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of the

Legislative Assembly of Manitoba

Standing Committee

on

Law Amendments

Chairperson

Mr. Doug Martindale

Constituency of Burrows



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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Seventh Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON LAW AMENDMENTS

Thursday, July 27, 2000

TIME – 2:45 p.m.

LOCATION – Winnipeg, Manitoba

**CHAIRPERSON – Mr. Doug Martindale
(Burrows)**

**VICE-CHAIRPERSON – Mr. Daryl Reid
(Transcona)**

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Messrs. Ashton, Caldwell, Sale

Mrs. Dacquay, Messrs. Faurchou,
Jennissen, Martindale, Penner (Emerson),
Reid, Schellenberg, Mrs. Smith (Fort Garry)

APPEARING:

Mr. Peter Dyck, MLA for Pembina
Hon. Jon Gerrard, MLA for River Heights

MATTERS UNDER DISCUSSION:

Bill 45 – The Teachers' Pensions Amend-
ment Act

Bill 12 – The Public Schools Amendment
Act

Bill 42 – The Public Schools Amendment
and Consequential Amendments Act

Mr. Chairperson: Will the Committee please come to order. What is the will of the Committee? Are we going to do clause by clause or recess until the vote is over? What is the will of the Committee? Would somebody like to put their hand up and be recognized? I want

somebody to be recognized. Who wants to speak?

Mrs. Louise Dacquay (Seine River): Mr. Chair, I was under the understanding that the House leaders had discussed this and that we would start the Committee, and we are entitled to do that, and then just recess once they are ready for the vote so that we can move more expeditiously through the clause by clause.

Having said that, I do not know if the bells may be a larger irritant and distraction than we normally assume they might be.

Mr. Chairperson: Thank you, Mrs. Dacquay. It has been suggested that we start clause by clause and recess when it is time to vote.

Hon. Steve Ashton (Minister of Highways and Government Services): Yes, I think there may be some confusion over what the House leaders have decided, and having been a former House leader, it might be better if we not start till we get some clarity, I think. I mean if the House leaders are agreed, I do not think we would have any disagreement, but I am not sure if that is the case. I am not sure even on terms of the timing of the vote. If the vote is fairly soon, for example, if they have made some decision on that, it makes sense to get it over with. So I suggest we not start until we find out from the House leaders.

Hon. Drew Caldwell (Minister of Education and Training): Mr. Chairperson, there likely is some confusion. I know that my understanding was that we were going to adjourn until the bells stopped, till we had the vote, so that was when we would begin. But, certainly, either way, just sitting here right now, I do not know what other members feel, and I know that my colleague for Fort Garry (Mrs. Smith) was nodding, this is really annoying and quite distracting and actually bothers me quite a bit just sitting here

with the "zzzzzz" in my head. I mean, I usually do not have the buzz in my head.

Mr. Peter Dyck (Pembina): Mr. Chairman. I would suggest that this committee get started and that we go and confirm with the House leaders. When the vote is to take place, we will come in here and allow the Committee, we will make them aware of it, and then we will go into the House and vote. I would say that that would be the best usage of time if we get started now.

Mr. Chairperson: Is there agreement that we will get started and find out from the House leaders what time the vote is?

Mr. Caldwell: I just note that Mr. Ashton, who just left the room, is going to go and do a conferral with the House Leader right now. So perhaps we could wait until he gets back. I know my comments, whatever the issue is with the House leaders—still the loud buzzing right behind my right shoulder is quite distracting to me personally.

Mr. Chairperson: We will close the doors and see if that makes a difference.

Mrs. Dacquay: I am just wondering, too, if the Committee would be willing to—

An Honourable Member: Oh, that is much better.

Mrs. Dacquay: A big difference. If we are prepared to start, if perhaps the Committee would be willing to change the order in which the bills are listed for review because we do not have any amendments on Bill 45, and it would just be a matter of proceeding through it clause by clause very quickly I would assume.

* (14:50)

Mr. Chairperson: Thank you for that suggestion. First, we have to elect a Vice-Chairperson. So we will do some housekeeping items first and then decide what the order will be.

The first item of business before the Committee is the election of a Vice-Chairperson. Are there any nominations?

Mr. Gerard Jennissen (Flin Flon): I nominate the Member for Transcona (Mr. Reid).

Mr. Chairperson: The Member for Transcona has been nominated. Are there any further nominations? Hearing none, the Member for Transcona has been appointed Vice-Chairperson.

This afternoon the Committee will be commencing clause-by-clause consideration of the following bills: Bill 12, The Public Schools Amendment Act; Bill 42, The Public Schools Amendment and Consequential Amendments Act; and Bill 45, The Teachers' Pensions Amendment Act.

Is it the will of the Committee to proceed with detailed clause-by-clause consideration of Bills 12, 42 and 45? If yes, in which order do you wish to proceed?

Mrs. Dacquay: I am not sure the Minister heard my suggestion. Because we may be here for a short time before we are interrupted, I wondered maybe if we wanted to give consideration to Bill 45. The Opposition has absolutely no amendments for this bill, and it would be a matter of proceeding very expeditiously through the clauses.

Mr. Chairperson: Is it agreed that we start with Bill 45, then Bill 12 and then Bill 42? *[Agreed]* Did the Committee wish to indicate how late it is willing to sit this afternoon?

Mr. Caldwell: We could likely get through most of this business by six o'clock if we start at three, maybe all the business would be preferable. I am fine with starting with Bill 45 because there are no concerns in that regard. Like everyone else, or at least some of the people here, I am certainly confused about what we are doing. I certainly did not come into this room with the material I require to proceed with other bills. Bill 45 is fine, though, and if you would give me leave for a couple of minutes to go downstairs and get the material that I have in my office, I would feel comfortable with that.

Mr. Chairperson: We have had several suggestions of six o'clock. Is it agreed that we sit until six o'clock?

Mr. Ashton: I suggest we assess it at six, and if we are within a few minutes of passing a bill through, we usually accommodate a few extra minutes.

Mr. Chairperson: It has been suggested we assess it at 6 p.m.

Mrs. Joy Smith (Fort Garry): That was going to be my suggestion, to assess it at that time. The order of the bills, do we need to decide that now or can we decide it later?

Bill 45—The Teachers' Pensions Amendment Act

Mr. Chairperson: We are going to start will Bill 45. It was agreed that we will assess the proceedings at 6 p.m. Does the Minister responsible for Bill 45 have an opening statement?

Hon. Drew Caldwell (Minister of Education and Training): The only statement I have is very brief. I have an opening statement, as I mentioned earlier, on my desk downstairs, along with all the other material on these issues. This bill, The Teachers' Pensions Amendment Act, as it relates to maternity leave, is in my estimation and the estimation of the Government, I think probably most members here, is something that is long overdue.

Mr. Chairperson: Does the critic for the Official Opposition have an opening statement?

Mrs. Joy Smith (Fort Garry): Indeed, The Teachers' Pensions Amendment Act, Bill 45, is something that we will not be introducing amendments to because it is something that is overdue and something I would agree with members opposite is something that is very much needed to be in place.

Mr. Chairperson: During the consideration of a bill, the preamble and the title are postponed until all other clauses have been considered in their proper order.

Clause 1—pass. Shall clause 2 pass? We have an amendment.

* (15:00)

Mr. Caldwell: I would like to move

THAT the proposed subsection 63.1(2), as set out in section 2 of the Bill, be amended by striking out everything before clause (b) and substituting the following:

Purchase of service for past maternity leave

63.1(2) A teacher who was granted a period of maternity leave referred to in subsection (1) and did not elect to make contributions under that subsection for that period may, if she has neither received a refund of her contributions nor begun to receive a pension, purchase the service for the period by

(a) filing with the board

(i) before July 3, 2002, if the period of leave was granted before subsection (1) came into force, and

(ii) within 18 months after the end of the period of leave, in any other case, an application in a form prescribed by the board; and

That is the amendment.

Motion presented.

Mr. Chairperson: The amendment is in order.

Mrs. Smith: At this time, I would like to ask the Minister if he would go over his reasons for this amendment, please, and tell me what the intent is. Thank you.

Mr. Caldwell: Essentially it is to allow teachers, within a period of 18 months after a birth, to be able to buy back pension benefits within an 18-month period if they do not buy those pension benefits during the time of the birth. So it is a buy-back opportunity for an 18-month period.

Mr. Jack Penner (Emerson): I see the amendment causes significant change in the application of the contribution, if I read this correctly. Could the Minister explain exactly what he is attempting to accomplish here, and what the final differences are between the amendment and the clause as he would perceive it?

Mr. Caldwell: The past legislation provided the opportunity for the purchase of maternity leave. The existing provision allows for purchase of receiving a refund up to 18 months after if she determines not to purchase a leave during her pregnancy. She can purchase within 18 months of that to the end of her leave period.

Mrs. Smith: Could the Minister please clarify those statements again? I am still unclear as to how this puts the teachers on maternity leave into an advantageous position.

Mr. Caldwell: The purpose of the amendment is to make buying back pension services more affordable essentially. As written, the Bill requires teachers to pay the additional pension costs while they are on maternity leave. The amendment allows teachers to wait until they are back at full salary before having to pay the additional costs. That is essentially what it is for. Providing teachers with 18 months to pay for this additional credit will make it feasible for them to participate. While they are not having an income, it allows the opportunity for them to buy it back after they start getting an income again. That is the purpose of it. It is not a substantive change.

Mr. Jack Penner: This is very similar to the Canadian Wheat Board cash advance to the farmers, in other words. It allows an interest-free period of time to be extended to the recipient without having to pay the fee during the time that they are dispensed from the job. Is that correct?

Mr. Caldwell: Well, I am not familiar with the CWB's. The Member is and I respect that, so I appreciate his analogy there.

Mrs. Smith: This is something that a couple of teachers have brought up. There have only been two people that I am aware of that have brought this up. It does definitely work in favour of those teachers who are on maternity leave. So we would support this.

Mr. Chairperson: Amendment—pass; clause 2 as amended—pass; clause 3—pass; preamble—pass; title—pass. Bill as amended be reported.

Bill 12—The Public Schools Amendment Act

Mr. Chairperson: Next we will deal with Bill 12. Does the Minister have an opening statement?

Hon. Drew Caldwell (Minister of Education and Training): I have a brief opening statement. The purpose of this bill is twofold. It requires parents or guardians who home-school their children to register with the Minister and provide information about the home school, as well as periodic progress reports on each child who is being home-schooled to ensure that those children are receiving quality education. In addition, this bill eliminates the current requirements in sections 196 and 197 of The Public Schools Act for cabinet to specifically approve certain grants to organizations and to school divisions and districts to permit an expedited payment process.

Mr. Chairperson: Does the critic from the Official Opposition have an opening statement?

Mrs. Joy Smith (Fort Garry): Home schoolers are an integral part of the education system here in Manitoba. As we heard in their presentations, they were very mindful of the fact that they were taxpayers who paid into the public school system and they had taken the full cost of the education of their children and the full responsibility to ensure that happened. As a result, I am very mindful of the commitment and the dedication which home schoolers have put into the education of their children. I would say that we need to, in this bill, be very mindful of the objective of home schools, and that is the ability of parents to have the choice in Manitoba to send their children to the school of their choice. This is the foundation of what home schooling is all about. I would say that any bill put into place in the province of Manitoba should reflect the rights and responsibilities and the freedoms that parents do have.

Mr. Chairperson: We thank the members. During the consideration of a bill, the preamble and the title are postponed until all other clauses have been considered in their proper order.

Clause 1—pass; clause 2—pass; clause 3—pass. Shall clause 4 pass? We have an amendment.

Mrs. Smith: I would like to move an amendment. I propose

THAT the proposed subsection 260.1(1), as set out in section 4 of the Bill, be amended

(a) by striking out the section heading and substituting "Notification to minister"; and

(b) by striking out everything after "shall" and substituting "notify the Minister of the establishment of the home school."

Motion presented.

Mr. Chairperson: This amendment is in order.

Mrs. Smith: I think that the autonomy of the home schoolers is something that we have to be very mindful of and that the home schoolers have voiced in their presentation to our committee in Law Amendments. The consternation or the disappointment they have in any kind of government control, in terms of the home schooling, they have no objection to registering their children with a school division, however, they have requested that this particular section be amended to allow them to have more control, more decision-making powers, in terms of the registration process.

* (15:10)

Mr. Caldwell: The Government is very supportive of home schoolers. Indeed, there is no intent to interfere with home schoolers at all, only to make sure that we know who the home schoolers are and have a reasonable guarantee that as most home-school parents certainly already do, that the best educational interests of their children are attended to. Indeed, the Province would be derelict not to do this. I say again that the intent is to support home schooling in Manitoba. That is indeed the substance of this legislation.

Mrs. Smith: I thank you very much for those comments. As the Minister has stated, the intent is to support the home schoolers. I guess where we say actions speak louder than words, we have the opportunity today to take those actions and put them into place as requested by the home schoolers to amend 261(1). I would highly

recommend that we do that. In the presentations that the home schoolers have brought forward, there is already a registration process in place. They do have an accountability system in place. The data throughout the province show that the academic development and the responsibility of the home schoolers has clearly been self-evident. I would ask the Minister to consider taking the home schoolers recommendation in this area.

Mr. Jack Penner (Emerson): I listened very closely to what the Minister said. I think he and I think very much alike in this respect. I have a great deal of concern that the child be of first consideration, and the education of the child be of first consideration, and that there be at least some way of ensuring that there be a reporting process. I think we all concur with that. I am a bit concerned, when I take a good hard second look at the Bill the way it is drafted and it says: the home school shall register the school with the Minister, almost as if it is an institution. In most instances that school is the home, and virtually I believe in all instances, although I think there might be some variations here, I think what we are now asking parents to do, and I think this is where the parents will object.

Many of the home schoolers are some fairly deep-thinking people. Some have some convictions, whether they are religious or otherwise, that come into play here. I know that, within some aspects of some of the community, there might be an objection to the registration now of family homes. I think the wording that the Member for Fort Garry is putting forward is more amenable wording that really would accomplish, I believe, really has the same intent of ensuring that we know who and what aspects of education are being applied in a given home. I would strongly ask that the Minister consider using this wording, because I think it would be more amenable to a number of the communities, or members of the various communities.

Mr. David Faurschou (Portage la Prairie): I would like to concur in regard to the proposed amendment and refer to the presentation that we as committee members heard from Dr. Terry Lewis. I would like to quote from his presentation in regard to the requirement for registration of children with the school division: A simple notification of the fact that parents are

home-schooling their children would sufficiently satisfy the needs of government.

In saying that, I think we are all on the same page. We recognize the importance that we ensure the children are in fact receiving an education. However, Doctor Lewis went on to describe a situation that recently occurred in the state of Michigan where, in fact, a sect of society known as the Amish were home-schooling their children and the state of Michigan had sought to register the children, even though it was widely recognized that the Amish people were providing home schooling for their children. The law forced the law enforcement agencies to, in fact, have an incident that was captured in the headlines of the media as, in fact, a home invasion where the agencies entrusted to law enforcement seized the children of the Amish people for the simple fact of breaching a statute. Yet the public overwhelmingly recognized that the Amish people were, in fact, providing that home schooling and the care and nurturing that we all, I believe, are familiar with in that sect in society, their caring nature for their children. So I would strongly encourage the Minister to consider the language of the amendment because I do believe it, in fact, provides continuity to the intent of this act.

Mr. Chairperson: We have two more people to speak, but I am going to interrupt the proceedings. We have agreed to go to the Chamber for a recorded vote at 3:20. So the Committee will recess and reconvene immediately after the recorded vote.

The Committee recessed at 3:16 p.m.

The Committee resumed at 3:41 p.m.

Mr. Chairperson: We will resume consideration of Bill 12. I have two people on the speaking list, Mrs. Dacquay, and then the Minister, speaking to the amendment.

Mrs. Louise Dacquay (Seine River): I would defer to the Minister to respond to the questions asked by my colleague for Portage La Prairie (Mr. Faurshou) because I may not then need to pose my subsequent question.

Mr. Caldwell: I just wanted to say that I appreciate the Member's remarks. Essentially what the legislation does, though, is put into the legislation existing practice. So that is in fact what is occurring.

Mrs. Dacquay: The presenters last evening expressed concern relative to the form that they would have to do their reporting on, and they raised several concerns, but the one that seemed to be most prevalent was the fact that they had to identify which school the children would have normally attended. I am wondering if the Minister would explain why that is relevant. Although it is not part of the actual clause in the Bill, there was a lot of discussion surrounding that particular component of the registration.

Mr. Caldwell: Essentially the school needs to be known so that they can be excused for absenteeism as is prescribed by law. That is the rationale.

Mr. Faurshou: I believe we are still in debate of the proposed amendment. In regard to the Minister's comment to that, effectively supporting in statute what is already in practice, this is for the most part correct. However, there are exceptions to every practice. We all recognize, and personally coming from a school board background, I am aware of exceptions to practice, and to not allow this amendment to come forward, as it is stated here. There is no doubt in my mind that there will exist a situation which will ultimately go to court. Again, referring back to Dr. Terry Lewis's presentation, it is undoubtedly that the Supreme Court of Canada will in fact review this particular statute, because there are persons in our communities that are definitely against this particular amendment, and they will show their opposition to the nth degree through the court systems. I do not believe that the intent of the law will be lost with the adoption of this motion.

Mrs. Smith: I can appreciate the Minister's concern, from what I am hearing him saying, for children who are not well taken care of and whose parents are not mindful that they do have the kind of schooling that they should have. I will just bring to the Minister's attention that, further on in the Bill, there is a section that does cover children—if the Minister does have a

question. So it would cover any concerns that the Minister might have about children who, in the rare case, might not be schooled appropriately. What I am saying is there is no reason why we cannot put the amendment, as indicated, through at this time.

Mr. Jack Penner: I wonder if the Minister could explain for me what other sectors in society would be required to register their personal homes, and for what reason.

Mr. Caldwell: I cannot speculate on what other areas. I know that every person registers their homes for property taxation purposes. I know that in the public school system, the children register their addresses when they are attending school. In that context, every voter registers their home address. This is not anything unusual.

Mr. Jack Penner: I find the comment rather interesting because the Minister, having been a former member of council, should know that there is no registration process of homes for taxation purposes. There is an assessment process. The assessment does not register, it only assesses for value. There is no registration process in the requirement under The Municipal Act. There is a permitting process for building, but there is no registration process. Under The Municipal Act, I would ask the Minister whether he could clarify for me under what section of what act private homes are required to be registered, other than this act would now require a private home to be registered as a school.

Mr. Caldwell: Land rules, I suppose, to clarify the potato-potato point about municipal voting and so forth, municipal assessment land rules. This is home schooling. The student is receiving his or her education at home. The home is the school; having the address of the school is the purpose.

Mr. Faurshou: I really appreciate what the Minister just said. So he is now in support of this amendment with that statement that in fact it is a registration and notification through to the Minister of the home schooling, which is precisely what Doctor Lewis stated, not necessarily as it is written in the original

legislation. I am very pleased with that comment by the Minister in support of the amendment.

* (15:50)

Mr. Jack Penner: I find it interesting that the Minister will want to register homes now as institutions, and that, of course, puts the whole question of privacy of the home into question, the institution of the home into question, the institution of family, in fact, is called into question simply by a word, and that is the registration of the home as a school, in other words, as an institution. The option that the Minister has been given in changing the wording to allow for the home schooling, to allow for the notification to the Minister, is far simpler language and not nearly as confrontational as the registry process. I say to the Minister: Do yourself a favour and take a hard look from a political perspective because what your party is doing here, what you as a minister are doing to your party will be an affront to many people, many societies, and many ethnic groups. So I question whether you really want to proceed with this matter. If you do, I say to you you will bear the consequences at some point in time of the actions that you are taking because we will not let you forget this one.

Mrs. Smith: I think the underlying thing, as I mentioned before, and I am sure the Minister can appreciate this, is, after extensive consultation with the home schoolers, the home schoolers' attitude is very amenable to making sure that the Minister and the school divisions are aware that their children are home schooling. They were also very much aware that there was concern that some of the kids might slip through the cracks, even though the data showed that, for the most part, a high percentage of the home-schooled children did very well, in fact better than the public school children. The point that was made was that maybe we should focus on the public school because they were taxpayers and they were supporting the public school, but most of the parents who home-school do it because they are very committed to that. They are also, as we have heard, very committed to the right of choice, and they also felt very strongly that it was like the Big Brother attitude. They also appreciated the Minister's concern over children who were not taken care of, and as you know,

Mr. Chair, and I am sure the Minister is aware that further on in the Bill this is addressed.

So I would strongly recommend that we do take this amendment into serious consideration, to be mindful and respectful of the right of choice for the home schoolers. As we know, everyone around here has a right of choice, whether we choose public schools; French immersion; whether we choose independent schools; whether we choose home school in the quietness of our homes; we make that choice. I think what the home schoolers felt is that the Government is saying that they know better than the parents do, and I guess all of us who have children—and I am not aware whether the Minister does have children or not. I do not know you that well, but my understanding is you do not at this time. Correct me if I am wrong, but I am trying to personalize this. Mr. Chair, you can get inside the heads of parents who do have these concerns, and they did express these concerns to all of us quite extensively. I know that the Minister is very mindful of the democratic process, and I know the Minister is caring about the children and the children's education. That is not a debate. It is a debate about being mindful about the democratic right to understand that they are very caring, committed people and have every right to make this choice without the regular constraints of a public school system type of set-up.

Mrs. Dacquay: My question to the Minister is: I think it is just in the context of the wording because it just sounds a little bit more enforcing as opposed to the suggested amendment. I think the intent of the amendment, in his opinion, does it not serve the exact same purpose as the way the clause is worded in the Bill?

Mr. Caldwell: Then it begs the question, Mr. Chairperson, what is wrong with the Bill?

Mr. Faurshou: To answer the Minister's question, it is again referring to Dr. Terry Lewis insofar as that, without getting into case law, it has already been proven that this cannot be substantiated in court, that case law supports that both nationally and internationally. Let us save everybody a lot of money, a lot of frustration, get the same intent out of it with the use of the amendment.

Mr. Jack Penner: I think the Minister knows full well what the difference is without having the debate. I could get into a long dissertation and give you some history on some of the ethnic groups in this province and the immigration that has happened in 1927 in the Mennonite community. It was because of education and principles of education and the application of law in regard to education, the immigration of a very large group of Mennonites in 1947, again largely because of principles of education laws applied that were offensive to them. And the registry of a home, to some of the ethnic communities the home, without question, is a kingdom, is their private kingdom, and they have every right to that. We have given that. That is why Canada is deemed to be one of the best countries in the world to live in. Yet here we, as a group, as a committee, are considering the direct intervention of the privacy of the home by registration as an institution, taking away the rights of the home.

So I think that we need to very carefully consider. Simply to notify the Minister, in my view, is as adequate without being offensive. I know the Minister is laughing at this, and to him it might be funny, but it is not funny to many of our people that reside and do business and have helped this province flourish. So I say to the Minister, the difference between notifying of the establishment of a home school and the difference between registry is huge. I think the notification that the Minister is aware of with the Department of Education aware of where these children are being taught is adequate, and I think significantly adequate.

So I would strongly ask the Minister, without trying to make fun of this, to take very seriously the application of the word "registry" instead of "notification," and we will certainly support the Bill if the word "notification" is used, but we will have a great deal of difficulty supporting this bill, although we agree with the principles that the Minister is trying to get at because I truly believe that there needs to be some way of determining that the child in fact getting him the education that the child will need in the future. So I agree in principle with the Bill; however, I do not agree with that simple terminology that will institutionalize our homes. If the Minister could consider the notification

process instead of the registry, I would certainly strongly suggest that he reconsider.

Mrs. Smith: We have already covered the points that I was going to bring up. I compliment my colleague for those points that he has brought up, because those are points that are integral to the very essence of democracy. I just want to point out this is what we are talking about right here, the rights of people to make decisions for themselves, for their children. Thank you.

Mr. Chairperson: The question before the Committee is the proposed amendment to Bill 12. It has been moved by Mrs. Smith (Fort Garry)

THAT the proposed subsection 260.1(1), as set out in section 4 of the Bill, be amended

(a) by striking out the section heading and substituting "Notification to minister"; and

An Honourable Member: Dispense.

Mr. Chairperson: Dispense.

(b) by striking out everything after "shall" and substituting "notify the Minister of the establishment of the home school."

Voice Vote

Mr. Chairperson: All those in favour of the motion, please say yea.

Some Honourable Members: Yes.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Nays have it.

Formal Vote

Mrs. Dacquay: Yeas and Nays, please, Mr. Chair.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 4, Nays 6.

Mr. Chairperson: The amendment is accordingly defeated.

* * *

Mr. Chairperson: Shall clause 4 pass?

An Honourable Member: No.

* (16:00)

Mrs. Smith: I also have some amendments to clause 4 that I would like to bring forward. I would like to move

THAT the proposed subsection 260.1(2), as set out in section 4 of the Bill, be amended

(a) in the section heading, by striking out "registration" and substituting "notification"; and

(b) by striking out "register the home school, in a form approved by the minister," and substituting "notify the minister about the home school".

Motion presented.

Mr. Chairperson: The amendment is in order.

Mrs. Smith: I want to, Mr. Chair, put on record that the home schoolers have no objection to letting the school division which they live in know that they are going to be home-schooling their children. They are very unclear and very reticent to agree to register the home school in a form approved by the Minister. I know that did come up in committee, but a lot of the home schoolers are wondering what does this form mean. When is it going to be approved by the Minister? What is on that form?

They simply do not have enough information about it, and they are not opposed to letting the school divisions know that they are home schooling, as I said before, but having the Minister have this control over the information that they give to the Minister and to the Government, in view of the fact that home schooling is not funded by the Province, is a tremendous concern. I know during the Committee the Minister alluded to a form but it

was not articulated in a concise way where the parents know exactly what is intended.

Mr. Caldwell: As the Member notes, I did attempt to clarify this during the committee hearing. In a form means in a manner, in a way, in a fashion, not form as in a form like a driver's licence form or a gun registration form. There is a form in that definition that is currently used by the Department of Education for this purpose, and there is no change anticipated in the use of the specific form in the literal sense, as opposed to form in the sense of in a fashion, in a manner, in a way.

Mrs. Dacquay: The Minister referenced, and I can see where the concern is, the form. Most people interpret that as a paper document which they have to complete and state certain information. Is the Minister now saying, because there is no definition section in this legislation, that he would be prepared to soften that word a bit, or use a different word if an amendment were to be proposed, such as manner, as an example? He may feel that there is a better word than manner, but I definitely have to concur. I agree with the parents that made their presentation. Form, to me, means a paper document on which you record certain information. I am sure, if we check the dictionary definition of saying, that would be a legitimate definition, and given that there is no definition section in this bill that would otherwise describe it, I can understand the concerns that were raised.

Mr. Caldwell: I am sorry that the Member has a confusion, although I understand that has been clarified now to her understanding. The phrase "form," in this context, is consistent with the legislation. We want to maintain consistency throughout this document. In fact, we should be maintaining consistency throughout legislation across government.

Mrs. Smith: To clarify what the Minister is really saying, that he wants notification that these children are registered as home schoolers, if that is the case, my question to the Minister is instead of "when registration to take place," the home schoolers want "when notification to take place" and change "registration" to "notification". And again, when they say "guardian

shall register," all the home schoolers want is the word "register" to change to "notify." So the Minister has on record right now saying that there is no form. It is just he needs to know basically that these children are in home school. So could you please explain why in the world the Minister would have any objection to changing this amendment?

Mr. Caldwell: The purpose is to have consistent information across the system.

Mrs. Smith: With all due respect, Mr. Chair, that does not make a whole lot of sense because you would have consistent information, because the home schoolers are very amenable to notifying the Minister, notifying the school division. There would definitely be consistent information. Could the Minister explain to this committee why there would not be consistent information if they consistently notified the Minister of the home schooler's attendance?

Mr. Caldwell: Well, of course, Mr. Chairperson, notification, in all its myriad, wonderful ways, is a vague term. I mean people could send us a postcard saying something in terms of notification. We want to have system-wide some sort of consistency in the way that we address school participation.

Mrs. Smith: Mr. Chair, I appreciate the fact that consistency has to be there, and I appreciate the Minister's concern about that. A few minutes ago the Minister informed this committee that this was not a form, it was a process, and so this committee is confused, because if there is no form and if the home schoolers have guaranteed that notification would take place, what process, other than the form, does the Minister intend to have?

Mr. Caldwell: Of course, I did mention in my earlier responses that there is a form, paper, that is used by the Department of Education now, as the Member, in her previous capacity working with the Department, knows the protocol in this regard. I appreciate the concerns of the Opposition in raising this or putting forth this amendment, but my rationale or the Department's rationale for it remains that it is to get consistent information and to be able to provide some consistency across the system.

* (16:10)

Mrs. Dacquay: Now I really take exception to what the Minister is saying. When I clearly asked the question, he indicated in response to my concern about the word "form" and indicated that he was not prepared to change it from "form" to "manner." He clearly indicated that it was not a document, as I had referred to, but the meaning of the word "form" was manner or way in which the actual registration would take place. Now he is making explicit reference to an actual document. Would the Minister please clarify for all concerned what the real meaning and intent of this clause is?

Mr. Caldwell: Mr. Chairperson, it is the information that is important. There is a form, as I said in an earlier response, that the Department uses for gathering this information. That will remain consistent. There is the physical form that the Member was confused about earlier. The important thing is getting some consistency of information in this regard.

There is no insidious, fearful, state-controlled, Big Brother, paranoid issue behind this at all from the perspective of anyone, frankly, as we have discussed this matter in consultation with home schoolers. I appreciate the members raising the issue of the fear that may exist or may not exist in the minds of individuals, but certainly the intent is to ensure, with all aspects of education in the province of Manitoba, that children in this province have a degree of excellence in the education that they receive. I know that that is a concern shared by home schoolers, by parents, in the public side by trustees, by teachers and by all members around the table here today. So we are, I think, hung up, as it were, on an issue of semantics. I think that that is fair, I suppose, but it is indeed that.

Mrs. Dacquay: With the greatest of respect to the Minister, we are not hung up on semantics. This was a big issue that was raised by many presenters who are home schoolers, both last evening and I understand the evening prior. The major concern was not having to report that they are home schoolers and where they are schooling their children. It was the actual form or, in other words, document and the information that they

were led to believe would be contained on that document.

My question to the Minister is: If there is a current document being used to record this, can he tell me what information appears on that document?

Mr. Caldwell: Mr. Chair, name, address, phone number, how many children, age of the child and the names of the children.

Mrs. Smith: In all due respect, I just want to make comment that this is not the Opposition's words, it is the home schoolers' words. They have put forth proposed amendments, through their own legal counsel, who is Dallas Miller [*phonetic*]. They have come to see me. They have come to see you. They have presented at committee. What I am talking about is not semantics. Mr. Chair, what I am trying to talk about are the rights of home schoolers to be able to have control over the education of their children. They are very happy to notify the Minister of the fact that they are home-schooling their children.

In all due respect, I would be so pleased if the Minister could listen to my comments because these are salient points, and I feel that we will be outvoted in them. I would like to make the point that this is not an argument between members opposite and this side of the House. What this is is clearly the requests of the home schoolers, the evidence that they gave to us about the high academic standard of the studies. They have, as I say, no objection at all. They want to notify the Minister. They want to notify the school division. Mr. Chair, they feel very reticent about using the word "register." They want that changed to notify.

We definitely understand the Minister's concern about having the children's names and having the Government know that these children indeed are in school. That is not the issue at all. The issue is of respecting the right of the home schoolers to be able to notify the Minister, in a respectful manner, and yet have the autonomy of educating their own children and having the freedom to not feel as if the Government is checking up on them. The one point that the Minister had that this side of the House and the

home schoolers felt was extremely valuable was his concern about children who might fall through the cracks, and that did not used to be in the original bill. You will see that the home schoolers have put something in later on in another amendment that addresses that concern.

So the home schoolers want to work very well with the present government, and they want to improve. I daresay their comment was that if the public school system ran as well as the home-school system did and produced students who had a high academic achievement, and they did bring in documented proof that their children were doing extremely well when they entered the public school system—and I think, because of their presentations and because of their feelings, we need to, as a government and as an opposition, be mindful.

This is the reason why we are bringing this forward. It is a question of human rights. It is a question of a democratic society. If the intent, as you say, as stated here, is not to be Big Brother, then I would say we should be respectful of the home schoolers' wishes and pass this amendment.

Mr. Chairperson: The question before the Committee is the proposed amendment to Bill 12. It has been moved by Mrs. Smith, Fort Garry

THAT the proposed subsection 260.1(2), as set out in Section 4, of the Bill be amended

(a) in the section heading, by striking out "registration" and substituting "notification"; and—

* (16:20)

Some Honourable Members: Dispense.

Mr. Chairperson: Dispense.

(b) *by striking out "register the home school, in a form approved by the minister," and substituting "notify the minister about the home school".*

Mr. Chairperson: Shall the motion pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

Voice Vote

Mr. Chairperson: All those in favour of the motion, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Nays have it.

An Honourable Member: On division.

Mr. Chairperson: On division.

* * *

Mr. Chairperson: Shall Clause 4 pass? We have another amendment.

Mrs. Smith: I know we have had long hours these last two days. I notice you looked a little tired, so if you hear me saying I am here, please forgive me. I do have some water. I feel that way too, so please forgive me if I call your attention more than once.

I would like to move

THAT the proposed subsection 260.1(3), as set out in section 4 of the Bill, be amended by striking out "and" at the end of clause (b) and by striking out clause (c) and substituting the following:

(c) the grade level for each pupil; and

(d) a description of the curriculum.

Motion presented.

Mr. Chairperson: The motion is in order.

Mrs. Smith: In 260.1(3) there was a very detailed description of what information and how parents and guardians should inform the Minister, with what information the Minister

should be informed, rather. On (c), the home schoolers would prefer the grade level for each pupil because a lot of the home schoolers are a faith-based educational system. There are some that are not faith-based, true, but in dealing with the whole association, they, as an association, both the ones who were faith-based and the ones who were not, wanted to put forth a grade level of each pupil and were reticent to put an outline of the education program and grade level for each pupil, and the reason being is they felt that they were responsible for developing their curriculum and making sure that their children had a strong academic education.

They actually brought in documentation of all the proof of the high academic achievement these children, over a number of years, had acquired. This was their argument. When you looked at how well the children did, it was really delightful to see.

Mr. Vice-Chairperson in the Chair

They felt that there would be some people from government or some people who were assessing the education program, and would not understand the kinds of things that they were saying. One mother in her presentation indicated that she uses a variety of teaching techniques based on the variety of learning styles of their children. She felt, and a lot of the home schoolers felt that the grade level for each pupil would allow the Minister to know that these children are progressing. To outline the education program, because the education program was not set out like a canned curriculum like we have at Manitoba Education and Training, they felt that there might be some misunderstanding about what they were teaching, when they were teaching it, and how they were teaching it. Again, they felt the autonomy of the home schoolers was at risk, and they did not want interference by people who, not speaking of the Minister, but interference by a bureaucrat who might come in and say well, this unit has not done well.

I applaud bureaucrats. I was a bureaucrat. I have great respect for bureaucrats, but what we are talking about now is the home schoolers' concerns about the fact that there might be misunderstanding. I think my fellow bureaucrats

would know that sometimes in education we can misunderstand some of the things that go on without seeing the full picture. Therefore, they would like to talk about the grade level of each pupil, because the Minister would see that the children are progressing on a yearly basis. This is the reason why I am asking this committee, with all due respect, to pass this amendment, the grade level of each pupil, and the description of the curriculum as well.

Mr. Harry Schellenberg (Rossmere): I would just like to say that I think this Minister was the first one to meet with the home schoolers. I could be corrected on that.

An Honourable Member: You are being corrected.

Mr. Schellenberg: Okay. Thank you. I have been corrected already. Anyway, they were asking for a meeting from this minister. For instance, I just want to say that I met with them awhile ago and they said they had difficulties meeting with the Department of Education. I am very happy that the Minister did meet with them. I appreciate the concerns across the table here, but I think it depends how you implement all these clauses of this bill. I think the Minister is very sensitive to the values and the cultural values of these people. I think that will mean a lot to these people if he has an open door, which he has shown. I just want to say, I have some home schoolers in Rossmere, and I sort of feel the feeling for what they want, and I do not think the Minister could come down hard on them, be dictatorial, and if he is sensitive, I think it will go. It depends how we enforce this bill. If he built a trust relationship with them, which has begun, it will work.

Mrs. Smith: In all due respect, I would like to make some corrections to some of the allegations that have been made. No. 1, the home schoolers themselves have made a clear indication that they have had a very good relationship with the previous government, and have a very good relationship with this government. So they have felt that no one has shut them out. The allegations that maybe they were not heard or were not met, are totally inaccurate. Having said that, I am fully aware and I fully believe that this minister is sensitive

to the home schoolers' needs. As I said earlier, actions speak louder than words. These requests come from the home schoolers, not from the Opposition. These are requests from the home schoolers.

So to build that trust and to build that faith would be a very prudent way of adopting the reasoned and very careful amendments that these home schoolers have requested. They sent these amendments previously to the Minister, and they sent, also, a copy to myself. They have met with both of us. I am totally convinced on this side of the House that the home schoolers want to work in a very collaborative manner with this government. They are requesting these amendments so they can support their home-schooling initiative and do what is best for their children. All of them believe that the curriculums that they have developed, the faith-based that they have, their right to teach their children in their homes is very near and dear to them. This is the reason why they have put forward these amendments.

Let us clarify that. It is not a political thing, and it is not a tussle between this side of the House and that side of the House. What it is, simply, is we are reporting and we are supporting, on this side of the House, the home schoolers' amendments. We do agree with them on this side of the House after many meetings with them and after the presentations the other night. I am sure that this minister, too, is, as I say, very sensitive to the needs of the home schoolers. Again I must reiterate actions speak louder than words. As a result, I would like to see this amendment be approved.

Mr. Vice-Chairperson: The question before the Committee is the proposed amendment to Bill 12, moved by Mrs. Smith (Fort Garry)

THAT the proposed subsection 260.1(3), as set out in section 4 of the Bill, be amended by striking out "and" at the end of clause (b) and by striking out clause (c) and substituting the following:

- (c) the grade level for each pupil; and
- (d) a description of the curriculum.

Shall the motion pass?

Some Honourable Members: No.

Mr. Vice-Chairperson: Shall the amendment pass?

Some Honourable Members: It is called a motion.

Mr. Vice-Chairperson: Shall the amendment pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

* (16:30)

Voice Vote

Mr. Vice-Chairperson: All those in favour of the motion, please say yea.

Some Honourable Members: Yea.

Mr. Vice-Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Vice-Chairperson: In my opinion, the Nays have it.

Formal Vote

Mrs. Dacquay: A recorded vote, please, Mr. Vice-Chair.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 4, Nays 5.

Mr. Vice-Chairperson: The motion is accordingly defeated.

* * *

Mrs. Smith: I would like to continue on. To clarify, for lack of confusion, we will call it motion then instead of amendment. It is a hot afternoon and is an amendment or proposed amendment, 260.1(4).

I want to move

THAT the proposed subsection 260.1(4) as set out in section 4 of the Bill, be repealed and the following substituted:

Progress reports

260.1(4) Within 14 days written notice, the minister may require a parent or guardian to submit a progress report on each pupil in the home school if the minister has probable cause to believe that a home schooling parent is not in compliance with the law.

Motion presented.

Mr. Vice-Chairperson: The motion is in order. Any further comment to the motion?

Mrs. Smith: I am very mindful of the fact that the home schoolers were very careful to ensure that this minister had the concerns addressed that he had expressed to the home schoolers. I think we would all agree, on both sides of the House, that the thing that we do not like to see are children falling through the cracks. As a result, the home schoolers themselves have stated, within 14 days written notice the Minister can require a parent or guardian to submit a progress report if the Minister has probable cause to believe that the children are falling through the cracks and are not being educated in the manner they should.

So I would like to applaud the home schoolers for recognizing that that is a concern that we all had and for addressing it for this committee.

Mr. Faurshou: I, once again, would like to refer to Dr. Terry Lewis's presentation to this committee two nights ago. It is in reference to examples that have already been provided that an open-ended clause, such as we have in the proposed legislation, is too wide open and leaves one wanting for a criteria for requests for progress reports. We all know that the system is only as good as those involved within the system, so therefore we must be very mindful that when we ask for reports and progress reports that it takes time to generate these particular documents.

So one must have a reason for having and requesting the reports. To say that one can in fact request a report even before the first report that had been requested has even arrived for a follow-up, Dr. Terry Lewis states that without more specifics, as the motion we are discussing right now provides for, one could in fact envision a blank cheque with unlimited requests coming forward. I know the Minister does not want this occasion to arise, so that is why I believe he will be supportive of this motion because in fact it gives parameters and a more defined process for this request.

Mr. Vice-Chairperson: The question before the Committee is the proposed amendment to Bill 12. Mrs. Dacquay, I am sorry. I did not see your hand.

Mrs. Dacquay: On this legislation, this clause 260.1(4), in its current wording, can the Minister please tell me what frequency is the intent with the wording "Periodic progress reports"?

Mr. Caldwell: The current policy is twice a year.

Mrs. Dacquay: Is the intent of this clause to change the current practice?

Mr. Caldwell: This clause does not speak to frequency, but, no, it is not the intent.

Mrs. Dacquay: What information is currently requested? Is it an actual hard copy of the tests that are utilized?

Mr. Caldwell: The information currently gathered is as variable as the home schoolers themselves. The Member for Fort Garry (Mrs. Smith) is nodding. She knows.

Mrs. Dacquay: Just for clarification then, if I understand the Minister's response, there is no intent in this clause to change current practice.

Mr. Caldwell: That is correct. There frankly does not seem to be a need at this point. We found that it is operating quite well as was the practice of the former administration.

Mr. Faurshou: In regard to the motion, I think it also recognizes the onus on the Minister in

regard to the periodic progress reports, and it alleviates the Minister from the ongoing determination as to what is necessary. I think the Minister is not looking for more and more work, unless he has not found enough already. For the Minister to continue to determine the schedule or progress report, as he has already alluded to, it could essentially be very wide-ranging. I really, truly believe that the motion that is proposed at this point in time is much more in keeping with the Minister's abilities to monitor the home schooling.

Mrs. Smith: In all due respect, I think I am going to recommend that this amendment be passed to recognize the fact that home schoolers have requested themselves that, if a minister, anybody has any problems or probable cause to believe that a home-schooling parent is not in compliance with the law, they can have written notice and investigate.

We have put forth the arguments or the requests as to why this should be put in place, and, again, we are talking about the autonomy of the home schoolers. We are talking about the good will in working with home schoolers. We are talking about human rights and the democratic process, so I would recommend that this amendment be passed. Thank you.

Mr. Vice-Chairperson: The question before the Committee is the proposed amendment to Bill 12, moved by Mrs. Smith, Fort Garry

THAT the proposed subsection—

An Honourable Member: Dispense.

Mr. Vice-Chairperson: Dispense.

THAT the proposed subsection 260.1(4) as set out in section 4 of the Bill, be repealed and the following substituted:

Progress reports

260.1(4) *Within 14 days written notice, the minister may require a parent or guardian to submit a progress report on each pupil in the home school if the minister has probable cause to believe that a home schooling parent is not in compliance with the law.*

Mr. Vice-Chairperson: Shall the motion pass?

An Honourable Member: Yes.

An Honourable Member: No.

* (16:40)

Formal Vote

Mr. Vice-Chairperson: All those in favour, please say yea.

Some Honourable Members: Yea.

Mr. Vice-Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Vice-Chairperson: The Nays have it.

Formal Vote

Mr. Faurschou: I would like a recorded vote.

Mr. Vice-Chairperson: A counted vote has been requested.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 4, Nays, 5

Mr. Vice-Chairperson: The motion is accordingly defeated.

* * *

Mr. Vice-Chairperson: Shall Clause 4 pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

Voice Vote

Mr. Vice-Chairperson: All those in favour of clause 4 passing, please say yea.

Some Honourable Members: Yea.

Mr. Vice-Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Vice-Chairperson: In my opinion, the Yeas have it.

The clause is accordingly passed.

* * *

Mr. Vice-Chairperson: Clause 5—pass; preamble—pass; title—pass. Shall the Bill be reported?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Mr. Vice-Chairperson: All those in favour of reporting the Bill, please signify by saying yea.

Some Honourable Members: Yea.

Mr. Vice-Chairperson: All those opposed to the Bill being reported, please signify by saying nay.

Some Honourable Members: Nay.

Mr. Vice-Chairperson: In my opinion, the Yeas have it.

An Honourable Member: On division.

Mr. Vice-Chairperson: On division.

Bill 42—The Public Schools Amendment and Consequential Amendments Act

Mr. Vice-Chairperson: The next bill before the committee is Bill 42.

Does the Minister responsible for Bill 42 have an opening statement?

Hon. Drew Caldwell (Minister of Education and Training): I do have a short statement to begin on this particular bill.

Bill 42 is about creating a stable environment for the children of the province of Manitoba in our public school system. The Bill

is about fairness, first of all, to students and parents, but also fairness to teachers, school administrators and school boards. It is about putting into place a balanced framework for collective bargaining that will stand the test of time and allow our schools to operate in an atmosphere of mutual respect and benefit.

That was my intention, when earlier this year I initiated a process of consultation with the Manitoba Association of School Trustees and the Manitoba Teachers' Society, hoping to achieve a consensus on possible changes to the legislation governing teachers collective bargaining. This government had already indicated that it intended to live up to its 1996 commitment to change the legislation governing collective bargaining between teachers and school divisions. During the past six months, MAST and MTS met with the Premier and me and with government officials many, many times. I have also met with over 20 school divisions and heard their views on collective bargaining, among other issues, that concern all stakeholders in the public education system. Some divisions have provided their own written submissions on collective bargaining as this consultation process progressed. I believe that all parties were able to ensure that their views had a full and frank hearing by this government.

I would like to outline briefly what some of the key facts are with respect to this bill and the issues that have been raised. There will be no strikes and lockouts, and disputes that cannot be successfully negotiated at the bargaining table will be settled by binding arbitration. We will continue to protect children's education in the province of Manitoba.

Increases in property taxes for education over the last decade have been very large, but these increases are clearly the result of reduced provincial funding for education. Throughout the 1990s, the former government decreased funding in real terms for education. Several provincial budgets in the 1990s saw grants to school divisions frozen or reduced. The result was substantial increases in local school taxes levied on property. Between 1990 and 1999, the special levy for education increased by 63 percent on a province-wide basis.

In the three or four years before Bill 72 was passed in 1996, settlements between teachers and school divisions were typically from zero to 2 percent. These are not huge increases and therefore are in line with increases in other sectors of the economy. Increases of this magnitude are not the source of the large increases in the education levy.

Many critics of this bill have stated that Bill 42 removes the ability to pay as a factor in determining the outcome of arbitrated settlements. It does no such thing. The ability of the employer to pay is an established factor in arbitration. The precedents are there for both the private and public sectors, including school divisions, and that is in no way altered by this legislation.

Some concerns have been expressed over the possibility of arbitrators eroding management rights during the arbitration process or requiring divisions to enhance services in ways they cannot afford, but we must remember that arbitration is fundamentally a conservative process in terms of working conditions and management rights. Arbitrators do not easily take away from management its control over issues that are within the legitimate scope of management.

This bill still gives teachers fewer labour rights than other organized workers, such as no right to strike, a compulsory one-year probation period and a compulsory form of contract. Teachers are not receiving preferential treatment in comparison to other workers.

Finally, I would like to emphasize that, in drafting this bill, we have been guided by considerations of balance, of fairness, of the need for stability in the system, and above all, the need to maintain the quality of education for our children. All of us, parents, educators, ministers, trustees, other elected officials must forge partnerships to ensure that we achieve the many common goals we share.

Parents and students in Manitoba expect us to create and maintain a positive atmosphere in the classroom. Keeping excellent people in teaching is a vital social policy goal of the Government of Manitoba, especially given the

impending retirement of large numbers of teachers in the provincial system.

The rhetorical question may be asked: Do we want a situation like we have had with nurses, in which many, many good people become discouraged and leave the profession for other work with better conditions?

Our government is committed to controlling property taxation. We increased school funding by \$30 million in this year's budget and have increased the property tax credit as well. We have made a strong long-term commitment to funding of the public education system. We are also committed to providing quality education, which certainly requires excellent teachers for our children and for our young people.

Based on the many hours of public hearings and the many suggestions made before the Standing Committee on Law Amendments, I am going to be tabling a number of amendments to the Bill as we work our way through the clauses. These amendments will respond to various suggestions made to us and will make the legislation even better. As importantly, they will be responsive to the public input on this legislation.

I thought it would save some time now if I briefly indicated what these amendments are going to be. The changes I will be proposing are: using the definition of dispute from the existing Public Schools Act; amending the definition of teacher to make it clear that substitute teachers or others in non-teaching positions will not be covered; ensuring consistency between the arbitration provisions and collective agreements and those in The Labour Relations Act; clarifying the right of parties to change the list of items in dispute after an arbitration has begun; clarifying precisely when an arbitration award is considered to be made; for transition purposes, ensuring that notice to bargaining given under the previous legislation will be valid under the new legislation; requiring the parties to bargain in good faith for at least 90 days after the legislation comes into force before proceeding to arbitration; adding superintendents of schools to the list of groups to be involved in the formation and work of the commission on class size and composition.

These amendments, Mr. Chair, will be tabled when we reach the appropriate sections of the Bill. Thank you.

Mr. Vice-Chairperson: We thank the Minister. Does the critic for the Official Opposition have an opening statement?

Mrs. Joy Smith (Fort Garry): Mr. Chair, before I go into my opening statement, would the Minister please advise this committee how many amendments he does have, and could I have a copy of his opening statement, please?

Mr. Caldwell: Mr. Chairperson, I have nine amendments, and I would be pleased to provide the Member with a copy of my opening remarks. They will be in Hansard tomorrow. I know that they will. As you can appreciate, they are in a couple of different forms here, so I will have to get some printed up off the computer.

* (16:50)

Mrs. Smith: This Bill 42 has been a major or principal bill presented to the Province of Manitoba. It has caused a lot of consternation. It has caused a lot of discussion. We have had a variety of presentations from a variety of organizations. As you know, we were here till 4:30 in the morning, day before last, and last night till around one o'clock. So it has been a busy time. I want to put some remarks on the record, because this bill has been something that Manitobans have examined very closely.

First of all, I must say that I have a concern for the teachers of Manitoba. I have a concern for the students of Manitoba. In earlier statements, the Minister has stated that he has tried to stabilize an environment in the school where teachers have rights and teachers feel respected. I would agree with that statement. I know, in the presentations that were brought forward the last couple of days, what I have felt is that a lot of the heartbreak, a lot of the things that were said were not a result of government but were a result of the environment within the home on-site schools. Personality conflicts, they were a result of people not listening to each other. They were a result of, in most cases, a breakdown in communication between administration and teachers. I think this is very

unfortunate. I know, going across the province, we find some schools who work so well together in partnership and some school divisions that just do a five-star job of getting along and working together. However, there are other school divisions where this does not occur. In the presentations brought forward by some of the teachers, in particular, I was moved by the experiences that they had where they were not listened to, and I think, as a result, there has been a great need for teachers to say we want decision making in our schools; we want to be able to be equal partners in our schools, and in school divisions, particularly where that did not happen, there was a bitter taste left in their mouth.

I am sure the intent of this government, with all due respect to this present minister, is to be mindful of the teachers' concerns and of the students' concerns. We, on this side of the House, are also very mindful of that. The one concern I do have about this bill is we listen to a variety of organizations. We listen to the Manitoba Association of School Trustees who felt very strongly as if their management rights had been taken away from them and that they now do not have input with the passing of this bill, that they do not have the ability to control the finances and the ability to insure that the schools are developed in the best possible way for students and for teachers.

The Minister has made reference to the ability to pay by saying that taking this clause out of the Bill does not really make any difference, because it is there anyway, in other legislation. If that is the case, then I would appeal to the Minister to put it in anyway, because then people would have a higher comfort level. The ability to pay seems to be a tremendous concern to business people across this province, a tremendous concern to taxpayers across this province. I would say that teachers, too, are taxpayers and parents, and I know we have talked about the rights of the teachers. I have a concern about the teachers right now because I know, without a doubt that, if the taxes do go up and if parents feel shut out and feel as if they do not have any say in what happens with their students in the schools, or if principals and trustees and superintendents feel overwhelmed and frustrated, it is only going to cause inappropriate things to happen in the school

system. I can see in the future, if this very important bill is handled in the wrong way, I can predict that indeed teachers might get higher wages, but the staff can be cut back and teachers could lose jobs. I can see also that if taxes go up, the teachers are hurt, as well as the rest of Manitobans, and I do not want to see that happen.

I think the intent here is for teachers to have the rights that they need to have decision making in a school setting. I know there are times in different school divisions where that partnership does not work as well as it should, but I do not think the heavy hand of government needs to come down and needs to pass a bill that is, in my view, potentially harmful to the students and to the teachers. I do not think it is a well-thought-out bill. Time will play out.

There are some cautions. The Minister said that the teachers did not have a right to strike. I must remind the Minister that they did not have the right to strike before. The fact of the matter is the teachers do not want the right to strike; taxpayers do not want the right to strike. Several business organizations and several taxpayers' organizations have come forward, the Manitoba Association of School Trustees and the Manitoba Association of School Superintendents, different organizations have come forward and have been very concerned about the lack of collaboration that has been done, despite the fact that this government has said there has been an open-door policy and collaboration.

I have felt that the teachers feel very strongly that there has been collaboration with them. They have been very thankful for it, and I applaud the Government for that collaboration with the teachers. I think we should continue to have that kind of collaboration in the future. My concern, again, is for the teachers and for the students and for the taxpayers. No one is left out here.

I have seen the ramifications of a hastily thrown-together bill that might, down the road, cause great trouble throughout this province, great trouble. I do not want to see that happen. I have pleaded with the Minister not to withdraw this bill right at this time, but if you look back at Hansard, I have said please set it aside, take

some more time before passing this bill. This side of the House is a minority government. It will go through if this government decides to ram it through. It is going to happen.

I like the Minister personally. I think he is a fine gentleman, and I have no problems with the Minister at all, but the fact of the matter is we are in governance. We are supposed to be governing the province of Manitoba. We need to do very well in our governance. We need to be very mindful of all parties. I am a teacher. I love the teaching profession. I respect teachers. I want the best possible working environment for teachers, but I do not want a bill that seemingly looks great on the surface and then two years from now comes back to bite the teachers.

I do not think that is this government's intent at all at this present time. I think the political wheels are in motion, and I think that the election promises are in motion. I think this is a huge mistake, because in the province of Manitoba we have to think about our schools, our taxpayers, our businesses, Manitoba Education and Training people. We need to think about everybody. I have pleaded with the Minister to put this bill on hold, go out into the community, take more time, talk to more people, and I am pleading with the Minister to put a process into place. I can see a division right now between the trustees and the teachers. This makes me very nervous, very nervous.

An Honourable Member: It is there already.

Mrs. Smith: The Member said it is there already. I think in some school divisions, it is not there. In some school divisions, teachers and trustees work together extremely well. They work in partnership. I am thinking that right now, because of the presentations we have heard, we have to, without a doubt, stop. We have to put a process into place where teachers, trustees, superintendents and principals are talking about the workplace environment and making decisions within their on-site locations, speaking together about how we can collaboratively work together to ensure that the teachers do not feel disenfranchised.

Mr. Chairperson in the Chair

* (17:00)

I will say again, Mr. Chair, this lack of collaboration, I do not think has been intentional because I hear in the House time and time again we have collaborated. I dare say, with all due respect, there has not been enough. Please stop because I think the jeopardy of our students and our schools, and in the end, our teachers are at risk. I think that we have to be extremely careful. I think that there are a lot of legitimate concerns that the teachers have brought forward, very legitimate concerns, and these have to be addressed. But I think we have to look at the long term. All governments have to be much more mindful, and I will say this on record, all governments, of listening to teachers, listening to the problems that are out there.

We have come to a place right now, Mr. Chair, ladies and gentlemen, where this province is in real jeopardy. I am not speaking in a partisan way. I am speaking as a Manitoba taxpayer. I am speaking as a teacher of 22 years. I am speaking as a mother of six children. I am speaking as a concerned citizen. I want this province to grow. I want this province to prosper. I want relationships between schools and governments to be in such a way that we work toward a better governing body that can address the needs that we are going to have to meet into the new millennium.

Ladies and gentlemen, there are going to be jobs created that you and I have not even heard about. Our students are going to have to have high quality educational practices put into the schools. It is time to really support the teachers in a major way. I am not convinced that this bill is the way to do it on a long-term basis. I want to put on record, I am not sure that this bill will stand the test of time. What I am sure of is that we need to support our teachers. We need to listen. We need to make the workplace better. We need to put programs and supports into place.

I think the educational funding, I will put on record, has to increase. I say that because I see that teachers cannot be all things to all people. Now, I see across the room some people seemingly are not concerned about this, depending on the expressions on their faces, and

I know today that as we sit in this committee that some will say well, there are the Tories now just doing something different than the NDPs. This goes beyond that, ladies and gentlemen. It goes to the very essence of what our school system is all about. This is not a partnership.

We need to ensure that our schools are managed in such a way that the budgets stay in place. We need to ensure that the resources are put in there so teachers can teach and students can learn, but I have great, grave concern about this bill. Right now, as we sit in this committee and we are about to pass the amendments, I am asking that the Minister reconsider and take more time to consider this bill. I do not expect that to happen. If it does not happen, I have to have a guarantee from this minister that when this bill is passed that enough funding is put into the school system so the teachers, in the end, are not becoming the victims of this bill. I think what we have to think about first and foremost is that schools are built for students. You are right. When the system does not work, when teachers cannot teach, when there is division amongst trustees and teachers, we have a huge problem.

I will close my opening statements, but this has been a principal bill that we are putting through that will change the face of education in Manitoba. I know it is a hot afternoon, ladies and gentlemen, but this is something that I think we have to be so very cautious about. Having said that, I guess this afternoon we will go through and we will go through the amendments and we will be passing a bill that will change the face of education in Manitoba. I just hope with all my heart that the funds are there so that taxes are not raised, so municipalities and school divisions are not put at risk and so that teachers have the resources in their schools to teach in the manner that they can teach.

Hon. Jon Gerrard (River Heights): I have several questions for the Minister. The first relates to the fact that of the many presentations we heard both from teachers and from school trustees, including the presentation of the Manitoba Association of School Trustees, there was a request that the teachers, school boards, collective bargaining be put fully under The Labour Relations Act rather than in this bastardized version, which is half and half.

I would ask the Minister why he has not put the collective bargaining of teachers and school boards under the Labour Relations Act.

Mr. Caldwell: Indeed, there were a number of presentations from parties to this debate that indicated a willingness to look at The Labour Relations Act as the principal mechanism for the collective bargaining between teachers and trustees. There were a couple of presentations that also advocated for strike-lockout during our deliberations the last couple of days. Of course, we in government are not in favour of strike-lockout for teachers. We want to ensure the sound operation of the public school system in the province of Manitoba and not have children become pawns in collective bargaining. I guess that last statement truly is the reason why we were not prepared to go down The Labour Relations Act road, so that we would not have the children of Manitoba become pawns in the collective bargaining. That is not to say that some other government in some other time will not again look at The Labour Relations Act as the method or means of governing collective bargaining between teachers and trustees in the province of Manitoba, but it is not something that this government felt it was willing to entertain for that reason.

Mr. Gerrard: The vast majority of presenters, teachers, or school trustees or members of MAST who in fact presented recognized that there are groups who are under The Labour Relations Act who do not have the ability to have strikes or lockouts. Indeed, when I was asking that question, it really referred to the fact that you have the potential under The Labour Relations Act to have negotiations, as with others in the province of Manitoba, under a fair system, but without strike and lockout. Let me ask you again, given that there are groups under The Labour Relations Act who have no capacity for strike or lockout, why you did not put teacher-school board collective bargaining under The Labour Relations Act?

* (17:10)

Mr. Caldwell: My former remarks remain. I might add to them, however, in terms of the teaching profession as a profession, as opposed to a worker situation. I know there is some

desire in the Teachers' Society as well, at least if not in other sectors, to have a college of teachers.

I believe the Member for River Heights knows that. There are a lot of different perspectives on where teachers should be placed in the order of things regarding public service workers, professionals in our society. With the exception of strike-lockout, I should add, for all intents and purposes, bargaining is now under the LRA with this legislation. Bargaining means the methodology, of course, of arriving at a collective agreement, and that methodology is defined by The Labour Relations Act in this legislation.

Mr. Gerrard: There are certainly elements of The Labour Relations Act, major elements which apply to teacher-school board collective bargaining under this act, but the fact remains it is sort of a hybrid circumstance where you have very considerable elements of The Public Schools Act and very considerable elements of The Labour Relations Act coming together. As many from the school trustees in particular pointed out, they are concerned about some elements of balance in the provisions. I believe the Manitoba Teachers' Society has argued quite strongly for, let us not have a hybrid, let us go all the way to The Labour Relations Act. Let me ask you once more, given those considerations, why you are not putting it all under The Labour Relations Act.

Mr. Caldwell: In addition, I will keep on building on remarks. The first two answers, of course, still stand. Building on this point, however, The Public Schools Act also contains other provisions, especially part 7, which covers the duties of teachers, covers the issue of tenure and dismissal. It covers the issue of certification, et cetera, including the inclusion of principals which are not in The Labour Relations Act, and indeed do not apply to other workers who fall under The Labour Relations Act. Putting teachers entirely under The Labour Relations Act would require reviewing and changing all of these areas as well.

As I said, in my first response, I cannot predict what future governments or future conditions will bring with regard to the LRA. I,

like the Member for River Heights, did note that in the discussions over the last two nights a number of presenters from the trustee perspective, from the teachers' perspective, from private citizens' perspective, from the business perspective, and as well as from the labour perspective, there was some interest in having teachers fall under the provisions of The Labour Relations Act.

As we move forward, I expect that debate or that discussion will continue. I was surprised at that. It was not something that certainly emerged in the six months previous to last night and the night before. Of course, it would require a considerable review and changing of the LRA. It is important to note, however, as well in this regard, and I am building on my earlier responses, that the Government was committed in Opposition in 1996 to repeal Bill 72, which is what Bill 42 does. That commitment that was made four and a half years ago was for that only and not to review all of the issues around teachers.

What the Member is suggesting is somewhat broader than what we are dealing here with today. I have every expectation that that debate will continue, given what I heard over the last two nights from teachers, trustees, business officials, labour officials and private citizens. Having said that, that I expected debate and discussion to continue on in this regard based upon what I heard last night, it is equally important to note that many presenters said teachers' working conditions or students' learning conditions, and there is a unique relationship in the classroom that is different from an industrial workplace, and in that context, it seems that the context for this legislation is the best fit, in our judgment and in our estimation as government at this time, under The Public Schools Act.

Mr. Gerrard: Thank you for the clarification. Just before closing, one of the reservations you had was the concern in relationship to a college of educators. The role of a college of educators would be quite different. It would not be involved in bargaining. So it really is not all that relevant to the discussion. I mean fair.

Mr. Chairperson: If he was in his seat, I would recognize Mr. Faurschou next, but he is not there, so I recognize Mr. Penner, Emerson.

Mr. Jack Penner (Emerson): Just a very brief remark. It is interesting, when I watch the current government and their approach to budgeting and fiscal management, one must always keep in mind, I suppose, that there will be downturns in the economy, and at some point in time, the revenues will decline. I think it behooves us all to take care and consideration of legislation that will permanently put some processes in place that will require increases in taxation and/or revenues, if you want to put it that way, on an ongoing basis. One needs to take a great deal of care and reflect on the last 10 years and how gut-wrenching some of the decisions had to be in order to bring the large amount of borrowing under control. When the revenue downturns come, the increases in taxation and levies increase. They have to if you want to maintain a balanced book. So I think one must reflect very closely.

I reflect on the farm sector and the huge decreases in revenues that we have seen over the last two years in the farm sector. Many of the commodity prices are less than half of what they were two years ago. That will have a large bearing on the economy of this province. It normally takes two and a half to three years before that kicks in, and I think it is about to. I know, for instance, machinery sales are down by 75 percent in the province currently. There have been virtually no combines or large tractors sold this last year, in all of Canada less than 600. Again, that only reflects on the unreality of the situation. So the economy will see a massive downturn unless changes in the agricultural economy happen. That means that some of the actions taken here, whether it is in this department or in the Department of Health and others, that will require large revenue increases, the taxpayers of this province will see the brunt of that.

So I have a great deal of appreciation that teachers want an increase on an ongoing basis as they have. The budget has on an ongoing basis been increased over the last decade. Health care spending has increased and so has welfare, but some of the other departments have taken a real slam-dunk, and I think that is unfair. I think that we need to reflect on that as well. I just caution the Minister in his approach. I want to put that on record in that we are dealing with an entire economy, we must use balance and we must use

an approach. Hopefully, that will be considered when the finalization of this bill comes into being.

* (17:20)

Mr. David Faurshou (Portage la Prairie): It has been stated by the Minister that he is introducing nine amendments. I was wondering whether now if time has elapsed enough for copies or whether he is planning on sharing them with committee members on this side of the House. I certainly have not seen them. I do not believe the Government side of the House has seen them either.

Mr. Caldwell: I gave an overview, and as we go through them line by line, as we did with the previous act, I will be introducing them.

Mr. Chairperson: We thank the members. During the consideration of a bill, the preamble and the title are postponed until all other clauses have been considered in their proper order. If there is agreement from the Committee, the Chair will call clauses in blocks that conform to pages with the understanding that we will stop at a particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? [*Agreed*]

Shall clauses 1 and 2 pass?

An Honourable Member: No.

Mr. Chairperson: No? We have an amendment.

Mrs. Smith: I move

THAT the proposed preamble, as set out in section 2 of the Bill, be amended

(a) in the ninth clause, by striking out everything after "interest" and substituting "that educational resources be managed efficiently and effectively for the good of students and communities;"; and

(b) in the tenth clause by adding "and accountability" after "responsibility".

Motion presented.

Mr. Chairperson: The motion is in order.

Mrs. Smith: I know I have addressed everything that I needed to address pretty well in my opening statement. It is not my intent to deliberately hold up the Bill. My intent is to put things on record that reflect the kinds of concerns that we have. So I would just ask that this amendment be passed, because it does add to it in a very meaningful way with accountability and responsibility.

Mr. Chairperson: Shall the amendment pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

Voice Vote

Mr. Chairperson: All those in favour of the proposed amendment, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Nays have it.

An Honourable Member: On division.

Mr. Chairperson: On division.

* * *

Mr. Chairperson: Clauses 1 and 2—pass; clause 3—pass.

Mr. Caldwell: I move

THAT the proposed subsection 97(1), as set out in section 4 of the Bill, be amended by striking out the definition of "dispute" and substituting the following:

"**dispute**" means any dispute or difference, or apprehended dispute or difference, between a school board and one or more of the teachers it

employs or a bargaining agent acting on behalf of those teachers as to

(a) matters or things affecting or relating to terms or conditions of employment or work done or to be done by the employer or by the teacher or teachers, or

(b) privileges, rights and duties of the school board or the teacher or teachers that are not specifically set out in this Act or The Education Administration Act or in the regulations made under either of those Acts.

However, it does not include a controversy or difference arising out of the termination or threatened termination of a teacher's contract.

Motion presented.

Mr. Chairperson: The amendment is in order.

Mr. Caldwell: Mr. Chairperson, the amendment replaces the definition of "dispute" with the wording from the current act. Some of the presenters were uncomfortable with the drafting of this definition, so we are amending it to take the wording back to what it is in the current act.

Mr. Chairperson: Amendment—pass.

Shall clause 4, as amended, pass? We have another amendment. We have two amendments. I will recognize the Minister first.

Mr. Caldwell: Mr. Chairperson, I would move

THAT the definition "teacher" in the proposed subsection 97(1), as set out in section 4 of the Bill, be amended by adding "under a written contract in Form 2 of Schedule D or in any other form approved by the minister under section 92 and" after "employed by a school board".

Motion presented.

Mr. Chairperson: The amendment is in order.

Mr. Caldwell: Mr. Chairperson, during the discussion over the last two evenings in proceedings before the Committee, a number of suggestions were made by school divisions and trustees, including the Manitoba Association of

School Trustees, to amend the definition of "teacher" to require a teacher to be employed under a Form 2 contract. It was never government's intention to cover substitute teachers in this definition, and many of the presenters, particularly trustees, were concerned that the wording had that effect. In acknowledgement of the concerns of trustees in respect to their knowledge in this regard, this amendment takes the wording back to what it is in the current act.

Mrs. Louise Dacquay (Seine River): I have a question of the Minister. Are certified clinicians included under the current act?

Mr. Caldwell: In the current act, certified clinicians are defined as teachers, yes.

Mr. Faurschou: What relationship does it have with those persons that are employed under a 2A contract?

Mr. Caldwell: I am sorry, Mr. Chairperson.

Mr. Faurschou: It is named in a Form 2 contract. Can I ask the Minister whether it also is applicable to those that are under a temporary employment under a 2A contract?

Mr. Caldwell: Mr. Chair, practice has been that it is recognized. It is not defined in the Act, but the practice has been for a number of years now to have that effect, yes.

Mrs. Dacquay: Can I just ask one further point of clarification? In the current act, am I correct in assuming that principals and vice-principals are included because they are certified teachers?

Mr. Caldwell: Mr. Chairperson, in the current act, principals and vice-principals are under Form 2, yes. If I might, this amendment has fundamentally been brought about from the representation from school trustees, and we are acknowledging the concern in that regard.

Mr. Chairperson: Amendment—pass.

I believe we have another amendment.

Mrs. Smith: I just want it on record that this side of the House, too, amended the definition of

teacher. We were discussing whether or not we could live with the amendment, as that of the opposite side is much the same. This is why we will not be presenting that amendment.

Mr. Chairperson: We have another amendment from the Minister.

Mr. Caldwell: I move

THAT the proposed subsection I02(2), as set out in section 4 of the Bill, be struck out and the following substituted:

When Labour Relations Act applies

102(2) Part VII of The Labour Relations Act applies, with necessary changes, to an arbitration carried out under a final settlement provision referred to in subsection (1), except to the extent of any inconsistency with the final settlement provision.

Motion presented.

Mr. Chairperson: The amendment is in order.

Mr. Caldwell: This amendment makes the arbitration provisions of The Labour Relations Act apply in a situation where the collective agreement contains a final settlement provision. Some of the presenters were concerned that, if the parties forgot to include a reference to The Labour Relations Act in their agreement, arbitrators would not have sufficient direction. This amendment ensures that arbitration arrangements and collective agreements are the same as arbitration arrangements imposed by legislation. I guess this speaks to a number of the points of presenters in terms of referring to The Labour Relations Act.

Mr. Chairperson: Are we ready for the question?

An Honourable Member: Question.

* (17:30)

Mr. Jack Penner: This appears to have an effect that it would cause some significant change to what the original draft of the proposed legislation would be. I wonder whether it is the intent of government to impose what I see as a

significant change under the final settlement provision under the proposed amendment. Is that what the intent of this amendment is?

Mr. Caldwell: It is the intent to clarify in fact that arbitration provisions of The Labour Relations Act apply in a situation where collective agreements contain a final settlement provision. That is the intent.

Mr. Chairperson: Are you ready for the question?

An Honourable Member: Question.

Mr. Chairperson: Shall the amendment pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour of the proposed amendment, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Yeas have it.

An Honourable Member: On division.

Mr. Chairperson: On division.

* * *

* (17:30)

Mr. Chairperson: Shall clause 4 as amended pass?

An Honourable Member: No.

Mr. Chairperson: No. We have another amendment.

Mr. Caldwell: I move

THAT item 6 in the proposed section 103, as set out in section 4 of the Bill, be amended by striking out "that were in the statement of matters in dispute before hearings begin" and substituting "during the course of the hearing".

Motion presented.

Mr. Chairperson: The amendment is in order.

Mr. Caldwell: This amendment clarifies that a party can modify or withdraw items from the statement of matters in dispute after an arbitration hearing has begun. This is an accepted practice during an arbitration hearing. Some of the presenters, during the past two evenings and mornings, thought that the wording of this section was unclear. This is an endeavour to clarify.

Mr. Chairperson: Are you ready for the question?

An Honourable Member: Yes.

Mr. Chairperson: Amendment—pass. We have another amendment.

Mrs. Smith: Oh, I missed the question. Sorry, I was looking at this. We do have an amendment in clause 4. His comes first, I think. Where is yours located?

Mr. Chairperson: We have a procedural question here about where the Minister's next amendment is. Please proceed, Mrs. Smith, Fort Garry.

Mrs. Smith: I move

THAT section 4 of the Bill be amended by adding the following after the proposed subsection 105(2):

Factors

105(2.1) If a matter under arbitration may reasonably be expected to have a financial effect on the school division or school district, the arbitrator or arbitration board shall, in addition to any other relevant factors, consider the following:

(a) the school division's or school district's ability to pay, as determined by its current revenues, including the funding received from the government and the Government of Canada, and its taxation revenue;

(b) the nature and type of services that the school division or school district may have to reduce in light of the decision or award, if the current revenues of the school division or school district are not increased;

(c) the current economic situation in Manitoba and in the school division or school district;

(d) a comparison between the terms and conditions of employment of the teachers in the school division or school district and those of comparable employees in the public and private sectors, with primary consideration given to comparable employees in the school division or school district or in the region of the province in which the school division or school district is located;

(e) the need of the school division or school district to recruit and retain qualified teachers.

Motion presented.

Mr. Chairperson: The amendment is in order.

Mrs. Smith: This is an amendment that I would be very grateful if the members opposite would consider putting in. This is a safeguard for the teachers and for the school divisions. I think it would do much to enhance the partnership that is there. So I am requesting that this amendment be approved and passed.

Mr. Chairperson: Are you ready for the question?

An Honourable Member: Question.

Mr. Chairperson: Shall the amendment pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour of the proposed amendment, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Nays have it.

Formal Vote

Mrs. Dacquay: A count-out vote please, Mr. Chair.

Mr. Chairperson: A count-out vote is requested.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 4, Nays 6.

Mr. Chairperson: The amendment is accordingly defeated.

* * *

Mr. Caldwell: Mr. Chairperson, I move

THAT the proposed section 107, as set out in section 4 of the Bill, be amended by striking out "for the purpose of section 108".

Motion presented.

Mr. Chairperson: The amendment is in order.

Mr. Caldwell: Mr. Chairperson, this amendment makes it clear, if one of the parties asks an arbitrator or arbitration board to clarify an award, that the award is not considered to be made until the clarification is received. This will ensure that, if one of the parties wishes to ask for a judicial review of the award under The Labour Relations Act, the time limit for doing so will not begin to run until clarification is received.

This amendment, Mr. Chairperson, is made at the suggestion of the Manitoba Association of

School Trustees. It was represented in their presentations and representation to government and is in recognition of their concerns.

Mr. Chairperson: Amendment—pass; clause 4 as amended—pass. Clause 4 carries over to page 8. Shall clauses 5 to 7(2) pass?

Some Honourable Members: No.

Mr. Chairperson: No. We have an amendment from the Minister.

Mr. Caldwell: Mr. Chairperson, I move

THAT subsection 6(3) of the Bill be amended by adding the following at the end of the subsection:

For that purpose, any notice to begin collective bargaining given under the former Act respecting the renewal, revision or replacement of such an agreement is deemed to have been given under section 60 or 61 of The Labour Relations Act.

Mr. Chairperson: Thank you, Mr. Minister. Before we deal with your amendment, we are going to pass the previous clauses. Clauses 5, 6(1) and 6(2)—pass.

It has been moved by the Honourable Mr. Caldwell—

An Honourable Member: Dispense.

THAT subsection 6(3) of the Bill be amended by adding the following at the end of the subsection:

For that purpose, any notice to begin collective bargaining given under the former Act respecting the renewal, revision or replacement of such an agreement is deemed to have been given under section 60 or 61 of The Labour Relations Act.

Mr. Chairperson: The amendment is in order.

Mr. Caldwell: Mr. Chairperson, what a fine job you are doing of keeping us moving forward.

This amendment represents an additional transitional provision. It deems notices that the parties were required to give in April of this year under the current Public Schools Act to have been given under The Labour Relations Act. This will allow for a smooth transition of bargaining for contracts whose terms begin on July 1, 2000.

Mr. Chairperson: Are you ready for the question? Shall the amendment pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

* (17:40)

Voice Vote

Mr. Chairperson: All those in favour of the proposed amendment, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Yeas have it.

An Honourable Member: On division.

Mr. Chairperson: On division.

* * *

Mr. Chairperson: Clause 6(3) as amended—pass.

Mr. Caldwell: Mr. Chairperson, I move

THAT the following be added after subsection 6(3) of the Bill:

6(3.1) Notwithstanding subsection (3), arbitration proceedings may not be initiated under Part VIII of The Public Schools Act (as enacted by this Act) until 90 days after this Act comes into force, during which time the parties must bargain collectively in good faith with one

another and make every reasonable effort to conclude a collective agreement.

Motion presented.

Mr. Chairperson: The amendment is in order.

Mr. Caldwell: Mr. Chairperson, this amendment also responds to a concern raised by the Manitoba Association of School Trustees and some school divisions from the presentations of the previous two days. This amendment requires the parties to bargain collectively for 90 days after the Bill comes into force rather than proceeding to arbitration immediately. It will give the parties an opportunity to first try to reach an agreement rather than have an agreement imposed by arbitration.

Mr. Chairperson: Shall the amendment pass?

Some Honourable Members: Pass.

Mr. Chairperson: The amendment is accordingly passed.

Clause 6(4)—pass. We have an amendment.

Mrs. Smith: I move

THAT subsection 7(1) of the Bill be amended by striking out "commission" and substituting "non partisan commission."

Motion presented.

Mr. Chairperson: The amendment is in order.

Mrs. Smith: I think it is important that a commission of this sort not be by political appointment, and so I think it is very prudent to have a non-partisan commission put in place to ensure this does not happen.

Mr. Chairperson: Are we ready for the question?

An Honourable Member: Question.

Mr. Chairperson: Shall the amendment pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour of the proposed amendment, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Nays have it.

Formal Vote

Mrs. Dacquay: A count-out vote.

Mr. Chairperson: A count-out vote is requested.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 4, Nays 6.

Mr. Chairperson: The amendment is defeated.

* * *

Mr. Caldwell: I move

THAT subsection 7(2) of the Bill be amended by adding ", school superintendents" before "and parents".

Motion presented.

Mr. Chairperson: Before we deal with your amendment, we need to pass 7(1). Clause 7(1)—pass.

The amendment is in order.

Mr. Caldwell: Mr. Chairperson, this amendment is in response to a suggestion made by the Manitoba Association of School Superintendents during the public hearing process. This amendment will require the Minister to consult with school superintendents before appointing the commission on class size and composition.

Mrs. Smith: Could we have, Mr. Chair, a minute to consult, just 30 seconds?

Mr. Chairperson: Excuse me, we have a procedural problem here. We might have to go back and pass a clause as amended.

Point of Order

Mrs. Dacquay: On a point of order, the amendment that is being proposed by the Minister amends the same section that our critic has an amendment for, 7(2), and if she now moves her amendment, I think procedurally we would have to move an amendment to amend an amendment, and I am asking for advice. Can we do that?

Mr. Chairperson: Yes, it can be done. You will need to reword your motion so that it is a subamendment.

* * *

Mr. Chairperson: Before we do that, we are going to go back and correct something. We are going backwards here to clause 6(3). We are going to ask: Shall 6(3) as amended and as subsequently amended pass and as further amended pass?

Some Honourable Members: Pass.

Mr. Chairperson: Clause 6(3) as amended and as subsequently or further amended is accordingly passed. Thank you.

Mrs. Smith: I am moving a subamendment to the proposed amendment by the Honourable Mr. Caldwell. We need a moment to get it translated.

Mr. Chairperson: We are going to take a minute to get a translation.

Mr. Jack Penner: If the Committee agrees, we can deal with it as translated, I mean before you see the translation, if the Committee agrees.

* (17:50)

Mr. Chairperson: I am told that it has to be in writing.

The Committee on Law Amendments will please come to order.

The hour being six o'clock, we need to canvass the Committee and decide what is the will of the Committee.

* (18:00)

Hon. Steve Ashton (Minister of Highways and Government Affairs): In view of the progress we are making, I suggest we keep going.

Mr. Chairperson: It has been suggested we keep going. Are there any other views?

Mrs. Dacquay: We are prepared, but I would like to have the proviso that not beyond 6:30.

Mr. Chairperson: We will aim to be finished by 6:30. Good.

Mrs. Smith: I would like to move a sub-amendment

THAT the motion be amended by striking out everything after "THAT" and substituting "subsection 7(2) of the Bill be struck out and the following substituted:

Size and composition of commission

7(2) There shall be five commissioners, who shall be as follows:

- (a) a parent of a child enrolled in a public school;
- (b) a trustee;
- (c) a teacher;
- (d) a business person;
- (e) a person who owns, rents or leases property on which taxes for school purposes are payable and who is not a person mentioned in any of clauses (a) to (d)."

Motion presented.

Mr. Chairperson: The subamendment is in order.

Mrs. Smith: I want to ensure that the commission has an overview of the community, including parents, trustees, teachers, business-

people and a person who owns or rents or leases property. That leaves it open to the commission, having a good balance, a fair and equitable balance, we shall say, and as a result, the size of this commission is very important to ensure that the wishes of the public and the needs of the schools are addressed.

Mr. Chairperson: Shall the subamendment pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour of the subamendment, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed to the subamendment, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Nays have it.

An Honourable Member: On division.

Mr. Chairperson: On division.

* * *

Mr. Caldwell: It seems to me that 7(2) was held, pending the amendment that was just made, so I will move

THAT subsection 7(2) of the Bill be amended by adding "school superintendents" before "and parents".

Mr. Chairperson: It has been moved by the Honourable Mr. Caldwell—

An Honourable Member: He already moved it.

Mr. Chairperson: Do you want to speak to it, Mr. Minister?

Mr. Caldwell: I wanted to ensure that it was in fact on the table after that amendment to the

amendment was made. This amendment will require the Minister to consult with school superintendents before appointing the commission. It was a concern that was raised at legislative committee, in our public hearings, by the Manitoba Association of School Superintendents. I think it is a reasonable request to get the best possible advice, and I thank MASS for making that representation.

Mr. Chairperson: Are you ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: Amendment—pass; clause 7(2) as amended—pass.

Mr. Caldwell: I move

THAT subsection 7(3) of the Bill be amended by adding "school superintendents", before "parents".

Motion presented.

Mr. Chairperson: The amendment is in order.

Mr. Caldwell: This amendment will require the Minister to consult with school superintendents before appointing the commission. Again, this was a suggestion made by the Manitoba Association of School Superintendents at the committee level.

Mr. Chairperson: Are you ready for the question?

An Honourable Member: Question.

Mr. Chairperson: Amendment—pass; clause 7(3) as amended—pass.

Mrs. Smith: I move

THAT subsection 7(4) of the Bill be amended by striking out "two years" wherever it occurs, and substituting "one year".

Motion presented.

Mr. Chairperson: The amendment is in order.

Mrs. Smith: The reason for this, in looking over the Bill, the time lines were somewhat troublesome because it looked as if the time lines were set up to address election issues at the end of the time and that was a concern that I heard from some quarters, which I had myself.

Having said that, I think two years is too long to make a report to the Minister, and the cost is a consideration as well over a two-year period of time. The Minister has not come forward with the cost of this commission, and it is understandable at this point in time because it is very hard to understand the cost of this commission, but in due time we will be asking about that as well.

The one-year time limit addresses concerns that we have regarding the cost of this commission as well.

Mr. Chairperson: Are you ready for the question?

An Honourable Member: Question.

Mr. Chairperson: Shall the amendment pass?

An Honourable Member: No.

An Honourable Member: Yes.

Voice Vote

Mr. Chairperson: All those in favour of the proposed amendment, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Nays have it.

An Honourable Member: On division.

Mr. Chairperson: On division.

* * *

Mr. Chairperson: Clause 7(4)—pass; clause 7(5)—pass. We have an amendment.

Mrs. Smith: I move

THAT subsection 7(6) of the Bill be struck out.

Mr. Chairperson: According to *Beauchesne's*, section 698.(6), it is out of order because: "An amendment to delete a clause is not in order, as the proper course is to vote against the clause standing part of the bill."

I am ruling this amendment out of order.

Mrs. Smith: Mr. Chair, could I ask for unanimous consent on this, please?

Mr. Chairperson: Is there unanimous consent to proceed with this amendment?

Some Honourable Members: No.

Mr. Chairperson: No. Consent has been denied.

Shall clause 7(6) pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

An Honourable Member: On division.

Mr. Chairperson: Clause 7(6) is accordingly passed.

An Honourable Member: On division.

Mr. Chairperson: On division.

Clause 8(1)—pass; clause 8(2)—pass; clause 8(3)—pass; clause 8(4)—pass; clause 8(5)—pass; clause 9—pass; preamble—pass; title—pass. Shall the Bill as amended be reported to the House?

Some Honourable Members: Agreed.

Some Honourable Members: No.

Mr. Chairperson: No.

Mr. Jack Penner: Before we deal with the reporting motion, I think we need to consider in very, very realistic terms what this bill does. This bill will pose a dramatic increase on property taxes in this province.

I think virtually everybody in this room is a property taxpayer. I know that many of you have heard your constituents, during election times and other times, that increases in property taxes or other taxes are no longer acceptable. All I want to do is remind members of this committee that what we are doing here today is imposing virtually an automatic increase in your taxation. What we are doing here, we will remind you of in the future. We hope that you will be able to, in true conscience, defend your actions against the comments you made during the election campaigns or before election campaigns, and we will remind you constantly, those of you that are on the Government side, of the actions that you took here today in proposing this kind of legislation. This kind of legislation clearly demonstrates to the people of Manitoba the new direction that his province has taken, and I think others that are looking at establishing here, the business community and others, will seriously reflect on what their future plans will be.

So I say to you: Think long and think hard before we do third reading of this bill and think of the consequences of this bill. There is much contained in this bill that we agree with, but there are some parts of this bill that cause us a great deal of difficulty and cause school divisions a great deal of difficulty. You have heard the representation here, and you will hear more representation on this bill in the future. So, when that retribution comes, let us only come back to you and say we told you so.

* (18:10)

Mr. Caldwell: I am not sure exactly how to respond in closing this debate, but I think what this does reflect is that this government believes in keeping its commitments that it makes to Manitobans prior to election campaigns, in election campaigns, and after securing government. Manitobans appreciate it when governments keep the commitments that they make to the people of Manitoba. I also think it is important to note that the explosion in property

taxation which took place during the 1990s, an unconscionable explosion in property taxation, is directly related to the policies which took tens of millions of dollars out of the public school system by the former administration, and we, Mr. Chair, will also remind the members opposite of the legacy that they created and left, bequeathed to the taxpayers of the province of Manitoba.

Mr. Faurchou: It is disappointing to hear the Minister's response at this late hour after 20 hours of deliberation and hearing presentations by this committee on Bill 42. There was no comment made as to the reduction in funding from the federal government in relationship to health and education in transfer payments. Without having that mentioned, I think that it is making statements that are not quite complete.

I do want to leave that this committee is in support of the Honourable Member for Fort Garry (Mrs. Smith) when she said that we had a lot of information here in the last few days that I really truly believe we should have taken more time to digest, many, many hours of research by the presenters. Certainly we heard over the course of 15 to 20 minutes by each presenter, but the hours of research and preparatory time invested in that presentation were significant. I do believe that we are leaving this committee and going to rise in just a few moments, that we should have, in fact, taken those suggestions that were most thoughtfully conveyed and slept on it, if you might use that terminology, so that to come back to this committee and adequately develop amendments and to deliberate on those amendments and ultimately pass or defeat those amendments in due course. I am afraid that we have been rather hasty, although members on this side of the Committee have done what we were able to slow the process, so that sobering second thoughts could have had a chance to play out. With that, Mr. Chairman, I conclude my remarks in regard to Bill 42.

Mr. Caldwell: Mr. Chairperson, I will just put some remarks, perhaps the final remarks on this particular item. This process began in 1996 when this government, then in opposition, made a commitment to repeal the provisions of Bill 72 as it was introduced in 1996. That commitment

was restated in 1996, 1997, 1998 and now in 2000.

Upon being elected to office, we undertook, as a new government, a consultation process with the two principal parties involved in this particular piece of legislation, the Manitoba Association of School Trustees and the Manitoba Teachers' Society. Those consultations were extensive, were thoughtfully carried out, were at some times very challenging because in the area of labour relations hard positions are easy to develop and people have strong opinions, individuals have strong opinions surrounding the area of labour relations.

I want to commend both the Manitoba Association of School Trustees and the Manitoba Teachers' Society for in good faith working with each other and with the Province of Manitoba in developing this piece of legislation. We had a lot of very, very positive meetings, very challenging meetings, and I think that it speaks well for the fact that in respect those consultations were carried out. I certainly do appreciate very profoundly the views expressed by the Manitoba Association of School Trustees and the views expressed by the Manitoba Teachers' Society, as well as other groups as we went through that process.

The amendments that were introduced by the Government today, as well as items which were reflected in the final product of Bill 42, demonstrated very clearly that this government listens to the people of Manitoba and is responsive to the public in drafting its legislation. Amendments introduced today were responsive to Manitoba Teachers' Society's concerns, Manitoba Association of School Trustees' concerns, Manitoba Association of School Superintendents' concerns, as well as the concerns expressed by members of the business and labour community and the general public.

Of course, not everyone's views found their way into this legislation. Legislation is a process where compromise is often the order of the day. However, the amendments that were introduced today were, in fact, responsive to some of the input that was put forth to the Committee which conducted its work over the last two to three days.

I want to say in closing, if I may, that I truly do appreciate very deeply the commitment of members of the Opposition, as well as the commitment of members on the Government side of the House to this process. I think that we had a very civil process in an area that is, as I mentioned earlier, often one that leads to very hard positions. I thank the members of the Opposition particularly for the tone in which this debate was carried out. I also thank the members of the Opposition, as well as the government MLAs, for dealing with four o'clock, 4:30 in the morning committee hearings and 12:30 in the morning committee hearings. It makes for a very, very long day, and I very much appreciate the good humour and respect with which these discussions are carried out.

Mrs. Smith: I want to, in closing, say thank you so much to the Clerk, JoAnn McKerlie-Korol, and the legal counsel, David Meighen, and the bureaucrats who have spent so much time and put so much effort into this. I know that around this table there are very caring people, and the presenters who have come out have contributed in a very meaningful way. I just want to thank everybody from this side of the House for participating in this committee.

Mr. Chairperson: Shall the Bill as amended be reported to the House?

Some Honourable Members: No.

Some Honourable Members: Yes.

* (18:20)

Voice Vote

Mr. Chairperson: All those in favour of reporting the Bill as amended to the House, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Yeas have it.

Formal Vote

Mrs. Dacquay: A count-out vote.

Mr. Chairperson: A count-out vote is requested.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 6, Nays 4.

Mr. Chairperson: The Bill will be reported as amended to the House.

* * *

Mr. Chairperson: What is the will of the Committee?

An Honourable Member: Committee rise.

Mr. Chairperson: The hour being 6:23, committee rise.

COMMITTEE ROSE AT: 6:23 p.m.