

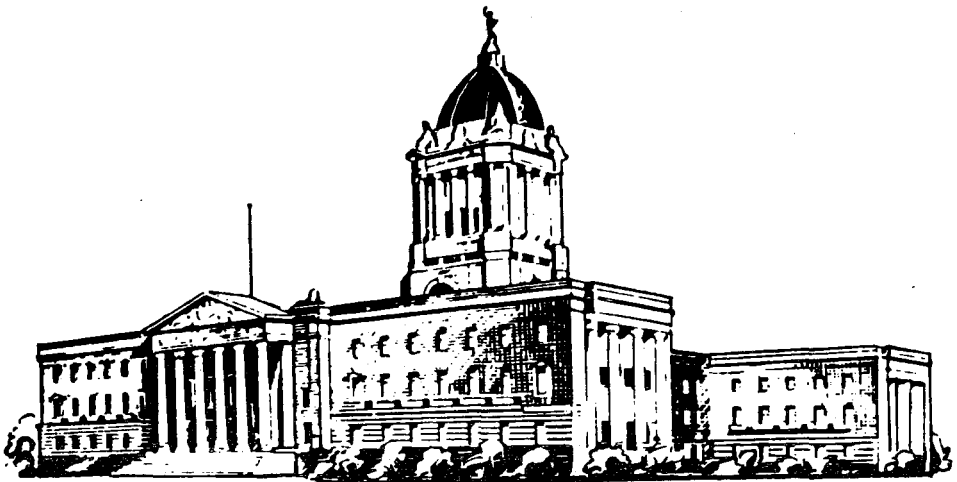


Legislative Assembly of Manitoba

STANDING COMMITTEE ON PRIVILEGES AND ELECTIONS

Chairman:

**Mr. J. Wally McKenzie
Constituency of Roblin**



Wednesday, October 24, 1979 2:00 P.M.

**Hearing Of The Standing Committee
On
Privileges and Elections
Wednesday, October 24, 1979**

Time: 2:00 p.m.

CHAIRMAN, Mr. J. Wally McKenzie.

MR. CHAIAN: Committee will come to order.

This afternoon we will deal with the Manitoba Association of School Superintendents, Fort Garry School Division No. 5, I have for Wednesday, I believe, and the River East Teachers' Association, and are three that I have for this afternoon. We'll call Mr. Gordon Newton of the Manitoba Association of School Superintendents, No. 10 on the list.

MR. GORDON NEWTON: Good afternoon, Mr. Chairman. I am Gordon Newton, President of the Manitoba Association of School Superintendents. I would ask, if I may, that I have a number of colleagues join me at the front. I'll introduce them as they come forward.

Starting on my left, Mr. Chairman, and closest to you, is Ernie Friesen, Superintendent of Hanover, sitting next to him, Marge Downey, who is our Executive Secretary, next to her is Bob Swayze, who is the Assistant Superintendent at Brandon, and we have on my right, Mike Czuboka, who is the Superintendent for Agassiz.

MR. CHAIRMAN: Proceed, Mr. Newton.

MR. NEWTON: Thank you. Our brief is not a lengthy one, and with your indulgence, I think I'll read through it. I am presuming, of course, that the members have now received copies and will probably follow along as I go.

The Manitoba Association of School Superintendents is pleased that the Minister of Education has seen fit to present legislation proposing a revision in The Public Schools Act. We wholeheartedly agree with the Minister in the need for the current Act to be revised and updated.

Having spent considerable time as an association reviewing many of the proposed changes, we are of the diversity of opinion and of the multitude of interest which must be considered when proposing such revised legislation. The Manitoba Association of School Superintendents submits these comments with the sincere intent that they will assist in the development of a school Act appropriate to today's educational needs, yet flexible enough to allow education in Manitoba to keep pace with the changing needs of our society.

Speaking first then to Bill 23, The Education Administration Act, we draw your attention to the following sections of Bill 23. Section 2, Supervision of Schools. We note that omitted from this section is the reference contained in the old Act which made the Minister responsible for the education of blind persons. We are of the opinion that there are special educational requirements within the province of Manitoba, which should be clearly defined as a ministerial responsibility. We would include the education of blind and deaf. We therefore recommend that Bill 23 be amended to identify such special educational requirements of students as a ministerial responsibility.

Subsection 3(1)(e), Powers of the Minister. This section authorizes the Minister of Education to enquire into the standard of education provided by a private school. The procedure by which a school gains the designation "private" is not, however, identified in either Bill 23 or Bill 22.

Although Bill 23 makes reference to the qualifications of teachers in Section 3(1)(e) and the standard of education, Section (1) (g) provided in such schools, it is unclear as to how having met these requirements a school would gain the status of private school. Under the current Act such schools gain this status through Order-in-Council and we support the retention of a formal process of recognition of such schools, and the relevance of course is to shared-service agreements as well as what is referred to here. It makes a difference who gets on the special schedule.

Section 4(1)(h) — Qualifications of Educators. This section gives the Minister power to establish regulations with respect to the qualifications of people appointed to positions in educational administration. The Manitoba Association of School Superintendents requests that the minimum

qualifications for a school superintendent be identified as a Manitoba "professional" teaching certificate or its equivalent, and teaching, supervisory or administrative experience in education, and that these minimum qualifications be clearly stated in legislation.

I would emphasize here that we are saying that these are necessary but not necessarily sufficient qualifications and we presume that boards would imply, or impose additional qualifications to meet their own local needs. But we consider these to be an absolute minimum. We're saying there of course, and obvious more so even than implicit is the statement we're making that we think that the superintendent should be a well trained educator.

Section 8(1) — Ministerial Evaluation. This section deals with Section 4(1)(r) related to the Minister's authority to evaluate education. The Manitoba Association of School Superintendents in previous discussions with the Minister of Education had agreed that the Minister should have authority to "monitor", which we now define as, "to test on a sample basis", education in both public and private schools and where necessary to involve himself with local authorities whenever specific circumstances require the Minister to have more specific information. We support the Minister's responsibility to monitor education in the province, but we are of the opinion that local authorities should be responsible for student evaluations and for the maintenance of the standard of education. The Minister should be available to assist local authorities wherever necessary and whenever requested. We do not support the return to the old departmental examinations or to any system of evaluation of that type. We recommend that all reference to "evaluate" in Section 8(1) be replaced with the proper derivation of the term "monitor".

Section 9(6) — Instructional Materials for Private Schools.

This section requires public school boards to requisition for private schools any of the materials available through the textbook bureau. It is our opinion that if this requirement is to be placed upon public boards then public boards should also have the capability of charging for costs incurred in undertaking this task. In addition, we are also of the opinion that where a public school board agrees to offer some shared service to private schools such agreement should result in reimbursement of all costs incurred by the public board. That is if it costs our divisions to administer, to provide, to manage these funds, then we should be able to charge these costs back again. Costs should include materials, administrative support, buildings and personnel. Such costs would be established by the board, that is by the school board, and not by departmental formula.

This concept would also be applied to such activities as supervision of student attendance. We would however, prefer that the Department of Education be given authority to deal directly with these schools in all administrative matters, thereby releasing public school boards from any legal obligation towards these schools and any financial complications.

You will detect, in this section, a certain ambivalence to our responsibilities to private schools, over which we have no authority, and concerning which we have no real say as to establishment, qualifications, and so on.

Bill 22 — The Public Schools Act. Section 25(5) and 29(1), Trustees Term of Office. It is the opinion of MASS that the term of office for trustees should commence effective with the inaugural meeting. The two sections here identified, could conceivably result in an inaugural meeting being held, and official business being conducted without some of the trustees having officially commenced their term of office. I think it's sort of a technical wording sort of matter, I don't think it's a question of intent.

Section 41(5). We are concerned that this section, 41(5) is far too general to act as any kind of guide for school boards. This section suggests, school boards shall provide educational opportunities as far as possible, and practical, without indicating the criteria to be used.

On what basis shall it be possible? Money, staff, space, or numbers of students? Who shall judge which is the more needy student? What assistance and/or responsibility is the Minister willing to assume for special programs? We have previously requested that Bill 23 more clearly define the Minister's responsibility in this matter, and here I might add, by way of side comment, that it isn't that that the divisions are unwilling to assume responsibility for making decisions at the local level about the kind of education required, or how it would be delivered, but most times when we make this kind of decision, we have knowledge about the resources, the financial resources that are going to be at our disposal, if we are making decisions about vocational education, we know the kind of vocational grants that are available, and so on.

Bill 23 more clearly define the Minister's responsibility in this matter, and here I might add, by way of side comment, that it isn't that that the divisions are unwilling to assume responsibility for making decisions at the local level about the kind of education required, or how it would be delivered, but most times when we make this kind of decision, we have knowledge about the resources, the financial resources that are going to be at our disposal, if we are making decisions about vocational education, we know the kind of vocational grants that are available, and so on.

The awkwardness for us here, is that we don't know the extent to which we will have financial support in order to implement improvements in the education of the handicapped.

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Section 41(7) — Residual Costs. In the light of the decision-making authority given to school boards in Section 41(5), it seems likely that residual costs for special programs throughout the province may vary markedly. Because of this possibility, The Manitoba Association of School Superintendents recommends that a clearer definition of residual costs be provided, and that where a residual fee for a special program is in excess of a provincial average for such a program, the excess be assumed by the Department of Education rather than the local school board.

Section 48(1)(x) — Powers of School Boards to enter into Collective Agreements. MAS wishes to take strong exception to this section of Bill 22. Our concern is that the use of the wording, "employer-employee relationships" will encourage unnecessary expansion of collective agreements, and will promote further deterioration of a school board's authority to determine its capability to offer programs to staff schools, and to make sound decision relative to education.

We respectfully request that additional authority be given to school boards under this section of the proposed Act. The current Act in Section 37(1)(b) required that school boards "determine which school any of the children of the area shall attend". It is our opinion that this requirement upon the school boards should continue to be stated in the Act. This seems particularly relevant in this day of declining enrolments and constant struggle for further economy in the use of educational facilities and resources.

As we interpret the present wording, the board, it has not been given, explicitly at least, the authority to designate the school to which a child attends and conceivable we could have some schools going empty with someone going desperately over-full and we couldn't make adjustments waiting for a new school to be constructed, and so on.

Sections 51 and 52 — Superintendent. The Manitoba Association of School Superintendents recommends that the appointment of a School Superintendent should be made mandatory in all School Divisions and/or School Districts in the Province of Manitoba.

This is almost universal at the present time. School Superintendents are a comparatively new educational officer — new in this province in any case in terms of the history of education in the province — and we have not been noted in the legislation in very many locations. You'll notice that if you examine the Acts of Saskatchewan and the Acts of Ontario that a great deal of reference is made — or a great deal more reference is made to this particular important function.

In terms of our duty we see ourselves fundamentally as the Chief Executive Officer. We also request that provision be made for the school superintendent to be designated Chief Executive Officer of the school divisions. We feel strongly that an educational organization should have a leader trained in education. A recent study by Dr. Robert H. Rock, identified five major responsibilities for a chief executive officer. These were: (1) goal setting; (2) strategy development; (3) human resources in management; (4) relations with the board and (5) external relations. It is our opinion that attempting to operate multimillion dollar school divisions without a designated chief executive officer who can be held accountable for the direction of the division is indeed folly. To designate a chief executive officer who was not well qualified and experienced in teaching would be equal folly.

The Board Authority to Delegate. We wish to suggest that Section 52 be revised to read: "such other powers or duties as may from time to time be specified by board resolution". We are of the opinion that the powers and duties identified as being within the realm of the board to delegate to the school superintendents may in fact prove a limiting factor.

When a list is included there's an assumption that the things that aren't mentioned are intentionally left out and we're asking here that the boards — anything that's lawful for them to do that they have the right to delegate to us.

Superintendent Contract. We also wish to request that the legislation provide for the appointment of a school superintendent under a written continuous contract. We do not request a standard contract — that is we're not asking for a Form 6 for superintendents — but we do request that all contracts provide as a minimum, provisions for evaluation, professional development, expense allowances, leaves of absence, annual vacation, sick leave, pensions and termination. That is, we're saying that it should be required that there be a contract and the contract address itself to those considerations. We also request that the Act provide protection against capricious dismissal of superintendents. And perhaps that could use a word or two of explanation.

I think there's no superintendent that doesn't realize that they couldn't operate effectively, or at all, perhaps, if they were to lose the confidence of the board, and the board must certainly be free to have as its chief executive officer, a person whose educational leadership they trust and believe in.

However, we don't think that a person that has prepared themselves in this fashion should be just a victim of a one-night burst of anger, or a temporary whim or aberration that would terminate a career without notice and without reasonable consideration. We're not suggesting that superintendents have tenure, and I wish to be most explicit about this. What we're saying is that before a superintendent be released, there should be cause. And we think that education in fact,

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while this possibly seems somewhat self-serving and perhaps even that we shouldn't apologize for, but we do think that education will be best served if you are able to put into the field, into the divisions, people who have a reasonable degree of security of employment so that they can take some of the bold action that may be required.

The Rights of Superintendents. Superintendents in Manitoba respectfully request the right of a school superintendent to become a member of the Manitoba Association of School Superintendents and to participate in the opportunities afforded by that association be legislated as it has been and is proposed to be for teachers in the Manitoba Teachers' Society section, that is Section 101.

Authority for Payments. Some anomalies creep in in the sections that give different officers of the division authority to do certain things. If you take a note of these two sections, 53(4) authorizes the Secretary-Treasurer in some instances, to make payments on accounts without prior approval of the board. Section 52(9) permits that a similar responsibility may be delegated to the superintendent.

Mr. Chairman, with your indulgence, in the hope that the committee does have their copy of the revised Act in front of them, I'd like to interject here a comment on Section 57(1) that doesn't appear in our brief. The proposed section reads as follows, and I won't read it all, I'll just read the preamble.

57(1), "Subject to subsections (2), (3), (4) and (5), a school board shall, by by-law, with a favourable vote of two-thirds of its members, or the petition of ten or more resident electors," and thereafter follows a list of five or six things, and the last of them being, "do one or more of the things mentioned in the clauses (a) to (e)."

Now, here's how we are interpreting this section. We believe that it says that if there is a petition by ten resident electors, then the board must do one or more of the things which follow, whether or not the board wishes to, whether it has the majority vote of the board or not. For example, our school division does not have wards. As I read this section, I would believe that if ten members, ten resident electors, brought in a petition that said there should be wards in that particular school division, then there would have to be wards, the board shall, by by-law, do one of those things that follow. I suspect that that was not the intention.

Section 79(9). This refers to the Language School Superintendents be permitted representation on the Language of Instruction Advisory Committee.

As an association we strongly support the expansion of language opportunities in Manitoba schools, and would appreciate the opportunity to help direct such an expansion.

Section 92(5) Teacher Tenure. Throughout this section I will, on occasion, use the word "tenure". I know that as used, it is not the exact meaning that some others attach to it. We are using the word "tenure" to mean that different sort of status which a teacher enjoys after having been employed for two years, and having a different set of opportunities available to them, on the case of a firing, to have certain processes guaranteed to them after that two year period. Some people say that's not what tenure means, but it's this provision in the present Act that I am referring to when I use the word tenure today.

We are concerned that this section insufficiently states the requirement that to acquire the rights of Section 92(5), a person shall have been in continuous full-time employment for a school board for more than two years. It is not uncommon for people to teach with the school boards for periods of one year, one term, or one month. This part-time teaching is becoming increasingly common. It wasn't, I think, very common when the original section was drafted.

We recommend that the provision be written to read, "who has been employed under an approved form of contract for not less than two full years of paid service." And the words in there are chosen quite deliberately, and I might elaborate just a little. We think that it was intended that an employer have the opportunity to observe two years of teaching. We don't think that it was intended originally that two years simply have elapsed which might be a teacher coming on, getting a maternity leave, say a teacher in their first year teaching half time, and in the second year of employment getting maternity leave. You might have a teacher coming up for what we are referring to as "tenure" who could only have been observed teaching for one-quarter of the two year period. And we do think that the intention was here to allow a reasonable and adequate period of time to elapse, for the employer to observe the teaching being conducted, and make an appraisal about the probable future of that teacher, the probable desirability of this person as an employee.

And so we are saying then, "for not less than two full years of paid service." And that also draws attention to the fact that we are saying the measurement of time should be the school year, and there shouldn't be any confusion about whether or not — and in fact the Act should be drafted in such a way to make sure that there's no confusion as to when this two year period starts, that it starts with the date of the interview, that it starts with the date of the letter to the teacher, that it starts with the date on the top of the contract, we are being quite explicit here that it should

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start when the teaching service starts.

We strongly oppose any change directed at reducing the two years teaching requirement, or any change extending the obligations of school boards to substitute — pardon me, I have left out a word here and it's changing the sense. We strongly oppose any change directed at reducing the two years teaching requirement, or any change extending the obligations of school boards to substitute or to term employees.

We further recommend that under Sections 92(1), the effective date of the agreement shall be the first teaching day.

Section 96, Duties of Teachers. The Manitoba Association of School Superintendents, respectfully requests that the following additional duties of teachers, currently understood and provided for in the Public Schools Act, be retained.

(a) the duty of the teacher to return to the division any property belonging to the division, but in the teacher's possession;

(b) the duty of a teacher to provide, upon request to the superintendent of schools, any information requested concerning the operation of a school;

(c) the duty of a teacher to keep and supply all records or reports as required, either by regulations or the school board and (d) the duty of a teacher to care appropriately for library materials, textbooks, and other educational resources provided to them.

Section 263(2) Jurisdiction of School Attendance Officers. We wish to state our objection to the requirement that a public school board employ and pay for, a school attendance officer who shall have as a duty, the supervision of attendance of students at private schools. We are of the opinion that the attendance of a student who registers at a private school, should be the responsibility of that school authority alone.

The members of the Manitoba Association of School Superintendents thank you for the opportunity afforded us to present these concerns. We are prepared to provide further comment now, or as time progresses on the sections we have identified or any that are of special concern to the committee.

In closing I would draw your attention to perhaps a recurrent scene that has come through the presentation, and that is, it represents and expresses a very firm belief on the part of our association, that in order to properly manage, administer education in the future, the employer and his designated chief executive officer must retain a number of rights that are sometimes grouped in a category of management rights. And if it is either permitted or encouraged, that an erosion, a significant erosion in management rights takes place. Difficult decisions about what must be taught, how funds get allocated, who decides what, these sorts of decisions are going to be increasingly difficult, and schools could in fact, school divisions could become unmanageable places in that sense of the word. And so we strongly urge that the Legislature not, in any sense, erode the portion which gives to the employer and to those designated by him, authority to properly manage the affairs of the division.

Mr. Chairman, I'll pause now. If there are some questions, I'd like to try and field them myself. I'd also like to leave it open to the other members of the committee to respond on selected items.

MR. CHAIRMAN: Thank you, Mr. Newton. Questions, gentlemen? There being none, I thank you, Mr. Newton, for your presentation.

I call Mr. Garth Erickson and Dr. Sybil Shack of the Manitoba Association for Rights and Liberties. Proceed, sir.

MR. GARTH ERICKSON: Thank you, Mr. Chairman. My name is Garth Erickson, and I would first like to tender my apologies for Sybil Shack who is not able to join us this afternoon. She did work with us to some substantial extent on the preparation of this brief, and I know that the committee members would have perhaps liked the opportunity to direct some questions to her, and I'm sorry that this will not be possible. I do have with me, two members from the Manitoba Association for Rights and Liberties, Mr. Walter Hlady, and Mr. Abe Arnold, the Executive Director.

If copies have not been distributed or provided to the committee, we do have copies available. I believe they've already been provided. It is my intention to review the brief, but not necessarily to go through it on a word-for-word basis.

We, of course, appear as the Manitoba Association of Rights and Liberties, within the perspective of our objectives, which are the defence of human rights and civil liberties. In this respect, I believe that some of the points that we may raise may be somewhat different than those which have been raised by other delegations to the committee.

I would like to comment on the fact that it is perhaps appropriate that we should be looking at the Public Schools Act, in the International Year of the Child, and I think that it is appropriate

that we might go back and look at a very brief statement from the United Nations Declaration which deals with the question of the rights of the child.

That declaration states in part, "The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner, and in condition of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration."

We wish to draw immediate attention to the absence in Bill 22, of a section dealing with the rights of pupils generally as there was in the old Act. In the new Act, the rights of pupils are dealt with under a variety of headings, such as Prohibitions and Penalties, School Attendance, and so forth. Nowhere in the Act is there a statement concerning the rights of children, and particularly the right of every child to an education in keeping with his or her capacities. There is a brief statement in section 259 on the right of the child to attend school, but nowhere in the bill is there any other statement referring to the rights of the children as pupils in the school system. We think that those things should be written into the bill.

With regard to teachers, we also feel that some of their rights are not perhaps adequately clarified, and we question the right of appeal for teachers as set forth in Bills 22 and 23. We also propose to deal briefly with the question of religious instruction and religious exercises in the schools. We feel that as these sections are now written, they do not provide adequate protection for freedom of conscience.

Dealing now with the specific issues:

First of all, the Northern School Division. This section does not appear to have been changed from the present Act and it is the feeling of our committee that the absolute power given to the Minister to establish this division and to appoint an official trustee to this division, should be amended, and it is now time that the people in the northern school division are given the right to an elected school board, as other residents of the province have. We think it is appropriate that communications and things of that nature have developed in the north sufficiently to permit that kind of thing to be done and to be done immediately.

Section 48(1) of the Act states that the school board may provide a course of instruction and training for children between 3 and 6 years of age in nursery or kindergarten schools or both. It is well known, of course, that kindergarten for five year olds is pretty much of an accepted fact in many of the school divisions, and it is our feeling that the establishment of kindergartens, throughout, should be mandatory, and that there should continue to be a working towards additional education within the school division for people younger than five years of age, going down to the three year age level.

We would also point out that subsection (j) of that section states that a school board may provide books to children with or without charge. This again is something that has been done without charge for many years now and there is in Section 41, it provides that a school board shall purchase textbooks for free distribution to pupils. The two sections do seem to be in conflict and we trust that there is no intention to be any levying charges for standard textbooks.

Under the heading of Accidents. In Bill 22, Section 87 deals with a defective apparatus and it states that a school division or its employees, agents or trustees "shall be deemed to be not guilty of negligence unless it is shown that one or more of the trustees of the school board or one or more of the employees or agents thereof had knowledge of the dangerous apparatus and failed to remedy or replace the apparatus within a reasonable time". We do not believe that a mere lack of knowledge of defective apparatus should relieve a school board of responsibility for accidents and that a school division should be subject to the same obligations and liability as any other institution or organization or person would be. We fail to see why a school division should have special protection that is not available to other institutions or to the public generally.

We might also comment that changes are being considered by the Department of Labour in legislation governing health and safety in the workplace which we understand could affect the responsibility of science teachers using scientific equipment in the classroom.

Section 48(1)(w) deals with the question of "caution fees and fines". And it provides for the levying of such caution fees and fines. There is no explanation as to why or in what circumstances such levies would be imposed and it is our feeling that if there is to be a provision permitting caution fees and fines, it should certainly be confined by the legislation to very limited nature so that people can have some protection as to what kinds of fees and fines are going to be levied. Basically, we fail to understand why there should be any caution fees or fines levied at all.

Dealing with Suspension and Expulsion of a student. This is dealt with in Section 48(4) of Bill 22 and in Section 4(1)(d) of Bill 23. We feel that an expelled or suspended student should have the right to a hearing and an appeal against expulsion or suspension before some independent body. We also feel that there should be a limitation on the grounds for expulsion, or a further

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The grounds permitted now are specified as being "for conduct deemed injurious to the school". We suggest that it should be further limited to conduct which seriously disrupts school activity or seriously infringes on the rights of students, teachers or other persons in the school. We further urge that the words "upon investigation by the school board" should be amended or qualified to provide that the investigation would be by authorized school personnel, excluding elected board members. By way of explanation I might simply state that there is something inherently wrong with a provision which provides that the same person who investigates the matter is the person who makes the ultimate decision. Surely the investigation should be one stage; the decision-making should be by an independent body who is at liberty to hear and listen and consider both sides of the argument.

We feel that suspensions or expulsions by a superintendent or principal should be for a limited period pending a hearing of an appeal. The report of such expulsion should also specify whether it is an expulsion from all schools in the division or from one school only with the opportunity to transfer to another school, and it should be provided that in any hearing or appeal the rules of natural justice would prevail including the right to hear evidence presented against the student, the right to present his own evidence, the right to cross-examine the witnesses and the right to counsel.

In Part VIII of Bill 22 and in Sections 5,6 and 7 of Bill 23, the question of discipline and related matters respecting teachers is dealt with.

Section 5 of Bill 23 provides for the Minister to appoint a Certificate Review Committee which we understand will replace the present discipline committee relating to the suspension of teachers' certificates. Section 6 allows the Minister to cancel or suspend a teacher's certificate "for any cause he deems sufficient" and Section 6(2) provides that an education administrative consultant may suspend a teacher's certificate "for incompetency, misconduct or violation of this Act or The Public Schools Act or of any regulation". Bill 22, Section 5 provides that suspensions of teacher certificates must be reviewed by the Certificate Review Committee.

We believe that the grounds for suspension or cancellation of teacher certificates give the Minister or the education administrative consultant too broad a power. Except in the case of some emergency there should be no arbitrary suspension of a teacher's certificate by the Minister or by any other official. We suggest that proposed teacher suspensions should be referred first to the Certificate Review Committee and a hearing before that committee should be a pre-requisite to the suspension or cancellation of the certificate. The committee should have the power to determine if there are sufficient grounds for cancelling or suspending the certificate and there should be a Right of Appeal, and ultimately a Right of Appeal to the courts against a decision adverse to the teacher. Section 92 (4) of Bill 22 provides that the school board may terminate an agreement with a teacher on the basis of a complaint respecting the competency or character of a teacher", but only after informing the teacher of the complaint and giving the teacher "an opportunity to appear personally or by representation before the school board to answer the complaint". Section 92(5) provides a detailed arbitration procedure for teachers whose agreements are terminated by the school board if they have been teaching for two years or more. We believe that the teacher who has been there for less than two years is entitled to somewhat broader rights than are given by the Act. We feel that even in the case of a teacher who has been there for less than two years, she should be entitled to a hearing to determine the reason for her suspension is not an improper one.

I would point out that we agree that there should be a difference. We are not proposing that tenure, in effect, be given to every teacher immediately upon employment, but we do feel that there may be circumstances where, even during the first two years, the reasons for termination may be improper. They may be based on — well, who knows what they might be based on. All kinds of circumstances can be imagined and can in fact happen and we think that there should be at least a hearing to determine that it is based on a sound opinion as to the teacher's competency and things of that nature.

Next we'd like to turn to the question of religious instruction and Religious Exercises. There are two areas here. First is the question of religious exercises, second is the question of religious instruction.

Bill 22, Sections 80 to 83 and Bill 23, Section 16(1)(a) authorize a school board to make regulations with respect to religious exercises and in Section 80 of Bill 22, authorizes instruction in religion under certain terms and conditions again. However, Bill 22, Section 84 provides that the schools "shall be entirely non-sectarian and no religious exercises shall be allowed except as provided in this section". Now, if our public schools are in fact to be non-sectarian then those sections of Bill 22 dealing with instruction in religion should be revised to properly reflect that non-sectarian spirit and the sections on religious exercises should be largely, if not completely, eliminated.

With respect to religious instruction, Section 80 provides that, of Bill 22 that is, provides that

religious instruction may be given after a petition is presented by certain numbers of parents. It provides further that the religious instruction shall not exceed 2-½ hours per week. Then it goes on to provide that a student who wishes to not be involved in the religious instruction must opt out. It is our feeling that a couple of things should be done to make the opting out, in effect, a reasonable approach.

First of all we suggest that the religious instruction should be limited to those who actually opt in, in order to make sure that persons who are being instructed in religious matters are those who actually wish to be instructed in religious matters and are not simply being pushed in by force of sort of by "follow the crowd" kind of atmosphere.

We also believe that it is essential that for those students who do not opt in, there be some alternative instruction given during that period of time. At the present time — this can of course be done under the present legislation but it's not mandatory — at the present time if the religious instruction is given during a period of time when nothing else is provided, those students really are left out, they are not part of the crowd and that to a student, to a child, is a very important thing.

The important thing here is that the religious instruction should be given to those who actually want it without any imperative feeling on the child that he has to be there because everybody is there.

Now, I'd like to turn for a moment to religious exercises. The religious exercises as opposed to religious instruction, which is a completely different matter, the religious exercises are normally conducted for a very short period of time, either at the beginning or the end of the day, and it now provides that religious exercises can be provided in the school, and once again you run into the problem of having the student there because there's nowhere else for him to be. We think that religious exercises, no matter how limited they are, whether they're only two minutes in the morning or whatever, give the fact that our society is made up of not only a number of different Christian religions, as once was the case — it's easy to provide a Christian prayer that offends no one — but when you bring in non-Christians you bring in the Jewish people who are a significant percentage of our population and more and more you are bringing in other religions, Buddhism, Hinduism and various religions which historically one might say are almost unknown in Manitoba.

You now have a position where it is impossible to provide for a religious exercise that will truly reflect everyone's religion depending of course on who you have in the class. It may be and it is in many cases, the circumstances that if you cover the Christian religions you've covered everyone in the class. But we can no longer be so sure that that's going to be the case and less and less every day is it becoming the case.

We feel that religious exercises are not really an educational function and that they contravene the non-sectarian concept of the public school and that they should be eliminated.

We also have a concern, should I say, about patriotic exercises. That one is perhaps more difficult to deal with than the religious exercises because there is still certainly a feeling that patriotic exercises are proper within the terms of the school and that everyone should be taught something in terms of a loyalty to their country. However, this again gets into the question of conscience and we feel that there should be at least be a re-examination of whether or not patriotic exercises within the school are of any significance value and whether or not it may not be possible for those people who do have a conscientious objection to patriotic exercises, whether we might not be better to eliminate patriotic exercises as well.

I point out that we have not said that they should be eliminated, we are saying that they should be re-examined because we, ourselves, have some doubts on that question.

I would next like to turn to the question of school attendance. Section 260 speaks of the responsibility of parents or guardians to send their children to school and Section 260(2) states that parents of a handicapped child shall "cause that child to attend school in accordance with the provisions of the Act" unless specifically excused by the Minister. On the other hand it does not state that the school board has any obligation to provide the necessary facilities to enable a handicapped child to attend school, nor does it provide for any responsibility to provide an alternative form of education for handicapped or others.

Section 261 recognizes the right of parents to send their children to a private school and 261(1)(b) provides that the education administrative consultant may certify that a parent does not have to send a child to a recognized school if in his opinion "the child is currently receiving a satisfactory standard of education". We would assume that this means that the right of a parent to teach his or her child at home is recognized by that section.

We feel that there should be a careful and considered evaluation of the content and quality

of education that parents in private schools are providing and we say that although we support fully the concept of permitting home education, or things of that nature, we do not feel that it necessarily follows, as some would suggest, that people who do not send their children to the public school system, should be exempt from paying school taxes or should be rebated moneys due to the fact that they're not using the facilities. The brief points out other examples where people do not use certain public facilities and no one has ever suggested that they should receive compensation by virtue of the fact that they don't use whatever is, the post office or the public transit system. It's still a responsibility of the society to provide that and it's up to the individual to use it or not use it. We should recognize in these areas that the ultimate goal of our public education system is to make it flexible by offering a greater variety of alternative educational programs within the school system. We are concerned about the powers that are given to school attendance officers. Section 267(1) gives the attendance officer "the power, without warrant, to enter any place of public entertainment or amusement, factory, work shop, store, or other place where children may be employed or may congregate". It provides that when an attendance officer finds in that place an individual who should be in attendance at school as required by the Act he can take and conduct that individual to the school in which he is enrolled or to the home of the individual. In effect, he can search without warrant and he can arrest.

The objective, we feel, should be to encourage school attendance through counselling of parents and children and through enforcement where necessary. But we believe that the enforcement provisions are too broad in their scope.

Section 268(3) provides for fines to be enforced against parents who do not comply with notices given and it also provides for posting of bonds by parents to ensure compliance. Once again we feel that these sections, although on the surface they may appear to be valuable, are really unrealistic and unfair. Truancy is really a major problem in inner city schools and schools of that nature where broken homes, single parent families, unemployment and so forth are contributing problems. And those are the very circumstances where levying fines, enforcement by putting parents in jail or what have you, is not likely to be of any great assistance. We think that the fining for non-compliance with an order to send a child to school really should be abolished.

In Section 274 there is a provision for an appeal to the Minister against a decision of a school attendance officer or of an education administrative consultant who has the same power as the attendance officer. However, it provides that the decision of the Minister upon appeal is final. If legal action and punitive measures of this kind are going to be involved, we feel that the right of appeal should be to an impartial body of course, and that it should ultimately be to the courts.

Bill 22, Section 238, is headed "Giving false information offense and penalty" but that really isn't what the section is about. It deals primarily with refusal to furnish information. Under Section 241, there is provision for the taking of a census or enumeration of children resident in the school division. Section 242 provides that a person having custody of a child shall give the officers appointed for the taking of a census, "such information regarding the child as may be required under that section". However there are no particular limites imposed upon the kind of information that can be requested and we think that limitations should be imposed. We do not dispute the right to count the number of children that are likely to be attending school, because that is necessary. But to go beyond that, we think is unnecessary and we think that protection against the gathering of unnecessary information should be embodied in the Act.

We have summarized the recommendations on the final three pages of the written brief, four pages, pardon me. I don't propose to go through the summary again; I'd be repeating myself and I don't think that that is necessary. I'd be pleased to answer any questions that people might have to the best of my opportunity, pointing out that it was the intention that Sybil Shack would be here to answer most of the questions and I may not be able to deal with them as well as I might wish.

MR. CHAIRMAN: Thank you, Mr. Erickson. Any questions for Mr. Erickson? Mr. Boyce.

MR. BOYCE: On your points about religious exercises, when you say that, you know, the schools should be non-sectarian are you not suggesting that they be asectarian?

MR. ERICKSON: I'm not sure that I understand the difference between asectarian and non-sectarian.

MR. BOYCE: It's the difference between theist and atheist, I would suppose.

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MR. ERICKSON: I'm sorry, I didn't. . .

MR. BOYCE: It's the difference between theist and atheist, I suppose, but the policy up to this point in time is that schools are non-sectarian, in other words, they don't back any sect. But that doesn't mean they're completely devoid of all moral suasion.

MR. ERICKSON: I don't have any objection to morality being taught in the schools, if that's what you're suggesting. Perhaps I am suggesting that they be asectarian insofar as sect is defined as being synonymous with religion. The reason I say that is that I don't see how it is possible for a school to be, under your definition, non-sectarian. That suggests that the school is going to teach all — it's going to deal with all sects equally. If that is practically possible, then I would be quite happy to see that. If it is practical to have religious exercises which can deal with each student in his own particular way, then that's fine, but I don't think that's practical. I think that the result therefore, is that you can only go to teaching none of it or to having exercises in none of it.

MR. BOYCE: You know, I haven't, over my 55 years, heard too much concern about the public schools being sectarian, the directive of the public policy of the public school system in Manitoba being non-sectarian, albeit in the school in Elm Creek that the Masons had a room in the public school, nevertheless the school itself was non-sectarian, and I just wonder if we're throwing the baby out, you know, with the bath water. Because you know, if they're non-sectarian at the moment and you're suggesting that we make them asectarian, why not atheistic.

MR. ERICKSON: If someone can devise a religious exercise which is equally applicable to the Hindu's, the Buddhist's, the Jewish and the Christians, along with any other religions or sects that might appear in any particular school, then I'm quite happy to see it there. I don't know that it's possible. That's why I say that from a practical point of view, I think that it is no longer possible in the province as a whole to be, as you would put it, non-sectarian, and that therefore you must in fact perhaps go to what you would describe as asectarian. In other words, there will be no religion taught in the schools or no religion practiced in the schools. As long as we only had Christians, there was no great problem; as long as we only had Christians and Jews it could even be managed. But, now, times are changing and I suggest that the Act is not keeping up with the changing times.

MR. ABE ARNOLD: Mr. Chairman, y I just respond to that. I think the problem, the way the Act is written now . . .

MR. CHAIRMAN: Could we have your name for the record, Sir.

MR. ARNOLD: My name is Abe Arnold, I'm the co-ordinator of MARL. . . . is that it states that if 25 parents, say, in a school of 300 students request religious instruction then religious instruction has to be arranged, and all the 300 students are obliged to take that religious instruction unless they opt out. Now, what we are saying — that's what it says — to make the thing non-sectarian is to say that if the parents of 25 students request a religious instruction, okay, let's provide that religious instruction, but only for those who want it; and that the other children should be able to carry on with their regular curriculum or with alternative courses and not be obliged to have imposed upon them the taking of this religious instruction or to have to be absented and stand outside in the corridor while this religious instruction is going on. And, as far as religious exercises are concerned, as Mr. Erickson has already pointed out, we don't think it is possible to — and they are having this argument in other jurisdictions, as well — to devise a religious exercise which does not offend against any religion; and therefore, we feel religious exercises should be dropped. But I don't think that we can — and certainly in my view it's not possible to — say that if you can't have religion you're not going to have any moral persuasion. I don't think the two are synonymous, I think that we can certainly have things that involve moral suasion without necessarily getting involved directly in religion.

MR. BOYCE: I would like Mr. Arnold to tell me what school that somebody was standing outside in the hall, or they were compelled to take religious exercises. I would like to know what school that's taking place in.

MR. ARNOLD: Well, I don't know whether that's taking place at any schools, but it's theoretically possible under the Act.

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MR. BOYCE: Well, Mr. Chairman, I'm not going to debate the point, it's not possible. Nevertheless, probably represent a constituency in Manitoba which has more groups of religion and ethnicity than any other place in the Province of Manitoba, and in 10 years in dealing with the religious leaders of all sects this is one question that they have not raised. Now, what constituency does our organization represent? For whom do you speak in this regard?

MR. ARNOLD: Well, I think we speak for an increasing number of people. There are over 200 members in the organization; there are a dozen affiliated organizations and I think we speak for quite a few of them. And, if you would like to find out I would invite you to come to our conference, which happens to be taking place this Friday.

MR. BOYCE: I would be glad to go to any conference to listen to the expression of any opinion. I speak for 7,000 people, 7,000 voters, in the area that has most of the ethnicity, all through the city is an ethnic mosaic. And I don't want to mention names or anything else but these people talk to me about their problems, cross-cultural and everything else. And I just wondered why, at this point in time, and I agree that there's no neuter prayer, but, nevertheless, in the Legislature in the Province of Manitoba it's still our tradition and we have all religions represented in the House, and when we start off our day we give pause and people can stand there and wiggle their toes and do whatever they want, but nevertheless, to the majority of the people they think it is important in our society that we give pause once in a while and recall that it was not by bread alone.

Thanks, Mr. Chairman.

MR. CHAIRMAN: Any further questions? Mr. McGill. Mr. Erickson.

MR. ERICKSON: May I make one further comment on that, that there may, in fact, be a religious exercise which might be acceptable, and that is a moment of silence in which each member, child, whatever you have in the organization, devotes his own thoughts towards whatever religion he practices. If you considered that a religious exercise I, personally, wouldn't have any objection to it.

MR. CHAIRMAN: Mr. McGill.

MR. MCGILL: Mr. Chairman, I would like to ask Mr. Erickson, following his comments and concerns regarding religious exercises he deals briefly with patriotic exercises, which the brief contends may also offend against "freedom of conscience". I would gather that a patriotic exercise might be the school, in Assembly, singing "O Canada" or "God Save the Queen", would your organization consider that that exercise offends against "freedom of conscience?"

MR. ERICKSON: As you may gather from the uncertain nature of the brief there is some disagreement among members of the association with respect to that point and we think it should be considered. And, as a spokesman for the organization, I don't wish to take either side on that. I simply say that there are people who do suggest that even those things are an infringement upon their freedom of conscience. Whether or not that is something that the committee wants to consider I simply put in and say that those people do exist; and whether you think that they are in such a minority, or that their position is so wrong, that you wouldn't propose to change that I'm not making any submission on that one way or the other. We simply suggested that that point of view be looked at by the committee, and we're not recommending

MR. MCGILL: Mr. Chairman, I understand Mr. Erickson to say that his organization then has no position with respect to patriotic exercises.

MR. ERICKSON: That's correct.

MR. MCGILL: But your brief does suggest that it may offend against freedom of conscience, so there must be some concern by your organization on this.

MR. ERICKSON: There is some concern by some people in the organization, yes.

MR. MCGILL: Would some people in your organization be concerned about the flying of the Canadian flag as most schools do?

MR. ERICKSON: I don't recall that ever being mentioned, no. I know of no one in the organization,

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among the people that we dealt with in terms of putting together this brief, who suggested that having the flag in front of the school is an infringement upon their conscience. I can go on to say that if, for example, they were required to stand and salute the flag that would come under the same heading as singing The Queen, but the fact that it's there was not mentioned by anyone as being an infringement.

MR. MCGILL: I have no further questions.

MR. CHAIRMAN: Thank you, Mr. Erickson. Thank you for your presentation. Mr. Hanuschak.

MR. HANUSCHAK: Yes, Mr. Chairman. During the committee hearings, on one or two occasions, I've attempted to seek out a clarification or interpretation of Section 81 of the Bill dealing with "hours of instruction in religion." And I have not been able to obtain an answer up to this point in time. And my concern is this — I'll just briefly just paraphrase that section and then point out my concern. This section of the bill states that instruction in religion when authorized shall not exceed two and a half hours per week. Now, that's quite clear. And shall be conducted by a clergyman, priest, rabbi, or other spiritual leader or by a representative of parents, recognized by the school board as constituting a religious group. Now, here's my problem. I'm not quite sure just what it is that the school board has to do in this case. Does this section of the bill ask the school board to determine whether a particular group of parents is a viable group, as it were, for whom to offer this service, or is the board asked to determine whether that particular religious group is a recognized religious group.

For example, I and 24 others may petition the board to provide instruction in Druidism. Now, what is the board going to do? Is the board going to attempt to determine whether we are a viable group for whom instruction can be provided, or must the board ask itself, well, are we going to recognize Druidism as a recognized religious group, and allow them for instruction? What is your interpretation of instruction?

MR. ERICKSON: I haven't looked at it, quite frankly, in terms of those possibilities. I understand the question, but I don't have the answer. And I don't know that if I did have the answer, that I would be speaking on behalf of the Association. I would be quite happy to sit down and take a much closer look at the wording of the section, and see what I think it means, but I couldn't do so right now and do it justice.

MR. HANUSCHAK: The example which I gave may sound like a way-out example, but I think, in this day and age, and particularly with many religious groups coming into being, it could be 25 Moonies, it could be 25 of some other group that suddenly springs into existence overnight as it were. I would ask you, I would hope that your organization do give this section some thought, and offer the community at large some advice as to whether a school board should take on the responsibility of certifying religious groups, as it were?

MR. ERICKSON: A religious board, instead of a labour board, is that the concept?

MR. HANUSCHAK: Or merely to satisfy themselves that yes, there is a sufficient number of parents seeking religious instruction and they have someone to offer it, and therefore we will allow it to be offered. Because I would become a bit concerned if it should be the board's responsibility to determine whether a particular religious group is recognized or not.

MR. ERICKSON: I'd be happy to look at the section and let you have our view on it.

MR. HANUSCHAK: Thank you.

MR. CHAIRMAN: Mr. Arnold.

MR. ABE ARNOLD: That's really not what we originally intended in our submission on this particular point, but I should point out to the committee that in another province they are studying this question right now, the whole question of all the new religious groups and cults that are springing up, and what the attitude should be to them. And certainly, theoretically, it's possible for this problem to rise. But I think that illustrates the point that we are making in the brief, that is, if 25 parents of a particular religious group, want to have religious instruction for their children, fine, let's give it

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to them. But let's not make it appear that the other children are outsiders if they don't want to participate in that form of religious instruction. Therefore, we simply say, let the ones who want it, opt in, and not all the others who don't want it, have to opt out. That's all we're saying. That's the really essential point of that point.

MR. HLADY: I wanted to tell Mr. Hanuschak, I was just involved with the Moonies in New York city, and there, the city eliminates them as a religious group because they aren't accepted by the council of religious leaders in the community. I don't know if that helps you in your problem or not.

But Mr. Chairman, may I also have a few words to say on the Northern School Division.

MR. CHAIRMAN: Can we finish this? There are some more questions and then we'll accept yours, Mr. Hlady, on the Northern.

MR. HANUSCHAK: Yes, one further question. Do you not feel that Section 81 tends to discriminate against religious groups which do not have a clergyman, a priest, a rabbi, or other spiritual leader, in the sense that if it happens to be a religious group which has one of those four, then any one of those, or anyone authorized by one of those, can offer religious instruction. On the other hand, if you have a religious group which does not have a clergyman, a priest, a rabbi, nor anyone whom they recognize as a spiritual leader, then it seems that they just cannot delegate the authority to offer religious instruction. And I would suggest to you that there are religious groups which do not recognize anybody as a spiritual leader. The Unitarian faith is one of them. In some communities they have a clergyman, in others they do not, and merely have what they call fellowships, and in some way they arrange amongst themselves as to how they're going to conduct their religious program.

So it seems that a group such as that, say in Brandon, where there is a Unitarian fellowship, the Unitarian fellowship in Brandon would have a problem if they should decide to — there's just no way that this section would allow them to change their teachers of religion, because this privilege is not extended to just a representative of the parents. It's only limited to those four.

MR. ERICKSON: Again, we appear to be back to the interpretation of that section. When one reads it quickly, I think the intention may have been that any representative designated by the parents would be the person who would conduct it.

MR. HANUSCHAK: Or would authorize. Delegate . . .

MR. ERICKSON: Or who could delegate, yes. If that is the case, then that would be acceptable. If that isn't the way it reads, and I'm not sure that it does, if that isn't the way it reads, then the wording should obviously be changed so that that is the way it reads. Otherwise, I would certainly agree, it is discriminating against particular groups who don't have that kind of organization.

MR. McBRYDE: Mr. Chairperson, I wonder if it would be worthwhile to invite the other two members of this delegation to sit at the end of the table as other delegations have done, to save them jumping around all the time and charging up to the microphone.

One of my questions was a question I was going to address to Mr. Hlady to give him a chance to say what I know that he probably wants to say. But before I do that, I have another question. I would just like to get a bit more background on the organization itself. Could you tell me a little bit more about it?

MR. ERICKSON: Mr. Arnold would be the appropriate person . . .

MR. ARNOLD: The Manitoba Association for Rights and Liberties was incorporated August 1978, and we are the recognized human rights and civil liberties organization in Manitoba at this time. In fact, before we were incorporated, while we were functioning as an ad hoc committee, we made our first appearance before the Law Amendments Committee in July of 1978, on amendments to the Human Rights Act. We have, during the past year, appeared a number of times before the Law Amendments Committee last spring on The Child Welfare Act, and on The Personal Investigations Act, and last winter we also made a submission to the Committee on Juvenile Justice of Human Rights and Civil Liberties and that is the basic approach of our organization. Our president at the present time is Dr. Ralph James, who happens to be an educator himself, a teacher at the Adult Education Centre; our honorary president is C. Rhodes Smith, the former Chief Justice of

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the province; and we have a growing number of members of about 200 at present time including a dozen affiliates. Most recently, the Age and Opportunity Centre, Family Service, Mental Health Manitoba, the Manitoba Federation of Labour, and a variety of other groups are beginning to affiliate with our organization, so that we are becoming an umbrella group in this field.

I'll just end on this note, that we have our annual meeting coming up on Thursday evening with Gordon Fairweather, the Chief Commissioner of the Federal Human Rights Commission as our guest speaker, and we have a one-day conference following that in which we will be discussing some of the main areas in which our organization has been involved in the past year, one of them being a study on the Manitoba Human Rights Act and the operation of the Human Rights Commission, which was done for us by a task force headed by Professor Dale Gibson, which was just released this week. So that gives you a picture of the background of our organization.

MR. CHAIRMAN: Mr. McBryde.

MR. McBRYDE: Yes, thank you very much. Thursday and Friday we might be sitting here . . .

MR. ARNOLD: This has caused us some problems too in getting our brief ready and having people here.

MR. McBRYDE: The other aspect, I suppose, is that in order to attempt to protect rights and liberties, you're speaking usually for a minority who usually have their rights and liberties threatened, and therefore you encounter some hostility from the majority who don't have their rights and liberties threatened. But I think that I'd better give Mr. Hlady a chance to speak and ask, is there some more comment that you'd like to make on the section of your brief about the northern school division?

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MR. CHAIRMAN: Well, it's coming, we're going to deal with that, Mr. Hlady, when we're finished the questioning on this part. That is my intention.

MR. McBRYDE: Well, Mr. Chairman, there is a section in the brief that we've already had, and then there's Mr. Hlady's brief. Now I could wait and deal with that section separately.

MR. HLADY: Well actually, my statement led to the inclusion of that in the moral brief and I am part of moral, so I'd be quite happy to answer it at this point if you'd like.

MR. CHAIRMAN: Okay, carry on.

MR. HLADY: I think that one of the major concerns that the organization has is that many parents in northern Manitoba are disenfranchised in terms of school matters. The setting up of the Frontier School Division some years ago meant that quite a number of school districts, and I think I have them listed on the second page of the supplement, were eliminated when Frontier was set up. A number of other schools that were under an official trustee were also included in Frontier, and it seems to me that while there may be some advantages to Frontier School Division in terms of the ultimate quality of education, there are quite a number of disadvantages when we look at the democratic process that went on in our northern communities, and as a former chairman of one school board and secretary-treasurer of another, and I was also a teacher in northern Manitoba, it seemed to me that the school boards that I was involved with did more than an adequate job in handling quite drastic problems that came up during my period there, and the disenfranchisement of them and I refer to Gillam and Cranberry Portage as two of those that were, means that citizens have little or no say in terms of their school affairs. The present Bill talks about an Advisory Committee. I've seen too many Advisory Committees whose advice meant very little, either in terms of those that were receiving the advice or in terms of really the feeling by the people on Advisory Committees that their advice was going to be taken anyway, so that the proper attitude really wasn't there in terms of what could happen.

It seems to me that we have a responsibility to the people of our northern two-thirds of the province to ensure that democracy in school matters is developed to its greatest potential. It seems to me that many of the communities that were disenfranchised; I can't see why they shouldn't have their own school boards at present again dealing with the local schools and also in terms of Cranberry Portage and the residential situation, working under contract for the students that they have in that institution.

But it seems to me further than this, that we need to help all communities in northern Manitoba develop their own school boards, even where we have to subsidize because there is a lack of

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ax base. I think that as Canadians and living in the democracy that we do, that if we continue n having a northern school division where all the parents are disenfranchised in school matters, hat we're treating northern Manitoba as little more than a colony for the south. I think that we have a responsibility to assure that our north develops in every way and that includes a responsibility or school matters as well.

MR. McBRYDE: Mr. Chairman, I think Mr. Hlady is probably aware that I was heavily involved n terms of trying to get the democratic process established at the municipal government level in he remote communities.

MR. HLADY: I agree that it's necessary in that area too.

MR. McBRYDE: I guess experience says to me that it is a step by step process; that it's not an overnight process, and I think that leads me to a question about some communities and I'm thinking of the case of Gillam when I knew it well three or four years ago. I'm not sure of the situation here now although I do know that there are some Gillam people that would like to in fact have his committee go to Gillam and hear their concerns about this Bill.

But there is a problem in establishing an elected democratic process at a municipal and school board level in a one industry community, where in fact the people are there because they are working or one company. That company controls who stays and who goes. During construction the construction company determined who stayed and who went and therefore it was very difficult to get anybody to run for an Advisory Council at the LGD level at one time because they were afraid if they said anything against Hydro, that they would have trouble on the job, that their job would interfere with their ability to exercise their democratic rights on a local council. I know that that was a real situation in that community when we had our local government district hearings in that community. A number of people would not speak out because they were afraid to then be in trouble at their employment, and I wonder how you would comment on that kind of a situation.

MR. HLADY: Well, at the time that I was a teacher at Gillam and later chairman of the school board, we were a one industry town only it was the Canadian National Railways at that point. I know that certainly the population was much smaller at that time, just under 200 people, but we were able to handle a school board, we were able to in many respects co-op the advantages of being a single enterprise community in terms of assistance in carrying out a function that everybody thought was important, a good school in our community. At that time, as a matter of fact, or at least the week before I arrived in Gillam as a teacher, the school burnt down, and when I arrived, the community through the school board and the community as a whole had already set up a school with brand new desks that they had been able to get into the community within a week in the Community Hall. And as there was a large Hudson's Bay store empty in the community they were able to buy it; they obtained such things as a bulldozer and skids from the CNR and with the assistance of some of the CNR people with knowledge they moved that school and set it up on the school property. Now they were able to do that within the \$6,000 which was pretty meagre even in 1953-54 that they got for the insurance from the burnt down school. The job and the building that were put up as a school were worth several times that amount and it was because of the community working together.

Now in terms of Hydro — and I recognize this problem with a number of single enterprise communities — there are many people who are willing, because of their position within the organization, to keep quiet. But I think that in all communities, there is also a segment who are not directly dependent upon the company who are often the ones who act as the spokesmen for the community in what is needed. Now if this hasn't been developed enough in some communities, I think that we need to certainly look at that situation and if necessary assist communities to be able to speak out as required for the needs of the community.

MR. McBRYDE: I know that during the first number of years that I was an elected representative for the north that there was a considerable number of complaints, , concerns, about the Frontier School Division. Over the last four years or so I have received very little and I think a sort of change in the senior administrative personnel to a group that was willing to listen and respond and consult with the community, and I suppose since there is no pressure, there is no upset, that I'm fairly hesitant to push any change now when the people in the communities themselves seem to be reasonably satisfied with what's taking place. I wonder if you would want to respond to that and see if you can change my mind or bring me up to date about some things that I might not be aware of.

MR. HLADY: Well, certainly the residential situation at Cranberry Portage has gone down in terms of the numbers of students and I think that the present number is somewhere in the neighbourhood of 200 students who are resident at Cranberry Portage, besides the students who are from the town itself, who live at home. And it seems to me that there is always a problem in terms of residential education and we had this in terms of the status Indian population for many years, where students who were in the residential schools really grew up in an institutional culture that had little relationship on the one hand to the home culture and the home community, and often little relationship to the general Canadian culture, and this provided a real problem for those students when they graduated because they didn't fit too well at home and they still had a lot of adjusting to do to make their way in the greater Canadian society. I don't know that that's the situation with Cranberry as much as with the status Indian residential schools in the past because we have a much wider mix of students in a place like Cranberry Portage at the present time than one ever had in an Indian residential school, but it may be a problem for some, particularly native students who come from the more isolated communities.

But at the same time I don't see why the local residents cannot be involved in the general decisions that take place and if we do this in terms of local school boards who work through contract for putting people in a place, to educate them in a place like Cranberry Portage, I wouldn't see any problem there because I think we would be developing local responsibility and I think that in a democracy that's a key item that we need to develop wherever it's deficient.

MR. McBRYDE: When I refer to Frontier School Division I mean as a division, not the Cranberry Portage facility itself.

MR. HLADY: Well, there are certainly a lot of other establishments that are under Frontier; I agree. I think that where possible, you know, these should revert to local control. Certainly that doesn't mean that they shouldn't use the expertise of the fine people who are in the administration of Frontier.

MR. McBRYDE: Yes; is there any other comments you would like to make on this specific thing because I have no further questions. Is there any questions that I should be asking here?

MR. HLADY: Well, I think basically those are the points that I want to make on that situation, and if it means that it's a stage development to achieve this end result, fine, but I think that we need to build in the possibility of more than just Advisory Committees in the present Act that's being looked at.

MR. McBRYDE: Mr. Chairperson, I don't have any more questions on this specific section. I have some on the other parts, if somebody wants any more questions on this specific . . .

MR. CHAIRMAN: Proceed now if you wish.

MR. McBRYDE: To, then, any members of the delegation, I wonder if you've had a chance to peruse the proposed students' Bill of Rights that the Students Association presented to us last evening and if you have any comments on that.

MR. HLADY: Mr. Arnold may wish to comment on that.

MR. ARNOLD: The Student Association has sent a delegation to meet with our organization and we certainly haven't had an opportunity to study their brief in detail. I don't know if what they presented to us was the same as the brief they presented here, but I believe that in our brief we have referred to the question of students' rights so that I think all we would say at this time is that their views should be given careful consideration. We have not taken a position on the details of their submission, because we haven't had an opportunity to study it. But it might be that in the coming weeks and months, we may be looking at it a little more closely, and we hope that this committee will do the same thing.

MR. McBRYDE: There seems to be a connection, because you are talking about the incorporation of rights within the bill, the rights for students as well as teachers, and it does seem to fit together. So you're saying, sort of in general, you think there should be something like that, but you're not sure of all the specific details, whether you would recommend those at this time.

MR. ARNOLD: That's right.

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MR. McBRYDE: I think that's all the questions that I can recall at the moment, Mr. Chairperson.

MR. CHAIRMAN: Mr. Walding.

MR. D. JAMES WALDING: Thank you, Mr. Chairman. Mr. Erickson, in your brief, you say on the bottom of Page 3, "we believe it is time to recognize that instruction for children between the ages of three and six should be extended." What leads you to that belief?

MR. ERICKSON: First of all, we recognize the fact that kindergarten, which is for five year olds, is provided in I believe in the vast majority of school divisions now. Certainly, it's common throughout the Greater Winnipeg School Divisions, and I'm not certain as to exactly how consistent that is all the way across the province, but it is our feeling that where you have in fact, or where a large number of the students at five years of age are being provided with a facility, that that facility should then be available to all, that if there are areas where this is not being provided, those students are in effect, being discriminated against, to the extent that they are not being provided with facilities that are commonly provided to the vast majority.

You will note that we did not necessarily say that the establishment of schools beyond kindergarten should be an obligation, or should be mandatory. Once again, though, there are schools where provision is being made for three and four year olds. We don't sort of propose that we are experts in the field of education, and if there are legitimate reasons why three year olds and four year olds should not be provided with these facilities, then that might change our view. However, if it appears, by virtue of the fact that school divisions are extending the facilities to three and four year olds, that the educators have decided that this is a desirable thing to do, it is an educationally worthwhile thing to do, and if that is the case, then we think that that extension should continue.

I'm not sure what the status of that argument among the educators might be, and certainly we would defer in that sense, with respect to three and four year olds, to the view of educators, if they're being provided now only on an experimental basis or something, that's one thing, but if they are being provided because of the fact that there is general acknowledgment that that is desirable, then we think that this should be extended insofar as it's possible, at least by permitting school divisions to do that, which they are permitted now to do. But it's simply a general comment that if it's desirable to do, we think that the benefits to children should be provided wherever they can be.

MR. WALDING: Surely, Mr. Erickson, it's implicit in the brief here that it is a good thing, and that's why you are seeking the extension of it. I'm asking you why you think it's a good thing.

MR. ERICKSON: I think you're reading a little bit too much into the statement then. Perhaps Mr. Arnold would like to clarify some of the discussions on that as well.

MR. ARNOLD: The bill actually states, at the present time, or suggests that the board may provide a course of instruction and training for children between the ages of three and six, in nursery or kindergarten, and as Mr. Erickson has pointed out, we are simply stating that we feel that the kindergarten should be made obligatory, but we do know that in the way in which our society is developing at present, more and more children of younger ages are being placed in situations outside the home, and therefore, we feel that where possible, the educational facilities, the organized educational facilities for these children, should be extended, and we should be taking a closer look at them. The Act, in fact says, that it may be done. So we are saying that we should make a further study to see how and what's the best way of doing it, and whether it cannot help to resolve some of the problems that exist at the present time with regard to children at these younger age levels who are in the position where they cannot, that they are being taken out of the home in any case.

MR. WALDING: But what leads your association to believe that is a good thing, rather than a bad thing?

MR. ARNOLD: My personal view, speaking only as a parent and a grandparent, is that children can begin to learn at much younger ages, but I should point out that this section of the brief was placed in there with the advice of our special educational expert, who unfortunately is not with us today, so I don't think I could give you more than that from the point of view of an educator.

MR. WALDING: Mr. Erickson, as far as kindergartens themselves are concerned, you say that the establishment of kindergartens should become an obligation. Is it merely the establishment of them that should be an obligation, or the attendance at them that should be an obligation?

MR. ERICKSON: We said the establishment. We have not proposed that attendance should be obligatory.

MR. WALDING: Again I'm getting the impression that kindergartens are a good thing if you feel that they should be made province-wide. Why do you not feel that attendance should be obligatory?

MR. ERICKSON: We feel that it should be available. There's a big difference between what is available and what is mandatory. It may be a good thing for a number of children, or for the majority of children. We are not, certainly, in the position to say that it is necessarily a good thing for all children, and as I said before, it is obvious, from the extent to which they have been established, that they must be beneficial to the majority of people, otherwise they wouldn't be there to the extent that they are there.

At the same time, we, in effect, are saying that under the age of six, the parent is the one who will make the decision as to whether the child goes to school or doesn't go to school. At age six, the scheme has been, and we're not proposing any change in it, that at that age the child must go to school, subject to some other exceptions, but basically at age six, attendance becomes mandatory. Prior to age six, attendance is not mandatory, but it is available.

We're not suggesting that that should be changed, we're simply saying that that facility should be available to everybody if it's available to such a large percentage.

MR. WALDING: Do you have any reason, other than the historic fact, that kindergarten at five years of age should be voluntary and Grade One at age six should be mandatory?

MR. ERICKSON: No. No, I don't know that there is any magic in the age. But it certainly is an age that has withstood the test of time, I suppose, and that's, I think, as much as you can say. I'm not in a position to say that age six is the right age, but I can't suggest you change it, because I can't say that seven or five is the right age.

MR. WALDING: One further question, too. I find it a little curious that when you are discussing the rights or non-rights of teachers to due process before they have been with the school division for two years, and you state that you're not prepared to give them, or recommend that they have the same rights of due process that longer serving teachers have, but you say that they should be given the reason for the termination of the agreement, but that the teacher is not entitled to arbitration. Now, of what value is the reason for the dismissal if you can't do anything about it?

MR. ERICKSON: You can do something about it, because we have said the teacher should be entitled to a hearing, in arbitration, I suppose if you want to use that word, though perhaps there's a little difference in format. Arbitration suggests something more complete, more formal, than the right to a hearing, but we have said that a teacher, with less than two years, is entitled to a hearing, should be entitled to a hearing, to determine the reason for dismissal is not improper. I don't know whether our wording in that respect is clear or not, but let me elaborate to show you what we have in mind.

As I understand it, after two years, the Arbitration Board must come to the conclusion that there is good cause for the dismissal, and that it deals, as a result of incompetence or what have you. But there's basically a — the onus, maybe that's the best way to deal with it, the onus of proof, as to incompetence lies with the school board, or with whoever is proposing that this teacher be dismissed, or whoever has dismissed this teacher.

At less than two years, we recognize that it is, to a certain extent, an evaluative period, and that the employer, the school board is entitled to some time to evaluate. However, if, or at a hearing, it should be determined that the reason for the dismissal was because of the fact that the Chairman's daughter failed her grade, that's an improper reason, and for that reason, even a teacher of less than two years should not be dismissed. If it is the opinion of the Superintendent, shall we say, that the teacher is not competent, then that opinion can be accepted at face value and the teacher would be dismissed for incompetence, or for her inability to provide an acceptable standard of

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education to the students in the class, or however one wants to word it.

In other words, the teacher of less than two years, should have some protection against a capricious dismissal. A teacher of more than two years has protection even beyond that, where the onus of actually establishing that the opinion of the superintendent and so forth, is correct, after that, the onus of establishing that lies with the superintendent or with the board, whereas prior to that the onus, really in effect, would be reversed, and if it appears that the reason is an honest opinion by the superintendent that the teacher can't do the job, then she or he can be dismissed. But if the teacher is able to establish that that's not the reason at all, that it's based on some completely concocted sort of reason, then she or he should have some protection in that respect.

MR. WALDING: What protection, just to follow up?

MR. ERICKSON: They should not be permitted to dismiss her for that kind of reason.

MR. WALDING: But after the teacher has been dismissed, and wants a hearing, and you haven't told us who would hold the hearing, suppose the reason came out, as you said, that the teacher had not passed the Chairman's daughter, or something, and that is found to be the reason, then what? The teacher is still fired.

MR. ERICKSON: No, presumably she is reinstated.

MR. WALDING: By whose order, and how does it come about?

MR. ERICKSON: We haven't dealt with the detail, if that's what you're getting to. I'm simply saying that what I'm concerned about is that there be a procedure set up to accomplish this. I don't propose to redraft the . . .

MR. WALDING: But isn't that what due process is? For a teacher who has been . . .

MR. CHAIRMAN: Order please. I'm having a very difficult time, and I'm sure the man who is taping this discussion must be having a nightmare trying to keep track of who is speaking when and where. Would you please address the Chair? Mr. Walding.

MR. WALDING: Yes, Mr. Chairman. I will ask you, if due process is not the case, that a teacher is fired, and that the Arbitration Board, or the hearing, in Mr. Erickson's word, discusses the case and comes to a decision and that then there is power, if it is found that way, to reinstate the teacher or to make some other award. Isn't that just what Mr. Erickson is saying in the case of pre two-year teachers?

MR. CHAIRMAN: Mr. Erickson.

MR. ERICKSON: What we have said is simply that the teacher should be entitled to an independent hearing to decide what the facts are. We have not gone on to detail exactly what happens after that but I think that it is obvious that having found that the teacher was dismissed for an improper reason, that appropriate action must take place. We haven't specified that the action must be payment of damages or it must be reinstatement or anything in particular, but I think that follows that obviously there must be appropriate power given and appropriate provisions inserted to provide that the situation is then remedied.

MR. CHAIRMAN: Mr. Hlady.

MR. HLADY: Well, I think there are two points that I would like to add to this. I think that any action to dismiss within what I would call a probation period or before tenure was achieved I would think in all school districts would have to be reasonably documented and that if that documentation was insufficient, or inadequate, then there would be a process — I know in the old situation through the school board — where this could be questioned. Now it seems to me that what is being suggested here is really that this sort of mechanism is spelled out in the Act.

Secondly, what do you do about the situation that happened in my family some years ago where my sister applied for three days extra leave as a teacher to join with the Christmas holidays so she could go on her honeymoon. Anybody who was going off for a week to a curling bonspiel who was a teacher, could easily get the week. She was paying an adequate recognized substitute, there

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became quite a mixup, but anyway she went on her honeymoon and she was suspended for the remainder of the year, from Christmas to the end of June. I know that situation as far as I know has now been corrected in that particular school division. But it seems to me that this is the sort of situation that can come up where she did not have tenure at that time. I think there has to be mechanisms by which a natural justice can be achieved.

MR. WALDING: Mr. Chairman, under this section the brief says on Page 8, in speaking of teachers with less than two years, entitled to be given the reason for termination, but is not entitled to arbitration. Now the process that you just explained to me of some hearing with right to effect a proper settlement, isn't that arbitration?

MR. ERICKSON: Not quite. Arbitration is a very clearly defined legal concept governed by the terms of The Arbitration Act or by special provisions in some other Acts or in some agreements. It provides for usually a board of three people; it provides that the teacher has the right to appoint one of the people to that board whereas the school board would have the other person to appoint, or would appoint the other person. The third person is to be selected by agreement by the two arbitrators independently appointed.

When I say that the teacher is entitled to a hearing, that is not the body which has taken the initial action or has made at least the initial investigation as to whether the action is proper or not. You see, it seems to me there's quite a difference. An independent hearing can be given and you can rely, I think, on the school board to take appropriate action if they decide that their reason for dismissal was wrong, and that can be written in easily enough. So we're talking about a little different procedure, a substantially different procedure. An independent hearing doesn't necessarily mean a formal arbitration.

MR. WALDING: You spoke to me of details of how it's set up but aren't you talking about the principle and isn't the principle the same? I don't quite follow when you speak about the school board reviewing reprehensible that your association would make that suggestion.

MR. ERICKSON: Well, it could be a board appointed by the school board to review it. We haven't dealt with the details of how it's going to be accomplished. All we're saying is that under those circumstances the teacher should have the right to be heard. If you want me to sit down and draft out and work out exact provisions and review the Act, I can do that. But we haven't proposed to do that; I don't think that's our function. That's the function of the legislative draftsmen. He won't accept my drafting anyway. So all we're dealing with is the general concept, that the teacher should be entitled to a hearing, and a fair hearing at which she's entitled to present her case. Initially, she's not so entitled.

MR. ARNOLD: I think Mr. Erickson has just said what I was going to say. We're just laying down a principle which we feel should be accepted. If it's accepted we hope that there are legislative draftsmen who can find the way to do it.

MR. WALDING: I notice that MARL was suggesting an appeal procedure under some other section on Page 13. "There must be a right of appeal to an impartial body not associated with the making or imposing of these decisions and ultimately to the courts." Page 13, the section headed "Appeals" and I wonder if this is not the sort of thing that we're talking about here.

MR. ERICKSON: No, you see consistent with our suggestion that there is a difference between a teacher of less than two years and one that has tenure, I wouldn't suggest that there be an automatic appeal to the courts by a teacher who has less than two years experience, less than two years with the division.

MR. WALDING: I think we've flogged this matter enough, Mr. Chairman.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: Thank you, Mr. Chairman. I'm sure if Mr. Arnold knows any legislative draftsmen who can come up with the words to accomplish the principles that we're talking about, our very competent staff would appreciate their assistance because people forget that in the final analysis when you put something in law, it's all subject to interpretation. The actions of executive councils where some wise men sit down and issue an Order-in-Council and it goes to the Supreme Court and five Justices say they didn't have the authority and four say that they did have the authority,

so it's all a matter of interpretation. And if I may, Mr. Chairman, I would like to, through you to Mr. Arnold, say, not to get into a comparison of numbers, the CCF stated with much fewer than 200 members and it took 40 years to make a dent in the public opinion. I would encourage you to go on with your efforts because I focussed on one section of it because I reacted to it, because I'm of the opinion that I respect everybody's totems and I hope that they will respect mine.

But through you to Mr. Hlady, in speaking of education in the north you made reference to the residence schools where the Federal Government in their scheme of things closed them down and put in place . . . —(Interjection)— Right. Right. I was sitting here thinking back and I know a number of people — I'm of the generation of people who went through the schools — and I would support your argument that they grew up in a different culture. But, nevertheless, those who survive that culture, many of them are existing in our society at various levels within the society.

I hear recently that some of the Indian bands are putting pressure to have some type of special school established once more because apparently the systems that we have in place are not — let me put it in a little different way — using as a criteria that getting through Grade 12 is a goal, that we're not reaching that goal, that fewer and fewer people are reaching that goal. Have you any suggestions on what we should do legislatively or what we should do in this regard?!

MR. CHAIRMAN: Mr. Hlady.

MR. HLADY: I was research assistant with the Department of Agriculture for the provincial study on Indian and Metis problems in the 1950s and at that time that study was headed up by Mr. Jean Legace

We found that the average school dropout amongst our native population was between Grades 4 and 6. A tremendous amount of effort and resources in the intervening years has raised that drop-out stage to about Grade 9 and that's a favourable commentary on the resources and the efforts of a lot of dedicated people and governments at all levels, particularly the Provincial and Federal Governments.

For the status Indian people, certainly this has been through Indian Affairs. It seems to me that what is happening, too, has been that where the native person, whether status Indian or Metis 20 years ago had very little that he was able to say with authority that levels of government would listen to, the organization of these groups through their provincial and local and federal organizations has developed a reasonable level of leadership in many areas that government is now listening to.

The native people are also concerned about their children losing their own culture and I know one situation is at Roseau where they are getting a local school now and won't be sending their children to Dominion City or Emerson. I think that it's largely that concern of their children losing much of the culture by being in other schools whether they happen to be schools just off the reserve in a local community, or whether it's in a residential situation somewhere else, that has concerned the parents enough that they are putting pressure on the Department of Indian Affairs on the one hand and I'm sure that the Department of Education, provincially, is getting some of those pressures, too, from Metis communities, and I think that it's something that has to be looked at and has to be resolved.

The Indian Affairs Branch seems to be acceding to these requests where it is financially and logistically possible. I see nothing wrong with that and certainly it should be given a chance to work if the possibilities are there.

MR. BOYCE: Well, of course your name pops up every now and again with reference to educational problems and these kind of problems, so I'm asking these questions because of your experience in the area.

The idea of separate or different schools, you know, this is a question in itself. To go back just a bit, Mr. Chairman, when you say "the fifties", that was about the tail end of the deliberate effort of the main part of society to beat their culture out of them, where actually the children were strapped for speaking Cree in the schoolyards.

But is it not the case that for a culture to survive, it has to be respected by other people in the community? And we're talking about education, they're still showing movies on T.V. where 100 Indians are shot by a white man behind a rock, with a six-shooter. So when we're talking about education, not all education takes place in a public school system. But it seems, I don't know, having not been in government for the last couple of years, I don't know where this question sits, but there was quite a bit of money, from the province's standpoint, due the province from the federal government in the delivery of educational and social services to status Indians. Has this been resolved in the sense that these difficulties had been worked out with the federal government, for the federal

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government pay their fair share according to the BNA Act?

MR. HLADY: I think that what is happening is that you are getting a fair amount of self-determination amongst the native groups, and the federal government is reacting to this self-determination. Certainly there have been agreements with the province, and I am certain those agreements, where they have added classrooms and this sort of thing, are all being honoured fully. But I think that, at the same time, what you mentioned earlier, in terms of the fifties, when we were trying to rid the Indian of his culture, I think, that that coincided with the fact that the Indian Affairs Branch, for instance, was handling all the affairs of the status Indian from conception to resurrection and they found it didn't work. I think that it was about that period that the federal government, for instance, tried to say to the Indian, "we want you to be responsible for your affairs in the same way that every other Canadian is."

And, prior to this, actually the only place for development for the status Indian was in how he got welfare and he got very proficient at that. But I think that things have changed tremendously in the last 20 years and it is obvious, in many ways, that Indians are responsible for their own affairs to a much more highly developed degree than they were 20 years ago. I don't think that this has, by any means, reached the same level as the general Canadian population but it's getting there, and I think they're certainly going to make some errors on the way, but overall they're developing leadership and they're developing positions that reflect their thinking and their culture. And I think that governments, on the whole, are trying to look at this and to reconcile this in the same way, for instance, that you have schools for Hutterites on Hutterite Colonies which are, in many respects, cognizant of Hutterite religion and culture, and there are probably many other examples.

So, certainly, the language groups that are now getting half-day instruction in school, in their own language, is another example of this, and I think it reflects what officially, nationally, has been said, that we may have two official language groups but we are a multi-cultural country. And, certainly we're not, as a nation, attempting to eradicate cultures any more, we're trying to find ways in which they can flourish and develop and provide a Canadian flavour and enrich all of us, and I think that the native is certainly a good part of this.

MR. BOYCE: Thank you, Mr. Chairman. I would suggest that in your analogy of conception to the resurrection, as far as the involvement of the Indian Affairs Department in the affairs of Indian, it was from the erection to the resurrection. I'm glad to hear that you have said that there is some progress being made because some of us are concerned that our foreign minister in the federal government is talking about civil rights to Venezuela and Russia, and they're strangely silent on Chile and places like that, but nevertheless some of us think that we have enough problems with civil rights in the Province of Manitoba without looking for scraps for the people in the world.

Do you see, in this shift to the type of school that you said was being established in one area, would you give us an expression of your opinion on where you see this going, is this a general trend or is it just an isolated . . . ?

MR. HLADY: I think that this is mainly being done, at the present time, at the elementary school level, and it may well be beyond the resources of government to, for instance, provide a high school for a very small number of students. But, certainly, most of the reserves, which have had an expanding population, should certainly be able to investigate this at the elementary school level.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Brown.

MR. BROWN: A while back we were discussing teachers who do not have tenure should have the right to appeal. I am a little concerned about the fact that you are singling out the teachers in this particular area. Would you then not want to extend the same privilege to the maintenance engineer, for instance, to the secretaries and all the other employees of the school district?

MR. CHAIRMAN: Mr. Erickson.

MR. ERICKSON: I don't have any objection to extending it to that point; we really haven't discussed it. I don't know whether, in most cases, those employees are unionized, and if they are they probably

would have protection through their collective agreements and so on.

We, I suppose, dealt with the teacher specifically for a couple of reasons the rights of the teacher are specifically set : one, that out in the Act; and, secondly, because the teacher is probably in a more sensitive role in this respect and is more likely to suffer that kind of capricious dismissal than people in, at least, many other areas of employment with the school division. People, I think, feel more strongly on matters which are affecting directly the views and what's going on in the classroom.

MR. ARNOLD: Well, I think, that all other employees, as far as I understand, are covered by collective bargaining agreements, and therefore, do have the right to due process.

MR. BROWN: I would say that that is not the case, I would say in most of the rural districts anyhow, that the ordinary person, or the person working as a secretary or maintenance engineer they do not have that type of bargaining within the school district. But, the reason why you have tenure is to give teachers that particular privilege, that's the two-year trial period and after that they do have tenure. But, if you were to eliminate that two-year tenure then, of course, then really if you were going to treat everybody equal and fair you should then extend that same courtesy to all your employees, I would think.

MR. ERICKSON: I would not disagree with a view that all employees should be protected against capricious dismissal, and that's really what we're talking about when we talk about teachers of less than two years. I don't know anyone that could reasonably disagree with out view on that point.

MR. BROWN: I'd like to get back to that topic that we left off before and I had a question on religious exercises and so on. At the bottom of Page 9 you say that "religious exercises, no matter how limited they may be, contravene the non-sectarian view and should be eliminated. And on the next page, of course, you say pretty well the same thing about patriotic exercises. Now, these are some of the very basics upon which this country has been built on is God and country, and I believe, that if we were to follow your suggestions, over there, that there would be a big hue and cry for us to tighten up the immigration policies that we have in Canada at the present time, which really is quite an open policy. I wonder if you have any comment on that?"

MR. ERICKSON: Well, first of all, we did not say that patriotic exercises should be eliminated. We said that we would like to see the patriotic exercises receive some serious consideration, that's all we've said. We have not stated a position on that, so you are not correct when you lump the two of them together in the same breath.

With respect to — I think I've said about all there is to say with respect to religious exercises. I don't see that the religious exercises in the school is in any way affected by what our immigration policy is. I'm sorry but I just don't see the correlation between the two.

MR. ARNOLD: Well, it seems to me that what Mr. Boyce said before, in one of his remarks, and what Mr. Brown appears to be implying, is that we respect everybody else's totems, as long as they bow to our totem first. And this is the implication in the nature of religious exercises which traditionally, and for many years, have been in the schools, but have come there because of the preponderance of one religious element in the community which is no longer the case. We are saying that the community has changed; we have many religious groups in the community; it is not possible to satisfy the interests of conscience of all religious groups unless we simply have a moment of silence for religious exercises; or unless we say that we will simply look at this as sort of a creative beginning to the day and have a child read a poem or do something like that instead of having a formal and prescribed religious exercise.

This is the thing that we have in mind, Sir, what has it got to do with immigration. If we have an open immigration policy then we have to be prepared to take, that we are taking people of all kinds of religious backgrounds and we're not supposed to be telling them, if they come here they've got to follow our religious procedure. Of course, this has for many years been accepted, even members of minority groups have not worried too much and participated in these things; but the principle of it is wrong and this is what we're getting at. And we have to be able to devise different ways of inculcating morality and whatever else we are concerned about. And, as far as the question of patriotic exercise is concerned, Mr. Erickson has already made the point, we say it simply should be reviewed. But, I point out that in the Act it is lumped in the section under Religious Exercises. So, if it is lumped in that section, therefore, we feel it should be reviewed because it is lumped in that section.

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MR. BROWN: Thank you, Mr. Chairman. All I wanted to do was just point out that there could be some complication in some other areas and that's why I draw them to your attention.

MR. CHAIRMAN: Mr. Hanuschak.

MR. HANUSCHAK: Yes, Mr. Chairman. I note, in your brief, that you did comment upon some of the powers of the school attendance officer, the education administrative assistant, that you consider may be an encroachment upon civil rights. I'd like to draw your attention to a couple of snoopers clauses contained within the bill, and ask for your views, comments on them, and, of course, snoopers clauses has been a matter of concern for at least the last ten years, from '69 to '77 there was tremendous concern about the snoopers clauses receiving the blessings of a socialist government, and I can assure you that I have an equal concern of snoopers clauses seeking the stamp of approval of a Conservative government.

Section 96, subsection (d) of the Public Schools Bill states that every teacher shall furnish to the Minister, or to an Education Administrative Consultant, any information that it may be in his power to give, who is to determine whether the teacher provided all of the information it's in his power to give, sufficient information, adequate information, I don't know. But, anyway, I presume that it will be the Administrative Consultant who will make that decision, that judgment, respecting anything connected with the operations of the school, or in any way affecting its interests. And then, of course, I'm sure you know Mr. Erickson that there is a clause contained within the bill that a violation of the Act is an offence and that if a teacher does not comply with the Act he runs a risk of having his certificate suspended, eventually removed entirely. So, here is one clause that I am concerned about, giving the education administrative consultant this power to seek any information respecting anything connected with the operations of the school, or in any way affecting its interests. That's Clause No. 1.

The other snoopers clause, you did make reference to giving the school attendance officer the authority to enter premises where children may congregate, etc., or known to congregate. There is also Section 270 of the same bill. Every individual. This does not apply only to teachers, but it applies to you and me and to the one million other citizens of the province of Manitoba. Every individual who is requested by a school attendance officer. I'd like to remind you that the education administrative consultant also wears the hat of a school attendance officer. So he may be one of these individuals who is requested by a school attendance officer to provide or furnish such information as may be required by the school attendance officer, to assist him in carrying out the provisions of this Act, not of the section of the Act, of this part of the Act, but of this Act. I suggest to you that under the guise or the umbrella of school attendance, you know that opens the door to dealing with a whole host of issues, why is the child absent from school? Because he does not agree with the teaching of a teacher, whatever . . .

The regulations and the rules made by the school board shall forthwith provide, or furnish the information so requested. And here again, I'm sure that I don't have to impress upon your organization that if one fails to comply, action can be brought against you that could result in you paying a fine or being sent to jail. So this is a snoopers clause that I am concerned about, giving the education administrative consultant and others, the right to take action of this kind, which could result in you and me being put in jail. I'd like to hear your comments on these two sections.

MR. ARNOLD: Mr. Chairman, obviously there are some other problems in this bill. I understand this bill has been in the drafting stage for how many years? Some said seven years. We've only been looking at it for a few months. Let me say this. In preparing this brief, we assumed that this might not be our last opportunity to make a comment on it, that the bill is going to come back at the next session of the Legislature and that there will be further opportunities, and I think I can say that our organization will be taking a further look at all the situations involved and will probably come up with some more definitive positions on some other points at a later stage. I don't think we can comment any further on this at this point.

MR. BOYCE: Thank you, Mr. Chairman. Mr. Arnold made a comment in his remarks to the effect that, first you respect mine. That is true. That is true. I don't believe in government by plebiscite at all, but nevertheless I would hazard the guess that 85 percent of the population in the province of Manitoba would support such a position. I'm not saying that's a good or bad thing, I guess I just hope that they don't change everything in the world until I get off.

To give you some information, through you, Mr. Chairman, I had asked you to relate some children that stand outside the classroom during religious exercises and you weren't able to recall any. I'll

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give you one. The Jehovah's Witness children of many parents stand outside a door during religious exercises.

MR. ARNOLD: So you've answered your own question.

MR. BOYCE: I would suggest that even in that, there's a learning process takes place, because these people develop the intestinal fortitude to be different, as many people through history have been forced to be different and withstand the buffeting of more than just Christian prayers.

Maybe it's a misunderstanding of the word "non-sectarian". I don't know how you can evolve a system where every teacher, everybody that comes in contact with a child is a unit. My understanding of non-sectarian is, as I can best state by an example: when a Jewish child comes to me and asks, "How do I become a Rabbi?", it's incumbent upon me to find out to help him become a Rabbi, not to convert him to Christianity. And I think that's a charge upon the school system, in the non-sectarian sense. It's got absolutely nothing to do with exercises of this, that, or the other thing, which may reflect the society as we understand it to this point in time.

MR. ARNOLD: Mr. Chairman, first of all, I do not agree that it is right for Jehovah's s Witness' children to have to stand outside the door while religious exercises are going on. I am certainly opposed to that and I'm sure that our organization is opposed to that. As far as the . . . I'm sorry, what was the second point that you made, Mr. Boyce? Oh, the definition of non-sectarian. Well, the point is that we have clearly stated in our brief, that if there are a group of parents who want a particular type of religious instruction for the schools, and I think this is happening, if 25 Jewish parents want Jewish religious instruction for the schools and they can provide a Rabbi, let them do it. But if the majority of the children are Christian, you're not going to compel them to sit in for Jewish instruction. —(Interjection)— Well, that's the whole point of what we're saying.

We're saying that, let's put it in the reverse. If there are 300 children in a school and of which 250 are Christian and 50 are of some other religious group, and if 25 of the Christian parents say they want religious instruction, then the 50 who are not of that persuasion should be able to carry on with some other course of study without having to say, they opt out. All the people who want the Christian religious instruction should have to opt in, or whatever the case may be, whether it may be some particular denomination, and even among the Christian religions there are various denominations, and one denomination may not want to follow the instruction of another denomination, so that we have to be very careful in this matter and not compel children to be placed in the position of being outsiders because they don't want to follow a particular course of instruction. They should be able to carry on with their normal program and religious instruction should simply be another alternative choice for those who want it. That's all we're saying. That encompasses our view of non-sectarian.

MR. CHAIRMAN: Any further questions?

MR. BOYCE: No, thanks, Mr. Chairman. We have heard . . . I don't know whether it reflects a motion that was debated by your 200 members or not, because you have mentioned people's names that are associated with your group, that I would wonder whether this is the view and it should be underlined that this is a body corporate under the Company's Act in the province of Manitoba, it's no a body which is established by the Legislature to deal with such matters. I respect the job that the people are doing, but nevertheless it is an organization which is trying to have their views heard, and I respect that. I have listened to their views, and I hope others respect my viewpoint.

MR. CHAIRMAN: Thank you, Mr. Erickson, Mr. Hlady, Mr. Arnold.

MR. ARNOLD: Thanks for your patience, Mr. Chairman.

MR. CHAIRMAN: I call Mr. Scarth, Fort Garry School Division.

MR. R. I. SCARTH: Mr. Chairman, Honourable Members of the Standing Committee on Privileges and Elections. Thank you for the opportunity to appear before you. I do so at the official request of The Fort Garry ochool Board. Trustees, administrators, teachers and parents of the Fort Garry School Division No. 5 have given considerable thought to Bill 22, the new Public Schools Act. Consequently, we have a number of comments to make and recommendations to offer for your consideration.

I will deal with the clauses that are of particular concern to us in a topical fashion, making

to the particular sections under question.

Employer-employee relations, Sections 48(1)(x), 101(5), and 92(5).

Section 48(1)(x) of Bill 22 states, a school board may, and I quote, „notwithstanding any other provision of this Act, enter into agreements, collective or otherwise, and make rules and pass by-laws concerning employer-employee relationships.”

The Fort Garry School Board feels that Bill 22, through the collective bargaining process, would allow the erosion of management rights currently vested exclusively in boards. In the current Public Schools Act, certain management rights have been vested exclusively in school boards. Two examples of rights which we feel are threatened:

(a) In the current Public Schools Act, Section 155(1)(c) stated, “The Board of Trustees shall determine the number, kind, grade and description of schools to be established and maintained.”

The inclusion of the proposed section, 48(1)(x) would allow boards to lose their decision and policy-making powers over the organization of their own schools. Rather than the elected school boards directing the future of schools, such direction could well become subject to negotiations with one or more employee groups. Though most school boards would probably not voluntarily negotiate away such important and wide-ranging responsibilities, none can predict the result of arbitration boards which hand down binding awards on collective agreements. The risk here is that three laymen could inadvertently be establishing a long-term direction for a particular school division without necessarily the best interests of the students being considered nor the soundest educational policy adhered to. An adverse precedent might be established provincially.

(b) Section 365(5) of the current Public Schools Act states, and I quote, “Except as hereinafter provided in this part, nothing in this part affects the right of an employer to suspend or discharge a teacher for proper and sufficient cause, or to transfer a teacher at the discretion of the employer.”

This same section is included in Bill 22 in Section 101(5). However, rather than being vested exclusively in the board, these rights have become subject to negotiation by means of the proposed section 48(1)(x). Where teacher layoff or teacher transfers are necessary, the inclusion of section 48(1)(x) would provide the potential for restricting the authority of boards in making decisions in connection with staff complement and staff mobility.

There is currently a matter before the courts where a board of arbitration has ruled on a matter of teacher layoff. It is the contention of the school board that the board of arbitration was ultra vires in ruling on this matter as it is specifically delegated to school boards under the existing Act. The inclusion of section 48(1)(x) would have allowed the board of arbitration to impose restrictions on the school board. Certainly, other examples of the impact of Section 48(1)(x) could be cited, however, we feel that it is sufficiently clear that inclusion of this section could lead to a breakdown of decision-making authority by elected school boards. It is the position of the Fort Garry division that this would not be in the best interests of education in general, and we urge your reconsideration on including this article.

The second area of concern lies with the proposed wording of Section 92(5) of Bill 22. A portion of that proposed section reads as follows, “where the school board terminates the agreement of a teacher who has been employed by the school board for more than two school years. . .” We feel that the use of the word “employed” rather than “on a form 6 contract” creates certain ambiguities which could lead to some difficulties.

For example, substitute teachers who may be teaching on a casual basis or have been engaged in prolonged substitution, are certainly “employed” by the board but are not on a form 6 contract. The wording of Section 92(5) in this instance could lead one to the interpretation that employment might begin with a teacher as a substitute rather than as a permanent, regular teacher. We believe that the two year period should begin with the date on the form 6 and not some other date intended to coincide with a nebulous definition of employment. We would urge you to consider making this change.

A second comment which should be made in connection with this section deals with the two year period itself. It is important that the administration of school boards have adequate time in which to fully evaluate the adequacy of any of its teachers. Two years of teaching time may well be satisfactory. What happens occasionally is that a teacher who has not completed the two year period takes maternity leave or is placed on extended sick leave. It is possible that this teacher may be away from teaching for many months during the first two years during which that teacher is supposed to be evaluated. It might mean that the teacher may be granted tenure after two years of employment, without having been fully evaluated. Likewise, a teacher might be released for the same reason rather than being granted tenure simply because a decision must be made. Yet an inadequate amount of teaching time has been spent upon which to fairly judge that teacher.

We would recommend that where extended sick leave, maternity leave or other leave of absence

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occurs during the first two years of a teacher's employment under a form 6 contract with a school board, that the two year period stipulated in section 92(5) be extended so that a teacher has completed 20 months of teaching service before tenure is granted.

CHILDREN WITH SPECIAL NEEDS, Section 41(4)(5).

The mention of grade levels for many children with special needs is totally inappropriate.

The importance of early childhood education for the exceptional child is now unquestionable and therefore the five year old needs to be included in any item such as 41(4).

The phrasing in item 41(5) "as far as is possible and practicable in the circumstances" is totally untenable if we have any concern at all for the rights of children with special needs. This creates such a loophole that there really is no point in making the statement.

We recommend that item 41(4) be dropped in favor of a new wording for item 41(5):

"Every school board shall provide or make provision for appropriate programming for all resident persons who have the right to attend school including those who require special programs for their education".

Such a statement gives all children in the province equal right, equal status and equal opportunity in education.

Regulations and statements of intent could clarify such matters as are required for those with special needs:

- (a) least restrictive environment
- (b) language of instruction
- (c) appropriate as opposed to exotic programming etc.

TRANSPORTATION, Section 43(1)(2).

It is hoped that the regulations that accompany item 43(1) will this time not exclude urban divisions so that more equitable assistance is available when transporting urban children to special programs. It is becoming increasingly expensive for school divisions such as Fort Garry who are purchasing service for children with special needs from neighboring divisions and where specialized forms of transportation are required.

CENSUS, Section 241(1)(2).

We would urge the Department of Education to plan towards a census of special needs as opposed to the usual head count of children who have been granted a particular label. It is well known that one retarded child may have one particularly special need while the next may have three or four, all of which contribute to cumulation of staff, equipment and material needs. It is also essential that the gifted and talented be included in such a census. We would appreciate an addition to these items making it mandatory for such a census to be taken. Accompanying regulations could outline the format and procedures.

LEGAL SCHOOL AGE, Sections 258(2) and 259.

The logical extension for our division with respect to item 259 would be to admit children into Kindergarten who would be four years of age until April 1 or even May 1, since our cutoff date is December 31 with special consideration given to mature children with January birthdates. Such a law would markedly alter our present Kindergarten and Primary programs with many very young children enrolled. Indeed, we are much more often concerned now that children are beginning a formal education too soon rather than too late. Perhaps an arbitrary date of "5 years by September 1" with the 12 week possible extension would accommodate what most divisions do now.

SCHOOL ATTENDANCE, Sections 263 to 274.

This portion of the Act does not take into account any of the studies that have been conducted on truancy as a symptom of a social problem that is much bigger than the individual child and indeed bigger than his family.

Who has the time to prepare the comprehensive documentation required to present a case in court?

What assurances are there that Juvenile Court judges are going to consider truancy as a delinquency and therefore appropriate to a court hearing?

Of what significance is a \$500 fine to a family on welfare or marginal income where most of the truancy originates for a great variety of reasons, most of which are outside the school?

What assurances do we have that there are ample and appropriate alternatives to the truanting child within the school system add that he is simply not walking away, or staying away, from experiences that are personally destructive to him?

The approach to the management of problems in school attendance outlined in Bill 22 is outdated, legalistic, and has been known through many studies, unworkable. Persistent truancy is well known as a symptom of a conglomerate of social problems unaffected by legalistic and/or jurisdictional methods. Hence, well-versed judges in the juvenile system do not recognize truancy as a delinquency. Native children and the poor do not respond to monetary threats as middle class children and their parents do and yet they make up an inordinate percentage of those for whom regular attendance

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is a problem. Could we have a rewording of these sections to more nearly provide for a helping, encouraging and alleviating approach?

We wish to congratulate the government on the brevity and general clarity of this new and long awaited Bill. We consider that marked improvements have been made. With due consideration given to our comments and recommendations, we feel that it could become an even better working document.

Respectfully submitted.

MR. CHAIRMAN: Thank you, Mr. Scarth. Questions to Mr. Scarth? Mr. Walding.

MR. WALDING: Thank you, Mr. Scarth. You say at the beginning of your brief and I quote, "Trustees, administrators, teachers and parents of the Fort Garry School Division have given considerable thought to Bill 22, consequently, we have a number of comments". Does this imply that you are speaking for the trustees, administrators, teachers and parents in the matters that follow?

MR. SCARTH: Mr. Chairman, in many respects that's true although I couldn't lay claim to the fact that teachers haven't moved towards their own organization. I'm not sure whether you've already heard a brief from a group of parents or not, but it's on its way from the Fort Garry community which is in addition to this.

MR. WALDING: No, we haven't, for your information, heard yet from a group of parents.

MR. SCARTH: It's No. 11, I believe.

MR. WALDING: Could I ask you to expand on the matters that you deal with on the bottom of page 3 and onto page 4, where you speak of the two year period and talking about evaluation, would you clarify for me the two years as it's required for certification, and the two years as it's required for tenure?

MR. SCARTH: Mr. Chairman, we have a regulation in Fort Garry that's written into the contract indicating that there is a two year tenure . . . the two year period before tenure is awarded, and that does not necessarily have anything to do with the teacher's position in terms of certification. The teacher would be certified but maybe on an Interim Certificate, but that would be entirely separate from, you know, the regulation of that the school division has with regard to tenure. Of major concern in this connection is to make certain that we are making judgments on the basis of 20 months of service as opposed to a chronological two year span.

MR. WALDING: In the matter of the evaluation of that teacher, is it a different evaluation for certification purposes than for tenure purposes? Is it the same evaluation and is it done by the same people?

MR. SCARTH: Mr. Chairman, it's a different evaluation. There is a formal system of performance review operable in the Fort Garry schools where the principal is the key person with regard to this teacher's competency in the classroom and a recommendation to the superintendents with regard to tenure. With regard to certification, it would be a much less refined system and a quick recommendation from principal to superintendent and on through to the Department of Education that this teacher's certificate be made permanent.

MR. WALDING: Let me see if I've got this clear. As far as the was teaching and for the certification it's the superintendent's recommendation?

MR. SCARTH: Right.

MR. WALDING: What basis does the superintendent use to evaluate the teacher?

MR. SCARTH: Mr. Chairman, this would be on the basis of the recommendation of the principal, who is the first line supervisor of the teacher.

MR. WALDING: I can understand that being the case since it's the principal who is the, you know, the closest link to the teacher involved. I don't understand then the separation of two different

evaluations if one is directly the result of the other. Can they and have they been different in Fort Garry school divisions?

MR. SCARTH: Mr. Chairman, I'm not sure that I can answer that with any assurance that I would be right. But my educated guess would be that it would be an extremely rare occurrence where the recommendation with regard to certification would be different from the recommendation with regard to tenure.

MR. WALDING: What problems would you see, Mr. Scarth, if a form of due process was given to teachers who had not yet completed that two years?

MR. SCARTH: None.

MR. WALDING: So could I take from that that you support the Manitoba Teachers' Society position that due process should begin at Day One rather than after two years of teaching?

MR. SCARTH: Mr. Chairman, since I'm not a member, I guess I wasn't even aware of that particular position but I personally would not have difficulty with it. In this connection I should certainly say I'm not necessarily expressing the views of the board,

MR. WALDING: Let me see if I understand that completely. The view you have just given me is not necessarily the opinion of the board or the brief is not necessarily the opinion of the board.

MR. SCARTH: Mr. Chairman, the brief is the opinion of the board. The last comment I made would be mine.

MR. CHAIRMAN: Mr. Walding. Any further questions for Mr. Scarth? Mr. Hanuschak.

MR. HANUSCHAK: Yes, Mr. Chairman, I would like to hear if Fort Garry's views on Section 41(e) of Bill 23, which in this almost identical section to two previous ones in The Education Department Act now very precisely and clearly will give the Minister the power to make regulations governing fees and charges as you relate to the public school system. In other words, the introduction or the opening of the door to a user fee or a deterrent fee, does the Fort Garry School Division endorse this particular section of the Bill?

MR. SCARTH: Mr. Chairman, to my knowledge, the Fort Garry School Board has not dealt with Bill 23 in my presence at all. I can't answer on their behalf. I would be willing to submit a comment from my own personal and professional stand if you wish.

MR. HANUSCHAK: I think the committee would appreciate hearing it if you have a personal comment to make.

MR. SCARTH: Thank you, Mr. Chairman. I guess for a long time I have had concern over the wording of these powers in both the old Act and the new one. I have lived through quite a number of Ministers of Education in my day and I really have had no reason to get upset or worried about what was said in the Act, but I've had occasion to read it on several occasions, the old one and certainly Bill 23. I'd like to suggest that there are two models being recommended in Bill 22 that are of interest to me. There is the model of a process that relates to the Certification Review Committee and there's the model of the process that has been established through the Advisory Board and I am really wondering why the Minister would not appreciate the support and the monitoring that might be provided by either of those two systems of process?

MR. CHAIRMAN: Mr. Hanuschak. Any further questions? Mr. Walding.

MR. WALDING: Mr. Chairman, I have one other question that I wanted to ask you, and I was surprised not to see any reference in the brief from Fort Garry School Division about the Greater Winnipeg Equalization Levy. Is there a reason for this? I would have thought that they would have been strongly in support of Winnipeg School position on this matter.

MR. SCARTH: Mr. Chairman, I think I could answer, on behalf of the Board, to indicate that they would be strongly in the same camp as the Winnipeg School Division in this connection. However, I did hear, at the last Board meeting, a comment that would suggest that this was not the place to present that concern, that there are better places to present it, and it is being prepared for presentation.

MR. WALDING: Can I ask you, Mr. Scarth, if their support for No. 1's position is strictly a matter of dollars that Fort Garry pays out, or is it a matter of the principle of equalization across the city? In other words, if other boards did not have to pay out extra dollars each year because of the equalization levy, what would the school board's position, then, be?

MR. SCARTH: Mr. Chairman, the only way I can respond to this really is to share with you the experience I've had in sitting through board meeting after board meeting. I would suggest, perhaps, that on the surface of things the first concern is that 30 cents out of every dollar collected in Fort Garry goes some place else.

MR. WALDING: Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Scarth. Oh, Mr. Boyce, sorry.

MR. BOYCE: I'm sorry, I had to step out for a moment, but I read the brief. In your first paragraph of your presentation, Mr. Scarth, you say, "I do so at the official request of the Fort Garry School Board. Trustees, Administrators, teachers and parents of the Fort Garry School Division No. 5 have given considerable thought to Bill 22, the new Public Schools Act. Consequently we have a number of comments to make and recommendations to offer for your consideration." The way it is written, correct me, you're just speaking on behalf of the trustees, you're not speaking on behalf of the teachers?

MR. CHAIRMAN: Mr. Boyce that question was already raised.

MR. BOYCE: Was it? I'm sorry.

MR. CHAIRMAN: It's in the record.

MR. BOYCE: Good, thank you, because I just wondered about the position vis-a-vis the teachers, excuse me for being repetitious.

MR. CHAIRMAN: Thank you, Mr. Scarth, for your presentation.

MR. SCARTH: Thank you very much, gentlemen.

MR. CHAIRMAN: Oh, I'm sorry, Mr. Cosens.

MR. COSENS: Thank you, Mr. Chairman. Mr. Scarth, just one question. I notice, in your brief, your presentation regarding truancy your position certainly is not very supportive of the types of remedies that are contained in the draft Act at this point, and you mention that you would appreciate a rewording of these sections to more nearly provide for a helping, encouraging and alleviating approach. I hope it is not an unfair question, but could you comment at this time on that particular sentence, and perhaps suggest some encouraging and alleviating approaches that could be used in the Act to solve the problem of truancy.

MR. SCARTH: Mr. Chairman, several suggestions, perhaps. One is that Juvenile Justice that have been rather comprehensive in terms of the complexity of truancy and I might suggest that this committee look at some of those submissions for background information.

Over many years of experience I have certainly become aware of the complexity of the problem regarding truancy. I am concerned that the wording in the Act looks at it in a simple way. This is no simple problem, it is the symptom of underlying difficulties. I would like to suggest that the wording somehow or other incorporate the concept that alternatives to institutionalizing schooling perhaps needs to be looked at. The key phrase for me in all of this really is appropriate programming and it is inappropriate to have all youngsters in school faced with, you know, the institutionalized

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form of learning. I am very impressed with what can be done in the field of work experience, for example, with some youngsters who are truanting. I am very impressed with what can be done in the realm of support and counselling for parents and youngsters who are into the business of truancy. I am very aware of what can come out of some group activity relating to a group of truants. They can become their own peer counsellors in many ways and resolve problems that we can't resolve. My concern is the kind of built-in assumption in the wording that suggests that, you know, a legalistic and monetary approach solves a very complex problem.

MR. COSENS: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: Yes. Mr. Scarth could you give us an indication how serious a problem it is in your school division?

MR. SCARTH: Mr. Chairman, if I may respond, I would say that last year we were probably concerned with about five youngsters out of 6,500, so it is a very minor problem for us, and it is increasing in its difficulty so we will probably have seven this year.

MR. BOYCE: Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you very much, Mr. Scarth.

MR. SCARTH: Thank you, gentlemen.

MR. CHAIRMAN: I call Mr. Davies, River East Teachers' Association.

MR. DERWYN DAVIES: Thank you, Mr. Chairman, members of the Committee. I should like to preface the presentation of this brief with a few remarks. Firstly, on behalf of the River East Teachers' Association I am pleased to appear before this committee and I thank you for the opportunity.

Secondly, we, as teachers, felt it important to try to express to you some of the underlying issues which we consider to be critical to our work with students and perhaps I may be allowed to use myself as a not untypical example. I have spent many years in formal and informal study of this fascinating process of teaching and learning in which I've been engaged for some 28 years, and teaching is both exhilarating and exhausting. But my commitment to my teaching depends on the extent to which I feel I can contribute my experience and expertise to my students. It is important to me in my work that I can interact and co-operate with others, trustees, administrators, parents, students themselves, in situations in which such interaction and co-operation are accepted and valued. To reduce my role to that of an obedient production-line worker will, I'm sure, not only limit and inhibit my ability to educate students, even worse, it will limit and inhibit the learning and capacity of my students. I believe it should be possible for me to make a worthwhile contribution to my school, school division, and even to the provincial education system during the course of my professional career.

With your permission, Mr. Chairman, I should now like to read the brief that's being presented.

The Executive of the River East Teachers' Association has studied Bills 22 and 23 with great interest, and is pleased to have the opportunity to present its views to this Committee. It does so in the belief that the legislation which is to regulate the system of education of this province must incorporate and encourage the fundamental principles of democracy; in particular, the right of people to participate in decisions affecting them. It is in this spirit that we make this presentation.

Once upon a time, the aims of education in this province could be stated essentially as the development of literacy and the promotion of democratic citizenship. The main requirements for realizing these aims had to do with facilities and resources, and the defining of the financial and organizational structures. Thus the existing Public Schools Act and Department of Education Act are preoccupied with the minutiae of the creation of school districts, the establishment of boards of trustees, the provision of necessary grants and taxes. Those pertinent details provided the framework for the growth of the school system to its present highly organized and well administered state.

The time is right for new legislation. Not merely because the existing Acts are out of date, but because conditions they were written to operate in have changed. Just as our predecessors expressed their beliefs and values in the present Acts, to our benefit, we need now to enact

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legislation which will enable the education system to meet the conditions of the future.

That our society has changed greatly in the last fifty years is very evident. The kind of society we will have, and the kind of education it will need, over the next fifty years is very difficult to predict. We are prepared to assert that it is not new values and beliefs about society and about education that we need to find, but rather to attempt to reinterpret the traditional values and beliefs in the light of our changing conditions and emerging social patterns. We suggest that the education system must still be directed toward bringing our young people not just to an acceptance of the democratic ideal, but to an active participation in the expression of individual responsibilities. This is the fundamental issue which underlies concerns for literacy, for the acquisition of skills and knowledge, for the renewal and revitalization of our culture. It is an issue which the Public Schools Act must attempt to deal with, so that the framework of legislation will generate an education which contributes more to society than it receives.

In looking at the proposed legislation from the standpoint of teachers in a metropolitan school division, we are struck by its lack of relevance to our situation. There is no sense of a dynamic relationship between schools and society, between students and community. It is very noticeable how little attention is given in Bills 22 and 23 to the two groups most closely affected — parents and students. While many sections are devoted to the school board, little is said about the community. And the role of teachers implicit in the Bills does them less than justice.

We consider it of prime importance that there be some attempt at a definition of the rights and responsibilities of the various groups, incorporated in the new Public Schools Act and Education Administration Act. Just as the existing Acts set out the guidelines for the growing communities of the province, so the new Acts must attempt to delineate the roles of groups within our communities: parents, students, the community itself, and the professional educators.

While it is unfortunate that the Home and School Association is not as strong and as active as it once was, it should be recognized that new forms of parental organization are coming into being, gaining strength and coming to grips with the complex problems facing schools. These groups are known under different titles: Parent Advisory Groups, Community School Groups and so on. This kind of involvement of parents in the operation of the school is one of the very hopeful signs that ways are being found of responding to the changes taking place in society. The Public Schools Act should encourage and provide for these developments so that the school remains in close communication with its parents.

The widespread concern with issues of human rights is indicative of the failure of our highly organized and technological society adequate, adequately to respond to human needs and aspirations. What more apposite or logical a place to incorporate these fundamentals of democracy than in legislation which is to govern our schools.

There are important matters to do with parental rights and responsibilities which the Public Schools Act and the Education Administration Act should embody. There are areas in which the parents' participation in the workings of the education system should be provided for, at the provincial, Departmental level as well as at the divisional and school levels.

Equally important, the Bills should attempt to set out the rights and responsibilities of students in our schools, in a more directed effort to relate the aim of responsible citizenship to the learning experience the school provides. Here the Bills are, we suggest, woefully inadequate. References to students are virtually restricted to the administrative detail, such as attendance, as though students were a rather trivial part of the education system. It is worth noting that the federal government gave recognition to students in supporting their work in drafting a student bill of rights; and the history of the Manitoba Association of Student Councils is evidence of the ability and determination of students themselves to work on their own behalf. We believe that such matters as student government, freedom of expression, access to information and files are some of the items which would be appropriately included in these bills.

The period of time over which the new Acts will operate will witness substantial changes in our society. Parents of children attending schools will gradually become a minority, while the need for society to maintain its commitment to education will not diminish; this will have implications for the relationship of the school to the community. The Department of Education itself has pointed the way in involving the community in its Internal-External Evaluation Projects. The precise form in which legislation should provide for the interaction between community and school is not yet clear. But the Bills should allow scope for increasing community involvement by affirming the importance of the community's role in education.

We find ourselves surprised and disappointed with the treatment of teachers in the proposed legislation. It is as though the marked improvements over the last twenty years in the teachers' level of education and qualifications had not taken place, and as though teaching and the nature of the curriculum had not changed drastically over that period of time. The Teachers' Society

as dealt with these points in detail. We would add that the denial of a teacher role, established by law, in the development of curriculum, in teacher education, in educational finance, is to be regretted. Our professional commitment to the education of students and to the quality of programs is very directly related to the feeling of involvement we have and to the respect accorded our professional judgment. Instead of omitting any reference to our role or of defining our role as minimal, the Bills should very openly provide for teacher involvement in decision-making in areas of professional competence. The extent of ministerial authority over such a wide range of matters — curriculum, levels of student achievement, student records, information concerning students, obligations in teacher education; all without regard for teacher input and responsibility, imply a passive role for the classroom teacher. It is fair to ask whether this is what the Department of Education, trustees, parents and students want from the teachers in the schools.

In our view the real significance of the public nature of the school system does not lie in the provision of service to all, nor in the funding from public moneys. For schools to be "public" in the fullest sense, they should form an integral part of the society they are to serve. In the current Acts, the powers of the Minister and of the elected school boards were adequate for the exercise of public control and involvement in their times. The growing complexity and heterogeneity of contemporary society places increasingly heavy demands on the educational structure which has grown as a result of that legislation. If the proposed legislation defined the various interest groups, then it could take a further step and create mechanisms whereby groups and individuals would be enabled and encouraged to be involved in the operation of the school system.

The mechanisms which are set out in Bills 22 and 23 are fraught with limitations. The various boards and committees — Advisory Board, Finance Board, Language of Instruction Advisory Committees — seem to be designed primarily to serve the Minister and the Department of Education. They are too dependent on ministerial discretion to represent parent, student, teacher or community concerns and interests in the ways we suggest will be needed. With so little autonomy or scope for initiative, the boards and committees will find that the advice offered and the concerns expressed have little status or impact. We recognize that under the proposed bills the Advisory Board is enlarged. But the task of monitoring curriculum alone has proved almost overwhelming for the larger curriculum review structure which is in place, and will without doubt prove too much for the new-style Advisor Board to tackle seriously.

Legislation that is to serve as the organizational framework for public education for possibly the next half-century should be imbued with a sense of the future. It should attempt to map the direction which the government, and thus society, considers appropriate. It should provide the forum for open debate which can lead to the affirmation of publicly-determined educational goals. We would ask that the consideration be given to the issues we have raised in this presentation with the view to making Bills 22 and 23 the Education Acts for the future.

MR. CHAIRMAN: Thank you, Mr. Davies.

MR. DAVIES: Thank you.

MR. CHAIRMAN: Questions? Mr. Boyce.

MR. BOYCE: Mr. Davies, if you, in the next few months, hear phrases which sound somewhat familiar, I want to advise you now I'm going to plaguerize your brief.

MR. DAVIES: Feel free.

MR. BOYCE: In fact I could probably go to the extent that I change a few words in another style and put them in a preface as a thesis.

You know, of course, that one of my concerns I have expressed with several representatives who have appeared in the last three days that when you're talking about the specific interests of groups then we forget what education is all about.

This bill that was presented in the last Session of the Legislature was the result of some seven years, I think, of drafting. From your experience, how many people of whom you speak — the people in the community, the society — were aware of the drafting or redrafting of the legislation?

MR. DAVIES: I must confess I was on the provincial executive of the Manitoba Teachers' Society for three years when we had some interaction on this and I'm aware that the feeling of the Society is that our recommendations were not really listened to a great deal. We did discuss it within the Society. I don't think there was a great deal of discussion among parent groups or community groups.

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We certainly as a society did not take matters in that direction. But nevertheless I think there were a number of indications within the Department of Education and in some of its activities and within school divisions which do show an increasing interest on the part of parents and community to be involved in the school.

I'm aware that sometimes we in the schools, seem not to be encouraging it but I think there is a general disposition towards seeking the involvement of parents and community in schools these days, because we realize that maybe we were being too isolated in our work and we need to re-establish those contacts with people outside.

So while I do not think that we have made much of an effort to obtain the input into the bill, I think within the profession and I think within the department there's been enough indication that this is the trend which seems to be developing and maybe we should be encouraging and using more than we have in the past.

MR. BOYCE: Well, I didn't ask my question to criticize the ministers who were involved in the review of this bill, whether they did or did not listen to the advice of an organization, I wanted your impression of how many people in the community, outside of our Department of Education, the government, the MLAs, the teachers, how many people in the community? Do you think there's any awareness at all . . .

MR. DAVIES: Very little. I'm afraid, very little.

MR. BOYCE: Very little. I asked this question because what you go to is right to the heart of the matter, because if you don't know where you're going the legislation itself won't make much difference. And if I thought that it was in the public interest just to sit quietly at these hearings and say nothing and let the government go on its merry way, I think that they will be better at defeating themselves than we were. Because it was in your particular division where, through the involvement of the community, the teachers, the schools, that we tried the experiment of building the pieces together, and a few days after the government was elected, a knee-jerk reaction pulled that out so, that in the selling of over a million dollars worth of research and co-operative education to Saskatchewan for \$28,000, I would just let the government go on its merry way, but it's too important a matter, in my judgment. Do you think that it would be a better approach than even if we have to go another year without Bill 22 and 23, that the community would be better served if we had a Royal Commission on this matter? Because what we're getting here after three days is the interests of very very small segments of the community. This is the first brief that has gone to the whys and wherefores of education and where the system . . . perhaps we're trying to build a feeding pen for dinosaurs and we have no more dinosaurs.

MR. DAVIES: Yes. I can really not judge to what extent the community has really responded and you seem to imply that it's mainly the special interest groups, which is kind of predictable. I'm not sure that trying to develop a Royal Commission would help a great deal. I think a willingness to try and build something into the bill that would encourage the communities and the schools to involve their communities I think then the tendency would be for that to grow. I don't think we can predict the exact form it's going to take any more than the people who drafted the original bills could. But I think we can provide some scope and things that have already started in our division at least — and I'm sure we're not special in this respect — the kind of things that we have in a number of schools where parents are very closely involved in the workings of the school, I think will be encouraged to develop and through that we may be able to involve the community in this sense of direction which I think the general feeling is, that we have intended to lose.

I'm not sure that we should attempt to define it exactly in the bill, that may be too rigid. But some kind of expression of scope or community involvement at the provincial level and at school board level, I think would be an encouragement to the beginnings that have taken place and hopefully the thing would grow and we could monitor the developments and the department could and the Legislature could. If amendments need to be made, then maybe we'll have a clearer idea of what amendments should be made. I'm in favour of letting things evolve through a process rather than trying to have a Commission to decide what the final answer is. So it's in that spirit that we raise these issues which we think are kind of central to the operation of the educational system.

MR. BOYCE: Well, from your experience within the system in how we as people respond, we're almost crisis-oriented, that we don't respond unless there's a crisis; and regardless of what government you have in power, the politicians have to be aware that they have to respond to the need, but the need has to be expressed, and not just by a small community.

In your brief you mentioned the ministerial control of curriculum and the rest of it was manifest

with the building of pieces together in the co-op development program, where the community had actually been involved in the development of these two programs to address themselves to something which, in their judgment good or bad as it was, whether it had a picture of Marx and it shouldn't have been in there or not, I'm not going to get into that, but nevertheless there was an example of the department people and the community people being involved to develop something which was felt that should be done, but yet the authority of the Minister to actually put the kibosh on that, and I would agree that we should evolve. And I wasn't looking for . . . in my question I didn't ask for the Royal Commission to solve this problem, could come up with a draft bill. You can see how many have been around pretty well all afternoon and there is not that much attention of the people. The representatives who come here represent the organization, or their point of view, and they're doing a very good job of it in responding to questions.

I'm asking the question of whether you think that a Royal Commission could be utile in the sense that it would provoke enough people to address themselves to this.

MR. DAVIES: I think there's a tendency for people to look at their own local schoolroom and not to relate the issues of the problems or even the satisfactions of their own school to the wider kind of administrative framework within which the school operates, so that even the school board trustees find that a small percentage turn out to vote. I don't think that's indicative of the seriousness with which people consider education. No, I don't feel that a Royal Commission would stimulate that kind of debate. I think the debate needs to take place within the school, and within the school division, and through representatives at the provincial level, perhaps, providing there is some framework within the bill which will allow that to happen, and indeed encourage it to happen. So I feel, if we could make some provision in the bill for that kind of thing, let's go ahead and do it and stimulate what is already starting to take place. I really don't think a Royal Commission would do more than let us draft longer briefs for you to sit through.

MR. BOYCE: Mr. Chairman, is it not the case that we've had eight years now and this dialogue and discussion has not taken place.

MR. DAVIES: I think most of the dialogue did take place between representatives of the various organizations and in committee work, and the extent to which that was made public for general debate was very limited, so even though there was a lot of work done, I think it was done quietly, unobtrusively, and therefore the issues did not come forward.

MR. BOYCE: The issues didn't come forward because we were dealing with a society which has delegated the authority and abdicated the responsibility. Is there some other instrument that you can envisage which would — if I may, Mr. Chairman, be quite facetious, if I went out and said that this is a sneaky Communist plot to take over the schools, this bill, either one of them, both of them, you know, that might provoke enough public discussion. I'm sure the Minister is looking for the best possible instrument . . . it's not to get the government off the hook, because as I said earlier, I would just let them go on their merry way with it, and eventually it will get through to enough parents they're not being well served by the educational system.

Through you, Mr. Chairman, a question, Building the Pieces Together, where does that stand at the moment?

MR. DAVIES: In River East?

MR. BOYCE: In River East.

MR. DAVIES: The school board passed a motion on August 8th to withdraw it from the schools.

MR. BOYCE: To what?

MR. DAVIES: To withdraw it from the schools.

MR. BOYCE: The school board passed a motion to withdraw it from the schools. Very interesting. We can't have people thinking independently. We can't help them develop this . . . Thank you very much, Mr. Chairman.

MR. CHAIRMAN: Any further questions of Mr. Davies? Mr. Walding.

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MR. WALDING: Mr. Chairman, I have also to congratulate Mr. Davies on the brief that he has put before us. It makes a very healthy change to have someone come and talk to us about education, particularly with a view to the future, rather than just an institutional in terms of lines and . . . One thing that did catch my eye, an expression that you use in here about responding to the changes taking place in society. What bothers me with that is that society is ever changing and changing in faster and smaller periods of time. Are we going to be trapped into reacting to what happened last year by scrambling this year to do something different, to find in six months time it's changed again and we're again changing our direction, which brings me to another question, are we educating our children properly to graduate for today. What's going to be needed for two years time, or five years time — I don't want to look 50 years, as you suggest on Page 1, that just boggles the mind as to what we're preparing for then. But even ten years from now, what's the direction that education is going and how are we going to know that we are preparing our children for the future, not for today? Do you have any comments on this?

MR. DAVIES: I really do think that is a danger of responding too readily to new situations which seem to offer a solution to all our problems, and I think at times we are prone to do this occasionally in education. But I think, a dialogue, we have to encourage our communities and our parents to engage with us — and when I say us, now, I'm thinking in terms of our teachers in River East, our school board, the administration, — the dialogue really must involve all groups, I think. I don't think that we are working hard enough to involve parents enough in that dialogue in order to discuss the kind of things that we think are important, with a view to this child who is now in Grade 2, and is probably going to be in the school system for another eight years or so.

We all have kind of solutions within ourselves that we think we know the answers, but the test is whether we can bring some more commonsense and some of the values that we think are important now, and how they should take place within the school system for the child who is going to graduate ten years from now. I don't think there is an easy answer, but I think the dialogue has to be encouraged more so than we have had it operating in the past.

I think generally speaking, the kind of interaction between parents and school that takes place is really a very positive one. I've had somebody helping, a volunteer parent, who has been working consistently now, it's her sixth year. She's been very critical of the school, but she's kept coming, we've kept arguing, and I thought that was an extremely good thing. She doesn't come just because she thinks the school is wonderful. And if all we get is parents who think the school is wonderful, then I don't think we're going to achieve much. We have to try and encourage those who are critical as well, so that we can have this interchange.

I don't think there is any guarantee that we're going to be right about the kind of direction we go as a result of that dialogue, but I think we have to accept that responsibility that we may make a mistake.

MR. WALDING: I have a daughter who will graduate in about six years, hopefully, from the school system. She talks to me now in terms of what she's going to do when she leaves school, you know, she's going to be a lawyer, she's going to be a nurse, she's going to be something else. How will she choose which is to be the best career for her, making use of her best talents and interests, for her to look five years, ten years down the road — how is the education system going to prepare her for that? Or should it not say, because people change and conditions change, that that's something that we can do, that rather you should just give every child a very well-rounded sort of basis in all sorts of general things that will be of use to her in the future, and say okay, we have now prepared you to go out into the world to the best of our ability, now you develop your career path or your own talents or interests. Which way do we go?

MR. DAVIES: I certainly think that the very general kind of development of the individual talents and capabilities is really crucial, but I think the schools are looking at something more than that, that is that I think it's much more difficult for young people to choose today than it was when I left high school, where the range of choices wasn't really that great. I think the movement towards career education, the difficulty is, it gets to be a kind of label, but I think there are people in the schools trying to do some very useful things to let students know the kind of possibilities that exist, and of course we have to be aware that there's a good chance that they're not going to follow one career for the whole of their lives, and we have to try to develop students who can be flexible enough to take in that concept, and yet commit themselves to whatever they take up. Not to say, well, I'm not going to do it for so long so it doesn't matter.

We're in a rather ticklish situation on the thing, but I think there are some encouraging things going on in that direction in terms of guidance for career choice, in terms of career development kind of things, even starting lower than the senior high school, and I think those are responses

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o the problems that young people are facing as they get into the last years of high school. I think here are some very encouraging things, whether they are as successful as we would like them o be, I don't know. I think it's too early to tell.

MR. WALDING: Thank you, Mr. Davies. I enjoyed talking to you.

MR. CHAIRMAN: Any further questions? Thank you, Mr. Davies, for your presentation. Gentlemen, here are two more names you can add to your list that were presented to me this afternoon, No. 33, Mr. Ken Karlenzig, and No. 64, a Mr. William Hutton.

Committee rise. At 8:00 p.m., two have indicated they will be here for sure tonight.



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