



**Second Session — Thirty-Second Legislature**  
of the  
**Legislative Assembly of Manitoba**

**STANDING COMMITTEE**  
on  
**PRIVILEGES**  
and  
**ELECTIONS**

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**31-32 Elizabeth II**

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*Chairman*  
*Mr. A. Anstett*  
*Constituency of Springfield*



MG-8048

**VOL. XXXI No. 33 - 10:00 a.m., THURSDAY, 22 SEPTEMBER, 1983.**

**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Second Legislature**

**Members, Constituencies and Political Affiliation**

Name	Constituency	Party
<b>ADAM, Hon. A.R. (Pete)</b>	Ste. Rose	NDP
<b>ANSTETT, Andy</b>	Springfield	NDP
<b>ASHTON, Steve</b>	Thompson	NDP
<b>BANMAN, Robert (Bob)</b>	La Verendrye	PC
<b>BLAKE, David R. (Dave)</b>	Minnedosa	PC
<b>BROWN, Arnold</b>	Rhineland	PC
<b>BUCKLASCHUK, Hon. John M.</b>	Gimli	NDP
<b>CARROLL, Q.C., Henry N.</b>	Brandon West	IND
<b>CORRIN, Brian</b>	Ellice	NDP
<b>COWAN, Hon. Jay</b>	Churchill	NDP
<b>DESJARDINS, Hon. Laurent</b>	St. Boniface	NDP
<b>DODICK, Doreen</b>	Riel	NDP
<b>DOERN, Russell</b>	Elmwood	NDP
<b>DOLIN, Hon. Mary Beth</b>	Kildonan	NDP
<b>DOWNEY, James E.</b>	Arthur	PC
<b>DRIEDGER, Albert</b>	Emerson	PC
<b>ENNS, Harry</b>	Lakeside	PC
<b>EVANS, Hon. Leonard S.</b>	Brandon East	NDP
<b>EYLER, Phil</b>	River East	NDP
<b>FILMON, Gary</b>	Tuxedo	PC
<b>FOX, Peter</b>	Concordia	NDP
<b>GOURLAY, D.M. (Doug)</b>	Swan River	PC
<b>GRAHAM, Harry</b>	Virden	PC
<b>HAMMOND, Gerrie</b>	Kirkfield Park	PC
<b>HARAPIAK, Harry M.</b>	The Pas	NDP
<b>HARPER, Elijah</b>	Rupertsland	NDP
<b>HEMPHILL, Hon. Maureen</b>	Logan	NDP
<b>HYDE, Lloyd</b>	Portage la Prairie	PC
<b>JOHNSTON, J. Frank</b>	Sturgeon Creek	PC
<b>KOSTYRA, Hon. Eugene</b>	Seven Oaks	NDP
<b>KOVNATS, Abe</b>	Niakwa	PC
<b>LECUYER, Gérard</b>	Radisson	NDP
<b>LYON, Q.C., Hon. Sterling</b>	Charleswood	PC
<b>MACKLING, Q.C., Hon. Al</b>	St. James	NDP
<b>MALINOWSKI, Donald M.</b>	St. Johns	NDP
<b>MANNES, Clayton</b>	Morris	PC
<b>McKENZIE, J. Wally</b>	Roblin-Russell	PC
<b>MERCIER, Q.C., G.W.J. (Gerry)</b>	St. Norbert	PC
<b>NORDMAN, Rurik (Ric)</b>	Assiniboia	PC
<b>OLESON, Charlotte</b>	Gladstone	PC
<b>ORCHARD, Donald</b>	Pembina	PC
<b>PAWLEY, Q.C., Hon. Howard R.</b>	Selkirk	NDP
<b>PARASIUK, Hon. Wilson</b>	Transcona	NDP
<b>PENNER, Q.C., Hon. Roland</b>	Fort Rouge	NDP
<b>PHILLIPS, Myrna A.</b>	Wolseley	NDP
<b>PLOHMAN, Hon. John</b>	Dauphin	NDP
<b>RANSOM, A. Brian</b>	Turtle Mountain	PC
<b>SANTOS, Conrad</b>	Burrows	NDP
<b>SCHROEDER, Hon. Vic</b>	Rossmere	NDP
<b>SCOTT, Don</b>	Inkster	NDP
<b>SHERMAN, L.R. (Bud)</b>	Fort Garry	PC
<b>SMITH, Hon. Muriel</b>	Osborne	NDP
<b>STEEN, Warren</b>	River Heights	PC
<b>STORIE, Hon. Jerry T.</b>	Flin Flon	NDP
<b>URUSKI, Hon. Bill</b>	Interlake	NDP
<b>USKI, Hon. Samuel</b>	Lac du Bonnet	NDP
<b>WALDING, Hon. D. James</b>	St. Vital	NDP

**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON PRIVILEGES AND ELECTIONS**  
**Thursday, 22 September, 1983**

**TIME — 10:00 a.m.**

**LOCATION — Morden, Manitoba**

**CHAIRMAN — Mr. Andy Anstett (Springfield)**

**ATTENDANCE — QUORUM - 6**

*Members of the committee present:*

Hon. Messrs. Mackling, Penner and Uskiw  
Messrs. Anstett, Brown, Graham, Orchard;  
Mrs. Oleson

**WITNESSES:** Mr. David Arnott, Private Citizen  
Reeve Henry D. Hildebrand, R.M. of Rhineland  
Mr. Bill Muirhead, Private Citizen  
Reeve Donald J. Alexander, R.M. of  
Thompson  
Reeve Dave Harms, R.M. of Pembina  
1Mr. Gérald Grenier, Société Franco-  
Manitobaine

**MATTERS UNDER DISCUSSION:**

Proposed resolution to amend Section 23 of  
The Manitoba Act

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**MR. CHAIRMAN:** Committee, come to order. Our first item of business, ladies and gentlemen, is that I have received the resignation of Messrs. Uruski, Malinowski, Bucklaschuk, Adam, Blake and Nordman. I understand the replacements for them are as follows: Messrs. Schroeder, Uskiw, Desjardins, Mackling, Brown and Orchard. Can I have a motion to that effect? Thank you. Is that agreed? (Agreed)

Ladies and gentlemen, I'd like to welcome you to the Morden hearings of the Standing Committee on Privileges and Elections. The purpose of these hearings is mandated by a resolution of the Legislative Assembly passed in mid-August of this year, which reads in part as follows:

WHEREAS the Government of the Province of Manitoba has proposed a resolution to amend Section 23 of The Manitoba Act, which amendment concerns the translation of the statutes of Manitoba, or some of them, and the question of government services in the French as well as the English language; and

WHEREAS the Legislative Assembly of Manitoba deems it advisable to hear the views of Manitobans on the subject matter of this resolution.

A series of hearings are being held in the province during the month of September and today in Morden and possibly tomorrow if necessary are part of those scheduled hearings.

I'd like to introduce those members of the committee who are present here today. On my right, Mr. Sam

Uskiw, Minister of Highways and Member for Lac du Bonnet. Beside him, Mr. Al Mackling, Minister of Natural Resources and Member for St. James in the City of Winnipeg. Beside Al, Mr. Roland Penner, Attorney-General of the Province of Manitoba and Member for Fort Rouge. On my left - in a sense on my left - Don Orchard, Member for Pembina; Charlotte Oleson, Member for Gladstone. Beside Charlotte, Arnold Brown, Member for Rhineland; and last but not least, Harry Graham, Member for Virden. My name is Andy Anstett, I'm the MLA for Springfield and Chairman of the committee.

You will notice, ladies and gentlemen, there is a translation booth here to provide simultaneous translation for those of us who are not familiar with the French language in the event that briefs will be presented in French. Members have small receiver units and for those of you in the public, if someone indicates they wish to present a brief in French, the technician on my left will be prepared to sign out receivers at that time, so that all of you may follow the brief. If anyone here does have a brief that they wish to present in French, we would appreciate your providing a copy to the Clerk in advance, so the translator can have an opportunity to review the brief in advance of the presentation.

We have on the list a total of 26 individuals or organizations who have indicated their desire to present briefs today. If there is anyone else in the audience who has not registered with the Clerk, I would ask you to do so. The Clerk is sitting at the table on my right.

With no further adieu, I would like to commence hearing those who have indicated a desire to present today.

The first on the list is Reeve Henry D. Hildebrand, Reeve of the R.M. of Rhineland. Reeve Hildebrand, please.

Mr. David Arnott. Mr. Arnott, please.

**MR. D. ARNOTT:** I would like to speak briefly as a private citizen on behalf of my family.

I strongly support the Provincial Government's position regarding this resolution. I have several reasons for doing so, but I would really like to discuss how this proposed resolution will affect a non-Francophone family like ours.

Our situation is that we are in the process of transferring our kids to an adjacent school division so that they can receive French instruction. I regret very much that this will mean we won't be able to support our local school because I really think it is a fine school and it's important for people to support their local communities as much as possible.

From my personal point of view, I would hope that this resolution and the process we are going through in this hearing would create a situation or an atmosphere in which it would be easier for friends and neighbours in my community to understand what we are doing is a legitimate, positive personal action that need not

threaten or cast any negative light on anybody else's aspirations. That would be the ideal. But, I feel that over the past few weeks, I have been watching this possibility slip away.

Although I speak as an individual who wholeheartedly supports the resolution and all its implications, I must say that I am horrified by the pressures I feel are pushing everyone into one camp or the other. Surely there must be people on the other side of the issue that feel the same way.

I'm not asking the government to stop or alter its course because I believe that course to be just and long overdue and of such vital importance to Manitoba that the consequences must be faced, whatever they may be. However, if everyone does not act in good faith and if the players are unable to resist the temptation to inject personal grievances and pet causes into this already overcharged issue, or if the Government of Manitoba is unable to find a way of proceeding that does not inflame people's feelings unduly, then this is one family that will pay a price and feels that it will have been put in a very vulnerable position. In other words, resolution or not resolution, we're going to lose if this happens. I don't want to exaggerate or overstate the case because in one sense maybe overstatement itself is part of the problem, but I am faced with this very real anxiety.

I would conclude by saying that it is reassuring for me to have this opportunity to express my support and to make sure that you are aware that while the resolution may deal specifically with provincial services in French and with French language rights, and while the issue may most properly be the concern of Francophone Manitobans, it is at the same time going to have very real consequences on a wide range of people in ways that are not immediately obvious at first glance. For example, people like us who like to think that in some way or another we're a part of both communities but, who in the end, when the dust has settled, may not be able to belong to either.

That's all I have to say.

**MR. CHAIRMAN:** Thank you, Mr. Arnott. Are there any questions from members of the committee? Seeing none, thank you very much.

I noticed Reeve Hildebrand come in just after Mr. Arnott started. Is it your will and pleasure to return and call that name again, rather than dropping it to the bottom of the list since it was first?

Reeve Henry Hildebrand, please.

**MR. H. HILDEBRAND:** Thank you, Mr. Chairman. We, in our municipality, are concerned with this bilingualism, that you tell us that will not involve our municipalities and also our school boards. We do not believe what you are saying because we have found out in the past, it is not true.

Now, we have, in our municipality, two people right now - one is 25-year service; one 30-year service. They are soon going to be retiring, and if the government all of a sudden puts an incentive on to hire somebody who speaks French, we say it won't happen. But we're concerned, because if municipalities can save money, and by hiring a bilingual person, who is going to get the job?

They said the same thing when the Federal Government came up with the French thing. It would not bother. But our neighbour's daughter applied for a job with the Federal Government here about a month ago. The first thing they asked: "Do you know French?" "No." No use to apply. So this is why we are very concerned with what is happening. When you say it will not come into the municipal field, we just don't believe it.

That's our presentation. It is a short one, but that's our concern.

**MR. CHAIRMAN:** Thank you, Reeve Hildebrand. Questions for Reeve Hildebrand from members of the committee?

Mr. Penner.

**HON. R. PENNER:** Reeve Hildebrand, I believe you understand that what is being proposed is a constitutional amendment?

**MR. H. HILDEBRAND:** That is right.

**HON. R. PENNER:** Do you understand that once something is in the Constitution of this kind it can't be changed by the Legislature of Manitoba? It could only be changed by the Legislature of Manitoba and the House of Commons and the Senate? That's the only way it could be changed?

**MR. H. HILDEBRAND:** Yes, I realize this, but I am still very much concerned because I think we also have in our Constitution, that anybody in the province or in Canada can move from job to job and also place to place, be it man, woman or child and own property. Yet our Provincial Government has changed legislation that only people in Manitoba can use farm land. It's also in the Constitution that everybody can move across the province, across Canada and do this, and yet this has been done by our Manitoba Government right now.

**HON. R. PENNER:** Just with respect to that example, of course if you're right, and that is that the Farm Land Ownership Bill violates the Constitution, then, of course, somebody can go to court immediately and have it declared invalid.

**MR. H. HILDEBRAND:** Yes, but would we get money like some of the people get now to fight the Federal Government and go to the Supreme Court?

**HON. R. PENNER:** Well, I'm sure that you can find sources of funding through your farm organizations, but I'm not here to discuss that with you. I just want to know if you understand that with a constitutional provision, you can in fact - if something is wrong or invalid - you can go to court. You understand that?

**MR. H. HILDEBRAND:** Yes, I understand.

**MR. CHAIRMAN:** Further questions for clarification please, Mr. Penner?

**HON. R. PENNER:** Finally if there was, as we now propose, to have a constitutional provision which says

as part of the Constitution in clear terms but not including any municipality or school board, that by actually spelling it out, that would give municipalities more protection than they have now?

**MR. H. HILDEBRAND:** Yes, but we don't trust you by saying that it won't be done because we've seen this in the federal field and it isn't true what they've been telling us and we believe it would happen up here too. It's just like a case - even if the Constitution is passed in Manitoba, if the same people go back to court and say that we don't agree with this, what the Francophones and the Manitoba Government and the Canadian Government agreed upon, then we're back to Square One again - the whole issue and this is - I think anything can be changed.

**HON. R. PENNER:** Mr. Hildebrand, I'm not asking you to trust me. I'm asking you whether or not you trust the law of the land - the Constitution?

**MR. H. HILDEBRAND:** Well, they can be manipulated very much and we know this, even by the politicians.

**HON. R. PENNER:** Thank you.

**MR. CHAIRMAN:** Further questions of Reeve Hildebrand? Mr. Graham.

**MR. H. GRAHAM:** Thank you very much, Mr. Chairman. Through you to Mr. Hildebrand and following on the questions of Mr. Penner. Mr. Hildebrand if this is entrenched in the Constitution and the proposal now is to provide a limited form of bilingualism in the Province of Manitoba, in your opinion, would that prevent the province, at some time further, passing a Manitoba statute - not a Constitutional statute but a Manitoba statute - to include municipalities and school boards at a later date?

**MR. H. HILDEBRAND:** I think it's our concern that this would happen.

**MR. H. GRAHAM:** Mr. Chairman, if that should happen, in your opinion, Mr. Hildebrand, would that constitute a violation of the proposal that is presently before us, where there is specific exemption for municipalities and school boards at the present time in the Constitution? Would that be in violation of that if the province, later on, included in it by provincial statute?

**MR. H. HILDEBRAND:** Well, I think it would be violated that way, but still I see politicians can justify their means by just about passing anything they want to, and this is why we're very concerned because it's divided our municipalities, it's divided our districts, it's pitted brother against brother and in our school board just to the east of us, there are some French children in that school and the parents came up yesterday and they said they are very concerned. They don't want nothing to do with this, but their children are bringing home some of the problems and I think this is not fair to the French people. It is not fair to the other people. But sometimes we just wonder, is this really the French issue that's at stake or is it issue to divide us, divide and conquer, rather than the French language?

**MR. H. GRAHAM:** On the issue of division and what you consider to be a real problem in society, would it be your advice then that before any constitutional change be made, there try and be unity and consensus from all, before they proceed with constitutional change?

**MR. H. HILDEBRAND:** Yes, I think it should be. I think we should have a referendum in Manitoba and maybe across the country.

**MR. H. GRAHAM:** Well, Mr. Chairman, I don't want to get into the issue of a referendum or not, but on the issue of constitutional change, because it occurs very rarely - I don't know how many times we had attempted to change our Constitution in Canada in the 115 years - would you suggest then that the government maybe even stop and go back and begin all over and try and arrive at a common ground before they propose any changes to the Constitution?

**MR. H. HILDEBRAND:** Well, 15 years ago, with our neighbouring municipality, when we got together, our community was mostly Germans, theirs was French and the biggest advocate of the English language was a councillor in our neighbouring municipality. When people got together he said, let's speak English, we all understand this language, and now after this has come in, there is more division and there's more coming up all the time. I think we should start from Square A and maybe - I don't know what to do but still it doesn't help anything, what we're doing right now. It divides our whole province.

**MR. H. GRAHAM:** Mr. Chairman, through you to Reeve Hildebrand and this proposed agreement between the province, the Federal Government, the Franco-Manitoban Society and the lawyers for the Bilodeau case, I believe there's a time limit that this has to be completed - by the end of this calendar year. When Mr. Trudeau introduced The Official Languages Act by statute, not by constitutional change, in 1968 or 1969, I believe it took him some 13 years to get it into a constitutional change. In this particular case, I believe he's asking us to do it in seven months. Does that seem to you to be a rather hurried-up attempt at constitutional change?

**MR. H. HILDEBRAND:** I wouldn't know. I think the longer this whole thing is going to take, the more divided we are going to get, but I liked what the Premier of the province said yesterday. I think it was the first case of showing his backbone for a long time, that he didn't want the Prime Minister to interfere in our problems in Manitoba and I think it's good. But I think the more hearings we have, the more divided we are going to get.

**MR. H. GRAHAM:** Well, Mr. Chairman, according to Mr. Hildebrand, if the Premier of the province didn't want the Federal Government to get involved, could you tell me why they would then sign an agreement with them?

**MR. H. HILDEBRAND:** No, I have no idea.

**MR. H. GRAHAM:** No further questions, Mr. Chairman.

**MR. CHAIRMAN:** Further questions? Mr. Orchard.

**MR. D. ORCHARD:** Mr. Hildebrand, in the course of the presentation of this amendment to Section 23, dealing with extending bilingual services in the Province of Manitoba, do you believe that you have been adequately informed, step by step, as to what the government was attempting to do? Did you receive sufficient information to inform you of the process and the intent of this amendment?

**MR. H. HILDEBRAND:** Well, I think we've heard a lot of arguments for more than against in the literature that we've received, but we've received quite a bit of literature.

**MR. D. ORCHARD:** Thank you, Mr. Chairman. Mr. Hildebrand, in the literature that you received, do I assume that that was from the government and from the Attorney-General?

**MR. H. HILDEBRAND:** That's right.

**MR. D. ORCHARD:** In any of that literature, was the amendment included so that you could see the total provision of the amendment or was it a general explanation of the . . .

**MR. H. HILDEBRAND:** I've seen it.

**MR. D. ORCHARD:** I realize that now you've seen it. Was it part of an informational package made available to you by the government to your recollection?

**MR. H. HILDEBRAND:** I don't know. We had so much in our office lately on this, I don't know where it was.

**MR. D. ORCHARD:** Mr. Hildebrand, the provisions of this amendment extend French Language Services in the Province of Manitoba beyond what was originally intended in the 1870 Manitoba Act, Section 23. You have identified some problems that this process has caused within the community of causing divisiveness, of causing confusion, and the longer the process goes on, it's your belief that those problems will get worse. Would you feel comfortable if the government were to draw back from their constitutional amendment and simply proceed along with providing French Language Services as were outlined in Section 23, drafted in 1870 in The Manitoba Act, whereby French Language Services would be available in the courts and the Legislature and our statutes would be passed in both languages?

**MR. H. HILDEBRAND:** I think so.

**MR. D. ORCHARD:** Thank you, Mr. Hildebrand.

**MR. CHAIRMAN:** Further questions? Seeing none, Reeve Hildebrand, thank you very much and thank you to your council for being represented here today.

I have on the list in front of me, Manitoba 23, but I do not have the name of the person making the

presentation. Is there someone here from Manitoba 23, please?

Mr. Bill Muirhead, please.

**MR. B. MUIRHEAD:** Good morning. I come to speak to you as a private citizen, and I'll read a short brief and if there are questions later on, I'll answer them.

It's with great pleasure that I submit this brief in support of the resolution to amend Section 23 of The Manitoba Act in respect to the translation of certain statutes of Manitoba on the question of government services in French as well as English.

It is not my intention to deal with the history or legal arguments concerning this amendment, but with the public perception and the image which this proposal brings to the body politic of Manitoba and Canada. The amendment proposed by the government and therefore the people of Manitoba, as I understand it, is to translate certain statutes which have a direct effect on the lives of its citizens, and the intention to provide French Language Services to the citizens of Manitoba where numbers warrant or significant demand.

The proposal, if passed, in my estimation would not seriously disrupt the delivery of services in the province in any way or affect the majority of the citizens, but rather show to Canada and the world that this province recognizes its minorities.

I bring to this discussion a perspective unlike perhaps any of you have heard, for I grew up in Quebec during the '60s and early '70s. I saw my home province, my first province, turn from a civilized, if less than perfect society, to one based on linguistic and cultural conflict. I saw the first city of Canada and one of the great cities of North America change from a tolerant open society to one more ghettoized, less opened and less tolerant because of language through which a whole generation of Anglophones suffered. It's hard for us here in Morden to imagine what intolerance to language either on the part of the English or French can do to our province or society.

While I do not wish to go into contemporary history, the contemporary history of Quebec, I think certain lessons can be learned. Firstly, that there is nothing like language which can stir emotions both good and bad in people; secondly, that intolerance to language differences is really intolerance to another's culture, for language is the repository of culture in world view; thirdly, respect for a minority language cannot be separated from respect for a minority and therefore the civility of a society. For if there is no respect for minorities from the majority, then a province, a country, or a society cannot be deemed to be civilized.

I now wish to list my reasons for supporting this amendment. Common courtesy to a minority. I believe that I have dealt with this previously, but wish to add that courtesy should be given to all groups, not just one. A healthy sign of this courtesy in Manitoba is the proliferation of second language and immersion classes in Manitoba schools, in languages other than French.

Reciprocity with Quebec. I believe both the caucus of the Conservative Party in Manitoba and the New Democratic Party of Manitoba met with Alliance Quebec this past spring. At that time it was reported that Eric Malloff outlined the struggle for English language rights in Quebec and the effect this amendment would have

in the struggle. I cannot but hope that he was well received and that you will heed his message. What happens here in Manitoba will have an effect in Quebec, not just in the area of English rights, but possibly in future referendums and therefore, by extension, the future of Canada.

To right a historical wrong, I believe all politicians of whatever stripes would agree that what was done in 1873 was both legally and morally wrong. By this amendment, it can go part way to rectifying this wrong and the suffering it has caused. To repeat an often used saying, justice must not only be done, but be seen to be done in this case.

To save the province from possible legal chaos in the Supreme Court. It has been reported that if the province had not negotiated this agreement, then the possibility loomed that all laws not passed bilingually could be declared illegal. I don't hope to fully understand the complete ramifications of this act, but suffice to say that it seems to me only common sense that anything that could be done and can be done to alleviate this would be to the advantage of all concerned.

National unity. I think it is important to consider what effect this will have on national unity. All Quebec administrations of whatever political philosophy have tried to define their place in Canada for at least the past 25 years, if not longer. The consensus, in my estimation of this proposal, has been that Quebec fits into a bilingual Canada, but that Quebec doesn't fit into a unilingual Anglophone Canada. Therefore by supporting this amendment, one guarantees that at least one of the major planks or irritants of the Parti Quebecois has been eliminated, and therefore the federalist cause is strengthened in that province.

I hope we realize that the fight for separation of Quebec is not over or defeated, but a continuing struggle. Because of this continuing struggle, I prophesize that all federal parties will fully support this constitutional amendment.

In summing up, I would like to deal with a factor often overlooked in these committee hearings and that is the fear. It seems that most, but not all criticism of this amendment stems from fears on behalf of many groups. Civil servants fear that promotion may be hindered by unilingualism. They see the rules of the game being changed during the game. Manitobans, as a whole, fear that they will be blocked from career choice in the area of government service because of unilingualism. I'm sure some politicians fear for their careers also. After all, who can aspire to be Prime Minister while being unilingual? We might call this the John Crosby syndrome. One fear expressed locally to which I will let you judge is that of cultural assimilation. They see bilingualism federally, now provincially, maybe tomorrow locally, and this is a rational fear which many people confuse with racism and intolerance. In truth, people act or react out of their fears in less than civil ways when they feel powerless in influencing events which shape their lives.

With these hearings, it is hoped that the people will have the information to understand what French language rights mean and do not mean and with this information be better able to deal with this change. I believe that given the proper information, most opposition will dissipate.

Finally I implore you, the members of this committee, to proceed with this proposal on a bipartisan manner,

for a proposal of this nature should be not be used by either party for political gain. This language proposal is not a matter of politics, but a matter of rights. I believe in the future. This step towards French language rights will be seen as a step towards a more united and a more civilized society. Thank you very much.

**MR. CHAIRMAN:** Thank you Mr. Muirhead. Questions for Mr. Muirhead from members of the committee?  
Mr. Orchard.

**MR. D. ORCHARD:** Thank you, Mr. Chairman. Mr. Muirhead, you've indicated that your impression of the amendment would allow for extension of French Language Services where there's significant demand for those services. Are you comfortable with the provision of the amendment which would allow the courts to make the determination as to when significant demand exists?

**MR. CHAIRMAN:** Mr. Muirhead.

**MR. B. MUIRHEAD:** By your question I believe what you're really saying is will significant demand increase so that significant demand will be seen by the courts in later years as to be perhaps a fully bilingual Civil Service or delivery of services within the province. I think one has to look historically at what has happened over the past 73, 93 years in respect to French Language Services in the province. I don't believe one can say that there has been a clamour over the past half century or so for French Language Services within the province.

Therefore based on past precedent, I don't believe that the courts would be used to expand the French Language Services within the province to any greater extent than what they're envisioned by the present government. While this is possible - and I believe that all people would agree that this is possible - I don't believe that will be the end result of this amendment. I trust the courts and I trust the people of Manitoba to act in a civil or fair manner in this respect.

**MR. D. ORCHARD:** Well, Mr. Muirhead, you sort of leap-frogged into an interpretation of where the next question was going to, and I have to tell you, I wasn't heading that way. I simply wanted to find out from you if you were comfortable with a provision in this amendment which allows the courts of the Province of Manitoba to determine what is significant demand for extended bilingual services within the offices of government.

**MR. B. MUIRHEAD:** I'm comfortable with that to the extent that it is my understanding that French Language Services will be set up after this amendment is passed, and that if one is not fully comfortable with the level of French Language Services within the province, that they can resort to court challenges. I think that if that process is correct, then perhaps one is leap-frogging from what is proposed and what will happen in the future. I don't know what will happen in the future in the way of court challenges, based on this amendment, but I believe I'm comfortable with having the courts settle any problems that can arise.

**MR. D. ORCHARD:** Then would you be comfortable with a court decision which expanded French Language

Services beyond what you believe the government feels is necessary, and indeed, maybe even what you think might be an excessive expansion of French Language Services? Would you feel comfortable with a court decision decreeing, for instance, that the Land Titles Office in this town, in this community, should be bilingual because it serves, in their estimation, a significant demand and that there would be reasonable expectations that that demand be serviced in French? If that decision was made by the courts and it was not a correct decision, would you then be uncomfortable and wish to see that changed?

**MR. B. MUIRHEAD:** I believe there's a couple of things that you raised in that question. The possibility exists, obviously, that individuals can go to court to expand the level of French Language Services. Whether I would be comfortable with that is a question open to discussion, because we're dealing with a hypothetical problem here, in that, what do I think is an appropriate level of French Language Services; what do you think is an appropriate level; or what the government thinks is an appropriate level. I have yet to hear from the government as to exactly in nitty-gritty detail, whether there will be a bilingual agricultural rep in Carman, or in Notre Dame, etc. I have a problem in answering that question and I'll preface the answer by saying that when one discusses the proposals, as proposed here today in this amendment, one is dealing with a broad policy aspect of the question and from that broad policy aspect are drawn certain decisions about the delivery of French Language Services within the province.

I'm not an expert in legal matters so I cannot say, if you change a word here or there in the amendment, what the effect will be in future court battles. But I believe that if the court was to deliver a decision, which I believe to be excessive in one way or another, then I believe the option is open within the court system to challenge that decision rendered by the courts. One may fight that, I suppose, all the way to the Supreme Court. One may sign an agreement, sort of an attached agreement to this amendment possibly - I don't know if that's legally possible to change that result of courts.

Whether I would be comfortable, for instance, if all of Manitoba was to become bilingual, if what you're asking me is, if today we have some bilingual services in the province and within the Legislature and in the future, this is expanded to include a totally bilingual province, that is something in the future that I would have to look at, at the time. Needless to say, I do not believe - and I think it's important to put this on the record - I do not believe that Manitoba has to become as fluently bilingual, if we can use that terminology, as perhaps the Province of Quebec would be or the Province of New Brunswick. Does that answer your question?

**MR. D. ORCHARD:** That comes close. You term that a broad policy outline has been set up and that courts may determine where that policy is implemented. If the courts were not determining where the policy could be put in, and a mistake was made by the politicians that decided where expanded services should be made, and they were wrong and they exceeded the reasonable limits that Manitobans would accept, those politicians

can be removed from office at the earliest election opportunity. Court decisions are very difficult to reverse when they are entrenched in a Constitution and in a broad policy matter such as this, do you believe it's fair to allow the courts to interpret what is reasonable demand rather than elected politicians, who, if they make a mistake, will suffer from that mistake, if you will, at the next election?

**MR. B. MUIRHEAD:** The problem between broad policy discussion and the actual implementation of a law can be found in all laws, I believe, if I may digress for a minute and say, thou shall not kill. Well, thou shall not kill, but if one kills in a fit of rage, if one kills in a fit of passion, or if one kills in a premeditated manner, the consequences of such an action vary within the intent of the law, than within the intent of the breaking of the law. So I think it's important to understand that all law, whether it be a statute of the province or a constitutional amendment as we have here, will always be interpreted by the courts, in my understanding of the law, in one way or another.

I think it's important, as I understand it, to say that one may go to court to either expand the law; one may possibly go to court to emasculate the law also. I believe that's also possible, but it's all based on what exists at that time and what the problem is here, as I see it, is that on one hand, there is a school of thought that says the courts will be used to expand the rights or to expand the services, etc., because of this amendment in the Constitution. Well, that would be based on dissatisfaction with what exists as an outcome of this amendment, if I understand that. I don't know that this has not been tabled or passed. It is not in the Canadian Constitution at this point, so to look forward and say that this will happen or this will not happen, is impossible to say. These committee hearings are still taking place. The final amendment has not been sent to Ottawa for passage. There could be further amendments. This whole process could be for naught and the court case, the Bilodeau case could go to the Supreme Court, I don't know.

But I think it's important to look and trust past precedent, as I've stated before, that yes, the possibility which you outlined is quite right. That could happen, but on the flip side of that coin, it could not happen also, and I have no way of knowing whether there will be successful court challenges or this will go to court for an extension of French Language Rights within the province. I don't know whether - I understand that within the legal system, once you pass a law and I'm not a lawyer here, that there is intent, that intent is taken into account and I don't believe the intent of this amendment - I think we could all agree the intent of this amendment is not to make Manitoba a fluently bilingual, fully bilingual province in all services, all boards, regulations, etc., so therefore if there was a challenge, I believe intent would be part of it.

Now we could argue the legal points on whether the "I's" are dotted and the "T's" are crossed and whether, by implication, successful court challenges could take place. I'm not a constitutional expert and neither am I a lawyer, so I can't really bring to the discussion the expertise which I might like. But I do know that if you treat people fairly - and that's all people, Anglophones



and Francophones - if you treat them fairly I don't believe that these problems will be automatically dissolved by the court. I believe that things can be worked out.

In the sense that in Morden, for instance, if suddenly 40 percent of the population of Morden were to become Francophone, I believe it would be fair and right that there would be perhaps a bilingual Land Titles Office. For instance, if we could use - we're talking about the whole - what I see from both sides of the House is that almost we're being dragged into bilingualism, but let me put . . . I'm a very small businessman in that my wife and I are the only employees of our business. If I lived in an area where there was a significant linguistic group, be it French, Ukrainian or German - it doesn't really matter - and I wished to carry on business, and I had competition down the street that was bilingual and I was not, I would be foolish not to be able to make the effort to serve my customers in the language of their preference. It's not that you have to. It is really a matter of courtesy and respect.

It is the effort that is involved in trying to resolve this, as opposed to the final product. Now as a lawyer, you can say, yes, but the final product will be different from the intent, and I can understand the outcome. I understand what you're saying. Quite possibly, that could happen, but I believe that if the effort is made in a fair manner, the problems that erupt on services, for instance the Land Titles Office in Morden, can be resolved at a local level as opposed to resorting to court challenges based on this amendment.

**MR. D. ORCHARD:** The example you use, Mr. Muirhead - and I have to congratulate you with it, in competition - one of your competitors was offering bilingual services where needed, you would likewise make that same effort. I would just ask you whether you would do that as a personal choice or as mandated by a constitutional amendment.

**MR. B. MUIRHEAD:** I don't believe the constitutional amendment would force me to serve my customers bilingually. But I think what you are trying to say is, would I make the effort as a personal choice or would I make it based on a profit motive.

Since I have some fluency in the French language, it would be easier for me to make that personal choice obviously, but I also would see it as a matter of courtesy. Also the profit motive cannot be overlooked in the sense that if I was bilingual, possibly I could sell more pots and therefore make more money. If in the event I was such a large company that a segment of the population was unimportant to the bottom line of my business; if that's the question you're asking, then possibly it would be different.

It would also be different if I had no ability. I don't believe, for instance, that - again I wish to point that it's the idea of the effort being made. I may not be able to serve my customers in a fluently bilingual capacity but, if I make the effort, I believe that is all that's asked at least on my part.

Now on the part of the government, one can make argument that may not be the case. One should be fluently bilingual in that respect.

**MR. D. ORCHARD:** Mr. Muirhead, you mentioned your experience of growing up in Quebec, and you saw that

debate over the language issue in the time you grew up in Quebec caused a lot of social tension, disunity, bad feelings, etc., etc. in Quebec. You mentioned Montreal specifically. Did you detect any of that sort of friction in Manitoba two years ago, five years ago, between French and English in Manitoba?

**MR. B. MUIRHEAD:** Yes.

**MR. D. ORCHARD:** The same as in Quebec and in Montreal?

**MR. B. MUIRHEAD:** If you're asking me whether the same conflicts were here two years ago, I would say, yes. I would say, of course, that because the proportion of the population which is Francophone in the Province of Manitoba and the percentage of the population which is Anglophone as a minority in the Province of Quebec, those proportions are slightly different. Therefore, one could say that there was less of that in the Province of Manitoba. I think that would be valid. I think the problems were there.

In Quebec, for instance, you have one million Anglophones which have institutions. You had billions upon billions of investment by Anglophones, Americans, etc. Therefore, the problems were amplified because of the scope that was involved within that province. Therefore, when one thinks of Anglophone-Francophone conflict, one obviously thinks of Quebec. Possibly, one now thinks of Ontario over the past few years. But I cannot say that two years ago, there was no conflict within the province.

I believe your government or the government that you were a part of made an effort - and I'm not here to discuss how great the effort was or the ramifications of that, because I'm not familiar. But I believe that at that time, there were the beginning of some Francophone services being delivered by the government under your administration. So obviously, there must have been some demand at that point. So therefore, whether it was based on conflict and because of conflict that result arose or not, I can't offer an opinion on that, but I believe it was here two years ago.

**MR. D. ORCHARD:** Okay, working on your premise that it was here two years ago, has it increased over the last several months to be a major divisive issue in the Province of Manitoba?

**MR. B. MUIRHEAD:** Yes, I believe it has increased, and I believe it's increased for certain reasons. In 1979, the Forest case went to the Supreme Court. Today, we have the Bilodeau case. So therefore, to say that this amendment is causing greater divisiveness is to ignore the fact that we now have a court challenge where the ramifications of that court challenge were different than they were two years ago.

If there had been no amendment, if we can surmise that the Government of the Day had said, well we will not bring an amendment; we will not negotiate some sort of agreement and we will let the Bilodeau case go to the Supreme Court, I believe that at this point possibly there may not have been as much possible divisiveness, but that the divisiveness would have been greater if

the court challenge had resulted in all laws in the Province of Manitoba being proved invalid.

Now there are certain legal opinions that, yes, that would happen; no, it would not happen. I can't say whether it would or would not. I can't even bring in expertise to decide on whether that would be true or not, but I believe that the divisiveness would have arisen anyway because of that court challenge.

**MR. D. ORCHARD:** Mr. Muirhead, you were correct that the previous administration, the Lyon administration, did as a result of the Supreme Court decision in '79 institute certain policy directives. The Attorney-General, in introducing this resolution laid them out quite succinctly. There were some fairly substantive efforts to improve French Language Services in the Province of Manitoba. Would you detect that when those policy directives were being acted upon three years ago, the kind of divisive debate, mistrust, hard feelings existed as are now prevalent in the Province of Manitoba with the course of action taken of a constitutional amendment expanding French Language Services and making it a constitutional amendment - in other words, what I'm asking you, Mr. Muirhead, and you may wish not to answer - is the course of action taken by this government leading to the kind of divisiveness and animosity that you experienced in Quebec, because of an undue haste and possibly a process which need not have been followed to bring about the same kind of Francophone rights in the Province of Manitoba that, I believe, you desire and most other Manitobans desire?

**MR. B. MUIRHEAD:** I understand exactly the question. If I remember, and I was living up North so I was not in an urban area or as close to the city so I'll preface my answer by saying that at that time in 1979, yes, I do believe that there was some conflict or some divisiveness as a result of the expansion of French Language Services under the Lyon administration. There is no way possible I can say that the extent of divisiveness in 1979 was as great as it is today. I can't say that. But whether that is because the process has changed in that the services were being at that point delivered but there was no entrenchment in the Constitution or no law before the courts mandating the government to do that - yes, the process has changed and possibly because of the nature of the process, because it is a Constitution, because the Bilodeau case was before the courts that this is more divisive, that's open to discussion.

I see the question and there is no doubt that there is more divisiveness now in Manitoba over French Language Services than there was in 1979 and no one can deny that fact. But when comparing 1979 with 1983 one really is comparing apples and oranges in the sense that the time has changed. There has been a referendum in Quebec. You still have a very unpopular Prime Minister in Ottawa. You have a new case before the courts where the ramifications were very different than in 1979 and that the route that the present government or the amendment that is now before us is a constitutional amendment, whereas in 1979 it wasn't.

I'm aware, Mr. Chairman, that I cannot ask questions to the members sitting here. But I think a question that,

as an extension in my answer, I could put forward that if in 1979 as a result of a demand for French Language Services in 1979, if an amendment had been prepared by the Lyon administration at that time would there have been as much divisiveness then as there is now, is quite open to discussion and you may be right that the process now is defining the result and that is divisiveness. I can't answer that.

But again, I think one has to understand that the politics of today, the circumstances that we all find ourselves in today are quite different than in 1979 and that whether the process is dictating the conflict or if the conflict was always there and because there is an amendment it has brought this latent conflict to the surface - I guess I have no opinion, I believe it would have been as divisive then as it is now, perhaps less divisive because you were in a pre-referendum period in Quebec and one would have been watching the results there quite closely.

I think what you're saying is, is this amendment the proper thing to do at this time? Is it dividing Manitoba instead of uniting Manitoba? I leave that in your hands to answer basically because it's impossible to compare what would have happened in 1979 if the Bilodeau case had been before the Supreme Court or if there had been no issue before the Supreme Court today. I don't know. That's basically the way I can answer that question, Mr. Orchard.

**MR. D. ORCHARD:** Thank you.

**MR. CHAIRMAN:** Further questions by members of the committee? Seeing none, Mr. Muirhead thank you very much for being here today and making your presentation.

Next on our list is Reeve Don Alexander, Reeve of the Rural Municipality of Thompson. Reeve Alexander, please.

**MR. D. ALEXANDER:** Mr. Chairman, members of the Standing Committee on Privileges and Elections of the Legislative Assembly of the Province of Manitoba. The Council of the R.M. of Thompson welcomes this opportunity to express its views on the proposed government amendment to Section 23 of The Manitoba Act.

The municipality lies just to the northwest of here, consists of five-and-a-half townships, contains 1,370 people of which approximately two-thirds are Anglo-Saxon and the remainder are mainly German with a trace of other groups, such as Ukrainian, Polish and French.

Section 23 of The Manitoba Act of 1870 was drawn up at a time when the population of this province was approximately one-half English speaking and the other half French speaking, if you ignore the Native people.

Shortly after this, the railway made it possible for settlers to come to Western Canada to settle the vast land reserves of the prairie provinces. These settlers either came from central Europe or Ontario. The net result is that today the French represent 6 percent of our total population in Manitoba and the Société Franco-Manitobaine represents an even smaller percentage than that. Therefore, we, the council of the R.M. of Thompson, are unequivocally opposed to any

amendment to Section 23. It seems reasonable to us that a significant number of our ratepayers feel the same way.

If Mr. Bilodeau sees fit to take a case which has been lost twice in the Manitoba courts to the Supreme Court, that's his prerogative. If by some miracle he should win, then so be it. In our opinion, entrenchment of language rights in the Constitution brings inflexibility rather than flexibility. It will also bring about legal battles over extended French Language Services in which the courts, not the Legislature, will have the final word.

In short, ladies and gentlemen, an amendment of any kind will provide a legal heyday and wind-fall profits for constitutional lawyers.

A number of French people in recent TV interviews have indicated that if language rights are not entrenched their culture will die. Ladies and gentlemen, we have had a phenomenon yearly in Winnipeg for at least the last 10 years called Folklorama which indicates that many cultures in Manitoba are alive and well even though these cultures do not have any language rights to help keep their culture alive. Furthermore, the Federal Government doesn't support radio and TV stations that broadcast in their native tongues.

It's obvious that the present provincial administration has been under intense pressure from sources outside this province to expand and entrench French Language Services. However, we beg to assure you that this is only the tip of the iceberg. For instance, representatives of the Party Quebecois have indicated to me that they are very distraught that The City of Winnipeg Act wiped St. Boniface off the map; that Catholic parochial schools were denied provincial aid; and that Louis Riel has never received his just recognition from the Province of Manitoba. Lack of language entrenchment does not mean to us that language services cannot be offered where practical, not only to French people, but to all other ethnic groups in Manitoba.

In conclusion, ladies and gentlemen, lack of entrenchment of certain rights does not mean the world will suddenly come to an end. After all, the right to own property was not entrenched in the Constitution.

**MR. CHAIRMAN:** Thank you, Reeve Alexander. Questions for Reeve Alexander from members of the committee?

Mr. Orchard.

**MR. D. ORCHARD:** Mr. Chairman, I'd like to ask Mr. Alexander, in your final statement, I think it's fair to sum up and I'll ask you if this is a correct interpretation, that you're not saying that French Language Services should not be available or indeed even expanded if the need is there, what your concern is is the entrenchment as envisioned by the amendment to Section 23. Would I take from those statements, Mr. Alexander that you would feel quite comfortable with Section 23 as it was originally written in The Manitoba Act in 1870 of French Language Services in the courts and Legislature?

**MR. D. ALEXANDER:** That's correct, Mr. Orchard, and I would prefer to leave the discretion for the expansion of the language services no matter whether it's in French or in any other language, to the discretion of the

Legislature. If it's entrenched in the Constitution, then it goes beyond the scope of the Legislature and becomes a court situation. I think, as you well know, or at least in my opinion, many court cases are now being decided on whichever side has the most money. I think a rather typical example occurred in Nova Scotia within the last two or three days in which the court decided that 2-4-5-T was not a health hazard.

**MR. D. ORCHARD:** Just one more question then, Mr. Chairman. The problem you envision and your council, representing the citizens of the R.M. of Thompson, envision then is that any expansion of services in the French language in the Province of Manitoba, such as are not provided as written in Section 23.7 of the proposed amendment, where its head or central office, of courts, or government, quasi-judicial administrative body of the government, crown corporation or agency of the government, the expansion of any services not outlined in those specific areas will be lost to the government in power and given over to the courts to decide whether those services should be available where they're not specified explicitly in this amendment?

**MR. D. ALEXANDER:** That's the way my council sees it, yes.

**MR. D. ORCHARD:** Yes.

**MR. CHAIRMAN:** Further questions for Reeve Alexander?

Mr. Penner.

**HON. R. PENNER:** Reeve Alexander, on the second page of your brief at the top, with respect to the Bilodeau case, you say that if by some miracle he should win, then so be it. Are you familiar with what the exact issue is before the Supreme Court?

**MR. D. ALEXANDER:** As I understand it, he's attempting to have the court rule that all the laws in the province are invalid since they were not written according to Section 23 of The Manitoba Act, which is in both languages.

**HON. R. PENNER:** In fact, there are only two acts that are actually before the Supreme Court for a decision. The Supreme Court would only, at the beginning, decide with respect to those two acts. One is The Highway Act and the other The Summary Convictions Act.

Are you familiar with the fact that all municipal by-laws are enforced through The Summary Convictions Act?

**MR. D. ALEXANDER:** No, sir, I am not.

**HON. R. PENNER:** Well, I can tell you that they are and if the Supreme Court were to say that The Summary Convictions Act was invalid and you couldn't enforce your municipal by-laws, are you still prepared to say then so be it?

**MR. D. ALEXANDER:** Yes, sir, because I don't feel that any court in this land is going to be that unfavourable, and if they are unfavourable, we don't feel that the day

after the decision or the day of the decision that all the acts are going to be thrown out the window and that we are going to be in complete and utter chaos. It would seem realistic to me that the court would rule that we had X amount of time in order to translate these laws, which should have been done in the first place.

**HON. R. PENNER:** Well, since that issue is not before the Supreme Court, I am not sure how in fact they could make that ruling. There is only one issue and that issue was defined by the court itself and that has to do with the validity of these two acts.

I don't want to misrepresent you. This is all a matter of record. You're saying that even if the result were to be, and I know you don't think it will be, but even if it were to be that The Summary Convictions Act was ruled invalid and you couldn't enforce your municipal by-law, then so be it. That's your position?

**MR. D. ALEXANDER:** Right.

**HON. R. PENNER:** Thank you.

**MR. CHAIRMAN:** Further questions?  
Mr. Orchard.

**MR. D. ORCHARD:** Mr. Chairman, just one follow-up on the question posed by Mr. Penner. In view of the fact that The Summary Convictions Act is the one by which your municipal by-laws are enforced, can you feel comfortable with the position put forward by the Attorney-General and the government that this new amendment to Section 23, which expands French Language Services, even though they are suggesting an amendment, which will exclude municipalities and school boards? With the statement just made by the Attorney-General that The Summary Conviction Act, which must be bilingual according to the court decision in 1979 and The Manitoba Act of 1870, Section 23, do you believe that there is the possibility that municipal services will be indeed affected since all by-laws must be in conformity with the provisions of The Summary Convictions Act, which may well imply that they would be bilingual, and hence any guarantee that is amended into this amendment by the government doesn't necessarily provide the kind of protection that they envision in it and that indeed you would like to see as a council?

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

**HON. R. PENNER:** Yes, the Supreme Court has already ruled that municipal by-laws do not have to be in two languages in the Blaikie case.

**MR. D. ORCHARD:** Mr. Chairman, on the same point of order . . .

**MR. CHAIRMAN:** Order please. There was no point of order, Mr. Penner was offering information and was out of order.

Mr. Orchard, did you finish your question?

**MR. D. ORCHARD:** Yes.

**MR. CHAIRMAN:** Reeve Alexander.

**MR. D. ALEXANDER:** The position of council is the entrenchment of the amendments into the Constitution, then open it to the courts as to what the actual interpretation will be, rather than leave it in the hands of the Legislature. I realize that an amendment has been added to the proposed amendment in which municipalities and school boards are excluded, but I certainly have trouble in 23.7(1)(b)(iv), where it says any agency of the government. Now, in my opinion, since school boards and municipalities were set up by the government, then we are an agency of the government, and you have a somewhat conflicting statement being made.

**MR. D. ORCHARD:** The case of The Summary Convictions Act has recently come up before the Town of Dauphin where parking tickets, in order to avail themselves of recent amendments passed to The Summary Convictions Act, whereby the collection of parking tickets would be made much much easier. If you don't pay it, you, within about 30 days, lose your driver's license. Unless those parking tickets are issued in bilingual form in the Town of Dauphin, it's my understanding they can't use the recently passed provisions of The Summary Convictions Act, as Mr. Penner says.

**HON. R. PENNER:** On a point of order, that's not true.

**MR. CHAIRMAN:** Order please. Part of the problem we're running into - and I appreciate Mr. Penner's desire to raise a point of order to make a correction, but that under our Rules is inappropriate - is when members ask questions for clarification of a brief and introduce wholly new information, they then enter into a debate and cause some conflict with other members or ask questions about material that is not contained in the brief submitted by the witness.

Perhaps it's better if we follow our guidelines and rules, that we ask questions strictly for clarification without introducing new information which may be the subject of some dispute amongst members.

Could you rephrase your question please, Mr. Orchard?

**MR. D. ORCHARD:** Mr. Chairman, if I rephrase the question, I might run amuck of the wrath of the Attorney-General.

The Town of Dauphin wishes to continue to issue parking tickets in English only, it's my understanding. That would present some problems obviously, because their MLA was urging them apparently to adopt . . .

**MR. CHAIRMAN:** Order please, order please. The member is introducing new material, extraneous information to the brief that was presented by Reeve Alexander. If the member has questions for clarification of the material that's in the brief, I would appreciate it if he would ask questions of clarification, but introducing wholly new material is going to create debate and conflict on the committee about the nature of that material. That's not going to be productive in terms of hearing the public.

Mr. Orchard, please.

**MR. D. ORCHARD:** Mr. Chairman, I will take your wise advice, and not speak any further to The Summary Conviction Act as was introduced by the Attorney-General a few minutes ago.

**MR. CHAIRMAN:** Further questions, Mr. Orchard?

**MR. D. ORCHARD:** No, thank you.

**MR. CHAIRMAN:** Mr. Graham.

**MR. H. GRAHAM:** Thank you very much, Mr. Chairman. Through you to Reeve Alexander, Reeve Alexander, you stated, I believe, in reply to questions from Mr. Penner that you weren't really unduly alarmed about any decision that the Supreme Court would make. You felt they would be reasonably fair in their interpretation. Was that correct?

**MR. D. ALEXANDER:** That would be my hope, sir.

**MR. H. GRAHAM:** Reeve Alexander, have you read the proposed resolution that the government has put forward here?

**MR. D. ALEXANDER:** Yes.

**MR. H. GRAHAM:** In Section 23.4(3), it says, "A general revision of the public general statutes of Manitoba shall be printed and published on or before December the 31st, 1993." Would you think, in light of an agreement that has been reached by the province with the Federal Government and with the lawyers acting in the Bilodeau case and with the consent of the Franco-Manitoban Society; if they were all in agreement to give a 10-year period for the printing and publishing of statutes in French, do you think that the Supreme Court would take that into consideration in rendering a decision on the printing of statutes for the Province of Manitoba?

**MR. D. ALEXANDER:** I would certainly hope that would be the case, sir.

**MR. H. GRAHAM:** No further questions.

**MR. CHAIRMAN:** Any further questions by members of the committee for Reeve Alexander?  
Mr. Penner.

**HON. R. PENNER:** Just something from that, do you realize that the proposal in 23.4(1) is part of the whole proposal, including the French Language Services?

**MR. D. ALEXANDER:** I'm sorry, sir, I didn't . . .

**HON. R. PENNER:** Well the part that was quoted by Mr. Graham is part of a package which includes the French Language Services section.

**MR. D. ALEXANDER:** Yes, well the whole thing is the proposed amendment to Section 23, expanding French Language Services and covering the translation of the laws.

**HON. R. PENNER:** Both things.

**MR. D. ALEXANDER:** Yes.

**HON. R. PENNER:** Right, thank you.

**MR. CHAIRMAN:** Further questions? Hearing none, Reeve Alexander, thank you for appearing here and representing your council before the committee.

**MR. D. ALEXANDER:** Thank you, Sir.

**MR. CHAIRMAN:** Reeve Dave Harms, Rural Municipality of Pembina.  
Reeve Harms, please. Please proceed.

**MR. D. HARMS:** Thank you, Mr. Chairman. Mr. Chairman and committee members, I would like to thank you for the opportunity to present the views of the Council of the Rural Municipality of Pembina on the question of bilingualism for Manitoba.

We strongly feel that we have the support of most of the people we represent, numbering close to 1,500 electors or a total population of 2,200 people since we have had no opposition to the position we have taken, but rather numerous encouragements to continue to oppose the amendments to Section 23 of the Manitoba Constitution.

We feel that the Province of Manitoba never did have any official language under Section 23, which only states that either English or French could be used in the Legislature and courts and that proceedings should be printed in both those languages. This was verified by the noted professor of Constitutional Law, Dr. Stephen Scott from Montreal, in his presentation to this committee in Winnipeg, when he indicated that Section 23, as is, did not make Manitoba bilingual. Unless the first proposed amendment under Section 23, namely 23.1, is deleted or changed, Manitoba would become a bilingual province, and this is something that is undesirable, unnecessary and really does not serve any useful purpose in the Province of Manitoba at this point in time. This is what 80 percent of the people of Manitoba object to for a number of reasons.

A two-language system does not work for the benefit of all citizens, as we have already experienced on the federal level as well as in the Province of New Brunswick. It leads to unfair labour practices and discrimination against other ethnic minorities. It creates an atmosphere where actually a minority could rule or dominate the majority, and it always tends to divide instead of uniting our present mosaic, multi-ethnic population.

We are at a point in history in the Province of Manitoba where most of us can communicate and understand each other in one language. Those that cannot are those that have immigrated to this province in the last year or two. Therefore, lack of communication is not the reason for having to adopt another official language.

If we could say that it would greatly benefit any group, both financially and socially if we adopted a two-language system; and if there was any reason to believe that other ethnic groups would also benefit to at least some extent; if we could be assured that the whole exercise that we have been involved in over the last

few months wasn't just another power struggle on the part of certain people, and that there actually were no selfish motives involved, but genuine concern for the well-being of all the people of Manitoba; if we could be assured that the statements and objectives that the Secretary of State set for himself and a Canada as he sees it and describes it in his speeches over the last two years, were not taken from a fictitious novel; and if we knew without a thread of doubt that this is not the first step of just such a program in Manitoba, we would be and should be prepared to jointly - all ethnic groups, all the citizens of the province - sit down and draw up a new Constitution, a Constitution that would reflect present-day conditions; that would guide the people of Manitoba into its great future and recognize all those that have made a contribution no matter what nationality or ethnic background, and give them all equal status as citizens of Manitoba and Canada.

I think we all recognize the two founding nations and honour them as such, but they are not the only ones that have built and developed this province. I am sure we all agree that all the people of Manitoba deserve to be first-class citizens.

It is possible that we could have prevented today's dilemma, if we would have amended our Constitution earlier to reflect the conditions that were developing over the years of growth and progress in this province. It could still be done, if all the citizens of this great province were given equal opportunity to participate in a realistic and unselfish manner.

I thank you, Mr. Chairman.

**MR. CHAIRMAN:** Thank you, Mr. Harms. Questions? Mr. Penner.

**HON. R. PENNER:** Mr. Harms, let me say that I welcome your concluding statement in your brief. Thank you for that, where you say, "It could still be done if all the citizens of this great province were given an equal opportunity to participate in a realistic and unselfish manner."

Along those lines and in the first page of your brief, dealing with Section 23.1, you say and submit that, "Unless the first proposed amendment under Section 23, namely 23.1, is deleted or changed, Manitoba would become a bilingual province and that is something that is undesirable . . ." "Have you a proposal for changing it? Supposing it's not deleted, you say deleted or changed, in order to participate in this process which you're doing today, do you have a proposal for changing it?"

**MR. D. HARMS:** If there was no way that it could be deleted. I would prefer that it would be deleted because that says, which Section 23 doesn't, that English and French are the official languages of the Manitoba which makes Manitoba bilingual.

**HON. R. PENNER:** I understand that.

**MR. D. HARMS:** If we could change that, if we had to change that, it should be changed that it would only go as far as the courts and the Legislature were concerned.

**HON. R. PENNER:** So that you suggest some change that would express some limits?

**MR. D. HARMS:** Some limits, quite a bit of limits.

**HON. R. PENNER:** Yes, I understand that you would want it to be very limited. All right. Mr. Harms, you are also the President of the Union of Manitoba Municipalities.

**MR. D. HARMS:** That is correct.

**HON. R. PENNER:** I've had some correspondence with you in that capacity. Do you object to answering questions in that capacity?

**MR. D. HARMS:** I'm still hoping to be able to present a brief to you in Winnipeg on behalf of the Union of Manitoba Municipalities, and I would hope that you would leave those questions until that time and I surely will be pleased to answer them.

**HON. R. PENNER:** If Reeve Harms would prefer that any questions relating to his capacity as head of the union be left to Winnipeg, I have obviously no objection to that, and therefore my next questions, which dealt with some of my correspondence with Reeve Harms in that capacity, I will not ask and I will leave my questions at that.

**MR. CHAIRMAN:** Thank you, Mr. Penner. Further questions for Reeve Harms?  
Mr. Orchard.

**MR. D. ORCHARD:** Mr. Chairman, Reeve Harms, in the first page of your brief you have stated, rather succinctly, and it's backed up by Dr. Stephen Scott's opinion that the original Section 23 of The Manitoba Act drafted in 1870 did not confer official bilingual status on the province. In looking at the proposed amendment, your concern does come up when Section 23.1 and I'll quote it, indicates that "English and French are the official languages of Manitoba." Your concern is that in 1870 there was no indication in the original Section 23 or any reference to official languages. Your concern is that today, by having Section 23.1 indicate that English and French are official languages, that you set the intent of the amendment to give extended bilingualism and maybe not in the limited capacity that is outlined. Obviously you've taken the interpretation that that statement, that English and French are the official languages of Manitoba, as being the intent of the government, and courts must make decisions on the basis of what they perceive the intent of legislation being when it was drafted. Is that the major concern you have and what stimulates your request to have that section removed?

**MR. D. HARMS:** I would think, and we have had legal advice on it, that if Section 23.1 were implemented as is that would create a bilingual province, and under that system any court could request anybody, any municipality anywhere, or businesses for that matter, to serve in both languages if there were requests for it. So that interpretation could mean that anybody, even if we had a section in there that says that municipalities and school boards are not involved, if that first one isn't changed, we could still be involved because we are then a bilingual province.

**MR. D. ORCHARD:** Now, the original Section 23, as envisioned and enacted in 1870, made no reference to official languages and provided French and English Language Services in the Legislature and in the courts and provided that statutes, acts of the Legislature be printed in both French and English. Would you feel comfortable and feel that justice would be done if we simply followed the original tenets of Section 23, 1870 Act?

**MR. D. HARMS:** Yes, I think I would feel comfortable all right. I realize that this hasn't been done at the time, but actually it doesn't probably satisfy the demands at the present time because we know it doesn't.

**MR. D. ORCHARD:** And when Mr. Penner asks for a proposition of how to clear up the problem with Section 23.1 where official language status as conferred on both English and French in the province, possibly Section 23 might be amended solely and by itself to say that English and French are the official languages of the courts and the Legislature of the Province of Manitoba.

**MR. D. HARMS:** That was my suggestion.

**MR. D. ORCHARD:** Thank you.

**MR. CHAIRMAN:** Mr. Brown.

**MR. A. BROWN:** My question is to Reeve Harms, and I would like to refer to his brief on the first page where he makes this statement and I quote, "It leads to unfair labour practices and discrimination against other ethnic minorities." I wonder if he could give us an example of where he would think that unfair labour practices and discrimination would be used.

**MR. D. HARMS:** If I apply or anybody applies for a job and you have to have another language, it is already unfair labour practice. I should be able to get a job on the merits of what I can do and not what I can speak, because I can speak a language and still could understand in a different language, and if I couldn't speak either English or French and I could speak German . . . (German spoken) . . . and if you want an interpretation, ask the booth.

**MR. A. BROWN:** Well, I understood you very well, Mr. Harms. By entrenching, do you feel the French language and also the English language, that we are opening up the proceedings for a lot of court cases?

**MR. D. HARMS:** Oh, I definitely think that would happen because we've already been told and we're opening the court cases to another two pages of amendments.

**MR. A. BROWN:** Do you think that the courts are going to have great difficulty deciding any court case that's going to be coming forward when we say that we are going to be officially bilingual and we'll entrench this in the Constitution, and then yet at the same time we take some areas out of this where we're saying, well, municipalities and school boards will not be affected? Obviously this is going to be at variance and the courts

will have to make a decision as to are we bilingual, or are we only a little bit bilingual.

I think that Mr. Lyon put this as an example. He says we are going to entrench ourselves a little bit pregnant, which is rather a difficult situation where you can't have it both ways. Which way, Mr. Harms, do you feel that the courts will decide in cases such as that?

**MR. D. HARMS:** That's a very hard question to answer, and if I were the judge I would tell you which way I would decide. It's going to be difficult. We all know that and there's no reason to believe that it won't. That's why I say that under the present system we have really progressed in Manitoba and we can understand each other. A lot of us speak three and four languages, but the biggest thing is that we have one that we can all communicate in and we can talk to each other about and we don't have to go into translation and so on to understand each other.

When I spoke the other language before, there was 90 percent that couldn't understand what I was saying probably, and that's exactly what's happening when we speak French in Manitoba, and we have to realize what Manitoba is made up of. I'm not English, I'm not German, I'm not French, but I want to be just as big a part of Manitoba as the English and French are, and if the English and French want to be the two ruling majorities, they better forget about it, because there are a lot of us other fellows in this particular country.

The only way that we can get together and talk about it and make something out of this country is if we have communication. Two languages don't make communication. If that is the thing that we're going to be harping on, that we have to have two languages, because once we all have two languages, we only need one of them. What's the use of having the two? We could discard any of one of them. We only need one to communicate.

A language is only a thing of communication. It does not say that I am - when I speak English here now, I'm not English, and if I speak German, I'm not a German, but I can communicate with you. We only need one, we don't need two. You can all understand me.

**MR. A. BROWN:** Thank you, Mr. Chairman.

**MR. CHAIRMAN:** Mr. Penner.

**HON. R. PENNER:** I believe sometimes, Mr. Harms, one can hear, but not necessarily understand. We can hear you.

Just one final question arising out of a question asked by Mr. Orchard. Are you aware of the fact that in 1980 the previous government passed an act respecting the operation of Section 23 of The Manitoba Act, which starts out in Section 1, "In this act, official language means the English language or the French language"? That's already a law of the Province of Manitoba.

**MR. CHAIRMAN:** Reeve Harms.

**MR. D. HARMS:** Yes, I suppose that's a law, but it's not in the Constitution.

**HON. R. PENNER:** Have you had any trouble with this law?

**MR. D. HARMS:** No, I haven't really, but not because I didn't know of it until just some days ago, because I think I recall that you mentioned this at the first day of the hearings, but it wasn't loud enough for us in the back to find out where that law came from. As a matter of fact, we did ask our lawyer where that particular law came from.

It's not any more valid under the present system. If that should go to the courts right now, it's not any more valid than the law was in 1890 that was passed. So unless that happens, what are all the laws that we make? You say we are scared that something is going to happen, chaotic conditions are going to develop. I'll tell you one thing, if the court decided next week that all those laws are invalid, even the by-laws that you were talking about a little while ago in the R.M. of Pembina, we in the R.M. of Pembina would keep on going regardless of what that decision would do. There would be no chaotic disagreements or chaotic conditions in the R.M. of Pembina. I have no fear of that.

**HON. R. PENNER:** No one breaks the law in the R.M. of Pembina?

**MR. D. HARMS:** No, never at all.

**HON. R. PENNER:** Never at all?

**MR. D. HARMS:** Well, that's not the case, but we would could handle that that very same day.

**HON. R. PENNER:** How would you do it?

**MR. D. HARMS:** We would pass our own laws, because we wouldn't belong to you any more.

**HON. R. PENNER:** Under what authority?

**MR. D. HARMS:** On our authority.

**HON. R. PENNER:** Oh, I see, thank you.

**MR. CHAIRMAN:** Any further questions by members? Mr. Graham.

**MR. H. GRAHAM:** Mr. Chairman, through you to Reeve Harms. Reeve Harms, we have heard a number of presentations in various communities throughout Manitoba, and while I'll admit there's been some repetition, every once in a while a new proposition comes forward. I believe that you have brought one forward today on Page 2 of your brief, where you state, "If we could say that it would greatly benefit any group, both financially and socially, if we adopted a two-language system and if there was any reason to believe that other ethnic groups would also benefit to at least some extent, if we could be assured that the whole exercise that we have been involved in over the last few months wasn't just another power struggle," you go on, I'll leave some of the other out, "that you would and should be prepared to jointly, all ethnic groups, all the citizens of the province, sit down and draw up a new Constitution."

I believe this is the first time that this proposal has been put forward. If that were to happen I presume it

would take a great deal of time because it would require consensus from the people of Manitoba, plus the consensus and the agreement of the House of Commons and the Senate. Could you give me some idea, in your mind, of the time frame that you would envisage in a proposal of that nature?

**MR. D. HARMS:** Mr. Chairman, if we could leave politics out of it, and get together as we do in ethnic groups in the municipalities, on council and so on, it shouldn't actually have to take all that long because we've been working together in many areas of three and four and five nationalities, sitting around the table, and I can't recall of any fights or any disagreements that we had. We've always been able to solve our problems. If we could get those kind of people around a table, a good representation of all the people of Manitoba, I think we could draw up a constitution that could work for the Province of Manitoba, and I don't see any reason why it couldn't be done.

It seems that there was a Constitution drawn up a hundred years ago that's something sacred - and it was only made by people. I can't see why the same people that are now involved, and as a matter of fact that Constitution is a hundred years out of date at the present time, and I can't see why people today couldn't sit down and agree on something that should be done, and not fight about it for a whole year, lose a whole summer through it. I don't see any reason why it couldn't be done. I wouldn't say that it could be done in two weeks or two years. It conceivably could be done in two years time.

**MR. H. GRAHAM:** Well, Mr. Chairman, Mr. Harms has only addressed a part of the question. We may be able to get that agreement here in Manitoba, but how long would it take us to get the consensus and the approval from Ottawa and the Senate?

**MR. D. HARMS:** It would be rather unfortunate that if a province could agree 100 percent on a constitution that they would want to adopt for themselves in the province that we would have a government in Ottawa that would say you can't do it. I can't even envision that. Even Mr. Trudeau should not object to that. If 100 percent of the people of Manitoba said this is what we want for Manitoba, then I think we should be getting it.

**MR. H. GRAHAM:** Then, Mr. Chairman, through you to Reeve Harms. Then, Mr. Harms, you would probably, like the Premier of the Province, object to the suggestions that have been flowing out of the Prime Minister's mouth in Ottawa that maybe some help should be provided to the Province of Manitoba in their proposals at the present time. Would you think that probably the Prime Minister of Canada and the House of Commons should listen to the people of Manitoba rather than try to suggest that they come in and give some advice and assistance to us here in the province?

**MR. D. HARMS:** I definitely think so, and I think the Premier made that statement just this morning or yesterday that that was the case, and I would hope that he would stick to that.



**MR. H. GRAHAM:** Thank you very much, Mr. Harms. I want to congratulate you on bringing forward to this committee some very thoughtful suggestions and, in particular, your suggestion about drafting a completely new Manitoba constitution.

**MR. CHAIRMAN:** Any further questions by members of the committee? I would like to ask leave as Chairman from the committee to ask Reeve Harms a couple of questions. Do I have leave? (Agreed)

Mr. Harms, I'm interested, as Mr. Graham was, in your proposal for a new constitution. I am wondering if you can tell me if one of the things you would consider - and I realize you haven't sketched this out - but one of the things you would consider an essential part of reflecting our present population diversity, etc., would be a repeal of the provision in the existing Manitoba Act, which provides that the languages of our Legislature and courts shall be French and English.

Would you want to repeal the existing Section 23 as part of this new process?

**MR. D. HARMS:** It would depend on what process it would take. It might not have to be necessary. If we could agree that we only needed one vehicle of communication, then of course that would come out in the new Constitution and we would only need one. In Manitoba, we actually only need one, but I'm not saying that we couldn't give services. I'm not saying that.

**MR. CHAIRMAN:** I understand that the limitation on services is not the concern in that.

**MR. D. HARMS:** No.

**MR. CHAIRMAN:** If you couldn't get agreement that we would only need one language of communication, are you then suggesting that to reflect present-day conditions, which is your wording, that we should expand the similar provision to Section 23, which would be in this new Constitution, to include a larger number of languages?

**MR. D. HARMS:** Not as far as language rights are concerned. We should create an atmosphere in Manitoba where all ethnic groups would feel at home, where they would be sure that they could use their language and enhance their culture wherever they wanted to. That part should be left that way, but not just for two - we're not going for English and French - that all ethnic groups would have the feeling that they could be at home here, that they could practise their culture and their language to their heart's content. That atmosphere is all that the government should have to provide, as far as the services are concerned. If some of the money that is being spent on that area, on fighting this issue even, for instance, were spent to enhance the cultural and language groups to some extent, it would do much more than what we're doing now.

**MR. CHAIRMAN:** I'm referring more specifically to Section 23 though, as it applies to the courts and the Legislature. As you said, you weren't talking about services and my question doesn't relate to services,

only to what some have called official languages in the courts and Legislature, but not beyond that. Your quote from Dr. Scott highlights that.

Are you saying that if you couldn't get agreement to amend Section 23, or put a new equivalent section regarding only courts and Legislature that would be English only, or English and French, or French only, would you then suggest that it reflect present-day conditions and have a larger number of languages for official use in the courts and Legislature?

**MR. D. HARMS:** No, I wouldn't. That wouldn't work; we'd be still back to Square One. We would still have the same problems we're having now. I said the communication has to be in one language. The courts and Legislature would have to be in one language.

**MR. CHAIRMAN:** That's my question. What is your bottom line with regard to the section in this new Constitution that deals with the courts and Legislature? Would your bottom line be English only?

**MR. D. HARMS:** Well, I don't call it English. We've got a Canadian language.

**MR. CHAIRMAN:** Okay, would your bottom line be Canadian only?

**MR. D. HARMS:** Canadian, that's right.

**MR. CHAIRMAN:** Okay, thank you very much. Any further questions by members? Mr. Orchard.

**MR. D. ORCHARD:** Mr. Chairman, to Mr. Harms. Reeve Harms, when you indicate provision of service in other languages, I don't want anyone to leave saying that you want only English to be used. You have indicated that services could be provided in other languages. Am I fair to interpret that what you would say is that those services would be provided in other languages, be it French, be it Ukrainian, be it German, and that service would be provided by a government as a matter of policy which, with changing times, would be able to change the policy and the provision of that language service without having to rigidly adhere to an entrenched constitutional amendment? Is that a fair assumption of what you're saying?

**MR. D. HARMS:** Yes. When I'm talking about services, I don't mean that we would have all parking tickets in 10 languages, because even 10 is not enough as far as Manitoba is concerned if you wanted to serve all ethnic groups.

What I'm talking when we are talking about language services is that if you have some people that cannot speak English - or Canadian, pardon me - then you would have some provision where you could get a person that could communicate with him. Those would be the services, that's all the services we would be needing, because I'm almost certain that I could say today that 98.5 or 99.5 percent of the people of Manitoba can communicate in English, and are only the ones who have come here over the last year or so can't, because we've had refugees from Vietnam not that long ago. I can tell you within one year those people

could get a job, they're self-sustaining, they've paid for their house, they've bought a car, and they can speak enough English that you can communicate with them. They could have used the services when they first arrived. Those kind of services I am not opposed to; it could be in any language for that matter.

**MR. D. ORCHARD:** And your suggestion of Canadian as being the language of the province is to establish a common denominator by which we all can mutually communicate and have the new structure in the Constitution set up as such that by policy a government could provide additional linguistic services as required with a changing ethnic mosaic in our province, and not be rigidly bound to one or two or three languages as entrenched only, and make policy decisions based on need, and not according to rigid formulas that are being entrenched?

**MR. D. HARMS:** That's correct. I'm going to make short answers now, so I'm not going to be here all afternoon.

**MR. CHAIRMAN:** I don't know if there are any further questions, Reeve Harms. Questions from other members?

Seeing none, Reeve Harms, thank you very much for being here and representing the Rural Municipality of Pembina Council.

**MR. D. HARMS:** Thank you, Mr. Chairman.

**MR. CHAIRMAN:** Next on our list is Mr. Gérald Grenier. Mr. Grenier, please, representing the Société Franco-Manitobaine.

Mr. Grenier, before you begin I'm going to ask the committee to take a five-minute recess so that members of the public can sign out the receivers so they can have a translation of your presentation.

The committee is therefore accordingly - Mr. Graham.

**MR. H. GRAHAM:** On a point of order.

**MR. CHAIRMAN:** Mr. Graham, on a point of order.

**MR. H. GRAHAM:** If it's going to take five minutes or so, and we're just getting close to the noon hour, have we reason to expect that we can be completed by 12:30, because they'll have to sign their things back in and then take them out again after lunch?

**MR. CHAIRMAN:** The arrangement is, Mr. Graham, that the slips that are signed are returned to the individuals who signed them, and then they do not have to sign them out again, they just exchange them. The technician has that arranged and it's happened in other locations where the committee's met.

The committee is recessed for five minutes for members of the public who wish to sign out receivers.

### (SHORT RECESS)

**MR. GÉRALD GRENIER:** M. le Président, Membres distingués du comité.

Venant d'un petit village franco-manitobain et demeurant aujourd'hui dans un tel village, il est mon devoir en conscience d'apparaître devant vous et de tenter de vous convaincre à garder et à planter l'entente de l'Article 23 négociée entre les gouvernements fédéral et provincial ainsi que la Société franco-manitobaine.

Mon grand-père est arrivé à St-Léon en 1903. Venant du Québec, il avait choisi de s'établir à St-Léon pour deux raisons principales. Premièrement, St-Léon et ses entourages étaient complètement français. Vu qu'ils ne parlaient pas l'anglais, vivre en français était un point très important. Deuxièmement, St-Léon lui offrait la chance de vivre d'une façon plus convenable même si la vie d'agriculteur du temps fût très exigeante.

Mon grand-père est mort n'ayant jamais appris l'anglais comme d'ailleurs l'ont fait plusieurs autres colons d'origines différentes. Le Manitoba s'est formé comme province bilingue en 1870. Vingt ans plus tard la province révoqua les droits francophones. Et pendant tout ce temps, le Manitoba continuait à accueillir des colons venant de divers pays.

Aujourd'hui le Manitoba se compose de divers groupes culturels, tous fiers de leurs ancêtres, plusieurs parlant encore la langue de leur mère. Le Manitoba est multiculturel. Ceci, personne peut le nier. Personne non plus, peut nier que le Manitoba est officiellement français et anglais. Ceci fut établi en 1870 et réaffirmé avec la décision de la Cour suprême dans le cas Forest.

Ce qui est loi est une chose; ce qui est réalité est autre chose. S'épanouir, travailler et vivre en français au Manitoba représente toujours un challenge pour les Franco-Manitobains même si dans plusieurs secteurs, ce sont leurs droits. Qui d'entre nous francophones, ne se souvient pas des concours de français organisés, concours qui étaient administrés à l'échelle provinciale afin de maintenir un certain standard de français. En 1967, le gouvernement conservateur Roblin nous enlève le statut de "hors-la-loi" en rétablissant partiellement le français comme langue d'enseignement dans nos écoles. C'est déjà plus facile. En 1970, la loi 113 établit le français comme langue officielle de l'enseignement en parallèle avec l'anglais. Le cas Forest en 1979 réssucite en nous de nouveaux espoirs. Messieurs, nous en sommes rendus ici aujourd'hui.

Je suis certain que vous avez déjà entendu plusieurs raisons décrivant le pourquoi que les francophones veulent que l'Article 23 tel qu'amendé le 17 mai soit enchâssé dans la constitution. Vous avez entendu des raisons historiques, des raisons judiciaires, des raisons du coeur. Les miennes ne varient pas tellement non plus et je me permets d'en illustrer quelques unes.

L'enchâssement est nécessaire car l'histoire nous décrit clairement que les gouvernements changent fréquemment. Le statut de la langue se trouve ainsi toujours à la merci des individus qui composent ce gouvernement. Dans tout domaine, l'instabilité ralentit le progrès.

La communauté franco-manitobaine cherche depuis longtemps à élargir l'usage du français, non pas seulement pour s'épanouir, mais parce que c'est nécessaire. C'est un point fort important, incontestablement prouvé par la présence de l'est du pays. D'ailleurs, la croissance rapide des écoles d'immersion au Manitoba suggère que d'autres Manitobains reconnaissent cette nécessité.

M. le président, membres distingués du comité, la défense de l'entente conclue le 17 mai est une lutte du coeur. C'est une défense des droits fondamentaux de tous les francophones qui sont venus coloniser le Manitoba et qui nous ont laissé en héritage ce beau Manitoba. Justice doit triompher.

Merci.

**MR. CHAIRMAN:** Thank you, Mr. Grenier. Questions for Mr. Grenier from members of the committee?

Mr. Brown.

**MR. A. BROWN:** Thank you, Mr. Chairman, through you to Mr. Grenier. I believe that you made a statement, I don't know if the translation was correct in translating it in the way that you worded it, but the way the translation came across, you made a statement that it was getting to be increasingly more difficult to live in French in Manitoba and that it is their right. Do you think that it is the wish of the major Franco-Manitobans to live in French in Manitoba?

**MR. G. GRENIER:** I believe so, sir.

**MR. A. BROWN:** In other words, Mr. Grenier, you are saying that they want to disregard the English language entirely and live in French?

**MR. G. GRENIER:** That is not true. That is not what I said. What I wanted to say and what I did say is that Franco-Manitobans, because there are two languages in Manitoba, wish to be able to use both those languages whenever they need, whenever they want to use those two languages. Now I agree that in a lot of circumstances certainly you can not use French only, but there are many other circumstances where this should be the case.

**MR. A. BROWN:** I thank Mr. Grenier for that answer because I was a little concerned. The way that I understood the translation was that you wished to live in French only in your community, so I'm very pleased with the explanation that you gave.

Mr. Grenier, why do you think it is necessary to entrench the French language in Manitoba?

**MR. G. GRENIER:** I think I answered that in my brief, sir, where I indicated that governments change and governments are made up of individuals and we do not necessarily always have the individuals who think in the same line, so we need some form of protection and that is why I want it.

**MR. A. BROWN:** Do you realize, Mr. Grenier, that when you entrench the French language it's going to affect everybody in Manitoba? It's not only going to be for the protection of the French language as far as the French community is concerned, but it is going to affect everyone in Manitoba. Everyone in Manitoba is going to be affected.

**MR. G. GRENIER:** It's going to affect everyone in Manitoba as far as outlined in Article 23. And Article 23, as far as I'm concerned, is very limited.

**MR. A. BROWN:** In the community that you are living in, do you have French Immersion classes available in St. Leon?

**MR. G. GRENIER:** If I what, sir?

**MR. A. BROWN:** Are French Immersion classes available in St. Leon?

**MR. G. GRENIER:** No, they are not.

**MR. A. BROWN:** They are not.

**MR. G. GRENIER:** There is a French school there.

**MR. A. BROWN:** What kind of services are you providing in the French language in that particular school? Is it 50-50 or . . .

**MR. G. GRENIER:** No, we are providing, I'd say 75-25; 75 percent French, 25 percent English, because we do believe, I've stated this before, that we should learn the two languages very well.

**MR. A. BROWN:** In Winnipeg, of course there are a number of French Immersion classes that are available over there, but do you realize that, I would say, at least 75 percent of the pupils, or of the students in Manitoba at the present time, do not have French Immersion classes available to them?

**MR. G. GRENIER:** Yes, sir, I realize that, but you also have to realize that every year there is a growing number of students joining the Immersion school and it's simply a process of time, I believe. I don't think everyone will take Immersion at one time or another, but I believe that it's a growing factor.

**MR. A. BROWN:** I agree with you; it is a growing factor. But the fact still also remains that at the present time at least it is not available to by far the majority of pupils and students that we have in Manitoba.

**MR. G. GRENIER:** Sir, the only way I can answer that question is by looking at how Immersion came about. Immersion came about by people who wanted Immersion. It was not in any way forced upon them and I think this is how Immersion is growing today, simply by people who want it simply demand it, and these school divisions simply provide it. And I think that's how it's going to continue. It's not a French factor.

**MR. A. BROWN:** I believe, Mr. Chairman, that we are going towards that particular direction where more French language is going to be available in many of the schools, but at the present time it's not possible for a province - we've been developing this over the last three, four years, I would say, at a very rapid pace where it is becoming available to more students and pupils all the time, but you can't do this in a very short period of time. So consequently, at the present time there is about 75 percent of the students and pupils do not have this available to them even though we are moving in that direction.

The point that I'm trying to bring across is this. Because everyone in Manitoba is going to be affected by the entrenchment of the French language, do you have a concern that 80 percent of the students or 75 percent of the students will not have that particular service available to them?

**MR. G. GRENIER:** Sir, I feel that I cannot answer that question, because it's completely out of my domain. I do not control school divisions. I do not control the wish of the people. The only thing I can say is that Article 23 is very very limited, and it certainly will not affect every Manitoban. So I think your question is irrelevant as far as providing French Immersion classes for every English student in Manitoba.

**MR. A. BROWN:** One more question, Mr. Chairman, do you think that we should possibly wait with entrenchment until such a time as it would be available, that more people could take advantage of it, more students, more pupils in Manitoba?

**MR. G. GRENIER:** Sir, entrenchment is, like I explained in my brief, to try to protect those rights that we have had since 1870, and which have been denied for so long. The English people have rights, but it is mostly for the French rights to begin with. I believe entrenchment, because governments do change, the entrenchment should be done right now, as soon as possible.

**MR. CHAIRMAN:** Mrs. Oleson.

**MRS. C. OLESON:** Thank you, Mr. Chairman. Mr. Grenier, do you approve of the amendments to the amendment which were tabled, I believe, on September 6th, which excluded school divisions and municipalities? Do you agree with that?

**MR. G. GRENIER:** No, Ma'am. My brief clearly states that I support the agreement that was reached on May 17th.

**MRS. C. OLESON:** Thank you.

**MR. CHAIRMAN:** Further questions by members of the committee?  
Mr. Orchard.

**MR. D. ORCHARD:** Thank you, Mr. Chairman. Mr. Grenier, you have indicated in some of the answers to questions that this is a very limited agreement. That begs the question of you, does this agreement, this proposed amendment go far enough in protecting as you see French rights in Manitoba?

**MR. G. GRENIER:** Sir, we have to think that this was a negotiated agreement. Certainly in my way of thinking, it could have gone a little bit further, but it's a negotiated agreement. To me, it's adequate.

**MR. D. ORCHARD:** Could I ask you a question then? If you were the sole negotiator on behalf of the Franco-Manitoban community, would you have attempted and insisted on further entrenchment of rights beyond what is currently written in the amendment?

**MR. G. GRENIER:** Sir, I can't answer that question because the fact of the matter is, we were a team negotiating. The result we got was the agreement on the 17th of May, and this is the one that I stick by right now.

**MR. D. ORCHARD:** Okay. Now you've indicated, in response to Mrs. Oleson, that you don't agree with the proposed amendment to the amendment which would attempt to exclude municipalities and school boards from the new extended provisions as provided by the amendment.

Why would you not agree with that amendment, because the Provincial Government has told us all along and has assured the Manitoba Union of Municipalities that this agreement in no way will affect municipalities? You yourself have said, it is a limited agreement with limited effect on Manitobans. Why would you object to having those stated goals further reinforced by the government by amending the amendment, giving specific exclusion to municipalities and school boards?

**MR. G. GRENIER:** My objection is mainly because when you come to an agreement at a particular time and that agreement is changed afterwards without further negotiations, then what I would like to do is re-sit back at the table and perhaps renegotiate. That hasn't been done yet. So I cannot accept those amendments at this time.

**MR. D. ORCHARD:** Mr. Grenier, you have said something that I think is extremely important. You were not consulted as a party on the proposed amendments. You would prefer to sit down around the table again. I think all Manitobans would like people to sit around the table again, and not be forced on this December 31st deadline to rush this amendment through which has already been subject to further amendment. We would like to have a little more time taken with this, and have them sit down with you and see whether you can agree . . .

**MR. CHAIRMAN:** Question, please.

**MR. D. ORCHARD:** The question being, is the deadline of December 31st a realistic one when you have been excluded from negotiations providing for further amendment to the amendment?

**MR. G. GRENIER:** Can you rephrase that question, please? I don't quite understand it.

**MR. D. ORCHARD:** You indicated in your previous answer that you did not agree with the amendment to the amendment which excludes municipalities and school boards specifically, because an agreement was struck between the Society Franco-Manitoban and the Manitoba Government. An amendment was proposed without further consultation with one of the negotiating parties, namely, yourselves, the Society Franco-Manitoban. Would you agree that adhering to the artificial deadline of December 31st is unrealistic when you want to undertake further negotiations on any proposed amendments to the amendment?

**MR. G. GRENIER:** Sir, I did not say that I wanted to undertake any further negotiations. What I said is, there was an agreement that was struck, and I sincerely believe that the Provincial Government represents the people of Manitoba. They had every right to negotiate in that respect.

**MR. D. ORCHARD:** Right. And in discussions with people of Manitoba, the government assured Manitobans that this amendment would have no effect on municipalities and school boards. I assume that has to be part of their position in negotiating with the Society Franco-Manitoban; that municipalities and school boards would not be affected.

On scrutiny which happens when you come up with amendments and proposals and legislation, you find that something you intended to do was not there. How could you object if the government's stated objective all along was not to include school boards and municipalities; if by some oversight in drafting it was omitted; if the intention was never to include school boards and municipalities in the agreement, as the government has indicated to us in presenting this agreement to the people of Manitoba?

**MR. G. GRENIER:** I feel very strongly, sir, that the agreement of the 17th of May does not touch on any municipalities that do not want to touch the French language. I don't think it is an infringement on the rights of any municipality.

**MR. D. ORCHARD:** Then you should certainly, Mr. Grenier, have no objection to making that perfectly clear, as the government is now attempting to do by amending the amendment excluding school boards and municipalities. You shouldn't have an objection then.

**MR. G. GRENIER:** It remains to be seen, sir.

**MR. D. ORCHARD:** Mr. Grenier, can you envision - and I'm asking you a personal question, not as a member of the Society Franco-Manitoban. This is predicated on the statement that you indicate that this agreement provides very limited services. Can you envision any area where you might use the provision of Section 23.7(2)(a) or (b) and go to the courts to demonstrate significant demand for bilingual services in areas not provided in the agreement and prove the reasonableness of your request to communicate in French with departments not mentioned?

**MR. G. GRENIER:** You're asking me to make a judgment on something that hasn't happened yet. You're asking me to foresee in the future, to see whether I would use the rights of that agreement or not and all I can reply to that is depending on what happens. It might be a yes. It might be a no.

**MR. D. ORCHARD:** So then I take it that you would be quite dissatisfied - no, I won't take it - I'll let you answer. Would you be dissatisfied if any amendment was proposed to the amendment which struck out the reference to the court your ability to go there and prove significant demand and reasonable expectation to extend French Language Services beyond those specific areas that are outlined in the first part of Section 23.7. Would you object to having Section 23.7(2) struck out from the agreement?

**MR. G. GRENIER:** Well, I think the parts of the agreement as far as the courts are concerned are simply to protect those limited rights which we have in the

agreement. Certainly I don't think they could be used to try to broaden those rights.

**MR. D. ORCHARD:** Now, I heard you correctly, you indicated that you don't believe Section 23.7(2) where the courts will offer a decision on significant demand and reasonable expectation is there to further extend the agreement, you don't believe it's there?

**MR. G. GRENIER:** That's right.

**MR. D. ORCHARD:** We'd be safe in removing it then?

**MR. G. GRENIER:** No, sir, because the minute we remove it then those rights - because those limited rights which are in the agreement could very well be infringed upon - and once that happens, if you have no recourse and I have established that in my brief and I keep repeating myself over and over again on this - by different governments, if that clause is not in there, different governments can simply do as they wish.

**MR. D. ORCHARD:** Well, Mr. Grenier, I might beg to differ with you on that because I think if Section 23.7 is passed and my question would be to you, that if the Attorney-General sees passage, that a quasi-judicial or administrative body of the Government of Manitoba - and let's use the municipal board as the example - if they were not providing to you, sir, services in French as spelled out and passed by the amendment, you would have an instant remedy to the court without needing to use Section 23.7. Section 23.7(2) allows for the extension which you say you don't believe would be used. It has nothing to do with guaranteeing the first two or three sections, it is to give a remedy, which you say, will not be used to extend . . .

**MR. CHAIRMAN:** Order please. Mr. Orchard, you are engaging in debate, I would appreciate it if you would come to your question. The purpose of questions is to seek clarification of the brief, not to engage in debate.

**MR. D. ORCHARD:** Yes, Mr. Chairman, and I would just simply then ask, if there is no desire and rights are protected in the courts, in the central and head offices of government, Crown corporations, etc., as provided in the first section of 23.7(1), would you have any objection to the removal of 23.7(2)?

**MR. G. GRENIER:** Sir, I feel like I've been sitting at a court over here and I have nothing at all in my brief that indicates any specific point on Article 23 and if the honourable member, Mr. Orchard, would kindly ask questions that are related directly to my brief, I would be more than happy. But you're trying to make me say things that I do not want to say. You're trying to make me include things. You're trying to make me look into the future. I am here for one specific reason and that is to try to convince the committee to try and accept the agreement as it was negotiated on May 17th, sir.

**MR. D. ORCHARD:** Mr. Grenier, that's exactly why I'm here. Because I believe earlier in your brief you indicated that it should be passed as written with no amendments and I'm simply asking you, since you object to some

amendments, which other amendments you might tolerate or not tolerate. That's why we're here, Mr. Grenier.

**MR. G. GRENIER:** Then we shall have to get back around the negotiation table to do that. There is no way to do it otherwise.

**MR. D. ORCHARD:** Mr. Grenier, in the bottom part of Page 1 of your brief, you have indicated that it was originally intended that French and English were official languages in the Province of Manitoba as provided in the 1870 Manitoba Act, Section 23. Now that opinion seems to be at odds with such people as Mr. Scott, who is a constitutional lawyer and other people. What draws you to the conclusion that Section 23 conferred official language status on both French and English?

**MR. G. GRENIER:** It's written, if you reread that line, I said, it seems to be reaffirmed with the decision of the Supreme Court in the Forest case.

**MR. D. ORCHARD:** Well, now I have a small problem here because my high school French doesn't allow me to read that last paragraph to pick that out. But, I guess, I would ask you, are you aware that the Premier, Premier Pawley, under questioning about a year ago stated that it was his belief that Section 23 of The Manitoba Act, 1870 did not confer official language status to French?

**MR. G. GRENIER:** I can't answer that question, sir. I don't know.

**MR. CHAIRMAN:** Further questions for Mr. Grenier from members of the committee. Seeing none, I would ask leave of the committee to ask a few questions from the Chair. (Agreed)

Mr. Grenier, just two things. You suggested in answer to earlier questions and in your brief your very strong commitment to the May 17th agreement and the absence of negotiations on any amendments that were tabled on September 6th. Can you confirm that the SFM did however have discussions after May 17th, that did talk about possible areas of amendment, even if you wouldn't describe those discussions as negotiations?

**MR. G. GRENIER:** I don't think you can label them as negotiations, but certainly yes, there was information brought forward.

**MR. CHAIRMAN:** So, would it then be inaccurate to characterize the September 6th amendments that were suggested to the resolution as having taken place without any consultation or without any discussion with the Société franco-manitobaine?

**MR. G. GRENIER:** You're quite right, Sir, there were discussions, there was a lot of dialogue going on without actually them being negotiations.

**MR. CHAIRMAN:** Would you confirm that it is the intention of the Société franco-manitobaine in the May 17th agreement to ensure that any constitutional amendment to The Manitoba Act would specifically provide that municipalities and school boards are exempt from the impact of those provisions?

**MR. G. GRENIER:** Yes, I would, Sir.

**MR. CHAIRMAN:** Could you tell the committee then if your objections to the September 6th amendments relate to other amendments proposed by the government other than the specific exemption relating to school boards and municipalities?

**MR. G. GRENIER:** Well, they do. I'm not quite sure how to answer this because I have forgotten what the amendments were specifically and I don't have them here in front of me. Does someone have them? Can you repeat the question please?

**MR. CHAIRMAN:** In terms of the answer you provided to other members of the committee, it wasn't clear to me as to whether or not the SFM has changed its position from May 17th on the exclusion of municipalities and school boards. If I may, you answered that you believed that that exclusion of municipalities and school boards was contained in the May 17th agreement but that you had problems with the amendments that were proposed on September 6th. My question is: are your problems with the amendments with amendments other than the exclusion of municipalities and school boards? Would you confirm that your position that you believe municipalities and school boards should be excluded has not changed since May 17th?

**MR. G. GRENIER:** That's right.

**MR. CHAIRMAN:** Thank you very much. Are there any other questions by members of the committee? Seeing none, Mr. Grenier, thank you very much for being here today and making a presentation on behalf of the Société Franco-Manitobaine.

The hour of adjournment being only several minutes hence, I think it may be appropriate for the committee to adjourn now, rather than start another brief. Therefore committee is adjourned and stands adjourned until 2:00 o'clock this afternoon.

(Translation will appear in Appendix at end of all committee hearings.)