done. I believe very strongly this is a good move and want the government of Manitoba not to resist but to encourage making the act of a British Parliament our Constitution.

My third point has to do with the Charter of Rights and this gets really tacky because I know very little about it other than what I have read in the papers, but I guess it's a feeling that I have. The proposal has been bashed about, and I agree, by many politicians, many legislators have bashed the proposal about as a bad principle. That is, entrenching the Charter of Rights. They say that the legislators are the best protectors of rights and then pull out the abuses as they perceive them caused by the Constitution of the United States. I disagree with that and I want to explain why.

I believe that the people who are stating that the Charter of Rights if it was entrenched would cause us problems such as the United States has had as we perceive them to have. They are trying to compare apples to oranges. The United States is a republican system. Their Constitution, as I know it, established three equally powerful and separate branches; one called an executive which rests in the President's chair; one called the Legislature which rests in the Congress, which is made up of the Senate and the House of Representatives and one in the judiciary or the Supreme Court, which is the ultimate and then the federal courts as they move down through to the States. They are three equal and separate. The Constitution reads it that way. There are checks and balances on those but that is the way it is down there and as a result the judiciary at times, particularly in the late Fifties, early Sixties, was very powerful and made a lot of changes, some of them that disturb us a great deal.

In Canada we have a parliamentary system as I understand it. Parliament on a federal level is supreme, absolutely. It makes the laws which gives power in turn. The legislators, you gentlemen in Manitoba give power in turn to the Executive and on to the judiciary. If you can give it, you can take it away, and I think there is a fundamental difference in my reading of the two countries and I think that is an important fundamental difference.

Our system has worked for the past 113 years, not always well and I know and I am sure you have been cited examples of some of the travesties that legislators have pulled on minority groups and all the rest of it. I'm not going to quote them, it really doesn't matter, so why repeat them? But I firmly feel that Canada needs some written guidelines that have stood the test of time to prevent the errors of commission and the errors of omission that legislators have had in the past and may do in the

future because you, gentlemen, like myself, are people and we often react to the situation at the time.

I have always said you can't play a fair game unless you know the rules. I'm not sure whether we knew all the rules. We have common law, we have this kind of law, we have that kind of law. A Charter of Rights would at least give us these rules. At least I would know where I am; I would at least know where I stand.

At this time I ask you to bear with me while I read a short article from the last issue of Macleans. I just received it yesterday and this is the cover in case you've seen it. It's called "The Global Stance for Human Rights" and it's an article in connection with Canada and it will take me a couple of minutes but I would like to read it for the record if I may: "Some rooms to clean at home. It is only 17 months since Canada solemnly assured the United Nations that it was unlikely to use its existing power to execute children or pregnant women under military law. Even in Canada, which prefers to talk to torture, rights have become a hot political issue. It is not so much that individuals are clamouring for their rights and the kinds of Constitutions guaranteed their American neighbours take for granted, but that Prime Minister Pierre Trudeau wants to enshrine language and along with that, other human rights in a new Constitution.

"Gordon Fairweather, the Human Rights Commissioner, says Canadians are very complacent. They tend to assume the government is always right. On the tenth anniversary of The Peacetime Imposition of The Draconian War Measures Act, which temporarily suspended most civil liberties, it is sobering to consider that, unlike people in most western democracies, Canadians can be tried over and over again for the same crime; Canadians lives are ruled by hundreds of administrative boards and tribunals which operate in secret and from which there is no appeal; there are few limits on police searches and a policeman may break the law in full knowledge that evidence obtained this way is just as valuable in court as legally obtained evidence. Indeed, in 1977, when the RCMP was caught breaking dozens of laws, the political masters", I speak in this case of the federal government, "responded by offering to change the laws.

"The Canadian Bill of Rights, only adopted in 1960, is not part of the Constitution and has no more authority than any other act of Parliament. Despite strides made towards eliminating discrimination based on sex, marital status, race, colour, religion, or age, the Canadian Human Rights Commission repeatedly finds its efforts to protect the citizens frustrated by other federal laws. The Indian Act, for example, strips Indian women of their Native status and accompanying benefits, federal money, housing, land, burial rights, if they marry a non-Native. But there is no penalty for Indian men who marry whites. On the contrary, white wives and their children gain full Indian status. Sandra Lovelace, a Maliseets Indian from New Brunswick, Tobique reserve, has charged Canada with Human Rights violation before a United Nations body in Geneva. In an interim decision, the United Nations Rights Commission agreed that The Indian Act does present serious disadvantages to Indian women, like

Lovelace. It is precisely to prevent this type of legislative discrimination of women, natives, and civil libertarians, one entrenched in the Constitution in the Bill of Rights that will take precedence over the acts of Parliament. Yet seven of ten provincial Premiers have rejected this concept, saying provincial and federal Legislatures, not the courts, should be guardians of Canadian rights and liberties.

"Observing that Parliament's power is virtually unfettered and, of course, by that also, so is provincial powers within its realm. Edgar Friedenber, a teacher at the Halifax Dalhousie University says that Canadians need protection from the Legislatures as well as by it."

I have a fear about the Charter, and as I mentioned in my opening statement, I really am concerned about how the Charter is written from what I've read. I'm no expert as I will admit. I understand it is proposed that in the first clause which allows for opting out by provinces — is that correct? There is a clause in there that allows to opt out of some of these rights, if it was passed. I believe that's the way I read it, I may be wrong. I disagree with that. I disagree that either all Canadians have the rights as stated in the Charter of Rights or they don't have. It's as simple as that. Why should we in Manitoba have a particular right when someone in New Brunswick doesn't have that right, if that is there, and I understand that is in the first statement. I believe that these rights should also be applied equally to all Canadians, or again we should not have the stated right.

We have a need for a Charter of Rights, and I want my provincial government to support the principle of the charter with the opting-out clause deleted. To repeat, Canadians need protection from the Legislatures as well as by it.

Members of the committee, I would like you to convince your fellow legislators in Manitoba and the rest of Canada that this is the time to bring The BNA Act of 1867 home with an amending formula and the Charter of Rights attached to make it our Constitution and then I feel very strongly that we will be masters in our own home. That is the end of my oral brief.

Gentlemen, thank you very much.

MR. CHAIRMAN: Thank you very much, Mr. Artibise. Will you allow questions from the committee?

MR. ARTIBISE: I'll try.

MR. CHAIRMAN: You're not compelled to answer any question if you so wish. Gentlemen, Mr. Mercier.

MR. MERCIER: Sir, were you speaking personally or on behalf of another group?

MR. ARTIBISE: For myself. I made that clear at the beginning.

MR. MERCIER: You made a statement about the Vancouver consensus as the amending formula. I point out to you, sir, the formula that's proposed by the federal government is being referred to as the Victoria Charter.

MR. ARTIBISE: Is that the one of 19 . . .

MR. MERCIER: Early 1970's.

MR. ARTIBISE: Oh, I see, okay. Thank you.

MR. MERCIER: Do you believe that an amending formula should be imposed by the federal government on the provinces in areas where they have jurisdiction?

MR. ARTIBISE: Do I believe that an amending formula should be imposed by the federal government on areas where they have these jurisdictions?

MR. MERCIER: Where the provinces have jurisdiction.

MR. ARTIBISE: For example, education or something like that? Is that what you're talking about?

MR. MERCIER: Any area.

MR. ARTIBISE: No.

MR. MERCIER: Do you favour the imposition of an amending formula by referendum, by question to be drawn by the federal government with their powers of spending and advertising.

MR. ARTIBISE: I'm afraid of referendums. I believe that I elect the legislator and he acts for me. If I don't like what he's doing I'm going to tell him.

MR. MERCIER: Do you think the legislators should be accountable to you?

MR. ARTIBISE: Definitely. Accountable to me and all other citizens.

MR. MERCIER: You wouldn't want to see a situation where he wasn't accountable to you?

MR. ARTIBISE: No.

MR. MERCIER: Yet you favour an entrenched Charter of Rights?

MR. ARTIBISE: Yes, and as I said I favour an entrenched Charter of Rights because I know and I think history has shown that legislators like anyone else make errors and have made mistakes. I think that one of the things that has happened, a lot of people have likened our system of government equally or the same as the United States. We're two different systems, we're a parliamentary system. The Legislature is still supreme. It still writes the laws, and it can change the laws as it sees fit.

MR. MERCIER: I don't want to go through all the examples we went through earlier, sir, but what about a situation where, for example, where a charter says no person shall be subject to cruel and unusual punishment, that has been interpreted in a number of states as outlying capital punishment. For example, if a majority of Canadians favour the return of capital punishment, and the elected people in

Parliament pass laws returning capital punishment, and the Supreme Court says that violates the Charter of Rights and strike down those laws, that situation of the Legislature is not accountable to you. Is that the kind of situation you want to see happen?

MR. ARTIBISE: Okay. I see what you're getting at. It becomes all a matter of definition. What is a right to life? If we have, for instance, capital punishment, this is one definition that I see — it was a political decision, as a result we have no capital punishment in Canada right now. At this point in time it can be a political decision to bring it back. It can be interpreted that a right to life is always with no limits, but you can write into a charter or you can write into legislation that this right to life is a right to life except under these certain conditions, and that can be done. What I'm saying is I think we need a Charter of Rights. I'm no expert, I don't know all the ins and outs of it, I'm not a lawyer, but I feel that I need to know some rules and if the rules say a right to life and that's interpreted that way, that's the way I want it to be. I guess I'm really trying to circle the question without ever coming to grips with it, but I feel the Legislature will, if there is a problem with the Supreme Court or with the provincial court, in time rewrite those laws to make them fit the situation at the time, which it has the right to do.

MR. MERCIER: Under any formula that's been proposed, an amending formula will be a very difficult one.

MR. ARTIBISE: We've been working at it for 50 years now.

MR. MERCIER: So it won't be easy to amend the Constitution to overcome — it should never be a judgment of the Supreme Court.

MR. ARTIBISE: It should never be easy.

MR. MERCIER: But I thought you wanted your elected people to be accountable to you.

MR. ARTIBISE: Yes I do. But if I state a right and that right is for all time, then we give it to a body that can adjudicate on that right.

MR. MERCIER: Do you have a problem with any of your rights in Swan River?

MR. ARTIBISE: Personally, right now. No none. Not right now, but then I'm just an ordinary person. I don't know whether I've ever had any reason to be worried about my life and my rights.

MR. MERCIER: Well, why do you think we need an entrenched charter then?

MR. ARTIBISE: Well, I cited the example of Native women. There's an example. Do they not have a right to be a citizen like everyone else? That's an act of Legislature.

MR. MERCIER: Sure, but we're in the situation where the very government that is being accused of discrimination in that legislation is the one that's

bringing forward this Charter of Rights. All they have to do is amend their own legislation.

MR. ARTIBISE: That's correct. But if we've had those rules there, that legislation probably would not have been written. I didn't say it won't be written, it probably would not have been written.

A right that I might have had a problem with — I'm originally of French ancestry, I happen to be raised in an Anglo-Saxon area, so I never learned how to speak French, but my parents right as Canadians, as Manitobans, was taken away in 1896 by the federal government.

MR. MERCIER: You favour entrenched language rights?

MR. ARTIBISE: Up to a point, yes.

MR. MERCIER: Up to what point?

MR. ARTIBISE: Mr. Harapiak, I think, explained that and I tend to agree with him, there needs to be. I don't know whether I want to broaden it to other language groups other than French. I think our Constitution is quite clear on that at the federal level. Where numbers warrant it, now we can get into the definition of numbers of course.

MR. MERCIER: Okay. Thank you, sir.

MR. CHAIRMAN: Thank you, Mr. Mercier. Mr. Uskiw.

MR. USKIW: Yes, I would like to ask you the same question that I asked of Mr. Harapiak, and that is whether or not you would be prepared, if there was an impasse on this whole dialogue, to accept a Constitution that provides entrenchment of language rights only? Now the assumption here is that there has to be a compromise in this process and we can't get agreement on the Charter of Rights but we might be able to get an agreement on entrenchment of language rights.

MR. ARTIBISE: What you're suggesting, get rid of every other clause except . . .

MR. USKIW: Well, I'm not saying that, I'm saying let's make the assumption that that's all we can get a consensus on. Is that acceptable to you?

MR. ARTIBISE: Yes.

MR. USKIW: How do you interpret the section defining legal rights? What is the right to life? Do you know what that means here?

MR. ARTIBISE: I have a personal view on the right to life.

MR. USKIW: What is it? Would you tell us what that is?

MR. ARTIBISE: My right to life is a right to live and act in a manner that I want to without hurting anyone else. As soon as I get into a circumstance where I take away some of your rights, then the state has a right or the courts have a right to step in.

MR. USKIW: At what stage do you interpret life to exist then? It's a tricky one I know.

MR. ARTIBISE: That's a very personal question.

MR. USKIW: Do you have a preference on it?

MR. ARTIBISE: Yes I do.

MR. USKIW: What would be your preference?

MR. ARTIBISE: At conception.

MR. USKIW: I see. From that you would define this to mean that after conception there is a person who has a right under this act.

MR. ARTIBISE: That is correct.

MR. USKIW: Likewise then, would you interpret that the right to life would mean that nobody can take that right away, regardless of circumstances? I mean, we're dealing with the Constitution and it's just that important.

MR. ARTIBISE: I appreciate that and I realize that this is a moral question and it is in the political arena, and that's the problem. As I said, my personal point of view is that life begins at conception. I guess that comes from training.

MR. USKIW: When does it end and by whom?

MR. ARTIBISE: When does it end?

MR. USKIW: Yes. How does it end?

MR. ARTIBISE: There are a number of definitions of death as well. I understand from reading that Manitoba has the best definition in North America at this point and time. As I say, I don't know what it is. Now whether the politics or the judiciary should get involved in say, for instance, in abortion or not, I really can't give you any thoughts on that at this point and time. We would get into a debate that I think would lead us away from the question at hand, which is the Constitution.

MR. USKIW: No, my point though is we recognize what your position is on when life begins and when a person is a person.

MR. ARTIBISE: Yes.

MR. USKIW: When does a life end? That is, if our penal system was to continue or to reinstitute capital punishment, would that be in violation of your interpretation of the right to life?

MR. ARTIBISE: I really don't want to address that at this point in time. Again, I have a personal opinion on capital punishment. I don't think it does any good but statistically or that, I say it's a moral question, and when it gets in the political arena I really at this point don't want to talk about that.

MR. USKIW: Given the fact that you don't have your own opinion, are you then prepared to delegate that responsibility and opinion to nine judges?

MR. ARTIBISE: If the rules are written in such a way that I can accept that, yes. If there is a Charter of Rights that I can accept, yes. Because the Charter of Rights is still going to be decided first in the political arena before it ever is given away, and as I said, we in our system, the Legislatures write the laws, we then turn it and give it to someone else to administer those laws. By the same token, and I agree with the Honourable Member, Mr. Mercier, that it is a very difficult thing to take them back, but as a legislative body you have the right to take them back.

MR. USKIW: My last question is: Do you believe that a new Canadian Constitution should be so worded as not to preclude the right of any government to involve itself in the restructuring of the Canadian economy, by way of acquisitions or appropriations?

MR. ARTIBISE: To be quite honest about it, I don't know what the Canadian Constitution says on the economy right now. I do know what governments do in the economy now.

MR. USKIW: Well, for example, to go back to a specific. When Manitoba introduced the Manitoba Public Insurance Corporation, should that have been referred to the Supreme Court of Canada before it became legal?

MR. ARTIBISE: No.

MR. USKIW: Or should Manitoba have had the right through the Legislature to do what it did?

MR. ARTIBISE: Yes, the Legislature has the right to do that.

MR. USKIW: It should have been supreme.

MR. ARTIBISE: At that time it did, yes.

MR. USKIW: And it should continue to be supreme.

MR. ARTIBISE: As far as I'm concerned, yes.

MR. USKIW: Okay.

MR. CHAIRMAN: Any further questions for Mr. Artibise? Mr. Einarson.

MR. EINARSON: Mr. Artibise, Mr. Chairman, through you, sir. You talk about the entrenchment of your rights as opposed to not entrenching the rights. This seems to be the differences of feelings here. I find it somewhat difficult to just quite follow you. Are you saying that you want to make sure that those rights are properly worded or properly interpreted before they are ever entrenched?

MR. ARTIBISE: No.

MR. EINARSON: Because do you understand when you entrench the rights into the Constitution, Parliament and the Legislatures have no power to make decisions. Is that your understanding? Rather it's done by the courts.

MR. ARTIBISE: In certain areas, yes, in the areas that the legislators have given to the judiciary, correct.

MR. EINARSON: You're prepared to accept then . . .

MR. ARTIBISE: That is correct.

MR. EINARSON: . . . the decision of the courts, who are not answerable to you. You would be prepared to accept that when you talk about entrenching rights?

MR. ARTIBISE: Yes.

MR. EINARSON: I just want to make sure that I understand you.

MR. ARTIBISE: Yes, I am.

MR. EINARSON: Also in your earlier comments — and this could be hypothetical — but supposing we have The BNA Act in the United Kingdom and if we could not get an agreement between Canada and the United Kingdom in the method of patriating the Constitution, did I understand you, and I was just trying to read between the lines I think, that you would like to see Canada just form its own Constitution if that was not successful in patriating The BNA Act, or did I misunderstand you?

MR. ARTIBISE: I never alluded to that either way. What I said is that I want the Constitution brought home. I want The BNA Act brought to Canada to become our Constitution. I think that The BNA Act when it comes here should be brought with an amending formula and I feel that there should be also a Charter of Rights. As I said, I am not an expert on the Charter of Rights. There are probably lots of manoeuvring and lots of middle-ground as has been mentioned here. Now if it came to the point where the British Parliament refused to accept our request, accept our proposal, I believe was the term that is being used, I don't know, I haven't really even considered that. That's sort of something that I've thought about at this point in time . . .

MR. EINARSON: Do you also think that there should be a time limit insofar as the time allowance concerned if it's brought back?

MR. ARTIBISE: In connection with what? The amendment in any formula?

MR. EINARSON: Yes.

MR. ARTIBISE: Knowing people, time limits are good things, because if we don't have a time limit we could talk forever. If we have a time limit, time limits can also be changed too, so I think personally, yes, there should be a time limit. That's not saying that the time limit can't be changed. Nothing in this world stays exactly the same; there is always movement back and forth.

MR. EINARSON: Thank you.

MR. CHAIRMAN: Any further questions for Mr. Artibise? If not, thank you very much, Mr. Artibise, for appearing with your brief. Do we have anyone else with a brief. Yes, Mrs. Allen.

MRS. ALICE ALLEN: I'm Alice Allen. Did you want a copy of this brief?

MR. CHAIRMAN: If you have one, yes.

MRS. ALLEN: That's . . .

MR. CHAIRMAN: Thank you very much.

MRS. ALLEN: Mr. Chairman, Cabinet Ministers, lady and gentlemen, I strongly support Premier Lyon and the other Premiers on their stand on our Constitution. I am definitely against an amended Constitution before it's returned to Canada. I have no objection on the Constitution being returned to Canada, but I sincerely feel it should be left where it is until such time that some degree of sanity returns to Ottawa. I may be putting this a little strong, but that's just the way I feel.

I also feel we should have one official language in this country. I have no objection to any ethnic group keeping their own language. However, to bring in bilingualism when the Indians were here first has to be a slap at our natives.

When my forefathers emigrated to this country, they understood they were emigrating to an English-speaking Canada. Must we fashion ourselves after a European country because Mr. Trudeau thinks we should. There is no westerner who would deprive the French in Canada to speak their own language or enjoy their own culture, but why is it necessary for five-sixths of the population to support it and finance it, out of Quebec. The billions of dollars spent in bilingualism — may I add, metric — could have served a more practical purpose in this country.

I am also against taxation of hydro and other Canadian natural resources. As chairman of the Constitution Committee, I support Premier Lyon wholeheartedly in the fact that Parliament should continue to protect our rights.

There is one more thing. I have had the odd person say to me, Trudeau is just so intelligent and so clever. My answer was, Hitler was a clever man too. Frankly, I'm just terrified as to what has been happening to my country and I thank you for listening to me.

MR. CHAIRMAN: Thank you, Mrs. Allen. Are there questions from members of the committee? Mr. Uskiw.

MR. USKIW: Yes. You say you are against amending the Constitution before patriation, would you agree with a time limit on an amending process? Let's say that you had it your way, that it came here without amendment, would you say that you would favour an amendment period, after which time it would have to be concluded one way or the other?

MRS. ALLEN: This is a serious matter and I don't care if it took 10 years. I really don't, but I can't see us doing it overnight.

MR. USKIW: What if it took 50 years, is that okay?

MRS. ALLEN: I'm happy with the country I've been living in. I really am, I love it.

MR. USKIW: All right, let's then put it in its proper perspective. I think that everyone appreciates the fact that there has been a constitutional problem, at least in the minds of many Canadians, and in particular as it relates to the question of French and English languages and their rights. Given the fact that the Province of Quebec had made an attempt at separation because of the difficulty with the way Canada is put together, and given the fact that the Prime Minister — and I give him credit for it — was able to salvage Confederation through that exercise in the Province of Quebec, do you not agree that we owe something to the cause of continuing to entrench the idea of Confederation and ensuring it, in that there is some responsibility on our part on how to satisfy those in Quebec that voted for federation, for continued federalism, on the hope that something was going to be done to make it more, shall we say, possible to live with a constitutional arrangement that would satisfy the French question, the English question and so on? Don't you think we owe them something for having voted to stay in Canada?

MRS. ALLEN: We owe them something, but are they bilingual?

MR. USKIW: I don't mean in the sense that we're going to be benevolent in the sense that we would want to enshrine certain rights that would protect their minority group as one of the founding nations of this country.

MRS. ALLEN: There are so many ethnic groups, and like I say, what about our poor Indian, the native? Has he no rights, language rights?

MR. USKIW: No, I appreciate what you're saying, but my point is that Canada has had a problem for a good number of years on this whole question and a problem which resulted in unusual things taking place in the Province of Quebec. The Prime Minister, to his credit, was able to rescue that situation, was able to convince most Quebecers to vote for continuation of federalism, continuation of Canada as it was, with some changes in the Constitution to protect minority rights and to protect the French question, the language question, and so on. It seems to me that, as I understand it and see it, there is an obligation on the part of all Canadians to go the next step and to make sure that our new Constitution deals properly and adequately with the aspirations of those people who want to be part of Canada but who also want to be recognized for their role in making Canada what it is.

MRS. ALLEN: As far as Quebec goes, they can have their French language but I can't see — I'll just state a good example. I have a little grandson now and he's a Heinz 57 variety. He is a mixture of everything and he even has a French grandmother here now, through this last marriage. She will agree with me, who am I to say that you must take French? He might prefer some other language but he's not living in Quebec. He may need French in Quebec,

but right now in, say, Manitoba, he really doesn't need it.

MR. USKIW: No, but no one is suggesting that he has to take French. That is an option. All the argument is, is that there should be an option that should one want to have the French language facility or availability that that is a right that should be provided, not that someone who doesn't want it must take it. So I don't believe that anyone is suggesting in the Constitution or even to this date that a person who does not want to learn French, that person must learn French. That has never been suggested.

MRS. ALLEN: Oh, yes, but that's building up to something else. You won't get a top position in government unless you have it.

MR. USKIW: I think what you're saying is where there an interface with the public that key positions in government have to have the duality. You're right, either through two people employed in that particular department, one of French ancestry or language and one of English, or a person that can handle both. I recognize that as what is being done now and as what is being proposed. I don't see anything wrong with that; I don't see anything wrong with that. If there is a person that can speak French and wishes to speak French in Swan River, wishes to have his day in court and to be able to speak French to the court and to have a French lawyer represent him, I believe he has a right to do that. Now I don't know that he has a right to do it in Swan River, but I believe that there should be facilities to give him that opportunity if that is his preference.

The same applies for English in the Province of Quebec. I don't believe that the English minority in Quebec should not have a right to be represented in the English language. I think it's a quid pro quo, we have to treat each other in a fair way. So my question to you is, it's a major one, and that is it seems to me if Canadians are interested in unifying the country, then we can't go back to where we were given the fact that we had all this turmoil in eastern Canada, in the Province of Quebec. We have to do something different. I think most Canadians recognize that and therefore I ask you whether or not that is too much to ask for in order to put this country back together so that it acts in unison and in harmony from coast to coast.

MRS. ALLEN: Somehow I felt it was all forced on me, a lot of it.

MR. USKIW: All right, let me get back to the point that you made. You question bilingualism because you say the Indians were here first. Which of the Indian languages do you think should have been entrenched as the Canadian language?

MRS. ALLEN: There are a number of Indian languages, I realize that, but I was just stating that as an example, sir.

MR. USKIW: No, but inherent in that example is that since the Indians were here first, then they are the only true Canadians, therefore, we should be speaking something other than English or French.

That is what I drew out of what your comments were and if that were the case, would it be Cree or Salteaux?

MRS. ALLEN: Well, whatever.

MR. USKIW: What would it be? Would we not be . . .

MRS. ALLEN: Whatever.

MR. USKIW: Whatever it is. You see the dilemma it gets us into once you go down that road.

MRS. ALLEN: That's why I'm for a one-language Canada. That way we'd be united anyway.

MR. USKIW: You're suggesting that if we had one language that this would unify and build a stronger country.

MRS. ALLEN: I feel it would.

MR. USKIW: Notwithstanding what happened in the Province of Quebec?

MRS. ALLEN: That is a problem, I'll admit that. No, I have nothing against them keeping their language or culture, but don't try to force me to take it.

MR. USKIW: They don't want to do that.

MRS. ALLEN: They don't want to do it?

MR. USKIW: If you go back into history, Manitoba committed the crime against the minority group way back in 1890. We were the leaders in that regard. Levesque only did it a couple of years ago. He only did what we did almost a hundred years ago and we are objecting to what he is doing, but we were not objecting to what we did in 1890, and we can't have it both ways is what I am saying.

You say that you are opposed to taxation of hydro and other resources. We don't have taxation on hydro by the Government of Canada.

MRS. ALLEN: No, but . . .

MR. USKIW: What do you mean by that?

MRS. ALLEN: Well, Mr. Trudeau, doesn't he want to put a tax on our Manitoba Hydro? This is what I am getting at.

MR. USKIW: I'm not aware of that, but perhaps you have some information that I don't.

MRS. ALLEN: Oh, I understood he was.

MR. USKIW: In any event it's not in effect today.

MRS. ALLEN: Oh no, it's not in effect today. No, I just said I was against this and I was sure the Liberal Party were wanting to put a tax on Hydro.

MR. USKIW: Do you support the principle of equalization which is in the proposed Constitution and which is what we have had for some number of years? Do you support the principle of equalization?

If you don't know what I'm saying I will elaborate for you.

MRS. ALLEN: Go on.

MR. USKIW: Equalization is a formula that has been in effect for some years which merely suggests that the wealthy provinces are taxed by the federal government and some of that wealth is redistributed in favour of the poorer provinces in order that we maintain a reasonable standard of government services from coast to coast. That is sort of the principal of equalization. I've said it in a very rough way. Do you support the entrenchment of that policy in the Constitution?

MRS. ALLEN: It's something I have thought of.

MR. USKIW: In other words, should the Government of Canada have the right to tax the Province of Alberta oil revenues and transfer some of that wealth to Manitoba?

MRS. ALLEN: I know we need it but no, I don't think I would be in favour of it.

MR. USKIW: All right then. It then brings me full circle to the obvious result of your answer and that is, are you aware that last year Manitoba received somewhere in the order of 350 million in equalization payments from the Government of Canada which was a direct transfer of wealth from the richer provinces to Manitoba, to the Maritimes, who are poorer provinces? Do you believe we should have not received that money? And if we don't receive it, do we lower our standard of living and services or do we raise provincial taxes in order to afford the things that we are now doing such as Medicare, Hospitalization, education, highways; whatever we are spending the money on? You see, if we don't have the right of transferring wealth from one province to another through a federal system, then it means we either have to raise taxes in Manitoba to pay for the things we are enjoying or we have to take away those things. The proposed Constitution says that the federal government believes or that the Constitution provides that the central government will continue to transfer wealth from the wealthier regions of Canada in favour of the poorer regions of Canada in order to maintain some standard of services.

MRS. ALLEN: Well, I'll have to admit I've liked my standard of living in Manitoba.

MR. USKIW: Would you like your taxes to go up if we lose the revenue because you don't agree that we should be taxing Alberta Oil?

MRS. ALLEN: No, I don't think I would like to see that happen.

MR. USKIW: Then you have a choice. You have to choose between continuing the equalization system or raising Manitoba taxes. I gather you would opt for the continuation of equalization.

MRS. ALLEN: That's right.

MR. USKIW: Okay, thank you.

MRS. ALLEN: Okay, you have me convinced.

MR. CHAIRMAN: Thank you, Mrs. Allen. There are no further questions from the committee. Thank you very much for appearing before this group. It's not the easiest thing for an ordinary citizen like yourself to come forward and face this formidable group of legislators that's gathered here this morning and we thank you for doing that.

MRS. ALLEN: All right, they were just my views.

MR. CHAIRMAN: Fine, thank you very much, Mrs. Allen. Gentlemen, are there any further briefs here at the present time? Our schedule is to break for lunch at 12:30 . . . Oh, we have another brief. All right, fine. Yes, Mr. Gourlay.

MR. GOURLAY: Mr. Chairman, before we proceed, I've had a call from a chap who would like to present a brief, he can't be here before 2:00, he's coming from Dauphin, and I am to call him back if the committee is not reconvening at 2:00 p.m. . . .

MR. CHAIRMAN: What is the wish of the committee? Will it reconvene?

MR. GOURLAY: . . . if we're not going to be sitting?

MR. CHAIRMAN: We'll reconvene this afternoon. Do you want to proceed with the brief or adjourn . . . ?

MR. GOURLAY: Do you want me then to notify him to appear at 2:00 or . . . ?

MR. CHAIRMAN: Fine. Do you wish to proceed, gentlemen, with this brief now? Yes, would you identify yourself, sir, and do you have a copy of your brief?

MR. ED DOBBYN: No, I don't. I just have the one copy. My name is Ed Dobbyn, I am a farmer from the Kenville area.

MR. CHAIRMAN: How do you spell your last name?

MR. DOBBYN: D-o-b-b-y-n.

MR. CHAIRMAN: D-o-b-b-y-n.

MR. DOBBYN: I have a very brief brief.

MR. CHAIRMAN: Proceed.

MR. DOBBYN: I just jotted a few things down while I drank coffee this morning and I'll admit I am not very well versed in the subject, but I'm concerned and when we have an opportunity like this I think we should take it.

MR. CHAIRMAN: Fine, proceed, Mr. Dobbyn.

MR. DOBBYN: I wish to thank the provincial officials for allowing some of the people of the province an opportunity to express concerns and suggestions on the constitutional issue.

Much credit should be given to Premier Lyon and the provincial members for the stand they have taken on behalf of the people of Manitoba and the other provinces. As Chairman of the provincial Premiers, Premier Lyon has received considerable criticism for expressing the feelings of the Premiers or most of them.

This issue could be the most important decision that Canada has ever taken and it is frustrating to see that there are strict deadlines to be met that give no opportunity for the people across Canada to voice their opinions.

When Mr. Pearson was informed that there were difficulties in Quebec, the B and B Commission was set up which travelled for months across Canada informing all of how badly we were treating the French-speaking people and the people of Quebec. When plans were being made to build a pipeline up the Mackenzie from the Arctic, Thomas Burgess spent a couple of years visiting every town and village to hear their suggestions, and as a result the pipeline was not built.

One wonders why there is such a short period of discussion allowed for the committee which only sits in eastern Canada. It is generally agreed by most people that there is no reason why the Constitution should not be returned to Canada. Many amendments have been made to it in the past by the people of Canada without a problem. One wonders why the people of Britain are being asked to return the Constitution with built-in changes. If the people of Canada are capable of controlling their own affairs, why are the people across Canada not capable of drawing up their own Constitution?

Western Canada gained the rights to the resources in 1931, I believe, a right that the original members of Confederation have always held. Mr. Trudeau is pleading with us to support a new Constitution and at the same time is showing contempt for our present Constitution by attempting to infringe on the provincial resource rights, mainly in the west. Even though I'll hate to see the costs of energy climbing, we must still support the rights of other provinces as we might be the next one to be abused. Surely many of these deals could be worked out by negotiation.

Much has been heard about the entrenched Bill of Rights. It is generally agreed that countries having a strong Bill didn't necessarily allow as much freedom as others. Hitler's Germany and the U.S.A. are examples. It appears that the laws of Canada would be under the control of an appointed Supreme Court naturally controlled by the Quebec-Ontario Union. Much provincial legislation will be taken over by the federal system if this occurs.

I wish to thank the committee for their time and patience and urge the people of Manitoba to continue attempting to have a voice in the affairs of this country. Thank you.

MR. CHAIRMAN: Thank you, Mr. Dobbyn. Would you care to answer some questions from the committee?

MR. DOBBYN: I will attempt to. I am not very well versed in this subject but I will try.

MR. CHAIRMAN: Any questions that you don't feel you can answer, you are not required to answer. Mr. Uskiw.

MR. USKIW: Yes. Did you say that you do or do not favour the entrenchment of rights, basic human rights, in the Constitution? I believe you didn't say.

MR. DOBBYN: To an extent, yes, but I just can't see a small group in one part of the country having full control over it. I think that rules should vary in different parts of the country under different situations. In extreme situations I think that provinces should be allowed control of certain areas.

MR. USKIW: Let me clarify it for you. The proposal is that we entrench basic human rights in the Constitution, after which time nine judges of the Supreme Court of Canada will make decisions on how that is applied. So the question is, should Parliament and Legislatures continue to make those kinds of decisions or do you want some of that taken away from parliamentarians and put in the hands of the courts? That's the question.

MR. DOBBYN: I would rather have the parliamentarians. I would take a chance on them. You can turn them out if you are not satisfied, but apparently the Supreme Court you can't.

MR. USKIW: Would you agree then or disagree that as a minimum we should entrench language rights?

MR. DOBBYN: I think that we are being accused of abusing that right, but the original Bill of Rights, The BNA Act, it was quite clearly stated in there that Quebec were to have their — they could use either language, they could use it in their Legislature and in the House of Commons. I think the controversy now is that we were trying to push this right across the country. Does that answer your question?

MR. USKIW: Not quite, no. There are two components here. There is the question of whether we entrench language rights as well as a Charter of Rights. I'm trying to split that now. I'm saying if you don't go along with the Charter of Rights because you have said that you prefer Parliament to be supreme here rather than the courts, would you at least go along with entrenchment of language rights which would give protection to the minority French fact in Canada, over which there has been so much controversy and over which there has been so much dissension in the Province of Quebec?

MR. DOBBYN: I think if we could define how small or how large an area, by all means allow those people to have their rights. Now I don't mean if one family in northern Quebec is English-speaking that they should be allowed a whole school set up for a family; I think that's ridiculous and this is what we're afraid of possibly in the west.

MR. USKIW: Well, let's examine that though, because we have to put ourselves in the other person's position. Do you believe that English families in Montreal should have a right to services in the English language, school services, government

services, etc., should they have a right to receive those in the English language?

MR. DOBBYN: I would think so, but as I mentioned an isolated case, I think that you have to stretch . . .

MR. USKIW: Let me follow this through though. If you think they should in Montreal, then should not French Canadians in Winnipeg have those same rights?

MR. DOBBYN: I think so.

MR. USKIW: That's the point I am making.

MR. DOBBYN: If there are numbers.

MR. USKIW: So then you are in favour of entrenchment of language rights to provide this basic protection in principal?

MR. DOBBYN: That's right.

MR. USKIW: Okay.

MR. CHAIRMAN: Thank you very much Mr. Dobbyn. Mr. Einarson.

MR. EINARSON: Mr. Chairman. Mr. Dobbyn, in your comments you mentioned the B and B Commission, I think right to the late Mr. Pearson, and I'm wondering from that comment and probably other thoughts whether or not some of the eventualities that have taken place in recent years by the present Prime Minister, whether they have not been more a cause for the kind of problems we are facing today. Is that really what you are trying to tell us, when you talked about the B and B Commission, for example?

MR. DOBBYN: I think so. We took a lot of abuse about that. We have millions of people in western Canada that came here, and all of a sudden they are being accused of some dastardly crime against Quebec and they possibly don't even know there was a Quebec for many years, and this is what I meant. All this time was taken, but now we have I think far more important things and they won't even send the Commission out of eastern Canada to such as this, to give people an opportunity to speak to it.

MR. EINARSON: In other words, we've had The Official Languages Act brought in by Prime Minister Trudeau in 1969. That plus the B and B Commission that was established and as you indicated to go across this country prior to that. Prior to those two things happening, did you ever hear any discontent from the province of Quebec or any other province of Canada?

MR. DOBBYN: No I didn't. I think that started up and I think the one man that went in there to stir it up is our Prime Minister right now.

MR. EINARSON: We were told by a witness in Brandon the other day that the talking about the rights being entrenched within the Constitution, that the right to own property is not there. Does that concern you?

MR. DOBBYN: I guess it would. I think that is true here isn't it, at any time. If we own property and they want to put a highway through it, they put a highway through, don't they? We can't stand in its way, or a railroad.

MR. USKIW: There's never been a railroad.

MR. DOBBYN: No, I guess not. I don't think that right, you could hold that though eh?

MR. EINARSON: But do you feel that right should be there, to own property?

MR. DOBBYN: I think it should be in a way, but then again when it's a necessity to have an airport or a drainage canal or whatever, what do you do?

MR. EINARSON: In that case if you do own property and the state requires a portion of your property for the purpose of the public good in its various forms, then there is no problem there, at least invariably we hope there are no problems because there's a means of being able for the governments to acquire land for those various things.

MR. DOBBYN: You kind of accepted that, so far.

MR. EINARSON: But the thing that concerns me is that if that right is not there, have you ever given any thought, because you're concerned about the present Prime Minister? Has the thought, by any chance, I ask you, occurred to you that Pierre Elliott Trudeau would like to see this country turn into a republic?

MR. DOBBYN: I'm afraid I don't understand a republic. I've tried to figure it out. I guess a president is all powerful, isn't he? He can veto pretty well anything and I wouldn't want to see that.

MR. EINARSON: So I just want to make sure then. And one final question is that the entrenchment of your rights into the constitution as opposed to not entrenching the rights. And the difference here is that do you feel that parliament and the Legislature should be supreme or should these rights be placed if they are incorporated in the Constitution, placed in the hands of judges that are appointed by the Prime Minister of the country, who are not answerable to the people? What's your views on that?

MR. DOBBYN: I think that Parliament, even though whatever we might think of Parliament or our Legislature they have to face up to changing condition and if a Supreme Court goes back and says, well, 40 years ago this was put in and that's the only way we can handle it; that isn't right. Now maybe these rules can be changed. I heard on the news this morning a constitutional expert said that there was no need to go to Britain to get the Constitution but Ottawa could just draw up their own Constitution right now and that's it, and it's kind of disturbing that this can be done. It makes you wonder, can this be done every time there's a change in government in Ottawa, can they bring in any Constitution?

MR. EINARSON: No, I never heard that comment on the radio, but you raise a point that could be interesting. That's all I'm interested in. Thank you.

MR. CHAIRMAN: Mr. Einarson, are there any further questions? Mr. Uskiw.

MR. USKIW: Were you, sir, aware that Manitoba was in violation of the rights of French Canadians since 1890 up until the Supreme Court handed down a ruling about a year ago? Were you during that time aware that . . .

MR. DOBBYN: No, no I wasn't no, certainly not.

MR. USKIW: You accept the ruling of the Supreme Court?

MR. DOBBYN: I don't know. No, I wouldn't comment on that because I don't thoroughly understand it.

MR. CHAIRMAN: Thank you very much Mr. Dobbyn. The time is almost 12:30, gentlemen, the time for our luncheon break. Mr. Dobbyn, thank you very much for appearing and bringing your views before the committee. The committee will reconvene at 2:00 p.m. here and hear whatever briefs may appear before us at that time.
Committee rise.