



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

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

31-32 Elizabeth II

*Chairman*  
*Mr. Peter Fox*  
*Constituency of Concordia*



MG-8048

**VOL. XXXI No. 17 - 2:00 p.m., FRIDAY, 9 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>USKIW, 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**

**Friday, 9 September, 1983**

**TIME — 2:00 p.m.**

**LOCATION — Winnipeg**

**CHAIRMAN — Mr. Peter Fox (Concordia)**

**ATTENDANCE — QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Kostyra and Storie

Messrs. Fox, Brown, Lecuyer, Nordman,  
Malinowski, Graham, Scott; Mrs. Dodick

**WITNESSES:** Mr. Gary Doer, Manitoba Government  
Employees' Association

Mr. Gilles Lesage, Société historique de St.  
Boniface

Mr. Raymond Clément, Alliance chorale

**MATTERS UNDER DISCUSSION:**

Proposed Resolution to amend Section 23  
of The Manitoba Act

\* \* \* \*

**(Transmission inaudible)**

**MR. G. DOER:** . . . the amendment that was introduced in September 6, 1983. I read it that way when I was presenting the verbal brief last evening, but I just wanted to clarify the written brief as well, the discrepancy.

**MR. CHAIRMAN:** Thank you for your clarification.

**MR. G. DOER:** The "not" comes out of there. I can't remember what it does now propose. I can't be exactly sure, but the "not" doesn't make sense in that paragraph as it's been circulated last evening.

**MR. CHAIRMAN:** Thank you, Mr. Doer.  
Mr. Graham.

**MR. H. GRAHAM:** Thank you very much, Mr. Chairman. Again I want to thank Mr. Doer for appearing this afternoon, having interrupted things this morning. I am sure he understands why, when a person comes all the way from Montreal, that we do make special considerations for those people.

**MR. G. DOER:** Yes.

**MR. H. GRAHAM:** Last evening when Mr. Doer gave us these copies of the brief, I noticed in his presentation and also in the written brief on the centre of Page 2, "We further support the concept of extending those rights to include the provision of limited, practical

bilingual government policies." The word "limited" is underlined. I would assume from that, that is from an administrative rather than a philosophical point of view. Is that correct?

**MR. G. DOER:** Mr. Chairman, we tried to stay away from the philosophy. We also felt ourselves in an either/or situation. Are you for entrenchment? Are you opposed philosophically? We attempted in our position of July the 12th and, of course, last evening in presenting our brief to deal with some of what we are, in fact, proposing to entrench. So the answer to the question is, there is entrenchment presently, and we certainly haven't ever proposed that the government retrench what's entrenched now based on court interpretations.

So we have not got into the philosophical or political issues that, of course, are being adequately dealt with in the Legislature. In fact, if you'll notice from our legal interpretation which is appended in Section 3 of the brief we presented to the committee or Section 2, we had given or provided instructions to our lawyers that we not receive or be involved in the political or philosophical issues, but rather in some of the more operational and realistic issues as it faced our membership.

**MR. H. GRAHAM:** I thank Mr. Doer for that. I was under the impression that Mr. Doer was, quite properly, concerned about the implementation and how this would affect the organization that he represents, the implementation that would occur whether it be on a gradual or on a rapid case.

I would like also to - they have spent considerable time, I think, on Page 5 dealing with two words that appear in Section 23.7(1) and the fact that, by adding the specific exemption of municipal or school board as an addendum to that particular section, it might emphasize - and I use the word advisedly - that unless things are specifically excluded, they might be taken for granted to be included. Is that correct?

**MR. G. DOER:** Mr. Chairman, first of all our first position, of course, is consistent with our letter of July 12th that the term "administrative body" is unnecessary, and therefore be deleted.

Secondly, the change that was announced on September the 6th, in the opinion of both ourselves and our lawyers and, in fact, in discussions with other public sector unions in the last few days, that there is a danger that in now defining what is excluded in that particular section of the proposed amendment to 23, it may result in a broad interpretation of what is now included. We had that initial fear in reading it. We have since consulted with two lawyers and other groups so affected, and they share that opinion.

I might add that on Page 24 of the Premier's speech, which was delivered on August 16th in this province, the term "administrative body" was identified as an issue that was still to be clarified. If you'll read Page

8 of our legal interpretation, there is also some considerable concern dealing with the generic term "administrative body." Since our July 12th legal opinion, we have had a number of meetings with the government on that term. It still remains an outstanding issue as far as we're concerned, as recorded in the brief presented to the committee.

**MR. H. GRAHAM:** Mr. Chairman, not being a member of the government and being a member of this committee and not being privy to any of those negotiations, I think Mr. Doer can understand why there is a little concern, particularly on my behalf, about the inclusion of this when it appears that the government has been advised previously of this concern. The government has indicated its intention with possible amendments and have, in fact, distributed suggested amendments or indicated their willingness to change certain wordings, but have specifically refused to change this word "administrative body."

Quite frankly, Mr. Chairman, I have great difficulty in understanding what the term "administrative body" means, and to what degree it could be envisaged as being applicable in the actual operation of government. I would like to ask Mr. Doer if he has attempted to ascertain how many possible administrative bodies this might be envisaged, if this is retained in the resolution?

**MR. G. DOER:** Mr. Chairman, we have not been able to ascertain the exact number. We have been told by a number of officials that there are a number of administrative bodies that were formerly pursuant to an act. Of course, the wording has been changed in pursuant "to be established by an act," which is probably better for us, but it still would be a number that could potentially be interpreted to be included as requiring bilingual communication and services from the head office if it remained.

We have not had, as I say, the time to cull the thousands of statutes that may be affected by this term. We think it's a generic term in government. We don't know the definition of it. It may be a body that administers funds or programs, many of which are established, as I say, by an act of legislation.

In our brief, we use the example of the Employment Standards Division, which was created by an act of The Payment of Wages Act; which is an act that we are familiar with, as an organization dealing with employees, which has not been in any of the lists we've seen, whether it's the Twaddle list, the Taylor list, or other lists from the government, in our discussions.

We think the term "quasi-judicial" is an adequate term. Of course, it is already entrenched through the Blaikie case. We feel that's fine. The quasi-judicial term is there. We can live with it; it is the law, and we support it.

We don't see the necessity, quite frankly, of the term "administrative body," when many of them, of course, or the majority of administrative bodies, I would suggest, are already administered by a department of government which is already covered by the head office if 23.7(1) stays. "The head office shall receive available communication and services of any department of government." So you already have a particular bilingual requirement if the amendment goes through at 23.7(1).

So it is our respectful position, based on legal advice and based on some operational considerations, that quasi-judicial is there and makes a lot of sense. We live with it, it is the law of the land, and we do everything we can to implement that in a Manitoba fashion, consistent with the law. But the term "administrative body," especially when you have head office of any department, head office of any agency established by an act, head office of any Crown corporation and head office of any court, I think we've got that narrowed down. Of course, you move on to the Ombudsman and the Chief Electoral Officer.

**MR. H. GRAHAM:** Mr. Chairman, I shouldn't really ask him, because I think I know what he - but it is of particular concern to me, because the recent Session of the Manitoba Legislature established a Surface Rights Board which, I believe, could be classified as a quasi-judicial body that will be headquartered in my constituency and will be servicing people in my area, and probably the constituency of Arthur, but it is limited in scope not because of the act, but because of the nature of the problem that it's dealing with. That is in the field of the oil industry, and that you don't legislate, but it is of concern to me. Is it correct that that would be classified as a quasi-judicial body?

**MR. G. DOER:** Mr. Chairman, I haven't read the legislation. I think there are a number of bodies that have both a quasi-judicial function, and they have an administrative body established by an act to carry out some of those quasi-judicial functions. There are a number of them, as you can see when you go through them, that have perhaps both components. So that's why we thought the term "quasi-judicial" was adequate and very fair, but the term "administrative body," given everything else that's proposed in 23.7(1) that determines administrative body, was unnecessary.

One must remember that the government still has the right to require any employee, as their employer right, to have qualifications to be bilingual on an administrative aspect to begin with. So, in dealing with the entrenchment, we thought the quasi-judicial was a fair way to go in this way. Of course, it is already the law of the land, based on interpretations of the Supreme Court. The "administrative body" was unnecessary.

**MR. H. GRAHAM:** I noticed also in your brief that you seemed to include agency or administrative body together. Yet, according to Section 23.7, there is a distinction that has been drawn by those that drafted the legislation. The reason I ask the question is there seems to be some disparity in the degree that this will affect your own organization.

I recall Mr. Doern saying that he thought it would affect 400 jobs. Something seems to run through my mind that Mr. Penner had said, it would be between 15 and 20 agencies. Yet, the chief legal counsel for the Province of Manitoba indicated, it would be probably around 100.

Now there seems to be wide differences of opinions on the degree to which this is going to affect your organization. You have underlined in your brief that you're supporting a "limited." Is it because of those

variations and those figures that are being bandied about that you're concerned about the limited factor of it?

**MR. G. DOER:** Mr. Chairman, it's because we don't know what "administrative body" means. That concerns us. We also again would point to Page 8 of our legal opinion which is appended to the brief, which also indicates a concern about the generic possibilities of interpretation of the term "administrative body." I believe, and our legal advisors tell us, the term "agency" and "Crown corporation" and "court" and "quasi-judicial" have a very specific meaning, but the term "administrative body" is more generic and more able to be interpreted in a much broader sense than, I think, the government intends. Therefore, that's why we made that distinction in terms of our recommendations to delete the term "administrative body," as we did in our letter of July the 12th to the Government of Manitoba.

**MR. H. GRAHAM:** I believe you also said, Mr. Doer, that since the 16th of July, you have had negotiations and discussions with the Attorney-General and with the province. You had pointed this out, and I believe I heard you correctly when you said that you had some assurance from the Attorney-General that there would be a redefinition of the term "administrative body." Was that the correct impression that I had?

**MR. G. DOER:** Mr. Chairman, in answer to the question, no, we have received no specific assurances from the Attorney-General on the issue. We've argued it on a number of occasions, and I intend to continue to argue it until the minute this bill is passed in whatever form it will be passed by this Legislature.

We did note that there was a reference to it in the Premier's speech of August 16th, which I believe you would have had copies of. The term "administrative body" is specifically identified as one of those areas that still must be clarified. We hope that the Premier's statement in this regard will be heeded ultimately by the government, because it is consistent with what we would like. That is, the term "administrative body," as it stands now under the quasi-judicial section, is in our opinion unnecessary as an entrenched aspect of 23.7(1).

**MR. H. GRAHAM:** Thank you, Mr. Chairman. Those are basically the concerns that I had. I thank Mr. Doer for not answering them, because maybe he isn't able to and maybe he has the same concerns that I have. I'm not too sure, but it certainly appears to me that there is a wide grey area there that should be addressed and addressed seriously before we come to any final conclusions on an item which I consider to be very important because depending on who you listen to, it could be 15 agencies; it could be 100. It could be 400 people; it could be 4,000 people that it directly affects with respect to their own job promotional opportunities in the Province of Manitoba. I think it's an area that is sufficiently broad that it has to be further defined before I would be prepared to - I'm asking Mr. Doer if that is a correct interpretation; that his concerns are probably as great as mine in this area.

**MR. G. DOER:** Yes, Mr. Chairman. We are very concerned about the term, not only because we feel

that first of all it's covered, the majority of the cases, by an "agency," "quasi-judicial," "Crown corporation," and "any department of government" which is presently proposed but, secondly, the very nature of an administrative body, many of them established by an act of the Legislature, which is proposed in the wording of September 6th, many of the people that are in those particular bodies are two or three people incumbent bodies.

The mathematics of that will tell you. If there are two or three, at most, people in there, we're going to have a high degree of people displaced in terms of the inability to provide bilingual communications and services. We are realistic enough to realize that in 1987 or 1988, if there are 25 or 50 of these bodies that are interpreted to be covered by the act that weren't originally intended and if there were two or three people in each one of those bodies - say 50 of them - that's 150 people. We know they're not going to add 50 more people, one person for each one of those bodies, to provide the bilingual services, because the economy and the conditions in the public service just will not allow it. So therefore we will have, unfortunately in our opinion and in the opinion of our lawyers, potentially redundant people based on interpretations that were never intended. So that is why our concern is there.

As I say, we don't feel it's necessary to have consistent with the limited Made-in-Manitoba policy because, to reiterate, we have proposed any head office of any department of government; head office of the Crown corporation, agencies, court and quasi-judicial. We think that is consistent with limited bilingualism; limited, practical Made-in-Manitoba bilingualism. The "administrative body" is a generic term, is unnecessary, open to potentially small "I" liberal interpretations and not necessary in this proposal.

**MR. H. GRAHAM:** Those are all the questions that I have, Mr. Chairman. I want to thank Mr. Doer for coming back this afternoon. I know he has a very busy schedule, and we appreciate what he is doing to try and assist us.

**MR. CHAIRMAN:** Mr. Lyon.

**HON. S. LYON:** Thank you, Mr. Chairman. I've now had the opportunity, Mr. Doer, to take a closer look at your brief, and there are just a few questions that arise from it. I thank you for pointing out to me last night that the observations that you'd made on Page 1, wherein in your brief you pointed out the unfortunate state of affairs that you and your 14,000 employees were not involved in the initial process of discussion with the government for reasons that, I guess, only the government will have to explain to you and the people of Manitoba, if not now, then at some future date which comes up under the Constitution when they have to explain everything to the people of Manitoba.

On Page 2 of your brief Mr. Doer, you say "The Manitoba Government Employees' Association wishes to reiterate it's position of support for the reinstatement of the constitutional language rights that existed in The Manitoba Act of 1870."

Are you suggesting by that statement, that there is anything contained in the amendments presently before

this committee and to which this brief addresses itself, that reinstates constitutional language rights? Is it not a fact that those were reinstated by the Supreme Court in 1979 and by the Act of the Legislature in 1980, and that these amendments really represent a turning over of a new chapter, and new additions and extensions to Section 23?

**MR. G. DOER:** Mr. Chairman, the proposed amendment. Well, this is our understanding of what was entrenched in 1979 through the court decision: (1) being, of course, the language of the Legislature; (2) being, of course, the courts; (3) as a result of the Blaikie case - I can't remember the sequence - the quasi-judicial bodies. That's my lay interpretation. What was interpreted, or reinstated, by the act of 1979.

We note, in the proposed Section 23 amendment, that the language of the Legislature is returned or restated. I guess is a better term - I'm not sure of the legal term - and court and quasi-judicial, even though they're there and they may be redundant in the act, are stated in the proposed Section 23 amendment, as I understand it, again as a lay person. Yes, and there are proposals beyond those three conditions which we believe to be the entrenched rights presently in Manitoba, and perhaps the term 1870 is incorrect, it should have also been in 1979. There are those proposals to entrench further in Section 23.7(1) and Section 23.7(2), beyond what we believe to be the entrenched rights today, namely, notwithstanding quasi-judicial, adding the term "administrative body" - head office of a Crown Corporation; head office of an agency; the offices of the Ombudsman; the offices of the Chief Electoral Officer; the term "head office" of any department if we assume "central office" as recognized is going to be deleted, and of course, the area that we've tried to zero in on this brief in terms of the significant demand and nature of the office. So yes, we believe - not to quantify - but there are three fundamental conditions under the 1978 act that we, as a public sector union, have been working with. This proposal extends beyond that, if that's correct. That is just my lay interpretation of it.

**HON. S. LYON:** Mr. Chairman, I appreciate having Mr. Doer's further explanation because, as he may be aware, a number of us are concerned with the rather loose use of the term "re-established," because in fact Section 23 was re-established in 1979 and 1980. What we are dealing with today has nothing to do with Section 23, except the gross extension of Section 23. Section 23 was re-established by the Supreme Court judgment in '79, and by the subsequent act of the Manitoba Legislature in 1980.

Now what we are dealing with is entirely new, and represents a quantum leap extension of Section 23. So long as you and I and the members of your organization and the people of Manitoba understand the language that we're using, then I am completely happy and I take it from your explanation that you do understand that.

Not to worry the point, Mr. Chairman, I point out to Mr. Doer, who - his fidelity in attending these hearings has been quite good - has seen a number of groups come before this committee and say we've got to return

to the Francophones what was taken away from them in 1870, and because this does it, we're in favour of it. It's important that the people of Manitoba understand, notwithstanding the bad government propaganda which probably fosters that kind of thinking, that Section 23 has already been restored. What the government is doing here is trying to solve a far-fetched legal case by making extensions to Section 23 which go way beyond anything that was ever anticipated by Section 23. Are we generally in agreement?

**MR. G. DOER:** Mr. Chairman, notwithstanding the rhetoric that was in the question, in explaining this proposal to our members, I think we did state time and again at meetings throughout the province and, in fact, we're stating it continuously at meetings that we have scheduled this September, that when they say let's get rid of quasi-judicial, we don't think we can live with that; we say, no, that is there. I work in a court, so I cannot be bilingual. We say that is there. Of course, the Legislature is also there.

So perhaps the wording was awkward on Page 2, and I take responsibility for it, but our explanation to our members is that we have three - in fact, when people ask us, you can't entrench it; we already say there are things entrenched. The three areas which I described are now the law that we operate under. We have not suggested to turn back the clock from the 1979 decision in any of our briefs or communications with the government, but rather to look at those areas that are a further extension of what was deemed by the Supreme Court to be the law of the land in Manitoba in 1979.

**HON. S. LYON:** Just so that certainty will be doubly sure, wouldn't it be safe to say that this wording would be really more accurate and reflect the historical fact - "The Manitoba Government Employees' Association wishes to reiterate" - that's a good word "reiterate" because you've said it before - "its position" - expressed, I presume, in 1980 - "of support for the reinstatement of the constitutional language rights that existed in the Manitoba Act of 1870." - because it was 1980 in which they were reinstated, not by this amendment that's brought before us now?

**MR. G. DOER:** I suppose the decision in 1979 reinstated the decision in 1870.

**HON. S. LYON:** Right.

**MR. G. DOER:** And that was our meaning in it. I think the key there, of course, is the paragraph, is that we further support a concept of extending those rights, and then we move into the limited aspect of it. So, yes, we recognize that the '79 decision upheld the 1870 Manitoba Act.

**HON. S. LYON:** Mr. Chairman, what we're dealing with now is an extension of Section 23. The position that you have mentioned with respect to quasi-judicial, that indicates to me that, unlike a good number of people, you've had the advantage, either through your lawyer or yourself, of reading the Blaikie case wherein the

Supreme Court interpreted the word "court" to mean quasi-judicial body. So, as you have rightly said, the inclusion by the government of that term in the proposed constitutional amendment that they would propose for Manitoba is, in fact, a redundancy, because the Supreme Court has already interpreted the word "court" to mean quasi-judicial body. Right?

**MR. G. DOER:** Mr. Chairman, yes. The quasi-judicial term is already the law of Manitoba - in fact, the law of the land, as I understand it - in terms of the court versus quasi-judicial based on the minority English right case that Blaikie took forward in Quebec. In fact, that's an area which we have discussed with our membership, the meaning that the term "court" is now interpreted in a broader sense through quasi-judicial.

In fact, initially, some of our members, when they read the bill, wanted to propose that we delete "quasi-judicial" and, of course, we had the responsibility to state that is the law of the land, and that's what the conditions under which we operate in Manitoba are today.

**HON. S. LYON:** This flows from that, because you obviously informed yourself well on these points, Mr. Doer. Another statement that was made in the Blaikie case was to the effect that 133 of The British North America Act, now The Canada Constitution Act, re 23 of The Manitoba Act, does not apply to municipalities and school boards.

You will recall, or you can tell me whether or not you do recall, that the First Minister of this province was reported as having said to the President of the Union of Manitoba Municipalities, "If we don't put this amendment through, why, Section 23 might be interpreted as applying to municipalities and school boards." Did you have any such fear?

**MR. G. DOER:** We were fearing for our members, not in a parochial sense, I suppose, initially. I expect that you could ask that question to the president of the Manitoba Municipalities. I am not aware of their conversations on that matter.

We did, in our discussions with our lawyer, discuss quasi-judicial. It was our understanding, if I can recall our conversations correctly, that in fact school boards and municipalities weren't covered. We were asking the questions of other particular entities of government that we represented or one step removed from government. They are almost in that in-between stage between a government specifically, directly funded, operated and administered body and those that are not in the municipal and school board area, but some are in-between, for examples, hospitals, etc. So we did have some conversation on what that meant.

I have no expertise in that area, but it was my understanding that they were, in fact, excluded, but I could not refer back to the conversation between the Premier and the president of the municipalities. I'm sure that you will be asking that question at a future time in these deliberations.

**HON. S. LYON:** Mr. Chairman, it's refreshing to talk to a witness who has read the Blaikie case and who understands it. That's why I asked the further question,

because obviously many members of the government may have read it, but they obviously didn't understand it. Does your union represent any staff people working in the municipal or the school field in Manitoba, either directly or indirectly?

**MR. G. DOER:** Mr. Chairman, no, we have left that jurisdiction to the Canadian Union of Public Employees. We have 58 bargaining groups, primarily, many of whom are in the direct government service through the departmental structure of government; we represent a number of Crown corporations such as the Liquor Commission, the Public Insurance Corporation; we represent a number of hospitals including Victoria Hospital, Churchill, Health Centre and a number of the long-term extended illness homes. But, no, I'm trying, as I ramble on, in answer to my question, trying to think of any and I can't.

**HON. S. LYON:** So that any municipal employees that you're aware of would be, if organized at all, would probably be organized under the aegis of CUPE, thanks probably in no small part to the efforts of the present Minister of Cultural Affairs when he was one of their chief organizing people, is that right?

**MR. G. DOER:** Mr. Chairman, he was known as a very good organizer, yes.

**HON. S. LYON:** It's a pity he didn't carry it forward into government. Mr. Chairman, in the discussion that Mr. Doer's group has engaged in with respect to the terminology of quasi-judicial boards and administrative boards, have you, or have your council, been faced with the question that has been posed to me and which, quite frankly, I don't have an answer for, that a municipal council, under the provisions of The Municipal Assessment Act, can constitute itself, under the definition contained in that Act, and you'll see it's not a very complicated thing when I mention it here?

"Under revision of assessment, a 'Court of Revision' means" - and I'm reading from Section 35, Mr. Doer, of The Municipal Assessment Act which is Chapter M226 of the Manitoba Statutes - "a 'Court of Revision' means in the case of a municipality that subject to subclauses 2, 4 and 5 the council thereof," and, without elongating the question, I think it's sufficient to say that the Court of Revision is the municipal council which sits and hears appeals from assessment decisions that are made by the provincial municipal assessor. Have you or your council; having looked into a number of these matters obviously in detail, made a determination as to whether a municipal council sitting as a Court of Revision is a quasi-judicial body?

**MR. G. DOER:** Mr. Chairman, we have no opinion, either our own or legal, on that particular question. It is an interesting question, I'm not sure what the answer is to it and I wouldn't be competent I think to answer it.

**HON. S. LYON:** Mr. Chairman, I assure Mr. Doer I'm only asking the question because of the particular attention that the MGEA has paid to the terms "quasi-judicial" and "administrative body" and throw that up

as another one of the aberrational effects that can occur in an otherwise, what appears on the surface to be a simple statute in which the government is now, by amendment, attempting to exempt municipalities and school boards, but having overlooked section - possibly, I don't know - possibly having overlooked section 35 of the Municipal Assessment Act forgot about. You see what the problem is. They go ahead with the best of good will - which is hard to impute to this government, but let's impute it - and they pass this and they say it won't apply to municipalities, then all of a sudden they say, darn, we made a mistake. And a court can come along some day and interpret quasi-judicial and/or administrative as applying to a municipal council and, all of a sudden, the exemption that they have give to municipal councils means nothing; then how do they go about correcting it? Do you share that concern about entrenchment, or not?

**MR. G. DOER:** Mr. Chairman, it could be done already, I suggest, under quasi-judicial, so it wouldn't affect the proposal either way. I suppose it gives further interest to our point about administrative body, but at this point in time quasi-judicial is the law of the land and, notwithstanding whatever we do today or in the next few months, I suppose, if that interpretation was given to a municipality as a Court of Revision under quasi-judicial than it is now presently covered, let alone covered in the future.

**HON. S. LYON:** So the amendment that the government is purporting to make to exempt municipalities and school divisions wouldn't mean anything, would it, in that instance?

**MR. G. DOER:** Mr. Chairman, as the honourable member has mentioned, he is not sure himself and either am I.

**HON. S. LYON:** Nor is the government, the government hasn't even thought of it.

**MR. G. DOER:** Quasi-judicial is a given for all of us, based on the '79 Act and, as it is a given, we must live with it as the public sector union and are prepared to do everything in our power to implement it in the most responsible manner. I would suppose that the municipalities, if they were given the same interpretation, under the quasi-judicial section, would do so as well.

**HON. S. LYON:** I mention it, as I've said, because of your statements about administrative and quasi-judicial boards and merely indicate to the committee and Mr. Doer that it is perhaps one of, I would think, a myriad of matters that this government and all people concerned with these ill-considered amendments will have to consider before they are passed. That is one reason why we insisted that this committee sit, against the judgment of the government, and that's one reason why time is needed to digest - wouldn't you agree? - to digest the import of these amendments.

Mr. Doer, you say on Page 3, if, in fact, the intent of the amendments is to provide for limited bilingualism, then that intent should be reflected in Section 23. Then you go on to suggest an amendment; then you note

after that it appears to have been adopted by the government, therefore, the government employee's association supports this amendment.

The other amendments that you suggested, how many of them were adopted by the government, or how many of them do you expect to be adopted by the government? Because we haven't had apparently a full report - as you have indicated yourself from the Premier's speech in August - a full report as to what they intend to do.

**MR. G. DOER:** Mr. Chairman, we note from the September 6th announcement the term "central office" will be deleted in both 23.7(1)(a) and (b). We think that's a positive amendment and consistent with the limited Made-in-Manitoba proposal that we could support in that area.

We note also on September 6th that the government is attempting to achieve some satisfaction of the term "significant demand." It's an area which we feel is absolutely critical in this accord. I believe our brief spends a considerable amount of time and energy, as much as possible in the last few days from our times of negotiations, to try to deal with some of the vagueness in the term: "significant demand." That's an area that's of very great concern to us. We do not believe we should throw this hot potato to a court to give us a decision that will potentially, in its own precedent, be an entrenched administrative decision for the public employees. That's why, Mr. Chairman, we have proposed what we thought to be a Made-in-Manitoba solution to this dilemma. We are proposing, subject to the wording on administrative body, that the Section 23.7(2) not be remedied to the court, but be maintained by the Legislature, where the Legislature determines. We believe that to deal with the issue of the majority versus minority rights, and we quite frankly re-evaluated our position after we heard some of the statements on Tuesday morning and I think all of us are concerned about the language provisions in the Province of Quebec.

We thought a Made-in-Manitoba solution to this problem was to suggest a body that has a long tradition in this province, we believe, of preventing gerrymandering by the majority in the Legislature. It's a concept that perhaps needs some work, but we thought as a way to deal with 23.7(2), that we should perhaps look at a similar arrangement or the same arrangement as Electoralal Boundaries Commission, that would be accountable to the Legislature and, hopefully, would have more flexibility and wisdom than a court, which would be looking at narrow kinds of interpretations that would have significant administrative decisions potentially for us.

We note the MARL brief also, where they don't agree with parts of our brief on entrenchment necessarily, they also identify the problems of allowing the courts to administer decisions that are basically accountable to government. So we thought a body such as we have recommended would be more flexible, both in its wisdom and also in terms of its ability to re-evaluate the demographics and character of this province every 10 years as it does now, and at the same time, it will remove all of us from the whimsicalness, perhaps, that may take place in these kind of dynamics. We felt, in



terms of all the work we've done this summer to try to get some definition of significant demand, all of which we felt did not stand any reasonable test that we would allow to go to the courts. The number factors, those kinds of criteria, we thought were very artificial. It all depended where you defined your common denominator and were insufficient for all parties, so that's why we proposed a change. Therefore, in answer to your question, we have the concerns raised in the administrative body and we have the concerns raised in 23.7(2), both in terms of the wording and in terms of the remedy.

**HON. S. LYON:** So, in effect, Mr. Doer, you're saying you don't want the term "significant demand" entrenched?

**MR. G. DOER:** Mr. Chairman, I would refer again to Page 9 of our brief, where . . .

**HON. S. LYON:** I've read it. That's what you're saying, you don't want it entrenched? You want to be able to get at the body that makes that decision in case they make a wrong decision. You don't want that carved in stone, do you, Mr. Doer?

**MR. G. DOER:** Mr. Chairman, again we gained considerable support for our position, from the statements made by the Woods Task Force, a task force that we feel has had some credibility in interpreting contract language and language throughout this country. We feel if they are able to say that the term is vague, in terms of significant numbers, significant demand based on technological change legislation which I might point out is only three or four years old, five years old at the most, those are the only precedent areas we could see. We must look at the wisdom of these kinds of decisions today, because the term "significant demand" is vague and is open to a very narrow interpretation that may not be intended by the Société Franco-Manitobaine or other Francophone people that are not covered by that body, or it may be much broader than it was ever intended by the government.

So we are saying, given that we can't define it, given that we've been unsuccessful in changing it in a responsible manner, we are proposing that the Legislature maintain it. But to get away from that majority versus minority, we looked at the one precedent we saw in Manitoba that was successful in protecting the minority against the majority in the Legislature, and that's the Boundaries Commission that I think has protected all Manitobans from potential majority gerrymandering, in terms of political seats.

**HON. S. LYON:** What you're saying, in effect is: (a) you don't want it entrenched for the reasons that you've expressed; and (b) rather than have the Legislature directly control the terminology of "significant demand," you'd like the Electoral Boundaries Commission, which is established by the Legislature, to make a determination and to have the Legislature have to approve that determination as it does with respect to electoral boundaries matters.

**MR. G. DOER:** Mr. Chairman, yes. We believe, ultimately, it should be approved by the Legislature,

similarly, as we understand the Elections Boundaries Commission to do. We do believe though, that that added step will prevent the situation that has taken place in Quebec where the Legislature has overrun, in our opinion, the legitimate language rights of the minority. So we feel strongly that we must have some protection at the other end for just simple majority decisions on this matter and that's why we thought that the one body we could see - and there may be others. This group before us today, I'm sure has seen a number of different bodies or maybe other bodies that are like it, but we thought this was the one body that protected the minority in the Legislature from the majority decision, in terms of gerrymandering, which I thought, if it has been used and trusted and respected in this province, we think it could help us in this very, very important area today in our deliberations on this proposal.

**HON. S. LYON:** I thank you for that fuller explanation and for the confirmation that ultimately you want the Legislature to be in control, not the courts, to be in control of the interpretation of that word, if those words are going to be left in.

**MR. G. DOER:** Yes, Mr. Chairman, in the area of 23.7(2), we have proposed "where the Legislature determines." We are prepared, in all responsibility to this issue, to live by the decisions of the court in terms of the entrenched 23.7(1), if the term "administrative body" is removed, and it therefore becomes more precise in our estimation. We think a two-tier proposal, which is basically entrenching certain areas under 23.7(1) with a remedy to the court and allowing the Legislature to look at the more vague terms as a statement of principle with a body to take care of the minority rights in this issue, is a solution that we can live with and go back to our members and say it's better than the proposal we saw on May 17th or July, when we received it.

In our opinion, not just in terms of the wording, but I really believe that with the 10-year period, such as the Election Boundaries Commission, we will have a dynamic of co-operation between the various bodies, whether it's the Franco-Manitoban Society, whether it's other advocacy bodies for minority language rights, whether it's the public sector union represented by the MGEA or whether it's other public sector unions. There will be a dynamic of co-operation, I believe, at the implementation stage, rather than all of us taking all our marbles and going to the court and one of us winning big and one of us losing big and all those kinds of negative repercussions that will result. Because there's no question, with the first couple of cases on significant demand, they will be very, very key cases for this province and will have long-term implications and precedent, we feel, for the definition of available services and communications where significant demand requires.

So we feel that this body will not only have a more co-operative dynamic, it will be accountable to the Legislature and in addition, it will be able to take on the ongoing demographics of a province like Manitoba, that it has done so in the electoral considerations of this province.

**HON. S. LYON:** Granting the validity of your thought in that regard and respecting it, would you also agree

that the kinds of ambiguities pointed out yesterday, for example, by Mr. Green, in every line and every section of this amendment, could also lead to the kind of litigiousness that you and your organization want to avoid in the interests of certainty in our governments. Were you here to hear Mr. Green explain the ambiguities that he found in practically every section and every clause of this amendment?

**MR. G. DOER:** Mr. Chairman, I missed Mr. Green yesterday. I did witness him at the International Inn some six weeks ago. He didn't discuss the ambiguities of the agreement. They were more into some of the philosophical matters arising from the proposed amendment.

I might say that we did go through the proposal with our lawyers, whom we respect, who were instructed to look at it from not a political sense; were instructed to look at it in terms of not the issue of whether to entrench or not, but to look at the exact wording of it and what it would mean to us. Those lawyers, I might point out, have been successful before in the Supreme Court of Canada when we were fighting cases, so they have some experience at the supreme body of Canada in terms of wording. We rely on their interpretations and the interpretations of our own members who read contract language daily for advice on the ambiguity. So we are restricting our concerns to the ambiguities we've raised in our letter of July 12th, and raised in the brief before you, and not speculating on Mr. Green's statements.

**HON. S. LYON:** Might I suggest to you that you might wish to refer to your counsel some of the examples Mr. Green gave. I'll give you an example, by paraphrasing, without reading directly from the amendment as it appears in front of us.

Let's deal with the principle, the matter that a citizen has the right, under the amendment, to deal with the government in either of the official languages. Now we're talking about the amendment as first drawn by the government, not the watered-down version that we are now hearing. Mark II - there's going to be Mark III or Mark IV, probably, before the thing's withdrawn - but Mark II is now presuming to make some amendments.

A person wants to deal with the government. The immediate thought, the witness this morning, Mr. Scott, said, well, there should be receptionists. What's wrong with having licences appear in both official languages? He talked about a number of really non-contentious things; but what about the citizen who says, looking at this section, when that section says that I can deal with the government, and I phone up the Land Titles office in Dauphin and I want to deal with a particularly contentious land titles matter, they palm me off on some interpreter that they have in the office for that purpose. Because it's an important legal matter, I want to deal in French with the Deputy Attorney-General of Manitoba and, as the case may be, the Deputy Attorney-General of Manitoba, the senior administrative official in the department, is unilingual in English. Has your group, and I realize you don't represent the Deputy Attorney-General of Manitoba, . . .

**MR. G. DOER:** That is right; we don't represent him.

**HON. S. LYON:** . . . but you do represent a large number of people at the middle and upper-middle management levels who could be affected by the same example I am giving.

That person could then say, I am aggrieved; I don't want to deal with an interpreter on this matter. I want to deal at a professional level, on a legal matter in the official language that I choose to use, which is French, and because the Deputy Attorney-General, the real man that I want to talk to, or the Registrar-General who is in charge of the Land Titles office for Manitoba, the land titles system, because he's not bilingual, then I am aggrieved under this act.

So then under Mr. Penner's plan, 23.8: "Anyone whose rights under Section 23.7 have been infringed or denied" - he feels that his rights have been denied - "may apply to the court for a declaration to that effect and, where that court finds that those rights have been infringed or denied, it may make a declaration to that effect."

Have you, your organization or your council, given thought to the kind of pandemonium, to the kind of harassment, to the kind of prejudice that that can cause to the merit principle and the whole hiring of staff people in Manitoba if that law is used in the way that I have just described? I don't think that that's a way-out example.

**MR. G. DOER:** In terms of the example you have raised, we thought it was very important to limit, as you noticed, the 23.1 to ensure that it wasn't a declaratory statement, but rather a limiting statement in terms of the act.

Secondly, in terms of the exact example you have raised, in terms of the Dauphin Regional Office of the Land Titles Branch, was the one of course we raised as a potential interpretation of the term "head or central office," because a central office, in our opinion, could be interpreted to be in the Parklands Region from Ste. Rose to Dauphin office for any department of government which would be the Land Titles office under the Attorney-General's Department. So that's why we thought, then proposed in July and in the brief, those terms; and I note on September 6th they have been changed, and we think those are very positive changes.

In answer to your question of whether they can go to the head or Deputy Minister of the department under the proposal, I think there will be a challenge of whether the Deputy Minister should be bilingual or whether people in the office should be bilingual. Again, we feel that the amendment is much more positive in the proposal from September 6th with those changes. I know that the person in the Dauphin Regional Office of the Land Titles Branch of the Attorney-General's Department, in our opinion, will not be required to provide communication or services because the two sections have been changed.

We also note, with the problem of the "declaratory statement" as was originally agreed to on May 16th or 17th, and we raised on July 12th, that concerned us not a great deal with the whole area of "significant demand," because if you have a declaratory statement of declaring English or French as the official languages, and if you have "significant demand" as a vague term, putting those two terms together was, in our estimation, far far beyond what was originally intended or stated.

But we see the change in 23.1 as consistent with our position, and we see the change in 23.7(1)(a) and (b), dealing with "central office," again, as very positive. I wouldn't deny that there won't be a challenge on the Deputy Minister, and I wouldn't deny, if that interpretation could go either way. It could be interpreted as the office, which would include people in that office; or it could be interpreted as the person. Whatever way that goes will have some implications for the merit principle, but we are dealing with the wording at hand and attempting to change the most serious problems that we foresaw in the particular proposal.

**HON. S. LYON:** Mr. Chairman, to Mr. Doer through you. I believe - and I hope I am not being offensive to Mr. Doer when I say it - Mr. Doer is one who, like myself and like most people that I know in the community, realize the very great limits that the good Lord has placed upon our ability to anticipate all matters that might arise in life or under a statute or whatever. I am merely indicating to Mr. Doer one or two random things that have occurred.

Mr. Green indicated a larger number the other day, and I am making the suggestion to Mr. Doer that these random thoughts about the interpretations that could be made, which would be extremely deleterious to the whole public service of Manitoba, might be given consideration by his group and by their counsel, because in the humble opinion of Mr. Green, with whom I happen to agree, these amendments are rampant with obtuseness, with the kinds of ambiguities that you have to some minor extent identified in your brief. A more careful combing through of the wording of these amendments will reveal, I suggest to you, a myriad of other possible and probable situations that can arise that will be deleterious to your organization and I think if deleterious to your organization, then deleterious to the public interests of Manitoba.

Now, you may or may not wish to have a further review once Hansard is available, but might I suggest, Mr. Doer, that having given the kind of detailed concern that you and your group and your counsel obviously have because of the high calibre of your brief, may I suggest that you take another second look at it, and you'll find even more problems than you found the first time through. If you go through it the third time, who knows? You may come to the position that we have come to which is, scrap it, because it isn't worth doing; because it will cause too much trouble to all Manitobans.

**MR. CHAIRMAN:** I don't perceive a question there.

**MR. G. DOER:** I do, Mr. Chairman. We have combed every word, in all due respect. We have, as you have probably, read the interpretation from Black's Law Dictionary dealing with the "head office." As you will note in the definition of Black's Law Dictionary, it's an executive office. It is capable of broader meaning than just the one incumbent. So we did look at the term "head office" pursuant to your question dealing with the Deputy Minister. Any interpretation can be obtained by the court in any one of these wordings and any of the wordings we received, or the re-entrenchment of 1979.

It is our opinion and the opinion of our lawyer that the term "head office" is broad enough to be the executive office based on other precedents, and broad enough that it would not have to be just a Deputy Minister, but it could be broader than that. I always concede there can be different interpretations, but we felt reasonably confident after looking at it three and four times this summer that our major concern was the four areas we have identified.

There are other areas we have looked at and rejected in terms of combing through it, for example, the term "from any head office" in terms of available services. There are some people that believe the term "from" could mean that you could delegate down right throughout the public service. We looked at that with our lawyer. They felt that was not a logical interpretation of it, and we respect their opinion.

So I can assure the members at this table that we did go through it with a fine-toothed comb on about nine different occasions. We are standing by the positions we have placed before the committee today.

**HON. S. LYON:** Mr. Chairman, the problem with lawyers, and I can speak critically because I am one, is that they tend to differ. You heard this morning a lawyer from Montreal tell us that there was a 60 percent chance of winning the Bilodeau case in the Supreme Court. There is no other lawyer in Canada who has made that statement, but he's entitled to that opinion. The counsel for the Government of Manitoba say there's an infinitesimal chance of such a far-fetched proposition ever being agreed to.

I merely am indicating to you - and I'm sure your lawyers have not indicated that they have covered all of the ambiguities in this section - I am merely trying to suggest to you that when you and they have the opportunity to read through Hansard and see some of the grotesque distortions that might well be adjudicated out of this jumble of words by a court, then you might well want to come back even a third time - and pray God, the government hasn't passed it then, because if they've passed it then you won't be able to change a word of it because you'll have to go to the Parliament of Canada where we've got 14 Members of Parliament out of - what, 282? - and you won't be able to change a word of it.

So all I'm saying, Mr. Doer, do you not think it might be wise to have as much time as possible; comb through this very carefully because you're going to be stuck with it all the time if these people have their way; make sure that there isn't poison and prejudice in there that's going to bedevil you and your organization and this province for all time to come, because these people want to entrench? Don't you think that's good advice?

**MR. G. DOER:** Mr. Chairman, it's always logical to take as close a look at anything you can and continually look at it as you go forward on the proposal. I can assure you that we met on nine or ten occasions with two different lawyers, got two independent opinions. We have tried to be as thorough as we possibly could in looking at the proposed amendment. We have had it reviewed by a number of people, negotiating people, elected people and the legal people. We have discussed it with the government; we've discussed it with members

on all sides of the House, informally and formally. We will always look at it, but we are standing by our position at this point as the major concerns that we feel need addressing by this committee.

**HON. S. LYON:** Mr. Doer, you say on Page 10 of your brief, "It has come to the attention of the Manitoba Government Employees' Association that certain wording in the French version of Section 23.7(2) may be broader in meaning than the comparable wording in the English version. We are particularly focusing on the words "l'object d'une demande importante" in the French version, when compared to the expression "a significant demand" in the English version. We have also heard similar concerns have been registered with respect to subsection (b) of Section 23.7(2) dealing with "the nature of the office" and the test of "reasonableness." The Manitoba Government Employees' Association is in the process of obtaining an opinion on this particular issue. However, this is a matter which ought to be examined independently by this committee and, indeed, the government."

First of all, Mr. Doer, I want to thank you and your organization for bringing this - certainly it's the first time I've heard it mentioned before the committee - to our attention. I would like to ask you whether you or the government people to whom you have been talking have had any advance or further information on that interesting problem which you raise.

**MR. G. DOER:** Mr. Chairman, we have discussed it. I have discussed it with our Francophone members of our organization. They do inform me the French text could be changed to mean - there is a term "significant" en français that could be in the wording. Unfortunately, the wording that has been placed in the proposal is the same as is in the Charter. I suppose, the Charter wording, rather than using the "significant" word in French directly, they've used a slightly different term.

We have been told verbally by French language experts and lawyers that there is a broader meaning to this term. It is a matter that's also being raised by other public sector unions which will be coming forward to this committee, I would expect, on this same issue. That is why we believe in a Made-in-Manitoba solution. We don't believe in clipping and cutting this thing from the Canadian Charter, and implementing the proposal just lock step in this area.

So we raised it, and we would ask the committee to look at it. We are in the process of obtaining a written legal opinion on the wording, but it has come to our attention and I think it's important for the committee to note it, especially when you consider that the language is equally authoritative. Therefore, courts will be required, as they have in the past, to go from one to the other. When you have a vague term that's broader in another language, it becomes by definition vaguer, I suppose, in English if that's only logical. So we did not see anything malicious in it, because it is brought from the Charter. But we thought it was something we should look at in terms of this proposal.

**HON. S. LYON:** Mr. Chairman, I thank Mr. Doer for that further information. Might I ask that, as and when he is in receipt of information which he's in a position

to make public as to the further legal advice that he might receive on this point, I for one - I'm sure other members of the committee would welcome it as well - be given a copy of that advice, because this is precisely the kind of corrective action which must be taken before the guillotine drops on this matter, if indeed it does drop, and these matters are chiselled in stone for all time because if that concern that has been pointed out by your counsel turns out to be a legitimate concern, and I realize you raise it only as a query at this stage.

Once this is passed by the Legislature of Manitoba and the Parliament of Canada, it becomes the equivalent of Hammurabi's Code, nobody can touch it. It will make the original inscriptions on the tablets look like muddy effigies. This will be enshrined for all time with all of the errors and the mistakes and the ill-considered nonsense that some people - well-meaning people - put into statutes of this kind and then say, blithely, oh, let's entrench it; not realizing that for all time it's going to be there. They think it's going to produce good for people whereas very often it produces the opposite which is hell on earth.

**MR. G. DOER:** Mr. Chairman, in answer to the question I think that was raised. I would point out that the interpretation was identified by one of our non-legal members, it was also identified to us simultaneously to that by another public sector union and has since been in the process of being confirmed by our legal counsel. So, it was raised by French-speaking members of our organization and it has also been raised by other public sector unions that I'm sure will be proceeding to this committee at a later stage.

**HON. S. LYON:** I certainly wasn't, Mr. Chairman, attempting to imply that agile minds were the sole prerogative of the legal profession, that's not the case.

Arising out of your comment, which I mentioned in my speech on the 12th of July in the House, and I notice that you have mentioned it on Page 13, "The government has always stated that it does not seek to impose 'Federal Bilingualism' in this province and is implementing a limited bilingual program to meet the particular concerns in the Manitoba context." Given that that is the propaganda statement of the government - because we've all seen, constitutionally speaking, in these other expensive documents that the government is thrashing out to the people of Manitoba at great expense to the public full of misinformation and so on - given the fact that that's what they're saying, do you not find it as odd as I do that practically all of the wording, as you have observed and others have observed, contained in the amendments to The Manitoba Act, Section 23, are word for word with Mr. Trudeau's words as contained in The Canada Constitution Act, except I think for the word "institution?"

**MR. G. DOER:** Mr. Chairman, the word "institution" has been deleted from the Charter language in Section 23.7(1) and has been reintroduced in this proposed Section 23.7(2) "in terms of institutions not referred to in 23.7(1)." We have pointed out that the charter wording, particularly the significant demand area, in our opinion, is a clip and cut from that charter and it

does not fulfill the Made-in-Manitoba goal of the government, and that's why we feel that the proposal we have made will be more in line with the government's stated purpose, in terms of a Made-in-Manitoba approach. So there are a great deal of similarities. I think all members of the committee know the wording of the charter and know the wording that's in the proposal, so that's for public record. There are some differences but there are a great number of similarities.

**HON. S. LYON:** Mr. Chairman, I realize that it's not Mr. Doer's problem, although if the matter becomes entrenched, it becomes the problem of all of us. But isn't it rather ironic that a government that is so busy trying to tell the people of Manitoba that it does not seek to impose the Trudeau form of bilingualism on the people of Manitoba is doing precisely what the Secretary of State told the Franco-Manitoban Society they should do in March, I think it was, of 1983, don't reinvent the wheel, use the words out of The Canada Constitution Act. I think you read the speech of the Secretary of State to the Franco-Manitoban Society. Isn't it funny that the government exceeded to that almost chapter, line and verse; and yet, as you point out in your brief and as they say in "Constitutionally Speaking," they want to tell the people of Manitoba, these aren't the same as the Trudeau proposals on bilingualism, because nobody likes those, that's what they're saying.

**MR. G. DOER:** Mr. Chairman, I have received a number of copies, as I'm sure everyone in this room has, of Mr. Joyal's speech and a copy of Mr. Joyal's private member's bill. We could wallpaper the walls, I think, of the MGEA with the numbers of times we received it. In all fairness, I believe that Mr. Joyal did state to use the language contained within the charter and also went on to say that we should be able to speak and act in both official languages in schools, communities, etc. In all fairness to the government, I don't believe the Provincial Government has implemented the spirit and thrust of Mr. Joyal's speech. There are more similarities with the charter in the area of provincial services versus federal services. We think that the deletion of the term "institutions" is not a minor one out of 23.7(1) as you would probably agree. I don't want to get into an either/or. It is better, in my opinion, if I was given a choice of taking the charter wording, or the wording that has been proposed in Section 23 of The Manitoba Act, I would take what's proposed, but I still think the proposal has too many terms out of the charter for a Made-in-Manitoba act.

**HON. S. LYON:** Somewhat like saying, I'm going to buy a Ford car, but I'm going to call it a Chevrolet, isn't it, Mr. Doer? That's what the government's doing.

**MR. G. DOER:** I fail to see the analogy.

**HON. S. LYON:** In the end, on Page 14, you say: "In conclusion, the Manitoba Government Employee's Association supports limited practical bilingualism for Manitoba." I would like to suggest - and you can agree or disagree - that over a period of a number of administrations with which I'm familiar, and I'm sure

you're familiar, particularly in 1980, and then with the announcements made by the previous government in March of 1982, by the Pawley Government as a policy statement, limited practical bilingualism for Manitoba was well under way, was it not at that time, as a policy mat?

**MR. G. DOER:** Mr. Chairman, we feel - I think it's on record last evening - since the '60s there's been a logical progression of bilingual services in this province through Roblin, Weir, Schreyer, Lyon and Pawley. This is a different issue, of course, because it is a proposal to entrench the language services and we are not approaching it from just an administrative prospective, we're also approaching it from precedent perspectives of the future.

**HON. S. LYON:** But up until this occasion, Mr. Doer, as I think we agreed last evening, you and your organization have never had cause to express the alarm that you are expressing in your letter to the government and in your brief to us today, about the potential ill effects of an entrenched section such as we find here, because you do feel that this will not provide the kind of limited practical bilingualism that you and your organization and the people of Manitoba have always supported.

**MR. G. DOER:** Mr. Chairman, I think our brief and our letters of public record we support the changes that we have proposed. We are proposing a two-tier system; one system of precise wording with entrenchment with remedy to the courts in the areas of the vagueness, subject to the other changes we proposed. The vague areas, that they be maintained by the Legislature with the Boundaries Commission. Of course, if we are able to get all our changes we are committed, as an organization, to supporting that position; if we're not, we do not support the proposal as it is presently proposed in this province.

**HON. S. LYON:** Mr. Chairman, to Mr. Doer, if the government announced tomorrow, as they well might, that they are abandoning the entrenchment of all of these sections, would you and your organization object to that?

**MR. G. DOER:** Would I object to abandoning all of the proposals?

**HON. S. LYON:** The entrenchment of the proposals.

**MR. G. DOER:** I would have to evaluate what that would mean for us with a potential court case in all fairness. At that point we would evaluate it. I would not want to go through this five years from now, 10 years from now, or 20 years from now. We feel we can live with the proposal we have made, in terms of dealing with the precise narrow terms and conditions to give us bilingual services in Manitoba through an entrenched provision, however, leaving the Legislature those vague terms and allowing a provision to allow some independent thinking to get away from the whimsicalness that sometimes is available or current in a Legislature dealing with public opinion and future

votes.

So I would not want to be on record as pushing for the abandonment of this position because we haven't. There are lots of people pushing for the government to abandon this; there's lots of people pushing for the government to push it through. It is our position to make sure that whatever we're pushing through we can live with and we think we serve a purpose in that battle, because I found in the last two to three days in listening to the hearings, many of the groups are coming up almost as a testimonial, either for or against an entrenchment, and very few groups are looking at what we're entrenching. So we feel, as an organization, we could provide a responsible valuable service to this House, through this committee, in dealing with the wording as they may apply to us in an operational basis.

**HON. S. LYON:** Mr. Chairman, not to worry the point though, but if the provisions aren't entrenched, you can lean on the government to change them tomorrow or next year or to alter these provisions so that they will meet the changing development of your organization and its interrelationship with the government, can't you? I'm not trying to put words in your mouth, I can't, but entrenchment, if it were abandoned by the government, Mr. Chairman, would not bother you, Mr. Doer?

**MR. CHAIRMAN:** Mr. Lecuyer on a point of order.

**MR. G. LECUYER:** Mr. Chairman, the presenter has already answered the question. First of all, this is not part of his brief and the way I understand the hearings is to hear the presenters and to clarify whatever opinions or ideas they have expressed. For the members of the committee to continue to press the same questions is time consuming and is preventing others who want to be heard to be heard and, as far as I'm concerned, Mr. Chairman, puts the presenter in a position of being under inquisition, rather than allowing them to present their views.

**MR. CHAIRMAN:** On the point of order. I would suggest that I fail to see whether there is a point of order, but I do concur that witnesses should be asked to clarify their opinions, not to be led and not to be badgered. I would hope that the members of the committee would co-operate and be courteous to the people that are taking the courage and the foresight to come in here and assist us in our deliberations.

Mr. Doer, do you wish to answer the last query?

**MR. G. DOER:** Mr. Chairman, I didn't answer it the first time and I won't answer it this time. I think we can be more constructive and responsible by not getting into that either/or debate, maintain it as it is or abandon it totally. We feel there's enough groups taking either one of those positions at these hearings, and certainly through the public debate. We want to provide a valuable service for our members and this committee and we feel that the best way we can do it is as we propose in this brief, and we stand by the recommendations we have placed before this committee as the position of the MGEA. If, at a later point in our discussions with the government and the deliberations of this committee and the decision of the

Legislature, there is something that is short of what we feel is necessary, then we will make our position known to the public and our members at that time.

**HON. S. LYON:** Mr. Chairman, to Mr. Doer, if the government has foolhardily gone ahead and passed these amendments, and the Parliament of Canada has concurred in them, and you want to make a change after that, what are your chances of getting a change made?

**MR. G. DOER:** Mr. Chairman, we know that once a decision is entrenched the ability of someone to change it, especially backwards or move the line, is very remote. That is why we want to provide a valuable service to our members by the proposals we've made. If the proposals that we have made are implemented by the government it is our responsibility to support the proposal as it is changed, and we will do so. If they are not, we will have to evaluate it at that time, receive direction from our people, and we will go public to our membership and the public of Manitoba at that point. I'm an optimist.

**HON. S. LYON:** Good. Mr. Chairman, far from badgering Mr. Doer, Mr. Doer's an intelligent witness. I say to him, I am reminded by his response, of what Winston Churchill once said about Adolph Hitler. He said, if Hitler invaded hell, I dare say I might find something good to say about the devil. Is that sort of what your approach to entrenchment is?

**MR. G. DOER:** Mr. Chairman, Churchill also stated that we shall never surrender, so I would prefer that to be our tone of this debate.

**HON. S. LYON:** Well, we're happy to share it with you. Now, Mr. Doer, on Page 11 of the legal opinion from Thompson, Dorfman, Sweatman, which you've attached as an Appendix to your brief, the following statement is made: "As indicated, the proclamation is clearly a constitutional extension of language rights over those contained in the Act of 1870. In giving you our opinion we share the concern that the 'difficulty with the suggested extension of constitutional rights is that the extent to which bilingual services must be made available is unknown."

"The extent of this obligation will ultimately rest with the courts and, because the obligation will be constitutionally entrenched, the Legislature of the Province of Manitoba will be virtually unable to change the courts interpretation of the obligation, notwithstanding that the same may be much wider than that originally intended at the time of the making of the proclamation. It is, therefore, imperative that the intention of the Legislature, as expressed in the proclamation, be precise, certain and free of ambiguity."

I take it from all that you have said and from reading your brief, that you accept that advice from your counsel.

**MR. G. DOER:** Mr. Chairman, yes, in fact it basically was the position of the MGEA before we received the advice of our counsel. We were evaluating it ourselves, as simultaneous to the lawyers evaluating it, but it

certainly reinforced our position which we articulate in a letter of July 12th and have placed I think before this committee in our brief that we presented last evening.

**HON. S. LYON:** So that when the government in its propaganda, when it tries to mollify the people of Manitoba, and some of us would say mislead the people of Manitoba, when it tries to say that this will only mean 300 or 400 bilingual civil servants, do you not agree, Mr. Doer, that they can't make that kind of a commitment because it will be up to the courts to determine, once this amendment is passed, how many bilingual civil servants are going to be hired in Manitoba, not up to the government anyhow?

**MR. G. DOER:** Mr. Chairman, as it's presently worded or was worded when we received it in July, if we were to receive, in our estimation, small "I" liberal interpretations of the language, we would have received, we thought, figures that were much in excess of what was predicted by the Language Services Branch of the government publicly throughout this province. In fact, we resented the fact, and I should say this, that the Language Services Branch produced a document to tell people not to worry in a publication that was sent to people when they didn't provide the wording because I think people have enough intelligence to read the exact wording and come to some of their own conclusions.

The changes that have been proposed on September 6th and, hopefully, those are two of other changes that will be implemented by the government and in our estimation will reduce the number that can be expected to be interpreted to be bilingual based on liberal interpretations, in our estimation by a great deal, whether that's 400, 300, 500, we're not exactly sure. We've tried to evaluate it. We don't have the same access of management information that the Civil Service Commission has, and it has by the way excluded us from any discussions on this proposal as a matter of policy, we understand, at that branch. We do not have that information but we feel confident in saying that if the changes that we have proposed are made in this brief, it will greatly reduce the numbers that could be interpreted to be necessarily bilingual.

We believe strongly that one can say the courts can't order somebody to be bilingual but we believe if there are eight boiler inspectors in the Province of Manitoba, and it's deemed that it's necessary to have four of the regions serviced in a bilingual way, the government can't possibly in 1987 hire 12 people. It will in essence have four people by law, or by legal decision, redundant. So that's why we have proposed the changes because we feel that the changes we have proposed will make it precise, more certain, and having less ability to have an ambiguous interpretation.

**HON. S. LYON:** Mr. Chairman to Mr. Doer. Always subject, of course, to the limitations of his thinking and my thinking and the thinking of his organization today as to the possible eventualities that can occur that we don't even think about today, or some far-fetched case that somebody may take to court and get one of those small "I" liberal judgements. We don't know about that, do we?

**MR. G. DOER:** Well, Mr. Chairman, we've had to live with a decision of the quasi-judicial body; in all of our times around this table we've had to live and implement the quasi-judicial provisions and we have had to work through the administrative realities of that, but I can say in all honesty to this committee we've been able to implement it, I think, in a responsible manner in Manitoba. Yes, there are all kinds of possibilities in any court case, but we feel we can live with the preciseness that we have recommended in our brief that has also been backed up and supported by our lawyer who has, of course, provided this opinion that if we made the changes that we have proposed, we would be providing a public service not only to our members but the sons and daughters of everyone in this room who may want to be a public health nurse 20 to 30 years from now and will be able to do so in a reasonable bilingual communication and services environment.

**HON. S. LYON:** Mr. Chairman, I merely wish to thank Mr. Doer and the Manitoba Government Employees' Association for the time and the effort that they have put forward in bringing forward this brief and responding as intelligently and fairly, I think, as Mr. Doer has to questions, not always easy questions, from members around the table.

I close by thanking him and with the fervent hope that he and his organization will continue to look at these amendments to uncover those other hidden traps that I know are in the amendments at the present time which will still cause egregious harm to the public interest of Manitoba if this government is foolhardy enough to pass them.

**MR. G. DOER:** Mr. Chairman, perhaps in answer to the last statement, I would refer - I'm sure the Honourable Leader of the Opposition is aware of Shakespearian quotes. There are two quotes I think that are significant - no, I better not use the term "significant" in this term. One is, "He who fears every ambush dies a thousand deaths." I think that's appropriate at this time. We can live with the recommendations we've proposed.

**HON. S. LYON:** I pray God you're right.

**MR. CHAIRMAN:** Mr. Kostyra.

**HON. E. KOSTYRA:** Thank you, Mr. Chairman. First of all I'd like to indicate to Mr. Doer and through him to the membership of the MGEA, that I believe that the position they have adopted in this discussion, in this debate on this issue and through their brief is a very responsible position. It's unfortunate in some respects that it's taken this long to have the opportunity to hear the views of this organization and others to this committee because as you know, Mr. Chairman, the resolution to refer this matter to committee was first introduced in the Legislative Assembly back last July 22nd but was delayed because members opposite didn't seem to . . .

**HON. S. LYON:** You said you wouldn't have a committee. On June 17th the Premier said he wouldn't have a committee until we forcedx him. Don't try to

lie here. We forced you into it.

**MR. CHAIRMAN:** Order please.

**HON. E. KOSTYRA:** Mr. Chairman, it's unfortunate that it has taken this long to get into the public forum. I think the record will show the delaying tactics that have restricted the public and the MGEA and its 14,000 members from having the opportunity of having access to this committee and participating in this debate.

Mr. Doer, you indicate at the start of your brief your concern with the fact of the — (Interjection) — Mr. Chairman I'm having difficulty. One of the members opposite doesn't seem to realize why he's got two ears and one mouth. You're supposed to listen twice as much as you talk sometimes.

**HON. S. LYON:** That level of debate typifies this government.

**HON. E. KOSTYRA:** Thank you, Mr. Chairman, I think the problem has resolved itself. I would just like to ask you, Mr. Doer, as a result of your initial concerns on this resolution, has there been any consultation with the Attorney-General and his staff on the concerns of the MGEA?

**MR. G. DOER:** Mr. Chairman, as I answered last evening, we felt the consultations prior to the announcement of May 17th and from May 17th to approximately July 1st were non-existent. We have felt, and we stated yesterday or last evening, that since July 12th we have had very, very positive meetings with the Attorney-General, with the Premier, with members of the government, with people from the opposition, with the Société Franco-Manitobaine, with our lawyers and our own members. So it's been for the public record and I answered it last evening, the experience has been, I think, very positive since July 12th in terms of our ability to have some discussions in a positive and constructive way with the Attorney-General's office and with the Attorney-General and other officials of the government.

**HON. E. KOSTYRA:** Mr. Chairman, through you to Mr. Doer, the position that was outlined in your letter that's, I think, attachment no. 1 in your brief, you raised a number of areas of concern of the MGEA and its members with respect to the proposed amendments as they stood at that time. I think they were in three general areas as I recall the letter. I had the opportunity of participating with you in a number of meetings to discuss these amendments at which time you indicated some more detail and other concerns of the MGEA with respect to this amendment. I wonder if you would indicate - and I think you have in part in your brief - that the announcement by the Attorney-General last Tuesday of specific areas that were being considered for amendments and one area that was still under active review, that those amendments met a good number of the initial concerns that you and your organization made in your letter of July 12th and in the subsequent and numerous meetings that you held, consulting on this issue.

**MR. G. DOER:** Mr. Chairman, we identified three specific areas in our letter of July 12th which is

appended to the brief. We also verbally informed the government the night prior to writing the letter, both the Attorney-General and the Premier, that we were working on concerns dealing with 23.1, the declaratory statement, that we would not put that in our letter at this point. We would look at it and respond either verbally or in writing at a later date.

Specifically, the change to 23.1 clarifying it from a declaratory section to a limiting section, we think is positive. We feel that the central office change is positive. An item not contained within our brief, the area of forthwith versus in time - I forget the wording - but in a reasonable amount of time we see as positive, but we still are very concerned, as we have stated before, concerning the words "administrative body" and very very concerned about the term "significant demand" in 23.7(2). More concerned probably on significant demand than we are about nature of the office, but I think those positions are well understood. So, we are pleased that the government has stated that they are looking at that. We think the proposal we have made, particularly in that area, the Made-in-Manitoba thrust of a two-tier system; one, a statement of entrenched rights, and the other one a statement of principles with the mechanism to protect the minority against the majority is the way to go in that particular area.

**HON. E. KOSTYRA:** So, just in summation of your comments, or your answer to my original question, a good number of the concerns of the MGEA have been met through the consultation that has taken place to date?

**MR. G. DOER:** Mr. Chairman, certainly there have been concerns raised. There are both technical concerns and membership concerns. And again, last evening I pointed out that the term "significant demand" is probably the greatest membership concern because, as you would well understand, that's the area they can relate to, rather than us looking at the interpretations of central office, or us looking at the interpretations of 23(1) whether its a declaratory statement or a statement limiting the bilingual services. So certainly, in terms of the technical aspects of the MGEA, we feel that the changes to date have been positive, we feel strongly about the term "administrative body," but our members, probably more than any other expression in the document, understand the potential problems with the term "significant demand" and I would say that remains the greatest concern to the rank and file members of our organization.

**HON. E. KOSTYRA:** I'd just like to spend a moment or two exploring your concerns with respect to that area. Your proposed solution, I think, you recognize, or at least I thought you recognized in your comments in response to questioning earlier, that you and your members appreciate the need to have some ability to protect the rights of minorities, other than leaving it totally to elected officials. I would ask you to comment on your understanding or your appreciation of those concerns, whether it's taken from what has happened over history in this country with respect to the protection of rights of minorities, or situations that have arisen



in the unfortunate history of this country with respect to Franco-Manitobans in the past, with respect to Japanese Canadians, with respect to others that, if your concern for that stems out of those kinds of actions in the past, by people that were the elected majority in those particular Houses of Legislature and those particular points in time in our history.

**m" G. DOER:** In answer, I suppose, there are still provisions in the Charter of Rights, in the Canadian Constitution, to override minority rights through The Emergency Powers Act. Certainly we are concerned, we originally, given that we couldn't come to a definition of the term "significant demand;" and given that we were becoming more alarmed the more we looked at it and the more cases we looked at; and given the French language, we were going to come to this committee with just where the Legislature determines and leave it as that, as a statement of principle. But, quite frankly, I didn't have the answer to the question of what would you do about the situation in Quebec where the Legislature has even gone through an election and still been able to maintain what we consider to be an oppression of language rights in the Province of Quebec and, therefore, argue strongly against the position of solely leaving it to the majority in a simple way through administration of minority rights. That's why we thought the one body that we were aware of that dealt with the rights of the minority, in terms of this House, in this Manitoba context, had protected Manitoba, I think all of us would agree from gerrymandering, which is a practice sometimes carried out by the majority, and that's why we proposed that as an alternative to just coming back with where the Legislature determines or leaving it in a vague and precise manner which we feel it now is.

**HON. E. KOSTYRA:** With respect to your concerns on that section, I gather they're twofold. One is what could be interpreted as the vagueness of the terms "significant demand"; and secondly, I sense, though I didn't see and I don't want to words onto your brief or into your brief, that there is some uneasiness leaving those kind of interpretations to the courts and, with my limited understanding of the courts, I know that from time to time the trade union movement has had concerns to have issues determined in the courts because they felt the courts tended to be very narrow and be very conservative in their decisions. Is that a fair commentary on the concerns with respect to the section as it is presently in the resolution?

**MR. G. DOER:** Mr. Chairman, I think we've had some very very wise decisions of the court and judges in the court. I think some of the decisions Freedman made, even in his capacity as Commissioner dealing with the change in innovations and technology in the railway, were very very positive statements. We've had very narrow interpretations through the court in terms of unions, etc. I think there's a cartoon that probably was in your office at one time, I think I noticed, where there was a judge falling asleep at a baseball game and the word "strike" went out and he yelled "injunction granted." So there is a mixture of opinion on it. We just felt the term itself was so imprecise that we could

get one of two alternatives in the area of the courts with the best intentions in mind. We felt that the dynamics in this province would be better suited by a different body that would include, as the Election Boundaries Commission does, a legal person, and also include other people that could be broader in their wisdom, perhaps, than narrowed interpretations that may take place in the court. Also, the fact that once the decision is made in the court, as we know, we have to live with it until it's changed. When we have an entrenchment, as you know, it's very difficult to change the law.

**HON. E. KOSTYRA:** Mr. Doer, would you be willing, or would the MGEA be willing, to leave that; the way you have suggested it in your brief, you're suggesting that the Election Boundaries Commission do the initial review and recommendations with respect to those issues, but merely they would be recommendations to the Legislative Assembly for ultimate decision on those recommendations? Would you be willing to leave all of that power with an agency like the Election Boundaries Commission without reference back to the Legislative Assembly?

**MR. G. DOER:** Mr. Chairman, we have proposed that it would go back to the Legislative Assembly and that's where we feel it should go, similar to the present structure. We are not aware of the Legislative Assembly of Manitoba overturning a decision and we're looking back through the cases, and people around this table that are more directly affected by that commission may be more aware of cases where that has been overturned, but we are not aware of that body being overturned. We see the present construction of the body answering to the Legislative Assembly as being a suitable one for this proposal.

**HON. E. KOSTYRA:** I appreciate your comments. I was searching for an answer to the question whether or not you would be willing to leave that ultimate decision to another body like, you suggest, the Boundaries Commission, without reference back to Legislative Assembly.

**MR. G. DOER:** Mr. Chairman, the Boundaries Commission does refer back to the Legislative Assembly; and the answer to your question, what we have proposed does answer back to the Legislative Assembly and we are not proposing to change the Electoral Divisions Boundaries Commission structure.

**HON. E. KOSTYRA:** I have no further questions, Mr. Chairman. I'd just like to sincerely thank Mr. Doer and, through him, to the executive and membership of the Manitoba Government Employees' Association with respect to the brief that they have presented, and the very positive and productive attitude that the MGEA is portraying with respect to the debate on this issue.

**MR. CHAIRMAN:** Are there any further questions of Mr. Doer?  
Mr. Scott.

**MR. D. SCOTT:** Thank you, Mr. Chairman. With your proposal of creation of an independent commission

such as the Electoral Boundaries Commission, I'm wondering if you got that idea or how you would relate it as in comparison to the Commissioner of Official Languages and his office that has been created by the Parliament of Canada, and he responds to the Parliament of Canada, much as you are proposing here. I am wondering if that's where you got the idea from, or how you feel that this would act. Would it be similar to the Commissioner of Official Languages and his office?

**MR. G. DOER:** Mr. Chairman, we see a total difference between the Commissioner of Languages and the federal structure of Language Services and the proposals we have made.

First of all, there's one of credibility. I think we all recognize that the Language Services Commission in the Federal Government is perceived as an advocacy body, not as an impartial body, to implement a particular program that was passed in 1968; a program that we think has been implemented in a very, very unfortunate manner in this country, and I think has been agreed to by government-elected people and opposition people as being not the way to go in Manitoba.

So we would see the total difference between a commission that has tremendous credibility in this province and an advocacy body that may be allegedly independent in the federal sphere, but we see that very much as an advocacy body. I would suggest - I haven't got a lot of research in it - but the people I have talked to, it's very much a partisan body of politically appointed people to carry out a particular mandate in the federal sphere. I think they have a particular purpose in mind; I can think of Mr. Spicer and other people that have carried out the mandate; but, no, we see a total difference between the two.

**MR. D. SCOTT:** You say that it is a political, and I am not denying that perhaps it can be, but could not, what you are proposing here, have the same weakness because he, I understand, is created by an act of the Government of Canada; he is a servant of Parliament, not a servant of the government itself. It's not a Civil Service position; it's a position created in the very same way that you're proposing to create the service here, although you're talking about a multiple appointment like the Electoral Boundaries Commission, I believe, is three persons appointed, so it would not be a single individual. That I see is the major difference.

**MR. G. DOER:** Mr. Chairman, if you read the mandate of the Official Languages Department and the mandate of the Electoral Divisions Boundary Commission, I think you'll find it totally different. I also know that an act of Parliament requires just a simple majority, as I understand it, for that position. It's not a two-thirds or entrenched majority for the person that you've talked about; and just look at the different - well, first of all, your own Premier and members of the government have stated time and time again that we do not want the federal bilingual program and we do not want the type of implementation which has really been spearheaded by that particular entity in the federal service, so we see that there's no tangible comparisons - perhaps slightly in structure - but certainly not in

credibility and in experience between the two bodies.

**MR. D. SCOTT:** Would your proposal then include this body acting as an appellant body, or would it be a body simply that the government refers an issue to or a request to for a decision?

**MR. G. DOER:** Mr. Chairman, we see the body acting - and we didn't get into a lot of the nuts and bolts of the body - we propose it as a concept and as a structure to deal with this problem of significant demand. We didn't get into the . . . of the particular proposal. As we understand it, the Electoral Divisions Boundary Commission has a number of criteria it must look at, including demographics, including character, including ethnic variety, geographic location, and it reports in a particularly specified time and it then goes to the Legislature for approval.

So we didn't get into a lot of the specifics. If the concept is acceptable to the committee in the Legislature, we would certainly be willing to participate in any of the kind of implementation stages of that specific, but if you can't buy the concept or if people don't want the concept, there's no sense getting into a lot of the specifics, as far as we could see, at this point.

**MR. D. SCOTT:** Before we can accept concepts, we have to also understand some of the consequences of those concepts. I think you can agree with that, sir.

**MR. G. DOER:** Yes.

**MR. D. SCOTT:** If I could get additional clarification, you would see this body as being the replacement for, or the group that would define "significant demand," and they would be requested by the government or by the Legislature to rule on a question of whether or not French Language Services were warranted in a particular instance?

**MR. G. DOER:** I beg your pardon?

**MR. D. SCOTT:** That this body would have referred to it by the government, I would presume, or potentially by the Legislature, in resolution form over particular instances whereas a community wanted to have services in the French language extended to that community or in offices related to that community?

**MR. G. DOER:** Mr. Chairman, I don't believe that the present body acts as an appellant body. For example, if the decisions made or recommendations made in 1978 were implemented in 1980, I believe the next time to get a look at those kind of recommendations is again in 1988, so we don't see this body as being a group that would necessarily deal with case by case.

As you well know, the government has produced a map that they have stated was the limiting factor for "significant demand" and nature of the office. We would prefer that those kinds of areas be identified by the Electoral Divisions Boundary Commission. I would suggest it could include dynamics of presentations, etc., by interested parties in the matter. Again, we haven't gone into any of the concepts. We would see, in concept,

it could make proposals on the years it suggested and then again review it 10 years later; rather than a court which would potentially make decisions on "significant demand and nature of the office" that we would have to live with. If they came in with a formula, if the first case we deal with comes in with a lock-step formula, and we've all agreed we don't want that, or at least many of us have thought that wouldn't work, the precedent could be the decision by which we have to live for hundreds - not hundreds - but years after.

The advantage of this body is that it can look at broader criteria as it does with the Boundaries Commission. It just doesn't look at numbers entirely; it looks at character and other factors. We see it determining these things on the 10-year intervals that is presently the structure, not an appellant body after the fact.

**MR. CHAIRMAN:** Thank you. Any other questions?

Thank you very much, Mr. Doer, for your patience and your input on behalf of your organization.

**MR. G. DOER:** Thank you very much and thank you to the committee members.

**MR. CHAIRMAN:** Our next presentation is Mario Sosa, Winnipeg Chilean Association. Mario Sosa. Our next one is Ron Nash. Our next one on the list is David Lerner. David Lerner. Our next one on the list is Mario Santos. Next one is Robert André. Thank you, Mr. André.

We are going to have this presentation "en français". For those who wish, in the public, to have translation units, would you kindly come up here and sign for them. Oh, we have some at the back there. We'll take a moment out to distribute the translation units.

Mr. Gilles Lesage. I think we may proceed now.

**MR. G. LESAGE:** Membres du comité.

En 1869, Louis Riel sonnait l'alarme avertissant les Francophones de la région de la Rivière Rouge de leur entrée imminente dans la Confédération canadienne. Il fallait qu'elle se fasse avec l'assurance que les droits fondamentaux des francophones et des métis soient respectés. Ce point tournant marquait une étape dans une histoire déjà longue de découvertes, d'explorations et de colonisation entreprises à la fois par les anglais et les français: Henry Hudson, Thomas Button au nord à la recherche du passage du nord-ouest; Groseilliers, Radisson puis La Vérendrye par la route des grands lacs, à la recherche de fourrures et d'une route vers l'ouest par l'intérieur.

L'étape en question est franchie en 1870 avec l'entente signée, de pair avec la bonne volonté de nos concitoyens anglophones. Nous croyions que nous allions vivre d'égal à égal dans notre nouvelle province, le MANITOBA. La province entre donc dans la Confédération canadienne avec une garantie de ses droits linguistiques. Louis Riel, fondateur de la province, n'aurait pas accepté sans cela. On avait reconnu ces droits linguistiques au niveau de la législature, des tribunaux et des écoles. Il n'était pas question de municipalité. Celles-ci n'existaient pas encore. Les débats à l'Assemblée législative se faisaient en anglais et en français. Les statuts de la province étaient publiés

en anglais et en français.

Avec les événements de 1890 et de 1916, l'acquis de 1890 était à refaire. En effet, si les droits d'une partie de la population manitobaine avaient été abrogés, on ne cessait pas pour autant de parler français à la maison, dans les écoles et partout où on pouvait le parler.

Dans un premier volet, nous voyons la détermination des Franco-Manitobains à poursuivre cette fidélité à son propre passé et à transmettre l'héritage reçu à ses descendants par le moyen qu'ils reconnaissaient comme le plus important, l'éducation. C'était le 28 juin, en 1916, dans une salle du Collège de Saint-Boniface: environ 1 000 Francophones venus de tous les coins de la province étaient rassemblés afin de décider collectivement d'une nouvelle orientation à prendre devant la récente attaque du gouvernement contre leurs écoles. On venait de former l'Association d'Éducation des Canadiens français du Manitoba sous la direction du juge James-Emile Prendergast. La foule prêta fortement son appui aux projets de ce nouveau "ministère d'éducation des francophones", cette solide institution fantôme, parfaitement insensible aux coups d'épée ou aux manigances du Ministre de l'Éducation Thornton.

La résistance à l'assimilation, l'ingéniosité à s'assurer une éducation française et le malaise du système scolaire face à cette réalité réussit pour une part à forcer le gouvernement à rendre légitime l'éducation française. En 1952, sous le gouvernement Campbell, le ministère de l'éducation assumait la responsabilité du programme de français. Ce programme prend de plus en plus de latitude pour en arriver, au lendemain du centième anniversaire de l'entrée du Manitoba dans la Confédération canadienne, à adopter le bill 113.

La question des écoles à éclipsé le fait que d'autres droits avaient aussi été abrogés. En effet, le français n'était plus langue reconnue dans la législature et les tribunaux. Les statuts du Manitoba n'étaient plus publiés en français.

Dans un deuxième volet, à la veille d'un autre centenaire, celui de la mort de Louis Riel, on parle enfin de restituer les droits linguistiques à la législature et aux tribunaux. Ici encore il ne s'agit pas d'un saut quantique. En effet, une tradition imposante de participation franco-manitobaine à la vie législative et juridique de la province vient confirmer la présence d'une population francophone vivante.

La liste qui s'allonge toujours de personnages importants dans la vie politique de la province suffit à souligner cette continuité historique. Même au sein de l'assemblée législative, le français n'est pas complètement disparu. En 1937, Sauveur Marcoux prononçait son premier discours en français et en anglais. Récemment, le gouvernement conservateur Lyon rendait possible l'usage du français dans les débats de l'assemblée législative.

Dans le domaine du droit, combien d'études ont connu une réussite grâce à la clientèle franco-manitobaine qui cherchait à recevoir un service en français? Sur le plan des carrières, il ne suffit qu'à mentionner les juges-en-chef: Joseph Dubuc, James-Emile Prendergast et Alfred Monnin.

La ténacité et la volonté inébranlable des Franco-Manitobains a encore une fois forcé le gouvernement à chercher à légitimer une réalité qui pour se faire

entendre a dû se rendre jusqu'à l'instance de la Cour Suprême du Canada.

Le passage de l'amendement à l'article 23 de l'Acte du Manitoba serait un pas de plus dans l'effort de favoriser l'ambiance propice au développement de la population francophone. Les services du gouvernement rejoignent les personnes dans le quotidien de leur vie, au travail, dans leurs activités multiples et leurs besoins variés de renseignements et de services. Lorsque l'occasion se présente, certains fonctionnaires le font déjà.

Cette histoire de la province du Manitoba s'inscrit dans le déploiement d'une histoire plus vaste, celle du Canada. Au coeur de cette histoire, il s'agit d'une question d'identité. Nos valeurs, notre héritage et nos choix pour l'avenir sont fonction de cette aire que nous nous sommes donné pour notre épanouissement. Le caractère bilingue du pays, sa texture particulière issue de deux peuples fondateurs assure la personnalité propre du Canada.

Le Manitoba est intimement lié à cette histoire et le choix d'amender l'article 23 de l'Acte du Manitoba de 1870 est un prolongement souhaitable de cette histoire.

La question économique qui anime les discussions ne doit pas être considérée seulement à la lumière des principes de rentabilité de la production mais aussi en fonction du choix des activités que nous voulons entreprendre en fonction de nos valeurs et des priorités que nous voulons nous donner. Nous en assumons par la suite le coût tout en qualifiant les modalités de ces réalisations en raison de la rentabilité des options rendues possible par les choix que nous avons faits. Notre patrimoine le plus précieux est celui d'un pays bilingue. Nos choix doivent porter sur la meilleure façon de bâtir ce pays en fonction de cet héritage.

La peur semble s'inscrire en faux dans cette expérience de renouveau. En effet, il y a une crainte chez certains Manitobains suivant laquelle le passage du projet de loi leur impose des exigences qu'ils ne veulent pas. Or, il nous semble que ce qui se fait par le passage de ce projet de loi, c'est d'éliminer la peur: la peur qu'ont éprouvé depuis longtemps certains Francophones à parler français.

Avec le passage de l'amendement à l'article 23 les Franco-Manitobains accèdent à la participation à part entière et sur un pied d'égalité à la vie manitobaine. Forts et fiers de leur contribution, les Franco-Manitobains peuvent continuer, fidèles au projet manitobain commencé en 1870, à enrichir l'histoire manitobaine.

C'est donc sur la base de ces quelques considérations que nous voulons appuyer le projet de loi pour l'amendement à l'article 23 de l'Acte du Manitoba et la convention Canada-Manitoba sur la traduction en français.

**MR. CHAIRMAN:** Thank you, Mr. Lesage. Mr. Brown.

**MR. A. BROWN:** Thank you, Mr. Chairman. My question to Mr. Lesage is this, that many of the groups who have been appearing before us are an arm of the SFM. Are you connected with the SFM, as far as funding is concerned?

**MR. G. LESAGE:** We are independent of the SFM. We are an organization which is responsible to its members

and is empowered by its own charter.

**MR. A. BROWN:** This was my understanding, Mr. Chairman, but I just wanted to ask that particular question to see whether they, indeed, were an arm of the SFM. I really have no quarrel with anything that Mr. Lesage has said. I just happened to notice that he has not mentioned entrenchment of this; rather he has mentioned that Article 23, that this be reinstated, which has been done. Is there any particular concern, Mr. Lesage, that you have as far as entrenchment is concerned? Is this very important to you or do you feel that we can achieve what you hope to, or what already has been achieved by passing Article 23 of The Manitoba Act of 1870? Do you feel that entrenchment is necessary.

**MR. G. LESAGE:** We are presently supporting the actions that have been proposed by the present legislation and we feel that entrenchment would be advantageous to the francophone community.

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

**MR. CHAIRMAN:** Are there any further questions? Mr. Sherman.

**MR. L. SHERMAN:** Thank you Mr. Chairman, through you to Mr. Lesage. Mr. Lesage, just so that I'm clear in my own mind, some confusion arises for me out of the exchange a moment ago between yourself and my colleague Mr. Brown. As I take it, what your brief is addressing here, and what your brief supports, is the proposed amendment to Section 23. You were not stipulating that the Société historique de Saint-Boniface is simply satisfied with Section 23, but you are supporting the government's proposed amendment to Section 23 as it exists in its original form, based on the May accord. Is that correct?

**MR. G. LESAGE:** That is correct.

**MR. L. SHERMAN:** Mr. Lesage, what is the position of La Société with respect to the amendments that have been introduced by the Attorney-General as of the 6th of September and that are proposed for modification, refinement or change to the original government resolution.

**MR. G. LESAGE:** We have strictly addressed the original proposition and we are leaving any comment to what could happen from there later on.

**MR. L. SHERMAN:** So you have not, up to this point in time, had a chance to acquaint yourself with the proposed amendments or has the Society addressed them and dismissed them and decided to stick exclusively with the original government proposal?

**MR. G. LESAGE:** We have decided to stick with the original proposal, not having yet debated the details of the proposals that have been presented afterwards.

**MR. L. SHERMAN:** You haven't had the opportunity yet to discuss and debate in your own organization the

proposed amendments, is that correct?

**MR. G. LESAGE:** That's correct.

**MR. L. SHERMAN:** So you really haven't taken a position yet with respect to those amendments?

**MR. G. LESAGE:** No, our position is on the agreement that had been between the Government of Manitoba, the SFM and the Government of Canada.

**MR. L. SHERMAN:** Mr. Lesage, were you present this morning for the presentation made by Professor Steven Scott of Montreal?

**MR. G. LESAGE:** No, I wasn't present this morning.

**MR. CHAIRMAN:** Mr. Sherman.

**MR. L. SHERMAN:** Well I wonder if I could ask you, Mr. Lesage, make reference to a particular point contained in Professor Scott's submission and ask Mr. Lesage if that is his understanding of history, and I would have to appeal to your ruling and your consideration on this, Mr. Chairman, but I didn't have an opportunity to put this question to Professor Scott. I would like to ask Mr. Lesage, who is a scholar of history and obviously associated with the background and the history and the rich record of our province, whether he would agree with a particular statement that was contained in Professor Scott's brief wherein Professor Scott, in referring to the Supreme Court decision made in December of 1979, with respect to the Forest case said the following, Mr. Lesage: "The Supreme Court had decided that statutes must be duly enacted in both languages."

And I would like to ask you, because I didn't have an opportunity to ask Professor Scott, whether the Société historique de Saint-Boniface would say that that was the content and the thrust of the Supreme Court decision in the Forest case, that statutes in Manitoba must be duly enacted in both languages? The reason I ask that question, Mr. Lesage, is because it is my understanding that the Supreme Court decision of December 1979 in the Forest case reaffirmed Section 23, and Section 23 makes no mention of bilingual enactment; makes mention of printing and publishing in two languages, but it doesn't talk about enacting legislation in two languages.

**MR. G. LESAGE:** I am not familiar with all the legal details of that question, but what we are trying to present in this brief was to show that there was continuity between what had been obtained in 1870 and what the Francophones have been trying to obtain since then.

**MR. L. SHERMAN:** Well, Mr. Lesage, I conclude then that what the Society is saying is that the reaffirmation of Section 23 of the Manitoba Act of 1870 does not, in the Society's view, restore and reinstate the French linguistic rights which occurred in 1870. Is that what you're saying, that the reaffirmation of Section 23 really has no meaning insofar as the Society's concept of French linguistic rights is concerned?

**MR. G. LESAGE:** What we are saying is that with Article 23 we should be able to have the same results as those that should have been obtained in 1870 and that Francophones could have the same opportunities of dealing with the government in their language as was obtained then.

**MR. L. SHERMAN:** In Section 23, interpreted and applied literally in 1983, would not, in the Society's view, provide the equivalent rights and the equivalent service. Is that correct?

**MR. G. LESAGE:** We believe this would be a step forward in that process.

**MR. L. SHERMAN:** You believe that Section 23 would be a step forward, but it would not provide the equivalent, or the counterpart, in 1983 of what it would have provided in 1870. It's merely a step forward and you need much more than Section 23 to achieve what you believe you once had. Is that correct?

**MR. G. LESAGE:** We believe that what could happen after the present bill, as it would be passed in legislation, would have to be decided upon depending on the history, depending on what occurs afterwards.

**MR. L. SHERMAN:** Thank you, Mr. Chairman. Thank you Mr. Lesage.

**MR. CHAIRMAN:** Mr. Lecuyer.

**MR. G. LECUYER:** M. Lesage, faisant suite un peu au question que vient de poser M. Sherman, dans votre esprit et dans votre interprétation et celle de la Société historique, qui en passant remonte je vois en 1902 donc même bien avant l'Acte de 1916, est-ce que, et je crois déduire cette interprétation d'une phrase dans votre texte, est-ce que l'article 23, tel qu'il avait été passé en 1870, avait l'intention de fournir aux francophones et aux anglophones un statut d'égalité, ou leur conférait un statut d'égalité?

**MR. CHAIRMAN:** Mr. Lesage.

**MR. G. LESAGE:** C'est ce que nous croyons. C'est la position de la Société historique.

**MR. G. LECUYER:** Est-ce que, donc, c'est à partir de là que vous voyez la nécessité aujourd'hui d'enchâsser donc les services dans la Constitution parce qu'ils n'ont pas été disponibles aux francophones pour ainsi dire depuis l'adoption de l'Acte du Manitoba.

**MR. G. LESAGE:** Étant donné ce qui avait résulté des changements qui avait été apportés en 90 et en 1916, il est difficile de dire ce que peut être une juste rétribution des droits aux francophones. Et c'est pour cela je crois il faut poursuivre dans la recherche à établir un milieu ou une ambiance favorable au développement des francophones. C'est dans ce sens-là qu'on supporte le projet de loi qui est maintenant devant le gouvernement.

**MR. G. LECUYER:** M. Lesage, l'article, pas l'article mais l'Acte accepté en 1980, quant à l'implantation de

l'article 23 après la décision de la Cour suprême, c'est acte indique, d'ailleurs il est intitulé un projet de loi respectant l'opération de l'article 23 de l'Acte du Manitoba, et il a comme but, et a pour but pardon, d'établir que l'un et l'autre langue peuvent être utilisées dans les projets de loi du Manitoba, mais aussi définit ou dit que, en cas d'interprétations différentes, la version anglaise a droit de citer. Est-ce que, dans votre esprit, cette acte adopté par la province est anti-constitutionnel?

**MR. G. LESAGE:** Sur les questions légales, nous préférons laisser ce débat entre les mains des spécialistes.

**MR. G. LECUYER:** M. Lesage, en réponse à une des premières questions qui vous a été posées tout à l'heure, est-ce qu'il serait vrai de dire que les membres de la Société historique sont sans doute aussi les mêmes que ceux de la Société franco-manitobaine?

**MR. G. LESAGE:** Il y en a qui sont. Probablement que la plupart des membres de la Société historique sont aussi membres de la SFM. Par contre, il y a des membres de la Société historique qui sont aussi de d'autres provinces.

**MR. G. LECUYER:** M. Lesage, est-ce la Société historique appuie l'entente qui avait été contenue entre, l'entente tripartite entre le gouvernement fédéral, provincial et la SFM?

**MR. G. LESAGE:** Oui, c'est ce que nous affirmons en terminant notre mémoire.

**MR. G. LECUYER:** Merci, M. Lesage.

**MR. CHAIRMAN:** Are there any further questions. Mr. Scott.

**MR. D. SCOTT:** M. le président, M. Lesage. Depuis l'année 1890, les Franco-Manitobains je pense et je crois ont perdu presque tous les droits qu'ils ont reçus avec l'Acte du Manitoba, l'Acte originalement. Et avec la décision de la Cour supérieure de 79, en pratique c'est pas possible dans ce temps pour la réinstitution de les droits comme originalement en 1870. Est-ce que la position de votre Société historique et que les droits qu'on a reçus originalement ici au Manitoba, sont pas possibles encore comme on demande égal en toutes les circonstances que l'anglais, que la proposition, l'original proposition du gouvernement provincial, c'est un accord qui était raisonnable et pratique dans ce temps?

**MR. CHAIRMAN:** Mr. Lesage.

**MR. G. LESAGE:** Oui, c'est ce que nous croyons et c'est dans ce sens là qu'on affirmait aussi dans notre mémoire que par ces services du gouvernement on pourrait rejoindre la population franco-manitobaine dans sa vie quotidienne en pouvant fournir les renseignements et les services du gouvernement en français.

**MR. D. SCOTT:** Si l'amendement qui est proposé maintenant c'est un étage peut-être pour l'introduction

de la langue française comme langue officielle au Manitoba, on pratique dans les divisions comme illustré dans la section de la résolution 23.

**MR. G. LESAGE:** Pardon, j'ai pas compris la question.

**MR. D. SCOTT:** En effet, si je peux changer en anglais pour un instant. In effect, the rights that were originally accorded Franco-Manitobans, or French-speaking Manitobans in that the two languages were started off at equal status in a province which, if I can go back to some history, in its foundation had virtually equal population of French-speaking and English-speaking peoples at the time of The Manitoba Act and, at which time, even the Lieutenant-Governor at the time was a person appointed, Nova-Scotian Member of Parliament by the name of Archibald, even drew up the constituencies so that there were 24 constituencies, 12 English, 12 French constituencies; that the rights, as far as full services and full equality of the language at that time, is not possible to be reinstated at this time; and that your Society sees the proposed amendment, the original proposed amendment of Section 23 from back last June, as being a reasonable step at this time in the reintroduction, and the recognition, I should say, and not reintroduction, but the recognition that French is still an official language of Manitoba and that Francophones have a right to services with their provincial government in their native language?

**MR. G. LESAGE:** That is correct; this is the way we see the present Bill as it is presented to the government.

**MR. D. SCOTT:** Okay, you made no comment on the additional amendments that have just been presented last Tuesday. Would it be possible for your organization to send us, perhaps, a written brief of your comments on the proposed changes to the amendment? I understand you are not prepared, at this time, to speak on behalf of your Société and I respect that. I was wondering if it is possible that you could send us a written commentary for our consideration after you have had time to discuss it as an organization.

**MR. G. LESAGE:** There is a possibility that we could consider.

**MR. D. SCOTT:** Merci beaucoup.

**MR. CHAIRMAN:** Any further questions of Mr. Lesage? Thank you very much Mr. Lesage on behalf of your Society.

Our next presentation is Raymond Clément. Proceed Mr. Clément.

**MR. R. CLÉMENT:** M. le président du Comité et membres du Comité. Je m'appelle Raymond Clément. Je représente l'Alliance Chorale Manitoba.

Par la présente, le Conseil d'administration de l'Alliance Chorale Manitoba affirme qu'il donne son appui entier à l'entente signée par la Société franco-manitobaine, le gouvernement du Manitoba et le gouvernement fédéral au sujet des changements apportés à l'article 23 de la constitution de la province du Manitoba. La Société franco-manitobaine, à titre

d'organisme officiel des Franco-Manitobains, a pris l'initiative dans ces démarches qui s'imposaient pour le bien de l'ensemble de la population francophone de notre province. Les amendements apportés à cet article garantissent aux Francophones du Manitoba qu'ils auront des services gouvernementaux en français, droits qu'ils n'auraient jamais dû perdre en 1890.

L'Alliance Chorale Manitoba a comme responsabilité première d'assurer la promotion du chant choral surtout auprès de la population francophone. Elle rejoint de nombreuses chorales adultes dans les différents centres francophones manitobains. Elle rejoint également plusieurs chorales d'enfants dans les écoles françaises et d'immersion. Elle travaille aussi à faire la promotion du chant choral auprès des populations qui ne font pas partie des chorales officielles. Elle s'occupe aussi à la formation de chefs de chœur.

Notre mouvement est une fédération de l'Alliance Chorale Canadienne qui elle-même est affiliée au grand mouvement choral international, À Coeur Joie, dont le siège social est à Lyons, France.

De toute évidence, cette entente contribuera largement à promouvoir l'ambiance française au Manitoba et ainsi assurera un climat favorable à l'épanouissement de la culture française dont le chant choral est partie intégrante.

En terminant, nous réitérons notre satisfaction devant cette entente et nous félicitons les partis responsables d'avoir eu le courage d'affirmer les droits des Franco-Manitobains.

Je peux ajouter, M. le président de l'assemblée, je suis prêt à répondre toutes questions pertinentes à mon bref et d'autres questions, je m'abstiendrai. Merci.

**MR. CHAIRMAN:** Thank you. Mr. Doern.

**MR. R. DOERN:** Thank you, Mr. Chairman. Mr. Tétrault, I'm rather disappointed. I was hoping that you might sing your submission to us.

**MR. R. CLÉMENT:** Could you give me a key?

**MR. R. DOERN:** Could you . . .

**MR. R. CLÉMENT:** I'm not Mr. Tétrault, I'm Mr. Clément.

**MR. R. DOERN:** Okay, sorry. Could you indicate do you receive funding from the provincial or the federal government?

**MR. R. CLÉMENT:** Oui, Monsieur, nous recevons des fonds du Secrétariat d'État, ainsi que les Affaires culturelles de la province du Manitoba.

**MR. R. DOERN:** I'm afraid that my French is not that good. Could I have that in English? My second question is can you explain why your organization is presenting a brief? Obviously, everyone has a right to present a brief; obviously, anyone can present a brief; why would a choir take an issue on a political question? In what way do you see it as affecting your organization or in what sense do you see a valid position coming from the members of your group, as opposed to any other group or groups that might feel that they are more directly affected by this legislation?

**MR. R. CLÉMENT:** Ah, bien voici. Je représente pas une chorale, je représente un groupe qui représente beaucoup de chorales à travers le Manitoba. Nous sommes aussi intégrés à une fédération nationale Canada. Bien voici, la culture, la langue française et le chant chorale, le chant en famille, c'est une partie très intégrante de nos familles canadiennes-françaises. Par l'entrenchement de l'article 23, nous croyons que ceci va promouvoir le chant à travers nos familles, à travers nos jeunes et aussi nous voulons promouvoir le chant à nos jeunes qui maintenant sont très exposés à d'autres formes de chant ou de musique et nous croyons que celle-ci va, que l'article 23 va nous aider à pourvoir ce chant. Nous voulons que nos jeunes savent plus que "Frère Jacques" et "Alouette" dans notre société.

**MR. R. DOERN:** Thank you.

**MR. CHAIRMAN:** Mr. Lyon.

**HON. S. LYON:** Mr. Clément, some of us have been attempting to ensure that there is exactitude of expression relative to the matter that is before the Committee and, in that respect, I put to you the comment that is contained in your brief, as follows - it's at the bottom of paragraph 1: "The proposed amendments to Article 23 ensure that Francophones in Manitoba will receive services in French from their own government." I pause, Mr. Chairman, to say I agree with that statement. May I ask the question of Mr. Clément, is it not a fact that Francophones in Manitoba were already receiving services in French from their own government and have been for some considerable time under policies adopted by the Pawley Government, the Lyon Government, the Schreyer Government and so on. So this is not something new.

**MR. CHAIRMAN:** Mr. Clément, before you proceed, may I ask for the sake of the interpretation that you speak a little bit slower so that the audience can get it too. Thank you. Mr. Clément.

**MR. R. CLÉMENT:** Merci. Bien, tout d'abord, comme j'ai mentionné à la fin de mon bref, je voulais pas m'impliquer à des questions légales, ainsi de suites. Je vais essayer de faire ça tout de même. C'est vrai qu'est-ce que vous mentionnez, M. Lyon, que les gouvernements précédant le gouvernement actuel offrent des services en français. Nous questionnons pas ça. Mais seulement c'est que nous voulons l'avancement. Nous voulons que le français soit promu parmi nos francophones. ça ce n'est pas garantie et nous croyons que l'article 23 va aider à pourvoir le français, ainsi que le chant chorale, ainsi que le chant, à travers, excusez, à travers du Manitoba français.

**MR. CHAIRMAN:** Mr. Lyon.

**HON. S. LYON:** Mr. Clément, Section 23 proposes to entrench in the Constitution a range of services which really are incapable at this stage of being defined because it will be up to the courts to define them, either expansively or restrictively. We don't know what the courts are going to be doing; that's why we have to

be careful with our wording, especially when we entrench something because we can't change it once we entrench it. Would it be fair to say that the operative word in that sentence, from your standpoint, is the proposed amendments to Article 23 "ensure" that Francophones in Manitoba will receive services in French from their own government. And I take the implication that the entrenchment is what gives you that feeling of insurance that these are the rights and services that you will receive because of entrenchment. Am I right or wrong in that request?

**MR. R. CLÉMENT:** Bien voici, si le mot "ensure" est trop fort, on peut mettre "enable", "to promote". Mais ce que je fais ici c'est seulement d'appuyer ce que la SFM fait et tous les termes qui sont écrits ici, si sont pas d'accord exactement avec tous les termes que la SFM a négociés avec; bien c'est la faute . . . c'est ma faute. En tous les cas, ce que nous appuyons, c'est que, globalement, nous sommes d'accord avec ce qu'ils veulent nous offrir.

**HON. S. LYON:** Well, I want to assure, Mr. Chairman, Mr. Clément, through you, that I'm not questioning either his opinion or anything of that nature. In fact, I think that sentence is quite clear. We get into trouble, if I may say so, Mr. Clément, with the next sentence, because then you say, you said in the first sentence that Francophones in Manitoba will receive services in French from their own government. Then you go on to say, this right should have never been questioned in 1890. And I merely put to you the question that in 1890 there was no range of services available to Francophones in Manitoba under Section 23 other than the right to use French or English in the courts, the right to use French or English in the Legislature and the requirement that the statutes be published, not enacted, but published in French and English. Would you agree with that interpretation or do . . .

**MR. R. CLÉMENT:** Je suis d'accord.

**HON. S. LYON:** Mr. Chairman I have no other questions. My concern about exactitude has been satisfied. Thank you.

**MR. CHAIRMAN:** Mr. Sherman.

**MR. L. SHERMAN:** Thank you Mr. Chairman. Mr. Tetrault . . .

**MR. CHAIRMAN:** No, Mr. Clément.

**MR. L. SHERMAN:** Mr. Clément. I'm sorry I was looking at "le nom du président". Excusez-moi, M. Clément. Mr. Clément, switching a little more, switching flexibly to English now for a moment, Mr. Clément, if I may . . .

**MR. CHAIRMAN:** Mr. Sherman, I have a lot of patience. Would you kindly proceed?

**MR. L. SHERMAN:** Thank you Mr. Chairman. Your brief, sir, makes it very clear that the Alliance Chorale Manitoba agrees very emphatically with the changes

proposed by the government, the amendments proposed to Section 23. Could I ask you whether you have had an opportunity to look at the further amendments or refinements or whatever term you want to apply to them, that have been proposed by the Attorney-General as of the 6th of September?

**MR. R. CLÉMENT:** Non. Notre organisme et moi-même, nous n'avons pas eu la chance ou le temps de regarder les amendements. Nous sommes toujours d'accord avec M. Léo Robert et la SFM concernant l'entente qu'ils avaient eu avec le gouvernement fédéral et le Manitoba, du 17 mai.

**MR. L. SHERMAN:** Mr. Clément, are you intending to look at the latest proposals from the Attorney-General or are you intending to review them within your organization or do you feel that they should be dismissed out of hand?

**MR. R. CLÉMENT:** Bien voici, nous sommes un organisme tout seul sous la SFM et lorsque la SFM reçoit des amendements ou reçoit quel que ce soit, on se rencontre pour discuter si on est d'accord ou non. Et tous les autres organismes sous la SFM, on décide si on est d'accord ou non. Et jusqu'à présent nous acceptons ce que la SFM fait.

**MR. L. SHERMAN:** Mr. Chairman, I appreciate that but I'd like to ask Mr. Clément whether he would offer a personal opinion or whether he wants to speak purely from the perspective of the organization that he represents. And if he would offer a personal opinion, I would ask him what his opinion is of the position M. Georges Forest has taken with respect to Mr. Penner's proposals.

**MR. R. CLÉMENT:** Je prend aucune position.

**MR. L. SHERMAN:** Thank you Mr. Chairman. Thank you, Mr. Clément.

**MR. CHAIRMAN:** Mr. Lecuyer.

**MR. G. LECUYER:** M. le président, je voudrais revenir sur les paroles, sur cette partie du texte qu'a questionnée tout à l'heure le Chef de l'opposition: "Droit qu'aurait jamais dû perdre en 1890". Alors le Chef de l'opposition a voulu tout à l'heure des précisions sur ce texte et vous avez dans votre réponse confirmé que peut-être que les mots n'étaient peut-être pas exacts. En réalité quand vous parlez de droits, faites-vous plutôt référence au fait que vu qu'il y avait, en 1870, l'Acte du Manitoba, qui garantissait des droits sur le plan légal, sur le plan législatif et sur le plan des lois, que de par la même occasion en découlaient des services et que donc à partir de la perte de cette acte en 1890, de par le fait même, ce qui aurait pu être existant comme service, même s'ils étaient pas enchâsser en ce moment-là, ces services qui étaient rendus des . . . ont aussi été abrogés.

**MR. CHAIRMAN:** Mr. Lesage.

**MR. R. CLÉMENT:** Clément. D'accord. Je crois si je me souviens bien dans mon jeune âge à l'École



d'Aubigny que l'enseignement en français n'était pas tellement reconnu ou bien vu - c'était en cachette. Et par le fait même je crois que le chant et ainsi de suite, toute autre forme était plus au moins vue. Alors, par le fait qu'on perdu ces lois là à cette époque-là, nous, tout le reste en a subi les conséquences. À mon avis. Comme j'ai mentionné temps tôt, je ne peux pas répondre à des questions légales.

**MR. CHAIRMAN:** Mr. Lecuyer.

**MR. G. LECUYER:** Merci, M. Clément.

**MR. CHAIRMAN:** Are there any further questions? Mr. Scott.

**MR. D. SCOTT:** Mr. Clément, vous êtes en accord avec la SFM contre le changement qui a été proposé le jeudi passé, ou le mardi passé. Oui?

**MR. R. CLÉMENT:** C'est ça oui.

**MR. D. SCOTT:** Est-ce que c'est possible que l'amendement original était aussi en restriction contre les droits du Franco-Manitobain sur la loi de 1870? En autres mots, est-ce que dans l'amendement proposé originalement, quelques personnes ont dit que c'est amendement c'est une restriction des droits des francophones au Manitoba plus que si on allait par les cours pour en définition des droits des Franco-Manitobains?

**MR. CHAIRMAN:** Mr. Lesage.

**MR. R. CLÉMENT:** Clément.

**MR. CHAIRMAN:** Ah, Clément.

**MR. R. CLÉMENT:** Bien voici. Je pense qu'il est clair qu'on a plus de services en français qu'on avait en 1870. Mais seulement ce qu'il nous est proposé par l'amendement, je pense qu'on aurait pas autant qu'on aurait pu avoir ou qu'on pourrait avoir avec ce qu'on nous a présenté le 17 mai dernier, à mon avis.

**MR. D. SCOTT:** Je pense que l'amendement original est une proposition qui était bien pratique, était une proposition qui va assister les Franco-Manitobains dans le Manitoba dans l'avenir.

**MR. R. CLÉMENT:** La question n'est pas tellement bien claire.

**MR. D. SCOTT:** Oui, oui. Encore là, si tu penses que l'amendement qui était proposé sera bénéfice les Franco-Manitobains dans l'avenir pour les francophones de garder leur langue, si pas plus de Franco-Manitobains vont traduire leur . . . dans les maisons, dans les affaires et aussi dans les affaires avec le gouvernement.

**MR. R. CLÉMENT:** À mon avis, cette question-là va être bien mieux répondue par d'autres types qui sont plus ferrés dans le sujet. En ce qui concerne nous, en ce qui me concerne comme représentant de l'ACM,

tout ce que nous faisons c'est que nous appuyons ce que la SFM fait et nous croyons que l'article 23 va aider à promouvoir le chant de chorale. C'est mon seul intérêt ici. Alors, pour répondre à votre question, vous devez demander à d'autres types qui sont plus ferrés dans ce domaine-là.

**MR. CHAIRMAN:** Mr. Lyon.

**HON. S. LYON:** Just a final question because of the words that Mr. Clément has used. They're here to support what the SFM is doing. I wonder if Mr. Clément could tell me if the Alliance Chorale Manitoba took a position for or against the SFM in 1980 when the SFM came out in support of the separatist position in the province of Quebec?

**MR. R. CLÉMENT:** Je ne peux pas répondre à cette question puisque je n'étais pas présent ou je ne faisais pas partie de l'ACM.

**MR. CHAIRMAN:** Are there any other questions? Thank you, Mr. Clément.

**MR. R. CLÉMENT:** Merci.

**MR. CHAIRMAN:** I'm at the disposal of the committee, we only have 8 minutes left to the hour. I'd like to make an announcement that further meetings of this Committee will be meeting on September 28th, 29th and 30th, and tonight at 7:30 p.m.

**HON. S. LYON:** Just for the record, Mr. Chairman, I'm sure it's been put on the record before that certainly the committee, I expect, will be prepared to hear representations beyond the 28th, 29th and 30th if we don't finish this long, long list that we have in front of us; that we won't abruptly cut off the public of Manitoba, not when they're having so much trouble getting here.

**MR. CHAIRMAN:** Instead of anticipating, we'll cross that bridge when we get to it; that question was raised again this morning. There's one other . . .

**HON. S. LYON:** Before we leave that point, Mr. Chairman, just so that there will be no misunderstanding and that there will be no misunderstanding among the public who have waited very patiently here. Our position has been, and will be, that this Committee will sit so long as is necessary in Winnipeg to hear all of the people who wish to make submissions to it. As long as that's understood, that's fine.

**MR. CHAIRMAN:** I'm in the hands of the Committee and I can't disagree or agree with that. There's one other question that should be possibly discussed at this time and that is, there will be representation in other areas of the province besides Winnipeg. What is the will and disposition of the committee in respect to translation services? I'm not aware that we've had any requests, except Ste. Rose and Ste. Anne, that they would be speaking in French. Should we agree to provide them in those areas since it's available? Agreed? (Agreed) Thank you.

Committee's adjourned until 7:30 tonight.

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