



First Session - Thirty-Sixth Legislature

of the

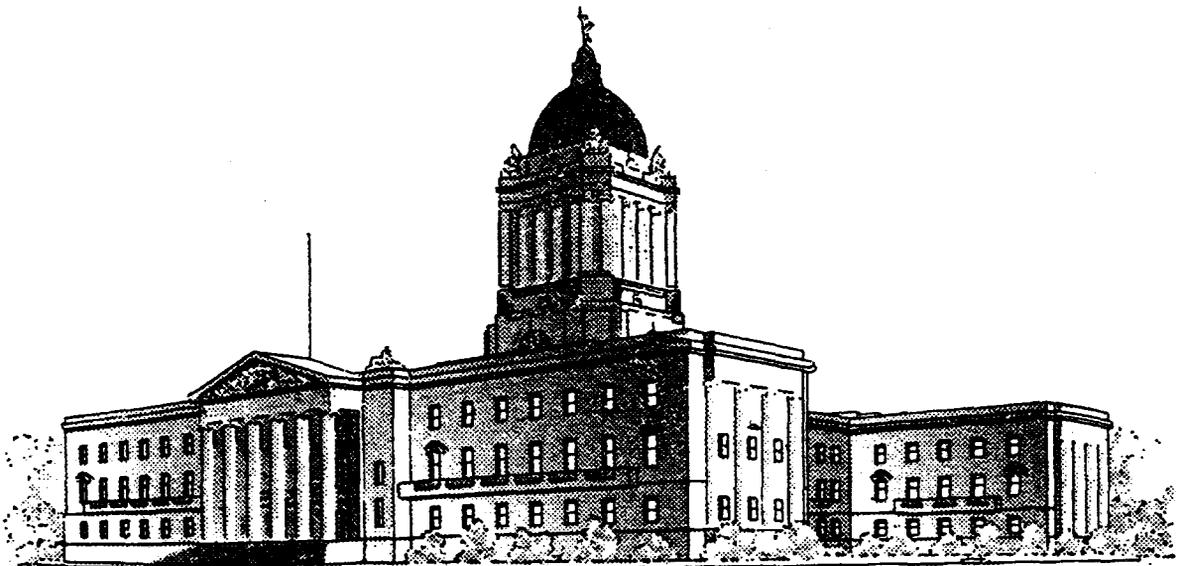
Legislative Assembly of Manitoba

Standing Committee

on

Municipal Affairs

Chairperson
Mr. Mervin Tweed
Constituency of Turtle Mountain



MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

Members, Constituencies and Political Affiliation

<u>Name</u>	<u>Constituency</u>	<u>Party</u>
ASHTON, Steve	Thompson	N.D.P.
BARRETT, Becky	Wellington	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave	Kildonan	N.D.P.
CUMMINGS, Glen, Hon.	Ste. Rose	P.C.
DACQUAY, Louise, Hon.	Seine River	P.C.
DERKACH, Leonard, Hon.	Roblin-Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary	Concordia	N.D.P.
DOWNEY, James, Hon.	Arthur-Virden	P.C.
DRIEDGER, Albert, Hon.	Steinbach	P.C.
DYCK, Peter	Pembina	P.C.
ENNS, Harry, Hon.	Lakeside	P.C.
ERNST, Jim, Hon.	Charleswood	P.C.
EVANS, Clif	Interlake	N.D.P.
EVANS, Leonard S.	Brandon East	N.D.P.
FILMON, Gary, Hon.	Tuxedo	P.C.
FINDLAY, Glen, Hon.	Springfield	P.C.
FRIESEN, Jean	Wolseley	N.D.P.
GAUDRY, Neil	St. Boniface	Lib.
GILLESHAMMER, Harold, Hon.	Minnedosa	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KOWALSKI, Gary	The Maples	Lib.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
MACKINTOSH, Gord	St. Johns	N.D.P.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McALPINE, Gerry	Sturgeon Creek	P.C.
McCRAE, James, Hon.	Brandon West	P.C.
McGIFFORD, Diane	Osborne	N.D.P.
McINTOSH, Linda, Hon.	Assiniboia	P.C.
MIHYCHUK, MaryAnn	St. James	N.D.P.
MITCHELSON, Bonnie, Hon.	River East	P.C.
NEWMAN, David	Riel	P.C.
PALLISTER, Brian, Hon.	Portage la Prairie	P.C.
PENNER, Jack	Emerson	P.C.
PITURA, Frank	Morris	P.C.
PRAZNIK, Darren, Hon.	Lac du Bonnet	P.C.
RADCLIFFE, Mike	River Heights	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack, Hon.	Niakwa	P.C.
RENDER, Shirley	St. Vital	P.C.
ROBINSON, Eric	Rupert's Island	N.D.P.
ROCAN, Denis	Gladstone	P.C.
SALE, Tim	Crescentwood	N.D.P.
SANTOS, Conrad	Broadway	N.D.P.
STEFANSON, Eric, Hon.	Kirkfield Park	P.C.
STRUTHERS, Stan	Dauphin	N.D.P.
SVEINSON, Ben	La Verendrye	P.C.
TOEWS, Vic, Hon.	Rossmere	P.C.
TWEED, Mervin	Turtle Mountain	P.C.
VODREY, Rosemary, Hon.	Fort Garry	P.C.
WOWCHUK, Rosann	Swan River	N.D.P.

**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS**

Thursday, October 26, 1995

TIME – 8 p.m.

We are going to start with Bill 6. Is it the wish—

LOCATION – Winnipeg, Manitoba

Ms. Becky Barrett (Wellington): I am sorry, but I thought that there was the possibility of an amendment to Bill 6.

CHAIRPERSON – Mr. Mervin Tweed (Turtle Mountain)

An Honourable Member: There is an amendment.

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Ms. Barrett: If there is an amendment to Bill 6, I would prefer waiting until the minister was here to enable us to discuss that.

Hon. Mr. Derkach, Hon. Mrs. McIntosh, Hon. Mr. Reimer

Mr. Chairperson: All right. I see the Minister of Rural Development has just come in. We are going to start with the Minister of Education (Mrs. McIntosh). Is it the will of the committee? [agreed] I have made a decision. Thank you. Could I have a suggestion from the committee as to the order of the bills?

Ms. Barrett, Ms. Friesen, Messrs. Laurendeau, McAlpine, Ms. McGifford, Messrs. Struthers, Sveinson, Tweed

APPEARING:

Mr. Marcel Laurendeau (St. Norbert): Mr. Chairperson, if I could recommend that we do the Rural Development bills first, as the staff is here.

Mr. Kevin Lamoureux, MLA for Inkster

MATTERS UNDER DISCUSSION:

Mr. Chairperson: Is it the agreement of the committee? [agreed]

Bill 5—The Education Administration Amendment Act

Bill 6—The Public Schools Amendment Act

Bill 21—The Rural Development Bonds Amendment Act

Bill 22—The Municipal Amendment and Brandon Charter Amendment Act

**Bill 21—The Rural Development Bonds
Amendment Act**

Mr. Chairperson: We are going to start with Bill 21, The Rural Development Bonds Amendment Act. I would ask if the minister responsible has a brief opening statement.

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Mr. Chairperson: Good evening. Will the Standing Committee on Municipal Affairs please come to order.

Hon. Leonard Derkach (Minister of Rural Development): No, I do not, Mr. Chairman.

This evening, the committee will be resuming consideration of Bill 5, The Education Administration Amendment Act; Bill 6, The Public Schools Amendment Act; Bill 21, The Rural Development Bonds Amendment Act; and Bill 22, The Municipal Amendment and Brandon Charter Amendment Act.

Mr. Chairperson: We thank the minister. Does the critic from the official opposition have a brief opening statement?

Ms. Becky Barrett (Wellington): No.

Mr. Chairperson: We thank the member.

The bill will be considered clause by clause. During the consideration of a bill, the title and the preamble are postponed until all other clauses have been considered in their proper order by the committee.

Is it the will of the committee to study these in blocks of clauses? [agreed]

Clauses 1 and 2—pass; Clauses 3 to 5—pass; Clause 6—pass; Clauses 7 to 9—pass; Clauses 10(1) to 12—pass; Clause 13(1)—pass; Clauses 13(2) to 16—pass; preamble—pass; title—pass. Bill be reported.

Bill 22—The Municipal Amendment and Brandon Charter Amendment Act

Mr. Chairperson: On Bill 22, The Municipal Amendment and Brandon Charter Amendment Act, does the minister responsible have a brief opening statement?

Some Honourable Members: No.

Hon. Leonard Derkach (Minister of Rural Development): Hearing that, Mr. Chairperson, I think we will forgo the opening remarks.

Mr. Chairperson: We thank the minister. Does the critic from the official opposition party have a brief opening statement?

Ms. Jean Friesen (Wolseley): No.

Mr. Chairperson: We thank you.

The bill will be considered clause by clause. During the consideration of a bill, the title and the preamble are postponed until all other clauses have been considered in their proper order by the committee. Is it the will of the committee? [agreed] We will do it clause by clause.

Clause 1—pass; Clause 2—pass; Clause 3—pass; Clause 4—pass. Can we hold this bill until the amendment comes back?

An Honourable Member: It will be here in a minute.

Mr. Chairperson: Great.

Preamble—pass. Shall the title pass?

Mr. Derkach: Mr. Chairman, I move

THAT the French version of the title of the bill is amended by adding "la loi sur" after "municipalités et".

[French version]

Il est proposé que le titre français du projet de loi soit amendé par adjonction, après "municipalités et" de "la loi sur".

Mr. Chairperson: Shall the amendment pass?

Some Honourable Members: Pass.

Mr. Chairperson: The amendment is passed.

Title as amended—pass. Bill be reported.

* (2010)

Bill 5—The Education Administration Amendment Act

Mr. Chairperson: On Bill 5, The Education Administration Amendment Act, does the minister responsible have a brief opening statement?

Hon. Linda McIntosh (Minister of Education and Training): No, I do not, Mr. Chairman. I am ready to go.

Mr. Chairperson: We thank the minister. Does the critic from the official opposition party have an opening statement?

Ms. Jean Friesen (Wolseley): Mr. Chairman, I do not have an opening statement, but I do have a number of questions that I wanted to ask. If we could perhaps do them all at the beginning, then just go to the bill, and I think, as the minister knows, we do have an amendment that we are going to propose as well, if the minister has a copy of it yet.

Mr. Chairperson: We thank the member. The bill will be considered clause by clause.

Order, please. Shall we discuss it clause by clause?

Ms. Friesen: I wanted to ask some questions first.

Mr. Chairperson: Just open questions? Okay. Would you like to start, Ms. Friesen?

Ms. Friesen: In the presentations, a number of questions have been raised about councils, the advisory councils and the format for the councils, the way in which they may or may not co-exist with existing councils, and I think our speakers in the House have put a number of comments on the record on that. Today we had some brief discussion of it as well.

I wanted to go over that again with the minister for the purposes of the record, because I am certainly still confused, and I think some of the presenters were still as well.

Our concerns are, first of all, for the existing school councils. As I understood the minister to say in the brief discussion we had this afternoon, it was not necessary for a school to have a school council under the regulations. It is a may, not a must. Okay, I understand that.

However, those people who are in existing school councils are concerned that the provision for 10 parents to come forward then triggers off an election, and the minimum number of people who are required to be elected are seven. It seems to me that that trigger that we talked about of 10 actually means not a referendum of should there be a council or should there not be a council, as we started to discuss in the afternoon, but, in fact, it is an election. Since only seven people are required, the hypothetical situation the minister was discussing, I could not see how that could occur.

Mrs. McIntosh: The legislation will require that if 10 parents ask to have the advisory council process begin towards the establishment of a school advisory council, then that process must begin, and that will involve several things. It will mean, first of all, that there will be ample notice given of a meeting so that all interested

parties can show up if they wish and an election process has to be put in place. Then the next thing that has to happen, presumably if those 10 parents request that this process begin, presumably those 10 parents would show up for the meeting.

It may be that some of those 10 would be willing to be the ones to let their name stand for election, but there is no guarantee that they would. I have known many parents to request the establishment of certain bodies that they have no intention of having to be the ones who would take the time to deliver. As well, of course, they would have to ensure that there were community reps willing to let their name stand and be elected. So 10 parents requesting the process begin has a strong possibility that you would end up with a school advisory council but no guarantee, because it is not community reps who were asking for it and it is not necessarily people who have indicated they are willing to run that are asking for it.

So the automatic assumption that people are making that if 10 parents ask for it, it will automatically occur, is not, in fact, the reality, although, certainly, if 10 parents request it and an election takes place and there are sufficient people willing to run and sufficient people willing to elect them, then, of course, it would be established. The other way, of course, that situations can change would be if you have an existing parent council or parent group that is popular and presumably represents the entire school—because many of these say they do represent the entire school—then they should have no fear about coming and standing for election themselves being elected and then setting, as they must, a constitution that would tell them how to govern themselves. That constitution could reflect exactly the way they have been governing themselves in which case you would end up with an elected parent council that would, if it wished, have the powers that the legislation could allow them to have but could also be what it wants to be.

The main and only difference I can see in that scenario is that that parent council would have to subject itself to being truly elected and truly representative of the school population as a whole in a publicly called, publicly advertised meeting that then would have some accountability attached to it. Part of

the concern, as you know, I am sure, the Parents' Forums were saying to us is that in so many schools there are parent groups that have just sort of gotten in their little clique of people who have taken control—and there may be 12, 14 people—who have never been elected by the parents as a whole because the parents as a whole have never been given the opportunity to have a publicly posted electoral process in place.

* (2020)

So what we are trying to say is that where schools have no parent council or no advisory council and they would like one, here is a process with a model that we respect and would acknowledge. Where there are parent councils and they are moving happily, this process could allow them to codify and give additional status to themselves. Where a clique has taken over the school and there are groups of parents on the outside who feel no way of getting in, this would force an election to allow the community to choose whom they want on and to set the kind of constitution that they like. No one should feel threatened by that because if their council exists is the right one, they have a process to establish it and make it a legal entity. If they are truly the most popular, they will all be elected.

Ms. Friesen: Again, just to further clarify. It is not possible under the minister's understanding of this legislation for two councils to co-exist.

Mrs. McIntosh: Not in practical terms, no. There might be two groups of people, but there would be one that we would acknowledge as the group that officially represents the school. You could never preclude people from coming together, nor would we, but officially the school advisory council would be the one that would be seen to be the council representing the elected portion of the school that we recognize.

Ms. Friesen: I am sure the minister is aware of schools where there are two and three different programs and where there are at the moment different councils which are responsive to those parents in that community. How does the minister intend in regulation to cover this existing situation?

Mrs. McIntosh: Mr. Chair, you can always have some committees or associate groups or working committees or partnering councils or something—you would still have the council—and they would have a relationship that could be spelled out in some way that would cause a true liaison to have interaction between, say, in a dual-track school, you might have the two committees that would be the English and the French channels with the advisory council. There are ways that you can do it that would recognize personalities. I should not say personalities because a group does not have a personality necessarily, but I think you know what I mean.

Ms. Friesen: One of the problems we have with this bill, as the minister knows and as our amendments perhaps in part address, is the problem that we are being asked to vote on a bill which will mean changes for a number of schools and where we do not know anything really about the regulations that are going to be put in place. The regulations are going to have an enormous impact upon how these schools run. We, I think, have mentioned in debate that we would very much have preferred to have seen something like the Yukon public school act where the nature of the franchise, the nature of voting, all of that would have been laid out in the bill and could have been publicly discussed and publicly debated. Here we have no idea what we are in fact putting into legislation because the proof, in a sense, is in the regulation.

So I did want to ask the minister a few questions about the booklet that was published some time ago called The Advisory Councils for School Leadership. What I am interested in is, how close is that going to be to the kind of regulations the minister intends?

As I say, our first preference is to have this in a bill where it can be publicly debated, but I do think people also are looking for some guidance on this, particularly since the minister, or between ministers, there has been a change of policy on the nature of who is defined as a parent. If you remember in an earlier version of these guidelines, parents who were employees of the school board in some way were not included in the same way as parents who were not employees of the school board, so there has been a change, and that is always

the problem, of course, with not having something written in legislation and being asked to vote on it.

We do not know what we are voting on here. Particularly since there have been changes and shifts in how the ministry defined membership in school councils, we are even more concerned.

Does the minister have a general statement on how close her regulations will be to the existing document? The one I have does not have a date on, unfortunately, but maybe we can identify it by its absence of a blue cover. The guidelines Advisory Councils for School Leadership—

An Honourable Member: You took it off the table.

Ms. Friesen: No, I did not. This was the only one they had left.

Mrs. McIntosh: They will follow those broad frameworks pretty closely.

One of the reasons that we are going to have regulations, just as the member indicated, we have made two adjustments already to the two pieces of legislation we had reflecting what we have heard from the public. As we go into something new of this nature, we will be setting regulations that will match very, very closely the broad framework and the principles in this, which is blue or gray or noncovered, but having it in regulation, of course, will give us more flexibility.

If we see as we go about our implementation that council says, okay, we have done it this way now and we really feel if we made this slight adjustment here or this slight adjustment there, it would be improved, then we have the flexibility to adjust that for them as we begin to get up and working with it as opposed to having to open a whole piece of legislation which does not allow for a quick response but takes a lot more time.

It is our intention that the regulations will follow very closely the framework that you see before you.

Ms. Friesen: Can I ask a couple of specific questions then on the existing guidelines that we have in front of us?

The franchise for these school advisory council elections seems to be undefined to me, ill defined. It is listed as those in attendance who are parents of children attending the school or community members in the school catchment area.

My concerns in this area are that many of us represent schools in the inner city, for example, where many parents are not citizens, so the normal provincial franchise, which many provinces have used for these kinds of councils, does not apply. Schools, for example, like Sister MacNamara or John M. King, would lose a lot of their parents if the existing provincial franchise was to be applied.

Now the existing guidelines that the minister has indicate that that is not the case. It is essentially anybody who shows up to a meeting and presumably has been informed in English or in many other languages in the case of schools like Sister MacNamara that such a meeting exists, that they have the right to attend and the right to be part of a school council.

Is there going to be any change from that? Is it everybody who turns up to a meeting or is it going to be the regular provincial franchise?

Mrs. McIntosh: What we are talking about is a community of interests, a community of people who have interest in and concern about the school. By the school, I mean not just the building, but the people who move in that building.

By that, I am talking about people who live and work in the area. So you would have people who are residents, people who maybe own a small business in the area, or people whose full-time regular employment takes place in that area. So it would be people who would be spending a majority of their time with an interest in that area, either through work or through living. They would be people who could be a retired citizen down the street, a grandma, a person who works in the butcher shop or owns the corner garage, those kinds of people.

Ms. Friesen: I understand the minister's intent by this, and I understand what she is saying is that citizenship will not be a requirement.

* (2030)

Mrs. McIntosh: Citizenship as in Canadian citizen? No. If they live and work in the area, giving them the special interest in the building and its occupants, then they are the people in the neighbourhood. To quote Sesame Street: Who are the people in my neighbourhood? Those are the people who care about me and what I do.

Those are the people who would have an interest in that school. They do not have to be Canadian citizens to be concerned about that.

Ms. Friesen: That was the point I was making earlier, because citizenship would have excluded a lot of people who are now very much involved with schools.

The second area I wanted to pick up, Madam Minister, is the nonresident voters. I understand what the minister is getting at with an interest in the community but the minister's example was of property owners. That is a very difficult thing to define. Are you going to exclude—and I know you have not done the regulations but I am looking here for broad general intent—people who work in the neighbourhood but who are not property owners?

Mrs. McIntosh: I did not quite get your question, but I will say again what I was intending and it might answer what you were asking. I am talking about people who live and work in the area, so if someone comes in there every morning at 8:30 because they operate the corner dry-cleaning establishment and they are there until five o'clock at night, five days a week, they work in the area. They may not live in the area but they work in the area, in the catchment area of the school and they see those children coming and going every day and their interaction with that school has meaning and substance. The children know who they are and they know who the children are. My deputy has just pointed out as well, of course, which I am just assuming, people whose children attend the school. So that could also include people who maybe do not live

in the area and do not work in the area but the children attend the school, so they are parents of people in the area.

Ms. Friesen: While I understand the minister's intent, you are in fact casting a rather wide net here. Again, if we use the example of Sister MacNamara School, Great-West Life is in the catchment area of Sister MacNamara School. Now some of those people who work there may indeed have children there but that is a very large number. That is what I am getting at—is it property owners? Is it people who work in the area? Why would we be distinguishing? That is why I think it is important to have this kind of thing laid out in advance.

Mrs. McIntosh: The member is asking very good questions and these are questions that we have been talking back and forth about. However the regulation is worded, our intention here, and I will make sure the intention is really clear. We are talking about people who have a very specific interest in the well-being of that school, because they have proximity to the school either by virtue of their dwelling place, their working place or the children they have attending that school. It is not our intention to have people on the school advisory committee who do not have that particular interest in the school or do not have that proximity to the school, in other words, have no relationship with the school or the occupants of it.

Ms. Friesen: Has the minister considered how this would be enforced? Who is to decide who has the interest? How will that be decided, and then for a general definition of nonresident as well?

Mrs. McIntosh: As the regulations are set down, of course, it will become clear because when you talk about the criteria for eligibility and you specify that it has to be a parent of a child in a school, a community representative who has to fit this and this criteria, a teacher who is there ex officio, whatever the criteria are that we have.

The other thing that I should indicate is the regulations will be shared as they are developed. They are not going to be done in isolation before we have had tremendous parental input in this model. This

model we are proposing comes about as a direct result of listening to parents and taking their advice almost to the letter as to what they thought should be done. We listened to some of them saying we feel left out because there is a click in the school and we do not know how to get in. We feel left out because the principal discourages councils, you know, whatever their things were. These that you see here have come from consultation process with parents and regulations that we develop will presumably, hopefully reflect what they are saying as well. They will be shared as they are developed—my deputy wrote a note saying the same thing.

Ms. Friesen: One of the presenters, I believe it was school trustees, asked for additional consultation and they mentioned the minister of government affairs process that he is developing for consultation on all government regulations. Has the minister had time to consider that as an option?

Mrs. McIntosh: There will be regulations developed with this particular act that I will definitely be seeking some reaction from people like trustees and teachers on independently of the good initiative put forward by Mr. Pallister. It has always been my habit and style to check with the people who will be delivering services as to how they see regulations being implemented. I did that with The Liquor Control Act when we had I think every hotelier, restaurateur and church group in town commenting on it, and the same with The Landlord and Tenant Act. I do not know if there were any tenants or landlords I missed in Manitoba developing those regulations, but they actually helped me draft them. Consumer and Corporate Affairs, The Securities Act, always brought the people in; so it is my style, it is my habit and it is also the wish of government in this case that that kind of consultation take place.

Ms. Friesen: An earlier version of this set of guidelines included separate roles for those people who were employed by school divisions. That, I understand, has been removed, but perhaps, for the record, the minister could state how that has changed and what she intends and the final regulations.

Mrs. McIntosh: We had originally, when the guidelines first went out, a limitation on the number of teachers who could be on the committee. That affected parents of children in the school who happened to be teachers. So what we did, recognizing that the Parents' Forums had told us that they did not want to have a council that was dominated by educators—they wanted to have lay people on that, but recognizing the rights of people who happen to be teachers, then it was altered so that up to one-third of the positions in the council be filled with community members, and the teacher component would be up to—

Teachers and other staff will make up one-third of the parent and community positions in any council. They can serve as an elected parent or a community rep, whichever. But we have also said that the advisory councils can pass resolutions to increase the number of positions available for teachers and other staff up to one-half. So they could then have half of the council being teachers and the other half being lay people.

As well, of course, if they wanted to include—if they had 10 parents who happened to be teachers in the school, they could increase the size of the council to 20 or 30 or 50 if they wanted to so that they could have all the teachers they wanted in terms of the actual numbers or the number of people, but they would still have to have that percentage kept.

Ms. Friesen: Did I understand the minister to say that the councils have the option or will have the option of expanding the number of teachers?

Mrs. McIntosh: Yes.

Ms. Friesen: On page 4 of the copy that I have, it says not more than one representative may be a teacher. Has that been changed?

Mrs. McIntosh: Where are we looking here?

* (2040)

Ms. Friesen: I am on page 4.

Mrs. McIntosh: Yes, I am just trying to find it.

Ms. Friesen: Okay.

Mrs. McIntosh: On page 4, number 2, that is no longer correct because we changed that. We changed the guidelines. First of all, they can change the council to have up to half of their members being teachers or staff. Secondly, they have the right to make the council the 100 people, and, if half of them could be teachers, you could have 50 teachers on if you wanted to. [interjection]

That is the other thing, too. I am not sure if that was made clear. There is no longer any restriction on where that teacher teaches. They could be teaching anywhere.

Ms. Friesen: Is there a date on the document the minister is working from so that we can identify it?

Mrs. McIntosh: Yes. This is a news release dated April 12, 1995.

Ms. Friesen: So there has not been a new addition of the guidelines. There has simply been a corrective news release dated April 12?

Mrs. McIntosh: All schools were notified in writing by the deputy minister. I do not have that letter here, but the deputy has offered to go get it if you would like to see it. It does not have the exact date of the letter, but it was sent out last spring.

Ms. Friesen: No. I just wanted it for the future to make sure that since there is more than one document in circulation, we are all working from the same one.

Finally, on advisory councils, I wanted to ask the minister about something which I think is still in there, and that is the powers of the minister to dissolve a council which is not functioning, as it says in the document I have, in keeping with the mandate as defined by the province.

There are a number of concerns here, and, again, we have raised these in debate. The dissolution by the minister of a duly elected council is a very serious step and a very serious mandate for a minister to take upon themselves. We do have in Canadian, I do not know if it is law but certainly in Canadian tradition and

practice, the practice of disallowance, not used very frequently anymore, but certainly that is the common procedure, that you take a decision and you disallow. You do not dissolve the body that has been elected by others. In particular, in this case, there is no appeal either. So I am very concerned about that. It seems to me unnecessary. I understand what the previous minister had in mind when he was putting that in place, but it is, in democratic terms, a very difficult step.

Mrs. McIntosh: It is also a power that the Minister of Education has had forever here in Manitoba, that the minister can dissolve school boards, and school boards have a far more heavily weighted vote in terms of the mandate that they are given. The minister can dissolve a school board that is not fulfilling its obligations, and the school board has far-reaching powers itself and a very large electorate electing it, so this is similar to that.

I do not know that a minister has ever, in my time anyhow, dissolved a school board, and I do not know if in the history of Manitoba a minister has ever dissolved a school board, because it is a very, very serious thing to do, and this same emphasis here, it is a very powerful step and would be, as would be the dissolution of a school board, an extreme last resort. But it is there as a last resort if a worst-case scenario of gross abuse or violation of constitution ever were to come in place, that the minister would have that power.

But you are right. It is a very awesome power, and it should be used seldom, if ever.

Ms. Friesen: I had some questions on other sections of the bill, and we had agreed to go through.

The issue of principals, a number of presenters made the point that principals were teachers and that this, they believed, was unnecessary or at least they could not understand the reason for it.

Does the minister have an explanation as to why this has been added at this time?

Mrs. McIntosh: Why the section on principals' duties? It codifies that which has been understood. Those are responsibilities that by and large have been expected of principals but not codified. Given our

movement now towards instructional excellence, it seemed important that it now be written down for those few principals who have not always recognized that that was part of their responsibility.

It simply codifies what is or should be practice.

Ms. Friesen: Perhaps I am not understanding this right. I think what it is amending is 2(1), and it is the minister's responsibility for principals and teachers. I do not quite know why it is an issue of codification or of the duties of teachers.

Mrs. McIntosh: The act will talk about the duties of teachers. Principals are teachers or used to be teachers, and this will now clarify for them, just as we can set up regulations respecting the duties of teachers.

Ms. Friesen: In Section 2(3) of the new act, in introducing that section, one of the areas which has been dropped is the rationale for suspension. In the existing act as it is at the moment, the quotation, behaviour is detrimental to the welfare of the school community, was given as a rationale or the broad framework for the decisions which were to be reached about suspension. That has been eliminated in this new bill. Could the minister explain to us why that rationale has been eliminated?

Mrs. McIntosh: Mr. Chairman, in the existing act, they talk specifically about things that are injurious to the school, and we are now altering slightly so that the teacher can suspend from the classroom. We will be developing regulations that will talk about not the school but the classroom, and the regulations will more closely reflect the responsibilities now given to principals and teachers. So what was in the act was very specific and touching on one area only and that is, hence, the change.

Ms. Friesen: It seemed to me as I read that section which has been eliminated—Behaviour detrimental to the welfare of the school community—was as encompassing as it could be. So I am—

Mrs. McIntosh: My understanding is the act says "injurious to the school" not the school community. If it said school community, it might be more closely

reflected, but we are talking about injurious to the school and in the regulations we will be talking, as well, was injurious to the class. Sorry.

Ms. Friesen: I do not have the act in front of me so it is possible it does say that, because I am reading from something else. So the minister will be developing regulations, again, in consultation with principals and teachers and parents?

Mrs. McIntosh: We have already had some fairly good dialogue with principals on their needs and we continue to do that. I have been trying to meet regularly with the teachers. I have not been able to meet as often as I would like just because of the schedule.

* (2050)

Mr. Chairperson: Clause 1—pass.

Shall Clause 2.1—I am sorry.

Ms. Friesen: Mr. Chair, I have a group of amendments which I think are to be inserted here or at least offered for insertion here.

I move in both official languages

THAT the following is added after section 3.1:

School advisory councils

3.2(1) A school advisory council for each school may be established to advise the principal and the school board regarding matters relating to that school and to exercise such powers and perform such duties as may be specified by by-law of the school board.

Majority on council to be parents

3.2(2) A majority of members of a school advisory council shall be parents of students attending that school.

School board by-law

3.2(3) The formation, composition, powers and duties of a school advisory council shall be specified by by-law of the school board.

Mr. Chairperson: Is there discussion on the amendment?

Ms. Friesen: Mr. Chairman, if I could explain the purpose of the amendment. I go back in this purpose to the Roy White committee—the panel on legislative reform—which did circulate through the province over a number of months and provided some recommendations to the government. One of those recommendations dealt with school councils and that is really where much of the wording is taken from. Of course, the purpose here is to ensure that school councils are connected to school boards and that there is what we would consider to be a greater flexibility in their composition.

We are concerned, as Mr. White's committee was, about seeing school boards by-passed in this. We are very much in favour of parent committees and school advisory committees, in general, and note that 85 percent of Manitoba's schools are covered by such councils already. We do see that they should be working in very close conjunction with school boards. So that is the purpose of this, and the other sections of it really follow from that relating them to the school board.

Mrs. McIntosh: Did you want to go through all three?

Ms. Friesen: What I was saying was that this is the purpose of all three of them.

Mrs. McIntosh: I appreciate the intent but my concern is that a simple majority of parents is not what we wish. We wish a stronger majority, a two-thirds majority. We wish to have school advisory councils be able to reflect attitudes that may be peculiar to their school that might not be the same as the school next door, and the by-law of the school board, of course, would affect all schools. Again, for those reasons, while I appreciate the intent, I feel our desire here was to give the parents a stronger voice. This amendment would dilute somewhat the voice we are trying to give them.

Mr. Kevin Lamoureux (Inkster): Mr. Chairperson, just very briefly, with respect to the amendment, unfortunately or fortunately, depending on what side you sit on, of course, I am not on the table so I would

not be able to participate in a vote, but if I could vote, I would not support the motion.

I do very much believe, very strongly believe, that it would have been appropriate to have had more of the guidelines and so forth in the legislation, and just to leave it at that.

Mr. Derkach: Mr. Chairman, I would like to ask the proponent of this particular amendment why she feels that it would be important that the powers of the advisory council be specified in by-law by the school board.

Ms. Friesen: Well, I am going from the Roy White report in the first instance, and that is certainly what they believed after having listened to many hundreds of Manitobans. It seemed to me that was of value. I also do believe that the school councils should be in closer connection with the school board.

If I can reply to the minister as well, the minister is arguing that her proposal gives greater strength to parents and, at first glance, it certainly does—two-thirds versus a majority. But of course what I am proposing here gives the broadest flexibility and does not exclude two-thirds at all but allows school boards and indeed school advisory councils to define what it is that is special to their community.

It also seems to me that the minister's, and here again I am looking ahead, it may not be this minister's intent, I believe that the present bill as it exists with the school councils that are responsible to, defined by the minister and can be dissolved by the minister, along with the changes to the principal's duties, again, being much more closely related now to the minister's plans and proposals, essentially sets in place the possibility of charter schools, and I think that is where the past minister, the previous minister, was going. He was setting in place the legislation so that that could happen. He was not saying at that point that that is what he was going to do, but I believe that he was leaving that open as he, from time to time, said he did.

The debate over charter schools, I think, is a very different one than the one we are having here. If that is to be the debate we have, I want to have that as a real

debate and a focused debate, not coming in by the back door.

Maybe it is in the nature of opposition to be suspicious. That is our job, and that is the framework that I see. It was certainly I believe on the long-term agenda of the previous minister. I cannot say about this minister, but I do believe that connecting these parent councils to school divisions and retaining the earlier versions of the responsibilities of principals where they are, again, related to school board, took this one step at a time, and that is really what I am saying.

Mr. Stan Struthers (Dauphin): I think there is another very good reason to support the amendments that are being proposed here in terms of 3(2), subsection 3.

My biggest worry in all of this, as someone who has had some experience in organizing a parent council meeting at a school, is that we put parents who are well-intentioned and highly motivated, civic-minded, educational-minded people on an advisory council of some sort, and we end up setting them up in a hurtful situation.

The difference between a parent advisory council and being on the board of trustees in a school board is that a school board is incorporated, there are protections there for each individual trustee, who have some sort of protection afforded them through incorporation. If the board members act in good faith, they have that protection available to them because it is an incorporated body they are with. That is a big difference from being on an advisory group.

If we get a situation where an advisory group is taking on jobs in the school that it could find its individual members getting into some sort of legal predicament, some sort of financial problems, they do not have the protection available to them that you would as a school trustee. This is just the way it is out there right now, and everybody around the table knows that to be the case.

* (2100)

I want people to make sure that before we set up parent advisory groups for failure that we take every precaution to help parent advisory groups to succeed. I think if we make the parent advisory council powers part of the by-laws of the school board, then it seems to me we lessen the chance of setting these school councils up for failure and we lessen the chance of hurting individuals who put their names forth to participate on advisory councils.

Mrs. McIntosh: Our intention here is not to put advisory councils under the board's thumb, and our intention here is clearly and absolutely that school advisory councils are school advisory councils.

Now, the last time I checked, you could not be sued for giving advice, and these councils are not going to have the power to make the final decisions, only to advise.

The reasons school boards require some sort of different status is that they can make decisions. The advisory councils can only give advice, and I do not think you can be sued or held liable for giving advice, nor does your advice have to be taken. One of the things we have said, if you look in our brochure is that—

An Honourable Member: The blue-covered one.

Mrs. McIntosh: Our blue-covered one or the grey-covered one or the noncovered one, they should say the same thing: that the school advisory council is mandated as an advisory structure to the school board as well as to the school. There are other areas throughout this that you will look where you see direct liaison between the school advisory councils and the school boards, so the linkages are there. I appreciate that Roy White went around and got hundreds of submissions some years ago, and that was good, and parents told them they wanted more involvement.

What we now have is the evolution of Roy White because several years after Roy presented his paper, we went back to hundreds of parents, indeed thousands, 500 at each Parents' Forum and many others in between, and heard the evolution of Roy White, which

was the next step, which is what we are implementing here today at the request of those parents.

An Honourable Member: Question.

Mr. Chairperson: Is the committee ready for the question? Shall the amendment pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

An Honourable Member: I think the Yeses have it there, Mr. Chairperson.

Voice Vote

Mr. Chairperson: All those in favour, please respond by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: Those opposed, by nay.

Some Honourable Members: Nay.

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

Formal Vote

Ms. Friesen: A recorded vote.

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

Mr. Chairperson: The amendment is defeated.

Clause 2(1)–pass; Clause 2(2)–pass; Clause 2(3)–pass; Clause 3–pass; preamble–pass; title–pass. Bill be reported.

Bill 6—The Public Schools Amendment Act

Mr. Chairperson: On Bill 6, The Public Schools Amendment Act, does the minister responsible have a brief opening statement?

Hon. Linda McIntosh (Minister of Education and Training): I have an amendment. I have no other comment. I will wait.

Mr. Chairperson: We thank the minister. Does the critic from the official opposition party have a brief opening statement?

Ms. Jean Friesen (Wolseley): No.

Mr. Chairperson: I thank the member.

The bill will be considered clause by clause. During the consideration of a bill, the title and the preamble are postponed until all other clauses have been considered in their proper order by the committee.

Clause 1–pass; Clause 2.

Mrs. McIntosh: Mr. Chairperson, in response to comments made by the principals' association at presentation earlier today, I would like to make a very simple amendment that would strike out and then a substitution in Section 231.

THAT Section 231 as set out in Section 2 of the bill be amended

(a) in Clause (4)(b), by striking out "a written" and substituting "an oral or written"; and

(b) in subsection (5) of the English version, by striking out "written notice" and substituting "notice given".

[French version]

Il est proposé que l'article 231, énoncé à l'article 2 du projet de loi, soit amendé:

a) à l'alinéa 4b), par adjonction, après "avis écrit", de "ou oral",

b) au paragraphe (5) de la version anglaise, par substitution, à "written notice", de "given notice".

I move this in both official languages.

Mr. Chairperson: Is there a discussion on the amendment?

Ms. Friesen: Mr. Chair, I guess I will put this through the Chair. "An oral"—I have problems with the oral one. I mean the issue, as far as the person who offered that as a suggestion, is the question of a witness, and I do not know how normally in law that is phrased or whether it is required to be phrased. Can the minister ask for some clarification on that?

Mrs. McIntosh: Verbal or oral is not as good in terms of evidence being presented as written. We had originally had just "written," and the principal indicated that difficulty they might have in certain instances providing written notice. So we are giving the ability to do both because, while written is better, if written is impossible, oral is better than nothing.

They would opt for written as their first preference as well, but this just gives them a backup in the event they cannot get a written one out.

With this notice given and written notice as well, in the second part there, they could give oral indication at the time, followed up by written notice after the fact.

Mr. Chairperson: Is the committee ready for the question? Should the amendment pass?

Some Honourable Members: Agreed.

Mr. Chairperson: The amendment is agreed to be passed.

Shall Clause 2 as amended pass?

Mrs. McIntosh: I have another amendment.

Mr. Chairperson, I have a second amendment, which, I believe, has been circulated to all members. This amendment, again, is in response to a concern put forward by the principals' association, wanting to have a strengthening and a court order to assist them, and the

wording which I will leave for people to read—I will say that I will move it. Do I have to read it all?

* (2110)

Mr. Chairperson: Yes, you do.

Mrs. McIntosh: I move, in both official languages, THAT section 2 of the Bill be amended by adding the following after the proposed subsection 231(6):

Court order relating to offence

231(7) When a person is convicted of an offence under subsection (2) or (4), the court may, in addition to imposing a fine, make an order having one or both of the following effects:

(a) prohibiting the person from entering or being on the school premises in respect of which the offence was committed;

(b) requiring the person to comply with any conditions the court considers appropriate in the circumstances for securing the person's good conduct and for preventing the person from repeating the same offence or committing other offences.

[French version]

Il est proposé que l'article 2 du projet de loi soit amendé par adjonction, après le paragraphe 231(6), de ce qui suit:

Ordonnance

231(7) Le tribunal peut, en plus d'imposer une amende à toute personne reconnue coupable d'une infraction visée au paragraphe (2) ou (4), rendre une ordonnance prévoyant l'une ou les deux situations suivantes:

a) interdire à la personne d'entrer ou de se trouver dans les locaux scolaires où a été commise l'infraction;

b) imposer les conditions qu'il juge appropriées afin de garantir la bonne conduite de la personne et

l'empêcher de récidiver ou de commettre d'autres infractions.

Mr. Chairperson: Is there discussion on the amendment? Is the committee ready for the question?

Shall the amendment pass?

Some Honourable Members: Pass.

Mr. Chairperson: The amendment is accordingly passed. Clause 2 as amended—pass; Clause 3—pass; preamble—pass; title—pass. Bill as amended be reported.

As the time is now 9:10, what is the will of the committee? Committee rise? [agreed]

COMMITTEE ROSE AT: 9:12 p.m.