



Second Session - Thirty-Sixth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Law Amendments

Chairperson
Mr. David Newman
Constituency of Riel



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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON LAW AMENDMENTS

Monday, November 4, 1996

TIME – 3 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. David Newman (Riel)

VICE-CHAIRPERSON – Mr. Peter Dyck (Pembina)

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Mr. Enns, Hon. Mrs. McIntosh

Ms. Cerilli, Mr. Dyck, Ms. Friesen, Ms. McGifford,
Ms. Mihychuk, Messrs. Newman, Radcliffe, Mrs.
Render, Mr. Tweed

MATTERS UNDER DISCUSSION:

Bill 32—The Council on Post-Secondary Education
Act

Mr. Chairperson: Good afternoon. Will the Standing Committee on Law Amendments please come to order. Before the committee can proceed with the business before it, it must elect a new Vice-Chairperson. Are there any nominations?

Mrs. Shirley Render (St. Vital): Yes, I will nominate the member for Pembina (Mr. Dyck), please.

Mr. Chairperson: Mr. Dyck has been nominated. Are there any further nominations? Seeing none, Peter Dyck is elected as Vice-Chairperson of the committee.

This afternoon the committee will be resuming consideration of Bill 32, The Council on Post-Secondary Education Act, as had been agreed to by the committee last Friday. We will now proceed with clause-by-clause consideration of the bill.

Did the minister responsible have an opening statement?

Hon. Linda McIntosh (Minister of Education and Training): I just have a very few comments, just an indication that with the establishment of the University Education Review Commission in July '92, which was a few years ago now, the government set itself on a path of renewal of a post-secondary education sector in Manitoba.

The University Education Review Commission chaired by the Honourable Duff Roblin listened to countless Manitobans and developed a set of recommendations which has served as the backdrop for this renewal.

Our government's response to the recommendations of the Roblin report which was entitled *Doing Things Differently* was issued in June '94. The response which endorsed the University Education Review Commission's recommendations stated, government believes that the commission's report provides a timely policy framework for post-secondary education. That framework rests on a set of principles which will guide the future development of the post-secondary education system in the province.

Mr. Chairman, I will not go through too much more except to indicate that those principles did envision a system which would be strong, healthy and dynamic, ensuring the long-term social, cultural and economic growth of the province and committed to the career aspirations of our citizens that will be fully integrated and well articulated, linked to the social, cultural and economic developments of the community through the functions of teaching, training, research and service, would be broadly accessible, fully transparent, committed to the broad application of communications technology to the learning process.

The end result, Mr. Chairman, of a series of consultations, establishment of an interim transition committee, is Bill 32, the bringing to life of Roblin. We believe that this bill will serve to better the needs of post-

secondary education, the students and the ratepayers of Manitoba. I do want to indicate that for interpretation's purposes that the government has no intention of micromanaging post-secondary institutions, nor will the council be involved in micromanaging because we believe it is the role of boards of governors to ensure that institutions are properly managed.

* (1510)

The council is intended to play a pivotal role in communicating broad government policy to the institutions and, in turn, bringing the institutional point of view to government. I also wish to indicate, Mr. Chairman, that it is my intention to establish a cabinet committee to work with the council. This has been our intention from the beginning as I have indicated in our discussions here. The legal counsel could find no precedent to have the council report to a cabinet committee, and then under the terms of the drafting, the word "minister" was used because under past practice accountability resides with the minister and the minister still will be the final individual accountable. It is our intention to work with the cabinet committee as Roblin had recommended.

This bill, Mr. Chairman, speaks to the future growth of our community and of a place for our children and our students in a highly competitive global economy.

Mr. Chairperson: Thank you, minister. Does the critic of the official opposition wish to make an opening statement?

Ms. Jean Friesen (Wolseley): I am pleased to hear the minister say that they will be following the intentions of Roblin in having a cabinet committee which will also look at post-secondary education. For a government which has been in power since 1988, I think this is long overdue and long overdue since the suggestions of Roblin in that same direction. I am also very pleased to hear that the minister has no intention of micromanaging the universities or colleges. I think that is the clear message that we got from the many hours of hearings that we heard. I think it is useful to have that on the record, and this is a good time to make that intention clear. It was not made clear in the minister's speech on second reading, nor was the minister's intent to have a cabinet committee mentioned at all in second reading. So I am glad that the

minister has heard the many presentations and has responded to them.

I heard no one in the hearings that we had over the last few days who opposed the combination of community colleges and universities in a post-secondary funding and planning body; I heard nobody who opposed transparency; I heard nobody who opposed linkages, and I think all of those are things which we would all be concerned be developed in Manitoba. We waited a long time for Roblin; we have waited a long time since Roblin. We are now at the end of 1996, and essentially there have been no changes in post-secondary education as a result of government policy in that period. That is a long time to be in limbo for an area of educational policy which is so vital to the future of this province, as is post-secondary education.

I think what we do see in this bill is evidence of the government's inaction and of their hasty policy process since the appointment of the interim transition committee. The number of amendments that the minister has already put on the table—and I believe she may have some more, I do not know about that—but the number of amendments that are on the table are a testimony to two things. First of all, I think the testimony to the persistence of senates at all universities, of the presidents of all universities and colleges and the staff of the universities who have tried over and over again to tell this committee the difficulties they see with some of the specifics of this legislation.

There was no need for this. There was an interim transition committee which was given the mandate to develop legislation. It had six months to do it. It had very cursory consultations, a half an hour, I believe, it offered to university and college presidents to speak to them about legislation. It made promises, as I understand it, to go back to a larger meeting of stakeholders so that students, staff, colleges and universities could all hear each other's presentation so that there was in fact a common conversation. My understanding is that that never occurred. Those kinds of meetings and a serious consultation on the specifics of the bill would have avoided the situation that we have got to now. So I think it is a testimony to two things, the government's inability to plan effectively in that six-month period during the interim transition committee's development, and, secondly, to the persistence of those—and I guess I use the word "stakeholders"—in the college and university area.

With that, Mr. Chairman, I am ready to proceed with clause-by-clause discussion, but I did have some questions first for the minister on the parallels with the community colleges or The Colleges Act, and it might be simpler to ask those now since they are questions rather than amendments and they are questions for clarification.

Mr. Chairperson: Leave of the committee to put those questions now? [agreed]

Ms. Friesen: I wanted to ask through you to the minister, why The Colleges Act has been left in place and does she see any difficulties in leaving it in place. One of the concerns that I have is that The Colleges Act has specific references to money which are not paralleled with the transfer of UGC money into this act; that is one area. A second area is that The Colleges Act is very specific and I think one of the principles of looking at legislation which might be parallel is that this specific act takes precedence over the broader act. There is, however, another principle, I understand, where the most recent act takes precedence over the earlier act.

So I am wondering, if there is ever a difficulty between the post-secondary council act and The Colleges Act, which one is going to take precedence and why the minister left those two acts in parallel.

Mrs. McIntosh: I think the key to understanding the relationship between Bill 32 and The Colleges Act is in the minister's power to delegate powers, duties and functions under The Colleges Act. Section 11(g) of Bill 32 allows the minister to delegate powers held by the minister in The Colleges Act to the Council on Post-Secondary Education. Section 6 of The Colleges Act empowers the minister to delegate any of the minister's powers, duties and functions held by the minister under the act. The section of the act anticipated the possible establishment of a council or a similar post-secondary body.

The best way to understand this delegation power is to read The Colleges Act and replace the word "council" with "minister" and, although not all sections will reflect this delegation, this approach illustrates the way in which the two pieces of legislation are linked. The appropriate delegations will be made as part of the council's establishment and the implementation of Bill 32.

Ms. Friesen: Thank you, Mr. Chairman. Could the minister expand upon that? When and how will those delegations be made? Will they be made piecemeal, if, as and when? Will they be made all at once?

Mrs. McIntosh: It is the intention to have them proclaimed all at once when the act itself is proclaimed.

Ms. Friesen: Do I understand the minister to say that when and if Bill 32 is proclaimed that at that time the minister will delegate all her responsibilities for The Colleges Act to this council?

Mrs. McIntosh: I cannot say all, but there will be a desire to have a one-time delegation as opposed to a delegation occurring in bits and dribbles over a series of years, as the member has indicated, in a piecemeal fashion. Our desire is not to have the piecemeal approach but rather the broad, overall, one-time designation.

Ms. Friesen: Does the minister intend to leave in place the council of college presidents, which is not paralleled by a statutory body, a legislative body of university presidents? As it now stands you have a council of college presidents and you will have a post-secondary education council which will combine colleges and universities, but no university presidents.

* (1520)

Mrs. McIntosh: The colleges board is not legislated in the same way that the council is and the Colleges Advisory Board will be retained while the council and its administrative structure is being established as a transitional body.

Ms. Friesen: I am not sure that I understood that. The council, then, of college presidents is, at the moment then, in transition and will change upon proclamation of this act?

Mrs. McIntosh: The member keeps referring to a presidents board. I am presuming she is referring to the Colleges Advisory Board, which is presidents and board chairs, so there is not a presidents board in that sense with just presidents. Is that the one you are referring to?

Mr. Chairperson: Ms. Friesen nods in agreement.

Mrs. McIntosh: That is an advisory board, has been set up as an advisory board, will continue to advise on college-related policies and concerns. It is seen as a body that right now would be the transition between this and the council and whether or not it is still going to be required once the council is up and running is something that has not yet been determined.

Ms. Friesen: If I can put two questions. Who will the council be advising in that interim phase? Is it the minister? Will it then be the delegated power? My second question is quite a different one which deals with the ability to designate institutions as post-secondary institutions under The Colleges Act. I think there is a section in there which allows, for example, a high school to offer a college course, not necessarily program. I do not have the wording in front of me.

Mrs. McIntosh: You refer to the council. I am presuming you are meaning the board?

Ms. Friesen: We both lost track here.

Mr. Chairperson: Ms. Friesen, she wants clarification. Who will the council advise? Who is the council?

Ms. Friesen: That was in the first part of my question. Yes, the advisory board. Who will they be advising? Will they be advising the minister? Will they be advising the post-secondary education council?

Mrs. McIntosh: The way in which the Colleges Advisory Board works is that I call them as minister when there is an issue that I would like their advice upon. It is not that there is a regular process whereby they have to do a certain amount of work and report to the minister on such and such a date and so on. They are more there as a consultative body. When I would like some feedback or information or ideas about things happening in colleges, I can call them and ask them to come and provide me with some advice or their opinion on something.

That being the way it is established, I still could probably do that or I could ask the council to do that on my behalf because the issues and advice that would be provided would be that which is sought. Overall, in terms of your other question, the government has not sought to amend legislation governing individual post-

secondary institutions. I think when you are talking about high schools, for example, South Winnipeg Tec comes to mind immediately as an obvious example where they are looking at the provision of courses that are deemed post-secondary but their nature is such that their course offerings are in South Winnipeg Tec, for example, very targeted, as opposed to other colleges and so on such as, say, Menno Simons, for example, where they are very definitely providing accredited university courses. So it is a completely different approach with those two. So we are not going to be looking at high schools.

Ms. Friesen: My concern is for conflict between the two acts, and I think The Colleges Act allows the minister to designate a high school as a post-secondary location. Now, if the minister can now delegate the power she has under that act to this new act and this new council, what powers are being received by this new council in respect of the designation of high schools as locations for post-secondary programs.

Mrs. McIntosh: I will answer that in two parts. I wanted to just—because I did not quite finish my thought on the previous statement—when I say we are not going to be looking at high schools, there is a caveat on that because, well, I do not mean that we will be looking at particular high schools, saying that is a post-secondary institution, but within that institution may be some post-secondary courses offered which, of course, could be looked at quite differently.

Maybe the simplest way to put it is, there is no designation to deal specifically with high schools as the building and the location and the site, but the colleges are able to work within secondary schools and it still is controlled through the colleges as opposed through the K to 12 system.

Ms. Friesen: And the intent is, then, to allow the post-secondary council to continue with that process under delegation from the minister?

Mrs. McIntosh: It has just been indicated that a number of these questions will be coming up as we go through clause by clause. I know the members wanted to get some broad, overall questions out of the way before we began but, given it seems the abundant flow of questions out of context in the clause that we are debating, I think we might be better, in light of the way the questions are

going, to go through clause by clause and let the questions come forward in relation to the clause itself so that people can see and understand the clause for which this question sprang and the full details around it, because I think what is happening is that we are ending up doing a debate on a whole series of things that we will then be debating unless we get into the bill and the other members also have their chance to ask questions on what is really turning into a clause-by-clause discussion here, except without the benefit of other members being able to participate.

So I would suggest maybe we do go into clause by clause, because this is much more than what the member indicated she was intending when she wanted a few overall, generic questions.

Ms. Friesen: My concerns were for the overlap between the two acts, how precedence would be assigned, on what principles, and really to draw to the minister's attention that there are a number of issues I think that are outstanding from The Colleges Act which needed to be addressed. I am quite prepared to go clause by clause. My intent is not to exclude anybody from the debate, but that last issue, perhaps, on the ability, perhaps we could conclude with that. The ability of the minister to designate a high school as a location for college courses is, I understand, to be part of the delegation of the minister's powers to the post-secondary council.

* (1530)

Mrs. McIntosh: Could you just repeat that for me, please.

Ms. Friesen: I just wanted to conclude with a confirmation or some resolution from the minister of what her intention is in the issue of the existing Colleges Act, which allows the minister to designate, for college purposes, a high school location. That is a power which she has now under The Colleges Act. Is that a power which is to be delegated to this council?

Mrs. McIntosh: Yes, I wonder if the member could give me that section reference.

Ms. Friesen: I do not have The Colleges Act in front of me, but one of our members has gone for it, so we will come to it before the end of the bill perhaps.

Mr. Chairperson: Then we will proceed clause by clause. The table of contents, the preamble and title will be postponed until all other clauses have been considered in their proper order. First, respecting Clause 1, I understand there is a proposed amendment respecting Clause 1.

Mrs. McIntosh: I just want to say in speaking to this amendment, the member stated in her opening remarks that the number of amendments was ample evidence that consultation had not occurred properly prior to the bill coming in, and I want to indicate to the member how very strongly I disagree with the member's statement on that. None of these amendments substantively alter the bill, none of them. All of them help clarify the intent and all of them are ones that we like. Mr. Chairman, the broad consultation was done on the substance of the bill which remains unaltered and unchanged.

So I say that these, I feel, are minor wording improvements that enhance the meaning of the bill that were given after perusal of the wording of the bill by the various parties. I also want to indicate that the member surprises me and, in fact, concerns me very much that she would think that when we come to committee, that because we have listened to the presenters and made some amendments that somehow we have not listened because the very whole purpose of these committee meetings is to allow those who wish to comment on the bill and make suggestions for amendment have their opportunity to be listened to.

The member should be aware, and all members of the committee should be aware, that when we met with the various bodies as we did, and I did personally, and they said, we may have some suggested wording changes to the bill, my response to them was not, well, let us sit down and do it now before we get to committee. My response to them was, well, could you bring them to committee because legally, properly, the proper place to make amendments is at committee. That is what it is struck for, that is what it is there to do, and we will be there to listen. If you make points that we like, we will not only listen, but we will respond. That is why a committee is struck.

The member's opening comments lead me to believe that she feels that the bill should not be amended at this stage, that it should come here letter perfect. If that is the

case, then I would ask her, well, why does she feel we need committee meetings if all of the corrections need to be done before we get here, then perhaps next year she would like to move that we not have committee hearings since the bill is already done. We are here to listen. We have listened to these very good amendments. The first one is—

Mr. Chairperson: Now, we are dealing with the proposed amendment to Section 1.

Mrs. McIntosh: Okay, we will amend Section 1. First, Mr. Chair, we are moving that Section 1 be amended. I move

THAT section 1 be amended by adding the following definition in alphabetical order:

“student” means a student of a university or college; (“étudiant”)

[French version]

Il est proposé que l'article 1 soit amendé par adjonction, en ordre alphabétique, de ce qui suit:

“étudiant” Étudiant d'une université ou d'un collège. (“student”)

Motion presented.

Mr. Chairperson: Discussion on the amendment—oh, I am sorry, I would like to clarify at this point, if leave of the committee is granted, that every amendment will be moved in both official languages. [agreed]

Discussion on the amendment?

Mrs. McIntosh: We had talked about universities and colleges in the act with the assumption that that, of course, would include students. Students made a request for an amendment that the word “student” itself be defined so that it would be perfectly clear that the students who are the receivers of the service rather than the providers of the service be identified as a body. We are quite happy to do this. It is our intent to include students; this clarifies our intent further. It is an amendment that we feel verbalizes our intent and it is one that is wanted by students, and I would ask all on the

committee to accept this amendment for the sake of the students on campus.

Mr. Chairperson: Amendment—pass. Shall Clause 1 as amended pass?

Ms. Friesen: I have some questions of clarification on Clause 1. Again, first of all, the issue of fund. Fund means the post-secondary grants fund referred to in Section 19. This fund includes, as far as I can tell from this bill, only the monies coming from the Universities Grants Commission. Is it the minister's intent that the funds of the Post-Secondary Education Council only include the monies from the Universities Grants Commission or does it include two other lines, which are the grants to the colleges and the grants to the bible colleges?

Mrs. McIntosh: The latter.

Ms. Friesen: So the funds at the disposal of this council consist of three lines from the budget, the Universities Grants Commission, The Colleges Act and the bible colleges?

Mrs. McIntosh: Yes.

Mr. Chairperson: Okay, the amendment has passed. Shall Clause 1—

Ms. Friesen: I have a number of other definitions I would like some clarification on. I wonder if the minister could tell me what is meant by post-secondary education. It is defined here as education in programs and subjects normally offered by universities or colleges, but does not include a collegiate program or denominational theological program. Could the minister tell me which institutions this covers?

Mrs. McIntosh: In this particular definition here, we are talking about the University of Manitoba, University of Winnipeg, St. Boniface, Brandon, Assiniboine Community College, Red River Community College and Keewatin Community College, and it will include the on campus St. John's College, for example, St. Paul's College, which are on campus and grant their degrees from the University of Manitoba.

* (1540)

Ms. Friesen: The definition of post-secondary education as it stands would, of course, also include CMBC, Concord College. In the past, it would have included Nazarene College, which offered programs and subjects normally offered by universities or colleges.

Mrs. McIntosh: Yes, this particular definition will attach itself to those particular seven institutions that I have identified.

Ms. Friesen: With respect, I do not see how that is possible. There are post-secondary institutions offering programs and subjects normally offered by universities or colleges at Canadian Mennonite Bible College, at MBCI, at Catherine Booth Bible College, for example, and they must be included in this definition, unless they are specifically excluded, because that is what this definition includes.

Mrs. McIntosh: For the purposes of this act, we are talking about those seven institutions. The others are considered teaching centres that do have credit given for some of their courses which provides them the link to those institutions, but we are speaking specifically about those institutions that I have identified, those seven, and we will address the linkage between them and the others in an amendment further on.

Ms. Friesen: Again, with respect, the seven that the minister has named are included under the definitions of university, a) the University of Manitoba; b) the college declared to be affiliated with the University of Manitoba, and c) a university established under The Universities Establishment Act. Those three definitions together include the seven that the minister is speaking of. There is an additional section which describes post-secondary education as programs and subjects normally offered by universities or colleges, which seems to me, Mr. Chairman, must include the other institutions that I have named and which the minister has included by defining fund in a particular way to include the funds allocated to institutions where programs and subjects normally offered by universities and colleges are taught.

Mrs. McIntosh: It is only because some of those courses are recognized by the institutions that this clause has had to be inserted and I do not know if that helps understand it or not, but if you look, for example, at a program or a course that might be offered in a high

school or in a bible college, the course might be accredited and often is accredited, but they are not part of that university or college in the way that, say, St. John's College is. So that is what we have the second part of that sentence there, but does not include a collegiate program or denominational theological program. There might be courses affiliated with the university or the college.

Ms. Friesen: I understand that. So the first part of it covers those colleges where there are accredited courses normally offered in universities or colleges.

Mr. Chairperson: I take it that is a clarification of your understanding, not a question.

Ms. Friesen: Yes, sorry. There was that question mark at the end of it. That was my understanding of what the minister had said in the first part.

Mr. Chairperson: Did you want to respond to that, Madam Minister?

Mrs. McIntosh: I am sorry, I did not quite catch what the member said.

Ms. Friesen: Okay, Mr. Chairman, what I was trying to do was to clarify what the minister had said. As I understand it, she was saying that the first part of that, but not the second part, refers to those courses and subjects which are accredited by universities but are not necessarily offered at universities. It might be at an accredited teaching place such as a bible college.

Mrs. McIntosh: Yes, I think that has probably caught it.

Mr. Chairperson: Clause 1 as amended—pass; Clause 2(1)—pass. Shall Clause 2(2) pass?

Ms. Friesen: Mr. Chairman, I had a question on that. I am not familiar with the implications of The Corporations Act, and I wonder if the minister could explain why that section is there and was it there for the UGC and is it there for The Colleges Act?

Mrs. McIntosh: The colleges are seen as corporations, but the rules for corporations applying to business are different from the rules of corporations applying in this

instance. While they will have those rules of an act applied to them, they will not be bound by The Corporations Act in the sense that business would be because they will be reporting to other authorities. It is a standard clause for any statutory corporation.

Mr. Chairperson: Clause 2(2)–pass.

I believe there is a proposed amendment respecting Clause 3(1).

Mrs. McIntosh: I move

THAT subsection 3(1) be amended

(a) by adding “and accessibility to” after “excellence in”; and

(b) by striking out “avoids unnecessary duplication of effort and expense” and substituting “promotes fiscal responsibility”.

[French version]

Il est proposé que le paragraphe 3(1) soit amendé:

a) par adjonction, après “favorisant l'excellence”, de “et l'accessibilité”;

b) par substitution, à “évite le dédoublement inutile d'efforts et de dépenses”, de “favorise la responsabilité financière”.

Motion presented.

Mr. Chairperson: Discussion on the amendment?

Mrs. McIntosh: These two wording changes were requested by the presidents of the institutions and, as well, the first one was requested by students. We feel they are very good amendments. The accessibility of course is something that we felt was inherent. They preferred to see it spelled out clearly in this way, and we feel that is a good way to go. We also felt that promoting fiscal responsibility by its very nature would include avoiding unnecessary duplication of effort and expense, so we were pleased to agree to that wording change which the presidents felt was more open and less restrictive.

Mr. Chairman, on behalf of the students and the presidents, we were pleased to agree to this wording change which we feel enhances the bill and strengthens our intent and purpose.

Ms. Friesen: I think this is a good amendment. It particularly brings in the issue of accessibility beyond the preamble, and that was something which we had been concerned about and had raised with a number of presenters. I accept the minister's comment that it meets the concerns of both presidents and the students, so I think it certainly improves upon the original one that had been submitted by the interim transition committee.

* (1550)

Mr. Chairperson: Amendment–pass. Shall Clause 3(1) as amended pass?

An Honourable Member: No.

Ms. Friesen: I come back to the colleges board which is an issue dealing with a mandate of the council to plan and co-ordinate the development of a post-secondary education system in the province. The mandate of the colleges board, of The Colleges Act, rather, which remains in force and which can now be by delegation from the minister to this council, enables them to deal with training programs paid wholly or partly by the government, private business or nonprofit groups and other related post-secondary education and training functions directed to be provided by the minister, and I wonder how this fits with the definition of the mandate of this particular council. When those items are delegated, how does that alter this bill?

Mrs. McIntosh: The mandate of the university and the mandate of the college remains the same.

Ms. Friesen: The mandate of the colleges which can be delegated to this council is to deal with training programs paid wholly or partly by government. Does that get delegated to this council or is it outside the mandate of the council?

Mrs. McIntosh: The mandate of the college cannot be delegated to the council or to the minister. As I have said all the way through this debate, the mandates of colleges and universities will remain their mandates.

Mr. Chairperson: That is all the discussion, then, on the amendment. Clause 3(1) as amended—pass.

Next, there is another proposed amendment respecting Clause 3(2).

Mrs. McIntosh: I move

THAT subsection 3(2) be amended

(a) by striking out “Subject to the power to regulate programs under section 14, in” and substituting “In”; and

(b) in clause (a), by adding “policies and” before “standards”.

[French version]

Il est proposé que le paragraphe 3(2) soit amendé:

a) par substitution, à “Sous réserve du pouvoir de réglementation des programmes, prévu à l'article 14, le”, de “Le”;

b) dans l'alinéa a), par adjonction, après “leurs”, de “politiques et leurs”.

Motion presented.

Mr. Chairperson: Discussion on the amendment?

Mrs. McIntosh: Yes, again, Mr. Chairman, this was at the request of the presidents.

An Honourable Member: Oh, so you were listening to them.

Mrs. McIntosh: Yes, well, the presidents made several very good amendments and I think that is why they are the presidents. They are very, very good people and very clever people.

As well, the second part, “policies,” was one that MOFA had requested. They were concerned that its deletion, because it had been in The Universities Grants Commission Act, signified that they would somehow lose control. That was never the intent. It was felt that there was a redundancy there, but since both of those parties wanted the words “policies and” back, and since it really

is not changing our intentions or our method of procedure in any way, shape or form, we are pleased to put it in for their comfort. So, there again, at the request of the field, we feel that it enhances the bill. It reinforces our original intention and does not take away in any way from the substance or the intent of the bill, so we are pleased to do this at their request.

Ms. Friesen: I think both of the aspects of this amendment are an improvement. I would disagree with the minister that they are minor improvements. I think, particularly, the elimination of “Subject to the power to regulate programs under section 14,” that the removal of that is substantial. I believe, from the universities' and colleges' perspective, the addition of “policies” as well as “standards” may be substantial as well. So I think both of those are very good amendments and we would support them, but we do believe that it does alter somewhat the original intent that the minister had, but we are very glad to see them.

Mr. Chairperson: Amendment—pass; Clause 3(2) as amended—pass. Next, with respect to Clause 4, there is a proposed amendment.

Mrs. McIntosh: I move

THAT section 4 be struck out and the following be substituted:

Relationship to government

4 In carrying out its mandate, the council shall

(a) act as an intermediary between post-secondary institutions and the government; and

(b) operate within a framework of accountability established by the minister, who may give the council general direction on matters that relate to its mandate and that are, in the minister's opinion, of significant public interest.

[French version]

Il est proposé que l'article 4 soit remplacé par ce qui suit:

Liens avec le gouvernement

4 Dans l'exercice de son mandat, le Conseil agit:

a) à titre d'intermédiaire entre les établissements postsecondaires et le gouvernement;

b) dans le cadre qu'établit le ministre, ce dernier pouvant lui donner des directives d'ordre général sur des questions relevant de son mandat et qui sont, de l'avis du ministre, d'un grand intérêt public.

Motion presented.

Mrs. McIntosh: Again, this suggested rewording came from the presidents of the institutions. They provided us with about seven suggested rewordings and the majority of them we felt really did serve as an improvement to our wording, particularly I like the "act as an intermediary," which I thought was extremely good wording.

Mr. Chairman, we are pleased to make this amendment. I think it clarifies better the intent of the original Clause 4. We have dropped the list because the list is not really essential to the purpose here. It did identify some of the things we could do, but this in fact is more open-ended, and so we feel that it is an improvement over the wording. I appreciate the presidents' input and we would like to move it as a government amendment.

Mr. Chairperson: Discussion on the amendment?

Ms. Friesen: I think this is a substantial amendment that alters the intent of this section. I think it is a great improvement. In particular, I think what it does is in eliminating the section dealing with co-ordination of the council's work with the programs, policies and work of the government, I think is a much better intent, as well as wording, that is being offered here to operate within a framework and to give general direction and that are in the minister's opinion of significant public interest. I think that is a much better framework for universities and colleges to work within and quite different than the one the minister had originally worded, whether in fact that was her intent or not.

Mr. Chairman, I would like to ask the minister a question on this amendment and that is her definition of "intermediary." The minister likes the word. It is a very neutral word. I can understand that it is one that would be acceptable certainly to the minister as well as to the university and college presidents, but what does it

actually mean? Does it mean a post office? Does it mean a transmission of material back and forth? What does the minister mean by intermediary?

* (1600)

Mrs. McIntosh: In my opening remarks today, the member may have heard me say that the council is intended to play a pivotal role in communicating broad government policy to the institutions and in turn bringing the institutional point of view to government, and I think that perhaps is as good a definition as any.

It does enable, as I have been trying to get through to people who made presentations here, the ability to form a legitimate channel of communication between the government that provides the hundreds of millions of dollars annually to the field and from the field to the government without being accused of political interference every time we try to talk. So I felt we did need a legitimate channel of communication and this is it. Perhaps with this, the minister will be able to communicate with the colleges without being accused of political interference as we have in certain instances in the past, when the member may recall the opposition demanding that I call over and get the parties back to the table during the strike—could not do that, political interference. That type of thing is maybe going to be made a little easier for the opposition and the government and most importantly for the people of Manitoba.

Ms. Friesen: I think the issues in the strike would have been governed by The Labour Relations Act rather than by this act or any existing act, but this is not the place to debate that. I want to ask the minister, in what way is the intermediary role here different from the UGC's role? Could she explain the difference for the record of what she anticipates?

Mrs. McIntosh: I do agree that the other was a labour relations issue, but the questions that came from the opposition unfortunately came to the Minister of Education demanding that I interfere in that instance, and I kept saying at the time it was the Minister of Labour. I am glad she finally agrees many months later with what we had been saying in the House. I should indicate that the UGC and the council both were buffers and are buffers between government and the field. The difference? There is nothing in The Universities Grants

Commission Act that permits the minister to speak to the Universities Grants Commission.

I think the member will have read both and will understand the differences there. Here there is a clear, spelled-out channel of communication with controls and limits placed upon it; whereas in the other, there is no indication the minister can speak to the Universities Grants Commission at all. In fact, if any minister tried to, I am quite sure that the member would be the first one on her feet to cry political interference.

Ms. Friesen: Under the Universities Grants Commission, the Grants Commission advised the government, I believe, on general issues of post-secondary education. So what the minister is saying is that the intermediary role then maintains that movement of advice from the Grants Commission to the government, now from the council to the government, but what is different is the direction or the advice or the setting of priorities from the government to this new council.

The minister does not believe that was there under the UGC and now she believes it is there, so that that is the difference in "intermediary." It now means that the minister can deal directly with the context and the policies of this new council.

Mrs. McIntosh: In answer to the first portion of your question, yes, that is correct. In answer to the second portion of your question—the first part of your question, just to identify it for the record, being that the council, the UGC, could give the minister advice. The second part of the question is, the minister really could not give the UGC advice in the way that the minister can here.

Here the minister can indicate broad direction, broad policy. With the UGC the minister could not. The council, the UGC, had sweeping powers, far stronger in many instances than this act has. As the member knows, the commission, the Universities Grants Commission could wipe out entire programs with no justification, except in the opinion of the commission, without the minister being able, identified anywhere in that act, to provide broad direction. That will make the relationship more explicit, less fuzzy, and will identify just what the rules of communication will be, instead of being silent on them.

I think it is a tremendous improvement and, of course, so do the students and the ratepayers feel it is an improvement as well.

Mr. Chairperson: Amendment—pass; Clause 4 as amended—pass; Clause 5(1)—pass.

Ms. Friesen: I know you have passed it, but my question here deals with the number of presentations we had which asked for student representation of these 11 members, and I wondered if the minister would be developing regulations on that, whether there were any commitments or any announcements she wanted to make now about whether in fact there would be student representation on the council?

Mrs. McIntosh: As I have indicated many times in the past, the current Universities Grants Commission is composed of 11 qualified people. The boards of governors are set up the same way. The college secretariat does not have students involved or other stakeholder groups involved.

I have stated repeatedly that my intention will be that of the 11 people to be selected, there will be amongst that group a recent graduate from institutions, and that, as well, there will be amendments coming forward to spell out very clearly that the council is to consult with the various interest groups, including students.

The council is intended to represent the people of Manitoba and not the service providers or recipients, but needless to say, it is our expectation, which we will spell out in the form of an amendment to clarify it for the record, that the council will consult with the various components, including students, on a regular basis to receive their input much as the Universities Grants Commission does now, consult with the universities on their priorities but have not consulted in the past with students.

So students will have a greater voice under this legislation than they do now because currently they do not have mandated communication with the Universities Grants Commission. In the future, they will have mandated consultation with the council, so it is an improvement in the consultative process but, no, it is not our intention to put members actually on the board—recent grads, so that the people still have a close memory of

what it was like to be on the institution but no self-involvement.

I think the reason for this is quite clear, very clear. In three of the presentations that were made by people who said you need a really truly representative board and the way you get a truly representative board is, you put seven reps from the universities and let the government choose the rest with complete and total forgetting that colleges are included in this, to me that was the most symbolic and real example of why we are not having the direct representatives on the council but will approach them through a consultative process because, clearly, when they wrote out who they thought should be representative, they were forgetting the other ones that were not them. That attitude I think would be taken usually is taken onto councils, where you forget about the other people and think only of your own needs.

We need people with broad vision. The other reason of course is, if we tried to include all the special interest groups that say they are entitled to be on, we have requests from some 34 right now, and we know the list would extend beyond that, a council of 85 is too cumbersome. Where do you draw the line as to who is a legitimate self-interest group?

* (1610)

Mr. Chairperson: Clause 5(2)–pass; Clause 5(3)–pass; Clause 5(4)–pass; Clause 5(5)–pass; Clause 5(6)–pass; Clause 5(7)–pass. Shall Clause–

Ms. Friesen: Question, please?

Mr. Chairperson: Oh, Ms. Friesen. I did not see your hand, apologies. I felt the blow from the minister though.

Ms. Friesen: It is a question on 5(7), and just to note that I believe this is a difference from the Universities Grants Commission. I wondered if the minister could give us a sense of whether she is anticipating a full-time president and vice-president or just a full-time president or a part-time president. There is clearly a difference here, and I wondered if the minister had a sense of the policy direction on that yet.

Mrs. McIntosh: We are looking at a chair that will in all likelihood be full time and members that will probably

not be required full time but will probably be having to spend a lot of time.

Mr. Chairperson: Clause 5(7)–pass; Clause 6(1)–pass; Clause 6(2)–pass; Clause 6(3)–pass; Clause 7–pass; Clause 8–pass; Clause 9–pass; Clause 10(1)–pass; Clause 10(2)–pass. I understand that there is an amendment to Clause 11 proposed.

Mrs. McIntosh: I move

THAT clause 11(b) be amended by adding “and after consultation with the universities and colleges and with students” after “framework established by the minister”.

[French version]

Il est proposé que l'alinéa 11b) soit amendé par adjonction, après “ministre”, de “et après consultation des universités, des collèges et des étudiants”.

Motion presented.

Mr. Chairperson: Discussion on the amendment?

Mrs. McIntosh: Actually this is the clause that I was just referring to in my last comments. This was requested by the universities and colleges and students. Obviously they are the ones that—and we felt it was again like the other amendments. It is something we were planning to do anyhow. We had indicated verbally that the council would be consulting with the bodies and they then said, well, if they are going to be consulting with us why not put it in the act, and we said, fine, no problem. We are happy to include it. It does clarify the intent. It does also ensure that someday many, many, many years from now governments may change, and it does ensure then that the government following us would also have to consult as we were planning to do. So we are pleased to include this at the request of the universities and colleges and students.

Mr. Chairperson: Amendment–pass; Clause 11 as amended–pass. Next, with respect to Clause 12, I understand there is an amendment.

Mrs. McIntosh: I move

THAT clause 12(e) be amended by adding "in consultation with the universities and colleges and with students," at the beginning of the clause.

[French version]

Il est proposé que l'alinéa 12e) soit amendé par substitution, à "élaborer", de "en collaboration avec les universités, les collèges et les étudiants, élaborer".

Motion presented.

Mr. Chairperson: Discussion on the amendment?

Mrs. McIntosh: The same rationale applies here as did in my comments on the previous amendment. The one thing that I should indicate here is that consultation on this matter has already begun, so it is underway.

Ms. Friesen: I think the procedure is to vote on the minister's amendment and then to vote on an amendment on the same clause that I am submitting? How does that work?

Mr. Chairperson: I am sorry, I missed that. It is the procedure to—

Ms. Friesen: I am asking a procedural question. I have an amendment on 11(e). The minister—

Mrs. McIntosh: It is 12(e).

Ms. Friesen: No. 11(e).

Mrs. McIntosh: 12(e)?

Ms. Friesen: 11(e).

Mrs. McIntosh: Oh, well, then we passed it.

Ms. Friesen: Yes. That is the problem.

Mr. Chairperson: The amendment we are discussing now is to Clause 12(e). That has just been moved.

Mrs. McIntosh: She wants to go back to 11(e).

Ms. Friesen: 11(e).

Mr. Chairperson: You wanted to revert back to—

Ms. Friesen: 11(e).

Mr. Chairperson: Clause 11?

Ms. Friesen: (e)

Mr. Chairperson: And (e) of 11. Okay. We will then have to revert back because Clause 11 has been passed, so we are reverting back to Clause 11 for further discussion.

Ms. Friesen: The amendment that I want to introduce there, I move

THAT clause 11(e) be struck out and the following substituted:

(e) ensure that each college and university has in place such accountability requirements and procedures for the core functions of teaching, research and service as are advisable for the proper conduct of the affairs of the university or college;

[French version]

Il est proposé de remplacer l'alinéa 11e) par ce qui suit:

e) fait en sorte que chaque collège et chaque université ait en place les critères et les mécanismes de reddition de comptes pour les fonctions de base de l'enseignement, de la recherche et des services qui sont les plus appropriés à la bonne marche des affaires de l'université ou du collège;

Motion presented.

Mr. Chairperson: Discussion on the amendment?

Ms. Friesen: The purpose of this amendment is really to shift the focus of responsibility to the colleges and universities. I think it is a point I have made a number of times, that these institutions are very diverse, that they have different requirements for accountability and that it seems to me that the most responsible and the most accountable way to go about this is for the council overall to ensure that each college and university has those

requirements in place rather than developing a set of criteria. I know, for example, that Alberta is trying to do it now. They are having a great deal of trouble in developing sets of criteria for accountability that can be broadly applicable. This enables them to be more specific to each institution. It gives the responsibility to the council and it also ensures that the institutions are accountable themselves.

Mrs. McIntosh: I think that the key thing that the clause as worded has that the amendment does not have is the ability for those who put over the hundreds of millions of dollars every year to have a place in developing the accountability.

We have been assured by almost every presenter that came up that colleges and universities already have accountability requirements and procedures in place that are perfectly good and, yet, we repeatedly hear on an ongoing basis from literally thousands of people that it is not seen as good by those who are coughing up the money, primarily students. So I feel you do need to allow the people who pay the money some ability to input the way in which accountability will occur.

If you notice in our wording we have "in co-operation with universities and colleges" so they can come forward and tell us about their fine procedures, which they say they have. We can work together to ensure that they are in fact accountable and transparent to the people, so I appreciate her amendment, but it keeps it insular, not transparent, and does not allow the people who pay any input to even discuss, and I think that is not supported.

* (1620)

Mr. Chairperson: Shall the amendment proposed to Clause 11(e) by Ms. Friesen pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Mr. Chairperson: The amendment is accordingly defeated.

Ms. Friesen: On division.

Mr. Chairperson: On division, let the record show.

We were now dealing with the amendment to Clause 12, namely Clause 12(e). Amendment—pass.

Ms. Friesen: Mr. Chairman, I also have an amendment on 12(e). I move

THAT clause 12(e) be struck out and the following is substituted:

(e) in consultation with universities and colleges, establish policies for tuition fees, loans, grants and bursaries to ensure accessibility to post-secondary education;

[French version]

Il est proposé que l'alinéa 12e) soit remplacé par ce qui suit:

e) de concert avec les universités et les collèges, élaborer des principes directeurs concernant les frais de scolarité, les prêts, les subventions et les bourses afin de rendre l'enseignement postsecondaire accessible;

Mrs. McIntosh: That is already in. We just passed it.

Mr. Chairperson: Do you want to move it then?

Ms. Friesen: I did move it, Mr. Chairman. Can I speak to it?

Motion presented.

Mr. Chairperson: Discussion?

Ms. Friesen: What this does is to insert the word "accessibility," which I acknowledge the minister has done in one of the amendments that she has brought forward, so accessibility does exist if we pass this amendment in two places outside of the preamble, which I think would be good for Manitobans.

It also enlarges the concept of tuition fees to ensure that the council look at accessibility in the context of fees, loans, grants and bursaries, and so it is a holistic approach to accessibility and to the problems which students face increasingly in Manitoba as they look at post-secondary education.

Mrs. McIntosh: I do appreciate the intent here. I indicate, as the member has just acknowledged, that we have just put accessibility into the act, so all of those things would be included under that "accessible to," which was put in by the presidents at the request of the presidents of the universities, so we have already covered the accessibility issue by our amendment, which was put in right at the very beginning of the act.

I should also point out to her, I think she knows this but it might be good to point out just for the record that universities do not issue loans. Canada student loans are issued by the federal government, over which the council will have no control. I mean, we lobby them all the time and I guess you could have a policy to say, move that you lobby the feds, but I think that we have covered off under ensuring accessibility the whole concept of being able to get into a university, which includes, tuition, course offerings and financial assistance and all of those things.

The tuition fee policy, people who have been looking at that are looking at accessibility in terms of cost as well as revenues, so they are already studying it as we speak to come forward with a recommendation on this issue, so I appreciate her intent, but I think it is redundant.

Ms. Friesen: Well, it is helpful to have the minister's definition of accessibility, that it does include all of these issues of program offerings, as well as financial accessibility, which includes loans, bursaries and grants. So it is useful to have that on the record. I do not think it is included in the wording of the bill, and there are limits to what can be taken from the record of a committee like this, but certainly I think that is helpful.

I would point out to the minister as well that it does not say Canada Student Loans; it says loans with a small "l," and indeed many institutions do offer loans to students, particularly emergency loans. I do not know that all the colleges do this, but I know some of the colleges do, and certainly all of the universities are faced with having to make emergency loans to students, and they have funds at their own disposal which come from private donations, from monies that the university sets aside in order to make these kinds of emergency donations to students, which are indeed loans. So it is that sense of the overall, not just Canada Student Loan, but the whole matter of financing students in post-secondary institutions which the amendment is aimed at.

Mrs. McIntosh: Loans that are granted under those conditions through the universities would still be the universities to do. The council would not interfere or touch those in any way, those, you know, private foundations and so on. All of those things are not under the purview of the council, so they would remain intact and they would not be touched.

Ms. Friesen: The issue is what the policies are and what is overall available to students in Manitoba. So a council like this, I would have thought, would have wanted to have information and policy discretion at its fingertips to look at the overall situation of monies available to students in Manitoba. That is really all I am getting at.

Mr. Chairperson: There being no apparent further discussion on that proposed amendment by Ms. Friesen to Clause 12(e), shall the amendment pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: The amendment is defeated on division?

Ms. Friesen: On division.

Mr. Chairperson: Shall Clause 12 as amended pass?

Ms. Friesen: I do have a section here.

Mr. Chairperson: Ms. Friesen is moving an amendment to subsection 12(2). Proceed.

Ms. Friesen: This deals with the ability to request records of institutions and my—

Mr. Chairperson: Do you want to move it, Ms. Friesen?

Ms. Friesen: Yes, sorry, you are right. I move

THAT section 12 be renumbered as subsection 12(1) and the following be added as subsection 12(2):

Limitation

12(2) Nothing in this section authorizes the council or a person or committee appointed by it to have access to any

individual's personal records without the consent of that individual.

[French version]

Il est proposé que l'article 12 soit amendé par substitution, à son numéro actuel, du numéro de paragraphe 12(1) et qu'il soit ajouté, après le paragraphe 12(1), ce qui suit:

Limite

12(2) Le présent article n'autorise en rien le Conseil ou une personne ou un comité que nomme le Conseil à avoir accès aux dossiers personnels d'un particulier sans le consentement de ce dernier.

Motion presented.

Ms. Friesen: This Section 12 deals with the review and evaluation of programs and services and then lays out a series of ways in which those programs and services can be reviewed. I know that the government is in the process of developing new Freedom of Information or reviewing Freedom of Information and privacy regulations and acts, but that may be some time before we see the fruits of that work. In the interim, I am concerned about the rather sweeping powers that are offered in a couple of sections of this bill.

My concern is that individuals whose personal records are involved must give their consent for those records to be looked at. For example, in this bill, in this section of the act, Section 12, the council may appoint a person or a committee to review and report on any matter concerning a university or college and may request the auditor to provide reports to the council on any matter related to the finances.

There are sections elsewhere in the act which also require people to provide documents and information as the council requires them, although perhaps in a more limited format. The council may, under this section, require a university or college to provide to the council any financial or other information that the council considers necessary. That is Section 12(c). Those are rather broad powers.

I have a fundamental concern about individuals knowing when their records or personal information has

been submitted to an external body and, secondly, I think in particular with colleges and universities one of the things that you have to be very concerned about is letters of reference. These seem to me very broad-sweeping powers when those kinds of personal records, whether it is references given for students, references given about or for staff, that there has to be some protections built in for the consent of those people. Otherwise what happens or what can happen is that people will not write reference letters, they will not sign them. That is a particular concern as you look at students' promotions and students' acceptance and rejection from programs and, similarly, in personnel transitions within the universities and colleges.

We do not know yet how the new Freedom of Information or Privacy Act will affect this. I am looking for some certainty in the interim period for individual's personal records.

* (1630)

Mrs. McIntosh: Mr. Chairman, I appreciate the member's concern. We have discussed this with legal counsel in terms of drafting this clause. As they were drafting, it was drafted with the intent to review, to report on university matters, not personal matters. In the opinion of legal counsel, this is clear and not subject to misinterpretation. I appreciate the member's concern but I think I will accept legal counsel's advice on this.

I also indicate that The Privacy Act will supersede anything that is going to come and it will be addressing schools, colleges, universities as well.

This list, in my opinion reading it, does not give authority to anyone to ask for personal papers. Everything in here is an indication of university and college corporate matters, not personal matters. I read it quite clearly. I think the member's fears are unwarranted and the lawyers advise the same. We have not, as well, listed in here the things that counsel cannot do, only the things they can do, and I do not see asking for matters concerning the college or the university, which is a corporation, as being interpreted as personal letters. So I appreciate that.

I think by the time all of this is in place the chances of The Privacy Act being in place are also, or the indications there for coming from what it is going to contain also will

be known. I just do not feel there is a problem. I appreciate her worry, but I just think she is reading far more into a clause than anybody else does.

Ms. Friesen: Mr. Chairman, perhaps just as a footnote, it is not that I am reading into it any more than anybody else. I believe this was raised at the hearings. The Manitoba Association for Rights and Liberties, which represents I do not know how many people, but certainly did make formal presentations on this and certainly alerted me to this. So I will take the minister's word that her intent here is corporate files, that she does not intend to deal in individual files and, again, it is very helpful and useful to have that intent listed in this committee. Thank you.

Mrs. McIntosh: Just picking up on that, I am informed as well that people will look to comments made during the debate for interpretation of intent, if those comments provide that comfort. For extra clarification, that is in the record now, which is a very good point.

Mr. Chairperson: The amendment has been proposed by Ms. Friesen with respect to subsection 12(2). Shall the amendment pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Mr. Chairperson: The amendment is defeated on division.

Clause 12 as amended—pass. Shall Clause 13 pass?

Ms. Friesen: I have an amendment on Clause 13. I move

THAT section 13 be amended by adding the following after clause (b):

(b.1) hold an annual public meeting;

[French version]

Il est proposé que l'article 13 soit amendé par adjonction, après l'alinéa b), de ce qui suit:

b.1) tient une réunion publique annuel;

Motion presented.

Mr. Chairperson: Discussion on the amendment?

Ms. Friesen: I believe the intent of the bill is to expand the accountability of universities and colleges and to, as I think the minister said in her introduction, deal in transparency and accountability with post-secondary education policy. The elements of accountability for this council are that their reports be tabled in the legislature by the minister within a certain number of days of their being completed and that their financial accounts be available. There is no indication that their minutes will be public. There is no indication that their meetings will be public. What I am proposing here is a first step toward a broader accountability for the council itself and to bring it in line with the Crown corporations of Manitoba, which do hold an annual public meeting.

It is not the be-all and end-all of accountability, but it is a first step. So I am proposing it as a way for Manitobans to meet with this council, to listen to their annual presentation, to raise questions of concern about post-secondary education in Manitoba and to bring it in line as well with some of the universities and colleges, which hold annual public meetings as well. It seems to me a useful and helpful step for the people of Manitoba to become involved in some aspects of policymaking for colleges and universities.

Mrs. McIntosh: This is one that we had looked at putting in. I have been on record enumerable times in the public venue. The member, I am sure, has heard me say it, that it is our intention there will be regular public meetings now. Whether they should be every 12 months, every 10 months, every 9 months or every 18 months, I am not sure. It is definitely going to be our intent that there be regular public meetings where the council can not just present their report but receive back from the taxpayers their opinion on the report.

The member mentioned, the University of Manitoba has now begun to do this. They have had two annual meetings now. It is not in their act. It is not a requirement. They are doing it. Similarly University of Winnipeg has held a public meeting, not required, but it is doing it. It is the trend of the future. It is the way in which business is conducted. It is my intention, in giving broad general direction to the council, to ask them to

determine how frequently they believe they should hold a public meeting, because I believe it was in the best interests of them to do that. So our final conclusion was that it was not necessary to put it in the act, as it is now a way of procedure. Just as people take minutes at meetings, just as people do certain things, it is more or less understood that public bodies should have public meetings. What I am not sure about is whether it should be semi-annual, annual, or how often.

I indicate, for the record, it is our intent to ask to have frequent and regular public meetings, but as with the universities which currently hold them, without it being in their act, I do not see putting it in the act as a necessity because we may decide to change it from annual to something else.

Ms. Friesen: It was, of course, policy under the New Democratic government that Crown corporations have an annual public meeting. It is not just businesses, it is Crown corporations. It was the policy of our government when we were in power. I would also suggest to the minister that if it is her intent for public meetings—and I am glad to hear that it is and to have that on record—then the minister should have no problem voting for this amendment. This is a minimum step. I emphasize that in introducing it. This is an annual public meeting. This does not prevent the council from having more meetings, but it does say that at least once a year it is our intent that you meet with Manitobans, that you listen to them, and that you present your plans for the future on developing post-secondary planning for colleges and universities.

It seems to me that the minister and we, unusually, are on the same wavelength here, and I am puzzled as to why the minister—perhaps I am interpreting too much—but why she would feel it unnecessary to vote for this. It seems to me a clear policy established in the act, a policy which the minister says she is in favour of, one which is required of Crown corporations, and one which I think would give great comfort to the many people who came to present on this bill, and who would like that opportunity in the act established, a right, once a year, to meet with this council, to voice their concerns about post-secondary education.

* (1640)

Mr. Chairperson: This is discussion with respect to the amendment posed by Ms. Friesen, that Section 13 be

amended. No further discussion on the amendment, shall the amendment pass? I heard loudly and clearly that the amendment is defeated. On division.

Shall Clause 13 as amended pass? I clarify, shall Clause 13 pass—pass.

Next we have another amendment concerning Clause 14(1).

Mrs. McIntosh: I move

THAT section 14 be amended

(a) in subsection (1), by striking out the definition “reduce”; and

(b) in subsection (2),

(i) by striking out “new or expanded” in the section heading; and

(ii) by striking out “expand or reduce” and substituting “making significant modifications to, or cease to provide”.

[French version]

Il est proposé que l'article 14 soit amendé:

a) dans le paragraphe (1), par suppression de la définition de “réduire”;

b) dans le paragraphe (2);

(i) par suppression, dans le titre, de “nouveaux”,

(ii) par substitution, à “, élargir ou réduire un programme d'études, un service ou une installation financée par le Conseil”, de “ou abolir un programme d'études un service ou une installation financée par le Conseil ou y apporter des modifications importantes”.

Ms. Friesen: I have a couple of questions. I understand what the minister is doing by striking out the definition of “reduce,” but I am not sure what is being introduced here with “making significant modifications.” Does the minister have a definition of “significant modifications”?

Mr. Chairperson: Just let me clarify, it has been moved by the Honourable Minister McIntosh that Section 14—dispense.

Motion presented.

Mr. Chairperson: Honourable Minister, in response to that question?

Mrs. McIntosh: Thank you very much, Mr. Chairman. As you know, The Universities Grants Commission Act does not have a definition for “expand” or “reduce” in it. We were using the words “expand” or “reduce.” We had a request from the field to then put a definition for expand or reduce in, which we attempted to do. Nobody liked the definition, so we all decided the thing to do then would be just to go back to the original way in which it was done in The Universities Grants Commission Act which was to not include those definitions, but we did wish to have clarification as to this particular area. We have, upon consultation with the university presidents again, accepted this wording which we think does perhaps in a better way indicate that if you are going to be changing a program in any way, that will either make it significantly modified or result in it not being offered, that the rest of the clause needs to kick in.

I think it is self-explanatory. I just realized, even in explaining it, I am using the same words that are in it to explain it. I think it is that self-evident.

Ms. Friesen: Yes, I recognize that it is a different definition and that is why I am looking for a definition from the minister of what she means by significant modification. For example, significant modification of a service, what would the minister understand by that at a university or college?

Mrs. McIntosh: Let us use the example that both groups and the professors and those in the administration at the university used in expressing concern about this clause. They had indicated, when you talk about reducing services and the need for us to get written approval, does that mean we have to get written approval from the council before we can close the library for two hours early on a cold day? They asked that question very seriously, as a major concern, a major concern of the universities that that clause could mean they would have to get written approval from the council to close the library two hours early. They are very serious about it.

I said, of course not. That would be ridiculous. What I am meaning is that if you decide you are going to close the university library down for two months in the middle of examinations, to me that would be fairly significant and probably should have some interaction with the council. In other words then, “significant” is the word that the presidents felt would indicate what matters would require written approval and which ones would not. They would have to be significant. The example that the field itself used, not my example, was two-hour closure of a library on a cold day versus two-months closure of a library in the middle of exams. I think intelligent people will know the difference between something significant and something minor.

Ms. Friesen: A further question, and I come—

Mr. Chairperson: Ms. Friesen, you could begin again. I apologize for that interruption.

Ms. Friesen: Thank you. I think I had better. I do not remember what the sentence was.

I wanted to draw the attention of the minister to The Colleges Act again, particularly Section 5(2), where under The Colleges Act, which remains in force, the minister has the power to regulate programs, and I quote: to ensure the orderly growth and development of the post-secondary educational system the minister may regulate the establishment, expansion, deletion or a transfer of any service, facility or program of study by a board.

The minister, of course, may now delegate those powers to expand, delete or transfer any service, facility or a program to this new council. Now, I wonder if the minister has seen any difficulties there. As that is delegated, does that then only refer to the colleges, and are we establishing a kind of parallel authority here within the new council? It may do some things for universities. It may do other things by delegation from the minister for colleges.

Mrs. McIntosh: Fourteen is for all. It goes for colleges and universities and, then, additionally, in the colleges is the “transfer.” “Transfer” is the only different word in The Colleges Act.

Ms. Friesen: I think “deletion” is also there. “Deletion” or “transfer.”

Mrs. McIntosh: And yet, if you are just looking at the amendment I have before you, if you look at the words "cease to provide"—I do not know where it is—"cease to provide" or "significant modifications to" could include those.

Ms. Friesen: Mr. Chairman, and this transfer that is referred to in The Colleges Act and which may now be delegated to this board, I would think logically only refer to transfers between colleges, not between colleges and universities, and I think that probably needs to be made clear.

Mrs. McIntosh: The transfer does not include to universities.

Ms. Friesen: And yet the whole purpose of this council is in fact to facilitate the development of transfers between universities and colleges, so I am looking for which is going to take precedent. Really, why have you left The Colleges Act in place, as is? It seems to me to be introducing unnecessary complications.

* (1650)

Mrs. McIntosh: When we talk about transferring of credits between the universities and colleges I am referring to things such as taking a degree in civil technology. I have used the example before. You then decide to go on and take a degree in civil engineering and you know that some of the courses you have taken in first year civil technology are identical. We have had example after example of this where the courses taken in this technology course in some instances are virtually identical to those taken in first year engineering, and yet students are not able to get credit for them.

We are now saying that if the course is the same, and in some cases not only the same course taught by the same professor, that they should be given credit for it in a transfer into a program, but that is not what this clause is about.

This talks about transferring a service, a facility, a whole program of study. It is not about credit transfers.

An Honourable Member: Question.

Mr. Chairperson: The amendments with respect to Section 14 are before you. There has been a call for the question.

Amendment—pass. Shall Section 14 as amended pass?

Ms. Friesen: I have a question and possibly an amendment on 14(3). Are we at 14(3)?

Mr. Chairperson: The amendment with respect to 14(1) only.

Clause 14(1) as amended—pass; Clause 14(2)—pass. You had an amendment respecting 14(3), Ms. Friesen, or you had a question about it?

Ms. Friesen: Mr. Chairman, first of all, a question. The section reads: "After advising the minister, the council may grant an approval under subsection (2) for a limited period or may impose other terms and conditions on an approval, and a university or college shall comply with any terms and conditions that are imposed."

I wanted to have the minister clarify something for me here because that last phrase "shall comply with any terms and conditions that are imposed" seems rather open-ended. Is it the minister's intent and is it the intent of this section that all of this Section 14(3) is essentially linked to 14(2)? Should it in fact read, after advising the minister, the council may grant an approval for a limited period or may impose other terms and conditions on the approval under subsection (2), and a university or college shall comply with any terms and conditions that are imposed?

Mrs. McIntosh: You asked two questions there.

Mr. Chairperson: Ms. Friesen will clarify.

Ms. Friesen: Yes. They are linked. I was actually in the second part proposing what seemed to me a more precise wording, but if the minister is prepared to clarify that all of Section 14(3) is in fact linked to 14(2), then it may not be necessary.

Mrs. McIntosh: Yes, it is.

Mr. Chairperson: Clause 14(3)—pass; Clause 15—pass; Clause 16(1)—pass; Clause 16(2)—pass; Clause 16(3)—

pass; Clause 17(1)–pass; Clause 17(2)–pass; Clause 18(1)–pass; Clause 18(2)–pass; Clause 18(3)–pass; Clause 19–pass; Clause 20–pass.

There is a proposed amendment respecting Clause 21.

Mrs. McIntosh: I move

THAT the following be added after subsection 21(1):

Consideration of grants in lieu of taxes

21(1.1) Amounts paid under subsection (1) shall take into consideration the obligation of universities and colleges to pay grants under Part 10, Division 7 (grants in lieu of taxes) of The Municipal Act.

[French version]

Il est proposé d'ajouter, après l'article 21(1), ce qui suit:

Subventions tenant lieu de taxes

21(1.1) Dans l'allocation des sommes visées au paragraphe (1), il est tenu compte de l'obligation des universités et des collèges de verser des subventions en application de la section 7 de la partie 10 de la Loi sur les municipalités.

Motion presented.

Mr. Chairperson: Honourable Minister, discussion. Maybe before we move onto discussion, because this succeeds 21(1) and is a new clause, can we deal with Clause 21(1)? Shall that pass?

An Honourable Member: No.

Mr. Chairperson: No, you have a point on that one? We better have a discussion then on Clause 21(1) first.

Ms. Friesen, do you have a question about subsection 21(1)?

Ms. Friesen: Mr. Chairman, this is something which is different from the Universities Grants Commission process and I wondered if the minister had an explanation for it. In the Universities Grants Commission, the money was paid to the department and then it went to the Universities Grants Commission and equally to the

colleges and the third thread, of course, to the Bible colleges as well. So I am wondering what the difference is here.

Is the issue here Estimates? For example, under the UGC system, there was a line in Estimates for the Universities Grants Commission money. If this new process here, where it appears to go directly rather than through the minister, does that mean that there will be no line in Estimates for us to examine the post-secondary education council on?

Mrs. McIntosh: There will be a line in the Estimates on this for you to examine.

Ms. Friesen: Where will we find it? Will it be in Education?

Mrs. McIntosh: Just as with the Universities Grants Commission, I am assuming it would be in that particular area. I am just checking with staff. We were Universities Grants Commission—is currently, I do not know the numbering without looking it up.

Ms. Friesen: I just wondered why this had changed. If it is not an issue of Estimates, what is the difference here? Why is it going directly to the council?

Mrs. McIntosh: Legal counsel advises it is simply a more streamlined version of the wording. As you know, whenever acts are opened, they try to update the wording to make it more simple or more modern or whatever. So there is no intent to do anything different here; it is just to be more clearly worded. The money will flow as it used to through the Universities Grants Commission but now through the council.

Ms. Friesen: Again, just to clarify. The fund here refers to those three strands: the money to the Bible colleges, the money formerly from the UGC, and the money that formerly went to the colleges. The fund is that group of three.

Mrs. McIntosh: Yes.

An Honourable Member: Question.

* (1700)

Mr. Chairperson: There has been a call for the question. Clause 21(1)–pass.

We are now dealing with the amendment again to the addition of 21(1.1). Discussion on the amendment, Madam Minister?

Mrs. McIntosh: This is just a consequential amendment that will make this act comply with The Municipal Act, so it is the same wording as is in The Municipal Act.

Mr. Chairperson: Amendment–pass; Clause 21(2)–pass; Clause 21(3)–pass; Clause 22(1)–pass; Clause 22(2)–pass; Clause 23(1)–pass; Clause 23(2)–pass.

There is a proposed amendment to Clause 24(1). It is an addition afterwards that is going to be proposed.

Clause 24(1)–pass.

An Honourable Member: Right after—I am sorry, carry on.

Mr. Chairperson: It is after 24 entirely.

Clause 24(2)–pass; Clause 24(3)–pass; Clause 24(4)–pass. Now, we have a proposed amendment, proposing an addition of 24.1.

Mrs. McIntosh: I move

THAT the following be added after section 24:

Restrictions on incurring liability

24.1 Notwithstanding any other Act, a university or college shall not incur any liability or make any expenditure in a fiscal year beyond

(a) the unexpended amount of the grants made to it by the council; and

(b) its estimated revenue from other sources to the end of that fiscal year,

unless an estimate of the liability or expenditure has first been submitted to and approved by the council.

[French version]

Il est proposé d'ajouter, après l'article 24, ce qui suit:

Plaffonnement

24.1 *Malgré toute autre loi, les universités et les collèges ne peuvent, au cours d'un exercice, contracter des dettes ou engager des dépenses excédant la fraction non dépensée des subventions que leur accorde le Conseil ou leurs recettes estimatives provenant d'autres sources jusqu'à la fin de cet exercice, à moins qu'une estimation des dettes ou des dépenses n'ait au préalable été approuvée par le Conseil.*

Motion presented.

Mr. Chairperson: Discussion on the amendment?

Mrs. McIntosh: This is the exact wording that was in The UGC Act and should have been included with the original draft here, and its inclusion is now being brought forward.

An Honourable Member: Question.

Mr. Chairperson: Amendment–pass; Clause 25(1)–pass; Clause 25(2)–pass; Clause 25(3)–pass; Clause 26–pass.

There is a proposed amendment to Clause 27, I understand. It is an addition I am told after Clause 27.

Clause 27–pass. This is in respect to adding 27.1

Mrs. McIntosh: I move

THAT the following be added after section 27:

Grants to other institutions

27.1 The Lieutenant Governor in Council may, on any terms and conditions that the Lieutenant Governor in Council may determine, authorize the council to make grants to post-secondary institutions to which this Act does not otherwise apply.

[French version]

Il est proposé d'ajouter, après l'article 27, ce qui suit:

Subventions versées à d'autres établissements

27.1 *Le lieutenant-gouverneur en conseil peut, aux conditions qu'il fixe, autoriser le Conseil à verser des*

subventions à des établissements d'enseignement postsecondaire qui ne sont pas visés par le présente loi.

Motion presented.

Mr. Chairperson: Discussion on the amendment?

Mrs. McIntosh: Thank—

Mr. Chairperson: Oh, I have a problem. I am advised that the amendment may very well be out of scope. That is the advice from Legislative Counsel.

Mrs. McIntosh: Mr. Chairman, I believe by unanimous consent, the committee could determine that it was in scope. I believe on this issue it is like this as to whether or not it is in or out of scope. I think the committee maybe could decide unanimously to include it. I would like to explain the rationale for the amendment and ask that members consider unanimous approval to pass it through. Am I correct in saying, with unanimous consent?

Mr. Chairperson: The honourable minister is correct on the applicable procedure for dealing with this. If this can be done by unanimous consent, then it can move ahead regardless of the opinion of legal counsel.

Discussion then on the issue of whether or not this can be dealt with by unanimous consent?

Mrs. McIntosh: I presume, Mr. Chairman, that I should have to indicate to them why I would consider that it would be in scope.

Mr. Chairperson: That is what would seem to be relevant discussion. Unless, is there a willingness to deal with this by unanimous consent or do you want to hear from the minister on this?

Ms. Friesen: I think perhaps we will proceed with the statement from the minister because it does seem to me that it is out of scope and it is something I think which is of concern.

Mrs. McIntosh: I appreciate that this issue is one of those issues where you have a whole series of legal opinions. It is—could be in, could be out depending upon the interpretation, because this is a very unique and

unusual situation in that we have post-secondary institutions in the province that are funded by the province that provide courses. We talked about and made reference to them earlier in this act. Indeed, earlier in this act I think the member was trying to bring forward an amendment or offer an opinion that these other bodies might actually be significant enough to be included right in the act completely.

But we are talking about colleges that are recognized for credit by the public universities, and you mentioned earlier Canadian Mennonite Bible College and Catherine Booth Bible College. They are recognized as teaching centres at the University of Manitoba. Students at Menno Simons College are students at the University of Winnipeg and actually receive a University of Winnipeg degree. All of the Bible colleges receive some limited funding from the province. The funding is based on approved credits taken by students. It is a small amount of funding, but nonetheless they do receive provincial funding because they do offer accredited post-secondary courses.

At present the funding is provided by the Management Services branch of the department. With the creation of a council, this creates an awkwardness because the money now for post-secondary college courses, which can lead ultimately to Ph.D. degrees, coming from two different sources, we felt was awkward. The colleges, these particular colleges which are basically faith-based colleges, do not receive funding for their religious courses. They only receive funding for those courses that are seen as accredited at the other institutions and not even all of those because we know we have courses, for example, being offered at the University of Manitoba and at Providence College, exactly the same course taught by exactly the same professor who travels back and forth between the two institutions, not funded at Providence and funded at the university.

We are not asking that they be given funding for those things that are currently not being funded for. We are saying, though, that we think they need to be funded through the same source, through the council. All post-secondary institutions that receive public funding in our opinion should have their money flow through the council. That, in our opinion, is not inconsistent with the scope of the bill since the colleges are linked to the post-secondary sector through their recognized courses and

since funding is provided only for those recognized courses. Therefore it seems reasonable for the funding for accredited courses such as these to all flow through one council.

We are trying to get some sort of co-ordination. This is one more piece of co-ordination that we think is wise. We have consulted with the field on this. The affected bodies think this is wise, and we did not include it in the original bill. This came out as the result of the consultations. The member had indicated she felt it was very important for us to go out and do these consultations. We went out and did them and came back with this recognition that this should have been put in the bill. So we bring it in as an amendment and ask that it be considered as part of the whole same story, and the story should be kept intact in the bill.

With those comments then, I ask for consideration of the committee to recognize that this is something that should have been in the bill. While one could argue it was out of scope, one could also argue just as well that it is in scope, and I leave it to the committee to discuss.

* (1710)

Hon. Harry Enns (Minister of Agriculture): Mr. Chairman, I am disappointed that the committee would have difficulty with this reasonable addition and amendment to this bill at this time. Just so that we are all clear and I myself am clear, we are talking, strictly and solely, if I understood the minister correctly, of the kind of funding that is currently accessible to these same colleges that apply only to the approved programs that through the Department of Education the college is already being funded. I also find it somewhat strange that the opposition would choose to make this differentiation when on another similar issue the Minister of Health (Mr. McCrae), in his creation of the so-call super board, a great deal of concern is being expressed by all that the faith-based institutions, hospitals in this case, be not in any way discriminated against or not acknowledged in the distribution of public funds that goes to the Winnipeg hospital system.

So I appeal to honourable members to consider providing the necessary leave that the Chairman appropriately calls for because of the legal advice the Chair has received, that while there may be some

question about the scope of this particular amendment, we are the masters of our own affairs at this committee, and as the Chair has called for by leave, this could be accommodated. I would genuinely appeal to all members of this committee to consider this request on the part of the minister no different than that request on the part of the Minister of Health in the creation of a board to determine the fair and equitable distribution of public funding to our hospital systems and specifically take into account faith-based institutions.

Mr. Chairperson: In fairness to the representatives of the official opposition on this committee, I do not think they have yet indicated how they do stand. What we are doing, and thanks for contributing to the debate, was to just shed some light on the rationale behind this request, and that has been done.

Mr. Enns: I certainly want to acknowledge your intervention as being entirely appropriate. If I am premature in my anticipation of the official opposition's position, then I would be the first to withdraw the comments that I just put on the record.

Ms. Friesen: Mr. Chairman, it is helpful to have some time to think about this, and I appreciate the fact that the minister did put this on the table as an amendment some time ago. It is one that has given me cause for concern.

I want to say, first of all, that the issue is not the existing funding to Bible colleges. That already exists. It came about some years ago as a result of changes, I believe, Mr. Manness introduced to move from a system whereby the colleges were granted exemptions from taxes to a more formal and direct way of granting based upon academic courses and based upon a particular kind of formula. So the issue is not the existing funding of monies to Bible colleges, nor is it the nature of the courses. As the minister often says, they are often taught by the same people. So it is not a question of quality. It is not a question of any difference in teaching—these are certainly courses which are taught by well-qualified people in formal institutions—nor is, I think, the issue that the Minister of Agriculture (Mr. Enns) has raised, the issue of not acknowledging faith-based institutions. That is not the case at all.

The issue is really twofold. One, it is an issue of the process of this committee, which will establish a

precedent for other committees, Mr. Chairman, in the issue of deciding on scope or out of scope, and I do believe that the ruling and the advice you have received from Legislative Counsel is the appropriate one. But it is because, secondly, this bill also establishes a different category of post-secondary institutions. Rather, I should say, this amendment proposes a separate class of institutions, those which receive money but which are not subject to the accountability or the planning or the relationship with the minister or the government in the same way that other institutions are. So it is a significant departure, I think, from the intent of the bill.

Now the minister did not in second reading discuss this intent or this separate class of institution, and it is this issue of public monies without the same level of accountability that does concern me, as it would in other issues, and I do not think that is the kind of system which is being set up by the faith-based hospital boards. So the parallel is not exact.

I do think that your ruling and the advice of Legislative Counsel is sensible, and I think it is sensible on two grounds. I am referring to Beauchesne 773, and you may well, Mr. Chairman, already have referred to those. The amendment must not be "inconsistent with . . . the bill as so far agreed to," and it seems to me there is an inconsistency, a different class of institutions which is being suggested here in this amendment. A second section under 773 in Beauchesne says that "An amendment is out of order if it imposes a charge upon the Public Treasury, if it extends the objects and purposes, or relaxes the conditions and qualifications as expressed in the Royal Recommendation."

So the issues here, it seems to me, is that it does extend the object and purpose and it does relax the conditions and qualifications, and those are my concerns, are for both process and for a separate class of institutions which is being created here.

I would also add that although we are discussing this in the context of the Bible colleges, the wording of this particular amendment opens it to other institutions. It opens it, for example, to the private vocational schools. They may be designated by the minister or by the Lieutenant-Governor-in-Council because it may, and I am quoting from the amendment, "authorize the council to make grants to post-secondary institutions to which this

Act does not otherwise apply." So it may indeed be broader in its wording than perhaps the minister intended, but certainly, I think, could well go beyond the Bible colleges to which there is already funding, which is not the issue at stake here.

Mr. Chairperson: So I take it from that, you are not granting consent.

Ms. Friesen: No.

Mr. Chairperson: You are not granting consent.

Mrs. McIntosh: May I then make a closing to this debate and one last-minute attempt--

Mr. Chairperson: I will permit you to make one last appeal.

Mrs. McIntosh: Okay, just because I think many of the points the member raised need to be addressed. Her first concern that we would be establishing a precedent if we unanimously agreed to rule something out of scope, I think we would not be setting a precedent. The rules are that if unanimously agreed, you can change whether something is out of scope or not. The precedent is already there in the rules. So I think that is an unnecessary worry.

She was concerned that public monies are given without some level of accountability, and I am maintaining to her that right now those institutions, say the Bible colleges, for example, get the equivalent of about \$490 per student versus the \$7,000 per student or \$7,400 given at the colleges or some \$6,800 given at the universities. So the level of funding is very, very different. If the member is looking for accountability, would she not rather have it flow through the council, that money, than have it continue just to be given by the Management Services branch of the department? If it flows through the council, and the council has the public mandate to explain how it disperses funds, would that not be preferable than just to have the department continue to provide some \$400,000, \$500,000 annually to private post-secondary institutions.

So I think that in fact the very points that she raises as points of concern are answered by allowing this amendment to go through. Now we may have to agree to

disagree on that. This is my second time of speaking, and then I know debate is closed off, but I do believe that this particular amendment could be argued just as successfully to be in scope as out of scope, and that it would be an improvement to the system and to the bill to allow all funding for this type of thing to flow through the one council rather than through the department and the council.

At any rate, I just leave that now to whether or not the committee wishes to allow this amendment to stand for the sake of those institutions or to have us wait for another year to do it.

Mr. Chairperson: I will just now make my ruling on the proposed amendment to Section 27(1) which I have not yet done, although I gave a pretty good indication what I would rule, and I will so rule. The amendment proposed to Clause 27 to add a new Section 27.1, "Grants to other institutions", goes beyond the original purpose of the bill as outlined at the second reading stage of the bill.

According to Beauchesne's Citation 698(1), "An amendment is out of order if it is irrelevant to the bill or beyond its scope."

Further, Beauchesne's Citation 698(2) states, "An amendment must not be inconsistent with, or contradictory to, the bill as so far agreed to by the committee."

I am therefore ruling that because the amendment is beyond the scope of the bill as originally intended, the amendment is out of order. However, with the unanimous consent of the committee, the amendment can be considered. Is there unanimous consent?

Some Honourable Members: No.

Mr. Chairperson: There is not unanimous consent.

Mrs. McIntosh: I feel it is extremely important for the record that it be noted that the government members supported this bill and the members of the official opposition did not support this bill because I think it is very significant, and it should be noted that government members supported it and not one official opposition member supported it.

Mr. Chairperson: You are referring to Clause 27.1 as proposed?

* (1720)

Mrs. McIntosh: The amendment, yes.

Ms. Friesen: I think the minister meant the amendment rather than the bill.

Mrs. McIntosh: I meant the amendment, yes.

Mr. Chairperson: She has clarified she meant the amendment, Ms. Friesen.

Ms. Friesen: I think it should also be noted for the record that the issue here is the creation of a different type of institution. If the minister perhaps had had the kind of consultations which should have occurred before this bill, it might have been possible to include it. But we do have a process here. We do have a process and rules which deal with these kinds of issues. I think it should also be noted that this is not an issue of existing funding; it is not an issue of the nature of courses; nor is it an issue of not acknowledging the role of the faith-based system in education. I think those things should be made very clear.

Mr. Enns: I would appreciate a recorded vote by the committee on this amendment on your ruling.

Mr. Chairperson: Oh, are you going to challenge my ruling?

Mr. Enns: No, no.

Mr. Chairperson: Well, then it is a ruling. It is not a vote.

Mrs. McIntosh: The opposition members made a very great point of saying throughout this debate for lo these many months and even unto this very day, the opposition members have said that the government should have consulted, consulted, consulted. This particular amendment came in as the result of consulting with the field, and it was presented to the committee right at the beginning of the committee's deliberations. I think that the motions that the Conservative members have put forward are not concerns that are unanimously agreed upon obviously.

What she puts forward is saying that she is not working against faith-based institutions is her side of the interpretation. We see it quite differently. We see her supposedly objective statements as being very subjective and very much opposed to faith-based institutions. I just indicate that for the record, Mr. Chairman. She is entitled to state differently, and I am entitled to disagree with her on that. She questions my intent all the time. I am now definitely questioning hers.

Mr. Chairperson: I think the debate is deteriorating somewhat. I have made my ruling, and I, in fairness, will allow Ms. Friesen to make, I hope, a few abbreviated remarks. She had her hand up in response to what the honourable minister said, and that will be the last word, I hope.

Ms. Friesen: Mr. Chairman, I appreciate that. I repeat again, the minister may do with my words what she chooses. That is her responsibility. I can only say that this was not in the original intent of the bill. It is an amendment and it does alter the nature of the bill, not of the bill but it certainly creates a separate class of institutions which we would be prepared to debate had they been part of the bill, but the process and the rules of the House are such that this is out of scope. From the minister's perspective I can see that this is unfortunate, but I want to repeat as I have for the third time that this is not an issue of not acknowledging the role of faith-based institutions in higher education. It is not, by any means, the issue of the nature of the courses or the academic role of the faith-based institutions, nor is it indeed an issue of the existing funding, and I cannot make it plainer than that.

Mr. Chairperson: That sounds like a disagreement as to the facts.

We now will move to consideration of Clause 28(1). Clause 28(1)—pass; Clause 28(2)—pass; Clause 28(3)—pass; Clause 29—pass; Clause 30—pass; Clause 31—pass.

Mrs. McIntosh: Mr. Chairperson, I move

THAT Legislative Counsel be authorized to change all section numbers and internal references necessary to carry out the amendments adopted by this committee.

[French version]

Il est proposé que le conseiller législatif soit autorisé à modifier les numéros d'article et les renvois internes de façon à donner effet aux amendements adoptés par le Comité.

Motion agreed to

Mr. Chairperson: Table of contents—pass.

There is a motion respecting the preamble.

Mrs. McIntosh: Mr. Chairman, I move

THAT the Preamble be amended

(a) in the first paragraph, by adding “in an atmosphere of open and critical thought” after “knowledge”;

(b) in the third paragraph, by striking out “is accessible and effective” and substituting “provides choice and accessibility for students”;

(c) in the fifth paragraph,

(i) by adding “, in consultation with universities and colleges,” after “coordinate”, and

(ii) by adding “that is nationally and internationally competitive” after “province”.

[French version]

Il est proposé que le préambule soit amendé:

a) dans le premier paragraphe, par adjonction, après “connaissances”, de “de façon ouverte et critique”;

b) dans le troisième paragraphe, par substitution, à “l'accessibilité et l'efficacité de ce dernier”, de “aux étudiants l'accessibilité à ce dernier et un éventail de choix”;

c) dans le cinquième paragraphe:

(i) par adjonction, après “coordonner”, de “en collaboration avec les universités et les collèges”;

(ii) par adjonction, après “dans la province”, de “et compétitif tant à l'échelle nationale qu'au niveau international”.

Motion presented.

Mrs. McIntosh: Mr. Chairman, you may recall that these were amendments requested by the group of presidents when they appeared through Dr. Hanen, who spoke on their behalf. We thought they were good amendments that served again to further clarify our intent and we were pleased to include them as an improvement on the bill.

Mr. Chairperson: Any further discussion on the amendment?

Ms. Friesen: Mr. Chairman, I think these are great improvements to the preamble and we would certainly support them. I think in each section the introduction of accessible again is an important change, at least an important clarification and, I would argue, change to this bill. I believe the presidents' wording of "open and critical thought" after "knowledge," I think would be very helpful to many of the people who have presented to us to give them some comfort of the intent of the government and the recognition of the critical role of colleges and universities. I believe that the consultation is an important element that has been added elsewhere in the bill as well and I acknowledge that, and finally that adding "nationally and internationally competitive" after "province" I think is also a recognition of the important role that universities and colleges must play nationally and internationally. So I welcome all of these amendments and will support them.

Mr. Chairperson: Amendment—pass.

Ms. Friesen: I have another amendment.

Mr. Chairperson: With respect to the preamble, you have another amendment. Okay. Another amendment proposed with respect to the preamble by Ms. Friesen.

* (1730)

Ms. Friesen: Mr. Chairman, I am going to move it first and then comment on it.

I move

THAT the preamble be amended by adding the following after the second paragraph:

AND WHEREAS academic staff must have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions;

[French version]

Il est proposé que le préambule soit amendé par adjonction, après le deuxième paragraphe, de ce qui suit:

ATTENDU QUE le personnel enseignant a le droit, dans le cadre de la loi, de questionner et de vérifier le savoir établi et de proposer de nouvelles idées et des opinions controversées et impopulaires;

Motion presented.

Ms. Friesen: Mr. Chairman, I had prepared this amendment before the minister had put in hers, which at the university presidents' suggestion dealt with the issue of critical thought, and having seen that I did reconsider whether I should put this one in, but I do think that it does clarify it and extend it. I would also suggest to the committee that this is an amendment which was proposed in the House of Lords by Lord Jenkins, who is the Chancellor of Oxford University and it was proposed in 1988 when a broad scale and similar kind of legislation was put in place by the Thatcher government. I would point out that it is my understanding that it was accepted by the Thatcher government.

Mr. Mike Radcliffe (River Heights): Mr. Chair, I would ask my honourable colleague, through you, if she would amplify the term "received wisdom." I am not sure that I understand what "received wisdom" is. [interjection] Yes, or some other variation thereof.

Ms. Friesen: Mr. Chairman, these are of course Lord Jenkins' words, rather than mine, but my understanding of "received wisdom" means commonly accepted wisdom. So the argument here is that which must be challenged, must be discussed, debated, controversial and unpopular opinions put forward in response to.

Mrs. McIntosh: Mr. Chairman, I understand these words were penned and voiced by some individual with a greater loftiness in academic culture than I, but I—to be quite honest—prefer the way the presidents have raised it.

I mean, this clause definitely is dealing with academic freedom as is the one the presidents put forward, and I think in an atmosphere of open and critical thought in the context of this amendment it is cleaner because it is wide open and this is—what if they want to question and test something else besides wisdom that has been passed down, conventional wisdom passed down through the ages? I mean, what if they want to put forward old ideas. I think the one you have, quite frankly, with all due respect, is not as well worded as the presidents and I think they get at the same idea. I think we have already just passed an amendment to deal with academic freedom, and I prefer the wording of the presidents than the one of the NDP, although I appreciate why you have it here and

I am not unhappy with the concept. I like the wording better in the presidents'.

An Honourable Member: Question.

Mr. Chairperson: Call for the question. Shall the amendment by Ms. Friesen pass? The amendment is defeated on division.

Preamble as amended—pass; Title—pass. Bill as amended be reported.

Committee shall rise.

COMMITTEE ROSE AT: 5:33 p.m.