



# Legislative Assembly of Manitoba

## STANDING COMMITTEE ON PRIVILEGES AND ELECTIONS

Chairman

Mr. J. Wally McKenzie  
Constituency of Roblin



Monday, October 22, 1979 10:00 AM

**Hearing Of The Standing Committee  
On  
Privileges and Elections  
Monday, October 22, 1979**

**Time: 10:00 a.m.**

**MR. CLERK:** Gentlemen, if I can have your attention, the time is now five after ten. The first order of business of course, is the election of your Chairman, since we have not previously met. Do we have any nominations for Chairman of this Committee? Mr. Brown.

**MR. BROWN:** I move that the Member for Roblin be the Chairman of this Committee.

**MR. CLERK:** Mr. McKenzie. Are there any further nominations? If there are no further nominations, may I ask Mr. McKenzie if he will please take the Chair.

**MR. CHAIAN, Mr. J. Wally McKenzie (Roblin):** Thank you, gentlemen. May I first draw your attention to the first requirements, and that's the establishment of a quorum for the committee. Mr. Brown, the Member for Rhineland.

**MR. BROWN:** Mr. Chairman, I would like to move that six members of this committee constitute a quorum.

**MR. CHAIRMAN:** So there is eleven on the committee. Agreed? (Agreed) May I next suggest that we establish the procedure for the committee. Mr. Brown, the Member for Rhineland.

**MR. BROWN:** Mr. Chairman, I would like to move that this committee sit between the hours of 10:00 a.m. and 12:30 p.m., 2:00 p.m. and 5:30 p.m., 8:00 p.m. to 10:00 p.m., and with that I would like to say, Mr. Chairman, that if somebody would make a presentation, let's say it would start at 9:40 or so, that we hear them out, but that no new presentation will be made after 10:00 p.m.

**MR. CHAIAN:** Any discussion?

**MR. WALDING:** Could we have the times again?

**MR. BROWN:** 10:00 a.m. to 12:30 p.m., 2:00 p.m. to 5:30 p.m., 8:00 p.m. to 10:00 p.m.

**MR. CHAIAN:** Agreed, gentlemen? (agreed) May I first of all draw your attention to the list of those who have signified their intention to make presentations on Bill No. 22, The Public Schools Act, and Bill No. 23, The Education Administration Act. I believe the names are in your files that . . . the Honourable Member for St. Vital.

**MR. WALDING:** Mr. Chairman, have you received a written resignation from one of our colleagues, Mr. Jenkins?

**MR. CHAIAN:** Yes, I do. Maybe I should read it into the record.

**MR. WALDING:** Please.

**MR. CHAIAN:** "Mr. J. R. Reeves, Clerk of the House, Manitoba Legislative Assembly, October 14, 1979. Dear Jack: Would you please convey to the Committee of tatutory Orders and Regulations my resignation from the Committee due to the fact that I shall be entering hospital and will be unable to attend the coming meetings slated for Monday, October 22nd. Many thanks. Your sincerely, Bill Jenkins, MLA for Logan. P.S. I shall be having an operation for a detached retina this coming Tuesday."

**MR. WALDING:** I move that the resignation be accepted.

**MR. JORGENSEN:** Mr. Chairman, it seems to me that it's the Statutory Regulations and Order that he's resigning from and not . . .

**MR. CHAIAN:** Yes. And I have the memorandum here from the Clerk. "Mr. Jenkins contacted me at my home on Sunday, October 14, 1979 to advise me he would be entering hospital for an operation for a detached retina. He stated he would be resigning from the Committee on the Public School Act. I believe Mr. Jenkins reference to the Committee on Statutory Orders and Regulations is in error because Mr. Jenkins is not a member of the Standing Committee on Statutory Regulations and Orders. That Committee will not be meeting on October 22nd.

**MR. JORGENSEN:** Well, Mr. Chairman, we just assumed that he meant the Committee on Privileges and Elections and if that's agreeable then the Committee accepts it on that basis. (Agreed)

**MR. CLERK:** May I say one thing, Mr. Chairman.

**MR. CHAIRMAN:** Mr. Clerk.

**MR. CLERK:** Just for the information of the members of the Committee Mr. Jenkins has had his operation; he phoned me on Friday night to say that he was coming home on Sunday. To the best of my knowledge all is well.

**MR. CHAIRMAN:** The Member for St. Vital.

**MR. WALDING:** I propose the name of Mr. Bud Boyce, the Honourable Member for Winnipeg Centre, to fill the vacancy on the Committee.

**MR. CHAIRMAN:** Agreed? (Agreed) Shall we proceed with the list then of those who . . . The Honourable Member for The Pas.

**MR. McBRYDE:** Mr. Chairman, I notice from the list there are some people from out of town and some people from up north and I wonder if the Committee would like to consider the advisability of this Committee meeting outside of the City of Winnipeg. People have already travelled in and maybe that won't be necessary but perhaps. . . I notice there is a presentation from The Pas, a presentation from Thompson, a presentation from Brandon. I would like the Committee to consider whether we should look at the feasibility of meeting outside of the City of Winnipeg, perhaps at those communities at The Pas, Thompson and Brandon.

**MR. CHAIRMAN:** The Honourable Member for Rhineland.

**MR. BROWN:** Mr. Chairman, I wonder if the Minister can tell us whether he has received any requests for this Committee to sit outside of the City of Winnipeg.

**MR. CHAIRMAN:** The Minister of Education.

**MR. COSENS:** Mr. Chairman, we received two requests, not from organizations but two requests from MLAs, that the Committee consider taking its hearings outside of the City of Winnipeg.

**MR. CHAIRMAN:** The Honourable Member for Rhineland.

**MR. BROWN:** In other words there have been no individuals or organizations requesting that this Committee sit outside of the city.

**MR. COSENS:** Mr. Chairman, we have not received any written requests in that regard.

**MR. McBRYDE:** MLAs aren't individuals?

**MR. CHAIRMAN:** The Honourable Member for Winnipeg Centre.

**MR. BOYCE:** Mr. Chairman, I understand from the Minister's response that there were two MLAs

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at requested that hearings be held outside of Winnipeg? In what area?

**MR. CHAIRMAN:** The Honourable Minister of Education.

**MR. COSENS:** The representative from The Pas and the representative from Churchill, both sent letters in that regard.

**MR. CHAIRMAN:** The Member for Winnipeg Centre.

**MR. BOYCE:** Mr. Chairman, may I suggest that we don't have to make a decision at this time but it seems to me that these two MLAs represent a goodly number of people and they may have some concerns which I am unaware of at the present time relative to what is going to take place at these committee meetings. So perhaps we could postpone a decision on whether or not we should have hearings outside of Winnipeg to later in the week.

**MR. CHAIRMAN:** The Honourable Member for The Pas.

**MR. McBRYDE:** That's acceptable to me. I think that we could proceed and see how it goes and if we can hear the out of town briefs sufficiently here in Winnipeg then that would be all right, but to leave it open in case there are people from outside of Winnipeg that would want to make a presentation but unable to travel to Winnipeg to do it.

**MR. CHAIRMAN:** I shall now then read the list of scheduled briefs that are to be heard by the Committee. The first one is Winnipeg School Division No. 1; No. 2 the Association of Parents of Ecole Provencher St. Boniface; The Manitoba League of Physically Handicapped from 825 Sherbrook; Societe Franco-Manitobaine; George E. Marshall, school trustee, Transcona; Dependable Bus Service; Social Planning Council of Winnipeg; Mr. Jake Froese; Special Administrators Association of Manitoba; Manitoba Association of School Superintendents; Father M.R. Klysh; Association for the Mentally Retarded, 825 Sherbrook; Mrs. Mary Kardash; Mr. and Mrs. Michael Andrieshyn; Manitoba Association of Student Councils; Society for Crippled Children and Adults of Manitoba; Manitoba Association of School Trustees; Antler River Teachers Association; Manitoba Association of School Business Officials; Fort Garry School Division No. 5; Transcona-Springfield School Division No. 12; Manitoba Teachers Society; Manitoba Teachers Association of the Manitoba Teachers Society; Manitoba Federation of Independent Schools Incorporated; Central Regional Liaison Committee for the Mentally Handicapped; Fort la Bosse Teachers Association; Southeast Child Development Advisory Committee; Association for Deaf and Hearing Impaired Children; St. Boniface School Division No. 4; the School Division of Mystery Lake; Souris Valley School Division; Certified General Accountants Association; the Manitoba Association for Children with Learning Disabilities; Mr. G.R. Goodman, QC, Attorney-General's department. . . Did I miss one? —(Interjection)— Oh, pardon me, it was the Winnipeg Teachers Association of the Manitoba Teachers Society; my apologies.

Mrs. Jean Taylor from Killarney; the Manitoba Indian Brotherhood; the Manitoba Association for Rights and Liberties; Child Guidance Clinic of Greater Winnipeg Advisory Council; River East Teachers Association; group of residents involved in community schools headed by Ms. Patti Sullivan; Manitoba Association for Schooling at Home; Mr. Jim Garwood, trustee; Manitoba Branch, Canadian Parents for French; Mrs. Marlene Buffie; Council for Exceptional Children; People's Education Policy Manitoba Incorporated; Commissionaires d'Ecoles Franco Manitobaine; Manitoba Federation of Parents Committees; Concerned Parents of Winnipeg; Evelyn Reese, individual; Manitoba Federation of the Visual Handicapped; Seven Oaks School Division; Canadian Alliance of Home Schoolers from Ontario; Mr. J. Dragan, Probation Services of the Juvenile Justice Committee; BUS Committee from The Pas; Conseil Jeunesse Provincial; Neil McQuarrie; David L. Jenkins.

Now are there any others whose names are not on this list that would like to be heard during the sittings of this Committee? If they are present, would they please come forward and let us know their names and who they wish to speak for. There are none.

I also have an indication from the Canadian Association for the Mentally Retarded at 825 Sherbrook, Public Hearing of Bill 22: We have been notified that public hearings will be held on the above matter during the week of October 22nd to the 26th. The Executive Committee of the Canadian Association for Mentally Retarded Manitoba Division is faced with a small scheduling problem. The people scheduled to make our presentation will be leaving for a national conference in Vancouver on Monday evening, October 22nd. Rather than miss this important hearing, we are requesting that we be allowed to present our brief on Monday morning or afternoon of October 22nd prior to departure. The adjustment would be most appreciated.

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And another one from a Mr. Fradette of Russell who has indicated that he would like to make a presentation today, so that he can return to Russell this evening.

The Member for The Pas.

**MR. McBRYDE:** Yes, Mr. Chairman. I would be in favour, if those people who have written in first would be willing to wait and allow those people to speak. I would also think that there are other persons like the people from Thompson or The Pas or Neepawa, etc., that we might give some precedence to, say if they're over a two-hour drive they might get some precedence or something with the committee.

**MR. CHAIRMAN:** Are there people from out of this Greater Winnipeg area here present today who would like to be heard this morning or this afternoon or this early evening? Would you come forward and leave your name, Sir? Speak into the microphone.

**MR. DON CORNELL:** The Manitoba Association of School Business Officials. I'm from Brandon.

**MR. CHAIRMAN:** Thank you, sir. Are there any others? Then, gentlemen, shall we proceed? The Honourable Member for Winnipeg Centre.

**MR. BOYCE:** With reference to No. 34 on our sheet here of people who want to make presentations, I see Mr. Goodman, and his address is listed as the Attorney-General's department. Are we to assume that this is to be presented on behalf of the Attorney-General? It doesn't state who he represents, himself as an individual or the department.

**MR. CHAIRMAN:** Is Mr. Goodman here or anybody from the Attorney-General's department regarding this matter? Well, we can question him later when he does arrive. Shall we proceed then and I will call the Honourable Member for St. Vital.

**MR. WALDING:** Mr. Chairman, if it's necessary to have a motion to have the proceedings recorded and transcribed, I will so move.

**MR. CHAIRMAN:** Thank you, Sir. Agreed? (Agreed) I will therefore then call the Canadian Association for the Mentally Retarded, Mr. Dale H. Kendel. Oh, that's this afternoon. Mr. Fradette from the Pelly Trail School Division No. 37.

**MR. DALE H. KENDEL:** I'm Dale Kendel from the Association for the Mentally Retarded and the person who will present our brief is Dr. John Curran.

**DR. JOHN CURRAN:** Mr. Chairman, members of the committee . . .

**MR. CHAIRMAN:** Before you start, sir, have you got a copy of your presentation for the members . Thank you.

**DR. CURRAN:** Yes. I'm the secretary of the Board of the Association for the Mentally Retarded, the Manitoba Division and I shall read the brief, please?

**MR. CHAIRMAN:** Ready to proceed, sir.

**DR. CURRAN:** The Introduction of Bill 22, The Public Schools Act, should be regarded as one of the most important legislative events of the current term of the Manitoba Legislative Assembly. This would be true in any time since the Public Schools Act forms the basis from which the philosophy, structure and administration of the educational system to which we entrust our children is derived.

While the revision of the existing Act need not nor indeed should not be undertaken in the spirit of radicalism, we do suggest that changes should be made which reflect the evolution of our society and in particular should be designed to ensure that the present and future educational needs of the special group of persons we speak for are met.

The past ten years have seen a dramatic change in both the philosophy and practice in our communal effort to provide a more dignified enriched and useful life for those who are labelled "mentally retarded persons." This continuing drive for a better life will accelerate and be fueled by the rising expectations of parents, community service workers, teachers, employers, and not

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ast by the mentally retarded persons themselves.

If these aspirations are not to be frustrated it is crucial that the educational system delivers the special programs that are necessary for the individual's maximum development in the years when learning potential is most active. It is, we feel, extremely important that the proposed new Act will clearly direct that such programs as are necessary shall be provided by every school division in the province, either directly or indirectly.

Section 41(5) of the proposed Act falls a good deal short of what we consider should be an unequivocal statement of intent by the government to move forward in this area. This section of the Act need not spell out the details of how the same will be met because we are continually adding to our knowledge in this field and the Act must not become a means of stifling innovative programs. The Act, however, should be regarded as a charter for the progress of development of a fine educational program for all handicapped persons so that by the end of the next decade we can look back with pride and applaud the men and women of vision who promulgated the legislation which provided the thrust and led us into a new era of education.

We believe that we have one of the finest educational systems in the world and we know we have the skilled professionals who can and will, given the opportunity, develop programs which will exceed the modest expectations of this time. Without presuming to have any specialized knowledge as to the construction of such a detailed legislative instrument we can, we respectfully submit, suggest both alterations and additions which we feel will transform the Act into a charter for mentally retarded and other handicapped persons referred to earlier. In particular Section 41(5) entitled "special programs", I quote: "Every school board, as far as is possible and practicable in the circumstances, provide for, or make provision for, resident persons who have the right to attend school and who require special programs for their education.

This section places no obligation on school boards to make more than a token effort in providing special programs for its residents. Many school boards we know do and will continue to provide very reasonable, if not exciting, programs for their residents. But what is equally evident, and more disturbing from the wording as presented, is that school boards and educational units within school divisions can indeed be prevented from going beyond the possible and the practicable by administrative decisions which allow no safeguard of appeal within the Act as it now stands. This means a parent or guardian who may disagree fundamentally with the placement or quality of program offered to the child would have to resort to the courts with little likelihood of an improvement in the child's situation since the Act, as it is written, appears to offer more protection to school boards than it does to the complainant. If it offers no protection to the rights of the children in the extreme situation how much less effective is it going to be in guiding school boards and administrations towards a fair and a reasonable settlement of many more minor, though not necessarily less significant, disputes.

We feel and suggest Section 41(5) should be rewritten to include the following statement, "Every school board shall provide those special education programs required by an individual, such that he or she shall receive education services within the less restrictive and most intricate situation within the school division in which the student resides".

Attention turns to Section 41(6) entitled "Programs Not Offered Locally". I quote, "Subject to any regulations made under The Education Administration Act, every school board shall make provision for a pupil to attend a school in another school division or school district for a program not provided by the pupil's home school division or school district and the pupil's home school division or school district is responsible for paying the residual costs of the education." Although the succeeding Section allows a dispute on residual costs to be referred to the Minister for final and a binding decision, no intermediate process of appeal is available to the parent or guardian, and in addition there appears to be no appeal allowed against the substance of the decision itself but only of the costs involved. We feel this Section should be rewritten to allow parents or guardians or counsel acting for them to have access to the facts which led to the decision and the opportunity of challenging those facts as a correct basis for the decision before an independent review body, whose report would also be put before the Minister prior to any ministerial order being issued.

A further major problem lies in the failure to state that handicapped children have an adequate portal-to-portal transportation for education purposes where required, and the failure to state commitment to the National Building Code provisions of free and unimpeded access without assistance.

In closing we feel that regulations that govern the implementation of Bill 22 reflect minimum standards of curriculum and program, for example, hours of program, standards of program, regular evaluation of service, both internal and external.

That is the end of the presentation, Mr. Chairman. Thank you.

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**MR. CHAIRMAN:** Thank you, Sir. Are there any questions to this gentleman?  
The Honourable Member for Burrows.

**MR. BEN HANUSCHAK:** Yes, Mr. Chairman, I have a couple of questions with respect to The Education Administration Act with which I believe we are also dealing. Has your organization any concerns about the manner of appointment of education administrative consultants? And if I may refresh your memory this is sort of a succession to the former school inspectors' position, which was appointed by the Civil Service Commission and now the education administrative consultants will be appointed by Cabinet.

**MR. CHAIRMAN:** Mr. Rogers. Mr. Rogers is correct, isn't it?

**DR. CURRAN:** Curran, C-U-R-R-A-N.

**MR. CHAIRMAN:** Thank you, Sir.

**DR. CURRAN:** I am not aware of any particular concerns on that particular issue, Sir.

**MR. CHAIRMAN:** The Honourable Member for Burrows.

**MR. HANUSCHAK:** Have you any concerns about the fact that in the same Bill there is a provision which will allow the Minister to make regulations designating the types of person that may be admitted as pupils in our schools?

**MR. CHAIRMAN:** Mr. Curran.

**DR. CURRAN:** One certainly, I think, always has concern on the particular powers which may in some cases militate against particular types of person. I think that in the best of worlds that the Minister will use that power very properly, but opinions always differ and we would feel perhaps a broader review of such legislation or a particular point would be better and perhaps more than one person should be involved, including associations with a particular interest or individuals with a particular interest in the persons.

I don't think that any particular type of person should be excluded from the school system, even though the school system might have to go to the person.

**MR. HANUSCHAK:** A further question, Mr. Chairman.

**MR. KENDEL:** Excuse me, could I just make one other remark. I think the comments that our organization has faced, is the categorical removing of say, a class of people called trainable mentally handicapped or severely handicapped people as a class, and the provision that there's no provision within the Act for parent appeal.

**MR. CHAIRMAN:** The Honourable Member for Burrows.

**MR. HANUSCHAK:** Has your organization any comment to make on the fact that the Minister may have the power to prescribe a user fee for public education?

**MR. CHAIRMAN:** Mr. Curran.

**DR. CURRAN:** I think that we would be opposed to such a user fee.

**MR. HANUSCHAK:** Yes. My final question, Mr. Chairman. Has your organization any comment to make on the fact that the Education Administrative Consultant, a political appointee, has a right to demand information of anyone under the threat that if you do not provide that information to him, you could be sent to jail?

**DR. CURRAN:** That particular section, I'm not totally familiar with, but I can't say that I particularly like that idea.

**MR. HANUSCHAK:** Thank you, Mr. Chairman.

**MR. CHAIRMAN:** The Honourable Member for The Pas.

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**MR. McBRYDE:** Thank you, Mr. Chairman. Dr. Curran, I wonder if you could sort of bring me up to date on the existing situation in terms of education for the mentally handicapped, and how this will make that situation better or worse, the provisions within this Act. I'd like some idea of where we're at right now.

**MR. CURRAN:** As I understand the present situation, there is a responsibility on the school boards within the Act to provide education up to, I believe the age is 21. However, I don't think that there's really very much difference between the Act as it stands presently and the proposed Act in terms of what advances could be made in this area. So I think that children basically do have the theoretical right to attend school, but in practice there is a problem in terms of transportation of children over wide areas, even in the city. In the rural environment one can certainly understand the difficulty. We certainly find that some children are bussed some very large distances from their own neighbourhoods to a particular school within a school division which makes it, in particular, impossible for those children to achieve any sort of relationships with their peers who happen to come from their neighbourhoods. It's exceptionally difficult. It separates them; and I think there's also a lack of integration in a small way in terms of the people we represent, although I understand that such a movement has occurred within the Winnipeg School Division in which handicapped youngsters are indeed being — attempts are made to integrate them into the usual public school system.

So I think that the present Act, and I'm not, I must admit, totally familiar with every detail of it, but I don't think that the proposed Act differs terribly substantially. In fact, it may leave the option for being somewhat slightly more restrictive than it is at present.

**MR. McBRYDE:** I just want to make sure I understand your position quite clearly. The existing situation is then basically up to the school board. I mean, there's nothing in the Act that really requires them, or makes a requirement that they make a special effort. Some school boards are, in fact, making that special effort. Is that . . .

**MR. KENDEL:** In 1967, the change in The Public Schools Act said that all mentally retarded people had the right to attend school and the school divisions had to make that provision. I think the basic change, the introduction of the amendment to The Public Schools Act, introduction of Bill 58 in particular, was to take all special needs children so that there would be no exclusion. Mentally retarded citizens already had that right to attend school and it was to be broader.

Where we see Bill 58 falling short, the amendment to the old Public Schools Act and the new Act, is, it doesn't go far enough in terms of safeguarding the kinds of programs that children with handicapping conditions require. And that's the provision that we think that this legislation has the potential to do and should take that step to do.

**MR. McBRYDE:** Yes. I suppose one thing I want to do is sort of get some relationship between the legislation and the reality of what's happening. Maybe to get to that, I could ask the question, how would you see the most effective integration of mentally retarded children into the school system?

**DR. CURRAN:** Mr. Chairman, could I be allowed to take off one hat and put on another, as a parent? Is that permissible? I might be able to answer the question better. I happen to be the parent of a daughter who is mentally retarded. From the parents' point of view, I think the first problem is that there is a constant uncertainty as to where one's child is going to go to school. There is also, within the school division in which I reside, a program for children who are mentally retarded. The program is not very flexible, it means that children must attend school outside the neighbourhood. There is very little opportunity for children to enter the public school system in the sense that they can integrate, and I appreciate that this is something which has to be judged individually, but I would like to see the possibility for those children who can integrate easily and with very little supports, given that opportunity to integrate so that they can attend school at least within the geographical neighbourhood in which they live.

I think the other point I mentioned was that the uncertainty, parents who, especially with younger children, each spring have the worry of trying to find out where their child is going to be placed, and it takes a great deal of individual — if I could call it lobbying — with the people who are involved in this to change, or to influence a decision that's made, even though you may not agree with that decision. Also, as far as I can see, it's very difficult to have your child attend a school outside of your school division.

The costs are horrendous if they're not paid for by the school division in which you reside, and



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I would say they're outside the scope of the vast majority of people, and also I think that there is no security of tenure for a child who does attend a school outside of the school division in which it resides, unless it is sent there by the school division of residence. So I think that there are constant worries as to getting the best possible education for your child and I know many parents who supplement the child's education with private tuition when they can afford it and by other means. So I think that the real problem is choices and flexibility for the children who are . . . The pathway is set. There's a program for trainable TMR, Trainable Mentally Retarded children. There's nothing for those who are educable and there seems to be a large gap in the system.

**MR. DALE KENDEL:** I guess the provision that we see that clearly school divisions have the overall responsibility for placement of any student and should have that and the Act does make that provision. What we see the Act falling short in is the appeal, that if a parent is dissatisfied with the placement . . .

**MR. CHAIRMAN:** Order, order please. For the records, sir, we're recording this. Would you please identify yourself when you break in so that the recording equipment will pick up who is speaking, sir?

**MR. DALE KENDEL:** I'm sorry. Dale Kendel, Executive Director of the Association for the Mentally Retarded. The provision of the Act is that there is no appeal for parents who are dissatisfied with the place: ment other than directly to the Minister. We're feeling that there should be a further provision of the Act and we don't proclaim to know what that provision should be. Several have been suggested in briefs on Bill 58 directly to Mr. Cosens, and we feel that those should be either incorporated or done something with.

**MR. CHAIRMAN:** The Honourable Member for The Pas.

**MR. McBRYDE:** I'm sorry, Mr. Chairman, I didn't quite understand the last point the member was making. Did you say there were recommendations outside of what you just made this morning?

**MR. CHAIRMAN:** Mr. Kendel.

**MR. KENDEL:** When Bill 58 was being studied there was a special needs or an advisory group to the Minister on Bill 58 formed of which I happen to be a member, of which two reports were filed with the Ministers that address this issue in terms of placement, placement review and placement arbitration and we feel that those should at least be considered by this particular committee as they look at those records because there was some two years of thought that went into those recommendations.

**MR. CHAIRMAN:** The Honourable Member for The Pas.

**MR. McBRYDE:** Yes, Mr. Chairman. In my experience the school boards and the teachers seem to be wanting very much to provide this kind of service but of course they're very concerned about stretching the limited resources they have. Do you have any recommendations that would sort of make it easier for those groups to assist you in a way that you feel it should be done?

**MR. CHAIRMAN:** Dr. Curran.

**DR. CURRAN:** Yes. I would not for a minute doubt that what is needed are special assistants or special programs in an individual school. I think that there is no question that — and I don't need to tell you that — that such programs cost money. But I feel personally that there is a shrinkage in the school population. One hears of schools projected for closing down, perhaps dollars can be freed up to pay for some additional special programs. I think that individual putting children in a regular school, children who are mentally retarded and who have been shown to be able to function in a small group environment without supports, putting them in that environment without supports amounts to dumping and does the child absolutely or very little good.

I think that there's no question that extra supports are required but I think that one shouldn't overlook the total picture in which a child will grow up in that environment with its peers associating with other children who live around it or who are known to it, I think that this prevents a great barrier building up through isolation and segregation which separates the child out totally and makes the teenage years extremely difficult for many of these children.

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Again I have to speak personally. One's constant worry is, my daughter continually asks about having her friends and having a friend and she's particularly anxious to have a friend or one or two friends that she can bring to her home and meet with, and she does know people, but it still falls short of what one normally finds with the other members of the family. So I think that there are great advantages in this and of course they do require extra supports. But I think that the skills and the teachers are there, all the people are there. I think probably it just requires the necessary funds to allow such things to happen.

**MR. CHAIRMAN:** The Honourable Member for The Pas.

**MR. McBRYDE:** So beside the changes in the wording of the legislation to basically protect the rights of the child and the parents you would see a necessary commitment basically on the part of government to fund the special programs that would be needed to make this work.

**DR. CURRAN:** I think if the intent were contained in the Act to allow such things to develop, I have no doubt that the school boards and school divisions will come to the government with the programs. I think that as long as the Act is not written in a way which can act as an umbrella to allow over-zealousness, or is regarded as over-zealousness in promoting such programs, I think the wording is, "as far as is practicable in the circumstances, as far as is reasonable and practicable." Well that means different things to different people. I think that it's an unfortunate choice of words. I think a clearer intent to allow such programs to develop is what is required in the Act.

**MR. McBRYDE:** Thank you, Mr. Chairman. I have no further questions for Dr. Curran.

**MR. CHAIRMAN:** The Honourable Member for Rhineland.

**MR. ARNOLD BROWN:** Thank you, Mr. Chairman. In your brief you mentioned that there was still some problems with transportation. I thought that a lot of these problems had been resolved. At least I had not heard of any problems from the area that I represent. I wonder if I could ask Mr. Kendel to answer that, the concerns that they have about transportation.

**MR. CHAIRMAN:** Mr. Kendel.

**MR. KENDEL:** Our concern directly about transportation is that the Act, I believe the Act says "Portal to portal transportation," and I guess it was our question as to whether it was guaranteed or how it was tied to placement in the placement review. Again it was around if a parent was dissatisfied with the placement and they were to seek out another school division to provide the service that was more adequate for them and that that division were able to provide it, would the transportation cost be borne by the other division? It was more of a security kind of thing. I think other groups will address the transportation problem more directly than we will. It was sort of a secondary issue, very secondary.

**MR. CHAIRMAN:** The Honourable Member for Rhineland.

**MR. BROWN:** That's just fine, thank you.

**MR. CHAIRMAN:** Any more questions? The Honourable Member for Winnipeg Centre.

**MR. BOYCE:** Through you, Mr. Chairman. Dr. Curran, you mentioned deployment of the necessary funds to resolve this problem. Is there extant the final line costs for the proposals which were presented by the Advisory Committee to the Minister relative to Bill 58? Do you know if that exists?

**MR. CHAIRMAN:** Dr. Curran.

**DR. CURRAN:** I would ask Mr. Kendel to answer that.

**MR. CHAIRMAN:** Mr. Kendel.

**MR. KENDEL:** I believe that we were told at the time that that document would be prepared internally and it was never shared with the Advisory Committee. I don't know if it exists or not.

**MR. CHAIRMAN:** The Member for Winnipeg Centre.

**MR. BOYCE:** Well, Mr. Chairman, I wonder if it is possible either through some of the association which were involved with advising the Minister relative to Bill 58, or through the Minister himself or his office, that we could be provided with a copy of that report. I think, Mr. Chairman, that it's important that we have this, you know, rather than go back and re-invent the wheel. There is extant I understand, a lot of information which is relevant to this presentation and if either one of the associations or through the Minister's office — perhaps the Minister could respond before I ask the last question of this witness, Mr. Chairman, if the Minister could undertake to provide the committee with a copy of the Advisory Committee's Report on Bill 58.

**MR. CHAIRMAN:** The Honourable Minister of Education.

**MR. COSENS:** Mr. Chairman, there is no problem at all. I will certainly provide that to members of the Committee.

**MR. CHAIRMAN:** The Honourable Member for Winnipeg Centre.

**MR. BOYCE:** Dr. Curran, I really don't think any political party takes exception with doing the best we can relative to this very important matter. I understand your Association is an adversary — well, Mr. Chairman, you will have to forgive. This is the first meeting of the new year kind of thing and perhaps I should join your Association.

Could you give us, not just right at the moment, but for members of the Committee . . . we use terms such as profoundly retarded and trainable. I wonder if somebody could undertake just to provide us the jargon of . . .

**DR. CURRAN:** I would be glad to comply with that request.

**MR. CHAIRMAN:** Dr. Curran.

**DR. CURRAN:** Sorry. I will be glad to comply with that request.

**MR. BOYCE:** Thank you, Mr. Chairman.

**MR. CHAIRMAN:** Any more questions from the members of the Committee? If not, we thank you Dr. Curran for your presentation.

**DR. CURRAN:** Thank you, Mr. Chairman.

**MR. CHAIRMAN:** I call Julian Fredette from the Special Administrators Association of Manitoba. Mr. Julian Fredette of the School Administrators Association of Manitoba.

I call The Manitoba Association of School Business Officials. Have you got a copy of your brief, Sir?

**MR. DON CORNELL:** Yes, Mr. Reeves has a copy of our brief.

**MR. CHAIRMAN:** Proceed, Sir, and put your name into the record.

**MR. CORNELL:** Mr. Chairman, members of the Committee, and Mr. Minister. :::

**MR. CHAIRMAN:** The Honourable Member for The Pas.

**MR. RON McBRYDE:** Is there copies of the first brief available to members?

**MR. CHAIRMAN:** Was there a copy, Mr. Kendel, or has Mr. Kendel gone, of his . . . I raised a question and I was left with the understanding that he had a . . .

**MR. McBRYDE:** Anyways, Mr. Chairman, we could check on that and proceed.

**MR. CHAIRMAN:** Mr. Kendel, did you have a copy of your brief for the Committee or was it just oral?

**MR. KENDEL:** We did submit a copy last week to Mr. Cosens and to Mr. Reeves, last week.

**MR. CHAIRMAN:** One copy?

**MR. KENDEL:** Was that not sufficient? Would you like additional copies to be made?

**MR. CHAIRMAN:** We'll have them made here, thank you.  
Okay, proceed, Sir.

**MR. CORNELL:** Mr. Chairman, members of the Committee, Mr. Minister.

My name is Don Cornell. I am Chairman of our Association's Public Schools Act Review Committee.

We are here as representatives of the Manitoba Association of School Business Officials. Our Association consists of approximately 128 school business officials from all school divisions and districts in the province and is made up of Secretary-Treasurers, Assistant Secretary-Treasurers, Maintenance Supervisors, Transportation Supervisors, Purchasing Agents, Accountants, Administrative Officers, and the like.

The Clerk of the Assembly has distributed to each of you a copy of our brief. As I understand it you will not have seen this brief prior to now and therefore are not familiar with its contents.

The brief is not lengthy, being five pages in length including the introduction and I am prepared to read it section by section, expanding or answering questions as required. I believe most of our comment will be quite self-explanatory.

I further believe that you will find that most, if not all, of our comments are administrative in nature in keeping with the nature of the functions and responsibilities of school business officials of the school districts and divisions in the province.

Is this the manner, Mr. Chairman, in which you wish to receive our brief or would you prefer another method?

**MR. CHAIRMAN:** Well, Sir, it is up to the Committee to decide. Could I hear the wishes of the Committee? Proceed. Continue with your brief, Sir.

**MR. CORNELL:** The Manitoba Association of School Business Officials hereby respectfully submits its comments with respect to the proposed New Public Schools Act in the form of Bill 22. These comments are offered with the sincere intent of being of assistance in the task of bringing the present Act up to date, a task that is much needed and long overdue.

Although pleased that the Minister of Education has introduced Bill 22, our Association does have some concerns with certain clauses of the Bill, some requiring clarification and others, we feel, being impracticable or objectionable. We offer our comments as constructive criticism.

Our Association is prepared to discuss any of these sections referred to in the attached brief.

In chronological order of sections under Bill 22 then.

Section 4. It is noted that Section 4, Subsection (2), this is respecting non-assessed or partly-assessed lands, of the Draft of the Public Schools Act, which I will hereinafter if I come across it refer to it as the "Draft", has not been included in Bill 22. While we have no grounds for claiming that this clause should remain, we do wish to question the reason for its deletion. That is, we do have some concern that there may be some need for this provision in the Act. Mr. Chairman, we draw this to your attention for considerations and perhaps referral to your legal advisors.

Mr. Chairman, we also dealt in dealing with Bill 22 also tried to refer to Sections of the present Public Schools Act that were not included in the new one, that was the purpose of this one.

Do you wish me to pause after each Section?

**MR. CHAIRMAN:** No, go on.

**MR. CORNELL:** Section 25, Subsection (5) re Commencement of term of office. It is our position that the term of office should commence with the "first meeting" of the Board of Trustees, and, therefore, that the wording of Section 25(5) should be interchangeable with that of Section 29(1).

I believe if you read those two sections closely, you will see that they do not coincide with one another, one providing for the term of office to commence with the first meeting, but to be fourteen days after the . . . excuse me, I'm sorry. Section 25(5) provides that the term of office shall

fourteen days after the fourth Wednesday in October, but by Section 29(1) the first meeting shall be in November, not later than the fourteenth day after the fourth Wednesday in October. Therefore it is possible for a board to hold its first meeting say the first of November, but the new trustee wouldn't take office until the 14th or the 7th or whatever. So I believe that is straightforward.

Section 32, Subsection (2) Reversal of decisions. This section requires notice from one meeting to the next if a question is to be "reversed or modified". While we are in agreement for reversal of decisions, we do question the need of this requirement for simple modifications of decisions. This may be appropriate for modifications which change the original intent of the motion, but not for clarification or correction modifications. We note that the previous Draft made no reference to modification of questions, only to reversals. That is, we recommend that the words "or modified" be deleted.

Section 41, Subsection (1), Sub-Subsection (c). We believe that this is strictly a typographical error in that reference to Section 54(4) should read Subsection 53(4).

Section 41(1)(f). We believe that this should be worded as follows: "41(1) Every school board shall (f) arrange to deposit all, etc., to credit union." This would then be consistent with the intent and other wording, as in 41(1)(h). In other words, it is an administrative task, that the board would make the arrangement for, not actually carry out the depositing.

41(1)(n). Should be worded "arrange to purchase" for the same reasons as indicated in the previous section.

43(1). We have concerns with the wording of this section. We have concerns with the wording of this section. We feel that a definition or explanation is necessary for the phrase "is required" in the second line. The section says that transportation "shall be provided" but makes no provision for grants. We feel that we must object unless grants are provided and/or the above concerns clarified. We feel that somebody should determine who determined that transportation is required and on what basis and also who will pay the bill.

Section 48(1)(m) and (o) strictly a housekeeping item for your consideration to rearrange the subsections involved. I won't read that in detail I think it's straight forward.

Section 48(1)(x). We are aware of and share the concerns of The Manitoba Association of School Trustees with respect to this subsection. Is there any other section(s) in Bill 22 authorizing boards to enter into agreements with employees if this subsection were deleted? If the answer is no, then we feel there should be some provision, perhaps better worded than the current one. If the answer is yes, then we agree with MAST that there is no need for this subsection. Some wording change may clarify the intent. We do feel that the Act should authorize boards to enter into agreements with employees just as it authorizes boards to enter into agreements with other parties or organizations; and we refer you to Section 48(1)(e), (p) and (r).

Section 48(7) Group Life Insurance. We suggest the words "under the terms of any agreement with its employees" be deleted because this requirement removes the rights of boards to provide group life insurance to those employees not covered by any agreement, of which there are many. Our position is subject to a legal interpretation as to whether the completion by employees of application forms for group life insurance comprises an "agreement" as envisaged by the Act. We do not feel that such a legal interpretation is applicable.

Section 56(4) and (5) School funds and Exclusion of student council funds. It is our position that student councils should be accountable to the board or its designate for the administration and accounting of its funds. We are concerned that Section 56(5) removes this accountability. In explanation, we are not advocating that the board should be administering the expenditures to be made, only that the student council should have to be accountable to another authority for the manner in which their funds are administered and accounted for. And, I guess, an explanation of that, of course, is that student councils will be changing from year to year for obvious reasons and there should be some accountable source such as the school board or its designate.

Section 60(2) Agreement for other services. We strongly feel that grants to private schools should be made directly from the province to the private school and not through the school division as a third party. Involvement of the school division in this process creates needless work and expense for the school division offices.

Section 70 Purchasing Procedures. We question, will there be provision in the regulations to cover exceptions for material or equipment that is readily available only from one source? Bill 22 provides that any item costing over \$5,000 shall be obtained by public tender. That normally is not much of a difficulty for boards to follow and I think it would be the full intent to follow such a procedure, however, there does very rarely we must admit but occasionally arise some items that may cost more than \$5,000, but also may be only obtainable from one source and the public tender route, of course, creates needless expenditure and procedures to go through and we wondered if something could be considered there for the exceptional circumstances. The present wording would

require public tender.

Section 88 Exemption from liability for accidents in work education programs. We question if there is not a need to make reference to coverage of students under the Workers Compensation Act where they presently are?

Section 92(5) Action on termination of agreement. We feel that the seventh and eighth lines should be expanded to read:

"the agreement of a teacher who has been employed by the school board under a Form 2 contract or equivalent for not less than two (2) consecutive full school years of actual teaching, the following clauses apply:".

This position is taken with the obvious intent of retaining and spelling out the two (2)-year "tenure" period for teachers and clarifying the teachers to whom this section applies.

Section 92(6) Right of teacher to recover salary. We feel that this section should be amended by striking out the words "because of the unlawful or improper termination of his agreement by the school board" and replacing them with the words "if so determined by a board of arbitration under this section".

We believe the board of arbitration has been set up for the purpose of determining whether or not there has been improper termination.

Section 92(3) Filing of agreement with the Minister. We note that the Act has been changed from the requirement to file the agreement "within two weeks after the opening of the term for which the agreement is made" to filing "within two weeks after receipt of the agreement". We question why the change? The present wording allows the secretary-treasurer to accumulate the many agreements for teachers employed in spring term and summer months for employment in the fall term and forward these agreements all to the minister at one time. This is a convenient and less expensive way for the divisions and, to the best of our knowledge, does not inconvenience the Department of Education. We respectfully request that the new Act continue to permit such administrative procedures.

Section 93 Sick leave. We feel that the Act should clearly provide that the sick leave entitlement should be reduced for each day of sick leave used by the teacher. We do not believe the present wording so provides.

Section 93(4) Continuance of prior entitlement. We feel that this section could be interpreted to give a teacher 75 days in addition to what they have already accumulated. We do not feel that this was the intent and therefore this section should be reworded for clarification purposes.

Section 96 Duties of teacher. We request that Section 283(e) of the present Act, namely "deliver up any school register, school key, or other school property in his possession on the demand of the board of trustees", be included in the new Act.

Section 191(1) and (4) being Appeal of division apportionment and Time of appeal. The wording of these two subsections appears to be inconsistent and open to interpretation. Section 191(1) should be reworded to provide that the appeal is to be made "in writing within 30 days of receiving notice from the school board" or make direct reference to section 191 Section 191(4).

And Section 263(2) Jurisdiction of school attendance officer. We oppose this requirement making the school division attendance officer responsible for children in private schools.

And, as a general comment, we note several sections that require a by-law of the division and question the need of a by-law in all such circumstances. In this regard we draw your attention to Sections 41(1)(k), 48(6), 49(1) and 80(1). There may be others which we have overlooked but these were noted specifically. We respectfully suggest that all sections requiring a by-law be reviewed with the view of considering if a by-law is necessary or whether motions, resolutions or agreements would satisfy legal requirements. We suggest, for instance, that few divisions or districts in the province have formal by-laws covering pension plans, cumulative sick leave, instruction in religion, etc.

Mr. Chairman, that is the end of our brief.

**MR. CHAIRMAN:** Thank you Mr. Cornell. Any questions of Mr. Cornell. The Honourable Member for Winnipeg Centre.

**MR. BOYCE:** With reference to your suggestion on 43(1) where you suggest that the section says that transportation shall be provided but makes no provision for grants, is it not implicit in your suggestion that the province take over more and more of the financing? Because if we are going to write in a statute and make a statutory requirement that grants be provided, then is not the province put into a position where they have to fund, not only with reference to this section but all sections?

**MR. CHAIRMAN:** Mr. Cornell.

**MR. CORNELL:** Our concern is just the wording of the section as it presently reads in saying that "where transportation of pupils is required", and our concern is who is to determine when the transportation is required in terms of need, in terms of the present regulations to provide for more than a mile, but not living within the city, town, or village limits; this type of thing. It's our concern in determining when transportation is required. If it's not specifically set forth, then it's open to interpretation and if somebody can prove that it is quote "required" then the Board at this point will have to pick up the bill unless regulations so provide, and of course this time we're dealing with the bill. We don't know what the regulations may so provide at that time. That's our point, and if it's going to be required, we're concerned about the funding also being a factor.

**MR. BOYCE:** Well, Mr. Chairman, not to enter a debate, but I just wonder what the thinking is behind it, because. . . I'm sorry, I didn't catch your name when you first. . .

**MR. CORNELL:** Cornell.

**MR. BOYCE:** Mr. Cornell. When Mr. Cornell says that if there is a statutory requirement to fulfill a need and that there should be grants, I just wonder what that does to other, for example, the prior presentation relative to people with mental difficulties, but I'll leave that with you.

Mr. Chairman, through you to Mr. Cornell, on the next page, 56(4) and (5); what is the rationale behind suggesting that the student council moneys collected from the students with no legal sanction, as I understand it, should be the property of the board.

**MR. CORNELL:** Mr. Chairman, normally the funds of the Student Council are the property of the student councils. Most divisions and districts in the province, I believe, have some policy controls on the administration and accountability for those funds. However, the school boards have no access, if you will, to those funds, or no control over how they are to be spent. That money is raised and spent by the student councils. What we are advocating is that they should be answerable to somebody for the administration and accountability of those funds in terms of which is mostly the case these days, for instance, the principal or designated teacher of a school is an advisor to the council and the student council has to submit an annual statement of expenditure and revenue; in a sense, an audited statement.

**MR. BOYCE:** It's more to the tone of the brief, Mr. Cornell, and I suppose we all speak, you know, from our own bias and this is the Association of School Business Officials. These are people who administer the schools.

**MR. CORNELL:** That's correct. Well, mainly the financial and secretarial function or transportation, maintenance functions of the school board, not the education functions.

**MR. BOYCE:** Well, I guess I can keep it brief by referring to your last page under General Comments. It appears that you are asking to put in a statute, some resolution of the question of that which is a managerial prerogative and that which is negotiable, more and more into the statute which would resolve it towards the management side of the balance. You know, for example, I would refer to one where you requested a school teacher be required to turn over keys and the rest of it, 96. I don't know of any other business which operates that has that statutory requirement, that when you leave the employment that you have to turn over the property of the company or the corporation or individual for whom you work, that it's a statutory requirement to turn over their property to them. But that is but one.

The reference to pensions and other things, your brief seems to suggest to me that you're asking the Legislature to resolve many of the things which should be negotiable, so that when you refer to these sections in your General Comment, you would rather see these things dealt with by statute than by negotiation with the teachers.

**MR. CORNELL:** No, I believe you may have misread our intention there. The Bill 22 in the General Comments on the last page of our brief: the present Bill 22 in those subsections referred to provides that the board shall do it by by-law and we are questioning the need for a by-law in those types of situations. What we're advocating is that it should be simply by resolution or motion or agreements of the board which is an administrative procedure rather than legislation requiring an official by-law, so we are advocating it as more of an administrative chore. Have I answered your question?

**MR. BOYCE:** Well, Mr. Chairman, are you not reinforcing my argument when you say that it is

in administrative chore. You want the boards to have the power, the authority, or whatever term that you want to use to resolve these matters, that they are not in your opinion negotiable. They should be done administratively as a chore or some other term that you would like to use.

**MR. CORNELL:** Mr. Chairman, no, I'm sorry. We're not advocating that these types of things normally are arrived at through the negotiation process or by discussion process, or by discussion process. Our point here is simply how it is finally achieved. In other words, for instance, one of the subsections provides for accumulative sick leave. We believe that once that is reached, put through the negotiation process, for instance, that is part of a collective agreement. We do not see that the board then should be required to also have an administrative by-law covering what is covered in a collective agreement, which this subsection would require us to do. Have I made myself clear on that?

**MR. BOYCE:** Well, Mr. Chairman, I am referring to your brief where in the last sentence in which you say: "We suggest, for instance, that few divisions/districts have formal by-laws covering pension plans, cumulative sick leave, instruction in religion etc." Now you tell us that you think that these should be matters of negotiation but yet earlier in your brief relative to sick leave, you said that there should be some statutory reference to sick leave.

**MR. CORNELL:** Mr. Chairman, the statutory requirements for sick leave sets the maximum amount of sick leave that a school board can provide to its employee groups, being the seventy-five days, a maximum accumulation. The general comment is only trying to clarify the method in which that is provided by the board once it is finalized as to how much sick leave and in what manner it is to be administered. The general comment is simply dealing with the matter of doing something by by-law or by simple motion of the board. That's really what the general comment is doing, is the manner in which a board handles that problem.

**MR. BOYCE:** Well perhaps it's my confusion then when you said earlier in response to one of my other questions that these resolutions of your board, or administrative detail, or whatever term, should be carried out through negotiations and then dealt with by resolution by the board; there shouldn't be reference to it in the statute. But yet you're suggesting that we keep in statute that something which you have said, should be negotiable.

**MR. CORNELL:** Mr. Chairman, I guess The Public Schools Act is intended to provide the rights and responsibilities of the school board and how far they can go in exercising those rights. What it is doing is setting forth the maximum, in the case you're using, of how far a board can go in providing sick leave, or pension plans, or whatever, and from that point on the present Act is providing that it shall provide these sick leave and pension plans, etc., in the following manner, by by-law. And all we're suggesting is that it's not necessary to go the full route of a legal by-law. Legal isn't the right word, but of a by-law, in that a motion of the board approving the provision of sick leave or group pension plan or whatever within the requirements of the Act — in other words, it hasn't gone beyond the scope of the Act — that the board can then authorize that by resolution or motion, but does not have to go the full route of a by-law with all the whereases, etc.

In other words, sick leave is provided by collective agreement that has been negotiated between the board and the employee group, that that agreement is then approved by resolution of the board. What this is suggesting is that they then have to also provide a by-law setting forth, and again authorizing the cumulative sick leave, for instance, that we've been using as an example. We're suggesting that a by-law isn't necessary.

**MR. BOYCE:** Well, Mr. Chairman, I guess we're getting down to it. If a by-law isn't necessary, why is a law necessary?

**MR. CORNELL:** I can't answer that one, Mr. Chairman.

**MR. BOYCE:** Thank you, Mr. Chairman.

**MR. CHAIRMAN:** The Honourable Member for Burrows.

**MR. HANUSCHAK:** Mr. Chairman, through you to Mr. Cornell, I note that your organization's brief deals with solely with Bill 22. Has your organization considered the provisions of Bill 23?



**MR. CORNELL:** Mr. Chairman, yes we have, and we had no official comments or positions on it at this time.

**MR. HANUSCHAK:** Mr. Chairman, I have a couple of questions. They relate to Bill 23, but also to 22 because I'm sure that Mr. Cornell will understand that The Education Administration Act also outlines powers of various bodies, individuals as they relate to Bill 22.

Has MASBO any opinion to express upon the fact that The Education Administration Act will give the Minister the power to make regulations governing the operation of public schools and fees and charges, if any, to be paid by the pupils? In other words, giving him the right to impose a user fee for education for the first time in over a century. Has your organization any comment on that?

**MR. CORNELL:** Mr. Chairman, no, we reviewed that, and we took no position on it at this time. No, we didn't take a position.

**MR. HANUSCHAK:** Yes, Mr. Chairman. Being the financial administrators of our school divisions Mr. Chairman, can you see what effect this may have on the manner of funding of our school system vis-a-vis the level of support from the province and special levy, and now the possible introduction of a user fee?

**MR. CORNELL:** I don't believe I could answer that question on behalf of the association. We simply never took a position on that point. We didn't have any objection on that point as an association.

**MR. HANUSCHAK:** In other words, do I understand the association correctly that it has no objection to the charging of a user fee for public school education?

**MR. CHAIRMAN:** No, I don't think . . . I'll let the honourable member speak for himself. Mr. Cornell.

**MR. CORNELL:** I'm sorry, I don't understand your question.

**MR. HANUSCHAK:** Do I understand Mr. Cornell correctly that MASBO has no objection to the charging of a user fee, imposing a user fee upon the pupils enrolled in our school system, if the Minister should so wish?

**MR. CORNELL:** By the Minister, you're referring to?

**MR. HANUSCHAK:** Mr. Chairman, the section of the Act gives the Minister the power to make regulations governing the imposition of a user fee, and I can't say whether it's by the Minister. The Minister may make a regulation authorizing you, the Secretary-Treasurer, to charge a user fee.

**MR. CORNELL:** Mr. Chairman, I wouldn't see the Minister requiring the Secretary-Treasurer to charge a user fee. I suppose if the Minister issued a directive to the school board, that's what the school board has to answer to, but that wouldn't be our function, no. That would be the school board to answer for. \$

**MR. HANUSCHAK:** Yes, one further question, Mr. Chairman. I'm sure that MASBO is aware of the fact that the individual from the Department of Education overseeing their performance will now be a political appointee, an appointee made in the Cabinet Room, as opposed to the Civil Service Commission. Has MASBO any concerns about operating in this fashion, having political appointees breathing down their necks, rather than civil servants?

**MR. CORNELL:** I believe you're referring to the field services officers.

**MR. HANUSCHAK:** The Education Administrative Consultants. Yes.

**MR. CORNELL:** Mr. Chairman, it has been our impression to date, and we certainly have had no other indication that the function of these people is to assist in the educational field, not in the business field, and I don't believe that's where their expertise is, to the best of my knowledge. I haven't known of any of them to have expertise in the business field, that they're educational

consultants and therefore that has not been an issue or concern of the School Business Officials Association.

**MR. HANUSCHAK:** Mr. Cornell's interpretation of the role and function of the education administrative consultants, is that based on some section of the bill which he had located that limits the role and function of the education administrative consultant only to matters strictly and solely and exclusively related to education, or is that merely your speculation that the education administrative consultant will not walk into your office and check on what you are doing?

**MR. CORNELL:** Mr. Chairman, it's based on past practice and letters, recent letters even, from the Minister's office introducing the field service representatives and their functions and what they're available for. And as I say, there's nothing in the Act that says what they will or will not provide in that way. In terms of business it makes no reference to the advisement in the business administration field. It simply, as I understand it, is in a consultant capacity.

**MR. HANUSCHAK:** A final question, Mr. Chairman. Does MASBO feel quite comfortable with the fact that the education administrative consultant, by virtue of a section contained in The Public Schools Bill, has the power to demand of your membership, and of anyone, any information that he wants to assist him in carrying out the provisions of this Act, when this Act deals with the financing of education as well as a delivery of education programs. And if you should refuse to provide such information to such a political appointee that he has a right to send you to jail.

**MR. CORNELL:** Yes, we have in fact lived under those circumstances, I believe for quite some time. The school board records are a matter of public information, and we are answerable to the school board and the Minister or anybody else designated and that has never created, to the best of my knowledge, and I believe any of the members of our association, has not been an issue of concern to date. The inspectors have, personally speaking, have been to my office and talked about various things and had certain basic information, but never to any great detailed extent. I believe if there was any concern that way, I would raise that through my local board and the board would have to take a position in that regard if there were any documents to be withheld, if you will, but I don't believe that is a concern.

**MR. HANUSCHAK:** Yes, Mr. Chairman. Mr. Cornell's comments raise one further question. Does your organization not make a distinction between an individual granted certain powers, an individual who is appointed through the Civil Service Commission machinery being granted certain powers, and such powers being in the hands of a political appointee, as the Education Administration Act provides for.

**MR. CORNELL:** Mr. Chairman, no, if it's provided in the Act, we don't have the authority to question that.

**MR. CHAIRMAN:** The Minister of Education.

**MR. COSENS:** Thank you, Mr. Chairman. Through you to Mr. Cornell, and let me say that I appreciate some of the suggestions and concerns that Mr. Cornell puts forth in this particular brief. On the matter of the user fee referred to by the Member for Burrows, Mr. Cornell, the proposed legislation differs very little from the legislation that exists at this time, and I refer you to 6(1)(w) of the present legislation, which mentions user fees in the same way that it's mentioned in the proposed legislation. Do you see any departure from that old legislation in the proposed legislation?

**MR. CORNELL:** Nothing significant, no. That's why we took no position.

**MR. COSENS:** And also, Mr. Cornell, in the matter of the powers of the educational administrative consultants, in the old Act, the present Act, 336(5) covers the powers of inspectors, and there it mentions the ability to compel people to produce documents and so on. Do you see anything in the new Act that is a departure from that existing legislation in the old Act?

**MR. CORNELL:** Mr. Chairman, not as I recall, just off the top of my head right now, based on our review of the Acts. I don't recall anything specific. I'd have to look at it more carefully, but nothing that comes to mind.

**Privileges and Elections**  
**Monday, October 22, 1979**

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**MR. COSENS:** Also, your first observation, Mr. Cornell, in your brief, Section 4(2), would you agree that that's covered under Section 91(2). Your concern that that particular section has been deleted I would suggest has been covered in 91(2) of the proposed legislation.

**MR. CORNELL:** Is that Bill 22 or . . .

**MR. COSENS:** 91(2) of 22. Bill 22.

**MR. CORNELL:** Mr. Chairman, you did say Section 4?

**MR. COSENS:** You were concerned that Section 4, Part 2 was not included in Bill 22.

**MR. CORNELL:** That's correct.

**MR. COSENS:** Could I refer you to 91, Subsection 2.

**MR. CORNELL:** Mr. Chairman, 91, subsection 2 deals with pupils in the care of teacher aides. Section 4 deals with non-assessed or partly assessed lands. Section 4(2). I'm sorry, Section 4(2) is of the draft of The Public Schools Act. The draft prior to the Bill. That section 4, Subsection 2 was in the draft but then was deleted when it came to the bill, and we are suggesting that it should be looked at again for consideration, that perhaps it shouldn't have been deleted. It's not in here.

**MR. COSENS:** That's fine, Mr. Chairman, I thought that Mr. Cornell was referring to Bill 22 that we have before us. He was referring to another draft.

**MR. CORNELL:** Have I made myself clear?

**MR. CHAIRMAN:** The Honourable Member for St. Vital.

**MR. WALDING:** Thank you, Mr. Chairman. I had a few questions for clarification for Mr. Cornell from his brief. I'm not sure that I followed everything that he was speaking of as he went through it. We've just had a recent reference again to the words, draft of the new Public Schools Act. Would Mr. Cornell just expand on that, what he means by that expression?

**MR. CORNELL:** Yes, Mr. Chairman. In the Manitoba Association of School Business Officials, the same as the School Trustees, School Superintendents, the Teachers' Society, we were all involved as representative groups in the consideration of the present Public Schools Act, and over the many years, a draft of the new Public Schools Act was produced which we then considered and made our positions known on it. And from the positions and comments and objections that were raised on the draft, Bill 22 was formulated.

So that in reference there, for instance on that Section 4, there was a subsection included in the draft that was subsequently withdrawn when preparing Bill 22. That's what we were concerned with there, and that's our reference to the draft, the working document that our association was involved in in coming up with Bill 22.

**MR. WALDING:** Thank you. Following from that, Mr. Chairman, I'd like to ask Mr. Cornell if he had made these concerns that are in his brief now to the Minister on the draft of the bill?

**MR. CORNELL:** Mr. Chairman, I would have to go through item by item to insure that. There could be some in here that were expressed concerns when we were dealing with the draft, yes. I don't believe there are too many, if any. We had several points raised previously, a previous brief which was just to the Minister and his department in dealing with the draft, and most of our concerns at that time were dealt with, I believe. I would have to say, generally speaking, no, most of our previous concerns at that time were dealt with, these are subsequent concerns based on the new bill and any changes that might have occurred since then or come up. I believe my answer must be a "no" on that. Everything else we had raised had been pretty well taken care of at that time. I don't believe there is anything drastic or outstanding in our brief today that were included in previous comments. This was in addition to those.

**MR. WALDING:** So do I gather from that, Mr. Cornell, that most of these concerns came up, only in the new Act and that they were not in the draft for you to object to at the time?

**R. CORNELL:** Mr. Chairman, I don't know if that's 100 percent true, but basically, yes. There might be the odd one in here that was also raised as an objection previously. I would have to compare my two documents to verify that, which I could do if you wish me to.

**R. WALDING:** Thank you, Mr. Chairman. I'd like to move to the bottom of that page, 43(1), where you have concern about transportation and the provision for grants. Can you tell me how this new provision varies from what is presently in the Act as regards transportation and grants?

**MR. CORNELL:** Mr. Chairman, I'm just recalling right now, but I believe that this wording of Section 3, subsection 1 is a new wording. I could stand to be corrected on that, but I don't believe that wording is in the present Act. Transportation has basically been provided by regulation to date. I believe this wording is new. I believe this is a new section of the Act. I could stand to be corrected, but I believe it's new.

**MR. WALDING:** I'm not absolutely clear yet, Mr. Chairman. Is Mr. Cornell's concern that school boards have been required to provide transportation, but the Bill doesn't make provision for grants, is it the matter of who pays for it that is bothering you, and is that not in the present Act, and is there provision under the present Act for the payment of grants to school boards?

**MR. CORNELL:** Yes, the present regulations and Act provide for the grants and the basis on which we are to receive our grants under the definitions of "transported pupil" and a transported pupil as identified and specified in the regulations and that's upon which we receive our transportation grant revenues from the department. Our concern here is that it just says that where transportation is required, but without any specifics as to defining how transportation "will be required" and that is our concern that it's open to interpretation of when transportation is required and if it can be proven on a board that the transportation is required in a special circumstance, but regulations don't provide for grants in those circumstances, then boards are forced to provide that type of transportation, and out of its own general levy moneys.

**MR. WALDING:** Is required transportation provided for in the present Act?

**MR. CORNELL:** Yes, it is in terms of it defines what is a transported pupil. So that the board knows on what basis it shall receive its grants and can then determine to whom it shall provide transportation, fully recognizing that if it's going to provide transportation beyond those "transported pupils" then it's out of its own funds. But right now that is a board decision as to when and where transportation shall be provided, knowing full well what the grants are and what it would have to come up with out of its own funds. Our concern here is that the board would not have that authority to so determine, that somebody else could determine that transportation is required.

**MR. WALDING:** Thank you. I follow now what the concern is. I'd like to turn to the next page, 48 (1)(x) where you say that you share the concerns of the Manitoba Association for School Trustees. We haven't heard from that front yet as to what their concerns are. Perhaps you could enlarge for me on that particular paragraph, just explain it to me what it's all about.

**MR. CORNELL:** Mr. Chairman, and I can't speak for the Manitoba Association of School Trustees, but in general terms, their concern is that the present wording of 48(1)(x) will make it possible that almost anything is negotiable. It provides that any conditions or terms of employment with the teachers, not in the strictest sense of what is a negotiable item as is more commonly known, but in such things as class sizes, and pupil-teacher ratios and the like. That is the concern of the School Trustees Association, that it will open up those areas to be negotiable, as determined by the wording of 48(1)(x) and I believe when you receive their brief, they have quite a lengthy dissertation on that subject. So I believe it will become much more clear at that time, but generally, the basic concern with this section is that it's going to make many areas of administration of school divisions negotiable, which, of course, hitherto have not been negotiable. In other words, they are not strictly wage and working condition fringe benefit considerations.

**MR. WALDING:** So you see this as a widening of the area for negotiable items. Can I ask, just thinking of a parallel case, Mr. Chairman, we've seen reference in the newspapers recently to a matter that went to the courts following compulsory arbitration of a fireman's dispute with the city, do you see any sort of parallel here, and are matters which are either negotiable or not negotiable, can they be taken to an arbitration board or to a court for a decision under the present

**MR. CORNELL:** Yes, there are provisions for arbitration procedures.

**MR. WALDING:** Do those arbitration proceedings deal with what is and what is not negotiable?

**MR. CORNELL:** Mr. Chairman, normally the arbitration process is to determine if there has been a violation of the collective agreement, of the existing collective agreement. I believe it would be a matter of the Collective Agreement Board to determine whether an item is or is not negotiable in school division operations.

**MR. WALDING:** Section 62 on the same page, referring to private schools. Would you like to enlarge on this matter for us?

**MR. CORNELL:** What's presently happening is that school divisions, there are regulations that provide for the payment of grants and provision of transportation and the sharing of services with private schools, and what is happening is that the school divisions are being required to enter into the agreement with the private school, subject then to the approval of the Minister of Education. The grants then are claimed by the private school back to the school division who submits the claim to the minister; the minister sends the money to the school division who submits it back to the private school. We're suggesting all that is happening here is that the school division is a third party, an intermediary party, to the process and that if the regulations of the department are to pay grants to a private school then we feel those agreements and the payment of grants should go straight from the department to the private school, that we are simply handling the funds as a third party and passing it on.

**MR. CHAIRMAN:** The Honourable Member for St. Vital.

**MR. JAMES WALDING:** Mr. Cornell, is the concern of your association only from the administrative problems in being an intermediary or do you take a position on the principle involved in "aid to private schools."

**MR. CHAIRMAN:** Mr. Cornell.

**MR. CORNELL:** No, it's strictly as being intermediary party, administrative.

**MR. WALDING:** I'd like to ask Mr. Cornell what responsibility the school boards have for standards in private schools.

**MR. CORNELL:** I don't know if I'm qualified, Mr. Chairman, to give a detailed answer on that, that's more in the educational field which I am not directly involved with myself but, generally speaking, school divisions have very little control over the operations of the private school and, I believe, that is where the field service representatives are supposedly to be responsible for the private schools. The school divisions, right now, all we receive is just the attendance records of the private school, but at this time we have no jurisdiction over them.

**MR. WALDING:** On a later page Mr. Cornell you mention the matter of attendance officers and private schools. Is this also a matter of administration and being an intermediary or is this more a matter of principle involved here?

**MR. CORNELL:** Mr. Chairman, it's a little bit of both I would say. Again the private schools do not come under the jurisdiction of the school division, and yet, the wording of the present Act is to provide that the attendance officer of the division shall be responsible for the attendance of the private school. So that's the only place that we have any jurisdiction or involvement with the private school.

**MR. WALDING:** Then I would like to ask Mr. Cornell who now has the responsibility for the attendance of children at private schools?

**MR. CORNELL:** Mr. Chairman, I'm not even sure I can answer that question, I don't think we know.

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**MR. WALDING:** Can you tell us whether it is or is not the school board's responsibility.

**MR. CORNELL:** Mr. Chairman, no it is not.

**MR. WALDING:** So it is someone other than the school board, if anyone.

**MR. CORNELL:** Right. It's the private school.

**MR. WALDING:** The private school itself?

**MR. CORNELL:** As far as I know, and the field officer. I believe they can become involved but the school division has no jurisdiction, no.

**MR. WALDING:** Section 70, Purchasing procedures. I follow the point that you make there. Could you give me an example of what might be included in what you say?

**MR. CORNELL:** Mr. Chairman, I'm sorry I can't give you anything specific I'm not a purchasing agent myself, but, as I recall, right now especially in your regional schools and your industrial arts areas there are some major pieces of equipment, such as in automotive, I believe, there are pieces of equipment that could well exceed \$5,000, especially the way inflation is going it won't be too many years before there will be many things exceeding \$5,000.00. But there are, I believe — I'm trying to recall — my purchasing agent indicated as one example in the automotive trade the testers could well exceed that and you can only basically buy them from one location, and one or two at the most, and the public tender route is maybe an additional cost in administrative procedure for boards to have to follow when it wouldn't accomplish what public tenders are intended to accomplish. And we sincerely support the idea of public tenders, it's just these odd cases. We're suggesting that if there was a way of rewording it to allow such exceptions to be made, in a sense, where there was only one supplier available, to try to alleviate the problem of having to go the full public tender route to just end up buying from that one supplier anyway.

**MR. WALDING:** Was there reference to this in the draft bill and did you make your concerns known at that time?

**MR. CORNELL:** Mr. Chairman, there was reference to the purchasing procedures but it wasn't this specific at that time. There were suggestions and that then and, in fact, I believe the Minister will recall that our association offered its services in providing some assistance through the purchasing agents that are part of our membership in coming up with some wording in this area and the draft bill had considerably more wording in it than is presently in there. It was changed quite a bit. We agree with the current wording with this one small concern we have. As I say it's a rare circumstance that is going to occur and if it is left the way it is then we will just have to learn to live with it and it's simply a matter we thought if there was a way of alleviating that concern then it would simplify matters for school divisions, but we could live with it but we would have to go the route on the odd . . .

**MR. WALDING:** I ask Mr. Cornell about 93, Sick leave. I don't really understand what you are saying there.

**MR. CORNELL:** Section 93 just provides that the sick leave shall be to a maximum of 20 days but shall not exceed 75. Section 93(4) of Bill 22 says it's subject to subsection (1) "a teacher shall on coming into force of this Act, continue to have such sick leave entitlement as he had under authority of any previous Act, together with any additional sick leave as may accrue to him under this Act." And our concern was that this wording could be interpreted to mean that they had that prior entitlement in addition to the 75 days provided in subsection (1) up above. So, in other words, if they had previously had 60 days, for instance, they would now have 135. It is our understanding that the new Act is simply to put into perspective what their entitlements are, maximum entitlements are, and that Section 93(4) could be open to interpretation. That's our concern.

**MR. WALDING:** Your statement here, Mr. Cornell, says that "we feel the Act should clearly provide that sick leave entitlement should be reduced for every day of sick leave used by the teacher." Doesn't it happen that when you are off sick you use up one day of sick leave, or is that not happening now, or is there some problem there that you are referring to here?

**MR. CORNELL:** No, that is what is happening and what we believe should happen. The Act, B 22, is getting into specifics setting up the accumulated number of days a teacher is entitled to etc, but it makes no reference to the fact on what basis that accumulated sick leave shall be reduced and that is our concern. It just reads strictly that they shall receive as a maximum 75 days with no reference to prior sick leave use and we feel that that should be clarified, that every sickness isn't an automatic 75 days, there is a reduction based on previous use.

**MR. WALDING:** Thank you, Mr. Chairman, that's all the questions I have.

**MR. CHAIRMAN:** Any questions? The Honourable Member for Winnipeg Centre.

**MR. BOYCE:** Mr. Chairman, first of all through you to Mr. Cornell, perhaps you could explain just briefly . . . The task that's facing us is to come up with a couple of bills or one bill to administer and operate the public school system, and the best group of people to advise us on how to redraft these bills, should the Minister so decide, is through questioning of people like yourself. So, in going through the briefs and listening to your answers which you have a responsibility to your organization to respond to to reflect their thinking. Nevertheless if we don't ask these questions which may be peripheral to your own organizational concerns we're going to end up with 58 blind men looking at an elephant rather than just half a dozen or so. But one of the things that disturbed me in your responses to my colleague from Burrows you commented "I have not the right to question the law."

**MR. CORNELL:** I'm sorry.

**MR. BOYCE:** You said, "I have not the right to question the law." I just repeat your answer and it kind of disturbed me a little because this is what we are sitting here for is questioning the law because it is the whole educational system which is under review. You know, if this were a bill — excuse, I don't want to be out of order, Mr. Chairman — but if this were a bill referred to a committee to study clause by clause in the Legislative, the rules are such that we have to limit ourselves for the debate of those particular clauses and the ramifications thereof, but what we are after here in this committee is to come up with some understanding of what the people in the Province of Manitoba expect of their educational system. So that when we ask for comments, especially members of the opposition, it's our responsibility to try and provoke responses. So I just mention that as a long preface to my question, Mr. Chairman. You mentioned in your comments, in response to the Member for Burrows, you had letters, correspondence from the Minister's office relative to educational administrative consultants. I think you referred to them as field representatives. Does this mean that these people are actually in place without statutory provision? Is that what you had said?

**MR. CORNELL:** Mr. Chairman, yes, in Brandon there are three located out of the City of Brandon serving the three designated areas within the Westman area, if you will. Maybe field services officer isn't the right word anymore. As I say, as a Secretary-Treasurer I have very little dealing with them myself, they're mainly in the educational field and maybe I'm using an outdated term right now, I'm not sure. But, yes there are three located out of Brandon right now, yes.

And in terms of your prefaced remarks there I apologize, maybe my wording was a little bad there; I didn't mean that we don't question the law, I believe that's what we are doing here today is trying to improve the law for school divisions which is the Public Schools Act. What I meant was that if the Public School Act provides that those records are available to specified person or representatives then it's my obligation, on behalf of the board, to provide those records or information. Truly any law is open to question and I could, before providing it, as I mentioned before, I could go to the board with any concerns I had that way and the board would then have to make, as the board of the division, would have to make that decision as to whether to provide the records or appeal to the appropriate authorities that it's beyond the scope of what's required. But, in answer to your question, no the people, as I understand it, are providing the services now.

**MR. BOYCE:** I'm glad you cleared that matter up for me, Mr. Cornell because I misinterpreted what you had to say. But back to the Educational Administrative Consultants, the three of whom are in place in Brandon, you say that you have had correspondence from the Minister's office setting forth the terms of reference of these educational administrative consultants.

**MR. CORNELL:** We have a letter, I believe, the letter identifies individuals and what divisions come within their scope. As I say the area is divided under the three people that are responsible for

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maybe half a dozen divisions, they sort of look after and they are there to assist school boards as I understand it, and educational people and administering the school division and providing services, assisting the divisions in providing the services they do provide.

**MR. BOYCE:** Well, I want to get this absolutely clear. Can you recall when this letter came to your attention?

**MR. CORNELL:** Mr. Chairman, it's a recent letter. It's within the last month, two weeks to four weeks I would say.

**MR. BOYCE:** Well, this creates kind of a quandary, I don't understand. Within the past month you're telling the committee, a letter came from the Minister's office setting forth the terms of reference for three people in Brandon who are educational administrative consultants. Am I correct, Mr. Chairman?

**MR. CORNELL:** Mr. Chairman, I don't know if the terms of reference is proper terminology here. It introduced the three people and the divisions for which they were responsible and generally speaking how they were available. There wasn't, if you will, terms of reference as to exactly what their duties were. It gave the general area in which they could be available and of use to divisions, and of assistance to divisions, I'm sorry.

**MR. BOYCE:** I wonder, through you, Mr. Chairman, to Mr. Cornell, if he would give us a copy of that letter.

**MR. CORNELL:** If that's the committee's wishes, certainly.

**MR. BOYCE:** Thank you, Mr. Chairman.

**MR. CHAIRMAN:** The Honourable Minister of Education.

**MR. COSENS:** Mr. Chairman, I wanted to ask one last question of Mr. Cornell. I wonder, Mr. Cornell, speaking on behalf of your association, if you could give me an opinion as to the degree of autonomy enjoyed by school boards. Has that been increased, decreased or merely maintained by this proposed legislation?

**MR. CORNELL:** I'm sorry, Mr. Chairman. By Bill 22? I don't believe I could even answer that specifically. As I say, for instance, the transportation one, if the grants aren't there then that's a case where we've lost. I don't think I could give an overall answer to that without having looked at it and I'm afraid I haven't looked at it in that light.

**MR. COSENS:** No further questions, Mr. Chairman.

**MR. CHAIRMAN:** The Honourable Member for The Pas.

**MR. McBRYDE:** Yes, Mr. Chairman, to Mr. Cornell. We haven't heard the brief from the Manitoba Teachers Society yet. I believe that part of their proposal and their recommendations contain provisions around the area of sick leave, the nature of the days of sick leave and how that affects unemployment insurance. Are you familiar with their thinking on that matter?

**MR. CORNELL:** Mr. Chairman, I'm afraid I haven't seen their brief, no, just from previous discussions at the School Act Review Committee level but I haven't seen their brief to know what their last position is, no.

**MR. McBRYDE:** You and your organization just seem to be a good one to ask that question of and I don't know, maybe it would be worthwhile to ask that question of Mr. Cornell after he has the information although I guess you'd be back in the rural area by then. I have no further questions, Mr. Chairman.

**MR. CHAIRMAN:** Any further questions of Mr. Cornell? Thank you, Mr. Cornell, for your presentation.

**MR. CORNELL:** Thank you for hearing us.



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**MR. CHAIRMAN:** I call on Mr. John Hayes, Winnipeg School Division No. 1.

**MR. JOHN HAYES:** Mr. Chairman, Mrs. Mira Spivak, the Chairman of our Board will make the presentation on behalf of our Board of Trustees.

**MR. CHAIRMAN:** Thank you, Mr. Hayes.

**MRS. MIRA SPIVAK:** Mr. Chairman and members of the committee, my name as you've heard is Mira Spivak and I'm here representing the Winnipeg School Division No. 1. I would like to read the brief that we have to present to you here this morning.

The Board of Trustees of the Winnipeg School Division welcomes the opportunity to make representation to the Standing Committee on Privileges and Elections concerning Bill 22, the Public Schools Act, and Bill 23, the Education Administration Act.

Division representatives have been consulted by both the Manitoba Association of School Trustees and the Manitoba Association of School Superintendents in the preparation of their brief and have contributed to them. The division trustees are pleased to give general support to the representations by these associations and are content to leave consideration of much of the detail contained in the bills to them to draw to your attention. However, there are some items within the proposed Acts that because of our somewhat unique position as the largest and the most urbanized division in the province, have particular effect upon us and about which we would prefer to make our own representations.

We are concerned specifically about Section 189, the section on the Greater Winnipeg education levy, the present pattern of remittance of moneys by municipalities to school divisions referred to in Section 190, and Section 41(5) dealing with the conditions governing the provision of special programs and special education. I shall deal with each of these separately.

With respect to the Greater Winnipeg education levy, in a brief submitted by the trustees of the Winnipeg School Division to the Minister of Education on January 16, 1979, the following recommendation regarding this levy was made by the Winnipeg School Division:

"That the Greater Winnipeg education levy be abandoned as a form of taxation and that an immediate study be made of ways and means to derive such moneys as it produces from the consolidated revenues of the province."

On May 25, 1979, in a letter to the secretary-treasurer of our division dealing with matters pertaining to this brief, the Minister of Education replied:

"The Greater Winnipeg education levy is under continuing study to see what should be done with respect to it. I have asked my staff to provide me with alternatives to the levy with a view to seeing what might be possible."

The Winnipeg School Division and the Fort Garry School Division have raised objections to this particular levy almost since the day of its inception. Since this is a so-called equalization levy and the other urban divisions in the city benefit substantially by the moneys raised in divisions with large assessments, the levy has been maintained as a political expedient regardless of its recognized weaknesses and irregularities. We are greatly dismayed that despite the Minister's apparent agreement with us and repeated assurances that alternative measures of raising and providing moneys will be sought, the new bill enshrines the old task in its every pernicious detail.

Since the Greater Winnipeg education levy was introduced in 1972 really taxpayers in Winnipeg School Division have, besides paying more than 70 percent of their own total education costs, contributed \$37,778,837 to equalize the tax burden of other school divisions in the City of Winnipeg.

There is no equalizing tax at the municipal level for fire protection, police, parks and recreation, or any of the other services but for education a Winnipeg School Division homeowner must pay from \$100 to \$200 more school tax than he or she would pay if the house and property were located in any one of several of the other urban divisions. A Winnipeg School Division resident pays a school tax rate of 75.35 mills; a River East or Transcona-Springfield homeowner pays 59.9 mills; and a Seine River household taxpayer within the City of Winnipeg has only a 43.1 mill tax rate to contend with. It makes little sense that every level of taxpayer in the City of Winnipeg is taxed equally to provide for varying local needs in terms of fire, police, traffic and countless other municipal services while for education of children which is based on the principle of equal opportunity for all, not only do the tax rates vary because of different local needs but some divisions are forced to actually subsidize others — I should say some taxpayers — to compensate for provincial reluctance to devise a fair tax structure and a fair distribution of educational money under the foundation program.

This has been a forthright statement respecting the division's concern with the Greater Winnipeg education levy and the inclusion of it in a proposed new Public Schools Act. We would not deny the other urban divisions their right and indeed their duty to complain if the manner of the tax

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removal threatened to cause a drastic upward shift in their division's education levies. But we do agree with the City of Winnipeg treasurer who, in his 1979 report to the City Council — not the first report that he's made on this matter — and he without having any vested interest in educational financing methods other than a general concern for equality of treatment, said:

"The disparities in school tax rates between property owners in the same city are now measurable in dimensions which cannot possibly be rationalized. This of course reflects the consequences of incredibly outdated cost-sharing formulae and equalization processes that were ill-designed initially and which are being incomprehensibly allowed to continue" This statement must be true because I'm sure the City of Winnipeg treasurer would not mangle an infinitive without just cause.

We ask that Section 189 be deleted from the bill and that it be recommended that the province seriously seek solutions to the problems created by this levy.

Another matter that we're concerned with is the interest costs which accrue to our division. Apart from other income, which in 1979 is estimated to be approximately \$2 million, the school division receives all the money it requires for current operations from either the Provincial government or the City of Winnipeg. Because these moneys are received by the division after the expenditures to which they relate have already been made, the division is in the unenviable position of being a perpetual borrower. An effect of this situation is shown in the following table which shows you that by July, when we've already expended 58 percent of our budget, we've only received 48 percent of the Foundation Program and at the end of that month 20 percent of the special tax levy, and prior to that we receive nothing at all from the City of Winnipeg.

In practical terms it means by June 30th in a particular year when the division has expended, as I said, approximately half of its current budget, only 36 percent of the Foundation Program support has been received and nothing has been received by way of the special tax levy, notwithstanding the fact that the City of Winnipeg has collected by that date approximately 87 percent of the realty taxes, both municipal and school for the current year, and that is the information that we received from the City of Winnipeg. Rather than paying this money over to us, which we would like to see as an integral part of the legislation, the City of Winnipeg can and does loan out these funds and we had to sign a note in June to that effect with the resulting interest income appearing as an offset against municipal costs. In effect the division is having to borrow and pay interest on moneys which have been collected by the City of Winnipeg on its behalf.

The unreasonableness of this situation has been brought to the attention of the Minister of Education in a letter dated June 27, 1979, which reads in part: "Prior to the coming into force of the Manitoba revised regulation P250R7, the City of Winnipeg was required to pay over the special levy to the school division as follows: 60 percent by November 30 and 40 percent by the succeeding January 31. At that time the city voluntarily made payments of 10 percent of the special levy on the last day of each of the months, June to November inclusive, provided the city's position with their bank was such that these payments could be made. Because the City of Winnipeg is presently making payments only as required under regulation P250R7, the position of the Winnipeg School Division concerning interest cost is much less favourable than it was prior to 1975."

In dealing with this matter it should be kept in mind that realty taxes in the City of Winnipeg are due and payable by June 30, whereas in rural areas taxes have been traditionally paid after the fall harvest. The position of urban divisions could be relieved if more flexible arrangements were made with respect to payment of levies by municipal authorities.

With interest rates at record high levels this matter has become critically important to the division. Whereas interest costs as a percentage of total expenditures were at .78 in 1967, the corresponding percentage in 1979 will be approximately 2 ½ percent. In terms of dollars the 1979 interest costs for current operations will be in excess of \$2 million.

This matter is one that has been before the Department of Education for some time. The Task Force Report on Government Reorganization and Economy received by the Legislature in 1978 drew attention to the fact that the Provincial Auditor dealt with the question in some detail in his report to the Legislative Assembly for the year ended March 31, 1977, and summarized this report as follows: "Briefly the report points out that the interest charges for 1976 amounted to \$5.6 million — I believe this is for all school divisions — an increase of \$1.3 million over the previous year. These overdrafts are caused by the fact that tax remittances from the municipal corporations are slow in getting into the school board on whose behalf they are collected in the first place. Some considerable part of the delay is due to the fact that while the school division's year commences on January 1st, municipal tax bills do not go out until May or June.

To remedy this situation it is recommended that the payment schedule by which municipalities pay moneys to school divisions be changed to — and the recommended is 30 percent by the end of July, 30 percent by the end of September and 40 percent by the end of November.

The property tax rebate should be paid immediately to school divisions. This could represent a saving of approximately \$2 million a year in interest charges to the school divisions — and this

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is all school divisions — some portion of which will appear as costs to the municipalities.” This was all a quote by the Provincial Auditor.

In a letter dated July 10, 1979, the Minister of Education said with respect to this matter: “I am certainly concerned with the amount of interest costs which school divisions have to incur in order to finance their operations, and I am hopeful that ongoing discussions which are taking place between my department and the Department of Municipal Affairs will lead to a course of action which will assist in at least alleviating this problem.

While the Division appreciates the discussions that are taking place concerning this problem we respectfully submit that the time has come to take decisive action to ensure that the burden of interest costs is either removed or substantially reduced and therefore we ask that before Bill 22 is proclaimed, the regulations referred to in Section 192(3) of The Manitoba Regulations P250-R7 be revised in a way which will alleviate the burden of interest costs presently borne by school divisions, particularly those within the City of Winnipeg; and that before Bill 22 is proclaimed, Sections 43, 45(1), 45(2) and 46 of Manitoba Regulation 17077 be revised in a way which together with the recommendations contained in (a) above will further reduce the interest charges presently included in school divisions’ budgets as a cost of education.

On the matter of special programs, the trustees of the Winnipeg School Division No. 1 are concerned with the wording of Section 45(5) of the proposed new Act as contained in Bill 22.

The statements, “Every school board shall as far as is possible and practicable under the circumstances provide or make provisions for resident persons who have the right to attend school and who require special programs for their education” appears to place no real requirement upon local school divisions or upon the Public Schools Finance Board to meet anything but minimal standards in providing for special needs children.

We believe that during the past decade very important steps have been taken by the government to establish very definite and quite high standards across the province for programmed staff resources, building accessibility and transportation provision for the learning disabled and the handicapped, and to foster and support financially the right of all children to be accommodated in the local public school system.

Section 41(5) seems to be a retreat from this position and is interpreted by us as a very weak and regressive proposal. We feel strongly that the new Act provides government with the opportunity to take the lead in establishing goals and standards for educating and accommodating special needs children and that it should contain positive legislative direction to ensure the elimination of the wide disparity of educational treatment now available to children in different parts of the province and to guarantee adequate support to those divisions which provide the needed programming and resources.

Although the Winnipeg School Division No. 1 because of its size and consequent greater numbers of special needs pupils in the many areas of disability and handicap, and because of a long history of trustee commitment to the total support of equal opportunity and quality education in the special needs areas, has a vested interest in assuring that adequate provision is made in the Act to guarantee its ability and determination to continue this programming, that is not the sole matter of concern. We know that the best placement for disabled and handicapped children is as close to the mainstream of society as possible, and we know that for the majority of children this means placement in their home divisions.

To make this dependent upon a definition of commitment such as “as far as it is possible and practicable under the circumstances” does not seem to be the best this province can offer. Bill 22 makes no reference to the right of the handicapped to have specially trained teachers, to have adequate support staff in the person of speech and hearing specialists, physiotherapists, audiologists, psychologists, among others, to have total access to school buildings and to have portal to portal transportation where this is needed. It does not define any degree of provincial support.

Section 41(5) is not acceptable in terms of the rights and needs of pupils and is not adequate in terms of the direction and expectations that are conveyed to division boards.

These are our concerns and we shall follow with interest the recommendations which the Committee makes with respect to these three matters.

Thank you.

**MR. CHAIRMAN:** Thank you, Mrs. Spivak. Any questions?  
The Honourable Member for St. Vital.

**MR. WALDING:** Thank you. Mrs. Spivak, you mentioned in the beginning of the brief that you had spoken to the Association of School Trustees and Superintendents and that you generally support their representation. The fact that you have chosen to speak in your brief to us about three particular

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pics, the equalization levy, interest and special education, does that indicate that the School Board of Winnipeg does not feel that those organizations are giving sufficient weight to those problems?

**MRS. SPIVAK:** Well, I cannot really speak for those organizations, Mr. Walding as you know. I believe they have not seen this brief and I don't know whether they would support us. I think the matter of the Greater Winnipeg education levy is a particularly touchy one and one in which the Winnipeg School Division and perhaps one or two other divisions have particular interest in and think it is appropriate for us to comment on these matters.

I believe there was some discussion in a meeting which I attended for MASS about the whole question of financing and interest rates, but to the best of my recollection that is not a matter that is touched upon in their brief, and as for the other Association I really must say that in general the Board supports their presentation, but I am not really familiar enough with the brief to comment on anything in particular.

But why we have chosen these special areas is because we feel in the Winnipeg School Division that these are areas which are of utmost importance to us. We've selected three, there could be a great many others, and that we make this presentation to you as our particular brief.

**MR. CHAIRMAN:** The Honourable Member for St. Vital.

**MR. WALDING:** Thank you. Mrs. Spivak, you mention that Winnipeg and Fort Garry were contributors under the Greater Winnipeg equalization levy and that the other divisions were receivers of that money. Are you aware that Norwood School Division this year for the first time is paying into that to the tune of some \$83,000.00?

**MR. CHAIRMAN:** Mrs. Spivak.

**MRS. SPIVAK:** Thank you, Mr. Chairman. I am aware that Norwood from time to time is either a recipient or a donor depending on the case. I think there has been an occasion in the past where Norwood has been a donor, is that not correct?

**MR. WALDING:** Usually.

**MRS. SPIVAK:** Thank you for reminding me of that. However you will understand that the point here that the Winnipeg School Division wishes to make very strongly is not that there ought not to be an equalization formula, but there ought to be an equalization formula which does not discriminate against a particular set of home owners. I am sure you are familiar with not only our representation but the representations which have been made by the Treasurer of the City of Winnipeg, in which he is almost incoherent. He says in fact in one presentation that this particular equalization formula has no defence whatsoever, and if you wish the document I can certainly provide it for you.

**MR. CHAIRMAN:** The Honourable Member for St. Vital.

**MR. WALDING:** Have you or your School Board made any representation to Ministers involved as to what changes should be made to that levy to make it more comprehensible or defensible?

**MR. CHAIRMAN:** Mrs. Spivak.

**MRS. SPIVAK:** We have made many representations to the Minister and he has heard us with great patience. We repeat ourselves quite often. But as you are aware there is a special advisory committee to the Minister which suggested an alternative. I believe it made its report of an equalization formula for the whole province. It made its report in April.

There have been many alternatives presented. One I believe was once presented by MAST some years ago. We have looked at an alternative ourselves. However we really do not think that it is up to the school divisions to look at an equalization formula, which affects, of course, all the people of the province. You know, there are several things involved here. It is not only the equalization formula I am sure as you are well aware it is the level of Foundation support, which has altered drastically since its inception. It was intended, I believe, to relieve the individual property taxpayer and I believe it was in 1976 when the Winnipeg School Division paid actually more than the year prior to when the Foundation Program was introduced. So insofar as the equity in educational

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in this province, I would suggest to you that it really needs looking at. But we here, of course are looking at the particular aspect of the City of Winnipeg and the educational levy, which I think is a particularly unfortunate equalization formula.

**MR. CHAIRMAN:** The Honourable Member for St. Vital.

**MR. WALDING:** Thank you. Did you mention in your reply to me there that there should be consideration given to equalization across the province or are your remarks only referring to a equalization within the City of Winnipeg?

**MRS. SPIVAK:** My remarks here in this brief are only with regard to the City of Winnipeg, but in April, I believe, the Minister's Advisory Committee did present a report in which they made a suggestion of an equalizing formula, which I believe was for the entire province. I believe it was the Minister's Advisory Committee on Educational Finance.

**MR. WALDING:** I would like to ask Mrs. Spivak now if she sees that the government's proposed White Paper on tax credits, I think that is how it was phrased, would have a bearing on this matter of equalization? We have not yet seen what the government proposes, we don't know why there is a delay on it, but do you see that as having an effect here because it ties in very much with tax credits and grants to home owners?

**MRS. SPIVAK:** Mr. Walding, the property tax credit provides relief, but I would say to all the taxpayers within the City of Winnipeg. Certain of those taxpayers, however, are forced to pay a disproportionate burden of taxes through the Greater Winnipeg education levy. Now I have no way of knowing what the government's White Paper may contain, so I cannot say to you what the relationship may be, but there is that distinction. I mean there is no question that the Property Tax Credit provides relief and that is acknowledged, but that does not bear on the inequity of the present formula, that is the Greater Winnipeg education levy. Many of you sitting here, of course, have people within your constituencies who are so affected. I shouldn't say many, some of you.

**MR. CHAIRMAN:** The Honourable Member for St. Vital.

**MR. WALDING:** What I am asking you is, is the reason that nothing has been done on the Greater Winnipeg equalization levy say over the last year or so is because there is a paper on tax credits coming out? Is that the reason?

**MRS. SPIVAK:** I would suggest, Mr. Walding, that that question would be better addressed to the Minister and not myself. I cannot comment on the reasons why this formula has not been looked at. It certainly has been criticized a great deal. I think the point is this; it is not again for us to advocate a remedy, which would mean that taxpayers in other divisions would face a heavy burden, I don't think that is our intention. Our intention is to point out the very heavy burden that is falling on . . . You see, it is quite evident that the Winnipeg School Division has a richer commercial tax base and there is no dispute about that, but surely there could be an equalization formula devised which would take account of that and not equalize on the backs of property owners, who by and large are poor people, you know, and to whom an increase in the school tax on their property is very onerous. I am sure you know the sort of people that I am speaking to, the people that live in the inner city, which is basically our School Divisions.

Now, you know, equalization, yes, but not this particular formula which discriminates so heavily against people who are hard-pressed at the moment. I think it is something that is a very urgent matter and needs to be looked at in great detail. Perhaps people are not familiar enough with the impact of the Greater Winnipeg education levy. You know, many things are begun and then when there is no reason for it to continue they still continue despite the hardships that it causes many people.

**MR. CHAIRMAN:** The Honourable Member for St. Vital.

**MR. WALDING:** I would like to move to the matter of interest that you referred to and I was on the Public Accounts Committee when it came up for discussion with the Auditor on this matter. You say in your brief that the School Board is borrowing money at the same time that the City of Winnipeg is lending out money. . .

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**RS. SPIVAK:** We borrowed some in June, I think \$9 million we borrowed from the City.

**R. WALDING:** At the same time that the City is lending out money and presumably doing very well because of the high rates of interest.

**RS. SPIVAK:** Well, we got it at 1 percent less than the prime rate, but we should have got it or nothing at all. It is presumably our money, I would hope it is our money.

**IR. WALDING:** If the change that you advocate was made so that you would not have to borrow so much money, would it not be also true that the City of Winnipeg would not be gaining through the money that it is lending out? Would the net result be any different to the taxpayers?

**IR. CHAIRMAN:** Mrs. Spivak.

**MRS. SPIVAK:** I am not sure because I mean we are forced into financing arrangements and we are a small operation. I am not sure what the economies of scale are for very large operations. Other provinces use other measures. There has been suggestions of a pool, it is not within this brief, of monies that we could borrow on. I can't answer your question, but I put it to you that it is non-productive for us to spend an increasing sum of money from our budget for interest rates. It just doesn't make any sense. Our money should be spent for education and not for financing to that degree. And I also point out to you that prior to, I believe, 1967, we were not in this position and we actually were in the black side of the ledger in terms of interest rates. But it looks like we're ever increasingly going to be paying more and more and part of the reason I am sure, apart from other reasons, is the method of payment in which, you know, we've spent a great deal of money before we receive any at all. Again, I would not suggest that within this brief we have the answers for you. We wish to point very directly to problems which I would hope we could solve jointly, but this is definitely a problem.

There was a situation prior to . . . you see, there were several changes made in the way in which the money was remitted. One took place at the time of the Foundation Program and one took place somewhat later which changed the way in which the city was remitting its money to us. Prior to that, it was giving us the money at a faster rate. Now if the city could do that a few years ago, surely it could do so now. If the reasons were valid some years ago, they are equally valid today for a different pattern of remittance.

**MR. WALDING:** On the same point, has the school board given any consideration for sending out its own tax bills directly to the people?

**MRS. SPIVAK:** No. However, the school board has, I shouldn't say the school board, one member of our board gets up each time and says it's time we went into the banking business.

**MR. WALDING:** Thank you, Mr. Chairman. I'd just like to ask a question now on Special Education. Can you tell me briefly what the City of Winnipeg School Board understands by Special Education?

**MRS. SPIVAK:** Well, that would be very difficult for me to do. But you know, we educate various kinds of Special Needs children. Everything from physically handicapped, learning disabled, mentally disabled, so on and so forth, and we have a wide variety of programs within the division to educate these children. And I don't know if you want a definition that's more precise on that. I don't have it handy, but we have a large variety of children who are so-called Special Education children, Special Needs children. They require extra resources, perhaps special classes; some of them are . . . various things.

**MR. WALDING:** Mrs. Spivak, I understand from Bill 58, when it was passed by the Legislature a few years ago and not proclaimed that there was to be a time for research and monitoring, whatever it was called, to identify the needs. Does your division feel that it has met that and it is now in a position to quantify those different needs and to what extent are they being met.

**MRS. SPIVAK:** Well, there were a number of things which took place in our Winnipeg School Division in preparation for Bill 58. Bill 58, of course, is just one step along the continuum of things that the Winnipeg School Division has been doing for a long time. One was a census committee to actually count the number of Special Needs children. There was some difficulty with an instrument devised to actually, you know, identify who these children were. The Winnipeg School Division is . . .

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you know, it's a difficult question you asked me; would we be ready to assume those responsibilities? The Winnipeg School Division maintains a very heavy burden now. I think our particular point in this brief is one to suggest what the rights of children ought to be, of these children, of all children, ought to be in law, and then to have some idea of resources.

Just to give you one example in transportation. While we do of course get grants from the provincial government, they do not begin to cover what our transportation costs are, even for physically handicapped children, orthopedically handicapped and so forth. If you wish some of those figures, I think Mr. Hayes might be more familiar than I am of what some of those figures look like.

But, back to your central question, I really don't know how to answer it. We maintain as you know, a very heavy schedule of programs. In fact, at one point . . . I don't know if it's a gross exaggeration to say that almost half of our children are Special Needs children, but that does not mean that they're all, you know, does not refer simply to the physically and mentally handicapped. It refers to a wide range of children who don't accommodate to the school situation as they might and for whom we have to make special provision.

But I would say that our basic point is that (a) we feel the legislation should very clearly stipulate the rights of the children, not in the manner that it does now but perhaps more in the manner that was originally suggested in Bill 58 and the intent which was there proclaimed, the intent of the legislation, and also that we would of course want more indication of resources for those children whom we must educate. I mean we have no choice, and many of them come to our division in greater numbers than they do elsewhere because we do have the programs; we are running the programs.

**MR. CHAIRMAN:** If I may interrupt the Committee, the hour is 12:30. Would it be convenient for you to return at 2:30 this afternoon, because there are several. . . . 2:00 o'clock, I'm sorry, and we'll proceed.

Committee rise.