

**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS**

Monday, March 12, 1990

TIME — 8 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. Helmut Pankratz (La Verendrye)

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Connery, Driedger (Emerson), Penner

Messrs. Ashton, Burrell, Driedger (Niakwa), Minenko, Pankratz, Patterson, Storie, Mrs. Yeo

* Substituting for Mr. Steve Ashton, Mr. Jim Maloway at 22:38

WITNESSES:

Mr. Gordon Newton, Manitoba Association of School Superintendents

Ms. Betty Husby, The Manitoba Teachers' Society

Mr. Aubrey Asper, The Manitoba Teachers' Society

Ms. Barbara Buffie, The Manitoba Association of School Trustees

Mr. Jerry MacNeil, The Manitoba Association of School Trustees

Ms. Doreen Houston, Private Citizen

Ms. Bev Fenwick, Private Citizen

APPEARING:

Hon. Glen Cummings, Minister of Environment

Hon. Leonard Derkach, Minister of Education and Training

Mr. Jim Maloway, MLA for Elmwood

MATTERS UNDER DISCUSSION:

Bill No. 59—The Public Schools Amendment Act

Bill No. 60—The Education Administration Amendment Act

Bill No. 78—The Prearranged Funeral Services Amendment Act

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* (2005)

Mr. Chairman: Order, please. I would like to call the Standing Committee on Law Amendments to order. This evening the committee is supposed to be dealing with Bills Nos. 59 and 60. Once we have completed

those Bills, the committee will resume on consideration of Bills Nos. 56, 72, 75 and 78.

There are a few committee changes which I would like to make at this time: Storie for Plohman, and Penner for Findlay. These have just been moved in the House as of eight o'clock this evening.

With that, we shall now proceed to consider Bill No. 59, The Public Schools Amendment Act and Bill No. 60, The Education Administration Amendment Act. Is it the will of the committee to hear public presentations of these Bills? Agreed.

I have before me a list of persons wishing to speak to these Bills, and I shall now read the list out loud for the committee. Bill No. 59, Mr. Lloyd Dyck, Mrs. Joy Burik, Mr. Gordon Newton, Mrs. Joan Johannson, Mr. Aubrey Asper, Ms. Barb Buffie, Mr. Jerry MacNeil. In regard to Bill No. 60, we have Mr. Aubrey Asper. Barbara Buffie is replacing Brenda Leslie on Bill No. 59.

Are there any others here today who would like to make presentations that I did not call out at this time? Please come forward and let our committee staff know if you want to make a presentation, and we will add you to the list. If not, did the committee wish to impose a time limit on the length of the public presentation? Members of the committee? No? Very good. How late did the committee wish to sit this evening? How late? About 10:30, eleven o'clock; is that the will of the committee? Very good.

Just prior to commencing public presentation, I would like to inform the committee that two written briefs were received from The Manitoba Teachers' Society. One brief is for Bill No. 59; the other brief is for Bill No. 60. I am officially reading into the record that these briefs were received and that they are now going to be passed out to the committee Members—okay, distributed.—(interjection)— Mr. Driedger indicated that maybe he would pass out.—(laughter)—

**BILL NO. 59—THE PUBLIC
SCHOOLS AMENDMENT ACT**

Mr. Chairman: Then we will carry on. On Bill No. 59, the first presenter is Mr. Lloyd Dyck. Is Mr. Lloyd Dyck here or Mrs. Joy Burik? Mr. Lloyd Dyck or Mrs. Joy Burik, PERC Inc. (Parent Educational Rights Committee Inc.) Then we will ask Mr. Gordon Newton, Manitoba Association of School Superintendents.

Mr. Gordon Newton (Manitoba Association of School Superintendents): I am Gordon Newton, and I am the Executive Director of the organization. Mr. Chairman, ladies and gentlemen, we have had these materials presented to us on a number of occasions before they actually became Bills, so I can say that we were consulted. That does not mean that we agree with all of it, but I would have to say that we had been consulted.

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Mr. Chairman: Excuse me. Did you have a written presentation?

* (2010)

Mr. Newton: No.

Mr. Chairman: Okay. Go ahead, Mr. Newton.

Mr. Newton: The first section to which I would like to refer is in the Bill, Section 6, on page 2. Here it is not the case that we find any fault with the statement of qualifications for school trustees, but we wish to observe that qualifications or disqualifications which apply to becoming a school trustee are found in more than one place in the Act. If they were all in one area of the Act, it would be a much easier Act to administer. This is a general fault of The Public Schools Act by the way. It is an Act which is hacked up in bits and pieces all over the place, but it certainly would be easier if soon we were able to get the sections that related to the same topic located in the same general area of the Act.

On to page 3. I wish to speak to the section which deals with the making of files open and available to guardians and students. I have a question to ask, or at least a statement to make about the clarity of this section. As I read it, and I have read it a number of times, it is not clear to me whether a pupil over the age of 18 would be able to keep the records closed to his parents. I am not commenting whether or not they should be able to or should not, but if a student over the age of 18 is an adult, does that student then have the right to keep the files from his or her parents? I am not sure which was the Government's intent as they drafted this, so I am really not faulting this section except to say that for me it is unclear.

With respect to Section 15, the amendment to the existing 92(5), our association is on record favouring a two-year training period or probationary period for new teachers so that the same problem we would have with the existing Act, as it applies to teachers who remain in one division we would have with respect to this one, and that is the question of the number of years before the guarantees of certain procedural protections are granted. To be consistent, we would wish that that happened at the end of two years of service rather than at the end of one.

With respect to the section, Section 16, which makes it permissible for a board to assign the duties of a principal to a superintendent, I wish to speak at a little more length and in support of that section. The small school divisions, or small school districts, and particularly single school districts have functions of a senior management and leadership nature, which have to be performed even if there is only just that one school, in much the same fashion that there is a need for a school board to perform the governance functions even if there is only one school. We believe that there is a need for a senior person to be there, and then that asks us to take a look at what way it could be best provided. Certainly when the division is small, the number of senior personnel one has makes a very noticeable effect on the budget, so one of the thoughts

that we have in mind here is that this should be provided well, but with whatever economies are possible.

* (2015)

At present the school divisions will have a person on site who is doing part of the job, and is certainly in the division or district, the most qualified and able person to perform these tasks, and that will be the principal of the school. The principal, I am sure, as he or she performs some of these senior management tasks, would be better served if they had access to some of the functions, some of the assistance that our organization is able to provide. This happens by means of a network, it happens by means of workshops and in-service.

Superintendents are very dependent on our organization to get the kind of help, training and information they need to do their job. There is no specific course at the University of Manitoba, for example, which trains one to be a superintendent, so it is almost all on site, and the kind of people who provide it are the superintendents' association.

The principals are already performing some of the functions that one associates with this role. They include the selection, evaluation of staff and the recommendations whether or not teachers be retained.

If we were to provide for the need of a superintendent in the division by adding on an additional staff member, the cost would be fairly high and, as I say, provide a pretty noticeable bump in the smaller budget that these districts have. For those who are perhaps made a little uncomfortable by the clause, I think attention needs to be drawn to the fact that it is permissive. The boards may, they are not required to do this, the boards may.

I believe that this can be done without upsetting the professional relationships or harmony within the schools, and in terms of the person being somewhat the person in the middle, that is a rule that is quite familiar to superintendents. The principal would not then be able to be full-time principal, but this is true in many schools in the province right now where the principal has teaching duties to perform, so in many cases it has been found workable, if not ideal, to have a principal who is not the full-time principal in the school and might be out of his or her office for some period of time.

In summary, I believe that the clause as drafted, is a simple, practical, economical way to meet that particular need.

With respect to Section 17, on the last page, it is hard, really, to find fault with this section because whether it is good or bad will depend upon whether the regulations are good or bad, but I will express a concern. It may be necessary to determine, or even to certify that this is or is not so, that it is or is not true that the child is receiving an education which is at home, which is in accordance, etc.

Our position, very clearly and very strongly is that school boards should not be asked to assume this kind of management function over home schools which may be located within their boundaries, and while this clause

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does not suggest or state that will be the case, we wanted to make it clear that was our position and our feeling about it.

If it is not going to be too confusing, I would like to backtrack to Section 12, on page 5. Our association has a policy in opposition to increased aid for private schools, and part of the reason we are behind the developing into that policy was the feeling the private schools operated under a different set of rules than did the public schools.

* (2020)

Once again, it is hard to find fault with the amendment to the Act as written because the concern would have to emerge when the regulations are presented. We note in the last round of increases for the private schools, that the increase preceded the change in regulation. We are concerned private schools would be receiving increased funding with perhaps not as strict an accountability as are the public schools of the province. Once again, that is meat that would be found in the regulations, but I would like to express it here and now as a concern. That really is all I would like to say.

Hon. Leonard Derkach (Minister of Education and Training): Mr. Newton, I would just like to speak to the last section you addressed with regard to private schools. As you know, when the announcement was made last week, the announcement contained within it the accountability measures that will be taken with regard to independent schools. Before any further funding is forwarded to the independent schools, the accountability measures would have to be in place and adhered to.

Mr. Newton: I understood that.

Mrs. Iva Yeo (Sturgeon Creek): Mr. Newton, in regard to the section on home schooling, would you, and speaking for your organization, be more comfortable if something more specific were in place within the Act that stipulated who was or was not responsible for the home-schooled child?

Mr. Newton: Our organization would certainly be happier at whatever time it becomes clear that we will not have anything to do with the administration of home schooling. Now if it can occur at this instant, at the time of passing this section, so be it. If we have to wait till the regulations are clearer, we are prepared to wait. The sooner it is made clear that our division boards do not have a responsibility in that area, the happier we will be.

Mrs. Yeo: The Manitoba Federation of Independent Schools has indicated that if all the children attending independent schools were to be enrolled in the public school system, the cost to the Government would increase significantly because then, of course, the Government would pay the entire amount. I am wondering if you could respond to that statement?

Mr. Newton: That is a pretty difficult job of analysis, but I would observe that where the children came back,

they might come back and be the twenty-second pupil in a room that already has 21 in it, which would not require the hiring of staff. That is, they would not come back all in one division or all in one school. They might fit into existing classes without requiring additional staff. It would be a very complex analysis to be sure of your answer, but I think that observation is correct.

Mrs. Yeo: On the other hand, is it not true that if the child from the independent school came back to the public school system that that child or those children might be the straw that broke the camel's back, so to speak, that would necessitate splitting a classroom or creating a separate classroom? I believe that part of the MFIS' statement is the grant would actually increase when the child was attending a public school and not attending a private school.

Mr. Newton: Please, let me first clarify that our association has not taken the position opposed to aid to private schools but a position opposed to any increase in aid to private schools over and above what existed in June of last year.

In terms of the student coming back, I suppose our existing public school classes are more affected by the student with multiple problems or discipline disorders than the private school will not accept, and the impact that student has on the class than the one additional— if I might use the expression—ordinary student.

* (2025)

Mrs. Yeo: You referred to the principal and the superintendent; would you or your organization feel more comfortable if those two terms were actually defined within the Act, because I do not believe they are?

Mr. Newton: The Act is regrettably silent about all aspects of the superintendency and the superintendents. I think that is something that needs to be remedied, both in terms of qualifications, duties, where they are required and so on.

I did not see in this amendment, or our organization did not see in this amendment, the particular flaw to which you refer; that it was a question of definition.

Mr. Jerry Storie (Flin Flon): Thanks to Mr. Newton for appearing before our committee and presenting the views of the Manitoba Association of School Superintendents. I would like to go over some of the recommendations that you made, one at a time, and just make sure that I understand what you are proposing and perhaps clarify any of the concerns you have for the committee.

Your first comments were related to Section 6(2) with respect to the qualifications or the disqualifications relative to a person becoming nominated or elected to a position of trustee. You mentioned the confusion. I am wondering, are the different sections that refer to elections of trustees inconsistent, in your opinion, or are they just spread out in the Act?

Mr. Newton: I do not recall it being a problem of inconsistency, but a problem being that one would have to look several places in the Act to find the whole story.

Mr. Storie: So the issue then really is one of consolidating the references rather than any significant amendment.

The second issue you raised was with respect to Subsection 41(1), Clause 7, relating to the availability of information. You referenced a concern or a question over whether an adult, someone over the age of 18, could by virtue of this amendment prevent his parents or his guardian accessing that information. What is your concern? Is that a major concern? Is MASS proposing amendments, clarification, to that section?

Mr. Newton: I think it would not be long until this became an actual problem rather than a theoretical problem. A student of 18 years or older, perhaps even considerably older, living away from home perhaps with some distance from his parents in terms of relationship might say, there is no way I want my mom and dad to see this report card, Mr. Principal, do not show it to them. The principal would then turn to this section of the Act and try and decide whether or not he is supposed to show it to them or not.

Mr. Storie: An interesting philosophical question—I wondered whether MASS had done any pondering on the broader implications of this section. I am sure that you as executive director have had correspondence from groups like the Parents Educational Rights Committee, PERC, who have been lobbying the Government, the Minister, for improvements of access to records.

Mr. Newton: Our association supports the idea that parents have a right to see what is in the files. There is the student under 18 and the student over 18. I could have used a second example where the student under 18 does not have an independent right to see his file, only if the parents see it first and show it to him sort of thing. It is not taking a contrary position, but knowing that some people in schools are going to have to interpret this section and decide what it means that I asked the question for clarification.

Mr. Storie: I recently met with the representatives of PERC who raised some concern about whether the amendment, particularly the 41(1)(s) was sufficiently broad to make sure that parents had access. I am wondering if your reading of the phrase “such information as may be contained in any file or record kept at the office of the school or school board respecting the pupil,” would also refer to individual notes prepared by teaching staff on a student included in a cumulative folder, for example?

Mr. Newton: I think it could be so interpreted. I think in a way it is unfortunate if it does, but then again, the teacher has different ways of keeping little scraps of paper. I think, as it is written, once it gets into that cumulative folder, it is available. That is how I read it.

Mr. Storie: Perhaps at some point the Minister will respond to that because I think it is a major concern. I think those who have been concerned or in some cases legitimately frustrated in their endeavour to get

information from school divisions are concerned that this may limit access to some sorts of information. However, your reading is that this is a relatively open amendment that allows parents the right of access to virtually all information.

* (2030)

Mr. Newton: That is correct.

Mr. Storie: The last question from this section relates to times of access. I am wondering whether, in your opinion, anything in the amendment gives the school board the power to manipulate the times of access because it appears in some sections, according again to PERC, to allow the school board to frustrate the wish of a parent to access that information by allowing them to set the times.

Mr. Newton: I suppose that it might be possible to do that. I do not imagine that it would happen. I am sure a further amendment could be passed to deal with it if in fact it became a specific problem. It is just foreign to what I know of boards, after working with them for the length of time that I have, to suspect that they would do this.

Mr. Storie: Mr. Chairperson, I gather from that last comment that Mr. Newton is of the opinion that this may not in fact be a necessary amendment, that in fact most school boards, if not all school boards, already encourage, certainly allow access to student files?

Mr. Newton: I suppose that in the mind of a member of the public or a frustrated parent, if one parent has been denied in one division at any particular time, there may be a reason for doing it. This I do not think would have been high on our list of priorities for amendments this year, but neither are we saying that it is a bad idea.

Mr. Storie: Moving on to Clause 15, 92(5), Mr. Newton referenced the issue of accumulated teaching services and references MASS' position that two years would be a preferable probation period. I am wondering whether MAST has amassed any information that would lead them to conclude that the two-year probation period was better than a one-year probation. Is there anything concrete you can point to to support the contention that this two-year period is a preferred option?

Mr. Newton: Just the collective opinion of the administrators in the business where they have felt and continue to feel that they have to make a decision on a teacher rather early after a few months of actual classroom teaching, that it might be possible to take a more charitable view or to spend more time working with and developing the teacher if two years were available. We are not trying to thrash old straw in this case, but we do want to make it clear that the problem we have with the basic clause dealing with one year, we have with this clause, but for that specific reason.

Mr. Chairman: Any more questions, Mr. Storie?

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Mr. Storie: Mr. Chairperson, I am going to continue through each of the suggestions. In Clause 11, Section 52(2), the question of due process for principals, The Manitoba Teachers' Society has been asking for some period of time for amendments to be made to the due process provisions for principals.

It is not unusual for school divisions to move administrative personnel from time to time. I hope at least the teachers recognize that in some instances, or perhaps many instances, administrative moves can be beneficial to the educational system. There is a general feeling that where there is a dispute, principals are not allowed the luxury or, some would say, the right to have their own feelings on the record to in fact grieve those procedures. I am wondering whether MASS has a position on due process for principals.

Mr. Newton: It not being specifically referred to in the Bill, I certainly did not prepare anything to say on it this evening, but I could say that superintendents wish to retain enough management tools that they are able to perform a rather difficult function. If too many of those tools get abrogated or weakened, it just becomes a much tougher job.

Mr. Storie: I did not mean to put Mr. Newton on the spot. It is one of those issues, outstanding issues I guess, that The Manitoba Teachers' Society has raised from time to time. I had indicated that I was prepared to support such an amendment. In fact, I will be moving such an amendment and wanted just to canvass MASS on that position.

Mr. Chairperson, Section 17, the amendment referencing home schooling, I recall, and perhaps Mr. Newton recalls, that a committee was struck to look at the issue of home schooling at which time a recommendation I believe was made that the province retain responsibility for home schooling. I am wondering what happened to that recommendation, and if you have any knowledge about why that was not accepted by the Government, and why we find really a no-change position in terms of the home schooling.

Mr. Newton: I do have knowledge that a committee did study the issue and reported to the Minister. I know that our association has raised a question about it from time to time, but I think that is a question that the Minister would have to answer. I believe it is a question of priorities and which things the department has decided to tackle first.

Mr. Storie: Much of the, I guess, meat of this section of this particular amendment is left to regulation. I am wondering if the departmental staff or the Minister has consulted with MASS or given you any indication of what we might see in terms of regulations governing home schooling.

Mr. Newton: What we have been told by staff is that before regulations are implemented that we will have a chance to look at them and make input, but the specific content of those regulations, I am certainly not clear on.

Mr. Storie: Well, if MASS was going to recommend to the province a process for regulating home schooling,

what elements would be included and who would be responsible? If you can give me something like that off the top of your head.

Mr. Newton: I have little doubt that MASS would recommend that a branch or arm of the Department of Education that permits these homes to exist and passes the regulations about them would then retain responsibility for monitoring them and being satisfied in fact that they were performing satisfactorily. I believe it should remain a function of the Department of Education and Training.

Mr. Storie: Perhaps you have some first-hand knowledge of the position that has been taken on this issue by home-schooling representatives. I gather home-schooling representatives are opposed to the division retaining responsibility for evaluation determinations with respect to home schooling.

Mr. Newton: Some people are in home schooling because they want out of the system. To then put us in charge of monitoring them, I think would do a disservice to the people in home schooling and to us who have really responsibility then without much authority or much way of carrying on our mandate to supervise and so on. I think that my estimate is that those involved in home schooling would be just as reluctant to see us do it as we are.

Mr. Storie: Mr. Chairperson, to Mr. Newton, have school divisions currently, to your knowledge, any process for evaluating the progress of home-schooling students?

Mr. Newton: None that I am aware of.

Mr. Storie: Has the Department of Education or the Minister indicated that school divisions will be reimbursed should they be required to conduct evaluations, periodic evaluations, of home-schooling students, put in place personnel to govern the operations of home schools?

* (2040)

Mr. Newton: My impression is that where the division is to be saddled with responsibility, and it did require additional work, that reimbursing them is not the basic problem, and certainly for us just getting paid to do it would not remove our objection to it.

Mr. Storie: Mr. Chairperson, does MASS have a position on whether the province or the school divisions should be responsible for periodic testing and evaluation—basic skills testing, I am referring to.

Mr. Newton: We support the assessment program such as has been carried out to evaluate programs within the province over the past number of years. We think that those have been good tests, well administered and have potential for improving the level of instruction across the province.

We are quite opposed to the idea of going back to departmental examinations, such as I experienced in

high school for example. They give an illusion of standards which is just untrue and they have an impact on the teaching in the schools which is more unfavourable than favourable so that our association you could say would be opposed to the idea of the return to departmental examinations.

That leaves a bit of ground in between those, the two points that I just used to illustrate. I think that in general we would believe that evaluation of students is the responsibility of the division, and we have statements to that effect, and that perhaps is the best way for me to summarize it.

Mr. Storie: Perhaps my question was not framed entirely appropriately. My question was more to the matter of home-schooled individuals. Currently the department does a pro forma look supposedly at a curriculum that is being offered in the home or at home.

My question was: should there be some form of evaluation, some form of basic skills testing of home-schooled students on a periodic basis, so that we might be aware of whether the requirement that the Minister is introducing that the child is receiving education at home or elsewhere in accordance with the standard prescribed in regulation of the Minister? Do we need that kind of evaluation? Does it have to be that in depth?

Mr. Newton: I believe that there should be and would need to be evaluation of the instruction that is taking place in home schooling by an outside source. They do not for example have the advantage that a teacher has in having 15 or 20 or 30 kids in a class and being able to judge that the progress of one student is good as compared to even another in the class. Some home-schooling situations are that there is only one person working in that grade level so that there are a number of things that make it difficult for the parent to—presuming it is the parent that is doing the home schooling or if it is a small sort of basement school, whoever is instructing—be sure that what the students are learning is up to the mark.

I am trying to make it clear why on one side I am saying that I am not an advocate of province-wide testing, yet in this case I think it is probably necessary. One problem we do have is that sooner or later these students re-enter the system, and if they have been rather independent in terms of what they have learned, and uncertain as to what is a suitable standard, a student can get a very sad surprise when they arrive at a public high school and find that they are not ready for the grade that their age would suggest they enter.

Mr. Storie: Just two other questions. One refers to 52(2), Assignment of principal's duties to superintendent. I know that we have had a chance to discuss this. I am wondering whether MASS has discussed this with principals who are currently operating, for example, in small school districts, and whether the proposed change is not still going to leave most of these individuals serving two masters, and whether this amendment really does anything to clear up that problem or whether that problem can be cleared up.

Mr. Newton: I suppose the easy way to answer that is to say, we all serve the same masters. We are all interested in the success of the same set of students, and we all work for the same school board. So to that extent, I suppose I could translate it that way.

On the other hand, I am not sure that lengthy—I know that there has been discussions with some of the principals in those roles, and I know that they do feel cut off from the part of their job that has to do with the larger leadership and administrative roles. There are things that they would like to be able to do for their board that they do not know how to do or do not have the mandate to do or do not have the knowledge to do. That is a way that this could help them.

I do not think it is the ideal solution except when one also considers costs, because I think the ideal solution would be that there be a separate superintendent, but superintendents are high-salaried people, and on a small board this would make quite a dent. I think it is a very workable compromise.

Mr. Storie: To get back to your final comments, with respect to Clause 12, Subsection 60(5), Grants to private schools, you began your remarks by saying that MASS did not support increases in funding to private schools at this point. I assume, and you can correct me if I am wrong, that is based on your concern about the funding crisis that many school divisions face, that we have seen Winnipeg No. 1 announce layoffs to teachers, Seven Oaks announce a 10 percent increase. We hear of programs being curtailed and schools being closed.

I am wondering whether you can indicate whether this subsection on grants to private schools was discussed in detail with MASS, and whether MASS was consulted prior to the Minister's announcement that with the support of the Liberals funding was going to increase to 80 percent to private schools over the next number of years?

Mr. Newton: Our association presented to the Minister its policy statement on aid to private schools, and we had the opportunity to discuss that with the Minister at that time. It certainly was clear to us that our association. This Government did not see eye to eye on the matter.

We did not discuss it in terms of after draft legislation had been prepared we did not discuss it at that time.

Mr. Storie: Mr. Chairperson, the proposed amendment, in my opinion, is intended to give the appearance that the Minister is introducing some accountability. The first—

Mr. Parker Burrell (Swan River): On a point of order, Mr. Chairman.

Mr. Chairman: On a point of order, Mr. Burrell.

Mr. Burrell: I feel that the Member for Flin Flon (Mr. Storie) is far, far afield from the presentation that the

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presenter gave, and I think he is causing him some discomfort. I wish he would stick to the presentation that the gentleman made and quit embarrassing him.

Mr. Chairman: It is not a point of order, but I would like to remind all committee Members that we stick to the questioning of the presenter as to his text.

Mr. Chairman: Go ahead, Mr. Storie.

Mr. Storie: Well, Mr. Chairperson, I will let Mr. Newton indicate whether he is embarrassed by any of the questions.

Mr. Newton did reference this particular section and indicated MASS' position on it. This amendment is, as I indicated, intended to give the appearance that somehow accountability is being introduced.

My question is to Mr. Newton. The first clause in Subsection 60(5) says that the Minister may make grants to private schools where the Minister is satisfied that: (a) the private school teaches a sufficient number of courses. What does that mean?

Mr. Newton: I do not know, and I would think I would not know until I saw the regulations.

Mr. Chairman: Mr. Storie, I will have to question you on some of that as well, because you are going into the Bill. What we, as committee Members, are doing is supposed to ask Mr. Newton, in respect to his presentation, clarification on his presentation. So please go ahead, Mr. Storie.

* (2050)

Mr. Storie: Mr. Chairperson, the Minister will certainly have a chance to answer, and I will ask the Minister these questions. I want to know from MASS' position, representing superintendents across the province, whether these guidelines, in their opinion, this amendment in particular, brings private schools into a parallel situation with respect to the public school system in terms of accountability. They are not required by this amendment to teach a core of subjects. The word "sufficient" may mean one course or two or five or 12. It is extremely vague. My question is to Mr. Newton. Would MASS prefer that the amendment state specifically that they shall teach the Manitoba curriculum?

Mr. Newton: That is in fact the policy position of MASS.

Mr. Storie: Mr. Chairperson, the amendments also fail to make private schools accountable in the sense that there is no elected board. Do you believe—does MASS believe that private schools can be truly accountable if they have no elected board to govern their operations?

Mr. Newton: I have no basis upon which to respond to your answer. Our association has not debated it. It was not incorporated into our brief. I just could not

respond in such a way that I felt sure that I had the sense of our membership.

Mr. Storie: You also were asked a number of questions by my Liberal colleague about her concern that by encouraging private schools, the development of private schools and the funding of private schools, we are saving the public money. My question to you is: Has MASS done any study of the funding impact of the announced increase in funding moving to 80 percent on the public school system?

Mr. Newton: There has been no formal study of that nature. The observations I have heard are that had this same amount of money been made available to the public system, it could have remedied some needs that we feel are still present.

Mr. Storie: Mr. Chairperson, I think if you do some quick numbers—and I have not had the resources to do a complete analysis of the costs—it seems to me that the proposal, at a minimum, will cost the taxpayers \$100 million over the next eight years. That assumes—addition dollars—no increase in private school enrollment—

An Honourable Member: Over how many years?

Mr. Storie: Over eight years. My question to you is: In your opinion, the Government's decision to move to 80 percent funding, is that going to increase enrollment in private schools—in MASS' opinion, if you can give us MASS' opinion?

Mr. Newton: The easier it is for the competition to compete, the more successful it will be in its competition. The additional funds, I am sure, will make it easier for existing and future private schools to attract students.

Unfortunately, being in a selective position, I think what is left in the public school system will be students that require more attention and a higher per pupil funding. I have personal and very strongly felt concerns that it will work to the disadvantage of the public school system.

Mr. Storie: Mr. Chairperson, the Minister is going to make the contention that the private school alternative will not be funded from the same pool of money that will be available for public school enterprise. My question is to you: to your knowledge, is there a separate fund, a separate source of Government money to allow it to fund private schools independently?

Mr. Newton: I am not an expert on the provincial funding, but I think general revenue is the fence around all the money, and that is where it comes from.

Mr. Storie: The final question, Mr. Chairperson, I intend to introduce amendments to Bill 59, one which would call on the Government to suspend increases to private schools. Would MASS support such a call?

Mr. Newton: Certainly the stated policy of MASS, based on a resolution passed by its membership at a formally

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constituted meeting, is one that the level of funding not go beyond what it was last June. That is our position.

Mr. Storie: Mr. Chairperson, I also intend to introduce an amendment which would require the Government to study the impact of increased funding to private schools prior to any further increase being granted to private schools. Would you support the call for that kind of independent study?

Mr. Newton: I believe that kind of a call would receive support now. Until one puts it to a vote, one never knows for sure, but I believe it would. I know at the executive level, it has support now. Whether the total membership would or would not, one would have to put the issue. I think there is certainly support for that position.

Mr. Storie: Mr. Chairperson, the amendment, copies of which I will circulate at this point if I can have staff circulate the amendments, will call on the Government not to increase funding until such time as this matter is reviewed by a committee. The committee will consist of five members, The Manitoba Association of School Trustees, Manitoba Teachers' Society, Union of Manitoba Municipalities and two other people appointed by the Minister, and that funding would not be allowed to increase until such time as this committee has reported on the following issues, those being the impact of increased private school funding on the public school with respect to but not limited to the impact on enrollment in public schools, local property taxes, Government funding of public schools, programming in public schools and special needs and disadvantaged pupils.

If I understand you right, MASS's position would be in support of such a broad-ranged review as well as a moratorium on funding.

Mr. Newton: Certainly, if it was important for you to have a definitive answer on that, recalling that I am an employee and not the leader of the organization, and I am dealing with the material our organization has already prepared, by Thursday of this week I could take this to our executive and have a direct feedback which would be more certain and more precise than what I can give you now.

Mr. Storie: Mr. Chairperson, I am encouraged by that. I am hoping that commitment on your part will encourage the Minister to withhold the passage of Bill 59 in particular until such time as we do have a chance to hear your report.

Mr. Chairman: Mr. Storie, I am calling you to order. Your questions have to be relevant to the presentation that has been made by the presenter, please, Mr. Storie.

Mr. Storie: Mr. Chairperson, I recognize that you and your colleagues may be a little sensitive about your betrayal of the public school system. Mr. Newton is here representing the superintendents' association; he has indicated their objection to increased funding to private schools. I am trying to clarify his remarks. That

is what I am doing, and I do not intend to let your sensitivity limit my questions.

Mr. Newton, the Government is pressing forward with its increases to private schools, and I am wondering whether MASS would be prepared to undertake, on behalf of the Government, any studies related to the impact of the proposed policy on public schools?

Mr. Newton: If our association had that kind of invitation, I am sure we would be glad to help in every way possible.

Mr. Storie: To date you have not been asked for your opinion or your counsel?

Mr. Newton: We have not been asked to participate in a study of funding to private schools, if I paraphrased your question correctly.

Mr. Storie: I have no further questions.

Mr. Derkach: Mr. Newton, if I could just take your time for one more minute, I will not be asking you irrelevant questions with regard to the Bill because you have not addressed each and every item.

I would like to ask you with regard to the information that parents or guardians or in fact the student when he has reached the age of majority, can access from the school. In your opinion, do you have any question with regard to the meaning of the section with regard to information as may be contained in any file or record kept at the office of the school or the school board respecting the pupil?

* (2100)

Mr. Newton: I think there are situations that could develop where challenges might occur where the Act or the amendment as worded would not make it perfectly clear whether the right or the wrong thing had been done. I am talking about scraps of information, temporary files, bits and bobs of paper that might not be contained in the file. If there was a concern in terms of saying that what is available in the file, I would interpret that to mean the student's main file in the main office and that is what is open to inspection and I think that is a completely legitimate thing to do. Have I answered your question or not?

Mr. Derkach: I think you have, Mr. Newton, because the section specifically says, a file or record kept at the office of the school or the school board respecting the pupil, I think by and large there is a fairly broad definition as to what a student's record or file is as it relates to the records that are kept by a school on a particular individual.

Mr. Newton: Although I expressed it rather badly, I think the first challenge to this may come about with some saying yes, but the stuff I wanted to know is not in that file.

Mr. Derkach: Agreed, and that is why the section was stipulated very specifically to mean that it is files or

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records that are kept by the school or the school board office.

Mr. Newton: I did not have a problem with that part of the wording. My problem occurred only in the area of where I asked for clarification, and that is with respect to the rights of a student under 18 to see the files on their own, or the rights of a student over 18 to disallow the parents seeing them. The other parts of it I had no problem with.

Mr. Derkach: Mr. Newton, I would just like to address one other section and it appeared as though my colleague, Mr. Storie, attempted to mislead you with regard to independent schools. I would like to indicate to you very clearly that it is not an appearance of accountability that we have introduced. As a matter of fact, I will send an extra copy to Mr. Storie of the news release which very clearly indicated the accountability issues that were going to be mandated of the independent schools, where it outlines the various independent school accountability issues. If you do not have those available, I certainly would be pleased to share those with you as well.

Mr. Chairman: Mr. Newton, did you want to respond?

Mr. Newton: The point I made with respect to that, I think, was that it is when we see the regulations that we will know exactly what has to be done and what does not have to be done. To that degree then, it is very dependent on the regulations as they are eventually drafted.

Mr. Herold Driedger (Niakwa): I just have a few questions dealing with children who are receiving education at home. As you were answering some of the questions that Mr. Storie directed to you, I picked up a few of your answers. I just want some clarification. What are the association's or, I guess, the school divisions' objections to doing the assessment of home-schooled students? What are the precise objections to doing that?

Mr. Newton: One of them of course is the lack of opportunity for day-to-day observation of what is being taught, either the hours of instruction or the content of the classes which is available to us in a school system. Even having that it is a difficult thing to be sure you know what is being accomplished, but without it, it is much more difficult.

There is another point that very often people who are involved in home schooling are specifically leaving the public school system, intentionally getting out of it and want no more to do with it. I think we would come in as rather unwelcome guests if we were to call by occasionally to perform that function.

There is also the general point that it is hard to exercise authority where you just have partial authority, and to accept accountability where you do not have full authority is a difficult thing. To have the illusion of being sort of in charge of that standard but not really having whatever muscle it might require to enforce it would just be a bit of a sham.

A fourth point, and I think with more time I could probably lengthen the list, is that it does require time commitment of staff to perform this supervision. I do not know any system that has that amount of spare time available. Whoever does it is going to require additional people to do it?

Mr. Herold Driedger: In your responses previously you identified the possibility, well, actually the likelihood of home-schooled students of re-entering the public school system or re-entering another institution. Consequently in light of that, who do see then as being responsible to do the evaluation of the home-schooled student?

Mr. Newton: I believe it is the responsibility of the principal into which school the children want to enter grade level placement is generally considered to be the responsibility of the principal of the school.

Mr. Herold Driedger: Do you not just now indicate that in the previous answer you did not see the division as being responsible for this evaluation or this assessment, and in this response you say, yes? I am just wondering if this is a contradiction or simply whether there should perhaps be another area you might wish to direct responsibility to.

Mr. Newton: If a student is becoming a student of the public school system, the proper grade level placement, whether it be the one that is picked up on the 1st of September or the one that is decided on the 3rd of November, is the responsibility of the school, if the student is in that school. It is not a responsibility of the school, if the student is outside the school.

Mr. Chairman: Any more questions to Mr. Newton? If not, we want to thank you, Mr. Newton, for your presentation. Thank you.

Mr. Newton: Thank you for hearing me.

Mr. Chairman: Mrs. Joan Johannson. Is Mrs. Joan Johannson present? Ms. Betty Husby.

Ms. Betty Husby (The Manitoba Teachers' Society): Thank you. I should like at this time also to present Mr. Aubrey Asper who is the General Secretary and is here with me this evening in case there are questions that I would like to have him answer.

Mr. Chairman: Ms. Husby, do you have a written presentation?

Ms. Husby: Yes, indeed, Sir. It has been circulated, I believe.

Mr. Chairman: Thank you. You may proceed.

Ms. Husby: Mr. Chairman, Mr. Minister, ladies and gentlemen, The Manitoba Teachers' Society welcomes this opportunity to comment on the provisions of Bill 59, an Act to amend The Public Schools Act. Bill 59 encompasses a number of initiatives, some substantive and some of which seek to clarify existing provisions or make technical changes. This submission will deal

with those aspects of the Bill with which the society may have some concern or upon which it may wish to comment.

Sections 3, 4 and 5, amendments to Subsections 14(2), 16(1) and 17. Amendments in this section have the effect of making changes to the existing Frontier School Division and its operation. To some extent, it provides a legal basis for that which was evolving. The society supports the concept of such a school division having an elected board being governed in a manner equivalent to that of other divisions. It is also sensible that sufficient flexibility should exist in the legislation to enable incorporation of such territories within the boundaries of a division as may be appropriate.

On Section 7, amendments to Subsection 41(1). Significant changes are proposed with respect to the rights of students and parents under a new Subsection 41(1)(s). The society supports the general thrust of such changes. There are two concerns, however, that the society wishes this committee to address. It should be clear what is defined as a file or record kept at the school or division office.

For instance, personal notes kept by a teacher or a school counsellor which are not available to any person other than the one who makes the notes should be deemed to be the personal property of the note maker, and the definition of school records should be clear on that point. Once such notes are placed in files accessible to other persons within the system, they should properly be accessible by those affected. Perhaps a model for a definition may be drawn from the British Columbia legislation. A student record is defined as a record of information in written or electronic form pertaining to a student but does not include a record prepared by a person if that person is the only person who will have access to the record.

* (2110)

The society believes that it is not appropriate under Subsection 41(1)(s) that when a student has reached the age of majority, both the parent or guardian and the pupil have the right to access information in the files. In such cases, access by the parent to the file should be only with the agreement of the student so affected.

The society opposes the new Subsection 41(1)(t) and is concerned about how such information conveyed to the Minister may be used. The society agrees that the Minister should be informed about any teacher convicted of an offence under the Criminal Code relating to the physical or sexual abuse of children. As for information on charges of such offences, the society's concern stems from not knowing the purpose of this information being forwarded to the Minister. There is no concern about providing the information per se. Given the wide discretionary powers of the Minister with respect to teacher certificates plus the failure of this amendment to indicate the nature of the action that might flow from such information being provided, the society is opposed to such an amendment.

Section 10, addition of new Subsection 48.1 respecting a teacher's candidacy for public office. The

society is pleased that the amendments to The Public Schools Act include provisions that are contained within Section 10 and wishes to express its support for them. The new legislation extends rights to teachers which are enjoyed by other public servants and to which teachers should be entitled. While expressing support for the proposed legislation, the society believes that it should be improved by adding that nothing in this section restricts the rights of the parties through collective bargaining to extend the benefits provided by this legislation. A similar provision currently exists within The Public Schools Act with respect to sick leave.

Section 11, amendment to Section 52. The society strongly opposes the proposed change in legislation in Section 11 of Bill 59. It is the policy of The Manitoba Teachers' Society that principal teachers should not be separated from other teachers in terms of membership in The Manitoba Teachers' Society or membership in the collective bargaining unit. While some may argue that this proposed legislation is restricted to five school districts, it is in another guise nothing more than the separation of the principal of these schools from the teachers. It represents Government approval for an administrative system which produces a climate not appropriate for the educational enterprise.

This is not an argument against naming superintendents by the five school districts specified in the legislation. It is an expression of opposition to the melding of two distinct roles in one office. It is essential that a school have a principal teacher, someone who is the educational leader among his or her teacher colleagues and appointed by the school board. The proposed model contemplates a parallel to industrial plants in which a foreman works among employees separate from the professional group which should bind them together. We believe that such an administrative system will cause a deterioration in relationships between teachers and the administrative leadership of the school districts. If the problems of administration of small school districts are addressed by melding of positions, it is more appropriate to do so by combining the secretary-treasurer role with the superintendent provided the position is filled by an educator.

Alternatively, where principal and vice-principal exist as they do in four of the five districts named, the principal could be made a superintendent, the vice-principal a principal, and the position of vice-principal disappear. Essentially the society believes that remedies exist within the current legislation for problems perceived by the affected districts and these should be used without introducing the additional problems which would flow from the proposed legislation.

There are other solutions possible such as a shared superintendency between Leaf Rapids and Lynn, which would also be another way of looking at it but still within the legislation that is currently there. The society urges that this amendment be deleted. It should be noted that there is a further difficulty with the proposed legislation in that it makes reference to the term principal without including a definition of that term. Currently, the term exists only through regulation 468/88R, Section 27(1) which provides that where two or

more teachers are in a school, one must be designated as a principal.

Section 12: Amendments to Subsection 60(5) respecting private schools. While the society supports the move to greater accountability on the part of those institutions which receive public funds, it can only give qualified approval to these changes since the effect of the change will be defined by regulations which have not yet been introduced. The society does not favour public funds for private schools though there is no opposition to the right of private schools to exist. This is the reverse again of the natural order wherein the monitoring and reporting systems would have been established and then the system of accountability established thoroughly and properly for funding. We find this first section is coming second, and consequently we find difficulty in commenting appropriately.

Given the reality that there is substantial public funding for private schools, the society supports, and I should say, very strongly, any move to having such institutions accountable in the same way that any public school administration must be. When regulations are produced that give effect to the Government's intent in this area, it will be possible to comment on the effect. Again, obviously this was prepared before the recent announcement of the Government. Our concern still stands.

Section 14: Amendments to Subsections 92(1) and 92(1.1). The general thrust of this amendment is supported in a qualified way by the society, the reservation being that the regulation must be introduced for the society to make a judgment. There is a serious lack, however, in that the proposed new legislation does not also provide the Minister the power to prescribe the purpose and the use of each contract. The society therefore urges that such additional amendment be made. In other words, the Minister must have the power and must exercise the power to prescribe the circumstances under which each contract is used and also to require that the contract be used.

Section 15: Amendment to Subsection 92(5). The society supports the clarification that has occurred in this section. Although the current legislation has been interpreted in the manner in which the new wording is proposed, the clarification nevertheless is welcome.

Section 16: Amendment to Subsection 230(2). It would appear that the removal of the school trustee from those persons covered by this section raises a concern as to whether or not conflict of interest legislation existing elsewhere appropriately covers some situations. There would be a concern by the society if the change would permit school trustees to exercise direct influence on a school to promote a product or to gain any financial advantage.

Section 17: Amendment to Section 262. The society supports this amendment as far as it goes. It should be noted, however, that there is a need for Government to monitor and exercise some regulation of home schooling. It has its place in the same manner as any other legislation protecting children.

In conclusion, once again the society expresses its appreciation for the opportunity to present its views

and concerns to the committee. It is our belief that the suggestions offered will improve the legislation and ultimately benefit a good Manitoba education system. Thank you.

Mr. Derkach: Ms. Husby, I have a question with regard to your presentation of Section 7 and amendments to Subsection 41(1)(t). You are indicating here that the society agrees the Minister should be informed about a teacher convicted of any offence under the Criminal Code relating to physical or sexual abuse of children, but that information would come after that teacher is convicted.

I ask you, keeping in mind the importance of protecting the child, is this a suggestion that the Minister would have no knowledge of any teacher in the province who may be guilty of physical or sexual abuse until after that teacher has had his or her day in court?

Ms. Husby: If I may, I assume that you are meaning if a charge is laid as opposed to being guilty. You are not guilty until after you have been in court. We have no problems if the Minister is informed of a charge being laid.

* (2120)

Mr. Derkach: Are you suggesting then that the legislation that is present which gives the Minister the power to suspend, not to revoke, but to suspend a certificate for such matters, that power no longer exists?

Ms. Husby: Do I understand that you are saying that we believe the Minister should not have the power to suspend?

Mr. Derkach: Yes, until after conviction.

Ms. Husby: We believe that the Minister should not be suspending certificates indefinitely, that this is referred to a certificate of review, the Certificate Review Committee, which is a Government committee.

Mr. Derkach: Are you then agreeing that the Minister should have the power to suspend a teacher's certificate and refer the matter to Certificate Review Committee if the situation warrants that, as is now present in the legislation?

Ms. Husby: If I may defer to Mr. Asper, who is more familiar with our specific policy, because I prefer that my response be based on policy.

Mr. Aubrey Asper (The Manitoba Teachers' Society): I could give you a complete answer by telling you that we do not believe the Minister should have the power to give the certificate or take it away. Our policy very strictly is that should belong to the profession. We have not achieved that and that is not the issue obviously here tonight, but given that under the Act, the Minister does have that power to suspend, we oppose that except with due process or cause. That cause requires, in our view, a conviction of wrongdoing or some other evidence before some tribunal or adjudicating body.

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Currently the only thing in place is the Certificate Review Committee.

We would insist that if we are to use the present system of a Certificate Review Committee, the Minister not take action in suspending the certificate until such time as the review committee has dealt with it, because let us not forget that in terms of the employment of that teacher in contact with children, there is a school board intervention that occurs much sooner.

What we are prepared to do is to allow that to take place, allow the school board to make the decision if they have some evidence of the need to have the person removed because if they have made a mistake there is remedy for the mistake. If the Minister makes the mistake, your only recourse is to sue the Minister. In our system we do not think that is appropriate.

Mr. Derkach: Mr. Asper, then let us assume that a teacher is found in the middle of the afternoon abusing a child or brandishing a weapon, for that matter, and the teacher is then taken out of the school by the school board. What is to prevent that teacher—he or she has a legal teaching certificate—to move to another community, come into the city and continue as a teacher in a substitute role?

Mr. Asper: If that were to happen, first of all, I think you would accept that the school board would no doubt suspend the teacher or sign that teacher away from the kids. That person then would still be under contract despite the suspension, still be under contract to the school board, and would not be in a position to take employment with any other school board because they are already under contract with the board.

Mr. Derkach: Mr. Asper, I know you must be aware that the contract is a piece of paper, and once a person has broken the law, he/she will not necessarily abide by that contract and could in fact move to another locale where he or she could take up work on an ad hoc basis or on a substitute basis. The suspension of the certificate, the policy has been changed as you are aware, and the information provided to the Minister is to ensure that school takes that individual away from the classroom or away from children. I think that was spelled out very clearly when the policy went out to all schools in this province. You are indicating now that the Minister should not even have that authority. Is that correct?

(Mr. Parker Burrell, Acting Chairman, in the Chair)

Mr. Asper: I am saying that it is taken care of in another way. I would like to come back to your point though, Mr. Minister, on the possibility of the person taking employment as a substitute for instance in another division. Substitutes are not checked out by boards with the department. If someone is called as a substitute in division X, they do not go to the department and ask if this person's certificate has been suspended unless it is your intention to publicize widely the suspension of the certificate.

Mr. Derkach: I would hope that every school board in this province would ask a teacher or a substitute

whether he or she has a legal certificate to conduct classes. Now in that case if that person could not present that certificate, obviously that person could not then be in charge of a class. In this whole legislation and in our policy it must be noted that we are trying to err on the side of the student, especially in a very serious situation as we have before us. The policy that we have embarked on, where we would refer the matter to the Certificate Review Committee, is one that we would intend to follow. What I am hearing from your presentation is that you would prefer that the Minister not have the power even to do that until after that person has been convicted.

Mr. Asper: The short answer is yes. I would, however, also refer to your other point about the substitute and the substitute certificate. It is permitted in this province to substitute without a certificate and it occurs.

Mr. Derkach: Mr. Acting Chairman, I have just one more comment with regard to this section. In the entire section and the policy that has been put forth, there is a desire by Government and by the department to ensure that the child is protected, to ensure that in fact the children are not then in the presence of an individual who has been charged with an offence. We are simply saying that matter will be referred to the Certificate Review Committee. The Certificate Review Committee is there to review those circumstances which are referred to by the Minister so that individual can have his hearing if you like before that body. It does not say that we are judging that individual as guilty or innocent. It simply means that the Certificate Review Committee will judge whether that person has acted appropriately according to the professional conduct and ethics of a teacher.

Mr. Asper: I think we share the objective. We are suggesting that this is not the way to deal with it, because all the Minister has to be assured of is that the school board is acting in the interests of the child. I would suggest that if you are looking at something to cover such a situation, you might consider indicating, where charges are laid, that school boards suspend with pay. That would cover our concern. Then that could be the amendment.

Mr. Derkach: So your biggest objection is the pay?

Mr. Asper: No, our concern is that action can be taken for which there is no remedy. If a school board suspends, there is an opportunity to remedy that. If it was a wrongful suspension, you can grieve and recover the pay for those who were innocent. In the case of the Minister suspending, he has that right to suspend, and you only have a hope through a Charter case or some sort of a suit which makes it a long road and very difficult for the teacher who is innocent to have remedy. We are saying that we share your concern, we share the objective. We are just saying this: if it is to be done this way with the Minister doing the suspension, that is not the way to do it.

Mr. Derkach: I think there are some that we both agree on, and that is that the individual should be taken out

of the classroom, and as indicated in the letter I sent, I encourage school boards to suspend with pay. However, it must be noted that as Minister and as Government we cannot dictate to school boards when they suspend, for whatever reason, that they do so with or without pay, because teachers are in the actual employ of the school boards.

Mr. Asper: I am not sure if that was a statement or a question, but I am saying, in my previous statement, that this could be remedied by a protocol, in other words, if it were in the Act that the school board was obliged to do certain things when it had knowledge of a charge, and that there was a remedy in place—and there would be either if the person is suspended with pay or if there were a contravention of the collective agreement—some means of grieving an unjust suspension. We are getting away really from what this amendment is, which is simply to provide the Minister with information. Our concern that we articulated was not the providing of information, but until we knew what flowed from that provision of information, we opposed such an amendment. Some of the things we have been exploring the last few questions might very well be an alternative which we would find easier to support.

* (2130)

The Acting Chairman (Mr. Burrell): Thank you. Mrs. Yeo.

Mrs. Yeo: I would like to thank both Betty Husby and Aubrey Asper. I am sure that there were many behind the preparation of this presentation which is in the usual very clear manner of The Manitoba Teachers' Society.

In response to some of the comments that are in the presentation, the Subsections 14(2), 16(1) and 17 that do refer obviously to the Frontier School Division, I would just like to make the comment that I was particularly glad to see that this school division was not a victim of decentralization, and I hope that it will not be. I would like to refer to the amendment to Subsection 41(1). If there were a definition of the term "file or record" within the legislation, what you are saying is that you would be pleased with that particular subsection with the inclusion of the definition of the word "file or record"?

Ms. Husby: Yes.

(Mr. Chairman in the Chair)

Mrs. Yeo: I would like to just comment that we have an amendment prepared and are prepared to submit that at the time of the clause-by-clause. With regard to the comments made under 41(1)(t), it is my understanding, and I believe you are referring to the ability of the Minister under The Education Administration Act to provide or withhold a certificate for a teacher, is that correct?

Ms. Husby: That is our concern. It does have considerable impact on the teacher when the certificate is suspended.

Mrs. Yeo: We too have a concern with the fact that if the Minister is informed—and I personally do not have any difficulty with the information, what I have some concern with is what will be done with that particular information. I also have concern with the aspect of the teacher now being in a very vulnerable position. Certainly we believe that the children are in even more vulnerable a position, but very recently we have seen that, as the statement went, "teachers have become like shooting ducks in a gallery." Young people are saying—and this has happened in more than one occasion—if that teacher fails me, we will show that teacher that he cannot do that. I use the term "he" because that is the most common situation.

I too would like to say that I support the aspect of a teacher being removed from the contact position but not to have (a) the name of the teacher spread all over the place because that in fact has happened. The teacher is then a labelled individual whether under the court, or wherever, found guilty or not guilty. The guilty teachers, as the Minister was referring to, may in fact pick up and run, but the innocent teachers will not and will try to defend themselves. But in fact they are still in many respects labelled.

You are saying under this section that you would prefer to see a teacher's certificate remain, but you would be supportive of a teacher being taken out of a student contact position.

Ms. Husby: Absolutely. We feel that the teacher is so very vulnerable in every sense of the word. The least support that can be given to them is that they retain their certificate and thus can retain an income which is very important. If you have no money, and just to be quite blunt about it, no money and no rights. It is a devastating thing for everyone concerned, not just the teacher but the immediate family.

Mrs. Yeo: Are there teachers currently in the province who have in fact had their certificates removed without due process?

Ms. Husby: Yes.

Mrs. Yeo: Can you tell us how many teachers are involved?

Ms. Husby: I am not certain of the number. I believe it is probably five.

Mrs. Yeo: Can you give us an example from your particular organization's point of view, what types of activities might be available for a teacher to do while their certificate was still in place but that would take them out of actual pupil contact?

Ms. Husby: This leads to creative thinking in many school divisions on the part of their senior administrators. An example of that is one jurisdiction where they decided to have the teacher use his expertise in the development of computer programs and so on, within the division. The teacher was not guilty, and the case, I believe, did not actually even go to court. The charges were stayed. The division decided that this

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position was so useful, they retained the teacher in this same position, so the position has gone on. It would not have been created if it had not been for some careful thinking on the part of the senior administration with the support of the board. There are lots of different areas that a teacher's expertise can be used in without being in direct contact with students.

Mrs. Yeo: What about the teacher from particularly a small rural school division who may have a certificate lifted for a period of time waiting for some sort of a hearing? Where does the society stand as far as the reinstatement of that teacher within that particular jurisdiction, or assistance in helping that teacher reinstate in another jurisdiction? Do you have a position.?

Ms. Husby: We do. We think if you have a right to be reinstated, if you are innocent of the charge and this has gone through the court system, there should be assistance given, not just by the society but by the employing board or by the Government to help this teacher with a choice.

Actually, in number, there have been very few teachers charged out of a membership of over 14,000, as we have. The number of individuals who have been charged is fairly small, but one is too many. One case in particular I can think of, who was looking for a job back in his jurisdiction, had to be renegotiated with the help of the society staff officers and the superintendent of the division.

Mrs. Yeo: With regard to the Section 10, I will inform you that we have some amendments in this particular section as well, mainly dealing with the inclusion of other individuals in the school division who may wish to seek candidacy.

Section 11, you spoke in opposition to this particular amendment. We too have some difficulty; we would like to see the term "superintendent" or "principal" defined. How would you feel about an itinerant superintendent for those particular school divisions?

Ms. Husby: That would be a co-operative effort—do you mean between one or more school divisions? It would make very good sense, especially in small jurisdictions which are contiguous and have the same problems. An itinerant superintendent, if one may call him so, like itinerant French teachers, would probably have much to offer to each division.

* (2140)

Mrs. Yeo: Section 12, with respect to private schools, and you talk about given the reality that there is substantial public funding, has your organization done any percentages to estimate the actual percentage of the overall budget for education that is given to independent schools?

Ms. Husby: No, I am sorry. I do not have those figures available, Mrs. Yeo.

Mr. Asper: I can only offer the reason for it; those budgets for those private schools, as they are called

in the Act, are not available to us or to any member of the public. We cannot access that information, so no analysis can be done.

Mrs. Yeo: My question was: the amount of public funding that goes to the independent schools, when you look at the \$857 million overall budget to education—and \$16 million, and I am wondering if the Teachers' Society has actually done a percentage of the amount?

Ms. Husby: No, not at this time.

Mrs. Yeo: Somewhere in the neighbourhood of 1.5 percent is the funding that goes to the independent schools. I wonder if you could comment on the Manitoba Federation of Independent Schools statement that if all the children attending independent schools were to be enrolled in the public school system, the cost of Government would increase significantly with a resulting increase in the local tax levy, and the MFIS claims this would be a good deal by saving Manitoba taxpayers dollars.

I wonder if you could comment on their position?

Ms. Husby: Well, that depends largely on the location of the children and the specific needs of the children. There are a few special needs students in the federated independent school system. That phrase does not come easily to mind because I believe they are private schools, and I prefer to use that term.

The unit cost would thus be less with the fewer special needs students. Currently there are many shared services in place between private schools and the public sector. Our education system used to have, just a few years ago, 240,000 students in it. At the moment, we have roughly 200,000.

I believe there are about 10,200 students in the private sector just now, so there should be no problem of space. For the number of teachers, I believe there are about 580 teachers in the private sector. If additional teachers were necessary when the children were absorbed into the public system, we would, for example, not need to pay administrators; we already have administrators in the public system. I rather fancy that the few extra teachers that would be needed and supplies would certainly be covered by the \$16 million, I believe was the figure, an amount of which is going to private schools. That funding would cover it.

Mrs. Yeo: I think if you were to check on the teachers' salaries in the private or independent schools, one would find on the most part that the teachers' salaries are substantially less in the independent or private schools.

I wonder if you could comment on the Manitoba Federation of Independent Schools stating in their brochure that students attending the schools come from various socioeconomic groups similar to those in public schools, in light of the fact that many people have declared that independent schools are elitist. The one that is thrown out as the example often is St. John's Ravenscourt. There are many, many schools in the

independent school system, however, that are certainly not in the same tuition level as a school such as Ravenscourt.

Ms. Husby: It is very difficult to comment on something when you are not privy to all the details, and by the very title "private schools" they are not public, their accounts are not public. Their fees can be ascertained. If one were to ask each one, I would imagine there would be problem to ascertaining them. Since the public school system is our concern, I have not taken an opportunity to find out exactly who the students are that are in the schools and so all the statements I can make are very generalized. I would agree with you that there is a wide range of fees for the independent schools, but exactly how wide the range is or what they are getting for them. I really am not privy to that information.

Mrs. Yeo: Just to gloss over your comments, with Sections 14 and 15 we concur with your comments there. Section 16, I too have difficulty with the deletion of the term "school trustee" in light of some situations in which I found myself when I in fact was a school trustee, where I certainly believed there were a few cases of conflict. We will be voting in opposition to that particular amendment. The same thing with the Section 262, we also have difficulty with that particular section. I am wondering what the society believes as far as monitoring for the homeschool child. Who do you think should be responsible for the actual monitoring of the home-schooled child?

Ms. Husby: Quite clearly permission to do home schooling and to be exempt from the Truancy Act is given by Manitoba Education, by the Minister, and therefore we believe that that is the body, Manitoba Education, who should be responsible for the monitoring of the education of that child, just as we believe the Government is responsible for the education of all the children in the province. So monitoring home schooling we regard as being a part of that jurisdiction.

Mrs. Yeo: Do you have any figures as to the actual numbers of home-schooled children there are in the province today? Do you have any idea?

Ms. Husby: I am sorry, no. Just a moment, I have supplementary information.

Mr. Asper: I believe, and the department can verify this, there were approximately 250 or so last year, but I think they expect it to be more at the level of 400 this year.

Mrs. Yeo: What about the child who is home schooled for, say, Grades 3, 4 and 5, and the parents then decide they want their child, or the child decides that he or she wants to be back with his friends on the street in the school system? In your opinion, who should be responsible for testing that child to see where the placement should be?

Ms. Husby: The responsibility is that of the receiving school, of the principal, to decide what variety of

instruments should be used to determine the child's proper placement.

Mrs. Yeo: In your opinion, then you are saying that if a child were to be taken back to the school, then the principal and the resource people in the school would do some sort of testing and decide where that child should be placed, what grade?

* (2150)

Ms. Husby: Yes. That placement which is most appropriate for the child can only be reached by testing, as for example, a student coming in from another school usually comes with statements as to their perceived level of ability using similar tests. If these tests are not available in the home-schooling child's case, then the principal simply has to administer appropriate tests.

Mrs. Yeo: Can I ask for the position of MTS if the parents dispute the placement, if the principal decides that the child should be placed in Grade 4 and the parents believe that child is, for instance, Grade 5 level, what happens then?

Ms. Husby: I would assume that with everything else the principal is one in a chain and that an appeal could be made to the superintendent, who is the educational leader of the division.

Mr. Chairman: Mrs. Yeo, no more questions? Mr. Storie.

Mr. Storie: Mr. Chairperson, I have to say first of all that some of the questions my colleague from Sturgeon Creek asked certainly I find quite astounding, particularly with respect to the private school funding issue. Ms. Husby in her presentation—

Mr. Chairman: Mr. Storie, can you pull your mike a little closer to you, please?

Mr. Storie: Mr. Chairperson, Ms. Husby indicated that the society's preference would be not to have public funding to private schools, and then she went on to reference the fact that given that some funding is going that accountability is also an important issue if we are going to fund private schools. I am wondering whether, and I asked Mr. Newton the same question, The Manitoba Teachers' Society would support the call for a moratorium on funding increases to private schools?

Ms. Husby: Yes, indeed. We would be very pleased to hear it. We have great concerns about the increasing funding as long as the public schools are underfunded.

Mr. Storie: Mr. Chairperson, the Minister laughs when you reference the underfunding of the public school system. Of course the Liberals do not seem to care that we are spending \$16 million on private schools at the present time and under the Liberal proposal would be spending \$30 million, and that assumes that there is no increase in private school enrolment.

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POINT OF ORDER

Mr. Chairman: Mr. Minister, on a point of order.

Mr. Derkach: Mr. Chairman, perhaps the Member for Flin Flin (Mr. Storie) could stick to his questioning and not try to keep one ear to a conversation that my deputy and I may be having, which was completely unrelated to what he was talking about. I object to him insinuating that I was laughing at something that he suggested or that Ms. Husby had said.

Mr. Chairman: That is right. Mr. Storie, please ask the presenter questions in relation to the presentation.

Mr. Chairman: Please, Mr. Storie, go ahead.

Mr. Storie: Well, Mr. Chairperson, I apologize to the Minister. It was only an assumption—

Mr. Chairman: That is well taken, carry on with your questions.

Mr. Storie: —that he was ignoring The Manitoba Teachers' Society position, as usual.

Ms. Husby, the Member for Sturgeon Creek (Mrs. Yeo), in defending the Liberal position that private school funding should increase to 80 percent, reads as Liberal policy from the Manitoba Federation of Independent Schools brochure.

My question is, is there any evidence that those who are currently attending private schools would transfer to the public school system if funding did not increase to 80 percent?

Ms. Husby: In response, I have no evidence to that effect.

Mr. Storie: Ms. Husby then perhaps can answer the question. Does she support the contention that somehow if the Government does not go ahead and increase funding to 80 percent, somehow private schools will cease to exist?

Ms. Husby: This calls for speculation on information that I really am not privy to.

Mr. Chairman: Mr. Minister, on a point of order.

Mr. Derkach: Mr. Chairman, I am sorry to be interrupting once again, but it appears that the Member for Flin Flon (Mr. Storie) is asking a series of hypothetical questions which were not addressed by the Teachers' Society and which are putting the presenter in a very awkward position with regard to some of the positions that are being asked of her by the Member for Flin Flon. I wish that you would caution the Member to contain his questions to the presentation that was made by The Manitoba Teachers' Society.

Mr. Chairman: That is not a point of order but is for clarification. I think it is a point well taken.

Mr. Chairman: Mr. Storie, please proceed with your question.

Mr. Storie: Yes, Mr. Chairperson, for the Minister's information, The Manitoba Teachers' Society does reference the issue of public school funding, the issue of accountability. I am attempting to address this, as the Minister knows, and I have shared with him amendments that I intend to introduce that deal with the whole question of accountability. Equally as important is the question of the impact of this funding —(interjection)— well, the Member for Ste. Rose (Mr. Cummings) wants to say we had 20 years. I can tell him that we in no way were going to move to 80 percent funding for private schools because we were not going to abandon the public school system, and he can have my word on that.

Mr. Chairman: Order, please. Mr. Storie, question, please.

Mr. Storie: Mr. Chairperson, my question to Ms. Husby is—I intend to introduce amendments that go further than call for a moratorium on spending increases to private schools. I also intend to introduce an amendment which would establish a committee to examine the impact of increased private school funding on the public school system, a proposal which says, before we move to unlimited access to taxpayers' dollars in essence that we study the impact on the public school system. Would The Manitoba Teachers' Society support such a proposal?

Ms. Husby: We would not only support it, we would welcome it. We would welcome such an inquiry.

Mr. Storie: Well, Mr. Chairperson —(interjection)—

Mr. Chairman: Please, Mr. Storie has the floor. Please let us not interrupt Mr. Storie. Go ahead.

Mr. Storie: I am proposing an amendment which would require the Minister to suspend grants to private schools until such time as a committee would review the issue of the impact of private school funding on the public school system, and that review would include but would not be limited to the review of the impact on enrollment in public schools, local property taxes, Government funding of public schools, programming public schools, special needs and disadvantaged pupils in public schools.

In your opinion, are those legitimate questions that need to be asked before we move to 80 percent funding of private schools?

Ms. Husby: In response, may I ask you to read the first statement which is that you would ask the Minister to suspend?

Mr. Storie: Mr. Chairperson, the suggestion was that the Minister suspend increased funding to private

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schools until such time as the committee review those issues. Does it seem a reasonable proposition in your view that before we rush in to this unlimited funding of private schools, we assess the impact on the public school system?

Ms. Husby: In response, I just was not sure whether it was funding or increased funding that you had mentioned.

Mr. Storie: Increased funding.

Ms. Husby: Thank you. Yes, we would be very pleased to see this. As you know, the society's position is not in opposition to the existence of private schools at all. We are only opposed to the public funding going to private schools while the public system is crying out for more dollars.

* (2200)

Mr. Storie: Well, Mr. Chairperson, the Member for Sturgeon Creek (Mrs. Yeo) was quick to jump to the defence of The Manitoba Teachers' Society in terms of access to information, in terms of defending teachers who are charged with abuse, suggesting the school board should not suspend that teachers should maintain their pay. The Liberal position is that teachers should be allowed to be candidates for public office, in fact suggest that they are going to go further, that the taxpayers should support that as well. The Liberal position is that the public school system should do all of these things and yet we have no position, no obligation on private schools to do any of those things. I am certainly not suggesting that I do not support some of the positions that you have put forward - (interjection)-

Mr. Chairman: Mr. Storie, please go ahead.

Mr. Storie: Mr. Chairperson, my question is, has The Manitoba Teachers' Society discussed their position on private school funding with The Manitoba Teachers' Society, with the executive?

Ms. Husby: Yes, indeed we have. Our position has not changed for many years on the issue of private school funding.

Mr. Storie: I asked Mr. Newton the same question, has The Manitoba Teachers' Society done any analysis on the funding proposal that was presented by the Minister on enrollments in the public school system, on costs to the Government, on anticipated increases in enrollment in private schools based on the new funding formula?

Ms. Husby: In response, we have not completed such a study, and one of the reasons is we do not have all of the figures.

Mr. Storie: The Member for Ste. Rose (Mr. Cummings) is a little nervous about this proposal, and I would be too if I was reading my education policy from the Manitoba Federation of Independent Schools brochure.

The presentation that Ms. Husby gave outlined a number of concerns and indicated a number of areas where she supported amendments to The Public Schools Act. The first amendment deals with Frontier, and really establishing at Frontier what has been practice over the last few years. I suppose I believe all Members of the committee probably support that particular amendment.

The second one deals with the right of access, and Ms. Husby referenced the notes that are kept by teachers or counsellors and whether those would be considered private correspondence, private matters. Has the Teachers' Society discussed the issue of confidential notes of this kind with for example PERC, the Parent Educational Rights Committee?

Ms. Husby: They may have in previous years, but in response, I have not at this time. I think it is made quite clear in our comments here what our position is on the accessibility to records.

Mr. Storie: Ms. Husby may know that I was a guidance counsellor, and I recognize that part of the obligation of a counsellor is to maintain confidentiality. I guess my question is, does the Teachers' Society foresee instances where comments prepared by school psychologists, counsellors or teachers on personal matters may impact on students, based on the fact that they are found in a file and it may have been assumed that they were confidential?

Ms. Husby: It is our position that notes, and I am including that notes being words, phrases, sentences, paragraphs, whatever, that notes which are intended for the use as sort of as a memo for one individual belong to that individual and are not public documents.

Mr. Storie: What I hear you saying is that if the material was prepared by a counsellor but was to be used by the classroom teacher in terms of the relationship between the teacher and the student, that would be part of the file?

Ms. Husby: It could possibly be. As soon as you start to share, the personal ownership is at question. I would prefer that it not be so, but I am speaking personally at this point. We would prefer records to mean those student records which are pertaining to the student and maintained in the central office file or the school office file.

Mr. Storie: Ms. Husby, are you differentiating between the records of a counsellor and the cumulative folder? Are we talking about two separate records here?

Ms. Husby: Yes.

Mr. Storie: Would you share any of the concerns that parents have, that PERC has, that perhaps other members of the public have, that such notes could be used, could be interpreted, misinterpreted by teachers, by principals, by others having access to the files in such a way as to injure inadvertently a student's chances for promotions, subsequent chances for jobs—could prejudice a student in an inadvertent way.

Ms. Husby: As we say, notes or records which are kept by an individual teacher for their own use should be strictly that—for their own use and not shared.

Mr. Storie: So, Mr. Chairperson, any record, any note, any written electronic information that is for the use of the school, other school personnel, for the information of the school board, should be public, but if the notes are only for the private information of the counsellor or teacher and no one else has access to them, including the student, then they would not be considered part of the record. Is that the mark?

Ms. Husby: That is our position. If you make a note and put it in the cumulative record file, then it becomes part of that record.

Mr. Storie: I think, Mr. Chairperson, that final comment will clear up some of the concern that some groups had with respect to access to information. I am pleased Ms. Husby was able to clarify that, because I think that would satisfy the majority of people who belong to that group or who have those kinds of concerns.

Mr. Chairperson, moving on to the issue of suspension—

Mr. Chairman: Mr. Storie, before you carry on, Ms. Husby, did you want to respond?

Ms. Husby: Yes, I would just like to comment that I do not believe that the phrase public access is appropriate, as access to a member of the public who happens to fall into the category that is described here, that is those affected by the notes.

Mr. Storie: I am wondering whether the Teachers' Society has prepared or is likely to prepare an amendment to 41(1)(t), the reference there? I understand that from your brief you indicate you have some concerns about the openness of that particular clause. My colleague from Sturgeon Creek indicates she is prepared to make some amendments.

We could add an amendment—and the Minister may want to consider this—to require the Minister, after receiving such information, to simply make a decision as to whether the information is of sufficient concern to have it sent, for example, to the Certificate Review Committee. Is that the kind of process you would like to see in place? Before the Minister makes a decision, it should go through some independent process?

Ms. Husby: The suspension of certificates, we feel, should not be done at random, and that should be a recommendation that is considered by the Certificate Review Committee. We do not see the amendment as omitting that phrase. To us that is basic that this Certificate Review Committee should give the teacher a hearing prior to the suspension of the certificate.

Mr. Storie: Further to that, Mr. Chairperson, if the committee recommended that the certificate be removed, would the Teachers' Society then say that the suspension could be without pay, or is it still the society's position that before there be any personal loss that be after a formal conviction?

Ms. Husby: In response to that, the teacher should be allowed to maintain his position under contract to the school division, which he cannot do if his certificate has been removed, until the completion of the court proceedings and then the Certificate Review Committee considers the case.

Mr. Storie: A further question to Ms. Husby. Has the Minister indicated whether there is a legal impediment to the Minister establishing a regulation requiring the board to continue the employ of a teacher so charged? To your knowledge, is that a legal problem? Can the Minister, within the purview of The Public Schools Act, make such an order?

Ms. Husby: I would hesitate to speculate on advice that would be given to the Minister by staff. The making of the creation of a regulation would be certainly his privilege and his decision to do so.

* (2210)

Incidentally, may I add that we have absolutely no wish to have a teacher retain their certificate if they have been convicted of sexual assault.

Mr. Chairman: No more questions? Mr. Storie.

Mr. Storie: Yes, Mr. Chairperson, I apologize. The brief presented is quite thorough. Referencing Section 52(2), you indicated that the society would be opposed to the assignment of the duties of a principal to a superintendent. You may recall that we discussed this. I discussed this with other people at Manitoba Teachers' Society and was asking for their advice and their input in terms of how to deal with this problem in, for example, the five school districts that are referenced.

You made a number of suggestions as alternatives. Do those suggestions not leave, for example, school boards—and then you can wear a different hat if you can—in a continuing difficult position in terms of, as they see it, managing the school division?

Ms. Husby: Looking at it from here and pretending I am a member of a school board, I would see no problem in having a superintendent who also performed the role of secretary-treasurer, and then you still would maintain a principal in the school.

Mr. Chairman: Mr. Ashton, on a point of order.

Mr. Steve Ashton (Thompson): On a point of order. I am sorry to interrupt the questioning, but it is I think fairly apparent we are not going to deal with Workers Compensation tonight since we have a number of other presentations, so I was just wondering if we might, as a committee, wish to advise anybody that is here because of the Workers Compensations Bill that they should come back at the next sitting of the committee.

Mr. Chairman: It is not a point of order, but for clarification I think it is a good point raised at this time,

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Mr. Ashton: What is the will of the committee? We have three more presenters for tonight, and we would like to hear them. Is it the will of the committee that we indicate to the people on Workers Compensation that we will not go into that Bill today? Is that the will of the committee? Agreed. Mr. Minister.

Mr. Derkach: Mr. Chairman, but it is the intent of this committee to hear all the presenters on Bills 59 and 60. Is that correct?

Mr. Chairman: That is right, and then there is one presenter who came today and would like to make presentation on Bill 78. Is that the will of the committee? Agreed.

Mr. Chairman: Mr. Storie, go ahead with your question.

Mr. Storie: Mr. Chairperson, the reference to the use of secretary-treasurer as a superintendent in the dual role, you also recommended that if that happens that person be an educator. Is that something that you would also have to see in regulation?

Ms. Husby: It can actually be done. There is no need for a change to be made in the regulations as they stand. It is my understanding that this can be done. I emphasize the fact that you appoint a superintendent to be also secretary-treasurer, rather than a secretary-treasurer to carry out the role of superintendent, because we believe firmly that the superintendent is a very important person in the division and must be an educator.

Mr. Asper: There is the precedent for what we are suggesting here, a small school division boundary operated with this method previously with the previous superintendent who had the dual function.

Mr. Storie: I can only indicate that I discussed this dilemma with the principal, for example, in Snow Lake and have discussed it with members of the school board. It does not seem that either way is a perfect solution, but your position is that the duties of a principal being assigned to a superintendent is the wrong way to go.

Mr. Chairperson, Section 14, the amendments dealing with the use of contracts, some years ago there was a decision on the part of The Manitoba Association of School Trustees to clear up the use of Form 2 and Form 2A. I am wondering whether the society has tracked the use of those forms. Is this amendment a response to the fact that things did not improve as it was anticipated?

Ms. Husby: In response, things did improve, but they have not improved to the point of satisfaction, which is why I made my aside which does not appear to the effect that the Minister must have the power and must exercise the power to prescribe the circumstances under which each contract is used and also to require that the contract be used. All these facets are important.

Mr. Storie: Does the Minister not have the power in another section to prescribe the form of the contract?

Mr. Asper: Currently there exists a statutory contract. The Minister has the power to approve other forms of that contract and indeed has done so.

Mr. Storie: If we were to clear this completely up as far as The Manitoba Teachers' Society is concerned, we would here designate the forms, the Minister would prescribe the forms, and those would be the only forms that would be allowed.

Ms. Husby: And he would insist on these being used.

Mr. Storie: Mr. Chairperson, to Ms. Husby, has The Manitoba Teachers' Society discussed the use of other forms with the Minister? Is there any particular reason why we cannot at this time agree to use Form 2 and Form 2A each for their prescribed purpose?

Ms. Husby: There are certain circumstances in which the Form 2 has been used. There are also circumstances in which 2A has been used, but it is not formally prescribed as such. Until that happens and then that the Minister has the power also to insist on these forms being used, we have concern. We feel that this is a weakness in the amendment.

Mr. Storie: I gather that the amendment, Section 92(5), although it does not sound that clear, is sufficiently clear to address the concerns of the society.

Ms. Husby: Yes.

Mr. Storie: Finally, Mr. Chairperson, the final section deals with the conflict of interest amongst school trustees. The society has a concern that we are opening the door.

Ms. Husby: That is our question, perhaps I should say a caution, that we have observed.

Mr. Storie: Could you explain why this amendment is here? Has the Minister shared with you why this particular amendment is before us?

Ms. Husby: I have not asked the Minister.

Mr. Storie: Well, perhaps the Minister, at some clause-by-clause, can address the reason for its being here, since we have just recently included fairly stringent conflict of interest regulations within The Public Schools Act. Finally, you referenced the issue of home schooling and the need for the Government to monitor and exercise regulation over home schoolers. In principle, does The Manitoba Teachers' Society have a policy with respect to home schooling?

Ms. Husby: We do not have a policy per se on home schooling. Our concern is that the children receive the best education, and by best I mean the one which is most appropriate for them. If a parent has made the decision that home schooling is the best in their opinion and Manitoba Education gives them permission to have

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home schooling, then it should be monitored, not for the sake of the home schooling, for the sake of the child. Somebody should know what is going on with this child.

Mr. Storie: Moving backwards, Mr. Chairperson, again to the issue of private schools. In your brief on page 4, you referenced the question of accountability. The Minister has proposed some amendments to The Public Schools Act which in his mind increase accountability and suggested to Mr. Newton, in response to a question of mine to Mr. Newton, that somehow he has introduced tough new regulations, when what he has done is again created an impression of accountability by introducing some guidelines which, in my opinion, go a long way from introducing accountability. What does the society mean when it uses the phrase "accountable in the same way that any public school administration is." What does the society mean by that?

Ms. Husby: We believe that public funds going to any institution should all be accountable on the same format, and the same format would mean that they would be budgeting according to FRAME, that budgets would be submitted for approval. In other words, that this other system which would appear to be created is accountable in the same way as the public school system. If I may add, that it is very difficult to speculate on how effective this accountability actually is until we see the regulations which is why we had to make a fairly general statement.

An Honourable Member: Like when you were in Government—

Mr. Storie: We did not have 80 percent funding, to the Member for Ste. Rose (Mr. Cummings).

Hon. Glen Cummings (Minister of Environment): Well, it is just the degree now that matters.

* (2220)

Mr. Storie: I agree. Mr. Chairperson, the Minister wants to enter into a debate about what was done under the previous administration. I am the first one to admit that we should have taken a tougher stand in terms of accountability to private schools. At that time they were receiving about 27 percent or 25 percent, and I will be introducing amendments which would call for some accountability. At that time I do not believe the funding levels or the accountability issue were a threat to the public school system as this Minister's policy is.

Mr. Chairperson, if the Member would be familiar with a balance beam, there is a point when one final drop tips the balance and the balance has been tipped and it has been tipped against the public school system at 80 percent funding.—(interjection)— If I may be allowed to continue—

Mr. Chairman: Please, Mr. Storie, continue with the question to the presenter.

Mr. Storie: Mr. Chairperson, my question was on accountability. You mentioned you believed that the

financial records for example should be dealt with in the same way. I am wondering whether you would suggest that private schools should be required to table publicly their budget?

Ms. Husby: For public funds, public funds going to any institution including private schools, and this is the intent of this statement, to allow public funds to go to private schools. The Minister has said he is introducing accountability. We would like to see that on the same level as the public school system.

Mr. Storie: Mr. Chairperson, in some private schools, tuitions are tax deductible, in other words, they are paid for in another way by the taxpayers of the country and the province. If tuitions are in any way tax deductible, should that be known?

Ms. Husby: I would consider it so, but that is a personal opinion.

Mr. Storie: To Ms. Husby, should the curriculum of the private school include a core curriculum which is substantially the same or the same as the public school system if it is to receive public funding?

Ms. Husby: We believe so.

Mr. Storie: Should private schools be required to have policy handbooks which provide public information on issues such as discipline, professional conduct, school policy? Should they also be required to have policy which is available as public information?

Ms. Husby: This sounds as if a private institution receiving public funds is public. There are certain elements which must be public when they are receiving public funds. A description of those has been broadly suggested by the Minister. We would like to see the regulations which detail it.

Mr. Storie: Ms. Husby, do you think it is sufficient to have private schools appoint boards of directors? Is that sufficient in terms of ensuring accountability?

Ms. Husby: We believe it should be a elected board of directors.

Mr. Chairman: Mr. Storie, any more questions?

Mr. Storie: I am wondering whether there are any other accountability issues that you would reference in your brief? You used the word accountable, and I am wondering whether there is anything else that you would include in the list that I have given you.

Ms. Husby: The main thing with which we have concern with is the accessibility when so much of the public purse is going towards a private institution and the accessibility to these programs is denied. In other words, the institution can still be selective about those whom it admits.

Mr. Storie: The Member for Sturgeon Creek (Mrs. Yeo) attempted to suggest that the private schools were not

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elite. I am wondering whether you would suggest that private schools should also be required to accommodate their share of special needs student, their share of Native students, their share of disadvantaged, their share of English-as-a-second-language student. If they are publicly funded, should they also be obliged to take their share of the disadvantaged students in the Province of Manitoba?

Ms. Husby: I think I would find it difficult to use the word their share, but they certainly should be accessible to those other students.

Mr. Storie: The Member for Seven Oaks (Mr. Minenko) says are they not, and I do not think that there is any question about whether they have an equivalent share of special needs, Native students, many other categories of students, that for example, Winnipeg School Division deals with on a regular basis?

One final question. Was The Manitoba Teachers' Society consulted with respect to the announcement on accountability or on the question of moving to 80 percent funding?

Ms. Husby: In response, we were not consulted as such, but we have made our position known many times to the Minister.

Mr. Storie: One final question. Is it the view of The Manitoba Teachers' Society that the direction we have taken in terms of funding to private schools is going to be damaging to the public school system?

Ms. Husby: We believe any monies which come from the education person, which are not directed to the public school system, are going to damage it, because there is only one purse that we know of from which those funds can be taken.

Mr. Mark Minenko (Seven Oaks): I would like to direct a couple of questions. First, I am not sure what the Member opposite was suggesting about any comments, but are you aware of any of the nonpublic schools that have any sort of systemic barriers to acceptance of some of the pupils as set out by the Member opposite?

Ms. Husby: I believe you apply for permission to become part of a private school system and that the private school has the right to refuse. The public school system cannot refuse any child admission who requests it.

Mr. Minenko: So places like Immaculate Heart of Mary or other schools like that have barriers that exclude children?

Ms. Husby: I do not know the specifics of the schools to which you refer, but the very fact they are private schools maintains the fact that they do not need to give public access in the same way as a public school system and so they can be selective. They have that privilege. They also have the privilege of expelling if they so desire, but that decision is not lightly made, may I say. They are responsible schools.

Mr. Minenko: Okay, that is fine. Thank you very much.

Mr. Chairman: Thank you. Mr. Storie.

Mr. Storie: Mr. Minenko continues to read from the Manitoba Federation of Independent Schools handbook. Mr. Chairperson, to Ms. Husby—

Mr. Chairman: Mr. Minenko, on a point of order.

Mr. Minenko: We have seen the Member opposite, and I would hope he would have perhaps understood that I certainly have indeed never seen the booklet that he is mentioning. I think he should be a little more up-front with the public in Manitoba when he makes such statements, where he indeed knows that I am certainly not reading from any particular text and indeed have never seen it. I would ask that he consider those remarks—

Mr. Chairman: Mr. Minenko, that is not a point of order.

Mr. Chairman: Mr. Storie, do you have a question? Mr. Storie, a question to the presenter.

* (2230)

Mr. Storie: Yes, Mr. Chairperson, I do have a question to the presenter. I would like to know if The Manitoba Teachers' Society considers a \$6,000 or \$7,000 tuition fee to St. John's-Ravenscourt a systemic barrier to education?

Ms. Husby: In response, I would consider any fee for entrance to a school to be a barrier to your becoming a member of that school body.

Mr. Chairman: Thank you, Ms. Husby, for making your presentation. If there are no more questions, I will call the next presenter. Ms. Barb Buffie or Mr. Jerry MacNeil, The Manitoba Association of School Trustees, do you have a written presentation?

Ms. Barbara Buffie (The Manitoba Association of School Trustees): Yes, Mr. Chairman. Mr. McNeil will be bringing that forward.

Mr. Chairman: Very good. Ms. Buffie, you are going to be making the presentation?

Ms. Buffie: Yes, I am. I would like to thank you for the opportunity, and I would like to say that our president, Mrs. Brenda Leslie, had hoped to present this brief this evening. Her return flight to Winnipeg has been delayed, and so I stand in front of you this evening.

I am Barbara Buffie, and I am a provincial director with The Manitoba Association of School Trustees. I

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would also like to present to you at this time our Executive Director, Mr. Jerry MacNeil.

On behalf of The Manitoba Association of School Trustees, I wish to thank the committee for the opportunity to provide our comments on Bill 59, The Public Schools Amendment Act.

MAST wishes to extend its appreciation for the consultation process which occurred when the Bill was being drafted. As a result of this consultation, MAST is able to support the majority of the amendments proposed in Bill 59.

MAST is particularly supportive of the proposed change to Section 52 of the Act, which adds a Subsection (2), permitting the school boards in the districts of Churchill, Snow Lake, Lynn Lake, Sprague and Leaf Rapids to assign the duties of a principal to a superintendent. We consider this a progressive move on the part of the Manitoba Government and strongly encourage its support by all Parties. The inclusion of such a provision in The Public Schools Act will enhance the administrative operations of the northern and remote school districts. The likelihood of attracting and retaining individuals with senior management skills will be increased as a result of this amendment.

The unique circumstances of the five school districts involved warrants this particular amendment. There are two specific areas of concern which we wish to bring to the attention of the Members of the Committee. They are Sections 262, which refers to the home school children, and Section 60(5) which deals with the grants to private schools. Should Section 262(b) be passed in its present form, it would mean that no specific body is defined in legislation as being responsible for home-schooled children.

The Manitoba Association of School Trustees feels very strongly that Manitoba Education and Training should retain responsibility for home school children. MAST supports the recommendations of the interorganizational committee on home schooling which were presented to the Minister of Education in the spring of 1988. This committee consisted of representatives from The Manitoba Teachers' Society, The Manitoba Association of School Trustees, The Manitoba Association of School Superintendents, and Manitoba Education.

It identified the basic principles governing home schooling, criteria for the approval of students for home schooling, recommendations regarding administration and supervision, and suggested methods for monitoring home schooling for program quality and delivery.

MAST supports the recommendations of that committee. Those recommendations acknowledge that many parents withdraw their children from the local school because of some dissatisfaction. To expect the school board to approve the removal and monitor the programs of these children would seem to be inappropriate.

Central to the recommendations of the interorganizational committee is the statement that Manitoba Education is responsible for the administration and supervision of home-schooling programs.

Should Bill 59 be passed in its present form, such responsibility would not be defined. In discussions with Manitoba Education, we have been advised that regulations will be developed with respect to home-schooling programs. Because regulations are not subject to the same scrutiny in either their development or amendment processes, as is legislation, MAST is concerned that the responsibility for home-schooling children be identified as being that of Manitoba Education and be so specified in The Public Schools Act.

We suggest, therefore, that amendment 262(b) be defeated and regulations be developed to support the existing legislation which places the responsibility for home schooling in the hands of Manitoba Education.

Our second concern relates to Section 60(5), Grants to Private Schools. The position of The Manitoba Association of School Trustees is that grants to private schools should not exceed 50 percent of the per pupil block grant provided to the public schools. The addition of (c) to Subsection 60(5) would give the Minister unlimited authority to make regulations governing grants to private schools in areas other than teacher credentials and teaching of approved curriculum.

The potential impact of this amendment, upon financial resources available to fund education in Manitoba, could be horrendous. This legislation permits the Minister of Education to make grants to the private schools for any purpose and in any amount. The position of The Manitoba Association of School Trustees calls for the certification of Government-funded private schools. The requirement for such certification defined in regulation would be a more appropriate amendment than the one proposed.

Once again, Mr. Chairman, ladies and gentlemen of the committee, I wish to thank you for the opportunity to present to you our views on the foregoing sections of Bill 59. Thank you for listening.

COMMITTEE CHANGE

Mr. Ashton: Mr. Chairperson, just on a procedural matter—I would just like to make a committee substitution, by leave, if I could.

Mr. Chairman: Members of the committee, does Mr. Ashton have leave to make a committee change? Leave is granted.

Mr. Ashton: I will just read the motion. Thanks very much to the Members of the committee. I move, by leave, that Mr. Maloway be substituted for myself, Mr. Ashton, for the Standing Committee on Law Amendments, March 12, 1990. Mr. Maloway, by the way, has a Bill up later which is in his critic area, so this would ensure that he is a Member of the committee when the presentation is made.

Mr. Chairman: Granted. Mrs. Yeo.

Mrs. Yeo: Thank you very much, Mrs. Buffie and Mr. MacNeil, for your presentation. Again, I know a lot of hours and thought have gone into the presentation. The first area where you discussed your support of the five northern divisions and the amendment that is presented there, I am wondering what your position would be or what your association's position would be on having an itinerant superintendent for those particular areas.

Ms. Buffie: With your permission, Mr. Chairman, I would ask that in the absence of our President, Mrs. Leslie, you would allow me to have Mr. MacNeil assist me in answering the questions this evening, if you would. Is that permissible?

* (2240)

Mr. Chairman: That is permissible as long as we can identify who is going to be responding. Mr. MacNeil.

Mr. Jerry MacNeil (The Manitoba Association of School Trustees): I am Mr. MacNeil and—

Mr. Chairman: All right, that is fine.

Mr. MacNeil: Pardon me, I am a little dry in throat. Your question—

Mr. Chairman: Have some water, please. Help yourself.

Mr. MacNeil: That will be fine. Would you please repeat your question with respect to the northern organizational structure?

Mrs. Yeo: Mr. MacNeil, I am just wondering what MAST's position would be if that section were amended to suggest that perhaps an itinerant superintendent could be assigned to those five school divisions, what impact that might have on those school divisions from your perspective.

Mr. MacNeil: The position you have before you was arrived at through consultation between MAST representatives and members of the northern communities, at least numbers of those communities. We have held meetings with them. In essence, where we have arrived at is at the model that we felt most comfortable in supporting and in essence most comfortable in advising our member boards for a couple of reasons. One is, we had looked at, as had the Department of Education looked at for years, the possibility of itinerant superintendents. When I was Director of Regional Services with Manitoba Education, that was one discussion that we had fairly frequently with those boards. The question there was one of local autonomy and local decision making. It was difficult at best to get a consensus on that model as much as four and five years ago. Our feeling is that this particular model does not rule out that particular structure should they decide it, but it does give each individual board the right to choose a structure that is most suitable to them.

Mrs. Yeo: Where is your position, or how do you feel about the thought that a principal is a member of The Manitoba Teachers' Society but a superintendent is not? How do you feel about that?

Mr. MacNeil: I have both personal and, I hope, theoretical and practical feelings on that question. Having served in that similar capacity for five years in another province where I was the principal and also reported directly to the board, I am convinced that system can work. I know it has worked. I think as in so many systems it is a function as much of the people who are maybe in the role as it is of the structure. I do believe the style that individual brings to that role permits the thing to function very well.

I do think that to have your senior administrator out of the collective bargaining process does provide a management advantage to the board. There are issues of confidentiality. There are issues of evaluation which quite frankly put principals in a difficult role when they are, on occasion, in a position where they must evaluate a member of their own association and that evaluation comes before the board. The principal is in a very difficult role.

I can give personal examples of—in Churchill when I worked with the department where that was an issue for example. I believe, both from my own personal experience and what I have seen work in another province, that to have a person in that capacity serving as a senior advisor to the board can work well for all parties.

Mrs. Yeo: Do you not believe that there certainly could be conflict when the principal who is acting as a superintendent has to try and develop guidelines for the particular board? Is this not—

Mr. MacNeil: Which is precisely why we are suggesting that it be the superintendent being assigned principal's duties. So, yes, there is conflict when the principal acts in that dual role. The other way around, we do not feel that the same circumstance would necessarily pertain.

Mr. Chairman: Those comments were made by Mr. MacNeil. Did you have any more questions, Mrs. Yeo?

Mrs. Yeo: Yes, I have.

Mr. Chairman: Go ahead.

Mrs. Yeo: Your comments about the home schooling are interesting, and I do not see any need at this late stage of the game to repeat some of the questions that we have asked before. I am assuming your responses. Perhaps this is not the right thing to do, but I shall anyway.

The questions re the independent schools: I would like to ask you the same questions that I have asked the others because I am certainly not using the MFIS handbook or pamphlet as our policy. I was just given this pamphlet at the press conference the other day, and I have never had the opportunity to ask any of the educating associations their opinion. I am very

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interested to know what your response is to their particular statement that if all the children who attended independent schools were to be enrolled in the public school system, the cost to the Government and to the Manitoba taxpayer would increase significantly. I am wondering what your response is to that because I sincerely am interested in your answers.

Ms. Buffie: Yes, I would like to respond to that because I do not believe that in the presentation or in the eyes of The Manitoba Association of School Trustees there has ever been a question of the right of private schools. It is a right of choice of parents as to where they send their children. However, the question we do examine is the level of funding to those institutions.

Mrs. Yeo: Again, if the children who were in the independent schools for some reason all chose, or the parents of those children chose to have them return to the public school system, do you believe that this would increase the cost to Manitoba's taxpayers because the grants to the public school children are higher than they are to the independent school?

Mr. MacNeil: It very well might. I think the first response from Mr. Newton indicated that there is a level of analysis there that we have not done, so therefore we could not give a definite answer to that. I think it would be important to note that education is not an inexpensive exercise at best. It is an expensive exercise, and the cost is not the only issue that we would be concerned about here. The question of public accountability through elected trustees is an issue that is not addressed by the manner in which you form the question. It is not just a matter of cost.

Mrs. Yeo: Do you agree with the Manitoba Federation of Independent Schools' statement that students enrolled in those schools do in fact come from the same variety of socioeconomic families as do the students in the public school system?

Mr. MacNeil: Again, I think there is a data base that one would want to have before they would answer that definitively, but I think the question is that they do not need to come from the general public, nor do they have to be accepted from the general public or the general population. Now that maybe is more the issue. Certainly, to some schools, where there is a very high tuition figure, it would seem to me that that would not likely attract the average student from an average home. So in those cases there might be a skew in that school population towards a particular group, but that would not necessarily be the case in all private schools, I am sure.

Mrs. Yeo: There was the indication that all public schools must accept all students. In your experience, have you never known of a student who had been expelled permanently from a public school system?

Mr. MacNeil: The Act does provide for disciplinary measures within the public system, and I believe it must, and I am sure our association believes it must, to govern the control. It would be on the basis of not being able

to conform to the established behaviour patterns of the school that a student is suspended and then maybe subsequently expelled. But beyond that, every student has the right to access to the public school, provided they adhere to procedures, policies and behaviour practices of the school.

Mrs. Yeo: I have not had the opportunity to discuss the position of MAST with regard to the teachers who have had their certificates removed after charges of sexual abuse. It was not addressed in their presentation, so would my question be out of order, Mr. Chairperson?

Mr. Chairman: Pose your question and we will see.

Mrs. Yeo: My question is then, what is the position of MAST with regard to the teaching certificates being removed for teachers who have been charged with sexual abuse prior to due process?

Mr. MacNeil: If I could, I would like to answer that in context of Bill 59 and the reference in there to Bill 59 that it be required that a report go to the Minister. Throughout the process, it was discussed with us as to our feeling, and the present form of the amendment we would agree with. The question of whether or not a certificate should be removed instantaneously, I think, has already been addressed by the department where it has been indicated that a process is now in place to take that to the Certificate Review Committee. While we have not formulated a specific policy on that, the discussion we would have had at MAST is that that seems like a reasonable approach at this time.

* (2250)

Mr. Storie: Thank you, Mr. Chairperson, and to Mr. MacNeil and Ms. Buffie, thanks as well for attending at this late hour. I apologize for any part I may have played in extending this session unduly. However, I think this is an extremely important issue. I fundamentally believe that the direction that we are being taken is dangerous, not in this legislation per se, but in the funding announcements. You referenced it in your brief, where you said that the implications, I think, could be horrendous for the public school system. The Member for Sturgeon Creek (Mrs. Yeo) says, well, there may be some benefits; the teachers in private schools do not get paid as much. I am not sure whether that is intended to be a benefit or not, but I do not believe that is the issue.

I would like to go over the amendments that you commented on. The first one is the question of the appointment of a superintendent as principal. You mentioned that in the unique circumstances, and this was Ms. Buffie's comment, that are present in those five divisions, this seems like a workable alternative. Is it MAST's understanding that these amendments are not a foot in the door? This is only to address those five unique circumstances?

Mr. MacNeil: Absolutely.

(Mr. Parker Burrell, Acting Chairman, in the Chair)

Mr. Storie: So I think that Mr. MacNeil and Miss Buffie understand where I am coming from, that there has

been some concern on the part of The Manitoba Teachers' Society about the relationship between the school boards and the superintendents and principals, and whether principals should remain part of The Manitoba Teachers' Society. I think the larger concern here was whether this was a first step in separating the administrative function from the Teachers' Society role as a Teachers' Society member. And you are saying clearly MAST does not see this in that light. This is an administrative, technical dealing with a particular problem.

Mr. MacNeil: Yes, that is our position.

Mr. Storie: Good, thank you, Mr. Acting Chairperson. Finally, I noted that you did not comment on Section 4(1)(s), Access to information. I am wondering whether this is because there are no perceived problems from MAST's perspective in terms of parents accessing information from the schools or whether this is just an acceptance of this as a reasonable amendment?

Mr. MacNeil: Our position on that, Mr. Storie, is that this is an improvement over what presently exists within this area. MAST supports strongly the right of parents to information on their students within the school system. It is true that as this, and probably any other section of this legislation is implemented, there will be some snags along the way. The issues that were discussed earlier with some of the other presenters as to what constitutes personal notes versus file notes, I too having been in counselling and a psychologist can identify with the importance of confidentiality in certain areas.

There are times when, for the protection of a child, the last person who might have to see a piece of information is a parent, if that parent is in certain cases an abuser. There are judgment calls that professionals have to make en route. We think this legislation, this amendment, will improve the situation that presently exists, and will have to be worked out over time, in the good faith that presently exists between boards, I think parents in general, and administrators.

Mr. Storie: I am pleased to see that MAST is on the same wavelength as the Teachers' Society and many other groups in terms of access to information. It is not a high profile public issue, but for those parents who for one reason or another have been frustrated by the system, I think this is welcome news, and I am pleased to see your support of that amendment.

A question on the issue of home schooling, and your brief references the committee that was structured to address the home-schooling issue. Why is MAST opposed to the responsibility resting with school boards if school boards were to be reimbursed for their expense?

Mr. MacNeil: There are a number of reasons for that. Some of them have already been mentioned, certainly by Mr. Newton. The major concern among a number of trustees throughout the province, and school administrators as well, is that in certain cases the majority of reasons for which students are withdrawn

are some dissatisfaction with the system. It may be a value issue, it may be a religious education issue. Whatever the issue is, it seems to be one in which the parents are not in sync with either the philosophy of the school division or its structures or its practices.

It seems, as we say in our paper, inappropriate then to assign to that same body the right to approve, the right to monitor and the right to evaluate. There are those questions. There are also larger questions of accessibility to homes for the purpose of monitoring, even if you did have the people in place to do it. Having been a school-based person, as I know some around here have been, clearly there are some homes in which accessibility may not be granted, and this would just compound an already difficult problem.

We think that the public school system is established within the terms of the Act presently, and it says that when students come to that school, they are educated and they are provided programs. We do not think that should be extended to include any home in the province, and put that responsibility upon school boards and elected trustees.

Mr. Storie: I hope the Minister is listening both to your presentation and to the superintendents association's presentation, because I am inclined to agree with you. I think that the obligation should rest with the department. I think one of the main reasons—and I have talked to people who represent home schoolers who feel that the school division is the last group whom they want evaluating and assessing because in many cases the decision to home school has resulted from a conflict. I think that perhaps this whole issue should be rethought in terms of the province's involvement.

Finally, I would like to deal with the whole issue of grants to private schools. The Minister has introduced some amendments, I think, in an attempt perhaps to suggest that accountability is being brought to bear on private schools. Before we get to that, I am wondering if this committee were to support amendments to call for a moratorium on increases to private schools, whether The Manitoba Association of School Trustees would support such a moratorium?

Mr. MacNeil: Maybe Ms. Buffie wants to answer?

Ms. Buffie: The answer will be the same. MAST is on record as supporting that position.

Mr. Storie: Is it MAST's position, as some would have us suggest, the Liberals, the Conservatives or some other parties, Manitoba Federation of Independent Schools, that really this should be an issue of accountability in that it is a question of how much? Is there a view out there amongst those of the public or who represent the public school system that there is a point beyond which we cannot go before we create a system that invites a two-tiered educational system?

Ms. Buffie: I would like to respond to this. The position of MAST is one that we are concerned that the public system remain a strong and a viable public system not just for today but for the long range future. We believe the children of this province deserve that.

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Mr. Storie: Mr. Acting Chairperson, I do not believe Ms. Buffie was finished.

The Acting Chairman (Mr. Burrell): I am sorry, I did not mean to cut you off. I just thought you were done.

Ms. Buffie: No offence taken, thank you. While we do not quarrel with the premise of some funding to the private school area, we are very concerned that the level of that funding be such that it is realistically possible to maintain it without doing any kind of harm or weakening the public system.

We say that knowing full well that today every level of Government is being held very accountable by those people who elect us. Since education, whether it be private or public, is funded from the public purse, then I would say to you that we need to be aware of how those dollars are utilized within the system. We do not wish to see a weakened public system.

Our children in this province, whether they leave the private or the public system, do go on. Whether they become leaders or bystanders, all of them are impacters. They will impact on you, me and all of us. We need to be aware of that. We need to keep this system strong.

Mr. Storie: Ms. Buffie, if I were to tell you that the New Democratic Party was going to introduce an amendment which would not only call for a moratorium but call on the Government to study the impact of increases to private schools on the public school system, would The Manitoba Association of School Trustees support that kind of a study?

* (2300)

Ms. Buffie: While this has not been discussed, it is consistent with some of the kinds of views that we have shared. I would though at this time expect that the Minister, before announcing this kind of funding, had indeed been aware or had done some kind of study on the impacts. I would eagerly await the sharing of that information, because I think it may already be available.

Mr. Storie: Well, Mr. Acting Chairperson, I will let the Minister disappoint you, but I have been disappointed on previous occasions, because it is quite clear that neither the Liberals nor the Conservatives have done any thinking on the impact of this cavalier promise on the public school system. I gather your answer was, yes, that you would indicate you would support such a study. I am wondering whether you have any objection to be included in a committee as an organization, or representatives from your organization in a group to study this whole question.

Mr. MacNeil: While I think it is fairly safe to say that we probably do not need any more committees on any more issues, because we are probably overcommitted as many of you are, we certainly would want to be a part in any such review of the funding of education within the province of any of the sectors, private or public—we would want to be.

Mr. Storie: I gather from Ms. Buffie's comments that you would have anticipated that there would have been some studying of this issue and some understanding of its impact on enrollment in the public school system for example.

Mr. MacNeil: It was Ms. Buffie's original comment, but I know what Barb said is that there was an assumption that changes of this sort, anything that has an impact upon the use of public funds to provide any service, would generally have been planned for, and some impacts of those changes should be identified by those making them. So I think that yes, we would expect that there has been some analysis done of the long-term outcomes of the move towards 80 percent, for example.

Mr. Storie: Mr. Acting Chairperson, has The Manitoba Association of School Trustees done any studying or any number-crunching as a result of the Minister's announcement and determined what additional funding this new policy might require from the provincial Government?

Mr. MacNeil: No, we have not.

Mr. Storie: Mr. Acting Chairperson, my own quick calculations tell me that if the Minister's policy is implemented over an eight-year period, we are talking about an additional \$100 million.— (interjection)— Well, the Minister says that is my figure. I would like to see the Minister's figure. That is based on the assumption that there is no increased enrollment. I am wondering whether MAST has any information about the potential for lost enrollment to the public school system as a result of a move to a dual system.

Mr. MacNeil: I think there is a concern among trustees that increased funding in the direction of private schooling may add to a proliferation of private schools and then a drain away from the public school system. I believe that is a concern. The fact is though, we do not have the figures presently to support that assumption. It is simply an assumption.

Mr. Storie: You mention in your brief as well that the amendment we are being asked to support really is an open-ended amendment, that it puts no limits on the amounts of money that can be provided, the kind of private schools that can be supported. I am wondering whether there is any concern amongst MAST members about the potential, for example, of funding a whole variety of private schools of different denominations or based on different cultural backgrounds or based on different economic backgrounds.

Mr. MacNeil: Yes, I think it is a concern that there is no guarantee of limits on the formation, development, increased numbers of private schools and the variety of religious beliefs and/or other reasons for the establishment. So that is a concern.

Mr. Storie: Mr. Acting Chairperson, given the regulations, is it possible that we could have a Nazi school or a Hare Krishna school or—

The Acting Chairman (Mr. Burrell): Mr. Storie, you have been off the path all night, but now I think you

are over the mountain. How about keeping it down to a little bit of reasonableness?

Mr. Storie: That is an interesting point, Mr. Acting Chairperson. I think, however, you have not read the amendment correctly, because this amendment—

The Acting Chairman (Mr. Burrell): Mr. Storie, I have listened to that amendment through every questioner, both from you and Mrs. Yeo and the Minister as well. I know the amendment as well as anyone else, and you are way off base. How about coming back just a little bit?

Mr. Storie: Well, Mr. Acting Chairperson, I certainly will come back and I will accept your admonition. I will, for the record, refer to Section 60(5), the Minister's Bill, wherein it says, the Minister may, under the regulations, make grants to private schools in respect of instruction and services offered by the private school enrolled where the Minister is satisfied that—he goes on to list a number of conditions, none of which in any way limit the potential for private schools to develop around any ideology, any cause, any religion, any race, any characteristic.

In other words, it is an open-ended amendment and an invitation for the public, the taxpayers of Manitoba, to fund any private school under any circumstance. That is what the amendment is. What the amendment is, is an attack on the public school system. That is what this amendment is.

The Acting Chairman (Mr. Burrell): Mr. Storie, I am not the presenter. If you have a question in there somewhere, ask the presenters.

Mr. Storie: Mr. Acting Chairperson, my question to Ms. Buffie or Mr. MacNeil is, does MAST see any way that this amendment limits the Minister in terms of the private schools to which he can grant monies?

Mr. MacNeil: I think our text is fairly clear on that where we say the addition of (c), which is the section under 60(5)(c), would give the Minister, in our opinion, unlimited authority to make regulation governing grants. I think that was as clear as we could be.

Mr. Storie: I have no further questions, Mr. Acting Chairperson. Thank you.

The Acting Chairman (Mr. Burrell): Thank you, Mr. Storie. If there are no further questions, we will call the next presenters.

Mr. Derkach: I have a question, Sir.

The Acting Chairman (Mr. Burrell): Oh, the Minister has a question. I guess we will allow him a small one. Mr. Minister.

Mr. Derkach: Mr. Acting Chairman, first of all, may I express my sincere thanks to you in your presentation. I am pleased to see that your association is supporting certain parts of the Bill, and through our many

consultations, I guess, there are some issues that we have agreed to disagree on. Certainly there is no point in us trying to rehash our positions here this evening, because I think we have made our positions known to each other.

(Mr. Chairman in the Chair)

I would like to address the issue of home schooling, however, because it appears as though there may be some misunderstanding of the position taken by the department and by Government at this point in time. I have been listening to presentations tonight, and in each and every case there seems to be a conclusion drawn that the regulation or the amendment indicates that home schoolers will now become the sole responsibility of school divisions.

I must indicate to you that it allows the Minister to make regulation with regard to home schooling. I think in our consultations with both MAST, MTS and MASS, with all three organizations, and the Home Schoolers Association, we have indicated that there are many questions that have to be resolved with regard to home schooling, questions such as, are there going to be some sorts of tests that are going to be expected to be written by home schoolers so that when they do return to the school system, if they do, they will be able to be placed appropriately and in accordance with some set of criteria that have been set down for testing.

* (2310)

Secondly, that when home schoolers move into a university setting, there be some testing required so that in fact universities would be able to accept those students as having achieved a certain standard. In that way, the student does not him or herself suffer because we know that at the present time there are students who will enter the university or attempt to enter a university who have been home schooled, who do not receive any recognition of what they have learned or the levels of achievement they have acquired at home.

For that reason, I think my response to the associations was that I have some concerns about placing sole responsibility with a department at this time, but I do think that there need to be some further discussions and some further deliberations with regard to an appropriate path to take regarding home schooling. If we wait until we can put it into legislation, I am afraid it may not come for the next year or two or maybe even three.

For that reason I feel so strongly that there has to be some criteria established for home schoolers that we have moved ahead with regulation. It does not mean that we will impose our will on school divisions to take responsibility. There are still, I think, areas to be discussed and I have indicated very clearly that I will not move until such time that we have had complete consultation and there is an understanding and some agreement as to how we can move forward as a community because I believe very strongly that this whole area of home schooling and education is a partnership approach. If we try to impose our will we will not go anywhere. I just wanted to clarify that.

Mr. MacNeil: If I could just respond. Certainly we would agree with many of the points you raise with respect

to the need for standards, the need for assurances, that children home schooled or schooled in any of the systems, achieve standards that will permit them to function.

Our concern with the present wording of the amendment is that in essence it removes the responsibility from anyone until such time as regulations are developed. Presently, as you know, a field officer must authorize. Under the present wording there just does not seem to be legislative definition as to who is responsible and that is essentially our concern.

The other questions we raised in our brief of course is the standard of process that one has to go through in the development of regulations. We know that it does not measure up to this process, for example. Those are our concerns, that there will be a time, should this legislation be passed, where the Government is not responsible for home schooling, the school divisions are not responsible for home schooling, so I guess the question we raise is, who would be. We think that it should rest with Government until such times as regulations are developed that in essence support that status.

Mr. Derkach: Mr. MacNeil, you raise a good point, and I do not disagree with that, that there needs to be some clarification in that regard. We would propose to leave the present system in place, although it is very inadequate. I think it needs to be left in place until such time that regulations can be drafted and the consultation process takes place and then the regulations would come into force on proclamation. Certainly I feel very strongly that if we are allowed to move ahead with this legislation, which enables us to make the regulations, that we would immediately begin a round of consultation with the affected parties so that this does not drag on for another year, another two years, so that hopefully by the fall, or some time next year, we would be in a position to say, this is how we will proceed with home schooling now, and that from that point on we will monitor it and make the necessary amendments.

Mr. Chairman: Thank you for your presentation, Ms. Buffie and Mr. MacNeil. Those are the presenters that we had on Bill No. 59.

BILL NO. 60—THE EDUCATION ADMINISTRATION AMENDMENT ACT

Mr. Chairman: We will now go to Bill No. 60, where we have Ms. Betty Husby, Manitoba Teachers' Society. Once again, you may proceed. Do you have presentation on this separate?

Ms. Betty Husby (The Manitoba Teachers' Society): It has been circulated, I believe.

Mr. Chairman: It has been circulated, thank you. Go ahead.

Ms. Husby: Mr. Chairman, Mr. Minister, ladies and gentlemen, a brief, brief submission.

The Manitoba Teachers' Society is pleased to have the opportunity to present its views on the legislation

proposed in Bill 60, The Education Administration Amendment Act.

The society is the representative of more than 13,000 public school teachers in Manitoba. Its views are based on policy decisions taken by the provincial council, a representative assembly of 300 teachers, at its annual general meeting. This submission will comment briefly on each of the amendments proposed.

Section 2, an amendment to Subsection 3(1). The society supports this amendment, anticipating that it is the objective of the Government to ensure that private schools are subject to the same responsibilities and obligations as the schools in the public system. This is particularly important since constitutionally the provincial Government has a responsibility for education in this province. Therefore, even when it delegates the delivery of the service to a private school, it retains the responsibility for the welfare of children. This is independent of the fact that these schools may receive public funds.

Section 3, amendment to Subsection 4(3). The effect of this section appears to be the extension of the Minister's regulatory power to include the grants to private schools. To the extent that the province is creating a second publicly funded system, this is probably consistent with such an objective.

Section 4, amendment to Subsection 11(1). For some time, The Manitoba Teacher's Society has drawn attention to the inconsistency in the manner in which appointments are made to the advisory board.

The proposed amendments, while bringing greater consistency to this section, do so by addressing the wrong subsections. The society believes all bodies represented on the Minister's advisory board should appoint their own representatives. Rather than amend Subsection 11(1), Subclauses (e)(vi), (vii) and (viii), the society proposes that amendment be made to Subclauses (e)(iii), (iv) and (v) by deleting respectively "appointed from persons", "appointed from members" and "appointed from persons".

In conclusion, the society expresses its appreciation for the opportunity provided to express its views on the amendments to The Education Administration Act that is in the Bill before this committee. It is hoped that the concerns and the suggestions are given serious consideration before the Bill is presented for third reading. Thank you.

Mr. Chairman: Thank you for your presentation. Any questions? Mrs. Yeo.

Mrs. Iva Yeo (Sturgeon Creek): Just one question regarding Section 4, the amendment of Subsection 11(1). If I may interpret your statement here, the belief of the Teachers' Society is that Manitoba Teachers' Society, the Senate, et cetera, should—I am making this a statement but it is really a question—be able to nominate only the number of representatives that are required on the advisory board from their particular organization. What you are saying is that if you have three members, your organization should be able to submit the names of those three members?

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Ms. Husby: Yes, it is our belief that the society and the other organizations would each name the best person in their light to represent them on these committees rather than to submit a series of names.

Mrs. Yeo: Just a statement that I have an amendment that addresses that perhaps in somewhat a little different way than you have stipulated here, but the intent is the same.

Mr. Chairman: Any more questions? Mr. Storie.

Mr. Jerry Storie (Flin Flon): Just a couple, Mr. Chairperson. The first, Clause 2, Subsection 3(1), when it talks about adding an amendment giving the Minister the power to look into any matter relating to welfare of pupils enrolled at private schools, I presume that the impetus for the amendment was a number of cases of abuse at private schools, and the Minister in the House indicated that he could not respond. I am wondering whether the society has had a chance to look at the obligations, for example, of the Minister of Child and Family Services (Mrs. Oleson) with respect to abuse and whether this amendment is really redundant in the sense that, first of all, the Minister has responsibility for all students of school age, and b) the Minister of Family Services is responsible for children who are in danger of being abused.

* (2320)

Ms. Husby: We believe that it is the Minister's responsibility; it is the Government's responsibility for the education of the children, but we are commenting here only on the amendment rather than on a position which the society might take. That is why our comment is as it is.

Mr. Chairman: No more questions? Mr. Storie.

Mr. Storie: Mr. Chairperson, I have no problem with this particular amendment. It really in my opinion continues to subterfuge that somehow the Government is making private schools accountable when I believe there are other means of making them accountable in terms of neglect or abuse of children.

The second amendment that you talk about deals with a very minor looking amendment, which strikes out the words "to a school division or school district." At one point I wrote to Legislative Counsel and asked them whether that in fact meant that the Minister of Education (Mr. Derkach) was providing grants illegally to private schools. This section deals with retroactive grants. Retroactive grants were given by the Minister of Education last year, back many months to September of '88, in violation of the Act, because he did not have the power to provide grants retroactively to other than school divisions or school districts. This is probably just bringing in—

Mr. Chairman: Mr. Storie, ask the presenter the question, please.

Mr. Storie: Mr. Chairperson, I am just trying to provide some background.

Mr. Chairman: Well, good lands, you are all over the waterfront. Let us get back on track.

Mr. Storie: Mr. Chairperson, I am still on Subsection 4(3). I am wondering whether the only concern of the Teachers' Society is that this basically gives the Minister that unfettered power that he wants.

Mr. Chairman: Ms. Husby, do you want to respond? If not, that is fine.

Ms. Husby: My response, I think, is quite clearly stated in our brief.

Mr. Chairman: Yes, I think so too. No more questions? Thank you for your presentation.

Is there anybody else who would like to make a presentation to Bill No. 60? Mrs. Doreen Houston, would you please come forward to the mikes, please?

Ms. Doreen Houston (Private Citizen): I actually wanted to speak on Bill 59.

Mr. Chairman: Oh, I am sorry. I asked before whether there was anybody else. I am sorry, I guess you did not hear me at the time.

BILL NO. 59—THE PUBLIC SCHOOLS AMENDMENT ACT (Cont'd)

Mr. Chairman: Is it the will of the committee that we would now go back to Bill No. 59 and hear Mrs. Doreen Houston? Agreed. Go ahead, Mrs. Houston.

Ms. Doreen Houston (Private Citizen): Thank you very much. As the parent of children who have been in the public school system and one of them having special needs in the category of learning disabilities—

Mr. Chairman: Do you have a written presentation?

Ms. Houston: No.

Mr. Chairman: No. Pull the other mike at you as well. That is fine, great. Go ahead, please.

Ms. Houston: Where was I? As a parent of two children who have been in and out of the public school system—and one of them in particular has caused us a great deal of trouble in the system because he happened to be born with learning disabilities and still has them to this day and will for the rest of his life—the biggest difficulty that we have had is trying to get information out of the public school system. That is why I am speaking upon your proposed legislation about access to information.

The current situation is that schools and school boards are allowed to withhold information from parents. Is that what you want? The information in the files is not communicated to parents, and I notice your proposal that says upon a request from a parent they will give it to you. Does that mean that they have the legal ability to withhold information until they receive a request?

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Mr. Chairman: Mrs. Houston, please finish your presentation, after which the committee Members can ask you questions in respect to your presentation. The Minister will take some notes in this respect and will try to respond to that because he feels it is in the point of a question.

Ms. Houston: I take it that the legislation allows schools boards, schools, the public school system, to continue to withhold information from the parent that would be in the files until such time as a parent made that request. I take it that is the meaning of the section that you have where it says upon request, the parent has to request, but up until that time, they can withhold that information from the parent.

I would suggest, as an alternative to that withholding until the parent asks, that you oblige schools and the public school system to report the data that they have and that they are using for your child's education. Instead of saying upon request, you would say that a school division shall report to the parent data contained in the files. There should be no more withholding of that information. That is the end of my presentation.

Mr. Chairman: Thank you, Mrs. Houston.

Hon. Leonard Derkach (Minister of Education and Training): Mrs. Houston, with regard to your question that you posed in your presentation regarding withholding information from parents, the intent of the legislation is such that we want to ensure that parents do have access to information that schools have on children. We were quite specific in the information that we want to allow parents to have. No. 1, it is a file on that child or a report that the school has within its possession or the school board may have, a record that a school board may have or the school may have.

Education is a partnership between the parent, the school, the school board. The parent has a responsibility, as the school does. The school cannot send this information out to each and every parent because much of this information would be regarded as fairly sensitive and confidential by the parent him or herself. I am sure you as a parent would not want your child's information circulated about through the mail or any other way. For that reason, for those parents who have children in school, there is some onus to go to the school, request the information.

Now we are suggesting that schools will not be able to say, no, you cannot have the information that is on file on your child, that the school will have to divulge that information to the parent. Now, there is a section in there that indicates also that at a time that is agreed to by both the parent and the school. The reason that is put in there is so that schools are not just asked for the information at any time of the day and required to give it, that there be some reasonable way to approach this. This is not inconsistent with many other ways of getting information from other organizations.

So I am suggesting to you that information is now made available to you as a parent, or, after this Bill is passed, it will be. Schools will be mandated to do that at a time that is convenient for the school and yourself.

But you as a parent have a responsibility there as well, that if you want information on your child, is up to you to go to the school and get that information.

Mr. Chairman: Ms. Houston, do you have any response to that?

Ms. Houston: Well, I disagree with you. When you have a child with a learning disability, it is there. You are in and you are out. School are always retesting, always re-evaluating, always reprogramming, and that is the type of information that parents have to have on an ongoing basis so that they can actually be in this partnership. It is not fun to be very ignorant in a partnership. It is not a partnership. That information for a special needs child has to be coming on a regular ongoing basis.

The onus is not on the parent to fish it out. The minute you get it they are compiling more. Do I go back once a week? Do I go back once a month? Do I go back every two months for twelve years? Thanks a lot, but I have been doing my job, but I would like a reasonable way to be provided with the information that you are working with so I can work too on an ongoing basis.

I would certainly suggest that it come with the report card and be at report card time where this other data also comes along because that is always followed by the parent-teacher interview or a team meeting, if you will. There is where you re-evaluate progress, re-evaluate program and perhaps make some adjustments. But for the parent to always be stuck in the position of being totally ignorant unless you ask and ask, the system needs to be a far more reliable in giving that information to parents.

I ask that you consider putting the obligation on the school system. They are the ones with the data, and they are the ones who are not sharing.

Mr. Chairman: Mr. Minister. That is fine. We want to thank you, Mrs. Houston—oh, Mr. Storie has a question to you.

* (2330)

Mr. Jerry Storie (Flin Flon): One question, perhaps you can indicate to the committee what information it was, or if you prefer to not answer this because it is of a personal nature, what kind of information do you feel is not being given on a regular basis? Most schools do provide report cards; tests are sent home. What kind of information are we talking about obliging school divisions to offer?

Ms. Houston: When your child falls under the category of special needs, you are under a different process than the regular child in terms of subjects, courses, exams, regular report cards. Your child goes through a screening process and that picks up whether or not they may have a learning disability. Where is that report? Why does that not come to me? Why do I have to find out that you have even done it? Why are you not reporting to me things that you know about my child?

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He is in a bit of trouble. Once you get through the screening, if it indicates your child is in a bit of trouble, then there is the assessment process. Where are those reports? You know something about my child, it affects my child the way he lives 24 hours a day in my house and I deal with it for many years. You know something, I need to know something too, to live with this child. It is not just a school problem, it is a lifelong problem. Once you have done the screening and the assessment then you program for the needs of that child. Where is that child's IEP, and why did you not give me a copy of it?

Mr. Storie: I guess a question could be asked, the reverse onus could be asked. If your child was a special needs child and was undergoing assessment, was to have an individual program developed for him, is the obligation too onerous for parents when they are at an interview? I assume for the special needs child there were many, many interviews to say, where is the file, can I see it, and you are not satisfied. I gather that this amendment would require open access to the file.

Ms. Houston: You see, now I am an experienced parent, I know what to ask for; I can weasel my way through anybody's file. That is not a problem for me any more.

Nobody ever told me. I never got the information from the school system; I got it from another beleaguered parent who had been put through the mill by the school system. You are not told; you are not given reports. I am asking you to put the obligation on the system that is doing the reporting and the assessing and right now withholding that information. I want you to stop some of that withholding. They owe it to the parent.

It is really fun going to a parent-teacher interview and they tell you, you are emotional. Sure you are emotional, you are mad; you do not know what they are talking about because, gee, they have the report in their pocket and you cannot see it. Once you get through with that part of the process, you have finally got up to programming, then you go through the evaluation and the testing; then where are those results? They are certainly never reported to the parent. It is a different type of report card. I get a traditional report card and it tells me beans-all. It is this other data that is vital. I hate to tell you, my son might be back in the public school system, but before he comes back I would certainly like to get out the files you are still withholding from me.

Mr. Chairman: Very good. Any more questions? If not, thank you, Mrs. Houston, for your presentation. Thank you. Those are the presenters for Bill 59.

BILL NO. 78—THE PREARRANGED FUNERAL SERVICES AMENDMENT ACT

Mr. Chairman: I believe we have now, for Bill No. 78, one presenter, Ms. Bev Fenwick. Bev Fenwick, has your report been circulated?

Ms. Bev Fenwick (Private Citizen): Yes, it has.

Mr. Chairman: Good. Thank you, you may proceed.

Ms. Fenwick: Mr. Chairman, Minister, Members of the committee, I would first like to thank you for this opportunity to speak. I realize it is quite late and everyone is tired. I promise not to keep you a long time.

My concerns regarding Bill 78 have to deal with Section 5(4), Interest and Income to Purchaser—Transitional and Old Plans.

Many consumers enjoy and appreciate the fact that their funeral arrangements can be paid for in advance. This offers a sense of security and a peace of mind. The downside is their peace of mind is disrupted when, years later, they desire to make changes such as changing to a different funeral home.

The following is an example that clearly shows what happens when these desired changes are made. In the early 1970s, a senior couple decided to prepay their funeral arrangements and paid both contracts in full. From the time of purchase until the husband passed on, the funeral home changed ownership and director.

In 1985, when the husband passed on, the wife felt the funeral home did not handle the arrangements in a satisfactory manner. Many errors occurred at an added cost to the wife. As a result, the wife decided to change her arrangements to another funeral home. This is where the difficulties began.

After having paid for the services in full some 18 years earlier, the wife had to retain a lawyer in order to get her initial payment back without the accumulated interest, which was a considerable amount. To make matters worse, she was charged a fee of \$25 from the funeral home to get back that initial payment.

It would seem believable that the interest which accrues would be used to offset inflationary costs through the years, but it is inconceivable that this interest be kept for no services rendered and that this senior, on a fixed income, had to pay the additional inflationary costs.

According to the sale agreement, in Manitoba the interest is retained by the funeral home. There should be an amendment to this Act so that interest monies not be kept when no services are rendered and that this interest be returned to the purchaser as it is their money earned on their initial investment, which was put into trust until services were rendered.

These consumers should not be penalized for having signed a contract that today is being considered for change.

When making these amendments, the fairness of these consumers, many of whom are seniors, should be taken seriously. After all, when no services have been rendered, what justification is there to keep the interest and have these consumers pay added costs when money is already in the trust?

I might add at this point that the Minister, along with Mr. deGraeve (phonetic) and Mr. Baron (phonetic) had enlightened me to the fact that interest rates had not been in the contract to return to the purchaser because the interest rates had been released to the licensee yearly, I suppose, or at a set time, while the initial payment is sitting in a trust fund.

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I understand, too, that we are looking back at a retroactive period and that with the amendments, as it stands today, you are looking at making changes for the future, but we still have the question of a good number of people that have paid contracts 15, 20, 25 years prior, who are in this position of being manipulated. Thank you.

Mr. Chairman: Thank you, Mrs. Fenwick. Are there any questions? Mr. Maloway.

Mr. Jim Maloway (Elmwood): Mrs. Fenwick, I am very hopeful that this committee will be able to do something that will help to assure that situations like this do not develop in the future.

I am just a bit concerned with the Government, in particular this Minister, pulling its Bills when it runs into a bit of trouble. I am just concerned that the Minister might pull this Bill as well. I gather you would be somewhat disappointed if that were to happen.

* (2340)

Ms. Fenwick: Extremely; not only myself but a number of senior citizens that have come to my attention in regard to this, yes.

Mr. Parker Burrell (Swan River): Mr. Chairperson, I was just wondering, are you not familiar with the purple cross plan? It is the funeral association rather than limiting yourself to one funeral parlour or whatever—this to me would seem to be the answer for anyone that was really worried, because the association is a very credible group, and of course the staff would not change at the association. This probably came about because the undertaker had passed away, or whatever, and then you were dealing with a whole new set of people.

To me it make more sense to deal with the purple cross, or Purple Shield, whatever it is, that it does not matter which funeral home you use or anything, the accrued interest would go to the people that held the plan.

That plan is already in place, by the way.

Ms. Fenwick: If I might maybe clarify this situation. This senior couple bought the plan in 1972. The town we are speaking about is Portage la Prairie. It has only two funeral homes.

When these plans were brought into effect in the early 1960s, I am not too sure if there was a Blue Shield. I really do not think that either the funeral directors at that time or the seniors at that time, with their limited education, would have been aware of that service.

We have to understand that in those days communication was extremely more limited than what we have now, and public awareness was more limited. So what we are looking at are contracts that have been put together at that time period.

I am not standing here and saying everybody who did a contract in the early 1970s or in the late 1960s

wishes to take out their contract to another place. I am saying that there are cases—and this is not an isolated case—where people feel that to them their burial, their service, the time of need, it is a very special, a very emotional part in their life. Where matters have not been handled in a satisfactory manner, they should not be penalized to stay there, because if they do not, they are going to have to pay inflationary costs. We are talking about seniors on fixed income. That is really a little outrageous.

Mr. Burrell: The truth is, in the Swan Valley, we only have one funeral home. We use it extensively from all over the world, as a matter of fact. I have known of people who have died in England and were shipped back to Swan River for burial, and we are very satisfied with our funeral director and so on.

The Act does not address this problem that you have brought up?

Ms. Fenwick: It is to the extent that it is going to be making amendments so that no interest may be kept by the licensee, but it does not—and I can understand and I can sympathize with the Minister's dilemma that it might be very difficult to retroact to 20 years or 25 years past. I still do think that some type of condition or some type of term can be brought in to look at these very few cases that come in.

I mean, you are 85 years old, you have just buried your husband. You are not satisfied. I will tell you exactly what happened. The funeral home in question buried the husband outside of where the marker was. Now because it was a winter funeral, the wife did not realize this until the spring. She then had to go to the Manitoba Government to obtain permission to exhume the body to have the body placed into the right area. She also had to pay for two diggings. She had to pay for the digging of one and the closing of that one, and the digging and closing of the second grave. This is not right. No one can sit here and tell me that this woman should have to stay with this funeral home regardless of whether she is satisfied with that, and if she decides to change, well, fine, pay the inflationary costs, which I will add, were over \$1,800 extra that she had to pay to the other funeral home, on a fixed income. She cannot sue them because of the way the Act is.

Hon. Edward Connery (Minister of Co-operative, Consumer and Corporate Affairs): When did that happen, Mrs. Fenwick?

Ms. Fenwick: This was in 1985.

Mr. Connery: It is interesting that maybe the Government or the Minister of the Day had not attempted to intercede to get some accommodation, because we have had the odd problem with a funeral or cemetery, and by going to them and reasoning had it accommodated. Are you satisfied that the Bill in its present form, as we are proposing then, would really solve the problems that you are looking at?

Ms. Fenwick: It will possibly solve future problems that come in, but we are still looking at these old and

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transitional contracts. The way the contracts have been written in Manitoba, and it is very clear on many pieces of paper that I got from the Public Utilities Board that in Manitoba typically up until this point all interest goes to the licensee. My question is, why? Why do people get money for nothing?

Mr. Connery: That is exactly why the Bill was brought forth. I can assure you there is no intention to pull the Bill unless the Member for Elmwood (Mr. Maloway) tries to ruin it with some silly amendments that he is prone to do. Otherwise, the Bill as it is now presented will go through. There is no intention of pulling that Bill.

It is unfortunate that the previous Government that had been in power for the previous 19 years did not see fit to bring in legislation to protect the consumer. They are the greatest ones in saying, we were going to do it, had we had another week or two and all of

the problems would have been solved. It is unfortunate, but we are very pleased to bring in a Bill that is to protect the consumers.

We thank you for your presentation, and I really apologize for the lateness of night. You have had to wait through all the other presentations. We did not think there would be the number of presentations on 59 and 60. I thank you for your patience, because it was a good presentation.

Mr. Chairman: Thank you, Ms. Fenwick. If there are no more questions, I would like to thank you for making your presentation. Is it the will of the committee to rise?

Committee rise.

COMMITTEE ROSE AT: 11:48 p.m.