



Fourth Session - Thirty-Sixth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee

on

Economic Development

Chairperson
Mr. Peter Dyck
Constituency of Pembina



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Thirty-Sixth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON ECONOMIC DEVELOPMENT

Friday, June 19, 1998

TIME – 9:30 a.m.

Executive Committee, Brandon University Faculty Association

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Peter Dyck (Pembina)

VICE-CHAIRPERSON – Mr. Gerry McAlpine (Sturgeon Creek)

ATTENDANCE - 9 – QUORUM - 6

Members of the Committee present:

Hon. Mrs. McIntosh, Hon. Mrs. Vodrey

Messrs. Dyck, Fauschou, Ms. Friesen, Messrs. Helwer, Laurendeau, McAlpine, Ms. Mihychuk

WITNESSES:

Bill 47–The Brandon University Act

Mr. Edward Lipsett, Private Citizen (on Bills 48 and 49)

Bill 48–The Mennonite College Federation and Consequential Amendments Act

Mr. Ed Buller, Mennonite College Federation
Mr. Victor Martens, Vice-Chairman, Menno Simons College
Mr. Gerald Gerbrandt, President, Mennonite Bible College

Bill 49–The University of Winnipeg Act

Mr. Geoffrey Scott, University of Winnipeg Faculty Association
Mr. Roger Kingsley, University of Winnipeg
Mr. Roger Coll, United Church of Canada

WRITTEN SUBMISSIONS:

Bill 47–The Brandon University Act

MATTERS UNDER DISCUSSION:

Bill 47–The Brandon University Act
Bill 48–The Mennonite College Federation and Consequential Amendments Act
Bill 49–The University of Winnipeg Act
Bill 50–The Universities Establishment Repeal and Consequential Amendments Act

Clerk Assistant (Ms. Patricia Chaychuk): Good morning. Will the Standing Committee on Economic Development please come to order.

Before the committee can proceed with the business this morning, it must elect a Chairperson. Are there any nominations?

Mr. Marcel Laurendeau (St. Norbert): I would like to nominate Mr. Peter George Dyck, please.

Clerk Assistant: Mr. Dyck has been nominated. Are there any other nominations? Seeing none, Mr. Dyck, you are elected Chairperson.

Mr. Chairperson: Good morning. Will the Standing Committee on Economic Development please come to order. This morning the committee will be considering the following bills: Bill 47, The Brandon University Act; Bill 48, The Mennonite College Federation and Consequential Amendments Act; Bill 49, The University of Winnipeg Act; Bill 50, The Universities Establishment Repeal and Consequential Amendments Act.

To date, the following persons have registered to speak to the bills, and I will now read aloud the names of the persons on the presenter list: starting with Bill 47, Edward Lipsett; Bill 48, again, Edward Lipsett, Gerald Gerbrandt, Victor Martens and Ed Buller; Bill

49, Geoffrey Scott, Edward Lipsett, Dr. Roger Kingsley and Roger Coll; and Bill 50, Edward Lipsett.

If there are any other persons in attendance who would like to make a presentation to one of the bills before the committee and whose names do not appear on the list, please contact the Chamber branch personnel at the back of the room to register and your name will be added to the list.

In addition, if there are any persons present who require assistance with making photocopies of their presentations, please also contact the Chamber branch personnel at the back of the room, and the copies will be made for you.

I would just like to inform the committee that we have received a written submission regarding Bill 47 which has been distributed on the table for committee members. Is there agreement from the committee to have the submission included in the Hansard for today's committee meeting? Is there agreement that we include that? [agreed]

Ms. Jean Friesen (Wolseley): Mr. Chairman, I notice that that is about a six-page item, and I would like time during the committee to read it before we proceed to clause by clause.

Mr. Chairperson: In what way would you like to do that?

Ms. Friesen: I just want to draw that to your attention. I do not want it just put on the table and then sift through. We need time to read it.

Mr. Chairperson: Is it the will of the committee? [agreed] Did the committee wish to use the limits for the hearing of presentations?

Mr. Gerry McAlpine (Sturgeon Creek): Mr. Chairman, I would recommend, on behalf of the committee, that we allow a 10-minute presentation and five minutes for questions and answers of the committee.

Mr. Chairperson: The proposal is 10 and five. Is that the will of the committee?

Ms. Friesen: Mr. Chairman, we are prepared to live with that as a general rule, but I think the Chair needs to use discretion. There may well be a time when answers go longer than five minutes, so the question-and-answer period needs to be flexible.

Mr. Chairperson: Okay. Is that the will of the committee with the discretion of the Chair? [agreed]

Did the committee wish to indicate the order by which the bills will be considered?

Mr. Edward Helwer (Gimli): Mr. Chairman, just on another topic. I believe you can consider bills in order of number, in numerical order, whatever, but I notice you have one particular presenter who is presenting on a number of bills. I wonder if he could do this all at one time.

Mr. Chairperson: I will be dealing with that in just a moment, Mr. Helwer, if that is all right.

Mr. Helwer: Good.

* (0940)

Mr. Chairperson: As Chair, I do have one suggestion for the committee. Given that Mr. Lipsett is registered to speak to Bills 47, 48, 49, and 50, shall we ask him to speak to all of the bills in one presentation, if he is willing, rather than asking him to come back to the podium? [agreed]

Did the committee wish to indicate how late it is willing to sit today, or shall we assess that at a later point? Is it agreed that we look at that later on? [agreed]

We shall then now proceed with the hearing of presentations.

Bill 47—The Brandon University Act

Mr. Chairperson: We will start with Bill 47, and there are going to be a number of presentations from Mr. Lipsett. Please, if Mr. Lipsett would come forward to the podium, and if you could just wait one moment while your presentations are being handed out. So we will start with Bill 47.

Please, Mr. Lipsett, if you would proceed.

Mr. Edward Lipsett (Private Citizen): Mr. Chairperson, honourable members, my name is Edward Lipsett, and I am speaking as a private citizen. As you know, I speak to three bills, not the fourth. If it is all right with the committee, I will just be reading from my prepared text. I will not be reading the endnotes into the record, but some of them contain additional texts and additional thoughts. I would respectfully request that, besides my oral presentation, the full written presentation, including the endnotes, be looked at and printed in Hansard, if it pleases the committee. But if you wish, I can start now.

Mr. Chairperson: Please proceed.

Mr. Lipsett: I trust you have the wording of the bill in front of you, so I do not need to read the entire bill.

Mr. Chairperson: That is correct.

Mr. Lipsett: We will start with Bill 47, The Brandon University Act. Can you hear me from here?

Mr. Chairperson: Yes, Mr. Lipsett, please.

Mr. Lipsett: Bill 47, The Brandon University Act, Section 3(1)(b). I respectfully suggest that Section 3(1)(b) should be deleted from the act. Although on the surface it may seem innocuous enough or even laudable, it could create unnecessary risks to the academic and intellectual freedom and civil liberties of the university's faculty, staff, and students. In particular, it could be interpreted as requiring or authorizing the university's regulating or disciplining their expression and/or private life under certain circumstances. It must be recalled that in the past, universities have attempted to regulate and discipline students' lifestyle and morals, largely on an *in loco parentis* theory. It would be unfortunate if a university today were to revert to such practices.

Occasionally there have been and still are attempts to discipline faculty members because of private lifestyle or morals, or because their expression or opinions challenge some values or interests which the university wished and/or felt pressured to protect. In bygone eras, faculty members most at risk of being penalized

because of their expression often had economic or political views which were seen as too left wing. Today, those most at risk, or at least perceived to be at risk of such treatment, may be those of a more socially conservative or right-wing leaning whose views are sometimes considered to be "politically incorrect" or to present a danger to egalitarian values. In either case, discipline for the lawful expression of one's views is inappropriate, especially at the university level.

Should it be necessary to discipline a faculty member for his or her expression, this ought to be done according to the academic freedom, academic responsibility paradigm, using professional standards, not according to a particular institution's or even societal views on social or ethical values. I am not suggesting that such abuses are a necessary or probable result of the enactment of Section 3(1)(b). I am only saying that the risks are present in this provision and should be eliminated.

There are already sufficient temptations and pressures on those in authority in universities, as in many areas of life, to exercise more control over individuals' private lives and censorship over their views than is necessary or beneficial. It seems unwise to provide an additional reason or excuse to engage in such practices. A provision such as 3(1)(b) could be interpreted as authorizing or even requiring the university to assume the role of promoting values and exercising jurisdiction over the speech and activities, whether on or off duty, of its staff for its purposes, as the case seems to be within the school system. This would be most unfortunate.

Note, for example, the British Columbia Court of Appeal's decision upholding school boards' rights to discipline teachers for otherwise lawful off-duty conduct, partly on the basis of an obligation to "lead by example."¹ Even their private lives. Furthermore, the Supreme Court of Canada has stated "by their conduct, teachers as medium must be perceived to uphold the values, beliefs, and knowledge sought to be transmitted by the school system. The conduct of a teacher is evaluated on the basis of his or her position rather than whether the conduct occurs within the classroom or beyond."² It may well be necessary to amend public school legislation to remove or reduce any values promoting a mandate that may be perceived to exist

within the school system and to remove or reduce a teacher's "off-duty" obligations and reduce the scope of the school board's jurisdiction over a teacher's "off-duty" conduct.³ Further discussion in this matter, however, is for another day.

I respectfully suggest that the promotion of values over a particular social or ethical perspective is an especially inappropriate mandate for a university,⁴ at least a public secular university, and an inappropriate duty for its faculty members. A function of such university is critical evaluation of all values, ideas, and concepts, not indoctrination into them. The maximum degree of expressive and intellectual freedom that is consistent with the law and academic standards is necessary for this vital role of universities to be successful. It is, of course, hoped and trusted that the teaching, research, study, thought, and discourse that occur within a university will lead to social and ethical improvements of the participants and, indeed, of all of society. But the university itself must not dictate its particular views on ethics, social policies, or values. The university as an institution ought to maintain a position of ideological neutrality and encourage free discussion and exploration of all important issues.

It is, of course, impossible to predict with any degree of certainty how a provision such as Section 3(1)(b) might be interpreted or applied. Some of the fears which I have expressed may prove to be unfounded. However, why create an unnecessary risk to the vital freedoms that are essential to a modern university? I respectfully suggest that Section 3(1)(b) not be enacted. Now I have got a few more general provisions that could apply to one or more of the universities, although I am referring primarily to the Brandon. As I said, I am dealing theoretically with all three acts, so how long do I have still?

Mr. Chairperson: Please proceed. You still have time.

Mr. Lipsett: Okay. We will get down to Section 5(3) of The Brandon University Act. What is the need for this restriction, that is, the Canadian citizen or permanent resident requirement for the board? What is the need for this restriction? If the senate wishes to elect a world class faculty member who is not a Canadian citizen or permanent resident, why should the

board be deprived of the benefit of his/her contributions? Perhaps if a restriction like this is necessary, it should only apply to persons appointed directly by the Lieutenant Governor in Council. Incidentally, these comments apply also to Section 5(4) of Bill 49, The University of Winnipeg Act.

We will get down to Section 12(2)(f) of The Brandon University Act. It is interesting to compare this provision with Section 12(2)(d) of Bill 49,⁵ Section 10(1)(d) of Bill 48,⁶ and Section 16(1)(d) of The University of Manitoba Act.⁷ Are some of the differences in terminology intentional, or are they merely a historical accident going back to the original status of Brandon University and the University of Winnipeg as affiliated colleges of the University of Manitoba?

* (0950)

If the word "internal" limits the university's jurisdiction only to actions which occur on campus, or are at least university related, this probably is sound as it might reduce the risk of a university's attempting to exercise jurisdiction over a student's private life. Furthermore, the inclusion of the term "for cause" might be a slight improvement over the terms of the current University of Manitoba Act. However, perhaps clearer, more precise terminology is needed in all three bills and in The University of Manitoba Act, and substantive limits ought to be placed on the university's jurisdiction over their students. Additionally, it might be a good idea to enact express procedural safeguards in all three bills and in The University of Manitoba Act for students facing disciplinary action.

One area where Section 12(2)(f) might be too narrow is that it expressly refers to the nonacademic conduct of students. Would this preclude its application to cases of plagiarism and other forms of academic dishonesty? Note that Section 20(2)(h), I think it is, empowers the senate to "make rules and regulations restricting the academic conduct and activities of students," but does not expressly grant jurisdiction over alleged violations of them.

Section 12 and Section 20. Note that there is no provision in these sections empowering either the board or the senate to hear appeals as there is in Bills 48 and

49 and in The University of Manitoba Act.⁸ Perhaps some form of appellate jurisdiction should be provided in the act.⁹

Section 29(2). It is interesting to compare Section 29(2), as well as Section 16(2), of Bill 48 and Section 34(2) of Bill 49 with Section 66 of The University of Manitoba Act.¹⁰ Perhaps there are circumstances when the university, as distinguished from the protected individuals, should be liable for the actions of students when they are acting under the direction of the university or on behalf of the university.

Certainly, I agree the university should not be liable for a student's action solely in his or her personal capacity, but when they act under the direction of the university, that might be a different matter. Furthermore, the wording of the proposed section of the bills, or perhaps even the wording of Section 66 of The University of Manitoba Act, render the universities immune from damages they would ordinarily be liable to for knowingly permitting or failure to take reasonable steps to terminate the harassment of a complainant by a student pursuant to Section 19(1)(b) and Section 43(2) of the Human Rights Code.¹¹ Though the substantive rights and obligations in the Human Rights Code are paramount over those in other legislation,¹² it could be argued that damages are a remedy as distinguished from a substantive right or obligation and thus not covered by the paramountcy provision.

So again it is theoretically possible that the wording there would protect the university from damages that it would ordinarily be liable to under the Human Rights Code. It is by no means certain that such an argument would prevail, but perhaps as an abundance of caution, a clarification of this issue would be advisable.

We will get now to Section 31(1)(a), I guess subclause 2—

Mr. Chairperson: Excuse me, Mr. Lipsett, just for your information, you have already used your 10 minutes on the first. Just so that you know where you are at, you get 10 minutes for each one of the bills that you are presenting to. Just so that you can use your own discretion if you are timing it.

Mr. Lipsett: Well, this actually applies to at least two of them. I refer to Section 31(1)(a)(ii) of The Brandon University Act, but it applies equally to Section 36(1)(a), Clause 2 of Bill 49 as well. Perhaps this is too wide a restriction. Could this be construed to prohibit an advertisement stating accurately that the facilities are within several blocks of Brandon University or are frequently used by students of Brandon University or making similar nondeceptive statements? Note that commercial speech, such as advertising, is a form of expression protected by Section 2(b) of the Canadian Charter of Rights and Freedoms.¹³ Again these comments apply also to Section 36(1)(a)(ii) of Bill 49 as well.

Now I get to Bill 49 alone. That is The University of Winnipeg Act, Section 24(2)(g). Perhaps a more narrow way of stating this would be better, such as, for example, Section 20(2)(h) of Bill 47: "make rules and regulations respecting the academic conduct and activities of students," and/or Section 34(1)(g) of The University of Manitoba Act: "regulate instruction and determine the methods and limits of instruction." It is conceivable, though by no means certain, that the terminology here could be construed as including nonacademic activities, including private life of students, including private life and expression, as long as they could somehow affect the academic life of the university as has been seen. Staff members' private lives and statements have often been perceived to affect the institutional goals of their employers by those favouring control over such matters. Perhaps, out of an abundance of caution, legislation should be narrowed to reduce a risk of overreaching. Again, Section 29(c), perhaps some substantive limits are needed on a regulatory jurisdiction over students to reduce the risk of overreaching.

Now, just some comments. It might be appropriate to review all university and college¹⁴ legislation for the purpose of modernization, as well as removal of any unnecessary inconsistencies. Furthermore, express substantive and procedural protection may be necessary to protect individuals against unfair exercise of institutional jurisdiction.

Endnotes:

1. *Abbotsford School District No. 34 v. S. Dewar*, 21 BCLR 93 CBCCA, 1987 at p.98; affirming to BCLR 40.

This case involved the suspension of two teachers who were married to each other for "misconduct" for their involvement in the publication of a "partially nude" photograph of the wife in a magazine.

2. *Ross v. New Brunswick School District No. 15 [1996] SCR 825 at p.857. In this case, the court upheld a decision of a board of inquiry under the New Brunswick Human Rights Act requiring a school board to remove Malcolm Ross from his teaching position for his off-duty writings and speech which were found to be antisemitic. The board of inquiry reasoned that allowing him to continue teaching created a "poisoned educational environment" for Jewish students.*

Though this decision is understandable and its goals are laudable, it is, I respectfully suggest, troubling for at least two reasons. The expansion of the concept of "poisoned environment" beyond direct "on duty" personal harassment of individuals on particular grounds sets a dangerous precedent that could unnecessarily deter or penalize expression of controversial views. Furthermore, requiring teachers to be a "medium" for the "messages" which the school system wishes to convey even while off duty poses an unfair burden on them, and could be applied even beyond human rights values. I respectfully suggest that this decision should be interpreted and applied narrowly. It is especially important that the decision or its reasoning not be expanded to a university setting where the students are adults and an institutional goal ought to be the critical evaluation of all values, ideas and concepts rather than the promotion of particular values.

3. *I dealt briefly with similar issues in "Comments on the Report of the Panel on Education Legislation Reform"; prepared for the Manitoba Association for Rights and Liberties (MARL) by Edward H. Lipsett, B.A., LLB; adapted by the board of directors, January 18, 1994. I must note, however, that I am presenting this submission solely in my individual capacity as a private citizen.*

4. *Different considerations may be applicable to a purely private, denominational university such as the one contemplated by Bill 48, The Mennonite College Federation and Consequential Amendments Act.*

5. *s.12 (2)(d) of Bill 49—The University of Winnipeg Act reads: "exercise internal disciplinary jurisdiction over students, including the power to suspend or expel for cause"*

6. *s.10(1)(d) of Bill 48—The Mennonite College Federation and Consequential Amendments Act reads: "exercise disciplinary jurisdiction over the students of the corporation, with power to suspend or expel for cause"*

7. *s.16(1)(d) of The University of Manitoba Act reads: "exercise disciplinary jurisdiction over the students of the university, with power to fine, suspend or expel."*

8. *Compare with The University of Manitoba Act, s.16(1)(h) and s.34(1)(v); Bill 48—The Mennonite College Federation and Consequential Amendments Act, s.11 and s.13(2)(e); and Bill 49—The University of Winnipeg Act, s.15 and s.24(2)(h)*

9. *Perhaps the bills, as well as The University of Manitoba Act, should be reviewed for the purpose of clarifying the jurisdiction of and enhancing procedural protections in the various bodies exercising appellate and other "quasi-judicial" or administrative powers.*

10. *Section 66 of The University of Manitoba Act reads: "Neither the university nor the board nor the senate, nor any member of the board or senate, nor any officer or servant of the university, is liable by reason of any act or omission of them, of [sic] any of them in respect of any activity of students or on account of any act or omission of any student or students, while not under the direction of the university or any officer or servant thereof."*

11. *S.19(1) of The Human Rights Code reads: "A person who is responsible for an activity or undertaking to which this code applies shall:*

"(a) harass any person who is participating in the activity or undertaking; or

"(b) knowingly permit or fail to take reasonable steps to terminate harassment of one person who is participating in the activity or undertaking by another person who is participating in the activity or undertaking"

S.43(2) includes damages among the remedies which an adjudicator may order against a party found to be in contravention of the Code.

12. *Section 58 of The Human Rights Code reads: "Unless expressly provided otherwise herein or in another act of the Legislature, the substantive rights and obligations in this Code are paramount over the substantive rights and obligations in every other act of the Legislature, whether enacted before or after this Code."*

13. *Rorkett v. Royal College of Dental Surgeons of Ontario [1990] 2SCR 232 at p.241*

14. *I have noticed that some of the problems which I mentioned concerning the bills and The University of Manitoba Act also apply to the related (although differently worded) provisions of The Colleges Act. See, for example s.16(j) and s.49(3) of the latter act.*

Thank you for your kind attention and, well, that is it, although if there are any questions, I will—

Mr. Chairperson: Thank you very much, Mr. Lipsett. Are there any questions from any one of the members here?

Ms. Jean Friesen (Wolseley): I had a question on the Canadian citizenship point that you raised. Your interpretation is that the Canadian citizenship section of both The Brandon University and The University of Winnipeg acts is that it refers to all members of the board so that it would include students—

Mr. Lipsett: No, the students are—

Mr. Chairperson: Excuse me, Mr. Lipsett, please.

Mr. Lipsett: Okay.

Mr. Chairperson: Go ahead, please. Okay, Ms. Friesen.

Ms. Friesen: —so that it would include students and faculty appointed by the Senate.

Mr. Chairperson: Mr. Lipsett.

Mr. Lipsett: Yes, the wording now, sorry, yes, just a second. The wording now, Section 5(3), where is it? No, it says other than the student members, so the student members are already exempt from the provision, but it seems that faculty or staff members elected by the Senate would have to be a Canadian citizen or permanent resident, and my point is why should that be so? Let us say the faculty or the Senate have, let us say, a temporary resident in Canada who was here on a, I guess it is a permit, who is a world-class scholar for other reasons. If they choose to elect him or her to the Board of Governors, why should that person be excluded because they are not a Canadian citizen or permanent resident? But students are already exempted in the act.

Mr. Chairperson: Any further questions? If there are none, thank you very much, Mr. Lipsett, for your presentation this morning.

Mr. Lipsett: Thank you. Thank you very much.

Mr. Chairperson: On Bill 47, are there any other presenters not registered? If not, we will move on to Bill 48, The Mennonite College Federation and Consequential Amendments Act.

Bill 48—The Mennonite College Federation and Consequential Amendments Act

Mr. Chairperson: I will call on Mr. Gerald Gerbrandt, please, president of Mennonite Bible College. Mr. Gerbrandt?

Mr. Ed Buller (Mennonite College Federation): Mr. Chairman, I am not Mr. Gerbrandt, but, with the permission of the committee, the three people speaking on behalf of the Mennonite Federation would like to present their presentations as a group. With your permission.

Mr. Chairperson: That is fine. If you could just identify yourselves as you speak, I would appreciate that. But certainly there is no problem. Go ahead, please. I believe you are Mr. Buller.

Mr. Buller: Yes, I am. We will be well within the time lines of the committee.

Mr. Chairperson: Thank you. You do have copies. I believe they are being handed out.

Mr. Buller: They are being handed out, I believe. We have 15 copies of each presentation.

* (1000)

Mr. Chairperson: Okay. Thank you very much, Mr. Buller. Please proceed.

Mr. Buller: What we will do is each one of us will speak briefly. Let me introduce Mr. Vic Martens, who is vice-chairman of Menno Simons College. Dr. Gerald Gerbrandt is president of CMBC, Canadian Mennonite Bible College. My name is Ed Buller. I represent the Mennonite College Federation. I will not be making a major presentation. Concord College is not here because all of the administrative people who would, in fact, qualify to speak to you this morning are in travel status and wished for me to explain that particular position. However, both Mr. Martens and Dr. Gerbrandt will speak on behalf of their individual colleges, as well as the federation.

Our process will be to have Mr. Martens speak to you first, followed by Dr. Gerbrandt, and then time for questions. If that is an acceptable process, that is the way we would suggest you proceed.

Mr. Chairperson: That is fine. Please proceed. So Mr. Martens is first? Would you rather use the mikes at the table? We could do that. We could accommodate you in that way if you would like. Just make sure that your mikes are pulled up fairly close, and we will accommodate you in that way. Mr. Martens, please.

Mr. Victor Martens (Vice-Chairman, Menno Simons College): Mr. Chairman, ministers and members of the Legislature, it gives me pleasure to be able to make a few comments with regard to the operation of the Menno Simons College. It is a very short review. I leave the longer time to my colleague Dr. Gerbrandt.

Menno Simons College is most pleased to be a partner in the Mennonite College Federation. Menno Simons College is a relatively new college. It became

operational in 1989 under provision of a Manitoba government charter. The college is affiliated with the University of Winnipeg and is located on the university campus. The impetus for the start-up and further development of the college was made possible by funding obtained through the David Friesen Family Foundation, also Dr. Friesen, whom, I am sure, many of you know, provided positive leadership throughout the development of the college.

The program consists of international economic studies and conflict resolution studies. This program has been very well received at the university. Since inauguration of the college in 1989, there has been a steady annual growth in student enrollment. In the last term, enrollment was approximately 500 students with a full-time student equivalent of approximately 170. This year we had 37 graduates. Funding for the college comes from private sources, several substantial endowments, through student tuition and from a modest government grant. Menno Simons College prescribes to the precepts of the Mennonite church community. Accordingly, we are most pleased to be a partner in the federation.

Menno Simons College will continue to maintain its program at the University of Winnipeg after federation, but at the same time it will have a presence at the new Shaftesbury site. Menno Simons College will not be a partner in the property ownership of the new site, but it will be a full equal partner in the program aspects of the federation.

We are excited about this development. We feel that graduates from the federated colleges will make a very positive impact within our community and in the developing countries of the world. The board of directors of Menno Simons College would like to especially thank the Manitoba government and the Legislative Assembly for making the concept of the Mennonite College Federation possible. Thank you very much.

Mr. Chairperson: Thank you very much, Mr. Martens. The next presenter, I believe, is going to be Dr. Gerbrandt. Is that right?

Mr. Gerald Gerbrandt (President, Mennonite Bible College): Yes.

Mr. Chairperson: Please, Dr. Gerbrandt, do you have a handout as well?

Mr. Gerbrandt: I believe people already have it.

Mr. Chairperson: Okay. Thank you then. Please proceed.

Mr. Gerbrandt: It is a privilege to make a submission to the committee considering Bill 48. I speak both as the president of the Canadian Mennonite Bible College, one of the three colleges of Mennonite College Federation and as a lifelong citizen of Manitoba, and thus someone who is interested in what happens in this province.

The intent of this submission is to express support for Bill 48 as prepared by the government in consultation with the three colleges. It is my belief that it represents a congruence of interests of the government of Manitoba and of the people of the province and, more particularly, the Mennonite people. CMBC was founded by the Conference of Mennonites in Canada in 1947. From its origins, CMBC has attempted to combine a commitment to the church with solid academic work, both in the theological courses as well as in the arts and sciences. We teach approximately in 15 different disciplines in the arts and sciences.

This commitment resulted in the development of an Approved Teaching Centre agreement with the University of Manitoba in 1964. This arrangement has benefited our students by ensuring they receive university recognition for work done at CMBC, and it has supported the college's commitment to academic thoroughness. As we say in our calendar, the pursuit of truth must be undertaken with rigour and discipline. CMBC faculty, with doctorates from schools like Princeton, Harvard and the Toronto School of Theology, put this into practice in the classroom as well as through research.

Mennonite College Federation in service of the Mennonite people. Let me begin by admitting that we Mennonites may be an odd people. There is in our tradition a skepticism and hesitance about education of any kind, but especially higher education. This side of our tradition was reflected in some of the conflicts between Mennonites and the government of Manitoba

in the early 1900s concerning private schools, and it was reflected in the decision of thousands of Mennonites to leave the province in the 1920s for countries where they would have greater freedom in educational matters.

Countering this tendency is another one in significant tension with it, and that is that we have placed a very high value on education. Before the turn of the century already, we founded the Mennonite Collegiate Institute in Gretna as a training school for teachers. Since then, Manitoba Mennonites have started two other high schools and an elementary school. Altogether, these schools enrolled more than 1,500 students this past year. In Manitoba, we have also started a number of Bible institutes and four colleges, three of which are at the centre of the present discussions.

I was raised in the small town of Altona in the 1950s. At least six of us from the youth group of that small Mennonite congregation have completed academic doctorates. We thus have a strong emphasis on education in our tradition as well.

Mennonite College Federation, as supported by Bill 48, will embody this emphasis into the next millennium. This bill will enable the colleges to work together more effectively as they respond to at least some of the post-secondary educational needs of a people who have become a stable part of the Manitoba mosaic.

Mennonite College Federation in service of the people of Manitoba. We, as a Mennonite people, appreciate the support and public legitimation of an educational arrangement which will serve our people, but this is insufficient grounds to justify public involvement in the venture to the extent represented by this bill. It is our commitment to develop a Mennonite College Federation in such a way that it will not only serve our people, but also the people of Manitoba generally. It will do this in at least the following ways:

1. Mennonite College Federation will be an efficient use of provincial funds, and from now on I will speak about it as MCF, to shorten things. MCF will receive public support through the Council on Post-Secondary Education. This support will not be at the level received by public universities. These grants will be

supplemented by continuing financial contributions of the Mennonite people, thereby making this venture possible. This co-operative approach is an efficient use of public funds.

2. Mennonite College Federation will draw young adults to Manitoba. The Canadian Mennonite Bible College is a school with a national base. Each year, young people from across Canada and beyond move to Manitoba to study at our college. Many remain here. First, they continue their studies at one of the local universities, and then they settle down and become active, contributing members of society. Some years ago two of the gold medal winners at the U of M came from a small town in southern Alberta. Both had come to CMBC from there; both continued at the U of M; and both are now educators in Manitoba.

* (1010)

3. Mennonite College Federation will contribute to the local universities. Each of the three Mennonite colleges involved in the federation discussions is related to one of the local universities. Over the years we have encouraged many students to continue their studies at these universities. This past year three of the gold medal winners at the U of W were CMBC alumni, and I believe another two were from Concord College.

The vision of MCF is to continue working with the universities. One of our objectives is to develop partnership programs in which our students would take a number of their upper-level courses within their majors at one of the local universities. Likely some would continue at those schools for graduate work. We are also expecting to develop some preprofessional tracks which will prepare students for the professional programs offered by our universities.

4. Mennonite College Federation will increase the educational options in Manitoba. MCF wishes to co-operate with the Manitoba universities, as well as be an alternative to them. MCF will be an alternative in a variety of ways. It will be a small school in which students will get to know each other and their faculty on a personal basis. It will provide an educational experience in which the classroom, residential life, and extracurricular activities are integrated. It will add an alternative to the Manitoba setting which will be at least

somewhat like the liberal arts colleges so common in the U.S.

5. Mennonite College Federation will be a uniquely Mennonite contribution. We Mennonites frequently identify ourselves as the radical wing of the Protestant Reformation of the 16th Century. In this way, we both identify with historic Christianity and distinguish ourselves from what are frequently called the main-line churches. We share with all churches a belief in God the Creator of the world, a God represented by Jesus. MCF will reflect that identity in that it will be unabashedly Christian in its underlying convictions. Within a pluralistic society, we will be a genuine alternative to public universities.

An emphasis on service and peace are characteristics of the Mennonite tradition. Mennonite Central Committee and Mennonite Disaster Service are two agencies which reflect the service part. A commitment to nonviolence and an interest in conflict resolution are two expressions of our peace position. From the start, MCF will offer programs in areas like peace studies, conflict resolution and international development. The significance of music in our worship tradition will also be reflected in our programs.

On behalf of CMBC and the schools involved with the federation, and on behalf of Mennonites throughout the province and beyond, I want to express my appreciation for Bill 48. We look forward to working with the government through the Council on Post-Secondary Education and continuing co-operation with the universities of Manitoba, especially the U of M and the U of W. Thank you.

Mr. Chairperson: Thank you very much, Dr. Gerbrandt. Are you making a presentation, as well, Mr. Buller?

Mr. Buller: No, I am not. The presentations are now complete and we are ready for questions.

Mr. Chairperson: Okay. Thank you. The presentations have been made now. I will open it up for questions. Are there any questions?

Ms. Jean Friesen (Wolseley): Thank you very much for the presentations. I have spoken to two of the people represented here and had asked them a question.

I wanted to put it on the record again because I am still puzzled, as you may be as well, but I wonder if Mr. Buller perhaps could answer this.

The prologue to Bill 48, the WHEREAS, says that Canadian Mennonite Bible College, Concord College, Menno Simons College are Christian colleges firmly rooted in the Anabaptist Mennonite tradition. I understand that. It is the next phrase that gives me trouble: "accountable to the Mennonite church." The third part, serving the Mennonite community, et cetera, easily understood, but I am not clear what is meant by "accountable to the Mennonite church," and I have discussed this with the others. I do not know if they brought it to your attention, Mr. Buller, but I wonder if you could tell me how we are to interpret that.

Mr. Buller: The others may want to add to my answers; it is quite possible. The phrase refers to the relationship of the governing boards of directors of the three institutions to the church constituency. CMBC, the Canadian Mennonite Bible College, and I am speaking on their behalf only in general terms, is in fact accountable to the board of directors of the CMC, which is the Conference of Mennonites in Canada. In that sense, there is an accountability line, a general accountability line in which well the focus of the question may be.

Concord College, which then becomes part of the federation, which is one of the three, is accountable to the Mennonite Brethren Conference of Churches of Manitoba in the same way that I just explained in terms of the other college. Menno Simons College has a much looser accountability line to two constituencies plus some small elements of other Mennonite churches, and as it happens to the same two constituencies, the Mennonite Brethren Church generally and the CMC generally. The accountability lines, however, are, in fact you are quite right, relatively loose.

The definition of the federation which will then include these three bodies, Concord, Menno Simons and CMBC and as is explained by the act, still require specific by-laws to specify that accountability. I hope that answer was not too long.

Ms. Friesen: It is an explanation, and obviously I am trying to get on the record what it is that you understand

by this, and generally, in interpretations of legislation, I understand such explanations do not always carry weight, but in this case, since it is the accountability mechanism for a private university, it seemed to me that it is important to get some understanding of that. I am particularly aware of the fact that there are many Mennonite churches, there is not one church, and that there are Mennonite churches who are not involved in this at all.

I wondered if there was a more specific wording that would work, or are we all going to be comfortable with that very general explanation that there is an accountability line to two of the Mennonite churches and we will leave that as understood in this legislation. Would that be comfortable for the other Mennonite churches who are not involved and who have no-responsibility is the other side of it, accountability and responsibility, for the operations of this university.

Mr. Buller: The ownership of the program and the governance of the program of the planned federation are in fact under the control of the constituencies that I have identified, and we would agree that as time goes on this governance would have to become more specific probably through the by-laws that are referred to in the draft legislation before you.

It may well be that my colleagues would like to add to my answers, if you would like that, Mr. Chairman.

Ms. Friesen: Yes, I think it would be useful to have something on the record from each of the groups.

Mr. Gerbrandt: I will begin by admitting that the statement is somewhat ambiguous. Secondly, I would affirm Ed's comment that two of the colleges do have formal lines of accountability with Mennonite bodies, and thus there is kind of a legal ownership. Thirdly, I would suggest that the term "accountability" can also have a meaning beyond a formal line of ownership, but a relationship in which there is listening and significant influence which goes much beyond that of a formal legal line. In that way, the three colleges all relate significantly to the Mennonite people and Menno Simons, which, on the one hand, has the least formal line with Mennonite people, on the other hand relates to a broad range of individuals from a number of the

Mennonite bodies beyond the two which own Concord and CMBC. So those would be my comments.

Mr. Martens: I would just like to add to that, that though there are several or many churches and smaller conferences that are not represented, but the opportunity is there, and we expect in the future that they will come on board, too, in whichever way.

Ms. Friesen: Mr. Chairman, I wanted to thank each of you for putting that on the record, because I recognize that this bill is drafted to be a very flexible bill. The sections that are dealing with the board and senate, essentially, are leaving a great deal to be determined by the future, in effect, not just the future of the next 12 months, but the future of, well, possibly 10 years, I would say. So we will consider that phrase then in the context of future developments and indicating a relationship and a responsibility to the existing churches that are involved with the potential for a broader context. Thank you.

Mr. Chairperson: Thank you. Are there any further questions?

* (1020)

Ms. Friesen: I had some other questions, but I wanted to move on from that.

I mentioned when I spoke on this bill in the House, and it comes from discussions in the Mennonite community generally, as well as some discussions at CMBC this week. The General Conference of Mennonites in Canada has not yet voted on this presentation, and I think we should be aware of that as we vote on this bill. I wondered if there was—what is plan B, I guess I should say? Should the General Conference—and I know that there have been many meetings. My sense is that there is a general support of a general direction, if I can put it as broadly as that. Does this bill affect, in any way, any alternatives that you might need in the General Conference for a different kind of arrangement? What happens if we pass this bill and the General Conference votes or has a particular motion that makes this bill extremely difficult and also, perhaps, puts the other partners in a difficult position?

Mr. Buller: Let me say two things. Number one, the point that Ms. Friesen raised about another decision-making point coming prior to the bill becoming legislation, that is, in fact, referred to in the memorandum of understanding that was signed January 9 with the three parties, with the federation and the government, and indicated that this still had to be passed. So the memorandum of understanding refers to that.

Number two, in terms of having plan B or a back-up plan, we have not at this stage, other than on an informal basis, discussed a back-up plan for that. We are certainly ready to discuss a back-up plan internally, but have not done so thinking that it was really inappropriate at this time. Maybe bad strategy, but inappropriate at this time.

I would say on behalf of the federation that we are extremely positive in our predictions. We do not want to step out of line with our constituency in terms of predicting success, but we also do not want to have back-up plans which would then put at risk the various policy decisions that need to be made by the CMC specifically. So the short answer is we do not have a back-up plan, other than on an informal basis.

Hon. Linda McIntosh (Minister of Education and Training): Mr. Chairman, just a follow-up. I, first of all, want to thank you gentlemen very much for your presentation. It is a delight and a privilege to have you here, and I am glad you were able to say the things you were able to say.

We have thought through, of course, in answer to the opposition question—and this may have been a question that could have come to the government—and that is, of course, that no act actually begins to have effect until it is proclaimed; and presuming, of course, there would be approval from all the parties, the act will be proclaimed. But should it happen that it is not, that is another plan B possibility, and that was given due consideration during the drafting of the bill, as were some of the other questions that have been asked. Thank you. I thought that might clarify and help a little bit.

Ms. Friesen: Further to that, and on the same topic of flexibility, is there anything in the act that might limit, that might predetermine any options that you might

want to look at in the event of the General Conference wanting to go in a different direction?

Mr. Buller: I do not believe so. In my opinion, representing all of the colleges as essentially a neutral party, I would say that there are no living factors within the act that would prevent creative alternatives to what might happen. No.

Ms. Friesen: I had some further questions on Menno Simons College. Menno Simons College is obviously in a different position from the other two in that it is a part of the University of Winnipeg and intends to remain so, and I would say a very important part of the University of Winnipeg. I note your increasing enrollments at a time when university enrollments generally are decreasing. One of the colleges of the federation also has a decreasing enrollment, I believe, Concord College, although CMBC has an increasing enrollment, but the numbers in the areas that Menno Simons is teaching really are increasing enormously. It had been my hope that that would have become a very significant part of the teacher training at the University of Winnipeg, and it may yet well become a mandatory part of it. I think that would be very interesting. What an enormous contribution that could be made to education in Manitoba, and so I am concerned about the link between the University of Winnipeg and Menno Simons College.

I know that earlier in the year Menno Simons College not only is increasing its teaching staff. I saw your advertisement. I think it was in *The Globe and Mail* for a new staff. Also, your discussions with the University of Winnipeg about the transfer of your library to the University of Winnipeg. Libraries are a little less flexible. Teachers can move. Students can move, and obviously they can come to the library too, but the transfer of a library is an important—it is symbolic step, but it is also obviously material resources. So I wonder if you could tell me a little more about how you intend to maintain the link with the University of Winnipeg and particularly in terms of staff and the material resources.

Mr. Martens: Well, in joining the federation, one of our principal precepts or conditions was that we would remain at the University of Winnipeg exactly the way that we are at the present time, that that program would

continue because that program is unique. It has been very successful. You also mentioned that in the last year we actually had a close to 40 percent increase in enrollment. Whether we will get that next year is questionable. So the program in that sense is very successful. As you also indicated, yes, the library transfer is that which we are going to do shortly. Our library will be transferred to the university library; this is to create efficiency and better use of the library and so forth. But, on the other hand, we will have a very strong presence at the new site, particularly in the area of our expertise, and that is international economic development and conflict resolution. Just exactly how that is going to work, I cannot tell you. This is the subject of discussion amongst the three colleges on a continuous basis, but we expect to have a very strong presence, both on site at Shaftesbury and maintain the program that we now have at the University of Winnipeg.

* (1030)

Mr. Gerbrandt: I would just like to add that Mr. Martens said they made that one of their conditions of the discussion, and he is right, but both Concord and the CMBC did not question that at all because we both very much supported that presence and would like to see that continue.

Ms. Friesen: I know that you cannot speak for the University of Winnipeg, but I am concerned about the strengths of the University of Winnipeg and the role that Menno Simons College has played and will continue to play there. The University of Winnipeg also has a chair of Mennonite Studies. It also has made significant contributions or commitments to the study of German, and I wondered, as representative of Menno Simons College, if you could comment on that.

Is it going to be possible in Manitoba to maintain that investment that the community—and it is a community investment—has made in the University of Winnipeg with the chair of Mennonite Studies, with the commitment to German and to Menno Simons College, and then to create a new university which will be attempting to do somewhat similar things?

Mr. Martens: Well, you are raising a sensitive point actually. We have had discussions, and we considered

taking over the Mennonite Studies Centre into the Menno Simons College. In fact, I suppose most people in the public would think, well, you know, that is all one anyway, but it is separate.

Now, much of that has to do with the financial implications because the Mennonite Studies is under the University of Winnipeg completely. If the University of Winnipeg was willing to transfer the Mennonite Studies department to us and also provide some financial support for that, then we would be quite willing to take responsibility for that. It is really a matter of financing, and I think the University of Winnipeg also would like to keep that chair separately under them, but we have had discussions in that area.

Ms. Friesen: The memorandum of understanding and the legislation retain a flexibility over the terms "college" and "university." I wondered if somebody from the group could comment on how you see the different terms being used, and why we might be looking at one or the other.

Mr. Gerbrandt: One of the challenges in working on a venture like this is working in different contexts where different terms have connotations, some positive, some negative. Another is the whole question of whether one emphasizes continuity or discontinuity in something new. I have the impression that the terms "college" and "university"—well, the term "university" in many settings and in some of our communities would emphasize the discontinuity so that there has been some hesitance in changing names and adopting that word. On the other hand, it is our hope, our intention, to have an act which, if at some point there would be logic in changing it to the word "university," that freedom would be there at this point. So, at this point, we are tending to emphasize continuity rather than a radical change. Does that speak?

Ms. Friesen: Mr. Chairman, yes, that is very understandable. I had not seen it in that context. I had thought it was something in the American context, and I was thinking of Goshen College and whether there was some sense of the international perspective that you wanted to present. I had not seen it from, I guess, an historical perspective.

Mr. Gerbrandt: Just to respond to that, there are five Mennonite post-secondary institutions in the U.S., all of which were called a college. One or two have moved to the word "university" in the last five years.

Mr. Chairperson: Any further questions? I wish to thank you for your presentations this morning. Thank you very much. Are there any other presenters to Bill 48? Any other?

Bill 49—The University of Winnipeg Act

Mr. Chairperson: We will then move on to Bill 49, The University of Winnipeg Act, and calling the first presenter, Geoffrey Scott, The University of Winnipeg Faculty Association. Mr. Scott, please.

Mr. Geoffrey Scott (University of Winnipeg Faculty Association): Mr. Chairman or Chairperson, honourable members, my name is Geoffrey Scott. I am representing the University of Winnipeg Faculty Association in the absence of our president, Dr. Allen Mills. You may have read of his activities in Prague in the Free Press this week. He had a special on the political intrigues and palace coups, et cetera, occurring there. It may have sounded all so familiar. He will be back next week.

I am also asked to represent, or reflect, some of the views of MOFA, the Manitoba Organization of Faculty Associations.

Might I say that UWFA is very pleased that Bill 49 is at the stage that it is. My involvement with this bill is since going on Senate in 1980 when it was not, of course, a bill. It was still under the act status. It preceded that by some six years, so it has taken over two decades to get to this stage, and we are very grateful for the time and effort contributed by yourselves, by external people, and UWFA is particularly indebted to the University of Winnipeg Senate and board of regents for allowing this to happen and for us to be here on this particular act today. UWFA and the senate and our board are of like mind on this bill, so similarities between anything I say and those comments by the university spokesperson are not coincidental, but rather reflect the collegiality which we share particularly in matters of governance.

However, we do have concerns about three items—well, certainly two items, because we see that concern for third one is occurring in any event, but the three items are the following:

Under Section 3, Purposes and objectives, our initial submission from the board of regents at the university and from the senate give the following wording to clause (d) in Section 3: to provide facilities for original research in every branch of learning, and to conduct or facilitate the conducting of such research in an environment of academic freedom. Section 3(d) now reads: “to provide facilities for original research in every branch of learning, and to conduct or facilitate the conducting of such research”—end of the clause. For the reasons I will elaborate below, we would like to see the original wording that we suggested reinstated, that is, that we add to the end of Section 3(d): in an environment of academic freedom.

Given the strong support given by our government to the University of Winnipeg, it comes as a surprise that this cornerstone comment has been deleted. Having research taking place in a spirit of academic freedom is not only fundamental to our traditions, but to our professional lives, our integrity, and our association with students. I do not need to comment further directly on what is academic freedom. We are all familiar with this particular terminology.

However, in light of the fact that all three bodies at the University of Winnipeg—that is, the senate, the board of regents, and ourselves, UWFA—reaffirm their need for, and commitment to, academic freedom, we are puzzled by a bill that specifically excludes reference to it. We need to know why this commitment has been excluded, and we would argue that including it gives the provincial government the opportunity publicly to reaffirm their belief in, and support for, the very reason universities such as our own have the success that they do. It would also demonstrate to both present and future students and faculty the commitment that government has to higher education and academic enquiry within the province.

Item 2 refers to Section 5(2), but I am led to believe that this will be dealt with. There will be a presentation from the United Church, and we were just drawing

attention to something that we thought may not have fully been aired with them.

* (1040)

Item 3, Mandatory retirement under a collective agreement. This is Section 32(2). None of this section was asked for by the senate or the board of regents at the University of Winnipeg. The University of Winnipeg has not experienced the type of retirement problems facing a few other institutions with over-65 faculty. Our management has not asked for this authority, and it does not seek the powers that devolve from Section 32. We are also concerned that subsection (2) clearly singles out the academic, managerial, and professional staff. We ask why this is happening and why it is being, in a sense, forced on our administration when it was not a request made by them.

We acknowledge that this section is designed to help avoid having any future collective agreement dealing with mandatory retirement that could be negotiated between the board of regents and UWFA fall under the purview of the Human Rights Code. Nonetheless, we feel at this time a full debate over the specific case of mandatory retirement for university faculty has not yet taken place. Until this debate takes place, we feel it totally premature to approve this enabling section at this time. Thank you.

Mr. Chairperson: Thank you very much, Mr. Scott, for your presentation. Are there any questions, please?

Ms. Jean Friesen (Wolseley): I had one question. It is not in relation to what you have presented, but the University of Winnipeg Senate does not include the librarian, and I am puzzled by that because it is a common—the Brandon University one does, I believe the University of Manitoba one does. I wondered if you had a comment on that from the perspective of the faculty.

Mr. Scott: I am not familiar with that particular clause, but another speaker who represents the university may well be able to address that particular question.

Mr. Chairperson: Okay, thank you. Further questions?

Hon. Linda McIntosh (Minister of Education and Training): I guess it is really an answer to a question. The professor had asked a question or two in his brief. Would it be appropriate for me to provide a quick response to him?

The clause he is referring to in 3(d) that he would like to see inserted is not in any other university acts that we can discover across the country anywhere. It is in many, many, many of the agreements with faculties and administrations which is where it appears. It is kind of a cornerstone thing in the collective agreement, but it is not in any of the acts. So when you asked the question why would it be excluded when there is a commitment to academic freedom, which there is and we state that in our council, our Bill 32 from last year, the Council on Post-Secondary, we do not have this particular wording. But our commitment to academic freedom is clear in that overriding thing that we do as government. Basically, it is a collective agreement article, not an act insertion. It is not in any other act, so it would be quite an exception to anything else that is done. To have it in, it would be very different.

The other one at the bottom, when we have talked to the university about the United Church, about the 10 students, as you are probably aware maybe since you have written this, and then the last one on the mandatory agreement, you are quite right in your indications in there in case somebody wants to negotiate that in the future. We know it is not anything that they asked. Others had asked for it, so in an effort to be consistent we have put it in. It is not being forced on them because nobody has to use it if they do not want to. It could sit there forever unused, but if down the road they want to use it, it would avoid having to open the act. So there is no indication that it has to be used. It is an enabling thing that we recognize probably would not be used at the University of Winnipeg in the near future or maybe ever. That is just a quick response to the questions you had asked.

Ms. Friesen: I wanted to follow that up with the minister and if she could just read into the record the section of The Council on Post-Secondary Education Act that she is referring to, that is the overall commitment to academic freedom.

Mrs. McIntosh: The member may recall we had some debate on this during the council thing because people

were wanting that assurance that is in the act, and it is 3(2) where it says: in carrying out its mandate, the council may not interfere with the basic right of a university or college to formulate academic policies and standards, the independence of a university or college in fixing standards of admission and of graduation, the independence of a university or college in the employment of staff. That is the one.

We have as well in the preamble, and I will just have to look and see what number it is. Can you give me a minute to search it up? If you want to ask other questions, if you have them, while I do this, then that could save time.

In the preamble, if you look at the very opening paragraph, it says: WHEREAS the creation and sharing of knowledge in an atmosphere of open and critical thought is essential to meaningful citizenship and participation in a democratic society.

There are other preambles. There are other WHEREASes, but that very first one talks specifically about the right to have open and critical thought that is in combination with some of the other clauses, such as ones I read in Section 3(2) where there is actually a limitation on the council itself that it cannot interfere in any way with those things people might say, things people might write. Their ability to have open and critical thought is something that is independent to them and cannot be interfered with by government or the council.

Ms. Friesen: I want to come back to the University of Winnipeg Faculty Association then. The minister believes that academic freedom is guaranteed—no, I am looking for the right word here. Protected. Shall we say protected?

Mrs. McIntosh: What I had indicated is that no other university act in the country that we could discover has a clause such as the one being suggested here. Nowhere in the university acts does it make this statement, but in collective agreements across the nation you will see statements that have, if not that same wording, certainly that same intent.

Ms. Friesen: So what I am inferring from what the minister has said is that there are protections for

academic freedom in The Council on Post-Secondary Education Act, those sections which refer to the autonomy of the university, particularly in the treatment of staff, and secondly, the preamble to the act, which speaks of the importance of open and critical thought. The minister is right, we did have a debate on this at the time. I actually tried to insert something which Margaret Thatcher had accepted, but the current government voted that down.

An Honourable Member: Pretty right wing.

Ms. Friesen: I thought it was pretty good. I think it was freedom under the law to challenge received wisdom and express unpopular views, and the government thought that a better wording was open and critical thought. That was what they voted on.

I wanted to ask you, your association has had some discussion on this. Did you discuss this? For example, did you look at the council act? If you did not, can you say for yourself whether that is the kind of protection you are looking for?

Mr. Scott: Thank you both for your comments. They are very much appreciated. Yes, we have discussed this for many years. The issue really arose because of the fact because the board of regents has requested that this clause be included. Now that it is being excluded, that has created the problem. We agree that there are other coverages of academic freedom. You are correct, it is in our collective agreement. We were just concerned that, as this was a request of our board of regents and was being deleted, we felt, could we not have it reinserted? We appreciate there is a history of other bills that govern universities, and we are pleased that we have read into the minutes of this meeting the protections that exist elsewhere.

Ms. Friesen: The point that the minister raised that such phrases or such commitments are not made in other university acts, did you discuss that at all in your meetings? Was that drawn to your attention, Dr. Scott?

Mr. Scott: It was not drawn to my attention, because I was not part of all of these meetings. I have simply recently inherited the position of acting president for three weeks when Dr. Mills is out of town, but I will return and discuss this further with him. Our main

interest was to make sure that this was aired, that all support was given, and we appreciate that that is being given.

* (1050)

Mrs. McIntosh: Just a concluding comment. I believe this was drawn to Dr. Mills's attention that it was not in other acts. The University of Winnipeg Act as written is pretty much as—the content, pretty much as the University of Winnipeg had requested it. We tried to reflect University of Winnipeg's requirements and requests as much as we could. We are also trying to achieve some sense of consistency amongst the university acts and their basic principles.

You do have this particular clause in your collective agreement. Your board wants it. You want it. You have got it there. We have, in our council, no ability to interfere with that by mandate. So it was felt, not that it was excluded, but rather that it was (a) not needed, and (b) clearly seeing as not needed in other places. Just that Dr. Mills was informed of this.

Mr. Chairperson: Dr. Scott, do you want to respond to that?

Mr. Scott: Yes, Dr. Mills did fill me in on many of the aspects of this. He had me very primed in case I had to speak on his behalf, but not all of these secondary issues did come up at that time. He was very thorough in having me primed for this occasion.

Ms. Friesen: I do have one other question. Again, I do not know if you can answer it, but I wondered if you had considered it. One of the differences between The Brandon University Act and The University of Winnipeg Act is that Brandon University board retains custody and control of all university records. There is no such section in The University of Winnipeg Act dealing with university records and where they are controlled and stored. Given some of the powers of the Council on Post-Secondary Education to examine records, I wondered if this has been discussed at all and whether you had had the opportunity to see the Brandon one or discuss with Brandon, and I wondered why the difference. Did it come up at all?

Mr. Scott: With the faculty association, no, this did not come up, but I would recommend that Dr. Kingsley,

when he speaks on behalf of the university, might be in a better position to compare the two bills and see how we deal with this particular topic.

Mr. Chairperson: Thank you. If there are no further questions, thank you very much for your presentation, Mr. Scott. We will move on to our next presenter, Dr. Roger Kingsley, also from the University of Winnipeg.

Dr. Kingsley, please proceed.

Mr. Roger Kingsley (University of Winnipeg): Mr. Chair, honourable members, speaking on behalf of the University of Winnipeg, I wish to thank you for allowing me to appear before you today.

Passage and proclamation of Bill 49, The University of Winnipeg Act, is a matter of great significance to us. Since we received our charter in 1967, which conferred degree-granting status upon us, we have met and exceeded the expectations placed upon us and have shown the University of Winnipeg to be an important force in post-secondary education in Manitoba. We are most supportive of this government initiative and wish to express our appreciation that we have reached this stage. We wish also to thank those who have enabled us to reach this stage, the Minister of Education and Training, others in government who have supported and commented on the bill, the members and staff at the Council on Post-Secondary Education, all of whom have provided encouragement, support, or suggestions on the bill in a true spirit of co-operation.

On a personal basis, I would like to thank Deputy Legislative Counsel, Valerie Perry, who has worked very closely with me in preparing Bill 49 to this stage, and her co-operation and advice have been most invaluable to me and to all of us. I also need to apologize to anybody whose assistance has brought the bill to this stage but whom I have failed to mention.

The proposed University of Winnipeg Act is, as I have said, most important to us. The provisions of the draft act reflect generally how we wish to be governed or to govern ourselves. Consequently, we desire that Bill 49 be adopted substantially as it has been presented. There are a few issues where we would find alterations to the bill desirable, and I will come to these now. In doing this, of course, I should remark

parenthetically that I am going over the same ground that has just been covered by Professor Scott and to which the minister has spoken already in detail.

However, without trying to be too repetitive, Section 3 is the section which defines our essential mandate, and our concern has to do with clause (d) which reads, as has already been noted: "to provide facilities for original research in every branch of learning, and to conduct or facilitate the conducting of such research."

We desire more strongly to affirm our belief that research should be carried on in a spirit of academic freedom. This notion of academic freedom in research is one of our core values, as it is of all universities. We believe that it should be referenced in our governing statute. We therefore ask that clause (d) be altered by inserting the underlined words so that it would read: to provide facilities for original research in every branch of learning, and to conduct or facilitate the conducting of such research—and now the underlining begins—in an environment of academic freedom. Alternatively, the words could be added: in an environment of freedom of inquiry.

With regard to the composition of the board of regents, also raised by Professor Scott, the University of Winnipeg and the United Church of Canada have a long history of working together in support of higher education in Manitoba. The University of Winnipeg came into being in 1967 through an understanding between the government and the church. Through this understanding, the church turned over to the public all of the property which then constituted United College, as well as United College's endowment fund. This property and these funds became the base on which the new University of Winnipeg began operations. In return, the church retained 10 seats on the new university's board of regents, and the government acquired an equal number of seats.

The government intends to make all universities more accountable to a significant class of stakeholder, the students. In pursuit of this end, the government has altered the composition of the board, reference 5(2) of Bill 49, with respect to regents appointed by the church in clause (f), which now reads: 10 persons appointed by the general council, two of whom are students, and it is the last five words, "two of whom are students,"

which have been inserted and are new to our governance structure. Also in this clause, I will remind you that "general council" means, more broadly, the General Council of the United Church of Canada.

We believe that the church ought to have been consulted, and its approval sought, before changes were made in the historic understanding between church and government. We understand the consultation between church and government has now taken place, and that the church will accept the clause as it is currently stated in Bill 49.

Finally, with regard to mandatory retirement, Section 32 of the bill would give to the university the power to negotiate mandatory retirement provisions based upon age in certain collective agreements and thereafter to impose mandatory retirement based on age upon certain managerial and professional staff. It is our position that we have not had a significant problem with employees wishing to stay on after the normal retirement age of 65. We have had a very small number of employees who have stayed on for two or three additional years. Consequently, we neither require nor desire the powers which would be conferred upon us by Section 32. Specifically, we have at the present time six employees who have remained in the employ of the university past the age of 65 out of some nearly 500 employees, so the issue of people staying on beyond age 65 at the present time affects approximately 1 percent of our employees. Of those, they are more or less evenly distributed between one year, two years, three years, and, in two cases, four years beyond the normal retirement age of 65. We have never had an instance of an employee going to the stage that is commonly referred to as double-dipping, that is, reaching the age of 71 and taking up their pension as required by Revenue Canada while at the same time drawing salary. So that has simply just not been an issue for us.

In conclusion, then, we are most pleased that Bill 49 is now before the Legislative Assembly, and we support almost all of its provisions. We would very much like to see the alteration which we have suggested concerning a research mission made before third reading of this bill. With regard to mandatory retirement, we wish to indicate that we do not believe we require these powers.

Thank you for allowing me to appear before you and for hearing my presentation. I would be pleased to answer any questions you might have.

Mr. Chairperson: Thank you very much, Dr. Kingsley, for your report, your submission. Are there any questions?

* (1100)

Ms. Friesen: Thank you very much for your presentation. Could I ask you some of the questions that I asked the representative of the faculty association? That is, two areas which seem to me to differ from The Brandon University Act. I realize they are being tailored, and each university is being dealt with separately, but they do seem to have a broader significance. I wondered why the librarian is not included in the University of Winnipeg board. The second part of it is the custody of records has not been included in the bill.

Mr. Kingsley: Speaking firstly to the issue of the librarian. In 1992, I suggested to our senate, acting as secretary of senate, that it review both its composition and the status of all of its committees. The senate created a five-person panel which did this in great depth during March, April and May of 1992. One of the key recommendations of this group was that the university librarian and, I should also add, the university secretary, myself, be removed from the voting membership of senate, but those two positions, mine and the librarian's, be retained as what we call associate members of senate. Associate members of senate sit in senate, have all the right of participation and debate. The only things they cannot do are vote on motions or vote in balloting. So, in effect, my presence is maintained at senate, as is the university librarian's, as full participant.

So this then is a decision which was affirmed, recommended by a panel, affirmed by the senate, then written into the draft of the act as we resubmitted it to the minister in 1992, and it has remained there, was reaffirmed by senate this year and affirmed by the board of regents.

Then, with regard to records, it had not struck us that it was necessary to put within the act some clause or

section with regard to maintenance of records. De facto the board would have possession and charge of all records in the absence of some other provision in the statute. That is our understanding. In fact, we would be intending to develop administrative policies on the handling of records. We have made some attempts at that. It is a very difficult area. We simply seemed to run out of staff time regularly to deal with it, but this is something that we believe is an administrative matter and not something that we require in the statute.

Ms. Friesen: The minister may want to comment on that, but I am glad to have that on the record, that that is your understanding as this bill goes through, that it is something, a de facto board custody to be developed by regulation.

Mr. Kingsley: Yes.

Ms. Friesen: The third area that you raised was the issue of the collective agreement and mandatory retirement, and I wondered if you had had the opportunity to discuss this with the government. We have the University of Winnipeg Faculty Association. Now we have the university as a whole, presumably also including the board and the government appointees to the board, making a representation now to this committee that this is not something you sought and not something that you wish. Has there been discussion on that? Are you aware of the government's position on this to the extent that they, over both of those objections, the faculty's and the university's, insist on having this in?

Mr. Kingsley: Yes, we have had that discussion with government. We have understood the government position to be that the universities ought to be governed in a consistent way, and as this is part of The University of Manitoba Act now, it therefore ought to be part of both Brandon and Winnipeg's acts as well. That is certainly a legitimate position for the government to have. We were given the opportunity to address the specifics of that section so that our wording is, in some manner, slightly different from that of the University of Manitoba. As we have said repeatedly, we do not require the section, but we do have it tailored, given that it is an enabling section only, to the realities of the University of Winnipeg.

Mrs. McIntosh: I thank you for your presentation and for your other colleague who appeared before you. I must indicate that it has been an absolute delight to work with the University of Winnipeg people on this bill. The point that you are just making is clearly evident in terms of the harmony between the staff and the administration at university. It is really quite extraordinary. I mean, nothing is ever 100 percent perfect, but it is certainly very—people listen to each other, and I think it is helpful. That is probably why you do not need some of the provisions that are appearing, such as the early retirement or the mandatory retirement ability to negotiate it.

I just want to indicate again, I recognize that University of Winnipeg administration and faculty have been able to work things out in a very collegial way for most things. This is here—it is an option that is being included with the car that you are buying that you may not see yourself needing and does not have to be utilized. I appreciate that it is tailored so that, in the event you do use it, it is more suitable to who you are than some of the others. It is something, again, that I want to stress for the opposition critic as well as, again, the University of Winnipeg people. We do not expect you to use this if it is not something you require. I am just concerned that, with it appearing when it was not specifically requested, some people might feel government is saying you have to use it. It is only there as a just in case.

I also want to take advantage of this time once again just to say thank you for commenting on legal counsel's work because so often people do not recognize how hard legal counsel works to put these drafts together, and that was appreciated in the public servant awareness or appreciation week. It is a good thing to hear mentioned.

So, at any rate, thank you again for the help from all aspects of the University of Winnipeg, and I hope you will understand that these extras are not to be used if you do not need to use them.

Ms. Friesen: I wanted to ask about the Canadian citizenship section of the act. This is similar to Brandon University. It was not contained in the Mennonite university proposal. There was a presenter before you. I am not sure if you were here at that point

or whether you heard Mr. Lipsett's presentation on this and his concern that this might be a limiting factor. Had you given any thought to that from the University of Winnipeg's perspective?

Mr. Kingsley: In this instance, I would prefer to answer as a private citizen rather than as a spokesperson for the university. A provision like this has been in our regulation since the time that we were established in 1967. We have simply written that over into the draft act as of the 1970s and have not thought seriously about changing it. The only observation I would make would be that we generally do not employ persons on a continuing basis who are not either Canadian citizens or permanent residents within the purview of the Immigration Act.

Where we have distinguished visiting professors, as Mr. Lipsett suggested, it would be extremely unlikely that such a person would be with us for more than one year and very, very unlikely that that kind of person would be elected to senate, let alone to the board of regents, so I do not see this as a serious handicap.

Ms. Friesen: I had one further question and that dealt with the examinations to be answered or the enabling possibility for examinations to be answered in English and French. This was in an earlier act, of course: The Universities Establishment Act. It continues that. The point that I raised in speaking on these bills is, of course, the difficulties encountered in the marking of those exams and the setting of exams in either language. I wondered, as university secretary, if you had had experience with any appeals or any questions about that presumption. It is obviously a good thing. It is a good thing for Manitoba to do. It is now in the University of Winnipeg and Brandon University acts as it has been in The University of Manitoba Act. It does carry with it certain obligations, and I wondered how the University of Winnipeg had handled that.

* (1110)

Mr. Kingsley: Within our 30-odd years of existence, we have not had an instance of a student asking to take an examination in French which would otherwise have been given in English. Of course, there are students that take exams in French where that is the subject matter.

In thinking about this particular clause, I spoke to my colleague Bob Raeburn at the University of Manitoba and also my colleague Ed Anderson, the secretary of senate, and they have indicated to me that this is a matter which comes up infrequently, but does come up from time to time and which the University of Manitoba handles quite readily simply by finding the necessary expertise, if possible, within our own ranks, if not through the good offices of College Universitaire de St. Boniface, and we would certainly be prepared to do the same at such time as a request was made to us. So we have no difficulty with this.

Mr. Chairperson: Are there any further questions? If not, thank you very much, Dr. Kingsley, for your presentation.

I will call on the next presenter, please: Roger Coll from the United Church of Canada. Mr. Coll, your presentation, please.

Mr. Roger Coll (United Church of Canada): Like other presenters, I will be brief and certainly will not be taking the 10 minutes, nor will I treat you to a three-point sermon. I speak to you today as a senior staff representative of the United Church of Canada in this region. I appreciate the opportunity to be here and to share with this committee some observations on the proposed University of Winnipeg Act.

As members of this committee may be well aware, the United Church of Canada has had a long history with the University of Winnipeg. Through two of our founding denominations, Presbyterian and Methodist, we established two colleges in this province many years ago, Manitoba College in 1871 and Wesley College in 1877. Following the church union that created the United Church of Canada in 1925, those two colleges came together to form United College in 1926. That union was subsequently recognized by an act of the provincial Legislature in 1938 that formally created United College. The establishment of those institutions was consistent with our church's long history and interest in promoting education in Canada. Both through our Methodist and our Presbyterian roots, we, right across this country and through its history, have had a very long tradition in that line.

The 1960s, as I have shared with the minister in an earlier conversation, was a decade of rapid expansion and change in the university environment within this province, and with all that growth came a need for significant change. I can speak personally about this, because, of course, I was a student at United College in those days in the '60s. One of those changes was the creation of new universities, and I note this point. With the prior consent of the General Council of the United Church of Canada, which was given in September of 1966, United College became the University of Winnipeg on July 1, 1967. I am pleased to be able to read that into the record.

This new university was created by an Order-in-Council passed by the provincial cabinet acting under the university enabling act that was passed in 1966. It is also interesting to note that in 1967 the board of United College had 43 members. I do not know what those board meetings were like, but that sounds like an awful lot of people to me. I know a church board of anything more than 12 people is probably more than you want to handle.

It is interesting to note that all of those folks were appointed by church or by faculty. The 1967 board of regents of that new University of Winnipeg would only have 28 members, but at that time the very important principle was established. The government would name 10, and the United Church would name 10. Ever since 1967, that balance of 10 persons chosen by government and 10 persons chosen by the church has been respected, a recognition that both government and church are major stakeholders in this institution.

It has been the practice of the United Church of Canada to work closely with the nominating committee of the board of regents as the church sought out and named its 10 persons who would serve as 10 church-appointed members to the board of regents. Some of those persons that we chose were members of the United Church of Canada, but many of them were not. They were chosen not because they happened to be United Church members but because they had a particular skill set that the university identified to us that they needed, and we were pleased to find those persons for them. They would strengthen the university's network with various sections of the Winnipeg community. They were prepared and able to

give many hours of service on the board and one or more of its committees that every board member is expected to give, and serving one or two or more three-year terms of office, the 10 church-appointed members of the board of regents do in fact make a very large contribution towards providing a continuity of leadership on the board.

With respect to this particular bill, I have only one comment to offer on behalf of the United Church of Canada. While we want today to go on record as supporting this act, it is regrettable that at no time during the writing of this act did the government consult with the United Church of Canada. That partnership that was entered into in 1967 when our church gave over to the Province of Manitoba the property and the endowment fund of the United College was not acknowledged in the process that created Bill 49.

We believe it is inappropriate for government to unilaterally change the makeup of our 10 nominees on the board of regents by requiring that two of them be students. Our only opportunity for consultation with the government occurred four days ago in the office of the Minister of Education (Mrs. McIntosh), and that was a meeting that we initiated. I wrote here "university," but in fact it was the United Church members on the board of regents who initiated that gathering.

Having made that point, however, and looking at the content of what is here, we are nevertheless prepared to endorse this act, including its provision that two of our appointees to the board of regents and two of the government's appointees will be students.

So I would thank you for the opportunity to appear before the committee and would be pleased to answer any questions you may have.

Mr. Chairperson: Thank you very much, Mr. Coll, for your presentation.

Mrs. McIntosh: Thank you very much. I want to thank you for your comments today and for the meeting that you had with me—last week, I guess. I very much appreciate the forthrightness with which you came and the courtesy with which you presented your concerns.

I want to indicate as well that I have heard the point you have made. It is one that we will certainly be more cognizant of in the future.

We had no intention of excluding the United Church at all; rather, I guess, an assumption on our part, that in working with the board we were in fact getting United Church opinion through those on the board. But I understand the different perspective that you have put on it by virtue of coming to see me and appreciate and accept it. Thank you for your support of this act and look forward to future dialogue not just with those United Church members of the board but with the United Church and their concern, which is very obvious, for the well-being of this university. That came through loudly and clearly, and I think the university appreciates that ongoing support. That also has been more evident as time goes on and we get to know those of you down at that institution more.

So I thank you on both counts and for taking the time to come today.

Ms. Friesen: I also am very glad that this has been put on the record. The University of Winnipeg had raised this with me. Not the United Church but the university itself had been concerned about the absence of consultation with the United Church and their discomfort with the fact that requirements were being changed in the United Church representation without that consultation. So I am glad that this has been put so clearly on the record, and one would hope that it would not happen again.

The University of Winnipeg calendar, which I quoted from in speaking on this bill, is very clear that this is a partnership between church and state, and I think we are glad to see that that partnership continues. I have heard from both the United Church and the University of Winnipeg that the opportunity to have United Church representatives as part of the board is one that has given them a great deal of flexibility over the years. It has enabled continuity in board representation that I think everyone has found very valuable.

I had one question for you on the representation of students, and I probably should have asked it of the University of Winnipeg representative as well. The legislation speaks only of students, and I wondered

if you had and the university had given consideration to particular types of students. For example, the University of Winnipeg has graduate students in some areas. It has the masters of public administration. It has graduate students, I believe, still in religion and in history, and I wondered if there had been any consideration or discussion between the two of you that there would be some representation of graduate students on the board as part of that student representation.

* (1120)

Mr. Coll: The honourable member for Wolseley (Ms. Friesen), I think, has named exactly the reason why we have said that we would be prepared to agree to the idea of having two students as part of our group. We would understand the term "student," which is to be defined within this act by the senate, to be, as it exists now, a very broad definition. In fact, it would include students who are attending the university on a part-time basis, students who are there as graduate students, students who are in one of the specialty programs perhaps, and when you start looking at that wide range, then we see the possibilities then for some folk who might serve for longer periods of time. That was our concern.

We are providing—helping to find maybe is the right way to put it—10 persons who can help to give continuity of leadership on that board. Students who have served and are able to serve only a one-year term and perhaps get renewed once cut into that number of people, and every board needs a significant number of people who will provide continuity.

That was one of the reasons, not just the fact that we were not consulted, but that was the other reason why we were questioning with the minister as she knows the provision of having two students. But, as we think about that some more and have talked with representatives of the university, we realize that there is that broad definition, and graduate students, as you are pointing out, is another possibility for us as well. Perhaps amongst them, who have a longer life at the university, some of them, they may be prepared to serve one-year terms renewed several times and could start to provide and continue to provide some of that continuity

that we cherish, and we know the board of regents does, too.

Ms. Friesen: I think there are a number of good points that I raised in that one. I actually had not thought of the longer period of time that a graduate student might be available to serve. I think there are still only masters programs at the University of Winnipeg, so there may be some limits there, although some masters programs go on a long, long time.

Floor Comment: I have friends who take it for a long time, yes.

Ms. Friesen: I think the point I wanted to pick up on was that what you have raised is an interesting perspective on the government's, I think, laudable desire to have more students included in university governance, and, yes, it is a good thing. The downside of it is that students are temporary, first of all. They cannot serve many terms. I do have a personal concern that the first job of students is to be students and that board governance and the activities, particularly at the University of Winnipeg where the system works with a very active participation of board committees, are likely to take a great deal of a student's time. I still believe, both in high school and in university, the first job of a student is to be a student. This is a difficult one. I think we applaud the intent of it, but we, you know, have some long-term concerns about it. Thank you very much for putting this on the record.

Mr. Chairperson: Any further questions? Thank you very much for your presentation. Going on with Bill 49. Are there any other presenters? Mr. Helwer?

Mr. Edward Helwer (Gimli): Mr. Chairman, I just want to suggest that, perhaps, we could have a break for some of the members to study that one report before we go clause by clause.

Mr. Chairperson: If you could just wait one moment. We need to just verify if there are any other presenters for Bill 49 and also for Bill 50. Are there any more presenters?

Then I believe it is the will of the committee to have a 15-minute break at this time. [agreed]

The committee recessed at 11:25 a.m.

After Recess

The committee resumed at 11:46 a.m.

Mr. Chairperson: Resuming the Standing Committee on Economic Development. In which order shall we consider the bills for clause-by-clause consideration?

Bill 47—The Brandon University Act

Ms. Jean Friesen (Wolseley): Mr. Chairman, I had a proposal to make on The Brandon University Act. As you know, we only received these proposed amendments at the table, as we came to the table, and we agreed to read them over the break. I have read them, and I have had the opportunity to discuss with someone here from Brandon University, and I believe the university itself has not seen these proposals.

I wonder if the committee would entertain postponing this bill until Monday, when I think we do re-assemble, and we would have had an opportunity to discuss these proposed amendments with both the university and the Faculty Association.

Mr. Marcel Laurendeau (St. Norbert): I do not believe that this committee has been reconstituted for Monday yet, Mr. Chairman. I think we would have to check, but this committee has not been, under my recollection. We have reconstituted Law Amendments for Monday morning, Monday afternoon and Monday evening. Monday evening was specifically to deal with Bill 35, and any other bills that were left.

Ms. Friesen: Mr. Chairman, Mr. Laurendeau may well be right. The member for St. Norbert may well be right, but one of those committees is assigned to discuss education Bills 53 and, I believe, also 27 and 34.

Mr. Laurendeau: The member is correct. We could always make the changes after the House sits on Monday to format another committee to hear the education bills that are left. Have you got your House

leader's support on formatting a second committee though?

An Honourable Member: Oh, I am sure we do.

Mr. Chairperson: May I suggest to the committee, though, that this bill has not been referred to the committee and the House leader has not announced it.

Ms. Friesen: Mr. Chairman, my proposal is that this bill, with mutual consent, be deferred to a later time, and my proposal was that it be added, with consent of both House leaders, to the next time that a committee is meeting with the Education minister there and with the staff. That is really my purpose, and if we can find a way through that with the right wording, then I would be happy.

Mr. Laurendeau: Mr. Chairman, I think we might want to then just leave Bill 47 to the jurisdiction of our House leaders on Monday to call or format the committees in such a way that we can deal with it Monday sometime.

Mr. Chairperson: The earliest, I have been given to understand, is that we could consider it after the sitting in the afternoon. It would have to be announced by the House leader.

Is it the will of the committee then to postpone Bill 47 until a future committee is established? [agreed]

Bill 48—The Mennonite College Federation and Consequential Amendments Act

Mr. Chairperson: Shall we then proceed? Did the committee wish to have the clauses called individually or shall the clauses be called in blocks of clauses? Clause by clause. Blocks.

Ms. Jean Friesen (Wolseley): We are looking at Bill 48, are we? Can we decide on each bill on that basis? Bill 48 is the Mennonite universities act.

Mr. Marcel Laurendeau (St. Norbert): If I could just have one minute with Ms. Friesen and the opposition member, to straighten something out. It will make it a little easier on you.

* (1150)

Mr. Chairperson: Does the minister responsible for Bill 48 have an opening statement?

Hon. Linda McIntosh (Minister of Education and Training): Mr. Chairman, I do not have a lot of comments to make, because I think I made some detailed comments in the House when the bill was introduced, and only to say that I am really pleased that this is coming into existence. I think it will be a very valuable addition to Manitoba for a lot of reasons, and they have been stated, for the record, in earlier days. So, in the interest of not prolonging debate, I would pass on the opportunity to restate all of those points except to express my pleasure that it is finally here at this stage.

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

Ms. Friesen: Mr. Chairman, no, I spoke at length on this in the House. I do not have an opening statement, and I do not have, at the moment, any amendments to the bill, but I do have a series of questions for the minister which stem, essentially, from some of the things I was asking of the presenters.

I wondered if the best method of procedure might not be to ask all those at the beginning, but they will deal with more, obviously, than the first section of the bill.

Mr. Chairperson: Is it the will of the committee then to have the questions first and then we will go into passage of the bill? [agreed]

Ms. Friesen: I wanted to ask the minister about the issue of the accountability to the Mennonite church, singular. I wondered what was the minister's definition of that. Accountability is obviously a serious issue which does demand action or which indicates lines of action. I wonder if the minister could put on the record what her interpretation of that section is.

Mrs. McIntosh: Mr. Chairman, I have briefly just checked with our legal counsel as well on the question the member has asked. This particular clause is reflecting a couple of things, the basic thing being the

historical relationship that has existed between the colleges and their faith. The direct accountabilities are, of course, spelled out in the act itself. As well, the college is accountable through the Council on Post-Secondary Education for aspects of its service delivery. It is not unlike the comments the member made in reference to—we were talking about in terms of the historic relationship between the United Church and the University of Winnipeg where they have ties, different in nature, but still spelled out in the act and relationships between the church and the post-secondary institution.

Ms. Friesen: I think the minister has, by her example, indicated really the area that I have difficulty with. The United Church is a definable body in law. It has a synod; it has democratic institutions, as do most churches, but it is a finite body. Mennonite church is not. It is not something that you can point to. There are many, many Mennonite churches, a few of which are involved in the creation of the Mennonite university. So that is my concern for saying “church” and saying “accountable.” I wondered why it had been put in, when firmly rooted in the Anabaptist Mennonite tradition and serving the Mennonite community I think is easily understandable and recognizable, so what is the purpose of this particular section?

Mrs. McIntosh: The member is correct in identifying that churches are not always structured the same as each other. That is why they have different denominations. The United Church takes its roots in the Presbyterians and the Methodists. Indeed, within the United Church, as it exists today, there are differing factions, as the member well knows. There is the renewal movement within the United Church and they are structuring themselves quite differently from the main body of some of the other United Churches, yet they consider themselves United Church people.

There are certain segments of the Mennonite church here that are directly involved and are accountable at this time, but the Mennonite church and the Anabaptist movement is—I have often heard people talking about the churches, talk about the church as an idea or a philosophy or a belief that is very, very hard to define. The early churches in the Anabaptist movement, particularly where there was a lot of persecution, did not have a lot of walls and bricks and so on. They were

people joined together by a concept, a philosophy and a belief. That has not changed. It would be very, I think, inappropriate and difficult to outline all of the different bodies that consider themselves to hold to the Mennonite Anabaptist beliefs.

This particular reference in the preamble refers to a community of people within the Mennonite community. I think it is worded well. It was spoken to well by the three representatives of the Mennonite colleges here earlier today, who indicated that they prefer to see the kind of flexibility in the wording such that as other Mennonite groups decide that they might like to become part of that body of accountability, they would be able to do so.

But, in the meantime, I think it is pretty clear which body is accountable, and it also has some further detailing in the act itself that helps to clarify that. So I do not have trouble with the wording. It was very carefully gone through with the people concerned and with the government. We are trying, as we bring in these university acts, to have them reflect the needs and desires of the community itself, and we have heard nothing but positive reaction from Mennonites on that particular wording.

* (1200)

Introduction of Guests

Mr. Chairperson: Before I acknowledge Ms. Friesen, I would just like to welcome the students here from the Seven Oaks Middle School, Grades 6, 7, and 8. Welcome to just visiting, and we wish you a good day.

* * *

Ms. Friesen: Well, I wish I could be as sanguine as the minister in believing that this is clear. I believe the bill itself is clear. It is much clearer. It does speak of the three colleges, Menno Simons, and it is very clear in the existing situation of the relationship between Concord College and the Mennonite Brethren Church in Manitoba, and the General Conference of Canada and the CMBC.

The minister has made a reference to the earlier church, an argument that is there in all Christian

churches, the idea of the churchhood of all believers, usually referred to with a small "c." This bill has been drafted with a small "c" there. Was that deliberate? Is that the intent to indicate that this new college/university will be accountable to the Mennonite believers outside of capital "C" churches?

I think the minister's analogy to the United Church and the different sections within it really is not appropriate because when I am speaking of Mennonite churches, they are, indeed, very, very different and would want to remain so and believe so. They do not see themselves as factions—[interjection] Or I do not think they would see themselves as factions, but I do not think we have to get into that.

Mrs. McIntosh: Mr. Chairman, I do not want to get into a theological argument over degrees of differences within particular denominations. Certainly, the Mennonite church, I would acknowledge, would have a more distinct and more clearly defined groupings within it than the United Church, notwithstanding there are very real differences within the United Church, not perhaps as clearly defined or as officially set out. We are talking about a question of degree. The principle is the same, but the degree of difference is different, but I come back to the fact that the law is spelled out in the clauses in the act, and as the member has acknowledged, those are quite clear.

In the preamble, you are talking about who the parties are that are involved with this and, certainly, the Mennonite church, the Mennonite community is one of the parties that is involved, and to try to identify this particular portion of the Mennonite church, that particular Mennonite church, that other particular Mennonite church, is not appropriate in a preamble. It is too much detail for a preamble. We are saying it is a Mennonite Anabaptist philosophy, and in the act, we spell out the detail that is inappropriate to have in a preamble.

Ms. Friesen: Well, I do not share the minister's view and I do have some concerns. I mean, we will leave it at this, but I do want to put this on the record: the Steinbach Bible College, for example, has decided not to become part of this federated college. The Steinbach Bible College is supported and accountable to four different Mennonite churches. There are some clear

differences. There are people who have chosen not to become involved, so that very broad accountability does give me a concern. I am not going to propose an amendment to it, but I do want to register that as something we should be mindful of.

Mr. Chairperson: Is there a blanket agreement from the committee that any amendments that may be moved today will be considered to be moved with respect to both English and the French languages? [agreed]

Ms. Friesen: I still have a couple of more questions on the bill before we pass it. Section 3 Purposes and objects, it is "to give university-level instruction and training in all branches of knowledge and learning." Is it the minister's intention, or should I say, the Council on Post-Secondary Education's intention that graduate degrees be given?

Mrs. McIntosh: Not at the present time, but that does not preclude the possibility that at some point in the future they may wish, in conjunction with the University of Manitoba, which is where they have affiliation, to provide that kind of opportunity, although it is not currently there.

Ms. Friesen: Is the minister suggesting that an amendment will be needed to the bill if graduate degrees are to be given, or is this bill sufficiently broad enough that that is possible?

Mrs. McIntosh: I believe that is broad enough. It is modelled on the other university powers. Of course, those types of things also involve consultation with the Council on Post-Secondary Education.

Ms. Friesen: Section 5, Approval not required for new programs: "The corporation may implement a new program or course of study without the approval of the council . . . if the program or course of study (a) is one for which credits are given only for a degree or diploma in theology."

I wonder if the minister could define theology for me in the context of the Mennonite university and if she could tell me whether this is similar to, identical with, congruent with that of the University of Winnipeg and the colleges associated with the University of

Manitoba. I am thinking of St. John's and St. Andrew's in particular.

Mrs. McIntosh: This wording is straight from The Council on Post-Secondary Education Act. It is the same wording that governs St. John's College, St. Andrew's College, University of Winnipeg, those that offer faculties of theology programs. I will read—in the council act it is under the definitions “denominational theological program.” It is a program or subject for which credits are given only for a degree or diploma in theology.

* (1210)

Ms. Friesen: In the cases that the minister has made reference to, I think theology is closely identified with ordination. Ordination would not be an issue in the Mennonite churches, so I wondered how that is going to be defined in this kind of an institution.

Mrs. McIntosh: Many of the Protestant-type churches do not have ordained pastors, ministers. They have people with degrees in theology, normally, leading the congregations. Just as I could go and obtain a degree in theology from one of the other so-called main line churches without ever becoming ordained to be a priest or a minister, a degree in theology in that circumstance would have similar standing and would still be a degree in theology. A degree in theology is a degree in theology. In some areas a degree in theology is followed by ordination, if one wishes to practise as a Christian pastor. In some others, a degree in theology might be used for purposes other than ministering to a congregation of people.

I do not know if that answers the question, but ordination is not always an automatic outcome of obtaining a degree in theology in more than just the Mennonite church.

Ms. Friesen: Yes, I accept that, but the degrees which people take in order to be ordained, and may not necessarily be ordained, I agree, are easily identifiable. In the case of the Mennonite university, I am not sure how that is going to be defined. That is what I am looking for is some indication of that. For example, I understand the university/college will be interested in creating a degree in church music. They will be

interested in having a degree in Christian studies. I think there is the possibility of a degree in music in ministry. Now, are these theological degrees? Is the language of the act a program?

Mrs. McIntosh: Mr. Chair, ultimately it would be up to council to decide which courses are religious courses. You find at the University of Winnipeg, again to go back to try to use a comparative example, that council is currently taking a look at the family therapy program that is offered in the school of theology. It is part of the Faculty of Theology at the University of Winnipeg, and yet many now take that diploma course, not as part of religious ministry but as part of an additional component of a clinical psychologist's degree to use in the schools. In fact, many people have used it that way with nothing at all to do with religion, and many of the components—in fact, all of the components of that particular one now have nothing to do with religion. But it did not start off that way. It is part of the Faculty of Theology. It is not religious. For purposes of funding, up until now they have always been considered religious courses. Their status may well be in the process of changing because they are no longer used for religious purposes. So council will have to determine what is the religious course and what is not.

Courses that lead to a degree in Christian music, for example, or a certificate or whatever in Christian music, if it is a degree in Christian music, that is what it is. It is not a degree in theology. I mean, a degree in theology will say this is a degree in theology. One in music will say this is a degree in music, a particular kind of music that is used in worship, maybe not a bachelor of theology.

Those are all things that the college will have to identify to the council, and the council will have to make the determination as to where they slot in, in terms of eligibility, for example, for funding purposes, because the council does not fund religious courses but does look at secular courses.

Ms. Friesen: The wording of this section of the act is that the corporation may implement programs. They do not have to go to the Council on Post-Secondary Education. I do not see how the procedure there enables the council to decide, because there is no

requirement in this act for that particular proposal to go to the council. So is there something in the post-secondary act which would require that presentation first, any program of study?

Mrs. McIntosh: I would like to consult with legal counsel on one aspect of it, but I just want to clarify for the member. I was perhaps getting ahead of myself in talking about the courses that required approval or interaction with the council, because the category that she is just describing, which she did reference in her original question, is not in that category. I was enhancing my remarks by going on to another aspect. But just give me a minute to get back to you here.

The only time that council would be involved, and then it would be very much involved, would be if there was a request for funding to accompany those courses.

So the college or university setting up courses in the category that are theological, religious, in terms of faith not just history, but those things would necessitate communication with the council because they would—unless they wanted to run them without request for funding, but if they were accompanied by a request for funding, the council would have to be involved. Otherwise, the council would not need to be because they are not paying for them.

Ms. Friesen: So, in effect, it is the corporation itself which will determine whether this is a theology course or not. Is that how it will work?

Mrs. McIntosh: The college will come forward to council, if they are asking for funding, with an understanding obviously that what they are bringing forward is not a theological course or they would not be applying for funding. The council will examine it and do that double-check to determine if, in council's opinion, it is a religious or a secular course. So they will come forward saying we believe that we have a nontheological course here. Council will say you are right, you do, or they will say well gosh, let us talk about it because we think maybe this is a religious course. They will have to decide then and talk back and forth until a determination is reached.

Ms. Friesen: The second part of Clause 5 is that the corporation may implement a new program or course of study without the approval of council if it "(b) does not

result in a request for additional funding from the council." My understanding is that is no different than the position of any other university in Manitoba.

Mrs. McIntosh: That is correct.

Ms. Friesen: Can I move on to Section 6: "The corporation has the exclusive right to determine the religious and moral content of its programs and courses of study"? Could the minister give me a sense of how this fits with the Council on Post-Secondary Education's concerns for academic freedom and for critical thinking? There appear to be some differences between the two, and I wonder if the minister could comment on that.

Mrs. McIntosh: Excuse me, Mr. Chairman, I just wonder, could the member clarify what she means by "some differences"? The council says they cannot interfere with the open and critical thinking, and this would be the college's determination as to how they want to think. What is the difference between the two that the member is alluding to?

Ms. Friesen: It is the exclusive right. The council has set a series of principles, and here the corporation has the exclusive right. I am wondering, is there a distinction there? Is there something that the minister believes fits well, or could she ally those two for us?

Mrs. McIntosh: I think it is quite in harmony in that the college has the exclusive right with which the council cannot interfere. The college has the right to think as it wishes without the council interfering in their ability to think as they see fit. I still do not understand where the member sees a difference in that.

* (1220)

Ms. Friesen: I am wondering which takes precedence. Does this act take precedence that the exclusive right to determine that comes from the university?

Mrs. McIntosh: In the council act, it is, and we have referred to it earlier today, Clause 3(2), where there is a limitation on the council that it cannot tell a university how to think and speak, and I am paraphrasing. This No. 6 in this act is a comfort clause put in at the request of the Mennonite institutions to reassure them that 3(2) would in fact be abided to in terms of their opportunity

to have religious thought, which is thought, and that is a comfort to reassure them that 3(2) does cover them, so to speak, with their right to have religious thought as they see fit.

Ms. Friesen: I wanted to ask about the composition of senate. There are many types of senates. We have three universities in Manitoba that have similar types of senate. There are some differences. The University of Saskatchewan has a very different kind of senate with election from the community at large, et cetera. I wondered if the minister has any sense of how this particular senate is going to develop. Does she anticipate that it will be similar to other universities in Manitoba, or are we looking at any other models? Did the minister, in drafting this, have any sense of any other models?

Mrs. McIntosh: They will be having a senate. The exact structure of that, of course, would be up to the institution. My opinions on that would probably not be appropriate to make in terms of the structure. That would be their decision to make. There is an obligation to have a senate. I certainly do not wish to pre-empt or be seen in any way to be ordering how that would be done, aside from what is in the act.

Ms. Friesen: One final question. In the other university acts that we are looking at, Brandon and the University of Winnipeg, the requirement of Canadian citizenship or landed immigrant or permanent resident status has been required. Can the minister tell us why it has not been included in this act?

Mrs. McIntosh: I am advised that it is just an historical thing. The University of Manitoba does not include that. The University of Winnipeg and the university of Brandon always have. The university of the Mennonites here had not requested it. We tried to make the acts reflect as best we could the wishes of the universities themselves, so if we were all going to have identical acts, of course we would have just brought in one omnibus act that would have said, here is the act for universities in Manitoba and all institutions will follow it.

We have not done that because they are unique, and they do have their own histories. We have tried to build in as much consistency as we felt was appropriate and leave a lot of the personality traits that belonged to

them in days past still with them. So the answer to that is purely that it is historical. It was something that was not asked for in this particular act, so it was not seen as something that was needed. I have no objection to it being in or out. I prefer to, as much as we can, have it reflect the wishes of the institutions

Ms. Friesen: When the minister says historical, does she mean that the citizenship aspect descends from The Universities Establishment Act, for Brandon University and University of Winnipeg?

Mrs. McIntosh: They were in the regulations under that act, so Brandon and Winnipeg have always utilized that. Manitoba has not. The Mennonites have not requested it.

Ms. Friesen: So, by "historical," what the minister means is government policy. Government policy in the establishment of that act and the regulations that have flowed from it determine that Canadian citizenship was an issue and should be in the Brandon and Winnipeg acts, has not, so far, been in The University of Manitoba Act, and the Mennonites have not requested it, so it is not in there. So it is actually a distinction of policy, because it was government policy in one area and it is not government policy in another area.

Mrs. McIntosh: I am not sure what you mean by government policy, but I do know that the member is correct when she says in terms of the historical connection that it flows from the practice that has been in place.

Mr. Chairperson: During the consideration of the bill, the preamble, title and the table of contents are postponed until all other clauses have been considered in their proper order. Clause 1—pass; Clauses 2(1) to 3—pass; Clause 4(1) to 4(2)—pass; Clauses 5 through 7(1)—pass; Clauses 7(2) to 9(1)—pass; Clause 9(2) to 9(7)—pass; Clause 10(1)—pass; Clauses 10(2) to 13(1)—pass; Clause 13(2)—pass; Clauses 14 through 16(1)—pass; Clauses 16(2) to 18—pass; Clauses 19 to 21—pass; Clause 22—pass; preamble—pass; table of contents—pass; title—pass. Bill be reported.

Bill 49—The University of Winnipeg Act

Mr. Chairperson: Moving on to Bill 49. Does the minister responsible for the bill have an opening statement?

Hon. Linda McIntosh (Minister of Education and Training): Thank you very much, Mr. Chairman. Again, I will waive the ability to speak, and refer anyone who might be interested in my comments on this to Hansard when the bill was introduced. I am pleased that it is here, and I am anxious to get on with the actual passage of the bill rather than repeat my comments for the record the second time.

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

Ms. Jean Friesen (Wolseley): Thank you, Mr. Chairman. No, I do not. I spoke on this in the House.

Mr. Chairperson: We thank you then.

During consideration of the bill, the preamble, title and the table of contents are postponed until all other clauses have been considered in their proper order.

Ms. Friesen: Just to make things a little smoother, can I ask my questions at the beginning and then we will go through the bill?

Mr. Chairperson: Certainly. Go ahead.

* (1230)

Ms. Friesen: Thank you, Mr. Chairman. I just had a couple of questions on this. We have been over them with the presenters, but perhaps just for the record the minister could explain why the section on academic freedom requested by the university was dropped. We could put it to the vote as an amendment. It seems to me consistent with what the minister believes is in the post-secondary education act. It is not in other acts across the country. I am prepared to believe that. I have not checked it, but it seems to be something that the university has requested, and the minister has said on a number of occasions she wants to meet the requests of universities, whether it is the Mennonite university or Brandon or the University of Winnipeg. If this is not inconsistent—well, I should not use double negatives—if this is consistent with the Council on Post-Secondary Education, why has the minister chosen to overrule the requests of both the faculty and the university in this one?

Mrs. McIntosh: I think I have answered this specific point earlier in the day, but I am pleased to reiterate it for the record. I have said we try to do two things in bringing out these acts. We did debate very seriously bringing in just one university act, the universities act, and having all institutions fall under it in order to achieve consistency. In points where we knew there was consistency, we could simply say it once and have it done with, but we also recognized that there are differing personalities in each of these institutions, and they each have their own persona. We wanted to achieve two things. We wanted to allow each university to continue with its own personality, but at the same time to achieve as much consistency as we possibly could so that there was a kind of a standard that would be available to all.

In picking out the points that were pertinent, for example, if you look at the University of Winnipeg, had we brought in what we seriously debated bringing in at one point, which was a universities act, we would have forced the University of Winnipeg to reduce its board down to about 20 people, and the way in which they have operated over time has evolved for them a board of 30. They are over 30 people, and they operate on a committee structure which seems to work very well for them.

The other universities do not have a board that large functioning in just that way, so we felt that was a key and important point. In order for the University of Winnipeg to continue its own personality, we had to allow that size and structure of that board. There was no other board, for example, that had a body of people on it that were not associated either with the university or the government, in this case the United Church, again a unique structure, that a third of their board would be United Church people, 10 people appointed by the United Church. Had we had an omnibus bill to cover all, the University of Winnipeg would not have been able to have that continue, and you saw the concern this morning with just asking that two of those 10 be appointed by the United Church as students. You can imagine how upset they would have been had it disappeared completely. So we picked out what we thought were the really important points that would retain the personalities of these institutions and make them unique and enshrine them so that they can guarantee they can have them continue.

The other things that we felt we could develop consistency on, and this one, the request to have included academic freedom, no other act has that, and it is really redundant because it is included in the collective agreement. Both the administration and the faculty here today indicated they like having that in the collective agreement. They have no intention of removing it, so therefore it is not needed in the act. To put it in the act, that was one of those points that we felt was a consistency-type thing, that appearing in this act, like the clause that would empower the university should it wish to have age-related provisions or age-related policies, is one that either had to be either in or out of all the acts in order to achieve a consistency on some very fundamental things, so it was not seen as required. It was not seen as changing anything at all in the way the current practice carries on, and would definitely have created a precedent for all the other university acts, none of which asked to have it included.

It is not like this is an issue that is not being addressed through the collective agreements, so to us it was something that is not something that should be in an act. It should be in the collective agreement, and that is the practice in every other university in Canada, so not only are we being consistent locally but we are consistent nationwide. This will not in any way preclude the university from continuing with its academic freedom. They have it, and they are committed to continuing it, and council itself cannot interfere with that.

Ms. Friesen: I accept the argument of consistency, and it seems to me that—I have not spoken to Brandon University on this, but we are dealing with two such bills and to be consistent, one would have to insert it in the same location in the Brandon University bill, and one would have to open The University of Manitoba Act to insert it in there, and one would also presumably have to ensure that it is represented in the Mennonite university act.

I do not perhaps place the same—well, to speak of collective agreements one would hope that collective agreements would certainly maintain such freedoms, but collective agreements are agreements. They are opened and renegotiated. There are many issues on the table, and I can understand why the University of Winnipeg and the faculty association are asking to have

this in the bill. The issue of consistency, I think, is a significant one, and the timing of this is important. I think I will accept the minister's assurance that no intention is meant to alter the existing academic freedom at the University of Winnipeg and that she believes the Council on Post-Secondary Education bill protects those academic freedoms.

Mr. Chairperson: Does the minister want to respond?

Mrs. McIntosh: No, thank you, Mr. Chairman.

Mr. Chairperson: Okay. Clause 1—pass; Clause 2(1) to Clause 5(1)—pass; Clause 5(2) to Clause 5(4)—pass; Clause 6(1) to Clause 8(1)—pass; Clause 8(2) to Clause 11(2)—pass; Clause 12(1) to Clause 12(2)—pass; Clause 12(3) to Clause 12(4)—pass; Clause 13 to Clause 16—pass; Clause 17(1)—pass; Clause 17(2) to Clause 18(2)—pass; Clause 18(3) to Clause 20(1)—pass; Clause 20(2) to Clause 24(2) pass; Clause 24(3) to Clause 27—pass; Clause 28(1) to Clause 29—pass; Clause 30 to Clause 32(3)—pass; Clause 32(4) to Clause 35—pass; Clause 36(1) to Clause 37—pass; Clause 38 to Clause 40—pass; preamble—pass; table of contents—pass; title—pass. Bill be reported.

Bill 50—The Universities Establishment Repeal and Consequential Amendments Act

Mr. Chairperson: Moving on to Bill 50, does the minister responsible for Bill 50 have an opening statement?

Hon. Linda McIntosh (Minister of Education and Training): Again, Mr. Chairman, I have spoken to this bill in the House, expressed my pleasure that it is now at this stage and have no need to repeat what I have said earlier in the Chamber.

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

Ms. Jean Friesen (Wolseley): No, I do not.

* (1240)

Mr. Chairperson: Do you have some questions? No. Okay.

During the consideration of the bill, the preamble and the title are postponed until all the clauses have been considered in their proper order. Clauses 1 through 3—pass; Clauses 4 through 7—pass; Clauses 8(1) through 11—pass; Clauses 12 through 13—pass; preamble—pass; title—pass. Bill be reported

To remind the committee that Bill 47 will come forward at a future date. Committee rise. Thank you.

COMMITTEE ROSE AT: 12:41 p.m.

**WRITTEN SUBMISSIONS PRESENTED
BUT NOT READ**

Regarding Bill 47

The Brandon University Act
on behalf of

The Executive Committee of
The Brandon University Faculty Association
by J. F. Dolecki, President
Brandon University Faculty Association
Brandon University

Preliminary Remarks

The following submission is intended for inclusion in the official record regarding Bill 47, The Brandon University Act, with the expectation that the comments it contains will be taken into account during the legislative debate on this bill. These comments are conveyed on behalf of the Executive Committee of the Brandon University Faculty Association (BUFA), the recognized bargaining agent for the academic staff (faculty, librarians, and student service personnel) at Brandon University.

BUFA has long advocated the entrenchment of Brandon University in legislation and was an active participant in the extensive consultation process which culminated in the proposed “Act Respecting Brandon University,” authored by the “Blair Commission.” BUFA not only endorsed this “Act,” which received senate and board approval in January of 1985, but actively lobbied to have it brought forward in the Manitoba Legislature. Regrettably, this did not come to pass.

Late last year, the university community was informed that the current administration, in response to an initiative by the provincial government, intended to submit a “Brandon University Act” proposal of its own (evidently rejecting the senate- and board-approved 1985 proposal). Since the time lines specified by the university administration clearly precluded the kind of extensive consultation and debate that such an act requires and coincidentally breached the time lines for such legislative initiatives outlined in our collective agreement, BUFA pursued the matter of grievance, ultimately seeking and obtaining (partial) injunctive relief (see *Brandon University Faculty Association v. Brandon University*. Court of Queen's Bench of Manitoba: File No. CI 97-01-05695. Injunction Granted: January 6, 1998; Reasons: February 10, 1998).

In the event, the administration's proposal was discussed by the senate on January 6, 1998, but failed to receive approval (see Minutes, Special Meeting of the 30th senate, January 6, 1998). Nevertheless, this proposal went forward to the Board of Governors and, through them, to the Legislature. The bill before you today is a variation on the proposal developed and advanced by the university administration, and, consequently, represents the particular views and special interests of (at best) a small segment of the Brandon University community.

BUFA does not endorse, nor does it support, Bill 47 as it is currently constructed. In what follows, our main objections to the bill are briefly stated and some suggested amendments are recommended.

I. University Governance

As you may be aware, there has been since the 1950s an ongoing debate regarding the appropriate structure of university governance. In recent years, the debate has centred on two competing models, viz. the “collegial” model and the “corporatist” model. The former, which BUFA endorses, features a decentralized, consultative, inclusive, and essentially consensual decision-making structure in which power is diffused by design. The latter, which the university administration embraces, features a centralized, exclusive and hierarchical structure of decision making, in which power is concentrated in the hands of a small

group of (excessively highly paid) professional administrators who view themselves as mere managers of an educational enterprise.

One important arena wherein the debate over the merits and shortcomings of these competing models has played itself out is in the relationship between the senates and boards of universities, as reflected in the evolution of the division of powers between these two bodies. In a "collegial" structure, there is a balance of power between the senate and the board, with the actions taken by the latter often requiring the prior consent of the former. This helps to ensure that decisions taken by the board are consistent with the overall aims and objectives of the university, as well as in the interests of greater community which the university serves. By contrast, in the "corporatist" structure, the senate's role in decision making is marginalized, thereby making, among other things, the university more open to the influence of special political or economic interest groups. This, of course, is antithetical to the very definition of a university, as the experience in the old Soviet Union clearly shows.

Over the last 15 years at Brandon University, the debate over the division of powers between the senate and the board has been particularly intense. Indeed, in that time, the role of the senate in decision making at Brandon University has been diminished, to the detriment of the university community considered as a whole.

Bill 47, as it is currently worded, will not only solidify this marginalization of the Brandon University senate in legislation, it will carry that marginalization further, effectively eliminating any meaningful role that senate could legally play in decision making at Brandon University. In this context, we would draw your attention to the following (all references are to the text of Bill 47):

I. Section 3(2)(a), which assigns the power to "establish and maintain such colleges, faculties, schools, institutes, departments, chairs, and courses of instruction . . ." to the board, appears to override Section 20(2)(d) and (e). In other words, Section 3(2)(a) appears to allow the board to exercise this power not only without the consent of senate, but also

without consulting senate at all. Simply stated, this is completely unacceptable. As such,

(a) BUFA recommends that Section 3(2)(a) be amended by deleting the phrase ". . . as the board considers appropriate."

2. Section 12(1), which appears to be a type of "residual powers clause" styled without reference to other institutional constraints (e.g., the terms of specific collective agreements), is simply unacceptable. As such,

(b) BUFA recommends that Section 12(1) be amended to read: "The board has overall responsibility for the university."

3. Section 12(2)(f) appropriates to the board, a power currently (i.e., under the Brandon University Establishment Regulation, Section 14(2)(i)) held by senate. Over the last 15 years, there has been much debate on this matter at Brandon University, most of it relating to the question of ensuring adherence, by internal disciplinary procedures, to the Charter of Rights. While the outcome of that debate has been inconclusive to this point, it seems likely that the scope for Charter violation is enhanced when this power is appropriated by the administration, through the Board of Governors. In the end, it seems more appropriate to refer such matters to the proper civil authorities. As such,

(c) BUFA recommends that Section 12(2)(f) be deleted.

4. Section 12(2)(i), (j), (k), (l), and (m) appear to allow the board to enter into all manner of academic agreements without the consent of senate. Indeed, it appears that there is no requirement that senate be consulted at all. This is completely unacceptable. As such,

(d) BUFA recommends that Section 12(2)(i), (j), (k), (l), and (m) be amended by adding the phrase "Upon the recommendation of Senate," at the beginning of each (i.e., (i), (j), (k), (l), and (m)).

5. Section 12(2)(o) appears to allow the board to "authorize affiliation" between the university and

“other academic institutions” (such as the “Close Cover Before Striking Institute of Applied Technological Studies”?) without the consent of (albeit, after consultation with) senate. This is simply inappropriate. As such,

(e) BUFA recommends that Section 12(2)(o) be amended to read “on the recommendation of Senate authorize the affiliation between the university and other academic institutions.”

6. Section 12(2)(t) appears to be another “residual powers clause” which is unfettered. In exercising the powers under this clause, the board does not appear to be accountable to anyone. It is neither appropriate nor desirable to have this clause included in the bill. As such,

(f) BUFA recommends that Section 12(2)(t) be deleted.

7. Currently, under the Brandon University Establishment Regulation 11(2), the board is required “. . . to make an annual report to the Lieutenant Governor in Council . . .” that includes detailed financial and other information for the preceding fiscal year. Inexplicably, no such requirement is contained in Bill 47. As such,

(g) BUFA recommends that Section 11(2) of the current Brandon University Establishment Regulation be added to Bill 47.

8. The mechanism described in Section 14(2) is inefficient and impractical. Curiously, no such similar provision applies to the board. In the (rare) instance where senate membership has been challenged, the question required immediate determination, in order for the orderly conduct of senate business to proceed. As such,

(h) BUFA recommends that Section 14(2) be amended to read: “If there is a dispute . . . the matter shall be decided by the Senate.”

It is BUFA's position that the amendments suggested above are minimally required in order to establish some measure of balance in the distribution of decision-making powers set forth in Bill 47.

II. Collective Agreement Matters

Bill 47 contains a number of provisions which appear to have been drafted without acknowledgement of the collective bargaining context within which Brandon University exists and operates. This lack of acknowledgement is particularly disturbing to the Executive Committee of BUFA. In this regard, we would draw your attention to the following:

1. Section 12(2) assigns powers to the board which involve matters covered under our collective agreement (e.g., 12(2)(c), (d), (i), (j), (k), (l), (m)). The Executive Committee of BUFA would draw particular attention to Section 12(2)(p), which appears to have been drafted without the knowledge of how the pension and other plans at Brandon University have been established, maintained, and administered. Currently, all such university plans, with the sole exception of those established for the president, are incorporated into collective agreements. Any deviation from this practice is completely unacceptable. As such,

(i) BUFA recommends that the wording of Section 12(2) be amended to read: “Without limiting subsection (1), the Board may, subject to the terms of specific Collective Agreements,

2. Section 24 describes the duties and powers of the president. These powers are assigned without reference to collectively bargained agreements which would interface with the exercise of these powers. As such,

(j) BUFA recommends that Section 24 be amended to read: “The President is the chief executive officer of the university and, in addition to any other duties of the president under this Act and subject to the terms of any collective agreement, . . .”

3. Section 27 is one of the most contentious and, for the Executive Committee of BUFA, offensive provisions of Bill 47. We strenuously object to the discriminatory nature of this provision, and advise that the (conditional) determination contained in Section 27(4) identifying retirement at age 65 as a “*bona fide* and reasonable employment and occupational requirement” for a university is specious. Our view is that if the Legislature was interested in imposing mandatory retirement in Manitoba, it should not

attempt to do so piecemeal by focusing on one identifiable group of employees. Rather, it should open the matter to debate by considering the alteration of the Human Rights Code itself. In addition, currently this provision is fiscally irrelevant at Brandon University, since our records indicate that there are about three BUFA members currently at, or over, the age of 65. Of those, at least one member has indicated a retirement date in the upcoming academic year. Finally, we advise you that the university administration shares this determination of fiscal irrelevance, as evidenced by the fact that it has recently signed an agreement with BUFA in which the parties enjoin not to negotiate any early retirement provision for the life of the collective

agreement currently under negotiation or a period of three years, whichever is longer. As such,

(k) BUFA recommends that Section 27 in its entirety be deleted.

Concluding Remarks

This brief has outlined BUFA's major objections to the provisions of Bill 47 and has suggested some amendments which, if accepted, would contribute significantly to the alleviation of these objections. It must be re-emphasized that BUFA does not endorse, nor does it support, Bill 47 as it is currently constructed.