



First Session - Thirty-Seventh Legislature

of the

**Legislative Assembly of Manitoba**  
**Standing Committee**  
on  
**Law Amendments**

*Chairperson*

*Mr. Doug Martindale*  
*Constituency of Burrows*



**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Seventh Legislature**

<b>Member</b>	<b>Constituency</b>	<b>Political Affiliation</b>
AGLUGUB, Cris	The Maples	N.D.P.
ALLAN, Nancy	St. Vital	N.D.P.
ASHTON, Steve, Hon.	Thompson	N.D.P.
ASPER, Linda	Riel	N.D.P.
BARRETT, Becky, Hon.	Inkster	N.D.P.
CALDWELL, Drew, Hon.	Brandon East	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave, Hon.	Kildonan	N.D.P.
CUMMINGS, Glen	Ste. Rose	P.C.
DACQUAY, Louise	Seine River	P.C.
DERKACH, Leonard	Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary, Hon.	Concordia	N.D.P.
DRIEDGER, Myrna	Charleswood	P.C.
DYCK, Peter	Pembina	P.C.
ENNS, Harry	Lakeside	P.C.
FAURSCHOU, David	Portage la Prairie	P.C.
FILMON, Gary	Tuxedo	P.C.
FRIESEN, Jean, Hon.	Wolseley	N.D.P.
GERRARD, Jon, Hon.	River Heights	Lib.
GILLESHAMMER, Harold	Minnedosa	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KORZENIOWSKI, Bonnie	St. James	N.D.P.
LATHLIN, Oscar, Hon.	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
LEMIEUX, Ron, Hon.	La Verendrye	N.D.P.
LOEWEN, John	Fort Whyte	P.C.
MACKINTOSH, Gord, Hon.	St. Johns	N.D.P.
MAGUIRE, Larry	Arthur-Virden	P.C.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
MCGIFFORD, Diane, Hon.	Lord Roberts	N.D.P.
MIHYCHUK, MaryAnn, Hon.	Minto	N.D.P.
MITCHELSON, Bonnie	River East	P.C.
NEVAKSHONOFF, Tom	Interlake	N.D.P.
PENNER, Jack	Emerson	P.C.
PENNER, Jim	Steinbach	P.C.
PITURA, Frank	Morris	P.C.
PRAZNIK, Darren	Lac du Bonnet	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack	Southdale	P.C.
ROBINSON, Eric, Hon.	Rupert Island	N.D.P.
ROCAN, Denis	Carman	P.C.
RONDEAU, Jim	Assiniboia	N.D.P.
SALE, Tim, Hon.	Fort Rouge	N.D.P.
SANTOS, Conrad	Wellington	N.D.P.
SCHELLENBERG, Harry	Rossmere	N.D.P.
SCHULER, Ron	Springfield	P.C.
SELINGER, Greg, Hon.	St. Boniface	N.D.P.
SMITH, Joy	Fort Garry	P.C.
SMITH, Scott	Brandon West	N.D.P.
STEFANSON, Eric	Kirkfield Park	P.C.
STRUTHERS, Stan	Dauphin-Roblin	N.D.P.
TWEED, Mervin	Turtle Mountain	P.C.
WOWCHUK, Rosann, Hon.	Swan River	N.D.P.

## LEGISLATIVE ASSEMBLY OF MANITOBA

### THE STANDING COMMITTEE ON LAW AMENDMENTS

**Tuesday, July 25, 2000**

**TIME – 6:30 p.m.**

**LOCATION – Winnipeg, Manitoba**

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

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

**ATTENDANCE - 11 – QUORUM - 6**

*Members of the Committee present:*

Hon. Ms. Barrett, Hon. Mr. Caldwell

Ms. Allan, Ms. Asper, Messrs. Derkach,  
Faurschou, Martindale, Reid, Schuler,  
Smith, Mrs. Smith

**APPEARING:**

Hon. Jon Gerrard, MLA for River  
Heights  
Mr. Marcel Laurendeau, MLA for St.  
Norbert  
Mrs. Bonnie Mitchelson, MLA for  
River East

**WITNESSES:**

**Bill 45-The Teachers' Pensions  
Amendment Act (2)**

Jan Speelman, President, Manitoba  
Teachers' Society  
Henry Shika, Manitoba Teachers'  
Society

**Bill 12-The Public Schools Amend-  
ment Act**

Gerald Huebner, President, Manitoba  
Association of Christian Home Schools  
Norbert Maertins, Private Citizen  
Debbie Maertins, Private Citizen  
Bernd Rist, Private Citizen

**Bill 42-The Public Schools Amend-  
ment and Consequential Amend-  
ments Act**

Theresa Ducharme, People for Equal  
Participation Inc.

Rey Toews, President, Manitoba Asso-  
ciation of School Trustees

Carolyn Duhamel, Executive Director,  
Manitoba Association of School  
Trustees

Len Schieman, Chairperson, Board of  
Trustees, Rhineland School Division

Fran Frederickson, Chairperson, Board  
of Trustees, Interlake School Division

Val Weiss, Interlake School Division

Bart Michaleski, President, Manitoba  
Association of School Business  
Officials

Jim Murray, Chairperson, Board of  
Trustees, Brandon School Division

Linda Ross, Brandon School Division

Floyd Martens, Chairperson, Board of  
Trustees, Intermountain School Division

Ron Plett, Chairperson, Board of  
Trustees, Hanover School Division

Dave McAndrew, Chairperson, Board  
of Trustees, Western School Division

Kurt Guenther, Private Citizen

Wayne Motheral, President, Association  
of Manitoba Municipalities

Mary Hudyma, Chairperson, Board of  
Trustees, Dauphin-Ochre School Area

Judy Eagle, Flin Flon School Division

John Pshebniski, Superintendent, Duck  
Mountain School Division

Gerald Thiessen, Vice-Chairperson,  
Board of Trustees, Garden Valley  
School Division

Peter Wohlgemut, Rhineland Teachers'  
Association

Ron Friesen, President, Garden Valley  
Teachers' Association

Bryan Harley, President, Beautiful  
Plains Teachers' Association

Mr. Peter Wohlgemut, Rhineland Teachers' Association  
Mr. Ron Friesen, President, Garden Valley Teachers' Association  
Mr. Bryan Harley, President, Beautiful Plains Teachers' Association  
Ms. Joanne Huberdeau, Chairperson, Board of Trustees, Birdtail River School Division  
Ms. Val Thomson, Private Citizen  
Mr. Claude Vigier, Président, Association des éducatrices et éducateurs franco-manitobains  
Mr. Doug Halmarson, Private Citizen  
Mr. David Rondeau, Private Citizen  
Mr. Peter Buehler, Brandon Teachers' Association  
Ms. Amy Buehler, Brandon Teachers' Association  
Mr. Harvey Bridgeman, President, Mountain Teachers' Association  
Mr. Craig Blagden, Midland Teachers' Association  
Mr. Andrew Peters, Private Citizen  
Mr. Garry Hornung, Private Citizen  
Mr. Ward Kay, Private Citizen  
Ms. Lori Johnson, Chairperson, Board of Trustees, Winnipeg School Division  
Mr. Peter Kotyk, Private Citizen  
Mr. Bob Fraser, Chairperson, Board of Trustees, River East School Division  
Mr. Doug Edmond, President, Manitoba Association of School Superintendents  
Mr. Roy Schellenberg, Vice-Chairperson, Board of Trustees, St. Boniface School Division  
Ms. Sandra Paterson-Greene, St. James-Assiniboia School Division

**MATTERS UNDER DISCUSSION:**

Bill 12—The Public Schools Amendment Act  
Bill 45—The Teachers' Pensions Amendment Act  
Bill 42—The Public Schools Amendment and Consequential Amendments Act

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**Mr. Chairperson:** Good evening. Will the Standing Committee on Law Amendments please come to order. The first order of business before the Committee is the election of a vice-chairperson. Are there any nominations?

**Hon. Becky Barrett (Minister of Labour):** I nominate the Member for Transcona, Daryl Reid.

**Mr. Chairperson:** Mr. Reid has been nominated. Are there any further nominations? Hearing none, Mr. Reid is appointed Vice-Chairperson.

This evening the Committee will be considering the following bills: No. 12, The Public Schools Amendment Act; No. 42, The Public Schools Amendment and Consequential Amendments Act; and Bill 45, The Teachers' Pensions Amendment Act.

We have presenters who are registered to make public presentations on bills 12, 42 and 45. It is the custom to hear public presentations before consideration of bills. Is it the will of the Committee to hear public presentations on the bills, and, if yes, in what order do you wish to hear the presenters?

**Ms. Barrett:** I would recommend or move that we hear all of the presenters prior to going clause by clause on the bills and that we take the bills in order of 12, 45 and 42.

**Mr. Chairperson:** It has been recommended that we hear presenters on Bills 12, 45 and 42 in that order. I believe we have a small number, five on Bill 12 and one on Bill 45. Is it the will of the Committee to proceed in that order?

**Mr. Leonard Derkach (Russell):** Mr. Chairman, with the concurrence of the Committee, we have, as I see it, one presenter for Bill 45. I am wondering whether the Committee would agree that we dispense with Bill 45 first and then go into Bill 12 and then 42.

**Mr. Chairperson:** It has been suggested that we do Bill 45 first, then Bill 42 and then Bill—sorry, Bill 12. Is it agreed? No. Bills 45, 12, 42 in that order of presenters. Agreed? [Agreed]

I will then read the names of the persons who have registered to make presentations this evening. Bill 45, Jan Speelman.

Bill 12—I apologize in advance if I mispronounce anyone's name—Gerald Huebner, Abe Janzen, Norbert and Debbie Maertins, Dr. Terry Lewis, Bernd Rist.

Bill 42: Jan Speelman, Lori Johnson, Rey Toews and Carolyn Duhamel, Ric Dela Cruz and Bill McGowan, Wendy Moroz and Howard Holtman, Peter Kotyk for Rod Giesbrecht, Bob Fraser, Doug Edmond, Len Schieman, Paul Moist, Roy Schellenberg, Fran Frederickson, Scott Johnson, Bart Michaleski, Dan Overall, Jim Murray, Floyd Martens, Ron Plett, Dr. Dave McAndrew, Kurt Guenther, Ruth Ann Furgala, Wayne Motheral, Mary Hudyma, Judy Eagle, John Pshebniski, Sandra Williams, Cindy Smart, Hilda Froese, Maxine Plesiuk, Betty Green, Peter Wohlegemut, Susan Popeski, Ron Friesen, Brian Hartley, Joanne Huberdeau, Colleen Jury, Dan Kelly, Marijka Spytkowsky, Chris Pammetter, Val Thomson, Victor Vrsnik, Claude Vigier, Doug Halmarson, David Rondeau, Barry Wittevrongel, Linda Brezina, Amy and Peter Buehler, Harvey Bridgeman, Albert Cerilli, Craig Blagden, Pam Stinson, Andrew Peters, Bob Land, James Bedford, Garry Hornung, Wendy Land, Henry Pauls, Roland Stankevicius, Ward Kay, Theresa Ducharme, and we have had a sixty-first presenter registered, Darrall Rankin.

Those are the persons and organizations that have registered so far. If there is anyone else in the audience who would like to register or has not yet registered and would like to make a presentation, would you please register at the back of the room. Just a reminder that 20 copies of your presentation are required. If you require assistance with photocopying, please see the Clerk of this committee who is sitting at my right here.

I understand that we have some out-of-town presenters in attendance this evening. Is it the will of the Committee to hear from out-of-town presenters first? *[Agreed]*

Before we proceed with presentations, is it the will of the Committee to set limits on presentations?

**Ms. Barrett:** I would move that we have a limit of 10-minute presentation and 10-minute question and answer.

**Mr. Chairperson:** It has been moved by Ms. Barrett that we have 10 minutes for presentations and 10 minutes for answers.

\* (18:40)

**Mr. Derkach:** With the greatest of respect for the Minister, I would have to indicate that I think previously, in other years, we have allowed for 15 or 20 minutes for presentations and 10 minutes for questions. Indeed, this is an important bill, one that does require, I am sure, some careful thought in presentation from the public who have come a long way. I would encourage this committee to look at a 20-minute limit on presentations and 10 minutes for question.

**Mrs. Joy Smith (Fort Garry):** I concur with what Mr. Derkach has said. I put my hand up to say exactly the same thing. I believe it is a very important bill. I feel very strongly that people have to have time to make their presentations, so 20 minutes to do that should be in line.

**Mr. Chairperson:** The first suggestion put forward has been 10 and 10. What is the will of the Committee?

**Mr. Marcel Laurendeau (St. Norbert):** We have always done this on a consensus. I do not think we have ever had to vote at a committee yet on establishing the time frame. *[interjection]* Well, not when we were in government. We always, by consensus, came to a point. We allowed the 20 minutes and 10 minutes for questioning. I cannot believe that this government is forcing closure here and saying that the community has not got an opportunity to put their concerns forward. The motion by the Minister, and I do believe it is a motion, so she is not looking for consensus, is overstepping. I do believe that it should be 20 minutes. We will not be supporting a 10-minute time limit on public presentations.

**Mr. Chairperson:** We have two proposals. What is the will of the Committee?

**Mr. Derkach:** Mr. Chair, I appeal to the Committee to give some latitude to the presenters to be able to complete their presentation. I know there are presentations that may be only 10 minutes in length, but I am sure there are others that are longer than 10 minutes. I think, for citizens of this province who have put careful thought into their presentations, I know that they will try to make them as succinct as possible. If we can compromise in some way, shape, or form

whereby if the Government feels that 20 minutes is too long to hear citizens, I would say that perhaps we can compromise and look at 15 minutes for presentation, and then look at 7 to 10 minutes for questions and answers.

**Mr. Chairperson:** We have a third proposal that we have a different limit. Was it 15 minutes for presentations and 7 to 10 for questions. I have had three proposals. What is the will of the Committee?

**Ms. Barrett:** I would suggest as possibly a compromise that we have a limit of 15 minutes for presentation and 5 minutes for questions.

**Mr. Chairperson:** Ms. Barrett, do you have that in writing?

**Ms. Barrett:** No.

**Mr. Chairperson:** It has been moved by Ms. Barrett that the presentations be limited to 15 minutes, with 5 minutes for questions.

**Mrs. Smith:** I appreciate the fact that we are all trying to be as diligent as we can with the time here. However, there are some people who have come from a long way out of town. Perhaps if we could—as you say, 15 minutes for presentation and 10 minutes for questioning. I believe that 15 minutes for presentation and 10 minutes for questions, I am sure some of the presenters will take the full 15 minutes while others would not. In view of the fact that a lot of people have travelled from a long way, I think 15 minutes is the least that we can do and 10 minutes for questioning.

**Mr. Chairperson:** Actually the out-of-town presenters will be next on the agenda. We will hear out-of-town presenters first. We have a motion on the floor, it is in writing, it is debatable. Do we want to continue this debate or resolve the issue?

**Some Honourable Members:** Resolve the issue.

**Mr. Chairperson:** Resolve the issue.

### Voice Vote

**Mr. Chairperson:** The question before the Committee is that presentations be limited to 15 minutes with a maximum of five minutes for questions. All those in favour, please indicate.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those who oppose, say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Yeas have it. That was probably a problem with the Chair because I did not ask for Yeas. A recorded vote has been requested. Mr. Laurendeau, you are not a voting member of this committee.

### Formal Vote

**Mr. Chairperson:** Mr. Derkach has requested a recorded vote.

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

**Mr. Chairperson:** I declare the motion carried.

\* \* \*

**Mr. Chairperson:** How does the Committee propose to deal with presenters who are not in attendance today but who have their names called? Shall these names be dropped to the bottom of the list? [Agreed] Shall the names be dropped from the list after being called twice? [Agreed] I have heard twice and I have heard three times. Does anyone want to debate it or do we want to—

**An Honourable Member:** Twice.

**Mr. Chairperson:** Twice. It is agreed, twice. As a courtesy to persons waiting to give a presentation, did the Committee wish to indicate how late it is willing to sit this evening?

**Ms. Barrett:** I would suggest that since many people have come from out of town to make presentations that we should hear the pres-

entations from the out-of-town individuals and then canvass the Committee at that time.

**Mr. Chairperson:** Is that agreed?

**Mr. Derkach:** Mr. Chair, I agree that we should hear the out-of-town presenters. On the other hand, there are people who are here to present who probably have to work tomorrow. It would be unreasonable for us to sit beyond midnight if we have already heard the out-of-town presenters. I would say that we should hear the out-of-town presenters. A reasonable time would be midnight.

**Ms. Barrett:** I would suggest, as I stated, that we hear the out-of-town presenters. We do not know how many will actually appear. We do not know what the hour will be. And that we then canvass the Committee as to the will of carrying on. If there are still people in the hall who wish to be heard, perhaps it would be only fair for them to be heard at that time. I think we should hear the out-of-town presenters and then take a look at what is left in front of us.

\* (18:50)

**Mr. Laurendeau:** There was one issue that was resolved about two years ago when we had a large number of presenters at a committee. That was when we called the two committees in two consecutive days, as we did tonight. The House Leader and I specifically called this committee for tonight and for tomorrow. I would ask that you not do the second reading of the list or that nobody drops off the list as of tonight. Then they would all have an opportunity to be called again tomorrow as a courtesy call, Mr. Chair. If you are planning on sitting late into the wee hours of the night, I would ask that you not drop anybody off the list then, and that they have an opportunity tomorrow to put their views forward.

**Mr. Chairperson:** It is agreed that we only call people's names once tonight. We will hear out-of-town presenters and then ask if there are other people in the room who want to present tonight. Is that agreed? [Agreed]

I would like to inform the Committee that a written submission from Marvin Anderson,

Prairie Spirit School Division No. 50, has been received. Copies of this brief have been made for committee members and were distributed at the start of the meeting. Does the Committee grant its consent to have this written submission appear in the Committee transcript for this meeting? [Agreed]

I have received a request from Theresa Ducharme, who is No. 60 on the Bill 42 presenters' list, to be allowed to speak second this evening due to transportation issues. Is it the will of the Committee to allow Mrs. Ducharme to speak second this evening? [Agreed]

I would also like to request those presenters in attendance who wish to speak in French to please advise the Clerk of this committee because we are providing simultaneous translation for committee members.

As well, I would like to advise that Room 254, the committee room down the hall from this room, is being used as an overflow room. The sound from this room will be piped into that room so you will be able to hear the proceedings.

#### **Bill 45—The Teachers' Pensions Amendment Act (2)**

**Mr. Chairperson:** Before I read out-of-town presenters, we are going to do Bill 45. I believe we have one presenter. Jan Speelman, would you take the podium please. Do you have copies for committee members? Yes, they are being distributed. Please go ahead.

**Ms. Jan Speelman (President, Manitoba Teachers' Society):** Making a decision here is tougher than in a classroom with 40 kids, I think.

Because of the short notice that this bill was going to be presented this evening, I have invited both Art Reimer and Henry Shika of our staff to join me for the question part of this presentation, as it could be quite technical.

My name is Jan Speelman. I am president of the Manitoba Teachers' Society. We represent more than 14 000 public school teachers in the province of Manitoba. This seems ironic to me that on the same day I am here to applaud the

Government on fulfilling their commitment to restore our teachers' bargaining rights in Manitoba that I must stand before you to express our disappointment with Bill 45.

Just last week the Minister of Education (Mr. Caldwell) stood up in the House on second reading of Bill 45 and said: The Government of Manitoba is pleased to respond positively to concerns raised by female teachers. Their concern relates primarily to the fact that women who take leave from their teaching positions or similar professional jobs in the public school system in order to have children are precluded from purchasing maternity leave of up to 17 weeks as pensionable service. Minister, I am a female teacher and this bill does not respond to my concerns nor to the concerns of the female members of the Manitoba Teachers' Society, more than 8000 strong. At our annual general meeting at the end of May, you stood up before our members and told them that you would fix this problem, and you received a standing ovation.

Minister Caldwell, we are disappointed that you did not keep your word. The proposed amendment does not redress the inequities that face female teachers in Manitoba. I am sure that many people here today would be surprised to learn that Manitoba is the only province in the country, including all other provinces and territories, that does not currently allow its female teachers to purchase their maternity leave as pensionable service.

The Government's intention with respect to resolving this embarrassing situation may have been honourable, that is, to provide access for women teachers to purchase periods of maternity leave as pensionable service. However, Bill 42 will create an economic hardship for those very teachers that you intended to help.

Unlike most other public-sector employees in this province, teachers in Manitoba do not have supplementary employment benefit plans. The very first one was just awarded in the Fort Garry arbitration that just ended about a month ago. What does this mean? Supplementary employment benefit plans top up your salary while you are on maternity leave. Teachers have no top up. The only income they receive during

their maternity leave is the income they get from the federal government through Employment Insurance. Employees with said plans get over 90 percent of their salary during their maternity leave. Under Employment Insurance, teachers get less than 55 percent of their salary. So, according to Bill 45, teachers who are only receiving their money from Employment Insurance will now also have to pay for their pension from this much-reduced income. When their income is reduced so substantially, many of these teachers will not elect to pay for their pension. As a result, the very inequality we are trying to resolve will be perpetuated. Manitoba female teachers will still face inequalities that are experienced by no other female teachers in our nation. That is unfair and it is wrong.

Thirty years ago when I had my first child there was no maternity leave. I had to quit my job. So did many of my colleagues. Many women teachers who took time off to have children have been prejudiced by the discriminatory situation in Manitoba. Many of these women have retired, some only 25 days ago. Bill 45 still discriminates against these women on the basis of gender. It does not provide any access for many teachers who have over the years suffered because of the provisions of the current Teachers' Pensions Act. That is unfair, and it is wrong.

I will outline the specific problems inherent in Bill 45 and outline recommendations and alternative texts.

First, timing of the election-to-purchase period of maternity leave. According to section 63.1(1) in Bill 45, a teacher must decide prior to the commencement of maternity leave period whether or not she elects to make pension contributions during the mat leave.

Pregnancy is very demanding physically, psychologically and emotionally. Pregnant teachers have numerous decisions to make during this time. They are often pressured by school divisions about the timing and duration of their maternity leave period. Let us not forget that teachers of childbearing age are often at the start of their careers and therefore earning the lowest salaries. Teachers have told us that employment insurance benefits do not meet the

financial needs of their families. To add yet another financial decision and burden at this time in a teacher's life is unreasonable.

Teachers do not have supplementary employment benefit plans. Yet Bill 45 forces teachers to make pension contributions while they are not receiving salary. This will prevent many women teachers from making contributions to their pensions for periods of maternity leave. As a result, women who bear children will continue to be penalized. If the Government intended gender equity and economic equality for female teachers, this has not been achieved. While the Society appreciates the Government's intent to redress the inequities, the effect of the proposed section 63.1(1) would remain the most regressive pension provision for women teachers in Canada. No other pension plan forces teachers to make pension contributions during periods when they are not receiving salary.

In comparison, teachers who purchase pensionable service for educational leaves are not forced to make pension contributions while they are studying and not receiving salary. Educational leave may be purchased within 18 months of return from leave at the most preferential rate and then still be able to purchase the leave period at a higher cost at any time prior to receipt of pension. Maternity leave provisions should parallel the existing provisions for the other leaves that teachers are entitled to. Why should teachers who bear children be penalized?

The conditions for contributions must be flexible. Women should be able to purchase pensionable service after they return from maternity leave. Just as is done with educational leaves, the act must provide a reasonable window during which time teachers can purchase pensionable service without penalty after they return from their maternity leave. That way they can meet family obligations and contribute to their pension.

If section 63.1(1) is enacted as proposed, many women teachers who take maternity leave will not be able to afford to make those pension contributions. Section 63.1(1) does not provide for equality before and under the law.

Recommendation 1: The Society recommends that The Teachers' Pensions Amendment Act allow the purchase of pensionable service subsequent to taking maternity leave and that such provision allow teachers the option to purchase service later in their careers at a time when they are more likely to be able to afford to do so. To accomplish the above, The Teachers' Pensions Amendment Act might be amended by substituting the following for section 63.1(1) as proposed in Bill 45:

If a teacher has been granted a period of maternity leave as provided in The Employment Standards Act, the teacher may have such period included in computing her years of service if the teacher makes a written application to the board to pay the fund for the period of leave taken,

(a) She shall continue to contribute to the fund throughout the period the same amounts that she would have had to contribute if she had not been on leave and her annual salary rate during the period had remained the same as her annual salary rate immediately before the period; or

(b) Where the application is made within 18 months of the expiry of the leave, an amount equal to the amount the teacher would have been required to pay had the teacher been a contributor during that period and her annual salary rate during the period has remained the same as her annual salary rate immediately before the period; or

(c) Where the election is made more than 18 months after the expiry of leave provided such amount is not less than the amount determined under (a) above. An amount equal to the actuarial liability of both Account A and the pension adjustment account for the recognition of such period of leave, as determined by the board.

\* (19:00)..

In other words, section (a) is what already exists in the Act and sections (b) and (c) are what exist in the Act for other educational leaves that will apply to people taking any other kinds of leaves. I would dare to say that if it were men

that were bearing children, we would not even be discussing this tonight.

Definition of period of leave. Bill 45 does not define the period of maternity leave. Periods of maternity leave vary from one individual to another given. There are different provisions in our 57 collective agreements and different practices by school boards when granting maternity leave. The Teachers' Pensions Act should contain a provision defining the duration of the maternity leave to ensure equality among teachers who purchase pensionable service for periods of maternity leave.

Recommendation 2. The Society recommends that teachers have the right to purchase pensionable service during the periods of entitlement to maternity leave as defined by The Employment Standards Act.

3. Window for application to purchase period of maternity leave. The Society believes that the window for purchase of maternity leave contained in Bill 45 is inconsistent with the provision for other purchases of service under The Teachers' Pensions Act. For all other purchases of service, teachers can decide to purchase their pensionable service at any time before they start to receive their pension. We agree that a cost should be attached to delays in exercising a right to purchase that period of leave.

Recommendation 3. The Society recommends that sections 63.1(b) and (c) contained in recommendation 1 above should apply to teachers who wish to purchase past pensionable service and that section 63.1(3) should be added as follows:

Board conditions. The amounts referred to in subsections 63.1(1) and (2) shall be calculated as at the date the teacher makes the written application, but the remittance may be made at such time and under such terms and conditions as are prescribed by the board.

4. Right to buy back pensionable service for teachers whose employers denied them the right to maternity leave. Within the last 30 years some teachers had the right to maternity leave while for others their school boards refused the right.

Consequently, pregnant teachers were forced to resign their positions. I am one of those teachers, but there are many other women teachers like myself. The Society believes that all female teachers should have equal access to purchase pensionable service for periods of maternity leave.

Recommendation 4. The Society recommends that The Teachers' Pensions Act include a provision for all teachers who were denied a period of maternity leave or who were forced to resign their teaching positions as a result of their pregnancy to be deemed to have been on maternity leave for the birth of each child and entitled to purchase pensionable service for those periods of time.

5. Purchase by retired teachers of pensionable service for periods of maternity leave. Bill 45 excludes retired teachers, even those who retired only 25 days ago. Since 1979, the Manitoba Teachers' Society has been requesting the Government to amend The Teachers' Pensions Act to allow women teachers to purchase periods of maternity leave as pensionable service. Successive governments have refused. As a result, Manitoba teachers are the only ones in Canada to be denied that right. To now deny access to purchase maternity leave to those teachers who have been discriminated against through the years only compounds this discrimination.

By amending Bill 45 to include access by retired teachers, the Government would be redressing this historic inequity and right a social injustice towards women teachers that has occurred as a result of government policy over the years. We recognize that there may be some constraints in tax legislation, but we are prepared to join with the Government in seeking a waiver from the Canada Customs and Revenue Agency to allow this violation of human rights to be corrected.

Recommendation 5. The Society recommends that The Teachers' Pensions Act include a provision allowing retired teachers who have taken maternity leave the right to elect to purchase pensionable service and have their pensions adjusted accordingly. In the alternative, teachers should have the right to elect to

purchase pensionable service retroactive to when the legal action commenced on the basis of human rights discrimination nearly two years ago.

Administration of Bill 45. I have mentioned this several times already, but teachers do not have SEB plans. For women teachers, their income during their maternity leave comes from the federal Employment Insurance. This creates an administrative dilemma. There is no income from which an employer can deduct pension contributions. What is the intent of the Government in how these premiums are to be collected?

In conclusion, the Manitoba Teachers' Society is disappointed that, despite what were good intentions by this government, Bill 45 has not completely redressed inequities that have existed for many years in The Teachers' Pensions Act. It is still unfair for female teachers. We believe that this will not eliminate our court challenge.

The effect of Bill 45 will be to entrench in our pension legislation economic inequality for women teachers. We urge the Government to make amendments to Bill 45 that will ensure equity. All teachers have the right to equality before and under the law in accordance with the Canadian Charter of Rights and Freedoms. We thank you for the opportunity to present our concerns and urge you to implement our recommendations. Thank you very much.

**Hon. Drew Caldwell (Minister of Education and Training):** Mr. Chair, I guess my first remarks are to all of those who think the Government of Manitoba is in the back pockets of the Manitoba Teachers' Society. Notwithstanding the last sentence, I think that myth has been scotched by this one. I certainly appreciate the criticisms that were presented. I think that you have made some very interesting points with regard to this legislation, and I thank you for that. We will take the comments under advisement.

**Mr. Leonard Derkach (Russell):** Thank you for the presentation, Ms. Speelman. My question to you is with regard to whether or not any provisions that are not within the Act right now

that you are recommending here can be negotiated in contracts between teachers and school boards in any of the divisions across Manitoba.

**Ms. Speelman:** No, they cannot.

**Mr. Derkach:** Ms. Speelman, in the consultations that the Minister held on this bill, were these items addressed with the Minister?

**Ms. Speelman:** The pensions task force met and addressed these issues. Yes.

**Mr. Derkach:** What was the response from the Minister at that time, Ms. Speelman?

**Ms. Speelman:** We left our recommendations with the people presenting to the Government, and they took it to the Government. This is their response to it.

**Mr. Derkach:** Ms. Speelman, has the Teachers' Society calculated the cost of the proposals that you have included in your presentation to the public purse?

**Ms. Speelman:** I will ask Henry to answer this, please.

**Mr. Chairperson:** Sorry, could we get your name for the record first?

**Mr. Henry Shika (Manitoba Teachers' Society):** My name is Henry Shika.

**Mr. Chairperson:** Go ahead.

**Mr. Shika:** I think the answer to the question is, in terms of providing maternity leave for active employees, it is about a \$2-million cost.

**Mr. Derkach:** Is that a \$2-million per annum cost for working teachers?

**Mr. Shika:** I believe it would be less. The costing initially would be to address those people who may be purchasing past service also. So, on a go-forward basis, it would be less than the \$2 million.

**Mr. Derkach:** Just one final question. Do you know what the cost would be for retired teachers?

**Mr. Shika:** I do not.

**Hon. Jon Gerrard (River Heights):** I just have a point of clarification. What you are suggesting, if I understand it right, is that teachers would be able to purchase retroactive to when the legal action commenced on the basis of human rights discrimination nearly two years ago. Or are you suggesting that this could be purchased retroactive for much longer than that?

**Mr. Shika:** Our suggestion is that, in line with other provisions to purchase various leaves that a teacher have a right to purchase maternity leave on an ongoing basis or at favourable rates, i.e., the current contribution rates within a window upon return. We are suggesting 18 months. And subsequent to that, that they would be entitled to purchase any time up to retirement, but at full actuarial costs. So we are suggesting the ability to purchase the leave up to the point of retirement.

**Ms. Speelman:** Which is the provisions for people taking other leaves currently.

**Mr. Gerrard:** For teachers who have had maternity leaves in the past, you are only suggesting going back two years. Is that right?

**Mr. Shika:** No, we are suggesting that this legislation be extended to include retirees, and open it and allow that election on the part of retirees. At minimum, we are suggesting to go back two years, at a minimum, for the retirees, which is when we initiate a legal action.

\* (19:10)

**Mr. Gerrard:** So what your preference would be is to open it up so that anybody could go back who has had a maternity leave in the past but that, at the absolute minimum, should go back at least two years.

**Mr. Shika:** That is correct, yes.

**Mr. Chairperson:** Thank you for your presentation.

### Bill 42—The Public Schools Amendment and Consequential Amendments Act

**Mr. Chairperson:** Next we are going to hear from Theresa Ducharme on Bill 42. Could someone put the microphone beside her?

**Mrs. Theresa Ducharme (People for Equal Participation Inc.):** I think I can talk loud enough.

**Mr. Chairperson:** Just please wait until you are recognized. We are going to set you up with a microphone.

**Mrs. Ducharme:** Because I am here to speak loud.

Your Honour, and all those present. I, Theresa Ducharme, on behalf of People in Equal Participation Inc., am here once again to bring forward my concerns as a taxpayer, as a non-parent amongst people who are forced to pay all the school taxes. As soon as you hear the words "school taxes," you run like heck, because you want to know where are the school taxes to educate our lovely children that are in school. Some are being taught at home, some that are being taught are not even attending school like we were forced to once upon a time, that we could not miss school. Now, we are not sure if children are in school, out of school, being taught in any form or fashion, and how is our educational system being recycled into the fashion that the children today have total control over what direction our education system is going.

I cannot believe myself but I have gone to a school board meeting that they do not even know what the children are doing, and why are the school taxes going up and why is the teacher not respected like she once was. I went to school 25 years ago, 30 years ago and I was taught by teachers that I could hardly wait to go and see, when I had the ability to do so, and I was so glad and proud when she gave me my exam and grabbed me and shook my hand and applauded me in the efforts that I had to put forward to her, not by 1, 2, 3, not by a, b, c but through the intelligence of promoting myself as a well-educated student in the classroom and also in front of the school teacher who had the time and

energy and, most of all, the intelligence and the patience to bring forward the children with honour so that they could develop and become members of Parliament and also respected people in society, and not disregarded and saying well, you cannot touch a student, you cannot talk to them, because they are totally in control.

I said how is it possible for us to recycle this whole school system, and I said, by Jiminy, I had to learn through correspondence courses so that I could keep my brain alert, keep myself up to date. Now I find all people who are differently abled, I am one of them, I must be educated but at the cost of whose cost? And how are we going to recycle the system by having everybody—I am there with my respirator, somebody else is there with an Aboriginal problem and more than that a mental challenge, mentally challenged, and they are all in the same room promoting themselves in the same frontage in front of the teacher who is supposed to be a psychiatrist. She is supposed to be a registered nurse. She is also supposed to be a physiotherapist. She is supposed to be a social worker and get paid the minimum wage that she is getting.

Now, I cannot believe that a teacher is supposed to be conglomerated into one whole master of arts and intelligence and come forward and teach our beautiful children that we depend on to run our country some day, and at the same time I am here today to educate myself and promoting the politicians to make the right decision, because you do not have an easy task, you do not have an easy job. You people should be commended for being at this level of intelligence yourself. Once upon a time, Theresa was called "shut-in." When I was at home, people came to visit me, and they called me "shut-in" because I was shut-in in an iron lung and I could not leave. I was also called "crippled," because that is the level of education that people knew and the attitude of people. From there, we went to "handicapped." Well, these people are seen a little more, so maybe they are handicapped because we do not know how to handle them, so we will call them "handicapped." From there, if you look in the dictionary, we became "disabled," which means disadvantaged, deteriorative, everything negative, dis, dis, dis. Now we are going to change

and remove and abolish the term "disabled" and classify ourselves in the company of others as differently abled. So, we do not have to categorize ourselves, segregate ourselves. We will all get out there and show the level of intelligence of everybody by encouraging the teachers to have a phenomenal job of educating us, being as patient as they possibly can.

I trust the judgment of these people here today. I am going to absorb everything. And I brought a gift for everybody because I want our schools to go out there and earn their dollars, just like I am going to leave the Minister of the school board—not school board. He should be a member of school board, so he can understand how things are recycled, and it should be recycled.

I brought you a little dammit doll, sir, that you are going to purchase because all our children today should be out there raising funds for their old schools and taking enjoyment. They should earn the dollars instead of punishing the taxpayers. If I hear the word "taxpayers" one more—school taxes. Why are the children not raising funds? Here, I have this little dammit doll. I want to read a little verse. Caroline, you are my little assistant, and I cannot do everything myself, so shout it out loud and read the little verse, honey. Dammit Doll: When you are about to climb the wall and need to scream and shout/ There is a little dammit doll you cannot do without/ Just grab it firmly by the legs/ And find a place to slam it/ And as you whack the stuffing out/ Yell dammit, dammit, dammit.

If we do not make the right decision tonight, this little dammit doll is going to be stuffing all over here, because every one of you is going to purchase one. Is that not wonderful? They are only \$7, no tax. Is that not wonderful? Hold it up, Caroline. So who wants one? You have to show a vote of hands.

We brought you a little marble. Show them the little marble we are selling. We do not sell chocolates, because 90 percent of society is diabetic, so we cannot sell chocolates anymore. The little marble says: Just to prove that I have not lost all my marbles. That is why I am going to school, because I want to be smart.

We also brought you a dozen mosquito eggs. Hold the mosquito egg, please, dear. It says: Official bird of Winnipeg, Canada. One dozen mosquito eggs. Caution: keep in a cool place. We cannot find a cool place today because we are all hot and bothered. Open this envelope and show the Minister how he is going to purchase this little mosquito egg. Open it. See. Guess what it is. Show him. Take it out, please, and show them what they do, Caroline. See, it is just a little elastic band with this little saying that we are selling them for \$2, no tax. No school tax, no nothing, but we are out there earning our own dollars so that we can be out there, and that is what the children should be doing.

Parents with no children, the recommendation is that why should people with no children have to pay the whole total amount of school taxes. Maybe one recommendation is that we should have only a partial school tax billing for people that do not have children. Say, holy smokes, there we go. Now, I will even help and offer my name to the school boards and the children to help raise their own funds in every school area. So everybody would have competition because they are all out there learning how to run sports, learning how to make recreation, doing this, doing that. Let us run them out to make their own dollars and cut the costs of school taxes. Is that not wonderful?

We will get the Minister of Education and all the people here tonight to even help us at the same time. So I made a common-sense approach because we are not here, we are not disabled, we are all differently able, and that is why I am here. Does anybody have a question for Mrs. Ducharme?

\* (19:20)

**Mr. Chairperson:** Thank you for your presentation. Perhaps, if people want to buy something from you, they could see you at the back of the room or out in the hall later before you leave.

**Mrs. Ducharme:** I want to see you first.

**Mr. Chairperson:** Thank you.

**Mrs. Ducharme:** Keep up your good work, people.

#### **Bill 12—The Public Schools Amendment Act**

**Mr. Chairperson:** Next, we are going to proceed to Bill 12, The Public Schools Amendment Act. I would like to call the first presenter, Mr. Gerald Huebner, from the Manitoba Association of Christian Home Schools. The pages will distribute the brief. Please go ahead.

**Mr. Gerald Huebner (President, Manitoba Association of Christian Home Schools):** Mr. Chairman, Mr. Minister, honourable ministers, honourable members, ladies and gentlemen. My name is Gerald Huebner. I am the President of the Manitoba Association of Christian Home Schools and a home-school father of 10 years. Our daughter just graduated from Grade 12. I would like to address our concerns with Bill 12.

The Manitoba Association of Christian Home Schools represents over 350 home-school families from across Manitoba. We are concerned about the amendments that are proposed in Bill 12 and have sought legal counsel from experienced lawyers across North America in making the comments that we are presenting in this brief. This legal counsel has been involved in providing input to ministries of Education in over 25 U.S. states and 5 Canadian provinces. Our association is committed to supporting home-educating families. That is really our purpose, is they educate their children across Manitoba.

We are also committed and have enjoyed a relationship; we are committed to working cooperatively with the Minister and Manitoba Education and Training in ensuring the home education is administered in a simple and uncomplicated manner. We have enjoyed, as I have already said, working together. In our meetings with Minister Caldwell, he has indicated his agreement on the following two points that we have appreciated greatly. First of all, education is a parental responsibility, and we agree. Parents are responsible for the decisions and choices to home-school or to choose other methods of education that are made by those parents and then do have the right to select the

type of education that their children should receive. Secondly, home education has shown, both through research and through fact, in our experience over the last 15 years, that home education does provide a good standard of education to students.

Minister Caldwell, in our discussions with you, you acknowledged earlier this spring that neither you nor your department felt that there were specific problems existing in home education in Manitoba. We would further submit that home education in Manitoba, based on evidence, does provide a standard of education that is equivalent, and that is what the law currently requires it to be, and is arguably superior, although that is not our point.

In a nationwide study that is attached as Appendix B, each one of you has a copy of that, in a study that was conducted in 1994, home-educated students scored in the 82nd percentile in standardized tests in comparison with the national norm at 50 percent. I refer you to the summary of that study that you have before you. Having hopefully agreed on those two points, we are concerned with the potential conflict that Bill 12 could cause with home-schooling families in various parts of Manitoba. We recognize that provisions for registration and reporting that are currently part of The Public Schools Act and are proposed to be amended in Bill 12 may be similar but are concerned over the undefined nature of these provisions into the future and would respectfully submit concern over the authority that is provided to the Minister to make changes as outlined in Bill 12.

Families in Manitoba home-school for many different reasons. For many families, faith and spiritual convictions are a foundation for their decision to home-school. Families have made decisions to take full responsibility for the education of their children, including covering all the costs that are involved in that decision. We have no problem with that and we accept that fully. Because we have accepted that responsibility, we see Bill 12 as being an unnecessary intrusion into our families and unneeded action into an area where we have already acknowledged that educational progress is not an issue across Manitoba. We know that many of these families that we represent will

object to the provisions in Bill 12 on the basis of faith and religious convictions, and would submit that consideration needs to be given to these objections, and that can be done. We have proposed amendments to Bill 12 and those are attached.

Further, we would like to make the point that home education programs in Manitoba should not be funded, and we would ask for clarification that section 197 of Bill 12 does not provide for this funding that we would consider to be an unnecessary use of taxpayer funds. We would respectfully request that Bill 12 be amended as outlined in our brief, and that is attached to your brief, as we feel that these amendments address the concerns of Manitoba home-school families and provide an acceptable and accountable means under which home schooling can be administered.

As further explanation of our position, we have provided the position statement and philosophy of the Manitoba Association of Christian Home Schools. I will not take your time to review that, but that is provided for your understanding and information. The attachments, as I have already indicated, propose amendments to Bill 12. I indicated that those were developed with consultation from legal counsel that have been involved in legislation in other Canadian provinces and have a good understanding of the needs of home schoolers, as well as the accountability needs of government.

Secondly, attached is the nationwide study that I have already referred to. We would be pleased and look forward to continued discussion with you, Mr. Minister, and your government, as we look at the future of home-schooling families in Manitoba. As a further note, I would simply indicate that I know that there are several families that were not able to be here this evening due to some personal conflicts. They are registered to present, and they requested that I simply inform you of that, and they want to make sure that they have opportunity to present tomorrow evening.

**Mr. Chairperson:** Thank you, Mr. Huebner.

**Hon. Drew Caldwell (Minister of Education and Training):** I thank Mr. Huebner for the

presentation. We have enjoyed a very positive relationship in developing this, and I certainly appreciate the remarks that you made and the brief that you presented to the Committee tonight. I expect that other committee members have had the opportunity at our meetings to review some of this information previously. I expect that other committee members will be pleased to have this information at their disposal as well. I think you made some compelling points, and we will take it under advisement as well.

**Mr. Chairperson:** Next presenter is Mr. Abe Janzen, private citizen. Is Mr. Janzen in the room or in the next room?

**Floor Comment:** He will be coming tomorrow.

**Mr. Chairperson:** Next are Norbert and Debbie Maertins. Mr. Janzen's name will be dropped to the bottom of the list.

Please go ahead.

**Mr. Norbert Maertins (Private Citizen):** Mr. Chairman, Honourable Minister, honourable members, ladies and gentlemen. Home-educating parents are highly motivated individuals eager to invest quality and quantity time, personal financial resources and much energy to ensure the success of their children. To us and other parents like us, the vague and open-ended wording of Bill 12 is a great concern. The U.N. charter of rights and freedoms affirms the right and responsibility of parents in choosing their child's education. We believe this includes both the method and the content. We strongly believe this means government intrusion is unnecessary and undesirable. Home-educating parents are an asset to the Government and society at large in several ways.

Mr. Chairperson, No. 1, we pay education taxes, yet cost the Government nothing since we receive no benefits or remuneration for educating our children. No. 2, studies show home-educated children are frequently academically above their public school peers and therefore have a greater possibility of contributing positively to society as citizens. No. 3, home-educated children tend to be comfortable socializing and interacting with multi-age groups

and therefore are able to benefit those around them at early ages. In light of the above, we are registering our objection to Bill 12.

Our family has chosen in the past to comply with Manitoba Education policy in regard to registering our children annually, providing basic curriculum information and submitting two annual reports of progress in the format of our choice. We believe this is more than adequate to assure the Government that our children are being educated at or above public school levels.

Bill 12 provides no definitive parameters regarding requirements for registering and reporting. It fails to clearly set out the Government's true expectation and leaves home-educating families exposed to changing ideas of the current and successive government ministers. As such, Bill 12 is an infringement of parents' rights and intrusive to the process of home-educating children.

\* (19:30)

**Mrs. Debbie Maertins (Private Citizen):** I would like to highlight several of our concerns. For example, section 260.1(2): "When registration to take place . . . the parent or guardian shall register the home school, in a form approved by the minister, when it is first established," et cetera. No details are given as to what constitutes a form approved by the Minister, nor is there any indication as to what information could be required on this form. A wide variety of home-school educational curriculum is available, varying greatly in style.

Bill 12 fails to reflect this diversity when stating home-educating families will be required to report on a form required by the minister. Some curriculum lends itself better to a standard form than others do. Allowing for curriculum diversity enables families to succeed in their home-education program. Failure to allow for it would be seen as intrusive and coercive. We value freedom of choice in curriculum and object to government values being imposed on the education of our children.

The vague wording of this section leaves all of the above concerns unaddressed. We would request that any form developed be done in

consultation and full agreement with the existing home-schooling associations in Manitoba. We see this as an opportunity to meet both the diverse needs of home-educating families and to the Government's need of assurance that a quality education is taking place.

Secondly, section 260.1(3): "Information to be provided to minister." Again, the proposed legislation is lacking details regarding the number and timing of progress reports, as well as information regarding the contents of the report, "schedule determined by the Minister." Numerous home-educating families teach during all or part of the summer months and take holidays at another time of the year. How will the proposed legislation regarding progress reports meet the needs of these families? How will the needs of various curriculum styles be accommodated in the reporting schedule? While we recognize specific regulations could be forthcoming, we are also aware that the vagueness of the proposed legislation creates the possibility of abuse of parental rights to oversee the education of their children as they determine to be in the best interests of those children.

We would request, again, that any information to be provided to the Minister be developed in consultation and with the full agreement of the existing home-schooling associations in Manitoba. One of the benefits of home education is the ability to tailor education to the individual child with his or her unique gifts and needs. The strength of a good education lies in its flexibility. This flexibility needs to be reflected in all proposed legislation. Since most government officials are personally unfamiliar with home-educating families, programs and lifestyles, an imposed reporting system is inappropriate. A flexible reporting system will best reflect the program used by each family and assure the Government of the high-quality education which home-educated children are receiving.

Thank you for this opportunity to make this presentation and allowing us to provide input into the proposed legislation.

**Mr. Chairperson:** Thank you.

**Mr. Caldwell:** Thank you, Mr. and Mrs. Maertins, for your presentation tonight and

presenting some of your concerns to us. I particularly note the two points that you make in your brief and your desire that work be done in consultation and in agreement with the home-schooling associations in Manitoba.

Certainly we have had, in the last nine months since forming government, a very positive relationship with the associations, and have met with the associations in developing our thinking. I wish to assure you that those considerations that you place in your brief will be taken to heart. We will continue in all areas where home-schooling issues are addressed to have a full and consultative dialogue with the home-schooling associations. I want to assure you that has been the process that has begun. I think it has been a very helpful one. I know Mr. Huebner who presented before and other associations have been part of this dialogue. Certainly we will continue that.

We think that the associations do tremendous work, as do parents such as yourselves that do undertake to home-school in your homes. So I will take the specifics of your brief under advisement and assure you that the associations that represent home schoolers in Manitoba are indeed part of the policy-making discussion of this government. Thank you very much.

**Mr. Leonard Derkach (Russell):** First of all, thank you very much for the enlightened presentation. I have to say that I totally agree with your points that you address in your presentation with regard to the consultative approach with regard to the development of forms that should be filled out for the purpose of informing the Department or the Minister. But indeed, throughout your meetings, I would have to ask whether or not this was a topic that was broached with the Minister in the development of his legislation.

**Mr. Maertins:** Our family was not directly involved in the discussions. I think, Mr. Huebner would be in a better position to answer this.

**Mr. Derkach:** Mr. Maertins, with respect to the home schooling of your children over the course of time since home schooling has been implemented and refined in the province of Manitoba, there have been some forms, I guess,

that have been requested of parents who home-school their children. But my understanding is that these forms that were required were developed in consultation with the home-schooling association. It is my understanding that there was some consultation with regard to the development of those forms, whereas in this particular case this seems to be a form that we still do not know anything about. We do not know whether it is going to be a form that is going to simply be imposed on the home schoolers or whether indeed there is going to be any consultation. So I would encourage the home-schooling association and the parents to continue the pursuit for consultation in the development of these forms. As a caucus, we certainly will try to work with the Minister to achieve this end as well.

**Mrs. Joy Smith (Fort Garry):** I want to compliment both the presentations tonight on the home schooling. I commend you very much. I used to be actually in charge of the home schooling at one point, and I was very impressed with the level in 98 percent of the homes of the dedication and commitment that you do have.

In terms of working in collaboration with the development of any forms or any registration procedure or any aspect of the home schooling, I think it is very well thought-out to ensure that you do have input into everything and make sure that that democratic privilege to choose the education of your choice is definitely put in place. On this side of the House, we certainly do commend you for that.

**Mr. Chairperson:** Thank you for your presentation. The next presenter is Dr. Terry Lewis, private citizen. Doctor Lewis.

**Floor Comment:** He is here.

**Mr. Chairperson:** Okay, we will wait for Doctor Lewis.

**Floor Comment:** Mr. Chairman, I believe Doctor Lewis was called away on another matter, and he was going to come back tomorrow.

**Mr. Chairperson:** Thank you for that information. Next is Bernd Rist, private citizen.

\* (19:40)

**Mr. Bernd Rist (Private Citizen):** I would like to apologize that I do not have a printed presentation to pass out to you. It was sort of last minute that I found out about the meeting. Mr. Chairman, Minister and honoured members of the Committee, as a home-school parent I would like to express my concern over Bill 12. We, as parents, have accepted the responsibility of educating and training our children according to our faith, convictions, and value systems, using our own funds. We feel it is not the Government's responsibility to tell us how this is to be done.

My concern is that Bill 12, as currently stated, will hinder us in our objective to home-school our children. The open-ended nature of Bill 12 leaves me concerned that the Government will begin to tell us where, what and how our children need to be taught. By enforcing mandatory registration, having to provide the Minister with information about our home school, and submitting mandatory progress reports, the Government is infringing upon our freedom to home-school. The content of those reports, according to section 260.1(4), is to be determined by the Minister, apparently with no input from home schoolers. Where will this end?

It is only a matter of time before, as written, a future government may tell us what we can or cannot teach. We as home-school parents are doing a great job. No one is more concerned or interested in the welfare of our children than we, the parents. We are a conscientious group of individuals who want our children to excel spiritually, morally, and, yes, educationally, but we will do this best when certain freedoms are protected, not removed.

I ask you as members of this committee to reconsider this bill and to consider the home schoolers of Manitoba. Manitoba has been a wonderful place to raise and teach our children. Please, do not take away our freedom to do so. Respectfully submitted, Bernd Rist. Thank you.

**Mr. Chairperson:** Thank you for your presentation.

**Mr. Caldwell:** Thank you very much, Mr. Rist, for your presentation this evening. I appreciate

the sincerity with which you presented. I certainly respect your view and share your view that a home-school undertaking is something that parents put in to the life of their children with the utmost care and the utmost concern for the best education of their children.

As I mentioned to Mr. and Mrs. Maertins earlier when they made their presentation, I fully commit, as has been the practice, as discussions on home-schooling issues from time to time emerge in the Department, that the associations who represent home schoolers in Manitoba's views on the development of any policy or the development of any discussion, they are always at the table providing their best advice, frankly. I do respect the advice that the associations give to the Department, as well as the advice that you, sir, personally have given here tonight, and I thank you for that. We will also take your views as you have expressed them, and they will be in Hansard for us to read tomorrow, under advisement. Thank you, sir.

**Mr. Ron Schuler (Springfield):** When it comes to home schooling, I believe it is probably one of the most ultimate areas of freedom that you can have in a democracy, and I, too, am concerned after having gone through the Bill and seeing the kinds of things that are asked for, coming from a different perspective, being a small-business owner and it is something that I will share with the Minister when we start going line by line. One of the things that we, as a society, have done is straddled small business with a burden of paperwork, in most instances unnecessary. And for small business that relies on itself to get all the work done, it really is an onerous task to have to deal with, and I feel that this is probably another one of those things that just adds layers of bureaucracy, that adds more difficulty to those individuals that are trying to just exercise their freedom. When it comes to designing a form or whatever shape it is going to take and it goes to a committee, the adage always comes to mind: a camel is a horse designed by a committee. That tends to be where committees take things is that it ends up becoming more involved.

So certainly we are concerned about this, and the Minister has said he is open to looking at some of those. Perhaps we can take the

recommendations that have already come forward and work on those. But certainly we want to make sure that the fundamental freedoms are protected. So thank you for your presentation.

**Mr. Derkach:** Mr. Rist, could I ask you whether or not you are currently a parent of a home-schooled child or children?

**Mr. Rist:** Yes, I am.

**Mr. Derkach:** And have you been home-schooling your children for a number of years?

**Mr. Rist:** For the last two years in this environment, yes.

**Mr. Derkach:** In that period of time, Mr. Rist, has the Department or minister or personnel from the Department expressed any concerns with regard to the way in which home schooling is administered in Manitoba?

**Mr. Rist:** Not that I know of.

**Mr. Derkach:** Has the Minister, through your association, given you any indication of the motivation that has caused him to bring in the amendments to the home-schooling act?

**Mr. Rist:** Not that I know of.

**Mr. Derkach:** I want to thank you for your presentation.

**Mr. Chairperson:** Thank you, sir. Tomorrow evening, Mr. Abe Janzen and Dr. Terry Lewis will be given the opportunity to present their briefs on Bill 12.

#### **Bill 42—The Public Schools Amendment and Consequential Amendments Act (Continued)**

**Mr. Chairperson:** We will now proceed to Bill 42.

**Mr. Stan Struthers (Dauphin):** Mr. Chair, I was reading through the names of out-of-town presenters, and I am wondering if the Committee could take a look at No. 3 and No. 14. I think there should be asterisks beside the two names. I

have done some checking, and there are people who are planning to drive home tonight. I am wondering if we can add those to our list of out-of-towners. One is from Dauphin and one is from Neepawa.

**Mr. Chairperson:** Is it agreed that presenters 3 and 14 be considered out-of-town presenters?  
[Agreed]

The first presenters are No. 3, Mr. Rey Toews and Ms. Carolyn Duhamel, on behalf of the Manitoba Association of School Trustees. The briefs are being distributed, so please go ahead, sir.

**Mr. Rey Toews (President, Manitoba Association of School Trustees):** I appreciate this opportunity to present to you. With me co-presenting will be Carolyn Duhamel, the Director of our association, MAST.

**Mr. Chairperson:** Excuse me, sir. You are going to have to be closer to the mike so we can hear you.

**Mr. Toews:** I would like to thank you for the opportunity to make a presentation on behalf of the Manitoba Association of School Trustees. Presenting with me today is Carolyn Duhamel, the MAST Executive Director. To answer some of the technical questions, as they might arise, will be Craig Wallace.

The Manitoba Association of School Trustees is strongly opposed to Bill 42. If enacted, the legislative changes proposed by The Public Schools Amendment and Consequential Amendments Act will have a major and overwhelmingly negative impact on Manitoba's public school system. Although MAST has repeatedly communicated its concerns to representatives of the Government, the Bill that was brought before the Legislature on June 22 is a fundamentally flawed piece of legislation. For the sake of Manitoba's education system, we hope that the Law Amendments review committee will recognize the validity and importance of MAST's concerns. We thank you for the opportunity to express today, on behalf of Manitoba school boards, our profound opposition to this Bill.

As you may know, MAST membership includes all of Manitoba's public school boards. Given the importance of this issue, we requested specific endorsement of our position from individual boards. Although the timeline has been very short, 40 school boards have explicitly endorsed the organizing principles of the following presentation. In addition, 98 individual municipal councils have endorsed our position. In total, 45 boards responded either with their own presentations or by writing letters and sending them to this committee. Further support for this position has been provided by the Canadian Federation of Independent Business, the Manitoba Association of School Business Officials and the Manitoba Chamber of Commerce, who will be co-presenting with the Winnipeg Chamber of Commerce. In the four weeks of summer since this bill was introduced, over 130 locally elected boards and councils, along with three major provincial associations have signed statements opposing this bill.

\* (19:50)

On June 22, the Minister of Education and Training stated that he was proud to introduce a bill that deals with collective bargaining and puts the interests of our children first. We agree with the Minister's assertion that the interests of our children and their educational needs must come first. Our public school system exists for that very purpose. The Public Schools Act provides the framework within which the powers of school boards and the legitimate interests of teachers and other employees are balanced to ensure that our central purpose, serving our children, is achieved. Our analysis of Bill 42 will demonstrate that it fails to meet the Minister's criteria of putting the interests of our children first.

The Minister further stated that this new collective bargaining process would be fair to both teachers and school boards, and sustainable. For more than 40 years, Manitoba students have benefited from a collective bargaining system in which binding arbitration is used to settle disputes between teachers and school boards. Over the years, this process has been modified. The most recent changes, in 1996, were designed to rebalance a process that was becoming seriously skewed in favour of the union to the

detriment of students and communities. Bill 42 not only undoes the changes that were introduced in 1996, this bill goes much further to skew the collective bargaining process to the advantage of the teachers' union. Our presentation which follows will substantiate our convictions that this bill is neither fair nor sustainable. Most importantly, it is not the interests of our children that are being put first. This bill compromises the educational interests of Manitoba children by shifting decision-making authority away from elected community representatives and to the teachers' union and its arbitrators.

A school board exists to translate its community's hopes and aspirations for its young people into a sound and sustainable education system. School boards also manage that system. School boards have a dual responsibility to their students and to their taxpayers. Their mandate requires that they balance the responsibility to provide the best possible education for their students with the responsibility to manage their resources effectively and efficiently and to recognize the impact of increased school taxes on their communities.

In the preamble of Bill 42, government affirms this role by stating that democratic local school divisions and districts play an important role in providing public education that is responsive to the local needs and to conditions. However, the legislation then proceeds to contradict itself by undermining school boards' ability to fill one of their most important responsibilities, that of managing the human and financial resources of their communities.

The collective bargaining process determines teacher compensation and working conditions, which account for approximately 58 percent of school board expenditures. When this process breaks down, binding arbitration is used as the final dispute resolution mechanism. The system of collective bargaining and binding arbitration is premised on two assumptions: the good faith of the parties involved, the school boards and teachers' associations; and the integrity of the arbitrators.

For the most part, these assumptions hold true, but not always. In one notable instance, the

good faith of a local teachers' association was called into question when it decided against approving a negotiated settlement in favour of arbitration. The arbitration board awarded a higher salary increase than what was agreed upon through the negotiation process and included five additional major union proposals for change to the collective agreement.

Arbitration is generally viewed by the public as an unbiased means of resolving disputes. School boards respect the integrity of arbitrators to whom they present their cases. But we also must recognize their humanity, their fallibility, and the political process through which they are appointed. A particular concern to school boards is the precedent-setting nature of arbitration awards. Arbitrators set precedents that influence both future arbitrations between other school boards and teachers' associations and the outcome of collective bargaining that does not proceed to arbitration.

Arbitration introduces into collective agreements matters that have never been freely negotiated between school boards and teachers. There are many examples of clauses that, although now common in collective agreements, were first introduced by arbitrators. Two of these are interest on retroactive pay and noon-hour supervision clauses. Both of these resulted in substantial costs to school boards.

Most recently, in June of this year, the first maternity leave provision that provides for a comprehensive supplemental employment plan was introduced by an arbitrator. If such a plan were to be introduced province-wide, a conservative estimate of its cost would be \$3.2 million, based on 1999 maternity leave statistics, the same amount of money that could pay the salaries of an additional 64 classroom teachers who could enhance the educational experience for hundreds of school children. Enhanced maternity benefits is not an area where most school boards would choose to spend scarce dollars, particularly in light of the potential for the cost of this benefit to increase dramatically with the changing teacher demographics.

School boards are elected by the communities; arbitrators are not. Arbitrators should not have the authority to impose decisions upon

elected school boards that undermine the board's authority to manage their community schools. We believe that allowing arbitrators to make determinations that would routinely require school boards to increase taxes amounts to taxation without representation, a concept that flies in the face of democratic principles.

We strongly support the existing Public Schools Act which provides for reasonable limitations on arbitrators in areas of management rights and requires arbitrators to consider the ability of school boards to pay in making awards. Existing legislation balances this limitation by giving teachers the right to grieve school board decisions in areas precluded from arbitration.

**Ms. Carolyn Duhamel (Executive Director, Manitoba Association of School Trustees):** The legislative amendments introduced in 1996's Bill 72 sought to rectify the deterioration that had become increasingly evident in the collective bargaining process, and the concurrent shift in the balance of power in favour of the teachers' union. One of the major components of Bill 72 was contained in section 126(2). That section listed items not referable for arbitration. These included the selection, appointment, assignment and transfer of teachers and principals; the method for evaluating the performance of teachers and principals; the size of classes in schools; and the scheduling of recesses and the midday break. These items are often referred to collectively as management rights.

Why are school boards so concerned with questions of management rights? These concerns are grounded in the nature of school boards' dual responsibility to students and to taxpayers. School boards need the flexibility to manage human resources in the manner that best serves the interest of their students. In some instances, this may involve changing a teacher's classroom assignment, varying a teacher's workload or transferring a teacher to a different school. School boards have an obligation to ensure that teachers and principals that they employ are performing their duties in a capable manner. They do this through an evaluation process. Boards are responsible for the safety of students in their schools. In order to ensure that students are adequately supervised at all times, they need

to schedule recesses and other breaks appropriately.

Premier Doer himself acknowledged the importance of management rights this past March when speaking about pending negotiations with the Manitoba Government Employees Union. When asked about MGEU concerns about the use of casual employees, contracting out and general staffing levels, Premier Doer replied that decisions to be made on staffing levels are not going to be bargained away. Those are management rights that are not even on the table. We are responsible for those. With regard to management rights, school boards are asking for no more and no less than what the Premier himself has declared essential for dealing with provincial employees.

In introducing Bill 42, the Minister of Education and Training (Mr. Caldwell) stated that current collective bargaining provisions were designed to disadvantage teachers. To the contrary, current legislation balances the rights of employer and employee by requiring that school boards act fairly in administering their policies related to items not referable to arbitration. Should a board not act fairly, the legislation gives teachers the right to launch a grievance under the collective agreement.

While MAST is fundamentally opposed to the principles represented by Bill 42, we would also like to address a number of specific problematic clauses that will have far-reaching implications. We have limited ourselves to five substantial issues in this presentation, although other problematic issues will undoubtedly emerge if this hastily conceived legislation is implemented.

\* (20:00)

First, on the question of fairness and equity. The teachers' union has long claimed that there is a need for change to the collective bargaining provisions of The Public Schools Act to give teachers the same rights as other employees in this province. The most expedient and fairest way to do this would be to include teachers under The Labour Relations Act with the sole exception that binding arbitration rather than strike-lockout be the final dispute resolution

mechanism. Instead, along with this exception, Bill 42 identifies a number of explicit exceptions to the application of The Labour Relations Act to teachers and, rather than treating teachers like all other employees, Bill 42 ensures that teachers will be treated, indeed, like no other employee group in school divisions.

In discussions with government about proposed changes to the collective bargaining provision of The Public Schools Act, MAST expressed a willingness to have teachers included under provisions of The Labour Relations Act. However, since those discussions, the Government has introduced Bill 44, The Labour Relations Amendment Act. This proposes major changes to The Labour Relations Act, to the extent the impact on the public school system may not be in the best interests of Manitoba students. MAST will be enumerating its concerns about Bill 44 in a separate presentation to the Law Amendments review committee. At this time, we would simply like to go on record as objecting to the application of certain provisions of the proposed Labour Relations Act to the teacher collective bargaining.

On the definition of "teacher," the definition of "teacher" contained in Bill 42 differs from that contained in current legislation in that the requirement for a teacher to hold an individual form of contract has been removed. All that is required under the new definition is that the individual be employed by a school board and hold a valid teacher's certificate or limited teaching certificate. This definition, then, would apply to substitute teachers, which means that the provisions of the collective agreement would be extended to this group. Casual employees, such as substitute teachers, are seldom provided with access to collective agreement provisions such as seniority and lay-off. These are normally reserved for longer-term employees.

Inclusion of principals in the bargaining unit—under Bill 42, principals and vice-principals are included as part of the bargaining unit through legislation. Inclusion of management personnel is more properly a matter for the Manitoba Labour Board to decide, as is the case with employers in unions under The Labour Relations Act. School boards should have the same right and opportunity as other employers to

have this matter addressed through this mechanism.

Transitional clauses on class size and composition—we have already stated our opposition to the elimination of the provisions of section 126(2), and one of these items, class size and composition, continues as an exclusion, albeit temporarily, in Bill 42. That temporary nature of that exclusion concerns us deeply.

A transitional clause of Bill 42 calls for the appointment of a commission to consider whether a provincial policy concerning class size and composition should be established and speaks to the composition and reporting process for any such commission. This transitional clause concludes with the requirement that, six months after the tabling of the commission's report, this section of The Public Schools Act that excludes class size and composition from arbitration will be repealed.

By including a "sunset clause" in Bill 42, the legislation at best jeopardizes the ability of school boards and teachers' associations to deal with this issue in the near future. It also all but guarantees that any agreements to be reached will be one year in duration, as teachers' associations will be anticipating upcoming and favourable legislative amendments and will not want to be bound by any pre-existing agreement when those amendments are proclaimed. This contrasts with the multiyear agreements that have become the norm in both the private and the public sectors, including education—

**Mr. Chairperson:** Excuse me, Ms. Duhamel. We have reached the time limit for presentations. Is it the will of the Committee to allow leave to continue?

**Mr. Leonard Derkach (Russell):** I would appeal to the Committee, because the Manitoba Association of School Trustees represents a significant body of people who manage our school boards, that we give consideration for leave to allow the Manitoba Association of School Trustees to complete their presentation. I am sure we can indulge them for another 10 minutes.

**Hon. Becky Barrett (Minister of Labour):** We agreed, after discussion, prior to the beginning of the debates here this evening, that all

presentations would be 15 minutes in length. We did not talk about exclusions. Everyone should have the same equal right to make a presentation. The MAST presentation is in writing before us. We will be able to use it as we deliberate in clause by clause and in third reading.

**Mrs. Joy Smith (Fort Garry):** I think it is common practice, in fact I know it is common practice, to grant leave. In view of the fact that MAST is an extremely large body in Manitoba, and we have granted leave on other occasions, I would request that the Chair grant leave so MAST can continue its presentation.

**Mr. David Faurschou (Portage la Prairie):** The public record of the House stated by the First Minister of this province yesterday made a commitment to the people of Manitoba that all persons would have the time to be heard at committee. Here we are discussing a particular point of which the First Minister has given this committee direction, and should any members decide that they want to go against the First Minister, I would like to hear that commentary here tonight, because I am certain that we are obligated to hear the people who have come here this evening to be heard.

**Mr. Ron Schuler (Springfield):** Considering that this presentation is already on page 8 of 11 pages, I think, it would be petty of this committee to not let them proceed. They are an umbrella organization. They represent not just a segment of the province but the whole province, and we should, in fact, let them proceed. I would suggest that we give them leave, and let us move on.

**Mr. Chairperson:** Is there leave to hear the rest of the brief?

**Some Honourable Members:** Leave.

**Some Honourable Members:** No.

**Mrs. Bonnie Mitchelson (Interim Leader of the Official Opposition):** I think it is extremely important to note and to let all those that are here making presentation know that this is just another example of this government's hell-bent desire to gag people and not provide for the

proper democratic process. I think it is important to put on the record that this government, time and time again, and through many pieces of legislation that they are bringing in this session are bringing in very anti-democratic legislation, and not allowing people the opportunity to be able to be heard. So I think it is important that that message is on the record, and all of those that are making presentation tonight understand exactly what the agenda of this government is.

**Mr. Derkach:** Mr. Chair, I thank you for allowing me a second opportunity to speak to this issue, because I feel very strongly about this, and it would not matter whether this was the Manitoba Teachers' Society or the Manitoba Association of School Trustees or any other umbrella which represents large numbers of people who have an interest in the education system, and indeed in this legislation. I think that it has been common practice, both in the House and in committees, to allow for leave in times when we have major presentations being given to us by Manitobans. This is certainly no exception.

Mr. Chair, I find it deplorable that we would try to cut off the presentation seeing that it is only three pages in length to conclude. I would, once again, appeal to the Minister of Labour, who perhaps has a vested interest in this to reconsider her position with regard to denying leave for the Manitoba Association of School Trustees to conclude their remarks. Thank you very much.

**Mr. Chairperson:** Is there leave to hear the conclusion of this brief?

**Some Honourable Members:** Yes.

**Mrs. Smith:** Mr. Chair, in the time it has taken to discuss whether or not we should grant leave, we could have had the three pages finished. Let us get on with this and listen to the presentation that is before us so we can have a thorough discussion of what is going on with Bill 42.

**Mr. Chairperson:** Leave has been denied, so we will go to questions.

**Hon. Drew Caldwell (Minister of Education and Training):** Thank you, Carolyn and Rey,

for the brief. I will read through the following three pages at my leisure later on this evening or early tomorrow morning, as the case may be. Thank you for your presentation. I do appreciate it. I do have a number of questions that I would like to ask.

Are there any other issues in the past five years where the Manitoba Association of School Trustees has found it necessary to take out full-page ads in opposition to government?

**Ms. Duhamel:** No, quite frankly, this is probably one of the most serious issues before us in a very long time. We are talking here about an expenditure for an ad of \$60,000. There are 14 000 teachers in this province. The average teacher's salary and benefits is \$60,000. A quick calculation would indicate that that is not an unusual or ridiculous amount.

Furthermore, the cost of one arbitrated settlement in this province is currently running at an average of \$60,000. So we think they were dollars well invested because we must be accountable, school boards must be accountable to their communities, and we need them to understand the issues and be well informed.

\* (20:10)

**Mr. Caldwell:** Mr. Toews, were full-page ads taken out when tens of millions of dollars were cut out of the public school system by the previous Conservative administration, tens of millions of dollars?

**Mr. Toews:** No, they were not.

**Mr. Caldwell:** Those cuts directly led to the 1990s explosion in property taxes in the province of Manitoba, sir. Why was MAST not so highly concerned when that tax explosion was underway?

**Mr. Toews:** I would respond by saying that they were. MAST made many presentations and did much work to try to convince the Government of the day that what they were doing was indeed wrong.

**Mr. Caldwell:** That does illustrate something to me, Mr. Toews. Your submission appears to

minimize the importance of adding \$30 million to the public school system this year. What was the impact on the school divisions of the cuts and freezes to education funding during the 1990s?

**Mr. Toews:** The implications of those freeze cuts were what we experience, to some degree, today.

**Ms. Duhamel:** If I may add, with all due respect to the Minister, school boards did not like the funding cuts in the '90s either, and we protested against those very much, but I think the discussion here today is about a piece of legislation before us. It is not about the record of a previous government and their funding cuts—*[applause]*

**Mr. Chairperson:** I would like to remind the public that displays are not permitted.

**Mr. Caldwell:** Mr. Chair, as we are concerned here about the impacts on the public school system, how long do you think, as trustees, before the impact of the explosion or the cuts over the past decade will be mitigated?

**Mr. Toews:** That question is a difficult one to answer. How would you determine how much money it takes to come to terms with some of the cuts that have happened in the past? As you are aware, costs have increased in the meantime. They increase as we speak. Recognition that this government did make an attempt to alleviate the funding; however, may I remind this government that what that did was just basically allow the school boards to maintain status quo.

**Mr. Caldwell:** One final point I guess. I just wanted to outline the degree of responsiveness to tens of millions of dollars of cuts versus hypotheticals, and I think that is a salient point. Given that Bill 42 basically is a repeal of Bill 72, and we know the historical trajectories on both sides of 1996, what historical evidence do you have indeed that this bill will drive up costs vis-à-vis the status quo situation that existed four years ago? What evidence do you have?

#### Point of Order

**Mr. Derkach:** Mr. Chair, point of order. First of all, the Minister in his questions is attacking the Manitoba Association of School Trustees for

their position and for a legitimate presentation that they have attempted to make before this body. This body represents both the Government and the Opposition. Indeed, our responsibility is to listen to it and indeed to ask questions as they relate to the Bill.

Mr. Chair, I believe that the Minister, if he wants to debate the issue of the track record of the former government, has the opportunity to do that in the Legislative Chamber with members of the Opposition, and not a body that does not represent any side of government but indeed represents the elected people who manage our school boards. So, therefore, I ask you to call the Minister to order, and to ask him to make his questions relevant. If he wants that information from the school trustees, allow them to finish their presentation.

**Mr. Chairperson:** This is not a point of order. This is a dispute over the facts.

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**Ms. Duhamel:** There are a number of costs embedded in working conditions, kinds of arrangements that the Teachers' Society has referred to. They have said and are on record as saying working conditions equal learning conditions. We agree, but those working conditions always come with a price tag attached to them.

Arbitration awards in the past have set precedent. For example, in 1988-89, in the Transcona-Springfield School Division there was a clause introduced with regard to a duty-free lunch hour. The initial cost to implement that clause was in the neighbourhood of \$70,000. St. Boniface School Division had a similar kind of cost. That clause now is in 33 collective agreements across this province. There was a clause introduced in Transcona in '88-89 with regard to interest on retroactive pay. That clause now exists in 49 agreements across this province. The maternity leave top-up plan that was recently awarded in the Fort Garry School Division, by the Division's estimate, would have cost them \$100,000 last year based on '99 statistics across the province. The cost of that kind of provision for teachers across the province is \$3.2 million. As our teaching force ages, we have retirements, a lot of younger

teachers coming in, we can only expect that those kinds of costs will climb.

**Mr. Chairperson:** Thank you for your presentation. Time for questions has expired.

The next presentation is No. 9, Len Schieman, on behalf of Rhineland School Division No. 18.

**Mr. Faurschou:** In regard to the particular questioning of the MAST presentation here this evening, I do believe that it would be appropriate for us on this side of the committee table to have the opportunity to at least ask one question. I ask for leave at this point in time for the presenters to be able to be asked questions. It has been stated at the outset that we would have only opportunity to read through the presentation, but again now to limit us to not asking questions, I believe that is way beyond scope of what is happening here this evening, and I protest.

**Mr. Chairperson:** Is there leave by the Committee to permit questions from the Opposition?

**Some Honourable Members:** Leave.

**Some Honourable Members:** No.

**Mr. Chairperson:** Leave has been denied. Please proceed, sir.

**Mr. Scott Smith (Brandon West):** Mr. Chair, I wonder if I could make a suggestion that any further presentations, the Member makes a good point, that we go question for question with all presentations from now on to make it fair where people can ask questions, in fact, as opposed to someone asking a multitude of questions.

**Mr. Chairperson:** It has been suggested that we alternate questions, Government and Opposition. What is the will of the Committee? [Agreed]

Please proceed, sir.

**Mr. Len Schieman (Chairperson, Board of Trustees, Rhineland School Division):** Good evening, Mr. Minister and members of the Committee. The Rhineland School Division appreciates the opportunity to put on record

some of our concerns with respect to Bill 42. We enthusiastically support the statements and the preamble to Bill 42, about the importance and the benefits of the public school system. We also believe that democratically elected school boards play an important role in providing a public education system that is responsive to local needs and conditions. We also believe it is in the public's best interest to foster harmonious relationships between teachers and their employers through a bargaining process that is consistent with the principle that resources must be managed efficiently and effectively.

\* (20:20)

In our own mission statement, we stress the importance of working with all partners in education. Teachers are certainly one of our partners. In our effort to work, with this mission in mind, we have successfully used an interest-based approach in our bargaining process. Through this process, we have arrived at a number of creative solutions.

We have a few examples here: A committee of teachers that plans, delivers, and monitors all of our professional development activities. We have jointly developed provisional policies with respect to personal leaves, harassment and teacher evaluation. We have joint study committees that are presently looking at job sharing and the allocation of administrative time and a general understanding that class size, particularly in the elementary classes, shall not exceed 30 students, and less than 30 if students with special needs are involved.

In our view, Bill 42 will not foster harmonious relationships. Rather it will result in a more confrontational bargaining process. In our opinion, the proposed changes will not encourage an approach based on mutual respect and desire to come to an agreement that is acceptable to the board, to the teachers and to the taxpayer, and one which keeps the best interests of the students at the centre of negotiations.

The removal of section 126 from the PSA will inevitably lead to more arbitrations because unions generally focus on obtaining maximum benefits for their membership. Moreover, it is our understanding that conciliation and

mediation are not part of the bargaining process. We feel that if these steps are not part of the proposed new process, there is little incentive to work toward interest-based solutions. In this way, Bill 42 makes arbitration a very desirable option for the union.

It seems that seldom do arbitrators talk about the best interests of students in an arbitration award. Most often, the arbitration board or the arbitrator will explain why they ruled in favour of the union or the board, but seldom are students mentioned. In a recent award, the arbitrator, in addressing the issue of financial impact of the award on the school division, stated, and I quote: In a strict or legal sense, the school division's ability to pay is only confined by its ability to raise taxes. If more money is needed and is not forthcoming from levels of government, the school divisions raise it by increasing the tax.

Bill 42 has the potential for many more rulings that will have an additional impact on divisional budgets and property taxes. How will school boards be able to manage their resources efficiently and effectively once their ability to manage the Division has been significantly diminished? This year, despite the announced increased support for public schools, the Rhineland School Division received an increase of \$1,383 in funding from the Province. As a matter of fact, residents have had annual tax increases of 18 percent, 15 percent, and 7 percent over the last three years.

The Rhineland School Division is concerned that the proposed legislation hands much of the ultimate decision-making power with respect to management rights and taxation over to arbitrators. Arbitrators, who are not elected and who are not connected to our community, are in a position to make rulings that significantly impact division budgets and property taxes.

In addition, the Rhineland School Division has some specific concerns with respect to various aspects of the proposed Bill 42. The definition of teacher, the proposed definition is confusing. If teachers other than those under contract, in other words, substitute teachers are entitled to additional benefits in the collective agreement such as sick leave, divisions will

experience additional costs, which would be borne by the local taxpayer.

The evaluation of teachers. As stated earlier, we believe that it is important to work with all our partners in education and foster lifelong learning, in the context of respected community values and traditions. As such, it is important to treat teachers fairly. However, the form and process of teacher evaluation should be excluded from the arbitration process.

The issue of class size and composition and other factors impacting school budgets. Again, we believe that it is in our best interest to have teachers work with students in manageable groups. We acknowledge and appreciate the fact that for the time being at least arbitrators cannot rule on class size. What concerns us deeply is the wording which suggests that at the end of the two-year period there will either be a provincial policy on class size or the issue will again be subject to arbitration. There seems to be no provision for the commission to recommend that the status quo with regard to class size and composition should continue.

This issue alone could potentially cost Manitoba taxpayers millions of dollars. If the provincial pupil-teacher ratio were to be decreased by just one, the cost to the taxpayers of this province would be a staggering \$30 million. In our school division, the present student-teacher ratio is 19.4 to 1. A change to 18.4 to 1 would result in an increase of 4.14 teachers resulting in a cost implication of approximately \$207,000 or 1.4 mills to the local taxpayer.

If prep time for all teachers were increased by only 15 minutes, our division would see an increase of approximately \$209,000 in costs.

Maternity benefits, that is, 90 percent of coverage over 17 weeks, would cost an additional \$25,000.

Every percentage point increase in a new wage settlement for teachers results in an increase of approximately \$60,000.

So we have added up some of these figures. If we look at the 2% wage increase plus

increments, we are looking at \$190,000—decreasing student-teacher ratio by one, \$207,000—prep time, \$209,000—maternity leave, \$25,000. The total impact of these four items alone, never mind the increased cost of fuel, buses and all those other costs that we have to face, would result in an increase of \$631,000, representing a 4-mill increase to our taxpayers.

For a residence with a proportioned assessment of \$60,000, this means an increase of \$250. For a farm, an 800-acre farm with a residence, this represents an estimated increase of \$1,025. Even if we were to receive 3.8% funding from the Government, the potential impact to local taxpayers would still be approximately \$400,000.

The Government has promised teachers new collective bargaining legislation. We respect this government's commitment to fulfil its promises in a timely fashion. However, the Premier (Mr. Doer) and the Minister of Education have stated on several occasions it is their hope that any new collective bargaining legislation for teachers stand the test of time.

In our opinion, Bill 42 in its present state is a flawed piece of legislation. It is not sustainable. It will not stand the test of time. We respectfully suggest that passage of Bill 42 be deferred, thereby giving government, trustees, teachers and other affected parties, time to study this bill. The object of this study would be to determine all the implications of Bill 42 in its present form. After a period of study—we would suggest at least six months—all parties would have the opportunity for informed input into new collective bargaining legislation. Legislation developed in this manner is much more likely to receive approval from all concerned parties. In the meantime, boards and teachers' associations could bargain under existing legislation for 2000-2001. We ask that you give this suggestion careful consideration. Thank you, Mr. Chairman.

**Mr. Chairperson:** Thank you, Mr. Schieman.

**Mr. Caldwell:** Thank you very much. Hi, Len. Thanks for presenting today. I appreciate the discussions that I have had with yourself in the school division in Rhineland. I know that you do

tremendous good work in that region in Manitoba.

I want to comment on a couple of points, just to help you out in terms of conciliation and mediation not being part of the bargaining process. The legislation provides for mediation and conciliation to occur under The Labour Relations Act, just so that you know that it is not being left out. With regard to the commission on class size, that is basically open-ended; the status quo may be, indeed, what is recommended by that committee. We will have to see what transpires. All avenues are open. I want to lay to rest a couple of fears.

\* (20:30)

I just have one question which speaks to the ability-to-pay issue, which I think has become somewhat of a chimera in this regard. There has been a lot of mention about the recent Fort Garry arbitration settlement. I know the Member for Fort Garry (Mrs. Smith) will appreciate this as my critic, because of the full text of that section in the arbitrator's award. I think it is important because I have a question on this, to give the full text:

In a strict legal sense, a school division's ability to pay is only confined by its ability to raise taxes. Regardless of this section of the act, an interest arbitrator should always and obviously consider the employer's ability to pay, whether in the private or public sector. In the matter before us, that is the Fort Garry arbitration, the test of the financial effect may be distilled to the question of whether or not my award would have a reasonable impact on the taxpayers of Fort Garry. I see it as my responsibility to ensure that my award does not have an unreasonable effect on the taxpayers of Fort Garry in the form of a significant rise in their school tax bill, and indeed all arbitrated settlements have a similar phrasing.

Does this not, sir, demonstrate that the arbitrator took account of a division's ability to pay?

**Mr. Schieman:** Well, I cannot speak for what the final money count was in Fort Garry. I think I gave you some figures on those kind of

arbitration awards, what the effect of that would be in the Rhineland School Division, and the numbers are staggering. Those are the numbers I have shared with you.

**Mr. Caldwell:** Fair enough. Thank you.

**Mrs. Smith:** My question to you, sir, every day in the House or practically every day we discuss taxes. What I have heard about Bill 42 is the fear across the province is that taxes will be out of control. My fear is also for teachers who do have good relationships with their boards. I commend you for the protocol that you put forward in your school division. It is indeed a partnership there.

My question to you, in your opinion, with your experience, would you believe that it is very likely or not likely at all for taxes to be raised in the event that Bill 42 went through as it is right now?

**Mr. Schieman:** In my opinion, the chances are very good they would be. Because, even as I said earlier, I listed some cost increases that we could have in our division. I did not list all the other cost increases that we have. The normal day to day fuel prices have risen by, what, 30 or 40 percent over the last year and a half. The increased cost of school buses, all those other things are—just to maintain the status quo on that takes a lot of money. Once you start getting other things piled on top of that, it just exacerbates the problem. So my answer would be, yes, school taxes I think will rise.

**Mr. Caldwell:** Further to the question that was just previously asked, how much of an increase in local property taxes did Rhineland experience in the 1990s, approximately, notionally?

**Mr. Schieman:** Total 1990s, I do not have those numbers with me, I am sorry.

**Mr. Chairperson:** Sorry, I failed to recognize you. Mr. Schieman?

**Mr. Schieman:** Oh, sorry.

**Mr. Caldwell:** Just notionally, Mr. Schieman. You can even be within 25 percent, I will give you that.

**Mr. Schieman:** Certainly they have more than doubled, but I could not give you the exact figure. I am sorry.

**Mr. Caldwell:** No, that is fine. I just wanted a notional expression of it. Do you attribute that to teachers salary payments or education funding cuts?

**Mr. Chairperson:** Mr. Minister, the next question goes to Mr. Derkach.

**Mr. Derkach:** Mr. Schieman, my question is with regard to impact of the proposed legislation on your school division. Now it appears that the impact would be, as you say, over \$600,000. What would be the end result within your school division? Would you raise that \$630,000, or would you in fact have to start looking at teacher cuts, program cuts and impacts on students programming?

**Mr. Schieman:** I guess, as has been the case in the past when we have looked at rising costs or reduced revenues, we have done a combination of both. We have increased taxes; we have also tried to do some cutting of programs and that kind of thing. I do not think it has ever been just one or the other. We have tried to balance it out..

**Mr. Chairperson:** Thank you, Mr. Schieman. The time for questions has expired. Next is presenter No. 12, Fran Frederickson, Chair, Interlake School Division. Ms. Frederickson, please take the podium.

**Ms. Fran Frederickson (Chairperson, Board of Trustees, Interlake School Division):** I would ask for permission, I have a co-presenter here with me this evening who is not named on the list here this evening. Her name is Val Weiss, W-E-I-S-S. Would that be permissible?

**Mr. Chairperson:** Is there leave of the Committee to also hear from Ms. Val Weiss? [Agreed]

**Ms. Frederickson:** Val will be starting off the presentation this evening. In a manner of trying to keep our presentation concise and within the 15-minute allotment, we will not be doing the whole presentation. We will be picking out the salient points.

**Ms. Val Weiss (Interlake School Division):** Good evening. We are here representing the nine-member Board of Trustees of the Interlake School Division. We employ 242 full- and part-time teachers. Any change to legislation that impacts on our relationship with these employees is of great interest to the board. We have a history of good faith bargaining with our local teachers and have not had to resort to arbitration to settle a collective agreement.

*Mr. Vice-Chairperson, in the Chair*

Let me begin by expressing our sincere disappointment in the process which the Government has followed with respect to the changes to the legislation which affects the collective bargaining with our teachers. Although we applaud Mr. Doer for fulfilling his election promise to repeal Bill 72, we question why this change is being made with limited consultation with the people directly involved with the collective bargaining, local teachers' associations and local boards. I suppose you could argue that the Government has consulted with the provincial organizations, MAST and MTS. However, teacher contracts have been and continue to be negotiated at the local level rather than the provincial level. Therefore, it would only seem logical for this government to take the time for local consultation. Our board understands the Government's need to honour its election promise to repeal Bill 72, but we would ask that you table this legislation until the next session so that all parties have time to read the new legislation and fully understand the impact of the changes being proposed.

School boards have a responsibility to their students, their taxpayers and their employees. Their mandate requires that they balance the responsibility to provide the best possible education for their students with the responsibility to manage their resources effectively and efficiently and to recognize the impact of increased school taxes on their communities. We strongly support a public schools act which provides for reasonable limitations on arbitrators in areas of management rights and requires arbitrators to consider the ability of school boards to pay in making awards.

Legislation needs to balance a teacher's right to grieve a school board's decision with the

management rights of a board. Why are we so concerned with the question of management rights? These concerns are grounded in the nature of school boards' responsibility to students and taxpayers. Salaries and benefits are not the only parts of a collective agreement that have financial implications. Working conditions also have a significant impact. School boards need the flexibility to manage human resources in the manner that best serves the interests of their students. In some instances, they may entail signing or transferring teachers to a different school as a result of increasing or declining enrolment, factors over which boards have no real control.

School boards also have an obligation to ensure that the teachers and principals that they employ are performing their duties in a capable manner. They do this through an evaluation process. It is the employer's responsibility to ensure that regular and fair evaluation practices are in place for its employees. These practices must be designed for local circumstances, not imposed by a third-party provincial standard.

\* (20:40)

The 1996 amendments also included an important clause that explicitly required arbitrators to take into account a school division's ability to pay when making an award. However, the arbitrators definition of ability to pay is startling. In a strict legal sense, a school division's ability to pay is only confined by its ability to raise taxes. If more money is needed and it is not forthcoming from other levels of government, then the school division raises it by increasing the tax rate.

One only has to look at the increase in the local taxes of the Interlake School Division to see that we have found it necessary to raise taxes to cover our increased costs. A 1% rise in teachers' salary costs results in a 1.5% increase in the local levy. It must be pointed out that we can no longer cut in the areas of program delivery or services to fund this increase. Our school division operates at or below provincial average cost per pupil according to the 1998-99 FRAME report. To suggest that our school division can simply raise taxes to cover increased costs shows little understanding of the

fast-rising local tax rate. This rise is wholly attributable to the decrease in provincial funding. One only has to look back a decade to see this discrepancy.

In 1990, Interlake School Division received approximately 75 percent of its funding from the Province, yet in 1999 we received approximately 65 percent of our funding from the Province. This shift to local funding has resulted in a 57% increase in local taxes over the past 10 years. The provincial formula for funding depends heavily on teachers' salaries for its calculation of revenue to school divisions. However, this formula lags behind in real time and real dollars. In the 2000 funding announcement, revenue is calculated at 91 percent of the cost of an average teacher's salary based from 1998. Any increase in teachers' salaries has a direct and costly impact on a school division's budget. Many new dollars would be needed to fund the types of changes that could result from arbitrators' decisions on the items currently excluded from arbitration.

Two examples from the classroom demonstrate just how large that impact could be. If the provincial average for pupil-teacher ratio were to be reduced by one, the cost to the education system province-wide would be \$30 million. Likewise, if each teacher in the province were to be granted an additional 15 minutes per day of preparation time, the cost to hire the additional staff needed as a result of this change would be another \$30 million. Those dollars would have to come from either a substantial increase in provincial funding for education, or failing that, substantially increased local property taxes.

**Ms. Frederickson:** I will deal with the specifics of Bill 42 under the fairness and equity. The Teachers' Society has long claimed that there is a need for change to the collective bargaining provisions of The Public Schools Act to give them the same rights as other employees in the province. The most expedient and fairest way to do this would be to include teachers under The Labour Relations Act, with the sole exception that binding arbitration, rather than strike lockout be the final dispute resolution. We would support that change.

Under definition of a teacher. The Interlake School Division has some concerns regarding

the definition of a teacher, and that was alluded to in the previous MAST presentation. However, we would like to point out that this definition of a teacher becomes problematic in administrating certain benefits such as sick leave.

Inclusion of principals in the bargaining unit. Under Bill 42, principals and vice-principals are included as a part of the bargaining unit through legislation. Inclusion of management personnel is more properly a matter for the Manitoba Labour Board to decide, as is the case with employers and unions under The Labour Relations Act. School boards should have the same right and opportunity as other employers to have this matter addressed through this mechanism. Transitional clauses on class size and composition, we have already stated our opposition to the elimination of the provisions in section 126(2) which lists items that may not be referred to arbitration.

In fact, one other of these items, class size and composition, continues as an exclusion, albeit temporarily in Bill 42. The temporary nature of this sunset clause concerns us deeply in the Interlake School Division. A transitional clause of Bill 42 calls for the appointment of a commission to consider whether a provincial policy concerning class size and composition should be established and speaks to the composition and reporting process for any such commission. We would hope that trustees will be included as full participants in such a commission. However, this transitional clause concludes that the requirement that six months after tabling the commission's report the section of The Public Schools Act that excludes class size and composition from arbitration will be repealed. By including a sunset clause in Bill 42, the legislation at best jeopardizes the ability of school boards and teacher associations to deal with this issue in the near future, and that has already been alluded to in other presentations.

The arbitration process and time lines. You cannot underestimate the significant impact that arbitrators' decisions can have on local school boards. In the Interlake School Division we have negotiated a noon hour supervision clause in that collective agreement only because of an arbitrator's decision to grant this right in arbitration with other school boards. This results

in increased costs and difficult discipline situations being handled by non-teaching and less qualified staff. The method of collective bargaining provided in Bill 42 encourages the determination of collective agreements through arbitration. Sections 100 to 103 does not expressly contain the conciliation and mediation provisions of The Labour Relations Act, and you have already clarified that conciliation will be a part of the process. We thank you for that.

The 90-day bargaining period in itself is not sensitive to the bargaining history between school boards and teacher associations. In recent rounds of negotiations the Interlake Teachers' Association has subpoenaed their intention to open negotiations yet has not tabled their initial proposals for as long as a six-month period. We are concerned that the shortened time lines will give very little productive bargaining at our local table. We would suggest that a 90-day provision be triggered after both parties have presented opening proposals and have attempted to settle their contract locally. If, after this attempt to negotiate an agreement fails, either may request the start of the 90-day provision.

We are also concerned about the removal of the Minister of Education and Training from any role in establishing an arbitration board. The involvement of the Minister ensured that one list of items in dispute was forwarded to the arbitrator. Bill 42 contemplates a submission of different items by the two sides and an additional role for the arbitrator in determining what items are actually in dispute. MAST recommends that the Minister of Labour be an intermediary in at least forwarding a list of items in dispute to the arbitrator.

Bill 42 proposes changes that will single out teachers for preferential treatment like the northern employee group receives. The impact of these changes could have significant impact on how our school system operates and how the children of this province will be affected. We seem to be heading towards a system that puts employee concerns ahead of student concerns. We would ask you to reconsider this flawed legislation and hear our request for more time to propose positive solutions for all those involved. We would like to thank you.

**Mr. Vice-Chairperson:** Thank you, Ms. Frederickson, and Ms. Weiss.

**Mrs. Smith:** I would ask Ms. Frederickson, in terms of your presentation tonight with Bill 42, I have heard the argument in the House on several occasions how this bill does give teachers, not added only influence, but added respect. I think it has been quoted: better working condition, workplace is better for the students. That is the connotation.

In your opinion, as a board, can you tell me, can you see Bill 42 enhancing teacher-student-parent relationships? Would this impact very positively on the teaching population, or would it have adverse effects due to the money issues that will be presented?

\* (20:50)

**Ms. Frederickson:** I think that those kinds of issues are determined at the bargaining table, and when you bargain a collective agreement you try and make a settlement that is both conducive to teachers' needs and ratepayers' needs and school boards' needs and, of course, students' needs. At this point in time, it would be presumptuous of me to say that it would improve working conditions or not. When an individual goes or a group goes before and tries to settle a collective agreement, they, certainly, depending upon what side they are, try to improve the situation for themselves.

**Mr. Caldwell:** Thank you, Ms. Weiss and Ms. Frederickson, for your report to us. I think that you outlined some of the points that MAST was unable to finish because the briefs were pretty much verbatim. I appreciate that, giving the opportunity to have the MAST brief put into the record in its entirety, for the most part.

My one question, I guess, revolves around the issue of MAST and local divisions. As you know, the Department, MTS and MAST have been meeting on this issue since January, some six or close to seven months previous. The feeling, and you allude to it in your first paragraph, the sense being that MTS and MAST are the province-wide bodies who have powers granted to them by local school divisions or local teachers societies as it may be to deal with province-wide issues. Indeed, this is a province-wide issue.

I want to get some comments about the degree of confidence or the degree of concern vis-à-vis the Manitoba Association of School Trustees representing your views on a province-wide basis. I assume you have confidence in that, but I would like to hear perhaps a little bit more, because that was a concern.

**Ms. Frederickson:** We certainly can see that the Manitoba Association of School Trustees does represent all school boards. However, in the collective bargaining process, it is very much a local issue. There is very much concerns that are local issues. When you are bargaining a collective agreement, those concerns come on to the table. Now the Manitoba Association of School Trustees or MTS maybe would not be able to foresee those concerns that happen at the local level when they were representing the province as a whole in a generic way.

**Mrs. Smith:** Thank you, Ms. Weiss, or Ms. Frederickson, whichever one chooses to answer. Were you consulted in any way at the local level prior to Bill 42 being brought forward? I understand what you are saying in terms of MAST and MTS being a part of it. You also stated that collective bargaining is a local issue. Were you consulted by this government prior to Bill 42 being put together?

**Ms. Frederickson:** The Interlake School Division was not specifically consulted on this; no, however, MAST was.

**Mr. Vice-Chairperson:** Thank you to you both.

**Ms. Frederickson:** Thank you.

**Mr. Vice-Chairperson:** The next presenter on the list is Bart Michaleski. I hope I pronounced that right. Pardon my pronunciation. Do you have copies of your presentation, sir?

**Mr. Bart Michaleski (President, Manitoba Association of School Business Officials):** Yes.

**Mr. Vice-Chairperson:** Thank you. Please proceed, Mr. Michaleski.

**Mr. Michaleski:** Mr. Chairman, Mr. Minister, committee members, thank you for the opportunity to express our concerns with respect

to Bill 42. The Manitoba Association of School Business Officials is opposed to Bill 42. While we support and share many of the concerns that have or will be raised by other associations and school boards, our presentation today will deal specifically with the financial implications of this legislation change.

We are hopeful that the Law Amendments review committee will recognize the financial impact that this legislation will have on an already strained public education budget. Over the past number of years, all Manitoba school divisions have had to deal with funding shortfalls, program cuts, staff cuts, municipal tax increases and many other often complex decisions during their budget deliberation processes.

Entrusted with the responsibility of balancing the needs of the students, staff and the ratepayers of their division, budgetary decisions often incorporated a combination of program and staff cuts with local taxation increases. School divisions have done an admirable job of instituting expenditure reductions that have limited the education impact on their students.

According to the FRAME reports prepared annually by Manitoba Education and Training, provincial funding for school division operating expenditures has decreased from 69.6 percent of total required revenues to 60.6 percent over the past 10 years. During that same time, the municipal share of school division revenues has increased from 25 percent to 34.7 percent. These statistics are a clear indication that provincial funding has not kept pace with the escalating costs of education. We must question, therefore, why the Government would introduce new legislation that will have significant financial implications for all school divisions which will only exacerbate the current funding dilemma as well as restrict each school board's ability to manage their operations.

We have seen in the past that arbitration decisions have resulted in significant cost to school divisions. Noon hour supervision, interest on retroactive pay, and most recently, the top-up of maternity leave benefits are all decisions that have or will result in significant cost increases to local divisions.

Most divisions will be entering into negotiations with their teachers this fall, and if this legislation is passed in its present form, it is inevitable that an arbitrator will be asked to rule on the items that were previously outside the arbitrator's jurisdiction. These arbitration rulings will certainly impede the rights of management to determine and make available what is best for their students, moreover an arbitrator's ruling on preparation time and the Government's commitment to look at class size over the next two years represents costs that are above and beyond what the current educational budget can sustain.

*Mr. Chairperson in the Chair*

One only needs to do the math to realize that class size restrictions will have a direct impact on staffing levels and capital building cost to accommodate the resulting need for additional classroom space. The reductions to teacher preparation time over the past decade were not decisions that were made lightly by trustees. However, it became apparent to many divisions that the level of preparation time afforded teachers could no longer be sustained with the imposed provincial funding levels.

An increase in teacher preparation time of 5 percent, provincially, would cost between \$30 million and \$35 million. Provincial funding increases at the level of Manitoba growth, as has been committed to by this government, will not cover those costs. In addition to these costs, decreasing the pupil-teacher ratio by one, provincially, would result in an additional cost of \$30 million.

School divisions have been conscious of class size, and this is reflected in the fact that the pupil-teacher ratio has only increased by 0.4 from 18.2 to 18.6 over the past 10 years. Given the funding pressures divisions have had to face and tax increases that the taxpayers of this province have had to endure, this minimal increase does not seem unreasonable, nor has there been any evidence that it has had any direct negative impact on the quality of education.

In the preamble to this legislation, it is indicated that the process of collective bargaining must remain consistent with the principle that resources must be managed

efficiently and effectively. It is difficult to understand how this collective bargaining model can be managed with the available resources. Introducing legislation that contains the potential for significant cost increases without clearly defining where the additional resources will come from is not efficient and effective management of resources.

The preamble also indicates that the Province of Manitoba and school divisions and districts share responsibility for the financing of the public schools. Municipal taxes generated through the special levy have increased from just over \$221 million to almost \$401 million over the past 10 years. It appears ironic, with the contribution of local ratepayers nearing 35 percent of total operational costs, that legislation would be introduced that restricts the decision-making ability of their locally elected trustees.

\* (21:00)

The removal of the provision that requires arbitrators to consider a school division's ability to pay is disappointing. Ability to pay is not simply the ability to tax, but rather it is the ability of the local constituents to handle the tax burden placed upon them. Governments across the country have recognized the need to deal with the issue of taxation levels. When will we be able to give our ratepayers the assurances that property tax levels will not continue to escalate?

As I outlined above, The Manitoba Association of School Business Officials shares many of the concerns raised by school boards and other associations with respect to this legislation. Many of our members work closely with our boards to ensure that the decisions made are grounded with sound fiscal advice.

This bill comes at a time when there is already a great deal of concern with respect to public education funding. We do not feel that this bill puts the interests of children first. Based on our experience, it is our learned opinion that if Bill 42 is enacted an increase in operational expenditures is a virtual certainty. We are concerned that the Government has not addressed where the resources will come from to offset these significant costs.

Changes to the existing system should transcend political and ideological bounds and must stand the test of time. It should ensure, as rightly stated in the preamble to Bill 42, that "the purpose of the public school system is to serve the best educational interests of students." We believe that the proposed changes do neither.

It is with these concerns in mind that we would ask the Government to reconsider the passage of Bill 42 in its current form.

**Mr. Caldwell:** Welcome, Bart. I hope you had a good trip down from Dauphin and have a good trip back. I appreciate the brief that was presented. It is nice to see some new text and have some new ideas, as opposed to the recycling. I appreciate the comments that you make. I have a lot of respect for the Manitoba Association of School Business Officials.

The one point that I just wanted to engage you a little bit on, and I will not belabour it, but we did have a system previous to Bill 72, which Bill 42 is repealing, that it existed for almost 40 years, in fact 40 years. I am just making allusion to your last paragraph here: Changes to the existing system should transcend political and ideological bounds and must stand the test of time.

The 40-year period where we operated under the previous collective bargaining regime, which in the main we are returning to right now, other than class size and so forth. During that 40-year time, there was labour harmony, obviously, between trustees and teachers. There were not any strikes or lockouts, and in fact that right was given up.

Could you comment a little bit on decisions made by arbitrators at that time? I have had a chance to do a lot of research around this, obviously, over the last number of months, in terms of escalations of costs related to arbitrated awards that were based upon what we are discussing right now, having the transfer ability to put on the table transfers and so forth. Could you comment about how that protocol was able to last for 40-odd years, if going back to that protocol is going to be disastrous or problematic?

**Mr. Michaleski:** I guess I am not too familiar with what is the variety of arbitration settlements that may have happened in the distant past. Historically, we have seen, certainly over the last 10 years, there have been arbitration rulings that have made their way into a number of, if not all, school divisions. I guess one of the points that we wanted to emphasize and make, not so much to do with the legislation; the issue that we want to address is the issue of the funding level, and the decisions trustees had to make based on funding cuts throughout the last decade. There were things that could no longer be sustained. Certainly preparation time was one of them. The point we are making at this point is we have a current funding dilemma. We need to address that before we put anything in place that is going to make the problem worse.

**Mrs. Smith:** Mr. Michaleski, as you already know, the clause governing the ability of school divisions to pay has been removed, and Bill 42 does not address that at all. In your opinion, from a financial point of view, is this clause an important aspect of helping the balance in the funding in the school divisions to remain stable?

**Mr. Michaleski:** It is certainly something that is important in consideration in any arbitration decision. I guess, with it having been in the previous legislation, there was certainly an onus that it needed to be considered. I come from a rural perspective, and the rural perspective has been arguing that point for years and years. Specifically in the last few years it has been a bigger issue. We feel that it is important when we look at the statistics and see that municipal taxation, the special levy, has increased from 25 percent to almost 35 percent in a 10-year period. When do the local taxpayers get their relief? It has to start happening.

**Mr. Faurschou:** Mr. Michaleski, being in the position that you are in, and working with the finances, we have heard two figures presented to us here this evening. First off, by the Manitoba Teachers' Society regarding the supplemental employment plan, which was recently arbitrated as costing an average of \$2 million per annum and decreasing from there. We also have heard from the Manitoba Association of School Trustees projecting that it is \$3.2 million and increasing from there. You work with figures

each and every day. That is quite a gap. Have you had an opportunity as an organization to analyze this most recent arbitration?

**Mr. Michaleski:** We have not had a chance to look at that ruling yet or to really cost that particular article out at all.

**Mr. Chairperson:** Thank you, sir. Time has expired.

The next out-of-town presenter is Mr. Jim Murray, or alternate, Linda Ross, representing Brandon School Division No. 40. Please proceed, Mr. Murray.

**Mr. Jim Murray (Chairperson, Board of Trustees, Brandon School Division):** Good evening, Mr. Chair, Mr. Minister and honourable members. I am afraid, Mr. Minister, that what you are going to hear is some more of that recycling that you were talking about, probably some of it verbatim. But I think perhaps the teaching certificate you hold has probably taught you some patience.

On behalf of the Board of Trustees of Brandon School Division No. 40, I thank the Committee for the opportunity to present to you our views on Bill 42. Our board consists of nine trustees duly elected by the citizens of the Brandon School Division. Our powers and responsibilities are set forth in The Public Schools Act. Our board approaches its decision making with a clear view of its primary obligations and responsibilities: first and foremost to provide our students with the best possible education; to prepare our students to contribute to the future well-being of our society; to our employees, to be as fair as reasonably possible; and to ensure local taxpayers and the community receive the best possible value for their investment in the education system.

The Division is guided by an overriding theme of fairness to all and support to our students. The remainder of page one gives you a brief overview of our division. It is the Division's primary responsibility to allocate human resources throughout its facilities in the most effective and efficient manner to meet as best possible within its financial responsibilities

the varied needs of the young people in our schools. It is within the context of the foregoing that our board makes this presentation. There are aspects of Bill 42 that are of serious concern to our board. To the extent that this bill shifts decision making away from elected community representatives and to the teachers' union and arbitrators, this bill compromises the educational interests of Manitoba children.

The school board is elected by the local community. School boards have multiple responsibilities to their students, parents, staff, and taxpayers, both residential and commercial. Our mandate requires that we balance those responsibilities to provide the best education for our students with the responsibility to manage our resources effectively and efficiently and to recognize the impact of increased school taxes on our community.

In the preamble of Bill 42, government affirms this role. However, the legislation then proceeds to undermine the ability of school boards to fulfill one of the most important responsibilities, providing and directing the human and financial resources of the communities. Staff salaries and benefits, a large majority of which is for teachers, account for approximately 83.5 percent of the Division's expenditures. In the case of teachers where an impasse is reached, binding arbitration is used as the final dispute resolution mechanism.

Arbitrators are not elected; school boards are. Arbitrators should not have the authority to impose certain decisions upon elected school boards that undermine their authority to manage their community schools. There need to be some restrictions in this regard. We strongly support section 126(2) of the existing Public Schools Act which provides for reasonable limitations on arbitrators in areas so far as to protect the rights and responsibility of the Division to manage its affairs.

\* (21:10)

For our board, one of the major components of Bill 72 was contained in section 126(2) listing items that were not referable for arbitration: the selection, appointment, assignment and transfer of teachers and principals, the method for

evaluating the performance of teachers and principals, the size of classes in schools and the scheduling of recesses and mid-day breaks. The Board needs the ability and flexibility to manage human resources in the manner that best serves the interests of the students. The specific retention of management rights by the employer is common language in collective agreements. Why should this not be so in the education system, especially when the implications for students are such a huge factor?

Premier Gary Doer himself acknowledged the importance of management rights, as was earlier stated by Rey Toews and Carolyn Duhamel. Education is a provincial responsibility, which has been entrusted through legislation to locally elected school boards. By restricting the ability of school boards to manage the Government is, in effect, surrendering its own delegated powers, authorities and control of taxation. The preamble of Bill 42 states in part, that the purpose of the public school system is to serve the best educational interests of students. That being the case, we urge the Government not to take this regressive step, and to amend Bill 42 so as to protect the board's ability to manage its system with the best interests of students. We submit that the collective bargaining interest of teachers in those management rights areas currently covered by section 126(2) is not in the best interests of students.

Collective bargaining gains by teachers in those areas will prove to be at the expense of service to students. The Division must be able to select and appoint the best available teachers to address its staffing needs, and assign and transfer teachers to meet the needs of students. The Division must be able to determine the method of performance evaluation, to ensure teachers are meeting current needs and expectations. Recesses and midday breaks are scheduled first and foremost to meet the needs of students and parents. The issue of class size and composition runs to the heart of staffing decisions to meet the needs of students in the most effective and efficient way. To make class size arbitrable would be tantamount to the union telling the employer how many employees it shall have and where they shall be assigned.

What employer, including the Government of Manitoba, would tolerate this? This area has

cost implications of several millions of dollars for our division alone. It is totally unacceptable from an administrative prospective at both the school and system level, and has a very real potential to seriously impact upon the supportive services provided to both students and classroom teachers. To illustrate, if the collective agreement were to place a maximum on class size more teachers would have to be employed for the additional classes created. The Board must then increase local taxes significantly to pay for the additional teachers and/or reduce other teachers employed in supportive positions such as librarians, counsellors, clinicians, principals, and vice-principals. How does this serve the needs of students or teachers, for that matter?

Is the provincial government prepared for the proliferation of school construction projects across the province, as boards request additional classroom facilities to accommodate the additional classes and teachers that will result from such a clause in the collective agreement? Should a clause in the collective agreement addressing the working conditions of teachers, be allowed to negatively affect service to children? Our board says no. The welfare of the young people in our schools must come first, and we urge the Government to protect the ability of locally elected school boards to meet the needs of students and expectations of parents as best possible within the available resources.

The 1996 amendments also included an important clause that explicitly required arbitrators to consider a school division's ability to pay as one of five factors when making an award. Bill 42 removes that clause, and therefore, all five factors. Why does the Government want to put such risk upon the local taxpayer? Is the Government prepared to assume responsibility for this as a provincial cost? It should be noted that for the Brandon School Division total provincial support approximates the Division's payroll cost for teachers alone. That is, the 1% increase that the Division actually received from the Province for 2000-2001 only funds about 50 percent of a 2% increase in teachers' payroll costs. The remaining 50 percent and all other increased costs must come from the local taxpayer. Will provincial dollars now designated to, for example, health

care, be reallocated to education to meet the increased costs of this legislation?

The Board of Trustees agrees and supports the principle set forth in the preamble. Within the full meaning of the principles, the Board urges the Committee to consider very carefully the following concerns, we have with parts of Bill 42. The Manitoba Teachers' Society has long claimed a need for change in the collective bargaining provisions to give them the same rights as other employees. The most expedient and fairest way to do this would be to include teachers under The Labour Relations Act, with the sole exception that binding arbitration rather than strike lockout be the final dispute resolution mechanism. Our board could support that change.

Instead, Bill 42 ensures that teachers will be treated like no other employee group. It is our board's position that teachers should remain under The Public Schools Act or be included under The Labour Relations Act with arbitration for impasse resolution, with no other exceptions legislated. If under The Labour Relations Act, the teachers should be treated the same as other employees, including the division support staff, and not be allowed to cherry-pick from the best available legislation or create new legislation to address issues on their wish list.

The definition of teacher contained in Bill 42 differs from that contained in current legislation in that the requirement for a teacher to hold an individual form of contract with the Division has been removed. All that is required under the new definition is that the individual be employed by a school board and hold a valid and subsisting teacher's certificate or limited teaching permit. This definition would apply to substitute teachers and teachers' assistants, which means the provision of the collective agreement would be extended to these groups of employees. Surely, that was not the intent.

In Brandon School Division, substitute teachers are not covered by the Brandon Teachers' Association Collective Agreement, nor, as we understand it, do they wish to be. The board negotiates directly with the Brandon Substitute Teachers' Association and has developed an excellent working relationship.

Teacher assistants are covered under a separate agreement with our CUPE local union, where they properly belong as support staff. Many teachers' assistants hold a teacher's certificate but are not required to do so. We urge clarification of this definition of teacher to enable these relationships to continue by adding back the provision that a teacher also hold an individual form of contract with the employing division.

Under Bill 42, principals and vice-principals are included as part of the bargaining unit through legislation. For all other employees and unions under The Labour Relations Act, inclusion of management personnel is a matter for the Manitoba Labour Board to decide. If teachers are to be covered by The Labour Relations Act, as they have requested, then principals, as administrators, should be excluded from the bargaining unit in accordance with that act. Principals have supervisory responsibilities over teachers, assign their teaching responsibilities, evaluate their performance, make recommendations on discipline, et cetera. As administrative personnel, their inclusion in the same bargaining unit as teachers has frequently placed principals in conflict-of-interest situations. Our board believes this change will be in the best interest of students.

Class size and composition are only excluded temporarily in Bill 42. That temporary nature concerns our board deeply. Our board believes a collective agreement that is locally negotiated and agreed upon best addresses and meets the needs of both parties to that agreement. It is our perception that Bill 42 encourages the determination of collective agreements through arbitration. The Brandon School Division recommends the express wording be included, which would parallel The Labour Relations Act and enable conciliation or mediation meetings to occur prior to moving to arbitration.

Collective bargaining legislation should provide fairness for teachers but not at the expense of students. If the board is to manage its resources, both human and financial, effectively and efficiently, its ability to do so must not be severely restricted, as Bill 42 will surely do. This bill has the very real potential to accelerate the rise in education costs and to increase property

taxes significantly for years to come, all this at a time when education costs and tax increases of any sort are under attack by the public. For the sake of our students, our public schools and our communities, we urge you to effect the appropriate amendments that will address the concerns and suggestions that we have herein respectfully submitted. I would also wish to point out to this committee that when teachers speak to this issue, they are speaking about their personal bank accounts and their personal working conditions.

Trustees alone speak for the health of the entire system and the well-being of the communities that elect us. The Board of Trustees of the Brandon School Division thanks you for this opportunity to express our concerns and our suggestions and urges the Committee and the Government in its deliberations to consider, first and foremost, the implications for our students. Thank you.

\* (21:20)

**Mr. Chairperson:** Thank you, Mr. Murray.

**Mr. Caldwell:** Good evening, Jim and Linda. I notice Malcolm in the back of the hall there, too, so, hi, Malcolm. I appreciate your comments very much. As you know and many people here know, Brandon School Division is my home division where I took all my public education. I notice Scott Smith from Brandon West also has the same experience. So we have a special fondness for Brandon School Division, so thanks for coming out from Brandon this evening.

You mentioned in your opening comments about listening, analyzing and learning. I know that I will hear the same phrases over and over. Believe me, each time they make an impact upon my brain. So I thank you for your comments, and I note some of the issues that you raise with regard to the legislation are ones that I think could take some further consideration. I want to just address the issue of ability to pay, just briefly. I am not sure how many arbitrated settlements there have been in the Brandon School Division, so I defer to your wisdom on that regard. In the years previous to Bill 72, 1996, in arbitrated settlements at the Division, were there any arbitrated previous to '96,

between '56 and '96 under the rule of the old legislation?

**Mr. Murray:** I believe, two.

**Mrs. Smith:** In view of your presentation, I thank you for the presentation. This side of the House has felt very strongly that the autonomy of the school divisions is very, very important, and the issues that you addressed in your presentation tonight had a lot to do with the right of the board to have those management rights and to have the autonomy. In your learned opinion, could you tell me, in the event Bill 42 was pushed through in spite of all these presentations and in spite of the efforts on this side of the House to stop it, what would your management rights be as a school board, and would you have any niche in the market to be a school board? We have real concerns about this. I would just like to hear your opinion on it.

**Mr. Murray:** I am sorry. If it is all right with you, Mr. Chair, I will let Doctor Ross address that.

**Ms. Linda Ross (Brandon School Division):** Certainly I think that, if Bill 42 were enacted, it would seriously impinge on the school board's ability to manage raising the question of how much autonomy there is at the local level. There has been already considerable discussion about bargaining at a provincial level since the agenda is very much driven by the Manitoba Teachers' Society at a provincial rather than a local level. So I think it would have serious repercussions locally.

**Mr. Caldwell:** Just following the same point of question then, Linda, how did the previous regime limit the ability of the local school division if it was practised for the 40 years previous to '96?

**Ms. Ross:** I am sorry. I do not understand what you asked.

**Mr. Caldwell:** The question that was just answered was that the ability of the Division would be restricted, the management of the Division would be restricted by the new legislation, but given that we are going to a protocol that existed for 40 years previous to '96, unless there were no provisions then.

**Ms. Ross:** Our concerns are with issues like transfer, class size that, given the current economic conditions, the effect of taking away those management rights would really be profound. I mean, certainly we have had great decreases through the '90s, which you have pointed out before this evening, and over a four-year period, from '93 to '97, in Brandon alone, we cut \$2.1 million out of our school division budget. Included in that were cuts of 33 teachers. At that point, the board said: that is enough, and we have to do something about that. In the last two years, we have had a 10.5% and a 13% increase on special levy for an increase of \$2.6 million locally in taxes.

So certainly the cuts of the '90s hurt us really badly, and we are trying to address those right now and get back some of what we lost, try to replace some of those teachers, try to reintroduce some of the supports into the system. Our concern is that this is certainly not the time to introduce legislation that will tie our hands as we try to deal with these concerns. Taxes will only increase to a finite point. At some point, we will just say we cannot increase them anymore. At that point then, if you cannot increase the taxes more, the alternative is to introduce some cuts to services somewhere, and those cuts will be to services and to staff. Our question is: How will that help students, and indeed, how will that help teachers?

**Mr. Chairperson:** I am going to allow one more question to Mr. Derkach.

**Mr. Derkach:** Thank you for the presentation. My question has to do with the impact that this has on the entire school divisions, including teachers, and I think I would have to say that I believe that the teachers in our province are not overpaid. As a matter of fact, they work very hard for their dollars and are very valuable contributors to our communities and the economy of our communities in Manitoba.

With Bill 42, it would appear to me that the impact is going to be a negative one on teachers and on students, because as a school board reaches its limit in terms of taxation and its ability to pass costs on to the taxpayer it has to look at other mechanisms, I guess, to adjust its budgets. That means that either teachers' salaries

or the number of teachers, the services and the resources that are provided in the Division are going to be reduced or students' programs are going to be reduced.

I would like to ask the Brandon School Division how close you are to that limit in your opinion and whether or not you can see the day when you are going to have to really seriously adjust programs and staff levels in your school division.

**Ms. Ross:** We have been there. Now, as I said, we are in recovery mode, and again, just to repeat myself, in the past two years the increase on special levy has been 10.5 percent and 13 percent for an increase to the local taxpayer of \$2.6 million. I do not think we can push much harder than that.

**Mr. Chairperson:** Thank you for your presentation. The next presenter is Mr. Floyd Martens, Chair of Intermountain School Division. Mr. Martens, go ahead, sir.

**Mr. Floyd Martens (Chairperson, Board of Trustees, Intermountain School Division):** Mr. Chairman, Members of the Committee, thank you so much for this opportunity to be able to present to you and thank you for having us early. Those of us who travelled a considerable distance to be here, we are grateful for that opportunity to present early.

Our citizens have elected the Intermountain School Division Board of Trustees to ensure the students of our division are given the opportunity to acquire the tools they need to pursue their dreams and ambitions. It is a responsibility that we as a board take seriously. It is because of this trust that we are here today to speak to Bill 42 and the changes that are being proposed in regard to collective bargaining between teachers and school boards.

We support a balanced approach to bargaining where the rights of both teachers and boards are protected in a fair manner. We cannot support this legislation. In our opinion, this legislation contradicts this government's commitment to provide locally elected school divisions and districts with the opportunity to provide public education that is responsive to

local needs and conditions for the students of Manitoba.

This legislation concerns us for we see in it a shift from bargaining between a professional organization and elected boards to one of management and union. We recognize that the Teachers' Society wanted to see this change. The provisions of this legislation protects the rights of teachers without addressing any of the rights of boards.

\* (21:30)

The management of the school division will now reside in the hands of an arbitrator and not in the hands of democratically elected trustees. This is of grave concern to us because we see it having a detrimental impact and not only in the way bargaining is conducted but more importantly on classroom instruction and the education of students.

In our school division, we enjoy a positive relationship with our teaching staff. The result has been that we have been able to provide our students with the curricular and co-curricular programs and the courses necessary to achieve a quality basic education. We have provided our teachers with reasonable compensation, fair practices of management and good working conditions. Bill 42 has the potential to erode this good working relationship.

There are many provisions in this bill that concern us. We want to identify some of the changes that will have a major impact on our school division. One of our immediate concerns is with the timing of this legislation. Government has indicated there are at least three major areas where significant change has been undertaken by Manitoba Education and Training. These include collective bargaining, amalgamation of school divisions and the revamping of the FRAME funding formula. Each of these initiatives are intertwined. Each is on an ambitious timeline, and all have the potential to bring significant change to public education.

As well, we are concerned with the sequencing of these changes. Like all new initiatives, problems will occur when new rules

and regulations are applied throughout our diverse province. For example, if school divisions are amalgamated, there may be other issues that will be need to be addressed with regard to teacher bargaining. Bill 42 provides for teachers to hold contracts with two separate boards. Should amalgamation occur, how would issues such as assignment of teachers take place within a newly formed school division? If there was an article on this issue in one collective agreement but not in the other, which contract would be utilized? It certainly makes more sense to first determine school division boundaries before dealing with changes in bargaining.

Government has also indicated that there will be changes to the funding formula for January 2001. How will school divisions know what they have at their disposal with which to bargain when FRAME funding changes will not be known? Boards will have no idea whether there is more or less money available due to these changes in the formula. Boards will be subject to new rules and bargaining even before they know where the money will come from to pay for these bargaining decisions.

If Bill 42 is enacted now, it is inevitable that collective bargaining will take place for the 2000-2001 school year under these changes. This will occur in spite of the fact that boards will have already set their budgets for the school year without the knowledge of what specific changes would be taking place. In fact, with the funding changes being proposed, multi-year agreements could be reached or arbitrated without any sense of what impact they could have on school divisions. The result of this could be devastating for school divisions, students and taxpayers. We would suggest that the implementation of Bill 42, if passed, be delayed until the 2002 school year. At that point in time, we would be aware of the changes to division boundaries, as well as the potential impact of the new funding formula on our respective divisions.

Intermountain is also concerned about some specific items included in the legislation. The removal of management rights to select, assign and transfer teachers and make them subject to an arbitrator's ruling puts in jeopardy our ability to act in the best interests of students. For example, if an arbitration award for a transfer

was based upon a factor like seniority, the needs of students may not be met. Rural divisions like ours require flexibility, since time-tabling in small schools often necessitates creative solutions to unique challenges. There are significant problems that will result, should this legislation remain as is. Selection, assignment and transfer of teachers must remain the prerogative of school boards, since only elected boards of trustees can balance the needs of students with local accountability, to children, parents and the public.

To include principals as part of the bargaining unit under The Labour Relations Act places an even greater burden on what is currently a tremendous workload for principals. Our first concern is the automatic inclusion of principals as teachers. We believe the Manitoba Labour Board should have the opportunity to determine if principals are in fact managers. This is something other employers have the right to do. Why should principals automatically be included when part of their role is clearly managerial?

Bill 42 will significantly change the role of the principal. Intermountain School Division believes a major role of the principal is that of educational leader. Our principals guide and lead their respective staffs in areas of curriculum, instruction and assessment. They, in large measure, significantly influence the teaching and learning environment that is so vital to student achievement and the general well-being of the school community. Under this new legislation, a greater amount of time will be spent administering the collective agreements in their schools and less time will be devoted to the educational needs of staff and students.

In summary, the Intermountain School Division Board of Trustees is very concerned about the timing and timelines for these changes, the consultation process itself and the sequencing of these changes. Extensive changes currently being undertaken by Manitoba Education and Training are too rushed. Too much change is unfolding too quickly.

Because of the diverse nature of our province, meaningful consultation with all educational partners is needed. More time needs

to be devoted to listening to those who have a wealth of knowledge about their unique situations, thereby making the planning process meaningful and helpful. The sequencing of change needs to be considered. Each change should support and enhance the next. For example, would it not make more sense to resolve boundary issues first, then address FRAME accounting, and finally address teacher bargaining? The current sequence will surely result in confusion and discord.

I respectfully thank the Law Amendments review committee for this opportunity to express our views.

**Mr. Caldwell:** Thank you very much, Mr. Martens, for your brief. I missed the first couple of paragraphs here, but I appreciated the text of it. I do know, as you point out, the relationship between the teachers and trustees of the Intermountain School Division is a very, very good relationship. I commend your board and the teachers of the Division for that relationship.

I just wanted to ask a question just briefly. It harkens back, and it is a point that I will come to again and again, I suppose, during the course of this discussion. Given that we had a provincial-wide consultation with the two representative bodies of trustees on one hand and teachers on the other hand, and there have been concerns expressed before you, and I expect after you later on tonight and tomorrow evening, vis-à-vis the relationship that MAST has to discuss, with the Province, province-wide issues or discuss with the Government of Manitoba province-wide issues. Is there some framework, because I have heard it before, some areas where divisions would rather not have their provincial-wide organization discuss such issues with provincial-wide implications? Can you give me some direction in that regard?

**Mr. Martens:** I am not sure if I can speak directly in that context. As we were talking about all educational partners really being involved in this discussion, I think it was more than the Teachers' Society and Manitoba Association of School Trustees. I think MAST represents us as a board quite well, and we have opportunity, as members of MAST, to address government. We contacted you as the Minister

of Education. We contacted our MLA and other members in regard to this issue. I think that is fair. I think we are well represented by MAST.

I think there are other associations that are also affected by the legislation that need their voices concerned. For instance, principals and their association, and the implication of them being included in the role that is being changed for them and how this may affect them if this Bill 42 is enacted. I think that is another partner that should be consulted, as well as the school superintendents, because they are the ones who end up administering much of what the changes to the collective agreements would be. So those are the ones that we are more speaking to.

**Mrs. Smith:** Thank you for your presentation, Mr. Martens. It was very clearly put forward.

Mr. Martens, you talked about amalgamation of school divisions. I know the previous government put forth the Norrie report looking at amalgamating the school divisions. After having looked at the report, it was decided to go another way, instead of imposing forced amalgamations to ensure that school divisions would talk amongst themselves, as it were, and make those decisions on a neighbourly—and have dialogue in a collaborative way throughout the school divisions in Manitoba.

Mr. Martens, my question to you: In the event that Bill 42 goes forward as it is at the present time, do you feel that amalgamations throughout this province will have to be forced for them to survive?

**Mr. Martens:** That is a difficult question to answer. I can only speak for our area and our specific situation. A lot would depend on what effect Bill 42 would have on collective bargaining. If matters would go directly to arbitration and arbitrators would make decisions that would tie the hands of boards when it came to management rights, then you could see that effect occurring. Boards would be in positions where the cost would just be too prohibitive and they would have to look for other partners, although that really does not affect the cost to education. It seems like, and in the Norrie commission it gave the same indication, that really the cost savings in amalgamation are when

you close schools. If we are going to close small schools in rural Manitoba, you could see cost savings but at a cost to communities as well, so there is another issue there as well.

\* (21:40)

**Mr. Derkach:** Mr. Martens, thank you for your presentation. Indeed I found it very interesting because I know you come from a rural part of Manitoba and one where you have unique challenges with regard to providing educational opportunities, and yet you speak to the very key issues of this government's intentions of change in education and the sequence and the time limitations with regard to the implementation of these changes.

Having said that, as a school division, I know that, through MAST, you do have representation in a broad sense, but nevertheless many rural school divisions have unique problems in Manitoba, problems of declining enrolment, problems of trying to accommodate class sizes so that indeed students and teachers are not challenged beyond certain limitations.

My question, I guess, to you is: As you see Bill 42 implemented and the costs increased to you as a board, how do you see this impacting on your particular school division as it relates to programs for students and services within your division?

**Mr. Martens:** To this point, we have found ways to enhance education even though we have experienced cuts in education. We have done some creative things to do that. It obviously gets more and more difficult to do that in small communities.

Again, as I mentioned earlier, depending on what the impact of this legislation will be on our particular school division and whether arbitrators make rulings on management right issues, if that is the case, if those things start occurring, it will be schools and communities that will have to bear the brunt of that, whether that is through combining of schools and combining of community schools so that children travel much greater distances in order to go to school, increased property tax. There is a whole variety of issues that may come into play. It is one of

those things where you are not really sure until it happens, but we do know that if management rights are taken from boards, it just becomes that much more difficult for boards to operate and to really make those decisions that are so key for children's education.

**Mr. Chairperson:** Thank you, Mr. Martens. Time for questions has expired.

The next presenter is Mr. Ron Plett, Chair of the Hanover School Division. Mr. Plett? Please proceed.

**Mr. Ron Plett (Chairperson, Board of Trustees, Hanover School Division):** Thank you, Mr. Chairman. With your permission, I would like to call on Mr. Gilbert Unger to assist during questioning period, if need be.

I will not recycle. I am going to cut my report short. Most of the points that we have in the report or that I have in the report have been covered, so I will just read parts of it.

Honourable Minister, honourable members, Hanover School Division's mission statement is the basis on which we are making this presentation. Hanover School Division is a student-centred school division striving for excellence while developing skills and promoting values for a productive and wholesome life. We are impressed that the stated goal of the newly proposed legislation also espouses to put the welfare of children first. Unfortunately, any similarity between the proposed legislation and the integrity of the philosophy of the best interests of the child part company when one studies Bill 42.

Bill 42 reveals the intent of their heart, not for children, education, nor the institution of the family, but of legalized greed. Further, it assumes that governance in education shifts from parents, those who have the best interests of children at heart to those who serve as the formal educators of those children. The influence of local decision makers, namely democratically elected trustees, will become negligible. They will serve as mere publicans and tax collectors responsible mainly for their own eradication since the public will view them

as the perpetrators of the ever-increasing tax burden. How ironic.

Hopefully, the public will not be deceived to think that locally, democratically elected trustees are to be held accountable for less parental input and accelerated taxation. By accepting 42 as is, this government will have to squarely shoulder an outcome that does not serve the children nor the parents or ratepayers of the province.

I will now proceed to page 7, No. 8. External rulings on class size and composition will be restrictive, expensive and unresponsive to changing local needs. The spectre of provincial policy regulating arbitrated settlements regarding class size and composition may indeed be one of the most restrictive, inequitable and costly departures from present conditions. How does one artificially determine teacher workload? How does the workload of a teacher in a multiracial, impoverished, high incidence of dysfunctional families neighbourhood compare with a workload of a teacher in a highly stable, middle-income bracket, supportive, parental-involved environment?

In Hanover the cost to the local taxpayer of even bringing our pupil-teacher ratio to provincial levels would cost in the neighbourhood of an overall tax increase of about 8 percent on an operating budget of \$30 million or approximately \$2.5 million or 5.5 mills, roughly a 30% increase in local taxes. What would this exorbitant tax burden do for the children, parents and ratepayers of Hanover? It would reduce the class size by two students per class. Is our education in Hanover inferior to any in the province? Not at all. We rank with the best divisions offering superior education, using any objective measures available. In fact, all of our facilities are overflowing with many parents clamoring to either move into our division or at least requesting choice-of-school status. Even before the surge of German immigrants in this past year, Hanover has continued to grow since its inception in 1967 at an approximate rate of 1 to 2 percent per year.

Would the provincial government build schools to accommodate a reduction of the PTR? If indeed they would, Hanover would immediately require two facilities to accommodate

1000 students, 600 for the PTR reduction and 400 for choice-of-school applicants and normal growth. The cost of such facilities would be approximately \$10 million.

Now I will move to page 9, just at the bottom of the second paragraph, c. If there were a provincial class size and composition policy, on what criteria would it be formed? On home-room groupings? On grade-level groupings? On subject-specific groupings? If the class size policy were such that more teachers would be required, who would pay the cost?

In light of recent publicity about school division amalgamation, we caution the Minister against looking to hoped-for financial savings from amalgamation to cover the costs of a generous, provincial, class size policy. Experience has shown there are few, if any, financial savings achieved through the school division amalgamation. In fact, in the short term, once mill rate differentials and staffing and expenditure differentials are addressed, school division amalgamations can increase rather than decrease costs.

Whether or not the class size and amalgamation issues are, in any way, linked, we believe that it would be helpful if the Government were to clarify its purpose in promoting school division amalgamation. The litmus test for amalgamation should be clear-cut evidence that it is in the best interest of the students and educational programming. If that test can be met then, particularly for smaller or remote school divisions, there is a case to be made for amalgamation. A set of guidelines regarding the amalgamation process would also be helpful for school divisions.

In conclusion, Bill 42, if accepted as is, will substantially reduce the effectiveness of trusteeship and parental input into education, as boards will be reduced to tax collector status, and reduce the effectiveness and efficiency of delivering education.

\* (21:50)

As a division, our concerns are heightened that this bill is but a harbinger of forced division consolidation. Union initiated conditions at work

will eventually lead to provincial bargaining. Because of these drastic legislative changes, trusteeship will become untenable and democracy will suffer.

We see Bill 42 as severely flawed, legislating preferential treatment for a small group of labour. We believe that the former legislation under Bill 72 was workable and gave all parties some parity. The alternative to Bill 42 would be to accept the total Labour Relations Act with its dispute resolutions proviso including strike and lockout. Failing that, we need to go back to pre-1996 legislation, legislation that was flawed and partial, but not to the same degree as the Bill that we are now addressing.

I would just like to add a note. I believe that we have really good working relationships with our teachers. I say that because in the last 20 years our board has not needed to deal with a grievance. Thank you.

**Mr. Chairperson:** Thank you, Mr. Plett.

**Mr. Caldwell:** Thank you, Mr. Plett. I appreciate your comments about the labour relations in Hanover. I am familiar with the record that you have. It is indeed an enviable one in the province of Manitoba. I commend your board and trustees, both now and in the past, for that good record.

I just wanted to draw a little bit more, Mr. Plett, if I might, on the last paragraph. The two alternatives that you have are accepting the total Labour Relations Act, including strike and lockout, and the other is to go back to the pre-'96 legislation, which is flawed and partial, as you say, but not to the same degree as the Bill we are now addressing.

I just want to comment, if I might, and get your comments in return. Given that, in the main, from 1996 previously, all items were arbitrable, including of course classroom size and composition. In the main, what we are doing with this legislation is going back to 1996 legislation, with the exception of classroom size and composition, which you point out, and I think quite accurately, is an issue of some considerable contention and needs to be assessed

in its broadest level, whether that means remaining the status quo or something else remains to be seen. Could you maybe comment a little bit more broadly on what, in the main, you see different about this legislation vis-à-vis the pre-1996 situation?

**Mr. Plett:** I guess, essentially, we felt that Bill 72 was quite adequate and that we were getting along quite well with our negotiations with our teachers. I do not think we are suggesting that we would want to go back. We would like to continue on. We have a good relationship right now. If it is not broke, why fix it?

**Mrs. Smith:** Thank you very much for your very insightful presentation, Mr. Plett. I guess you know on this side of the House we have some real concerns about the lack of ability to pay the increase in taxes and the autonomy of school divisions.

There is another aspect that we have not touched on, Mr. Plett, and that is the disintegration of communities. I know, in a school division such as yours, I have worked in your school division with your teachers and with your administrators and you have an absolutely phenomenal relationship. The principals and the situation you have out there, I have to say, is a very strong role model, I would say, across Canada.

I am worried about the teachers. I taught for 22 years, and this Bill 42 claims to support teachers. I guess you know quite categorically we think this is an ill-thought-out bill and ill fated for disaster in the province. However, I am concerned about the teachers.

Mr. Plett, you have very good relationships with your teachers, as you have stated. Now, will this bill, if it goes through as it is right now, affect that relationship, in your opinion, whether it be your school division or other school divisions, in the attempt of this bill to address teachers' needs? From your point of view, with the long-reaching ramifications of the Bill, will it be in the best interests of the teachers and the students? I have said schools are built for students. That is what our first consideration should be. Bill 42, I hear a lot about the teachers. I have great sympathy and great support for

teachers, as you know that we do on this side of the House, but I fear for them. I just wondered what your opinion is in terms of the intent of this bill really missing the mark for teachers as well.

**Mr. Plett:** That is hard to say as to how it will affect our teachers.

**Mrs. Smith:** Are you confident it will be positive for them?

**Mr. Chairperson:** Excuse me. I need to acknowledge you. We have also got Mr. Schuler. I will allow a short supplementary, Mrs. Smith.

**Mrs. Smith:** No, that is fine. Thank you.

**Mr. Schuler:** To our presenter: I looked at your report and in particular the first paragraph where you state: "Bill 42 reveals the intents of the heart, not for children, education, nor the institution of the family, but of legalized greed." Certainly that is a very strong statement, and I think that it is something that we should all reflect on from the Minister to all of us on this committee.

It is with great interest that I listened to talk about 20 years and no grievance. Do you see the potential that, with Bill 42, that could change? The relationship that individual school divisions have with their teacher associations that, as this seems to be pushing more towards a centralized bargaining, we seem to be a professional association trying to move towards being a union. Do you see the good relationship that is taking place, until this point, in individual school divisions, that this could be an attack on that relationship?

**Mr. Plett:** There is certainly the possibility that it could do that. I guess the main concern that we have is that, with the arbitration mechanism in there, the employee will be the one that rules, not the employer. While we have not worked under those types of relationships, I guess our concern is: How effective will a school board be under these conditions? Teachers will be fighting for themselves.

I like to believe at the current time that, in Hanover, we are working as a unit. We are

working together. Our concerns are for the education of our students. We want to provide a good education for our students, which is affordable. We are attempting to provide a balance between the cost of education and what is affordable to the taxpayer. We are dealing with parents who have children in the school who perhaps would say, well, it does not matter if the taxes go up, but we also have retired people who need their funds for retirement and that are concerned about increased property taxes.

I guess the big concern is where will this money come from. We have heard the Minister suggest that he does not want to continue increasing property taxes, but where will the money come from? I guess that is our big question. Where will it come from? If we are going to have to tax locally, what will the relationship be between our local taxpayer, between the parents, between students, between teachers? Those relationships, we are going to see more conflict. That concerns us. There will be more conflict there.

**Mr. Chairperson:** Thank you, Mr. Plett. Time is up.

The next presenter is Dr. Dave McAndrew from Western School Division No. 47. Please proceed.

**Mr. Dave McAndrew (Chairperson, Board of Trustees, Western School Division):** Thank you. Our board democratically decided to recycle large portions of what was presented by MAST, so we have that in here.

Western School Division is strongly opposed to Bill 42. If enacted, the proposed changes to The Public Schools Amendment and Consequential Amendments Act will have a significant impact on Morden and the area community. Our board has met with local community leaders, Morden's mayor and the R.M. of Stanley's reeve, as well as our MLA, the Honourable Peter George Dyck, to alert them to our concerns.

\* (22:00)

For the sake of all Manitobans and specifically the community which we represent,

we hope the Law Amendments review committee will recognize the validity and significance of our concerns. We appreciate the opportunity to express our opposition to this bill.

I am going to skip through some parts of it.

Our board exists to interpret the hopes and aspirations of Morden and surrounding community for our young people in a sound and sustainable education system. We have a dual responsibility to our students and taxpayers. We take this responsibility very seriously. Indeed, we are proud of the high level of educational services we provide for our students.

Arbitrators are not elected nor accountable to the local community. When good faith bargaining between two parties breaks down and arbitrators are assigned to make a decision, their humanity, fallibility and political appointment all play into their final decisions. The decisions can have a profound impact on our community without being accountable. We, as trustees, are left holding the bag.

We are profoundly concerned with Bill 42's provisions for attacking our responsibility to manage our school division. Consistent with our dual roles as trustees, we are concerned with issues beyond fiscal realm. Working conditions also have a significant impact. We need flexibility to manage our human resources in a manner that best suits the interests of our students. These could include assigning or transferring teachers to different schools, developing sound teacher supervision policies and scheduling recesses and break times for students.

We anticipate that Bill 42 will increase the cost of education for a student in Western School Division beyond what the community is prepared to pay. For example, if our pupil-teacher ratio is reduced by one, the cost to Morden and area would be \$235,000. This only refers to salary costs. To accommodate these extra teachers in classrooms would have a huge impact on capital costs. Western does not have the luxury of empty classrooms waiting for students.

As a growing community, we need to be extra careful with the allocation of a limited number of classrooms. As a board, we are constantly exploring ways and means to balance the needs of our students and taxpayers. We are searching for ways to deliver the best education possible for our students, whether it is by reducing the pupil-teacher ratio, providing interactive technology, learning assistance, or implementing new curriculum which reflect research-based conclusions regarding learning styles.

The point is that we, as a board, currently have the flexibility to manage our local needs and resources. Bill 42 will attack that balance and force us to respond to a narrow set of guidelines at a greater cost. Can we assume that the provincial government will commit itself to cover all costs emanating from the enactment of Bill 42?

Western School Division is opposed to the principles of espousing Bill 42. We would like it to address a number of specific problematic clauses that have far-reaching impacts for our community.

The teachers' union has a history of calling for changes to collective bargaining provisions of The Public Schools Act to give them the same rights as other employees in the province. While we see this as contradictory of their current stated desire to be considered as fully professional, we could support the notion of including teachers under The Labour Relations Act, with the sole exception that binding arbitration rather than strike or lockout be the final dispute resolution mechanism.

Unfortunately, Bill 42 identifies a number of explicit exceptions to the applications to The Labour Relations Act to teachers. Consequently, teachers would be treated like no other employee group. The definition of a teacher invites confusion. Substitute teachers and some learning assistants hold certificates, but may not be hired by Western School Division as a teacher. Will they be entitled to the same sick leave benefits as regular classroom teachers for the purpose of administering a collective agreement and funding formula? A clear definition is

preferable. We urge the Minister to retain the clear definition of a teacher.

How can those who develop teachers' working assignments, supervise, evaluate teachers and recommend on renewal or termination of teachers' employment with our board, be deemed as appropriate for inclusion in the teachers' bargaining unit? Is there any other instance under The Labour Relations Act where supervisors are included in the employee bargaining unit? We anticipate that this could lead to lengthy and costly legal clarifications, diverting limited resources from the classroom to the courtroom. Inclusion of a management personnel is more appropriately a matter for the Manitoba Labour Board to decide. We question how shifting decision-making power about class size and composition away from trustees will improve the conditions of Morden's schoolchildren. We fear that a decision made in Winnipeg or embedded in a collective agreement would restrict the managerial flexibility we need to run our schools in the interests of our students.

Consider several examples. A new family moves to Morden during January, putting some classes over the size prescribed in provincial policy or collective agreement. Who in the Manitoba Education and Training office would rule on this case? How long would the process take? What would this student do while waiting for a Manitoba Education and Training bureaucracy to make a decision? How would the additional teacher be funded? As a growing division, we have limited classroom space. Would the Public Schools Finance Board approve construction of additional classroom space to accommodate the extra classes? How quickly would a temporary classroom space become available?

A program advisory committee composed of trustees, parents, students, teachers, administrators, and community members recommends that Western School Division board seek to achieve smaller class size for students with behaviour problems by shifting one or more students to other classes. Why would such a local decision be screened against an unwieldy provincial policy or a restrictive collective agreement?

Morden Collegiate is a relatively small high school whose staff can offer a Senior 4 calculus class only if the school accepts slightly larger Senior 4 English classes. Would the provincial policy restricting class size in English also include a provision for guaranteeing Morden students access to a Senior 4 calculus class in Morden Collegiate, thereby giving them a chance to compete fairly with Winnipeg students who can aspire to enter math, science, and engineering faculties at our university? Who would pay for the extra calculus teacher? Who would pay for the cost of adding classroom space to the Collegiate to accommodate the extra English class?

We believe the decisions between our board and the local teachers' union are made locally through open and honest dialogue. Bill 42 encourages the determination of collective agreements through arbitration, essentially bypassing mediation, conciliation under The Labour Relations Act. I think you clarified that, Mr. Minister. This ignores bargaining history between our board and the local teachers' union. While we were open to the local union's notice to commence negotiations this past April, it has not been forthcoming. We recommend the express wording be in Part VIII of The Public Schools Act, which would parallel Labour Relations Act, and which would state that the conciliation and mediation is available for 60 days beyond the bargaining period to enable conciliation or mediation meetings to occur prior to moving to arbitration.

In conclusion, Bill 42 proposes changes that will single out our teachers for preferential treatment that no other employee group receives. For the sake of our students, our public schools and our community, do not pass Bill 42.

**Mr. Chairperson:** Thank you, Mr. McAndrew.

**Mrs. Smith:** I thank you for your presentation as well. Could you tell me, prior to coming this evening and prior to getting a notice from the MAST association, were you consulted in your school division or were your teachers consulted about Bill 42 at all, prior to MAST or you actually seeing the Bill coming on the scene?

**Mr. McAndrew:** I can only speak for the Board, and we did not receive any prior information.

**Mr. Caldwell:** Thank you, Mr. McAndrew, for making a presentation. As I said to an early presenter tonight, sometimes having things repeated to me helps in the thought processes. I notice the Member for Springfield (Mr. Schuler) is nodding his head in agreement, so I am not the only one who thinks that way.

I just wanted to comment briefly on the program advisory committee that the Division has in terms of trying to come to local consensus around classroom size, compositions and so forth, and commend you on that particular committee and that process. I know that other divisions have a similar process that works very well at the local level in creating the best possible solutions to that issue, which you rightly recognize and, I think, your colleagues have rightly recognized is the largest cost driver in this issue that we are addressing tonight.

So I just want to, again, reassure or clarify, with regard to the commission on classroom size and composition, that nothing will be excluded from that, and it will be a public discussion that will take place in a very thorough manner. This was something that your association, the Manitoba Association of School Trustees, pointed out as being a major concern in addressing and taking precipitous action on.

\* (22:10)

As I clarified the mediation and conciliation provisions earlier, I just want to let you know that your words in this regard are being heard by myself and by the Department, the Deputy here this evening with me, and those comments will be reflected in the deliberation in that regard.

**Mr. McAndrew:** Thank you.

**Mr. Fauruschou:** Once again, I appreciate the time and effort for your presentation, including the travel that you have invested in this evening. Is there concern throughout the community in regard to this particular bill? You stated earlier that there has been relatively no consultation; in fact, there has been no consultation with the board prior to this. How have you gone about, with your particular position as you have exhibited tonight? How did you formulate, and

how did you put that together? Have you had some public consultation yourself?

**Mr. McAndrew:** We have not had time for extensive consultation since the Bill was tabled, I believe, on June 22. We have, as a board, had some consultation before that ourselves and with a few others, so we have had some input in developing our position.

Our biggest concern is on management rights. Right now, we as a school division have classrooms that have as few as 10 students. We have some classrooms that are higher, in the high 20s. We prefer to have them smaller; 10 may be unmanageable, but we do value small classrooms. We have a school where we have two Grade 1 classrooms coming in next year where we have less than 20 in each one. It is great. We can do that because we can balance other things.

By losing the ability to manage the resources completely, we would lose the ability to balance where we think we have a need at the lower class sizes, particularly at the K-to-4 level, which is where we are targeting having much lower class sizes.

**Mr. Caldwell:** Just a point that I have heard twice in the last couple of times about consultation and the fact of no consultation, or at least the members opposite have been talking about no consultation taking place. Well, we have had seven months of discussion with the associations that represent trustees and teachers on a province-wide basis, and there has been extensive consultation, I know, between the parties, just as reflected in the text of these documents.

So I just wanted to not let that stand uncontested. I do appreciate, frankly, this evening having the opportunity to have representation from many school divisions thus far, and later we will hear from other parties. But what we are receiving here this evening, and I think I alluded to that to Doctor McAndrew earlier, is taken in good faith, the input from the delegations that appear before us, and those recommendations and concerns will be addressed in terms of our deliberations as we move forward to third reading. So I do not want

to have the opposition members' comments about no consultation go unresponded to.

**Mr. Chairperson:** Thank you, Mr. McAndrew. The next presenter is Mr. Kurt Guenther, private citizen. Please proceed, sir.

**Mr. Kurt Guenther (Private Citizen):** Mr. Chairman and Mr. Minister, and ladies and gentlemen of the Committee, some of this will be reiterated, but I eat the same food sometimes, too, and I enjoy it every time. I expect some of the comments will also be reiterated.

Thank you very much for this opportunity to address you. I speak in opposition to Bill 42. While the educational interests of children are promised to be first, all I see accomplished by Bill 42 is the fulfilment of a promise made to the teachers' union to scrap the heart of the present system of collective bargaining.

So, what is my perspective? I am a resident of the town of Morden, a husband of 33 years, father of four children. Our youngest are in Senior 2 and Senior 4. My training is in social work and I have 28 years experience in community mental health in southern Manitoba. I provide men's anger management training—I can see some of that required at some places—and critical stress interventions for emergency workers and school staff on occasion. I am keenly interested in the welfare of our community.

I became a school trustee 16 years ago to make a positive difference for the local educational experiences of children. I learned to work with fellow trustees, staff, parents, other community boards, other politicians and government agencies involved in education. It has been a most challenging yet satisfying experience. In the past six years, I have been involved with MAST, so you will hear some MAST coming through me, our provincial trustee association. I have represented MAST on several Canadian school board committees on poverty and youth justice.

My five concerns about Bill 42: One, the new collective bargaining process in Bill 42 is to be fair to both teachers and school boards, and sustainable. It is clearly the interests of the

teachers' union that are advantaged in this bill. School boards are employers, and as they become disadvantaged all Manitobans will suffer. Manitobans have generally benefited from a collective bargaining system in which binding arbitration is used to settle disputes between teachers and school boards.

I believe the arbitration process is generally trusted but, if even the present arbitration process criticized by the teachers' union creates burdens for the taxpayers now, how much more is it going to cost Manitobans if Bill 42 is passed? We know that even now arbitrators set precedents that influence both future arbitrations between other school boards and teacher associations and the outcome of collective bargaining that does not proceed to arbitration. How many times have we heard, as trustees, the teachers' associations come and say, well, it has already been given in arbitration to so-and-so, so if you do not give it to us we will just take it to arbitration and you will lose it. Those are examples, they cost money. School boards obviously are elected, arbitrators are not. So, obviously, we feel threatened when people impose decisions that take away our flexibility to manage.

My second point, the preamble of Bill 42 states that democratic local school divisions and districts play an important role in providing public education that is responsive to local needs and conditions, but this legislation proceeds to contradict itself by undermining the school boards' ability to manage the human and financial resources of the communities. Our board obviously has that mandate that you have heard of before, and as you know the major budget expenses, staff and benefits, as the education process is labour intensive.

So I strongly support the existing Public Schools Act, which does provide for reasonable limitations on arbitrators in areas of management rights and requires arbitrators to consider the ability of school boards to pay in making awards. Now some may argue that the ability to pay is a meaningless requirement, as arbitrators will consider that, whether it is written in or not. My argument is that it does no harm to keep it in, and who will guarantee Manitobans that it will do no harm to take it out? Its presence may

indeed do some good as a judgment will explain how it is affordable and apply to that particular community's ability, not to every community's ability in the province.

When the Minister was speaking before about Fort Garry and the arbitration decision, I believe there was some consideration about sabbatical leaves no longer being in there. So there was a change of how money was going to be spent. I do not think that is going to be commonly known by other teachers' associations when they bring that forward. There is a much more powerful provision than some believe, and if it was not why would the teachers' union oppose it? So the existing legislation, in my opinion, balances the limitation.

Obviously, our management concerns are grounded in the nature of our mandate, our responsibility, which has been given to us by the pleasure of the Minister. School boards obviously have an obligation to—sorry, I will read the third paragraph.

\* (22:20)

These management concerns are grounded in the nature of a school board's dual responsibility to students and taxpayers. A school board needs the flexibility to manage human resources in the manner that best serves the interests of their students. So, as Doctor McAndrew said, we have made changes in our local area that have been allowed by us having these management rights. We are responsive. What we want in regard to management rights as a school board is that we expect no more nor any less than what the Premier (Mr. Doer) himself has declared as essential for dealing with provincial employees.

Now the Minister has stated his belief that the current collective bargaining provisions were designed to disadvantage teachers. This is clearly the message the teachers' union has trumpeted since 1996. My belief is that a union is interested in every advantage for its members and the notion of fairness is belaboured to gain a further advantage. I disagree with the union's position and the Minister's belief. Current legislation does balance the rights of employer and employee by requiring that school boards act

fairly in administering their policies related to items not referable to arbitration. Should a school board not act fairly, the legislation gives teachers the right to launch a grievance under the collective agreement.

Bill 42 proposes changes which will give teachers preferential treatment that no other employee group receives. We have heard that again tonight. This is what the union calls being treated the same as every other group of workers. How can you have it both ways? How is this going to be fair to Manitobans?

The third point. Under Bill 42, principals and vice-principals are included as part of the bargaining unit through legislation. This will continue a Manitoba practice that, again, treats the teachers' union differently from any other union. Our administration is involved in policy formation and implementation, budgeting and planning and evaluation of staff. It certainly is an incongruous sight for me to see administrators on the bargaining team of the teachers' union. It is sad when the rationale given is that, without an administrator on the bargaining team, their issues might not be as vigorously promoted by the other union members. It is equally baffling to see a teacher union staff member represent an administrator and another teacher union staff member represent the teacher being disciplined by the administrator.

Do you not agree that inclusion of management personnel is more properly a matter for the Manitoba Labour Board to decide, as is the case with employers and other unions under The Labour Relations Act? School boards should have the same right and opportunity as other employers to have this matter addressed through this mechanism. Again, it is an example where Bill 42 gives teachers preferential treatment that no other employee group receives. How can that be fair for Manitobans?

Fourth point. The transitional clause, the sunset clause, that we have talked about tonight, that is really upsetting because it has planned in advance that this will be repealed. It is the most crucial part of management rights and it is already decided in advance. Notwithstanding the Minister's assurance that status quo is a possibility, but why is it not left the way it is

until the report is done and then, if that is the best thing to do to change something, then change it. It makes no sense to promise in advance to revoke such a crucial item, except to further advantage the teachers' union and further hold hostage the taxpayers of Manitoba and further cripple a board's ability to manage its resources.

It also all but guarantees that any agreements reached will be one year in duration, as teacher associations will hope for upcoming and favourable legislative amendments to be proclaimed. That contrasts with the less disruption and greater economies for all involved when we can get to multi-year agreements. An earlier speaker talked about sequencing of change. This is another example where it is an irritation, and difficult for boards.

The fifth point, my last point, even if nothing else were amended in this bill, could you not have a provision to allow a school board to request a vote of the teachers be taken to determine whether the employees accept or reject the employer's last offer prior to arbitration? Would not such an addition serve the interests of everyone equally? I believe such a provision promotes openness and responsibility for the bargaining outcomes by both parties. It does seem right to have that opportunity, does it not? I respectfully request that this legislation be amended to include such a provision.

So, in conclusion, I think we have all made promises that when carefully considered were ill conceived, unworkable, or would do more harm than good. If Bill 42 is the answer to the promise to have a fair and sustainable bargaining process for teachers and school boards, and if this is how the educational interests of the children are served first, then I submit we can do much better.

This bill would not help get scarce public education dollars to where they are needed most, and it will further burden local property owners with unwanted increases to their tax bills. Present promises to address this are inadequate. The Bill does not take us beyond an unworkable zero-sum kind of thinking where one party must

be disadvantaged so that another party can be advantaged.

I believe the Premier (Mr. Doer) could not have known how poorly his party's election promises could play out. I am thankful this committee can make recommendations to avoid burdening Manitobans with bad legislation. It would be better to do nothing now rather than to do something that harms more than it helps. I expect you will hear from many voices what the dangers are if this bill is not withdrawn or amended. I expect many people will mark this day on the political calendar and remind voters when the predicted bad things happen that it was preventable and it was unnecessary. It is not too late to do the right thing, the fair thing for all Manitobans, and that too was a promise of the Premier. I would like to see a bill that advantages all Manitobans. I thank you for considering this submission.

**Mr. Chairperson:** Thank you, Mr. Guenther.

**Mr. Caldwell:** Thank you, Mr. Guenther, for your presentation. I appreciate the opportunity to hear your perspective on the Bill and some of the suggestions that you have in terms of improving the Bill. I wonder, Mr. Guenther, is the 16 your trustee, I believe, if I am correct? Is 16 your trustee?

**Mr. Guenther:** Yes.

**Mr. Caldwell:** Can you explain to me, in the 12 years that we had full-scope bargaining, why what you are predicting is going to come true did not occur?

**Mr. Guenther:** You are asking me to explain how 12 years of past bargaining has made a difference? Is that the question?

**Mr. Caldwell:** The provisions for open-scope bargaining existed previous to Bill 72, and the predictions are, with the repeal of Bill 72, that everything is going to be a catastrophe. Could you explain to me what has changed from your first 12 years in the last four years in that regard? I would like to try and deal with as much as I can on fact and not speculation, if I can.

**Mr. Guenther:** My perspective as a trustee was to be involved and watch cherry picking, seesawing, whipsawing, threats, all kinds of difficult things happening as people felt entitled to more and more of a shrinking pie. Everyone was under the gun, and it was difficult to not be compassionate for staff who wanted more, and with students who needed more, and with taxpayers who could not give more. I am not here to defend the level of funding in the past, but I know that you could turn the tap on tomorrow to make a difference so that we could get past the \$30 million which you gave us and add to the part that would bring us back to where we have not been for a long, long time. It is not in our fault.

**Mr. Derkach:** Mr. Guenther, I know that we have asked the same question of many presenters, but I just wanted to comment on your very positive presentation. I hope that your presentation does catch the Minister's attention, and indeed that he does take some of your suggestions to heart. I look forward to him coming forward with some amendments that indeed incorporate some of the issues that you raised, because I do believe they are thoughtful, well thought out and certainly are for the benefit of teachers, school boards and also the taxpayers and children of our province. Thank you very much.

**Mrs. Smith:** I thank you for your presentation. It was very heartfelt and very insightful in the way you presented your arguments. After hearing what you heard tonight, Mr. Guenther, you have heard the other presentations as well, and as you know there is a thread of similarity between a lot of the presentations. I daresay that the commonality is that people are very concerned about their students, their communities.

Mr. Guenther, would you be very, very surprised if this government did not pull back this bill? I know I have repeatedly asked in the House for them to take more time, to go out amongst the citizens here in Manitoba. Would you be surprised after hearing this if this government did not make either radical amendments or completely withdraw the Bill?

**Mr. Guenther:** I am not a politician, apart from being a school trustee. I have not done the polls

to see what would happen with public reaction if this were amended or softened, as the other labour bill is apparently going to be, but I know that there will be a remarkable change in what is happening in education if this bill goes through without amendments. That much I know because it makes a difference. If it would not make a difference it would not be done. There was a reason why the promise was made and it is not to advantage children. I do not see it. I would like to see it.

**Mr. Chairperson:** Thank you, Mr. Guenther. The next presenter is Ruth Ann Furgala or Vivian Leduchowski, from Evergreen School Division. Are either of them here? No? Next is Wayne Motheral, President, Association of Manitoba Municipalities. Please proceed, Mr. Motheral.

**Mr. Wayne Motheral (President, Association of Manitoba Municipalities):** We have pamphlets to hand out, and I would ask permission from this committee to have Mr. Bob Stefaniuk stand beside me and assist me in any of the question period.

\* (22:30)

**Mr. Chairperson:** Is there leave of the Committee to have Mr. Stefaniuk contribute?

**Some Honourable Members:** Leave.

**Mr. Chairperson:** Leave. Go ahead.

**Mr. Motheral:** On behalf of the Association of Manitoba Municipalities, AMM, I am pleased to present our association's position with respect to Bill 42, The Public Schools Amendment and Consequential Amendments Act. As many of you are aware, the AMM was created on January 1, 1999 as a result of a merger between the former Union of Manitoba Municipalities and the Manitoba Association of Urban Municipalities. The AMM now represents all 201 municipalities throughout Manitoba and this allows us to speak with one unified and strong voice on behalf of municipalities.

Due to their role as tax collectors for school divisions, municipalities are the level of government that receives feedback from

residents unhappy about education costs. During the recent AMM June district meetings, the issue of teachers collective bargaining was discussed. The overwhelming message we received from our membership was that Bill 42 should be opposed since it could accelerate the rise of education costs and drive up property taxes significantly for years to come.

In addition, the AMM received over one hundred responses from our members over the past two weeks to the petition we sent out opposing Bill 42. Clearly, our membership is telling us that they are opposed to Bill 42. As a result, the AMM board of directors made the decision to appear before the Committee and express our opposition to Bill 42, The Public Schools Amendment and Consequential Amendments Act. We believe that Bill 42 fundamentally shifts decision-making authority away from elected community representatives and puts it in the hands of arbitrators. It does this by undermining school boards' ability to fulfil one of the most important responsibilities managing the human and financial resources of their communities.

As the organization that represents elected municipal officials across Manitoba, the AMM cannot support this fundamental shift away from locally elected community officials. Arbitrators are not elected. School boards are. Arbitrators should not have the authority to impose decisions upon elected school boards that undermine their authority to manage their community schools. We strongly support the existing Public Schools Act which provides for reasonable limitations on arbitrators in areas of management rights and requires arbitrators to consider the ability of school boards to pay in making awards.

While we are opposed to Bill 42 because it has the potential to accelerate the rise in education costs and drive up property taxes, we are equally concerned about education funding. Funding for education has been a long-standing issue for municipalities concerned about the percentage of education funding coming from property taxes and the level of taxes levied by school divisions. The AMM believes that the Province should strive for a more equitable balance between funding education from local

property taxes and from provincial general revenue. Currently revenue from property taxation accounts for approximately 50 percent of total education expenses, with the remaining 50 percent coming from provincial general revenue. In the past municipalities have called for a review of the education funding system, in particular the sources of revenue and the appropriate level of property taxation for education. In response to this request for a review by municipalities, the AMM recently established a task force on education taxes. The purpose of the task force is to explore various options for reducing the amount of education funding coming from property taxes. The task force will be comprised of a core group consisting of the Manitoba Association of School Trustees, the City of Winnipeg, the Manitoba Municipal Administrators Association, Manitoba Association of School Business Officials and the AMM.

The task force will also invite input from other stakeholders, and these groups would be given the opportunity to review the draft report and provide feedback before the report is finalized and forwarded to the Province. We would like to advise the Committee that the AMM does not support the complete removal of property taxes as a funding source for education. As the school divisions' Boundaries Review Commission rightly pointed out, the removal of property taxes would require an increase of over 5 percent in sales tax, 16 percent in personal income tax or some other combination. As well, property taxes can sometimes be more efficient than other forms of taxation at ensuring fair contributions to the education system from a number of different sectors of society.

The ability of school divisions to levy local taxes also ensures local autonomy and input into the education system. Because of this, we believe that completely eliminating property taxes as a funding source for education is not a feasible alternative. The AMM will be recommending to the task force that at a minimum approximately 80 percent of education funding should be derived from provincial general revenue and approximately 20 percent should be derived from revenue from local property taxes.

*Mr. Vice-Chairperson in the Chair*

In summary, the AMM is opposed to Bill 42, since it has the potential to significantly increase education costs and property taxes for many years to come. Considering that we are in an era of ever-spiralling demands on property tax, we also believe that there should be a reduction in the amount of education funding coming from property taxes and an increase in the amount of education funding coming from general revenue. We hope the province will consider the recommendations that will come out of the AMM task force on education taxes and implement, as a minimum, a funding formula of approximately 80% funding from general revenue and 20% funding from property taxes for education costs in Manitoba.

Thank you for allowing us the opportunity to present our views on Bill 42, The Public Schools Amendment and Consequential Amendments Act.

**Mr. Caldwell:** President Wayne and Bob, thanks for attending this evening. I certainly appreciate it. As you know, being a former board member of the AMM, I have a tremendous degree of respect for what you bring to the table as an organization. I am never shy to say that in my estimation that the Association of Manitoba Municipalities is, in fact, the level of representation that is closest to the people of the province of Manitoba, certainly municipal officials. I have considerable respect for what you bring to the table here this evening for us.

I am pleased to note that you, when you talk about increases that you do raise them in words such as "potential increases" and "could involve" as opposed to "will" and "shall," which, I think, is helpful because we are in the realm of the unknown when we proceed down there. I think that your remarks, in terms of how you frame them, are certainly appreciated by myself. I think that it does put it in a light that is more correct.

With regard, just briefly, I just have one real question. It strikes at the heart of the issue of property taxation, which is the largest concern of your membership in this regard. Certainly, as a former municipal official, I share it. From 1990 to 1999, as you point out, local education

property taxes rose by 63 percent in the province of Manitoba, so there was an explosion of property taxation at a local level in those years. I just want to get your views of whether or not you think that this property taxation explosion was caused by excessive awards, arbitration awards, or teacher settlements, or if it had a closer relation to funding cuts in the public school system.

**Mr. Motheral:** Thank you for the question. Thank you for your comments about our organization. I am very proud to head that organization. I feel confident in our ability to make research and make our presentations. The question about the fact—and I have almost forgotten the question now. Can you repeat it?

\* (22:40)

**Mr. Vice-Chairperson:** Perhaps the Minister could put the question to you again to clarify, if that is all right.

**Mr. Caldwell:** It was in relation to the property taxation levels. That is the major issue of concern to the membership, municipal officials, and so forth. You pointed out in your remarks, and my question was surrounding the issue from 1990 to 1999, the local education property taxes rose by 63 percent across the province. I want to get your feeling with regard to whether or not you thought this increase—because it relates to what we are addressing here today. The increase, or the explosion of 63 percent, was caused primarily by excessive rewards or arbitrations, teacher settlements, or if it had a closer correlation to the cuts in provincial funding to that. That speaks also to your desire to increase the provincial levels of support.

**Mr. Motheral:** Thank you for repeating the question. Really, our presentation shows that we are concerned about the increases in property taxes, and, therefore, the need to have this task force that we have formed, to see what we can do about property taxes.

I have been associated with the municipality association for approximately 15 years and at pretty well every annual convention we go to the question of property taxes does come up and the reliance on education. That particular formula

has got to the point where it is almost unacceptable at the 50-50 level, when it started out, I believe, at a 75-25 level or something in that neighbourhood, and there is a need to reduce that reliance on property taxes. So therefore the need for this task force, and that is the reason why our membership has asked us to do this.

**Mrs. Smith:** Thank you, and I appreciate your comments and your presentation as well, Mr. Motheral. I commend you on the task force on education taxes because it is long overdue, and the partners that you have working with you are a dynamic group of people. Now, having said that, the major concern is, could you explain to this committee, if Bill 42 went through, as it is at this point in time, how would that impact? Would that make your job a little more onerous or how would that impact on what you are doing in terms of the education task force? Would you be able to centre on the task at hand with so many unknown variables?

We have talked tonight about, not only teacher arbitration, but also the cost of funding through class size and the whole make-up of the education system. So my question to you is: Would your task force be affected in a negative way in the event that Bill 42 did go through?

**Mr. Motheral:** The task force is going ahead regardless of what happens to this bill. That is a request from our membership, and as I say, we had over 100 membership response. Perhaps, hopefully, the results from this task force will come up with the formula somehow that we can get some outside funding other than from property into education. If that were the case, perhaps we would not be appearing before this committee tonight.

**Mr. Vice-Chairperson:** Thank you, Mr. Motheral. The time has expired for questions and answers. The next presenter on the list is Mary Hudyma, Chair of the Dauphin-Ochre School Division. Is Mary Hudyma in the audience this evening? You may proceed Ms. Hudyma.

**Ms. Mary Hudyma (Chairperson, Board of Trustees, Dauphin-Ochre School Area):** Good evening. The Board of Trustees of Dauphin-Ochre School Area No. 1 is strongly opposed to

Bill 42. We trust that the Law Amendments review committee will consider our concerns on this legislation and we thank you for the opportunity to present our position to you. Some of the statements you hear tonight will be ones that are common to other briefs that you have heard. I do not see this as being overly repetitive. I think it shows a great commonality in concerns among the groups from which you have heard.

Collective bargaining in good faith is and should be the primary method of reaching contractual agreements between elected school boards and our employees. Bill 72, which was introduced in 1996, has not been in effect for a long enough period of time to judge whether or not it provides a process that effectively balances the concerns of the Manitoba Teachers' Society with those of students and communities. It appears that the provisions of Bill 72 are working effectively as only three of a hundred or more contracts have been settled by arbitration since its enactment. In this time, there have only been two grievances filed under section 131.4. We emphasize that the intent of negotiations is to work out a mutually agreeable settlement at the local level between an elected school board and its employees.

By shifting decision-making authority from elected trustees to arbitrators, Bill 42 compromises the educational interests of Manitoba children and undermines community input to local school divisions.

The preamble of Bill 42 acknowledges that "democratic local school divisions and districts play an important role in providing public education that is responsive to local needs and condition." School boards exist to translate its community's hopes and aspirations for its young people into a sound and sustainable education system. School boards are charged with the responsibility of managing that system. Being elected officials, school trustees are directly accountable to the public. Neither administrators nor arbitrators have this direct accountability.

As do all school boards, the Board of Dauphin-Ochre School Area has a dual responsibility to our students and to our taxpayers. We must provide the best education for our students that we can within the capability

of our community to face ever-increasing school taxes. To achieve this balance, we must manage our resources effectively and efficiently and must recognize and appreciate the implications of increased taxes on our community. To fill their mandate to manage effectively and efficiently, we and other school boards must retain traditional management rights. These include appointment, assignment, transfer and evaluation of staff, scheduling of the beginning and end of the school day and of noon hours and recess breaks. If decisions in these management areas can be made by an arbitrator, we as elected officials lose much of our ability to manage the school system for which we are legally responsible, and we are faced with raising taxes to finance the arbitration decision. This is effectively taxation without representation, a concept that is not acceptable in a democratic society.

Arbitration awards from one division often become part of awards in other divisions in the same or subsequent years. I think, in prior briefs, you have been made aware of some of these: duty-free noon hours and interest on retroactive pay. Working conditions that have become part of many contracts through the province, after being awarded through arbitration in one division, are often costly. Duty-free noon hours for teachers cost Dauphin-Ochre School Area \$33,000 in our last budget year. To increase teachers' prep time by 5 percent would increase our staff requirement by 6.89 positions or \$390,637.38 based on our average teacher's salary, including benefits. This is not the most effective use of that amount of taxpayer dollars.

Teachers and trustees agree on the value of lower class sizes, but when a school board with input from the community decides its special levy can go no higher, the only way to finance the arbitration-imposed working conditions may be through cutting staff positions through layoff. I might point out that prep time has been a contentious issue in our division since it was reduced at the secondary level during some of the really tight funding years, and rather than cut programs or layoffs, we did cut back on some prep time. So that is a continuing item in negotiations.

The 1996 amendments to collective bargaining legislation included an important

clause that required arbitrators to consider a school division's ability to pay when making an award. Bill 42 removes this clause. This is extremely disturbing. Although defining ability to pay is very subjective, elected school boards debate this with community input each time a budget is set and local school taxes are levied. Boards across the province have been faced with many difficult decisions in an attempt to keep special levy within the community's ability to pay, only to find that an arbitrated settlement causes them to increase taxes the next year.

There can be no argument that the agricultural economy has been weak over the past few years. Rural divisions, which do not have a large industrial base and must depend upon farmers and homeowners for the majority of their school taxes, have been hard hit. The local trustees are in the best position to determine their community's ability to pay and to reflect the values of the community for its children.

\* (22:50)

The definition of a teacher in Bill 42 raises some serious concerns. Currently, the definition specifies a requirement that a teacher holds an individual form of contract. This requirement has been removed in Bill 42, which means that substitute teachers seem to be included in all of the provisions of the collective agreement. It would be problematic, as well as expensive to administer such benefits as sick leave, compassionate leave and personal leave days for substitute teachers.

*Mr. Chairperson in the Chair*

It appears that class size and composition are only temporarily removed from the list of items that can be decided through arbitration. Although we are pleased that at this time class size and composition are to be decided by local school boards, it appears that this section of The Public Schools Act will be repealed six months after the tabling of the commission's report. I am happy to hear your assurance tonight, Minister Caldwell, that the status quo is a possibility as a report from this.

Local administrators and trustees can best evaluate the needs and abilities of the children

involved and the physical space requirements that impact decisions on class size. Because of the many variables in the staffing of appropriate class size, it is imperative that this should continue to be a local management decision.

The arbitration time lines are concerned with Bill 42. The 90-day negotiation period is not realistic in teacher negotiations. Our board received notice in April to begin negotiations on a collective agreement effective July 1, 2000. A first meeting has not yet been held, although several meeting dates have been suggested by the board. Most collective agreements with the Manitoba Teachers' Society expired June 30. Bargaining does not traditionally take place during July and August, and often few meetings take place during April and May and June.

The time lines in Bill 42 seem to encourage the use of arbitration to settle contract disputes. As we pointed out earlier in this brief, a locally negotiated settlement of contracts is always a preferred procedure for both sides if they are bargaining in good faith. If a stalemate is reached in negotiations, conciliation and mediation, as provided for in The Labour Relations Act, are a valuable option to moving directly to arbitration.

Our responsibility as school trustees is both to our students and to our taxpayers. To fulfill our responsibilities we must work in co-operation with our employees to provide the best education possible within the community's ability to pay. We must also manage our resources, both physical and human, effectively and efficiently. To be good managers we must plan ahead. Bill 42, the changes to The Labour Relations Act, the Minister's promised review of the funding formula and the announcements regarding school division mergers have made planning ahead virtually impossible.

Each of these factors has huge implications for school divisions as we bargain not only with our teachers but also with members of CUPE and with non-union employees. Uncertainty about school division boundaries adds to the problem. It is not possible to be efficient, effective managers while dealing with so many changes and so much uncertainty within very short time lines. In this respect, I would like to

reiterate some of the concerns expressed by Intermountain School Division. Changes in each of these areas may be very valid but to be faced with so many changes on so many fronts all at once, it makes planning ahead virtually impossible.

The education of our students is too important to jeopardize by moving too quickly to meet a political agenda. Thank you.

**Mr. Chairperson:** Thank you.

**Mr. Caldwell:** Thank you for the presentation, Ms. Hudyma. I very much appreciate it. I appreciate the time that I spent up in Dauphin earlier this year. I certainly had a great opportunity to speak with members of your board, and I look forward to a return visit.

I just want to ask a question—it is on page 1 of your brief—with regard to the retention of "traditional management rights" with regard to this bill and I suppose the preceding bill. Bill 72, of course, provided for the inclusion or the exclusion of certain items for arbitration and negotiation at the collective bargaining table, and this legislation basically goes to a protocol that pre-exists 1996 for Bill 72. I just question: "traditional management rights" I am assuming you are defining as those that have existed for the past four years versus those that existed for the forty years previously?

**Ms. Hudyma:** Well, I think that is what I was referring to in this brief.

**Mr. Caldwell:** I am just clarifying, that is all.

**Ms. Hudyma:** Okay, yes. I have been a trustee since 1979, so I have seen a number of these things come in. Some of these arbitration awards that impact on management rights seem to be cumulative. As I say, it was a big change for school divisions within the late '80s and duty-free hour came in. Some of these others have gradually come in, and each round of negotiations brings a request on working conditions, as well as on financial settlements of salaries. So the effect is cumulative as some of these become common in contracts. More working conditions, or what we have viewed as management rights, become asked for.

**Mrs. Smith:** Thank you for your presentation. Again, it was very insightful, and it had some of the same threads in it that we have heard previously. I especially liked the point where you said we must work in co-operation with our employees to provide the best education possible within the community's ability to pay. I take it from that that you believe the clause "the ability to pay" that was in Bill 72 is something that should be made available again to help you out in terms of all aspects of education funding.

**Ms. Hudyma:** Yes, we feel that is very important to have retained.

**Mr. Stan Struthers (Dauphin-Roblin):** First of all, Mary, thanks for making the trip down from Dauphin to be with us here this evening. I want to also extend a welcome to Lynn Smith, a trustee at the Dauphin-Ochre School Area, and Bart Michaleski, who is the Secretary-Treasurer.

You touched on the funding formula review that the Minister has been talking about, and I would be interested in getting some advice from you on behalf of the Board, what kind of advice you would have for the Minister. Can you give us a bit of encapsulation of the cuts that have taken place in the Dauphin-Ochre School Area in the last several years, cuts to funding?

**Ms. Hudyma:** We have been able to avoid cutting programs as such. We certainly have cut some individual class options at the high school level. As I indicated before, we did cut back on prep time, and this was in the early '90s.

The problems with funding are diverse, and certainly there were years that it seemed the money put into education was not sufficient to cover the increases of items over which you have no control, you know, utilities, and as we know, this year the price of gas with our buses and any number of things. We recognize that increased money was put into education funding this year. However, because of the funding formula, we realized about half a percent increase. So I think the funding formula because of all the provisions in it, it affects every division differently. Certainly, we have not fared real well under it.

We did have a chance to talk to you and to Mr. Caldwell earlier when you were in Dauphin,

and we hope to continue this sort of communication and get you some specifics. However, when you look at the province as a whole and the funding formula as a whole, there is no easy answer, and I recognize your dilemma in that. Increased money into education, of course, is very important as we have seen the provincial portion of education being decreased relative to the local levy portion.

**Mr. Chairperson:** Thank you, Ms. Hudyma. The next presenter is Judy Eagle from Flin Flon School Division No. 46. Please proceed.

**Ms. Judy Eagle (Flin Flon School Division):** Thank you, Mr. Chair, honourable ministers and the members of this committee.

**Mr. Chairperson:** Excuse me. I am having trouble hearing you. Can you speak closer to the microphone?

**Ms. Eagle:** We will do it this way. Is that better?

**Mr. Chairperson:** Thank you.

\* (23:00)

**Ms. Eagle:** Just yell at him, he says. Thank you to Mr. Chair, honourable ministers and members of this committee. Flin Flon School Division No. 46 presents at this time to the Law Amendments review committee in order to express and register our opposition to Bill 42. We are pleased to have the opportunity to express our concerns, and we thank the Committee for this.

In general, Bill 42, if legislated in its current form, weights the bargaining process toward the teachers' union and will not promote reciprocal responsibility at the table—that is, collective bargaining in good faith—especially when the entire process can simply and easily be relegated to an arbitrator's decision, an arbitrator who may or may not possess accurate or adequate knowledge of a school system.

In general, arbitrators' decisions impact not only the school division involved at that particular point in collective bargaining, but all other divisions find themselves affected sooner or later by those same decisions when they approach the bargaining table.

In general, Bill 42 will also prevent Flin Flon School Division from retaining fundamental management rights in order to effectively deliver a quality education, which must be accomplished always by monetary vigilance of the costs in providing that education.

Specifically, Flin Flon School Division finds cause for concern in Bill 42 regarding the shift of responsibility and authority away from elected community representatives to the teachers' unions and arbitrators. As the board of trustees, we are in a position of public trust and responsibility, and, as such recognize that whenever we enter into a collective bargaining process with our local teachers' union, we essentially bargain on behalf of our taxpayers. While we seek to provide quality education to all students, we are also charged with fiscal responsibility to the local taxpayer, who is increasingly charged to pay the bill for that education.

In our division, staff salaries and benefits account for close to 80 percent of our division budget or, in actual dollars, almost \$9 million, certainly not an insignificant sum. Yet Bill 42 will predispose the collective bargaining process to be taken out of the hands of an elected board and turned over to someone outside of the local process, the local area, and the local ability to pay when the decision arrives.

Arbitrators are not elected by, and responsible to, local taxpayers, as most certainly as our school board is. Therefore, the bargaining process and the determination of its outcomes must remain where it rightfully belongs, in the local taxpayers' community, wherever possible.

Bill 42 gives Flin Flon School Division cause for concern in the removal of an arbitrator's obligation to consider a board's ability to pay when making determinations. Almost all decisions in a collective bargaining process, whether agreed or awarded, ultimately translate into monetary considerations. For example, duty-free lunch hours for teachers, scheduling of breaks and recesses, prep-time allowances or contract benefits.

Outcomes of negotiation, which translate into the financial picture of a division, usually

must be passed along to the taxpayer. The requirement of an arbitrator to consider the ability of a school division to pay represented a fairness to all, to everyone, even to teachers in the union, who are also local taxpayers for the most part. The ability to raise school taxes should not be considered synonymous with the ability to pay, and, with this, most taxpayers would agree.

Although the intentions of arbitrators must be respected and trusted by boards and teachers alike, Bill 42 opens wider the Pandora's box of negotiations, leaving a great uncertainty and a greater unknown when the attempt is made to peer into the future of bargaining, particularly when everything becomes negotiable. The stakes become that much higher. What will the qualifications be of an arbitrator then? Who will decide that? What role will school divisions hold in the fine tuning of this issue? Will arbitrators consist of individuals who have little or no experience with the actual management of a school system, with the actual education of students? If so, will decisions then made by these individuals be valid and relevant in that particular division?

Each school division vastly differs from another as evidenced by a closer look at those in the northern part of this province. Flin Flon School Division is considered to be north yet deals with different issues than Kelsey School Division, Mystery Lake School District, or any of the other five northern divisions. Southern Manitoba school divisions and districts may be and often are located side by side, but they experience also completely different issues and challenges. Yet one arbitrator's award anywhere in Manitoba will surface again at the bargaining tables of other divisions beginning negotiations. Past experience clearly shows that the precursory award will become the standard. Those of us who are elected trustees have need to be concerned about these possibilities which will arise from the enactment of Bill 42.

Flin Flon School Division sees cause for concern in the removal of section 126(2) from The Public Schools Act. This section listed items that were not referable for arbitration. All of these items pertain directly to management rights which are fundamentally necessary in

order to properly and effectively maintain educational standards for our students, specifically selection, appointment, assignment and transfer of principals and teachers, and the method for evaluating the performance. These are basic management rights whether it is government, school, corporation or whatever. Staffing schools in an educationally and cost-effective manner should never be rendered a negotiable item. It has always been and should remain in the domain of management, for it is management and not staff that naturally possesses the wider view of the division schools and their needs as well as its financial picture.

The current method of evaluation has also served well both management and staff, enabling positive results for the benefit of our students.

Flin Flon School Division serves notice of great concern regarding another section, another item of section 126(2), class size and composition. These factors do continue as an exclusion in Bill 42 but temporarily so in a transitional clause which calls for the appointment of a commission to consider whether a provincial policy should be established. We strongly urge that all school boards in this province be included in that investigation.

After the report of this commission, the section of The Public Schools Act excluding class size and composition from arbitration will be repealed, as it says. How can this sunset clause ensure objectivity in the commission's mandate when the end result is already decided? The obvious assumption is that the Committee's findings are a foregone conclusion which definitively compromises the status quo determination by that committee. Class size and composition again belong in the domain of management rights for the betterment of students and the good of taxpayers. In our division a reduction of one in pupil-teacher ratio would result in an additional cost to the division of approximately \$210,000 per year. Without increased provincial funding, local property taxes would have to be substantially increased to bear the financial load, an increase of approximately 8 percent to our local person, a distinctly possible scenario if class size and composition become arbitrable.

Another facet to this issue is the fact that principals, with the aid of their vice-principals, already control class size and composition within parameters of their own divisions and that principals and vice-principals are also teachers and part of the teacher's union. Principals are already responsible for the management of their schools, with the support of boards and superintendents, which allows for a compatible working relationship within the Division. For these reasons, Flin Flon School Division requests that class size and composition remain excluded from arbitration.

In summary, current legislation balances the rights of employer and employee by requiring that school boards act fairly in administering their policy, giving teachers the right to launch grievances under the collective agreement. Through the actions of liaison committees in divisions with teachers' unions, further understanding and good will have been developed, another aspect which cannot be negotiated. Bill 42, in its currently proposed form, presages inherently problematic times for all Manitobans, times which will and can detract from the most important part of all, the education and well-being of our students in the classrooms.

\* (23:10)

Flin Flon School Division urges careful consideration for the concerns expressed before the Committee today. Once again, we thank the Committee for this opportunity.

**Mr. Schuler:** I wanted to ask you, Judy, about the class size composition. It was a question that I actually had wanted to address to your association, MAST, during the presentation, but there seemed to be some individuals here who would rather see them moved out of this committee before we actually could deal with certain issues. I would like to ask you some questions in regard to that.

Usually, when a bill is introduced, it is a public policy statement that is there to address a problem that needs to be fixed. Do you feel that the classroom size in your school division is out of line? Is it necessary to address the problem with legislation because there is something

broken? Do you feel, again, that your classroom size is out of line, that we need this kind of legislation to deal with it?

**Ms. Eagle:** In my division, classroom size and composition are not out of line. I understand there may be other divisions that experience that sort of problem. In my division our average class size, in comparison to many others, is quite low. Our average class size is actually about 22 students to one teacher. That does not account for bumps that go through the system. We will have some classes that are 28, 29. When we reach a certain point, of course, we try to shift around for the sake of our students. There again we do that in consultation with our principal and our vice-principal if the school has a vice. As I said earlier, these people are teachers too. They are part of our teachers' union. It works well in my division. We do not see a problem so far.

**Mr. Caldwell:** I appreciate your presentation here this evening, Judy. I am happy to know that it did not take two hours for you to get here. I want to ask you a question just in general surrounding management rights as well. It is an issue that has been a recurring theme. I just am curious as to your view of the situation previous to 1996 when these things were arbitrable and post 1996 where these things were not arbitrable. Now the proposition is that we make them arbitrable again. It is a four-year period where these management rights have existed versus a forty-year period where they were not arbitrable. Perhaps you could give me some insight as to the experience in the Flin Flon School Division vis-à-vis what occurred in terms of labour-management relations, arbitrations, collective agreements previous to 1996 or at least in your experience perhaps maybe more, because obviously you were not there in the 1950s, but previous to your experience there in 1996 and post-1996. Do not tell me you were there in 1950s. You would be two years old.

**Ms. Eagle:** I will not tell you that. Prior to 1996, management rights in these particular items were not technically written down as management rights. That is my understanding, the research I have done. However, in our division and others as well from what I gather prior to 1996 when the local teachers' union and the local board sat at their negotiating table, their bargaining table,

those things were simply not negotiable. It was stated, it was said, and that was it. So it was not written down. Technically, I suppose, you could say these things were arbitrable. They really were not. No management in their right mind would ever tell their employees what they could do in their classrooms or in their schools. Essentially, that would be what? Work to rule, probably. Those things were not arbitrable, and also, to my knowledge in my division, that was not a problem. It was known that that was the way it was. When you are an employee, you have rights, but you only have rights to a certain point. You do not have the right to say how many teachers the Division will employ. You do not have the right to say this child will be in my classroom, but that one will not, because that one is in a wheelchair.

So in 1996, it was written down, the same as ability to pay. That may always be taken into consideration, but I guess it never hurts to write things down and everybody is clear.

**Mrs. Smith:** I am going to defer to Mr. Schuler.

**Mr. Chairperson:** Mr. Faurschou is next.

**Mrs. Smith:** Oh, sorry.

**Mr. Schuler:** Thank you. Back to Judy, in your discussions with MAST, in your discussions with the Minister, can you tell this committee, seeing as the presentations seem to come forward, and division after division says: Well, actually we have reasonable classroom size; we have reasonable classroom size. What is it that brought forward this classroom size composition? What problem do you feel the Government is trying to address, seeing as there does not seem to be a problem, yet the Government seems to be bent and determined to put forward this particular part of the act? In your discussions what is it that brought that on, in your opinion?

**Ms. Eagle:** Why is the Government trying to do this? Is that what you are asking? I have no idea because I do not know how really this government thinks.

**Mr. Chairperson:** Thank you, Ms. Eagle. The next presentation is from John Pshebniski, Duck

Mountain School Division No. 34. Please proceed, sir.

**Mr. John Pshebniski (Superintendent, Duck Mountain School Division):** Mr. Minister and members of the committee. I would just like to thank you for having the opportunity in expressing our concerns and views on Bill 42. I represent a very small school division, a school division that really has a lot of concerns with respect to the implementation of Bill 42.

The Duck Mountain School Division Board of Trustees compliments the Minister of Education on the visionary and child-centred focus: the need for a strong public education system; education is to serve the diverse needs of children in Manitoba; emphasis on the democratic process whereby local school boards play an important role in responding to local needs; identifying the significance of the partnership that exists between the Province of Manitoba and local school boards in sharing the responsibility for financing of public schools. It is rather unfortunate that the intent and the implications of Bill 42 are not congruent with the views expressed in the introductory preamble. Consequently, the Board of Trustees, as democratically elected representatives of the taxpayers in the Division, presents this opposition to the enactment of Bill 42.

The Duck Mountain School Division unanimously supports the Manitoba Association of School Trustees and the Manitoba Association of School Superintendents in their opposition to Bill 42, strongly supports the existing Public Schools Act, and also supports all of those speakers that are presenting here this evening.

Furthermore, the hurried enactment of Bill 42 hinders the local officials in adequately preparing for a thorough submission to the Law Amendments review committee, as we were not notified until, I believe the 14th of July, and with many people on holidays, time was of the essence here. There was little opportunity to attain a proper understanding of such comprehensive legislation as The Labour Relations Act. It appears the interest of teachers are favoured over that of children and the local

school boards, as was mentioned in the preamble.

\* (23:20)

The Board of Trustees of Duck Mountain School Division firmly believes that Bill 42 compromises the responsible roles local elected officials play in the implementation of prudent fiscal management. It produces a diminishing role of school boards in the partnership identified in the preamble. It suggests the Minister's decreasing level of confidence in ability of locally elected trustees to manage resources efficiently. It will erode the existing positive relations that exist certainly between our school board and their employees. It moves Manitoba teachers farther away from the professional status they were seeking and are aspiring to.

In the definition of teachers, with respect to specific sections of Bill 42, there is a need to clarify the definition of "teacher." Does this include any employee who holds a teaching certificate, but may not be hired or employed as a teacher? For instance, instructional assistants holding a valid teaching certificate, to which bargaining unit do they belong? Will they be entitled to the benefits of the teachers' collective agreement? The Public Schools Act definition of a teacher is preferable, since it specifically includes teachers and those hired under a Form 2 or a Form 2(a) contract.

The definition of "unit" in articles 97(1), 98(2). This section presents contradiction and confusion. A unit that includes a principal or a vice-principal with other teachers is deemed to be a unit appropriate for collective bargaining. Will a unit appropriate for collective bargaining consist of a principal of a school and his or her staff? What are the administrative and financial implications if this were to occur? The principal or vice-principal are deemed to be employees under The Labour Relations Act. What effect will this have on the principal's mandate as an administrator to manage school in the best interests of children?

Arbitration rulings may severely and negatively impact on the assignment and transfer of employees. What impact will this have on the

principal's role as an evaluator of teacher performance? Since evaluation is intended to cause improvement or provide teachers with feedback, I believe it serves the best interests of children. Consequently, the principal's role, as included under The Labour Relations Act, would compromise the rights to manage effectively.

The arbitrator's ruling on selection assignment and transfer of teachers. Elected school boards are responsible and accountable to parents and the general public. Bill 42 implies that selection, assignment and transfer of teachers are arbitrable items or may be. How can arbitrators consider the diverse needs of children? How can they rule with little understanding of local needs? School divisions consult with administration, staff and parents prior to making these responsible decisions. Bill 42 removes this flexibility and access to local needs and concerns.

Enactment of Bill 42 already excludes responsible local decision making. The potential exists for arbitrator's rulings to play havoc with school division fiscal management and effective and responsible administration of schools.

I have a real concern with failure to comply. Failure of a school board to act fairly may be the subject of a grievance. This presents opportunities for countless grievances respecting school board policy, administration and the management of schools. Presently harmonious relations exist between school boards and their employees whereby mutual agreements are reached through discussion, consultation, collaboration and frequently used liaison procedures. Local issues are settled through responsible dialogue where a thorough understanding of all aspects of school division management receive consideration. In all cases the best interests of children are the focus of discussions and resolution. External arbitration of such issues will not result from consideration and understanding of the local needs and local resources. Enactment of Bill 42 will lead to erosion of the consultation and the shared partnership. The best interests of children will be compromised in favour of the employee.

Class size and composition commission. Although section 104 states that class size and

composition are not arbitrable, sections 104(2) and 104(3) respecting compliance to act fairly place school division management policies in conflict with teachers and may be grievable. This produces a shift in decision-making responsibilities regarding class size and composition from the board and school administrators. It appears that provincial policy or arbitrator's rulings will govern class size and composition issues in Manitoba.

Hearings and consultation processes identified exclude principals, vice-principals, and superintendents from presenting their views on class size and composition. This removes the opportunity to acquire experience and expertise from personnel charged with the responsibility of class formation and composition for many years. Such information would prove to be invaluable to the commission.

Should commission recommendations include a provincial policy on class size and composition, and should such recommendation formulate legislation on class size and composition, the financial implications on small school divisions, especially those with lower assessments, would be seriously prohibitive.

The Minister must be recognized for excluding strike and lockout as an option in the negotiating process. Manitoba's schoolchildren will not experience class disruption as a consequence of labour disputes. We encourage the Minister to direct a greater emphasis on mediation and conciliation as this facilitates dialogue, discussion, and maintenance of positive relations between school boards and their teachers. True partnerships are a result of collaboration at the local level.

If we are to continue our efforts to enhance learning experiences of Manitoba children, we must retain the current negotiation process provided in The Public Schools Act.

We want to thank you for giving us the opportunity to present our views to the Law Amendments review committee. Thank you.

**Mr. Chairperson:** Thank you, sir. Perhaps you could help me with the correct pronunciation of your name.

**Mr. Pshebniski:** Oh, I knew. I just waited for this. Pshebniski—stroke out the P and the rest is phonetic.

**Mr. Chairperson:** Okay. Thank you.

**Mr. Schuler:** John, I spoke with or I asked Judy, who is from the Flin Flon School Division, in regard to classroom size and composition. I would like to ask you the same question: Do you feel that the classroom size of Duck Mountain School Division is out of line? Do you believe that this is an issue that should be dealt with by legislation? Do you feel that this is something that should be brought down from the Minister's office? Do you feel that this is an issue that had to be dealt with? As I asked the other presenter, what was broken that had to be fixed here?

**Mr. Pshebniski:** In our situation, I do not think classroom size is a problem in our area. Because we are in a declining enrolment position, our classroom sizes, I think, are very respectable in terms of being able to offer services. So I do not think that that is something that needs to be settled through provincial legislation. I think it is something that works best at the local level. I believe we have a very good relationship with our teachers. They understand that if our classroom size got much lower, the possibility of their jobs being there in the immediate future, I do not think that would exist.

**Mr. Caldwell:** Thank you, Mr. Pshebniski, for the thoughtful brief from the perspective of Duck Mountain. I commented to the Member for Russell, I knew that if the first sentence said Duck Mountain School Division Board of Trustees compliments the Minister of Education on a visionary and child-centred focus, I was going to get kicks eventually. So I am happy that that was the first line, and I thank you for that.

I just want to make mention of one of the sections of your brief. It corresponds somewhat to the initial question asked by my colleague the Member for Springfield with regard to class size and composition, the commission surrounding that issue, and that indeed the commission does have full scope within which to discuss this in full public consultation.

\* (23:30)

What I want to address with you, sir, was the comment that the hearings and consultation process, as identified, exclude principals, vice-principals and superintendents from presenting their views on class size and composition. That is not accurate. I know why the misconception was there, because MAST and MTS have been consulted about the composition of the commission, but our intent is fully to have an open, public discourse. I think you are exactly right, that some of the best advice on that issue, and reasonably so, can come from the superintendents, principals, and those in the public school system that are directly responsible for the issue of class size and composition. So I want to assure you, Mr. Pshebniski, that the advice of principals, vice-principals, superintendents will indeed be sought most vigorously.

**Mrs. Smith:** Thank you for your presentation, John, I appreciated it. I thought you again had some very insightful comments, although we have heard these comments throughout the evening.

My question to you is: Were you surprised that a bill of this importance and magnitude was put together at this time of the year, and did you have any trouble getting the time to come here this evening?

**Mr. Pshebniski:** I guess we were all surprised in our division. First of all, I was on holidays and so were a lot of the board members. I am planning to drive back tonight. I felt it was important to be here. My wife is waiting in my car, I think. I hope she has not left me. I might be looking for a ride. But, yes, we were surprised. But we did get some communication from MASS and MAST, and my secretary-treasurer informed me that this was happening. I believe on the 17th of July I was notified by someone from this building that I had to appear on the 25th.

**Mr. Derkach:** Pass. Thank you for the presentation.

**Mr. Chairperson:** The next presentation is by Sandra Williams, Souris Valley School Division No. 42. Is Ms. Williams here? Ms. Williams? Next is Cindy Smart, Chair of Boundaries

School Division No. 16. Ms Smart? The attendant is going to check the hallway. The next name is No. 28, Hilda Froese, Chair of Garden Valley School Division. Are you presenting on her behalf, sir?

**Mr. Gerald Thiessen (Vice-Chairperson, Board of Trustees, Garden Valley School Division):** Yes. Mrs. Froese cannot be here so I am presenting on her behalf.

**Mr. Chairperson:** Is there leave of the Committee to have a substitute presenter? [Agreed] Your name, sir.

**Mr. Thiessen:** Gerald Thiessen, Vice-Chair of the Garden Valley School Division.

**Mr. Chairperson:** Please proceed, Mr. Thiessen.

**Mr. Thiessen:** If it pleases the Committee, I would like to ask Mr. John Janzen, the Superintendent of Garden Valley School Division to be able to assist me with questions.

**Mr. Chairperson:** Could you repeat the name, please.

**Mr. Thiessen:** Mr. John Janzen.

**Mr. Chairperson:** Mr. Janzen. Yes. Is there leave for Mr. Janzen to assist? [Agreed]

**Mr. Thiessen:** Mr. Chair, Honourable Minister, ladies and gentlemen of the Committee, the Board of Trustees of the Garden Valley School Division thanks the review committee for the opportunity to present a response to the proposed legislation included in Bill 42. We trust that our presentation will be considered positively and result in final legislation that provides the best educational opportunity for the students of Manitoba within the parameters of our available human and material resource.

Our presentation was developed before seeing the actual legislation surrounding Bill 42 and represents our fundamental principles and positions. After studying Bill 42, we remain committed to these positions and recognize that Bill 42 does not adequately represent these principles and in some fundamental areas clearly

undermines the mandate of local school boards to govern responsibly and reflect the wishes of the electorate and community.

Garden Valley School Division strives to facilitate positive and caring relationships in all of the human interactions involved in providing quality learning and teaching. The school board has been elected to represent the divisional community of learning in the responsible management of all of the available resources. Recent legislative changes have redefined and clarified the collective bargaining process for teachers. These recent changes have not been given enough time to be fully integrated into the bargaining process. Any changes or deletions at this time would certainly be hasty and ill conceived. A change of government is not a mandate to suddenly and radically alter the collective bargaining process that has been established with extensive consultation over a longer period of time.

The local school boards, municipal and town councils, and the provincial governments are all duly elected to govern in a participatory and consultative democratic fashion. School boards are specifically mandated by the Province of Manitoba to manage resources in a fiscally responsible and accountable manner. We appreciate your commitment to consultation with MAST and other key stakeholders involved in this issue. All the stakeholders acting on behalf of the students in Manitoba have a significant interest in managing resources effectively.

The essential basic principles governing teachers' collective bargaining that represents our fundamental principles are duly elected school boards responsible to the electorate need to have the accompanying authority for management and responsible decision making. Specifically, management matters of selection, appointment, assignment, and transfer of teachers, performance evaluations, class size and schedules are already grievable if they violate divisional or provincial policy. They should not be arbitrable.

These board responsibilities are inherently included in the mandate that:

1. Every school board shall provide or make provision for education in grades 1 to 12 for all residents: section 41 of The Public Schools Act.

2. School boards are currently obligated to act reasonably, fairly, and in good faith in administering policies and practices related to matters described in subsection 126(2). This clause already provides for substantial balance.

3. The factors to be considered by an arbitrator in making the final arbitration ruling need to be all-inclusive. The very definition of the arbitration process requires a complete review of all of the contributing factors, including ability to pay. Section 129(3) delineates these factors and should be retained.

4. The combined unity of mediation and arbitration needs to be preserved because it promotes effective, responsible, and cost-effective dispute resolution. The benefits of the new process were already becoming evident in the province during the last round of bargaining. MAST statistics show positive outcomes through mediation with few cases proceeding to binding arbitration.

5. Garden Valley does not support strike-lockout as a final dispute resolution mechanism unless the present dispute resolution process is altered. The present mediation arbitration process is an effective mechanism.

It might be tempting for the Government to take the perceived best features of the present system and discard the feared worst features to create a better process by this pick-and-choose method. However, over a long period of time, with effective and thorough consultation, the present system has developed and provided positive outcomes. The whole collective bargaining process may need to be looked at after giving the new legislation an opportunity to work, but hasty reactionary changes will negatively impact the collective bargaining process and, in turn, also negatively affect students and teacher.

\* (23:40)

Our final request is for enabling legislation to provide local school boards with the commensurate authority to provide the best education opportunities with the limited resources available. Hopefully, we do not need

to reinvent the wheel and will be able to resolve this issue reasonably, fairly, and in good faith.

Thank you for considering the position of the board of trustees from Garden Valley School Division. Let me again thank you for considering our position alongside the other positions from the primary stakeholders in education and assure you that we expect enabling legislation to promote the best for our children, our community of learning and our future. Our board and senior administration will be available for further dialogue, a first-hand tour of our exceptional schools, or additional background information. All the best as you incorporate our presentation in your final legislation.

**Mr. Chairperson:** Thank you, Mr. Thiessen.

**Mrs. Smith:** I especially liked the fact that, in talking in your presentation this evening, you included the students and the teachers. Your statement was the negative effect it could have on students and teachers.

Can you tell me: Were you contacted at all prior to learning about Bill 42? Did you have any chance at all to talk with your teachers at the local level and dialogue about Bill 42, or did you have a chance to dialogue with the government officials prior to learning about Bill 42?

**Mr. Thiessen:** We had very little opportunity because we were not sure exactly what was going to come forth in Bill 42. So we were not sure where we were supposed to go with it.

**Ms. Barrett:** I am pleased to be sitting here in place of the Minister of Education for a moment. I wanted to ask you a question. You talked, as others have spoken, about the mediation and arbitration procedures. I am wondering if you are aware that there is a provision in Bill 42 for conciliation and mediation under The Labour Relations Act, that it has been removed from The Public Schools Act and moved over to The Labour Relations Act. I am wondering if you are aware that conciliation is now an option because it has been moved into The Labour Relations Act.

**Mr. Thiessen:** We are aware that it is an option. We are concerned about what is all arbitrable as to what was arbitrable before. It takes a lot out of our own hands in the negotiation process if it becomes arbitrable.

**Mr. Chairperson:** Thank you for your presentation, sir. Mr. Derkach.

**Mr. Derkach:** The hour being quarter to 12 midnight, there are presenters here who have expressed whether or not they will be heard tonight or whether they should go home and come back for presentation tomorrow. I am not suggesting that we should close the Committee now. I am suggesting that we are hearing out-of-town presenters right now. But there are some in-town presenters who are here, and if we are not going to hear them tonight, we should at least allow them to go home and get some rest.

**Mr. Chairperson:** Thank you, Mr. Derkach. I was going to make that announcement, and I forgot. So I appreciate the reminder. We had agreed earlier this evening that we will hear all of the out-of-town presenters tonight. We will then ask if anyone from in town wishes to present tonight. They will be given the opportunity. Others can come back tomorrow night. The Committee will meet at 6:30. I believe that is the will of the Committee, that people should feel free to come back tomorrow.

**Mr. Derkach:** My question to you, sir, is: If anybody who has a presentation wishes to go home tonight, they may do so and come back tomorrow and still be allowed to present tomorrow evening?

**Mr. Chairperson:** That is correct.

I would like to call on Maxine Plesiuk from the R.M. of Ethelbert. Is she still here? We are going to check the hallway.

While we are waiting, we have identified another out-of-town presenter. Number 42, Mr. Vigier from Notre Dame, will be considered an out-of-town presenter. Not now. Sorry.

We are looking for Betty Green, Chair of Lakeshore School Division #23. Is Betty Green here? No Betty Green.

The next name, No. 31, Mr. Peter Wohlgemut, Rhineland Teachers' Association. Please proceed, sir.

**Mr. Peter Wohlgemut (Rhineland Teachers' Association):** Mr. Chair, Mr. Minister, honourable members, and ladies and gentlemen, my name is Peter Wohlegemut. I am presenting to you this evening on behalf of the teachers of the Rhineland Teachers' Association, which has approximately 110 members who teach in and around Altona in southern Manitoba. I am currently past president of that association.

I would like to begin with a few bouquets. First, thank you for the opportunity to give a presentation regarding Bill 42. We believe that Bill 42 will improve teacher bargaining in Manitoba and does take steps to return us to a more level playing field for bargaining, a welcome change from our present situation.

We are also pleased to see that lockouts and strikes are not to be options in our bargaining process. We are proud of the 40 years of uninterrupted service we have provided to the students of Rhineland, and the positive relationship this has facilitated with our community. We are also glad that the interests of students and parents cannot be used as bargaining chips in resolving disputes between us and our board.

Bill 42 also brings us closer to being treated like other divisional and municipal employees in our area in regard to bargaining. It is heartening to see that elements of The Labour Relations Act would be included in The Public Schools Act, bringing us back, at least in concept, to the historic agreement reached in 1956 between trustees, the government, and teachers. Of course, The Labour Relations Act has been substantially updated since that time, something which has not happened with The Public Schools Act.

In going through this bill, I did find it somewhat awkward to flip back and forth and try and figure out which pieces conflicted and which did not. I also found the preamble somewhat hard to follow in places. I mention these two points because my impression is that an effort has been made here to come up with a

compromise that the various parties can live with. However, if the language and the intent are not clear and precise, these same parties will spend a lot of time arguing over legislative interpretation rather than dealing with the actual bargaining issues. I hope that efforts are being made to make Bill 42 clear in language and in intent so that once passed it will stand the test of time, which I sincerely hope it will have the opportunity to do.

The bargaining pieces of The Public Schools Act, as I mentioned, went virtually untouched for 40 years, while The Labour Relations Act was regularly updated. Linking the two is a big step forward for teachers, as it will ensure that we are treated like other employees across the province. We are not seeking special treatment; we are seeking fair treatment.

As for concerns, I mentioned earlier that the bargaining elements of The Public Schools Act went virtually untouched for 40 years, up until Bill 72. That piece of legislation restricted what we could take to arbitration. For Rhineland, on the surface that did not change much. As teachers, though, we were very aware that we had gone from a situation where we could take various working conditions to the table for discussion to a situation where we could take those items to the table only if the board was willing to discuss them. We went from going to the table as equals to one where the trustees held most of the cards. We worked very hard at maintaining a positive relationship with our board so that discussions could continue. We were quite successful because of efforts on both sides. The problem was that both sides knew that the trustees could shut down discussion on certain topics at any time, knowing we could not take them to arbitration.

Teacher working conditions are student learning conditions, which has been said several times. We believe that in the interests of students as well as teachers we need to be able to bring all working conditions to the bargaining table for discussion. In fact, we need to have the option of taking issues of working conditions to arbitration if necessary so that we can protect the interests of the students in our classrooms as well as our own interests in the event a school board is blind to those interests, for whatever reason.

\* (23:50)

While Bill 42 goes a long way towards opening up bargaining again, teachers will still not have open scope bargaining. Class size was one of the excluded areas that Bill 72 brought into The Public Schools Act. That was not there before. This bill expands that particular exclusion to include class composition, which is not only a concern, it is somewhat alarming. These are two very important issues to my colleagues in Rhineland. I would like to give two examples that I am familiar with.

Several years ago I taught a boys physical education class at Parkside Junior High in Altona. One of my Grade 7 classes had 32 boys. One of them was a Down's syndrome boy who did not have an educational assistant during that class unless one happened to be freed up somewhere else in the system, which was seldom, and I could never count on it. That class was very frustrating. The number of students made for a very full gym and for many sports made it very difficult to keep every student active throughout the class, which was one of the best ways to keep discipline problems down, of course.

In terms of class composition, the Down's syndrome fellow needed help developing his gross motor skills, things like catching and throwing and even basic running and that sort of thing. With 31 other boys who needed monitoring and supervision, I could devote very little time to his particular needs, despite his willingness and his efforts to try. Fortunately some of the other boys in the class were willing to help him work on these skills and were very good at trying to include him in class as much as possible. At the same time, I was acutely aware that the size and the composition of that class compromised the educational quality of it. I felt that I was not able to meet all of the needs present as effectively as I could.

The second example I would like to give, my son, who was in Grade 2 last year, spent his afternoons in a split Grade 2-3 class with 32 students. As parents, my wife and I felt that this was far from ideal, though, to their credit, the staff worked very hard to provide an effective program. Due largely to parental pressure,

Rhineland has tried to keep class numbers in the low- to mid-20s as much as possible, which has kept this issue off the bargaining table in Rhineland for the most part. Legislating it off the table would inhibit discussion of class size and composition were it ever to be brought to the table for whatever reason.

These are important issues to the teachers of Rhineland. Our responsibility is to teach and to foster a positive learning environment. Who is in our class and how many students there are have a huge impact on our teaching and on the learning environment. As it is currently written, Bill 42 will prevent these issues being arbitrable for up to three years while a commission examines them, again, putting the cards solely in the hands of the trustees in these areas. This will make it impossible for us to have these issues addressed in bargaining if a board is unwilling to discuss them.

At the very least we need to have a closer fixed date after which these issues become arbitrable. At best they should be arbitrable now while the commission does its work, if a commission is deemed to be necessary. This would give us open-scope bargaining and would also provide a commission with a wealth of detail and information in the form of briefs from both trustees and teachers. The fact is that we are the experts on class size and composition. We deal with it every day, every teaching day of our career. Teachers should be able to sit down as equals with trustees and discuss these two issues. Further, if necessary, we should have the option of submitting our case to an arbitrator for a resolution.

One claim that was propounded even before this bill was brought forward is that giving teachers open scope bargaining and binding arbitration without an ability to pay clause will lead to skyrocketing property taxes. Frankly, this is misleading and offensive. Property taxes did rise prior to Bill 72, not because of arbitration, but as has been mentioned several times, because of cuts in funding from the province, which forced local boards to make up the difference so they could maintain the quality of education that our community expects. Taxes were linked to funding, not directly to bargaining. If there were a direct link to the

bargaining legislation, then why have not boards and municipalities complained in the past about the fact that all of their other employees bargain under The Labour Relations Act. Such claims are blatant scare tactics. They are designed to shift attention from the real issues here and kill this bill. If arbitration and open scope bargaining did not result in sky-high property taxes before, why would they now?

Speaking once again of lockouts and strikes, upon reading through Bill 42 I was struck by the very high penalties to be put in place but also by the lack of definition of strike and lockout. This concerns me because, as I mentioned earlier, the language of this bill must be clear in order to stand the test of time. What exactly is a strike or a lockout?

As teachers we do not have clearly defined hours, which has been an issue in our division this past year, and has caused some hard feelings in various places. Student contact time varies from under five hours a day to over six hours a day. Extracurricular involvement varies these numbers even more. If you are involved in tournaments, music trips, drama activities, it can take those numbers up to twelve hours a day or more. Trips like the language trip a friend of mine at the high school organized for her French students results in a virtual 24-hour duty.

Extracurricular activities are part of what many teachers choose to do. Now, if a teacher declines to coach or direct a play, could they be accused of being on strike for part of the day? On the other hand, I still hear colleagues refer with disgust to Filmon Fridays, which many of us saw as a government-sanctioned lockout. We need clear definitions, especially in light of the steep penalties.

We also have a concern regarding the preamble to this bill. Bill 72 addressed the financial side of bargaining by binding arbitrators to a division's ability to pay, which was in fact defined by the trustees themselves in the budget process. Bill 42 has instead the vague statement that it is in the public interest to further harmonious relations between teachers and their employers through a process of collective bargaining consistent with the

principle that resources must be managed efficiently and effectively.

While this seems to be somewhat of an improvement, what does it actually mean? I am not clear here. Who decides what is efficient and effective use of resources? How does the quality of instruction fit into this equation? I suspect that many trustees would argue that this is simply a watered down version of Bill 72's ability to pay. The fact is we are not a business turning out widgets. We are teaching students what they need to know in order to be lifelong learners, as our divisional mission statement states. Managing resources efficiently and effectively to me sounds suspiciously like the rationalizations used to back the recent downsizing we have seen in so many industries.

Arbitrators have always considered the real ability to pay. Both teachers and trustees brought forward economic information to back up their position. If boards were unable to convince arbitrators that they could not afford a working condition, either they made a poor case against it or the economic factors did not support their position. Real ability to pay is far more complex than what we have currently in legislation.

In summary, Bill 42 is a big step in the right direction. It will make teacher bargaining far more fair than it was and goes a long way towards redressing the bargaining imbalances created by the previous government. It does not give teachers a blank cheque, but it does force trustees to treat teachers like they already treat their other employees in terms of bargaining rights while preventing the use of students as bargaining chips.

We would like to thank the Government for doing what it said it would way back in 1996 when Bill 72 was brought in and what they repeated they would do right up until this bill was brought forward.

I would also like to thank each one of you for your time and for listening to the concerns of the teachers of the Rhineland Teachers' Association. Thank you.

**Mr. Caldwell:** Thank you, Peter, for the presentation on behalf of the Rhineland

Teachers' Association. I just want to comment about the ability to pay issue. I know that you understand that ability to pay has been used by arbitrators long before 1994 and has been used by arbitrators post 1994. If I could get your view, being that the decisions about ability to pay and the language about ability to pay both predate Bill 72 and post-date Bill 72, if you have any views on why that clause was implemented in the first place if it was essentially meaningless.

\* (24:00)

**Mr. Wohlgemut:** I do not think it was meaningless when it was put in, because what it did, as I mentioned, boards basically defined their ability to pay during the budget process, which happened prior to negotiations under the guidelines or the time lines given in Bill 72. Basically what you had was a board saying: This is what we are going to pay. This is what we have budgeted. If it goes to arbitration, the arbitrator was then bound by the budget that had already been established.

I know it is not in favour; people do not like it. The term or the phrase "willingness to pay" has been used quite a bit. In fact that is what it was, no matter how much people dislike that phrase. When you set what you are going to pay ahead of time and then an arbitrator is bound by that, what is that other than willingness to pay?

**Mrs. Smith:** I thank you for your presentation. I taught for 22 years, and I can relate to a lot of the things you were saying. One concern I do have, quite frankly, is for the teachers. You heard the presentations tonight, and that is what we have heard for months. So you can understand the concern that we do have. I do not want it to backlash on teachers. I do not want to see teacher cutbacks because there is not enough money to go around.

Have you thought about this or do you think it is a concern? You mentioned you had a differing opinion from the other presentations tonight. Correct me if I am wrong, but you felt the ability to pay, as I understand what you just said, was based on not really facts but what the trustees said was available to pay. Am I correct in that?

In view of that, this is the concern that we have. This side of the House is very supportive of teachers. I know what it has been like. We have had to put new curriculums in, testing standards. I have thought for a long time that we need to work very strongly in collaboration with teachers. I want to be very, very careful so teachers are supported and respected. Have you put any thought into two years down the road, or do you feel as if, no, this is definitely not a pitfall, that things will work out and teachers will not be cut back due to fiscal constraints? If you feel that way, where do you get the information? Help me out.

**Mr. Wohlgemut:** Sure. What we are looking at now basically is a bill that is looking at bargaining. The questions that you have raised I think relate more directly to funding, how school boards are funded or how school divisions are funded, where that funding comes from and so on. That I think is a very different issue.

I would hate to see teachers being held hostage in terms of our bargaining in order to try and protect jobs down the road. I do not think that that is at all appropriate. In some ways, quite frankly, I feel that that is what has been happening. Right now what we are looking at is a bill that I think and our teachers think will make a big difference in our bargaining. It will level the playing field that was severely tilted by Bill 72. The funding issue I think is one that this government has said it needs to look at and we will be looking at. I think that that is a separate issue but certainly is one that needs to be looked at.

**Mr. Faurschou:** I really appreciate your effort to be here this evening and some of the situations to which you alluded earlier. I am certain as a trustee in my past life before coming here I would have very much appreciated knowing about the situations that you describe here. Certainly I for one would have wanted to deal with that, because a learning environment is very critical to the proficiency not only as a teacher but as a learning environment for the student.

There is one statement here that you say that you, representative of Rhineland, wanted to be treated like all other employees across the

province and you are not seeking special treatment. Well, that rings music to my ears, insofar as not asking for special treatment. So similar contractual negotiations, essentially similar to CUPE, is what you are asking for.

In the case of an arbitrator, it has been raised here earlier, a number of situations which you have alluded to would require an arbitrator of immense knowledge and experience related to education. My question to you this evening is: Are you specifically stating that arbitrators should in fact have a very narrowed parameter then and certainly possess the skills and knowledge of education prior to being considered as an arbitrator in these conditions?

**Mr. Wohlgemut:** Not being familiar with or knowing many of our arbitrators very well at this point, it is a little hard to answer the question in terms of what we already have. But I think part of the job of the teachers and the trustees that go to an arbitration is to inform the arbitrator, whoever they are, and give them the background information that they need to reach a reasonable and fair decision. I think the onus is on both the trustees and the teachers to provide that information so that the arbitrator can do that and can do their job. In other jurisdictions, in other provinces teachers get their working conditions and others through strike-lockout. As I have mentioned, we do not want that, because quite frankly I think that holds students and parents as bargaining chips. Our arbitration process is the way we resolve those disputes instead of strike-lockout.

**Mr. Chairperson:** Thank you, sir. The next presentation is Mr. Ron Friesen, Garden Valley Teachers' Association.

**Mr. Ron Friesen (President, Garden Valley Teachers' Association):** Mr. Minister, Mr. Chairman, committee members, thank you for this opportunity to address you on the matter of Bill 42. Various parties have a significant interest in Bill 42 and what it represents, and I commend you for inviting our points of view. Tonight we have heard so far largely what sounds like a definitive story on one side. I submit that there is another side to consider.

I am Ron Friesen. I am currently serving as the President of the Garden Valley Teachers'

Association. Our association has about 160 teachers and about 2740 students. You are in the process of repealing Bill 72. For that too I commend you. Bill 72 was demoralizing to teachers and so ultimately hurtful to good education in Manitoba.

A collective agreement deals with working conditions. This bill excluded the possibility of negotiating class size, teacher evaluation, lunch and recess timing, and transfers. As well, it imposed an artificial limit to wage settlements.

Bill 42 is encouraging for a number of reasons. The preamble of Bill 42 identifies points that if realized will foster stability in education. My presentation will in particular relate to the last three items in the preamble: that education needs competent and committed people; that administration and teachers working well as partners will be effective as educators; and that the financing of public education is a shared responsibility of the province and the school divisions. Support for and concern over Bill 42 includes in particular management prerogative and cost. It is to these two items that I want to speak.

I am pleased that binding arbitration is being restored. I think our friends the trustees are protesting too much here. Is it a matter of decision-making authority or is it a matter of working together? If we are going to work as partners, what better model than arbitration is there for settling disputes? What kind of arbitration do we have if some key working conditions are precluded? Bill 42 at present excludes class size and class composition from negotiations. Yes, a commission is to be set up to investigate this, but I urge you not to exclude class size and composition. They both have to do integrally with working conditions for teachers and with an effective learning environment for students and for this reason belong to the negotiation process.

A comparison: a former student of mine is now flying as a pilot with an airline in Alberta. It is his company's prerogative to direct him where and when to fly, but when it comes to ensuring that he has sufficient fuel on board, that his plane is not overloaded, that his passengers will be safe, when it comes to these items, he is the

sole and undisputed captain. In a comparable way, should the teacher of a class not have some say over class size and composition? I submit that the size and composition of a class are not just an administrative consideration, but also an educational one. So it is reasonable that the teacher with the responsibility of teaching that class should have a voice concerning size and composition. I think it makes good sense that people most closely involved with education should be partners in a discussion over class size and composition.

\* (00:10)

Sometimes when I take in an assignment, I ask my students how much time I should take to mark it. If they say an hour and there are 30 students in class, they are surprised to note that that will allow me only two minutes per paper. It is easy to see that with a smaller class the same amount of time would give more time for each paper. Of course, similar time considerations apply to helping students individually. Bill 42 is a welcome improvement over Bill 72. I urge you to reconsider the items of class size and composition.

A second concern over Bill 42 is the cost that may be associated with some of the provisions. I am not going to pretend that there will be no additional costs, although I can hardly imagine that there would be a runaway acceleration in education costs. Since education is a service industry, we would expect that teacher salaries would comprise a major portion of school board budgets. However, it is certainly not the only cost factor.

I want to go on now with some observations about costs and raising the money. The last decade has taught us the imperative of restraint. I do not think there is any question of that. There is, however, a subtle difference between the presence of restraint and making restraint our program. For example, I do not think I have ever heard parents bragging about how little money they spent on their kids Christmas presents. I do know of parents who wish they could do more for their children. Is our mandate to run a program? Is our program to not spend money? I am not advocating spending money heedlessly. I am advocating running the best program

possible and seeking to cultivate a political and social will that supports it. Bill 42 I think is taking us in this direction.

Here is another consideration. The way trustees have to raise money locally is part of the problem. That highlighted strip on our tax assessment which identifies the part of the taxes going to education is not doing us any favours. What would happen if the taxpayer also learned from his or her tax bill that one kilometre of road building and paving may cost in excess of \$1 million, that one night of basic care in the hospital cost \$250?

The benefit of education extends to all, whether we have children in the school system or not. Our trustees are under tremendous pressure because of the way they have to raise the local part of education funding. Why is money for education raised in this way when it is not raised this way for health services, social welfare, or other services? I suggest that our trustees might have an easier time seeing the virtue of Bill 42 if they did not have to worry about the singling out of education costs on our tax bills.

I want teaching to be a reputable profession that is inviting and rewarding to competent, energetic, and committed people. Bill 42 will help the well-being of the teaching profession. Teaching reputedly is a lucrative profession with lots of time off. I thank Mr. Derkach for giving us a different take on that tonight.

Why is it that then we are facing a shortage of teachers? The profession needs working conditions and salaries that are inviting and competitive. These conditions need to apply whether we have a teacher shortage or not. Bill 42 should help significantly in our realizing these conditions.

Manitoba's public school system through the years has been a good assimilating agent and has sought to give equal opportunity to all. As the former premier said in our school, the most important investment any government can make is in the education of its children. It is in our collective interest to make and keep our public education strong and effective. Bill 42 can help achieve, I think, the principles stated in its

preamble. I appreciate your delivering this election promise. I thank you.

**Mr. Caldwell:** I will be very brief in my comment. Thank you, Mr. Friesen, for presenting this brief on behalf of the Garden Valley Teachers' Association. It is certainly a thoughtful brief and I think one that reflects in no small way your own personal commitment to education and providing a true role model for the children in your charge. I thank you for presenting the paper here this evening and speaking to the issues of respect for educators and the work that educators do in the province of Manitoba. I just wanted to thank you for that.

**Mr. Faurschou:** Once again, Mr. Friesen, thank you for coming out this evening and a long trek which you have had. Just in regard to the second-last paragraph. You state that you would like to see it a reputable profession inviting rewarding, competent, energetic, and committed people. That is almost verbatim what the Scurfield report stated in its review of how in fact teachers are classified. Are you, as the teachers' association, supportive of that report?

**Mr. Friesen:** Of the Scurfield report? I am not sure that I am that familiar with the report. What specific part are you talking about?

**Mr. Faurschou:** It takes recognition of those teachers that have dedicated themselves and shown themselves to be effectively progressing in their profession. In that way, then, those are the premises for advancement for increments and improved pay, remuneration, based on those recognized proficiencies.

**Mr. Friesen:** We were not in favour of those particular types of components of the Scurfield report. We took some exception to them. In terms of supporting teachers as a reputable profession, yes, we would be supportive.

**Mrs. Smith:** Thank you very much for your presentation. You sound like a very energetic and involved teacher. I was interested in when AMM was talking about the task force they had on education taxes. I was very interested in what you had to say as well about new ways of putting monies into the education system. My question to you: Has the Teachers' Society or

some teacher organizations ever thought about approaching AMM to be a part of that task force on education taxes, because, you know, we can change our paradigms and look at things in new ways. I wondered if that might be something that you might be interested in.

**Mr. Friesen:** I am sorry. Which organization are we referring to?

**Mrs. Smith:** The Association of Manitoba Municipalities. Mr. Motheral gave a presentation and talked about a task force on education taxes, their partnering with the Manitoba Association of School Trustees, the City of Winnipeg, the Manitoba Municipal Administrators' Association, the Manitoba Association of School Business Officials, and the AMM. So what they are trying to do is look at new ways of raising money. I noticed that you also addressed that in a very insightful manner.

My concern, as I said earlier, is I do not want things to backlash on teachers and students. You heard the presentations tonight. You have seen the differences. I think teachers have the ability in most cases to work collaboratively, because that is what we do as a profession. I am wondering, did you ever think about becoming a part of that task force?

**Mr. Friesen:** Our local association is not involved with the municipal association in that particular way. We do have a member sitting on the local chamber of commerce so that there is a liaison that way, which is not quite to your question, but there is that sort of willingness. It is something we would like to pursue further. I would also mention, I think Mr. Caldwell mentioned at some point that the whole idea of the funding that would go into Bill 42 was linked to the economic welfare of Manitoba. So for example there is a sensitivity to what the province is experiencing economically in terms of what the teachers are talking about.

**Mr. Chairperson:** Thank you, Mr. Friesen. The next presentation is Mr. Bryan Hartley, President, Beautiful Plains Teacher's Association. Please proceed.

**Mr. Bryan Harley (President, Beautiful Plains Teachers' Association):** There must be a

spelling error in my name. It is Harley, as in the motorcycle.

**Mr. Chairperson:** My apologies.

**Mr. Harley:** No problem.

**Mr. Chairperson:** Go ahead.

**Mr. Harley:** Good evening. My name is Bryan Harley. I am the President of Beautiful Plains Teachers' Association. The approximately 110 teachers in my association teach 1740 students. I have been a teacher in the same division for 25 years.

I would like to take this opportunity to thank this panel for giving me the chance to speak on Bill 42. I recognize the efforts being made by this government to return fairness and democratic principles to teachers. Although I am not normally the kind of person who does this sort of thing, especially at twelve-twenty in the morning, I have grown so tired of the sad waste of energy on the part of good people as well as the waste of ingenuity which could otherwise be used to improve the lives of children that I felt that I must say something.

\* (00:20)

I am proud to be a teacher. I always have been. I decided I wanted to be a senior high English teacher when I was 15 years old and in grade 9. It was a long time ago. This was the result of having an attentive, caring, successful teacher at that time. I have always wanted to be and do the same. Every teacher I know is the same. Consequently, I find it extremely painful when trustees' organizations, municipalities, and even governments seem intent upon singling out teachers. I have never understood, no matter how hard I try, why these groups who are apparently elected to promote and deliver education would be so intent upon undermining, devaluing and dismantling it. A case in point would be Bill 72.

Teachers have for decades bargained in a fair and impartial way with arbitrators selected by both sides, and within most years most agreements being achieved through committee rather than through arbitration. This suggests to me that in the vast majority of cases both sides

agreed to the settlement. That is the essence of collective bargaining. Teachers only wish to maintain the opportunity to sit across the table from our employer, present the issues for discussion and resolution that will ultimately result in a freely arrived at agreement between both parties. Amendments in Bill 42 provide a broader scope for bargaining which will compel both sides to bargain openly. By bringing both parties to the table in an environment that will encourage them to discuss mutual education issues, employer-employee relations will benefit and, as a result, so will education.

Manitoba teachers have not contributed to exorbitant rises in taxes. It was the previous government which fooled trustees into blaming teachers for rising taxes while steadily decreasing funding to divisions, which directly caused increased property taxes. During their term, funding for public school education went from approximately 80 percent to the current, approximately, 60 percent. This downward shift in the commitment to fund public school education was passed on to school divisions. The school division response was to increase property taxes. Having said that, I believe, though, that in most rural communities most trustees wanted to be fooled by the previous government. It gave both groups the chance to restrict teachers' bargaining rights through Bill 72 and place the blame on those nasty old teachers.

The previous government, with MAST's encouragement, caught up in its own rhetoric and vindictiveness, pushed the pendulum too far. Since they cannot all be naive, they must know that pendulums swing back. I am suspicious, however, over their posturing over the current government's Bill 42. MAST a few weeks ago was advocating strike-lockout legislation for teachers at a single stroke, the most dangerous option possible. So, when that does not work, they cry once again taxes will go up. But they know that historically in Manitoba teachers have achieved no greater benefits than the rate of inflation, and are often years behind in benefits available in the private sector. Arbitrators choose what is fair and often rule in opposition to teacher demands, which establishes precedents, which takes years for teachers to overcome. Of course, it works both ways, but that is the point.

Over the long term, it is fair to both sides. But these are concepts which MAST apparently cannot understand.

Recently I received a letter from MAST president, Mr. Rey Toews. He mentions a case in which, and he referred to it earlier this evening, teachers decided against approving a negotiated settlement that is an agreement in committee in favour of arbitration. Mr. Toews seemed shocked by this. I see it as part of the negotiating process. Regularly, we read in the press of a private-sector negotiating committee being told by its members to go back to the table, that they are not happy with a proposed settlement. That is why they vote. It is called democracy. Apparently, teachers do not deserve the same democratic rights as other employees in Manitoba, at least according to Mr. Toews.

Although Bill 42 will restore some democracy to teachers, I believe that it does not go far enough. I understand that the current government is trying to achieve moderation in response to the extremism of the previous government. But I had wished that teachers would be placed under The Labour Relations Act. Lack of open-scope bargaining still treats teachers as second-class citizens. As long as I am unduly restricted in my bargaining rights in a way which is inferior to other employees' rights, I am being singled out for punishment, and I do not know why.

Class size is one issue which should be allowed in the scope of bargaining. In my own case as a senior high English teacher, my marking load is always a balancing act. I am not complaining about that part of it. Teaching in a semester system, I have a prep time and prep period in one semester, and with class sizes in the mid-20s, usually totaling 70 to 75 students, I can work effectively to achieve students' success. During the other semester, though, I have no prep time. With four classes numbering in the mid-20s, often totaling around 100 students, I could very easily reach overload. Something suffers.

I believe that I should be able to negotiate this situation with my employer in a free and impartial way. Perhaps more importantly I would like to raise the issue of class size in

primary schools. My wife is also a teacher. She teaches Grade 2. During this past year, she had a class of 26 students, 5 of whom had learning or behaviour difficulties far beyond the norm. She had no teacher's aide. The fact that this situation is not currently negotiable is horrible. Who can estimate the costs to the individual needs of all these students? This situation and hundreds of others like it should be negotiable. The health of teachers will provide healthy learning and strong children. Teachers' working conditions really are students' learning conditions. Privately, many will admit that they know this. I just wish that they had the integrity to admit it publicly.

One final example: In Beautiful Plains School Division—and there is a little error here; it should read the year before last—at an elementary school, 60 students were entering kindergarten. Parents petitioned the board of trustees to ask for three separate classes requiring the hiring of one half teacher. Approximate cost would be something like \$20,000. The benefits in the long term would be immeasurable compared to the financial cost, the costs to the futures of these children by having 30 students in each class, the loss of potential, the loss of love for learning. How can these things be measured? But the trustees voted to maintain two classes only. Situations like these are the cause of real costs to education. Teachers should have the right to negotiate, appeal and arbitrate situations such as these. Teachers should have the right to put students first.

*Mr. Vice-Chairperson in the Chair*

In conclusion, I would like to thank this government for its efforts to recognize teachers as employees with the right to fair treatment. I look forward to the passage of Bill 42 and a return to free bargaining in Manitoba. Thank you.

**Mr. Caldwell:** Thank you, Mr. Harley, for your presentation on behalf of the Beautiful Plains school association and yourself. I find it interesting to hear about personal experiences like yours and that of your wife. As I mentioned to Mr. Friesen before, it is very evident in the text of your presentation that indeed, as you say, you do take pride in being an educator. Certainly, I appreciate the good work that

teachers do in our public school system as well as the good work that trustees do. I found your remarks most refreshing. So thank you, sir, for that presentation.

**Mrs. Smith:** Yes, I concur with the Minister. I also thank you very much for your presentation. In hearing the concern that you have for the students and the class sizes in particular, I know at one point I talked to 33 Grade 9s. That was an interesting class, because I had 2 learning disabled. It was quite a mixture. Having said that, I also understand the feelings that all teachers have about the fact that they need their respect. We need to listen very carefully to what the class needs. There is no doubt about that.

\* (00:30)

However, you heard the presentations tonight as well, and there is another component I feel, as an educator, is missing. You know, it should not be a war between the public and teachers. We need to build partnerships. I think, looking at Bill 42 as much as—I do have some concerns due to the issues that were raised. I am wondering: Do you have any ideas on how we can bring the commitment on both sides together to finding ways of meeting the schools' needs? There has been a huge transfer payment brought in this year from Ottawa. I do not know what is going to happen next year. In the mix, there are a lot of variables. I know governments cannot support all education needs. In your view, how do you think these kinds of problems can be addressed to shore up the community? As I said before, I have to be quite honest, I do not want this to come back and bite the teachers and the students.

**Mr. Harley:** You are speaking specifically when you refer to problems, speaking to relationships between the trustees, the public and teachers. As I say, I have been a teacher for 25 years in Beautiful Plains. We have managed to maintain over all those years a very good relationship. The MAST chair, of course, Mr. Toews was once the Chair of Beautiful Plains School Division, and he and I get along very well. We manage to share dinner together every year and toss around, in a fashion such as this, issues that concern both of us, issues of mutual concern. My most recent concern over the last few years

is a sense of helplessness or hopelessness, whereas when we started doing these dinners 15 years ago, and appearing before the public as well, together, when we started doing these things a number of years ago, there seemed to me to be a far greater sense of optimism. That seems to have died in the last few years, although we have still tried to work at it. I cannot really give you any practical suggestions right off, but I do know that is what we have tried to do.

**Mr. Faurschou:** Thank you for your presentation and certainly your dedication throughout the years. It is very commendable, and I appreciate you being here this evening.

You stated though that you felt that you have been treated unfairly and that your democratic principles have been eroded. Could you be more explicit in where you feel that you have not been treated fairly, and that your democratic—

**Mr. Harley:** Teachers in Beautiful Plains School Division would like to think that they are human beings who have the same rights as all other human beings. When they go to their workplace, they should be able to—if an issue comes up which affects their ability to do their job, they should be able to take that issue to a higher authority. Within the past four years, that ability has been removed. That is simply unfair. There is no good reason for teachers to be removed from the rights that other individuals have in their workplaces.

**Mr. Vice-Chairperson:** Thank you, Mr. Harley, for your presentation. The time has expired for questions and answers.

The next person on our list is Joanne Huberdeau, Birdtail River School Division No. 38. Is Ms. Huberdeau here this evening?

**Ms. Joanne Huberdeau (Chairperson, Board of Trustees, Birdtail River School Division):** Good evening, or should I say good morning? Good morning. I am Joanne Huberdeau, Chair of the Board of Birdtail River School Division No. 38. I would like to thank the Committee for the opportunity to present some of the concerns of

our board. Page 1 of our presentation is some geographical and other information regarding our school division for those of you who may not be familiar with our division. So I will begin on page 2.

Students who attend Birdtail River schools come from a variety of cultural backgrounds including Hutterian as well as First Nations. According to our mission statement, the Birdtail River School Division is a public school system whose mission is to promote quality education for all students within our culturally diverse rural setting. While recognizing that good communications and public support are essential, Birdtail River School Division accepts the responsibility of providing the most current effective educational programming possible using the resources available. Within this context, our school division has made and continues to make positive initiatives. More specifically, we promote excellence, equity, partnerships in the communities, responsibility and accountability.

We are deeply committed to each of our community schools regardless of their size. If enacted, the legislative changes proposed by The Public Schools Amendment and Consequential Amendments Act will limit what we can do and will make it increasingly difficult, if not impossible, for us to continue to do the job we have been elected to perform. One must realize that in a rural school division such as Birdtail River, the trustees who are elected are committed to their communities and are essentially volunteers, as the indemnities of \$2,000 a year is little compensation for the responsibilities and dedication to the job that they do.

In 97(1), a teacher is defined as a person employed by a school board who holds a valid and subsisting teacher's certificate or limited teaching permit, which is a shift from the definition of "teacher" in the section of the Act that it is replacing. The former definition of a teacher as a person who holds a valid and subsisting teacher's certificate or limited teaching permit allows for the employment under form 2 or 2(a) contract to determine their teaching status. The inclusion of "employed by" now confuses things as substitutes are now included. This causes concern over the handling of sick time and other teacher contractual items.

In addition, superintendents, assistant superintendent or deputy superintendent are listed as being excluded under 97(1). This implies that such employees as educational assistants, secretaries, et cetera, who are employed by the Board and who hold a teacher's certificate are included in the definition. In this case, teachers not employed under form 2 or 2(a) contract could belong to two separate bargaining units under two different guidelines. Result? Confusion.

Increasing the number of employees covered under the definition of teacher would also increase costs associated with these positions. Teachers salaries and benefits presently account for more than 56 percent of Birdtail River School Division's budget expenditures. An increase determined by the change in definition would be substantial. In addition to this, salaries and benefits are determined through the collective bargaining process. In the case of teachers, when the process breaks down binding arbitration is used as the final dispute resolution mechanism.

Arbitration is generally viewed by the public as an unbiased means of resolving disputes, but arbitrators are not elected; school boards are. Arbitrators should not have the authority to impose decisions upon elected school boards that undermine their authority to manage their community schools. We believe that allowing arbitrators to make determinations that would routinely require school boards to raise taxes amounts to taxation without representation. This is a concept that is an abhorrence to a democratic society and in contravention to the paragraph in the preamble that states: democratic local school divisions and districts play an important role in providing public education that is responsive to the local needs and conditions.

\* (00:40)

As the authority of school boards to manage resources efficiently is removed, education costs will increase driving up taxes on property significantly for years to come. As the Province of Manitoba and school divisions and districts share responsibility for the financing of public schools, to limit the authority of the board, to set limits restricts our ability to react responsibly.

Although the present government increased funding to the public school system by approximately \$30 million, many school boards, including Birdtail River School Division did not realize a large increase in funding. In fact, even with the increased funding, Birdtail River School Division had to reduce its projected budget by approximately \$300,000. That meant not only were services to students trimmed, but also there was a reduction of three full-time equivalent teachers. Additionally, taxes had to be increased, which also influences next year's budgeting as well. In doing this, the board was able to manage its resources efficiently. The next legislation would put limits on the decisions which can be made, resulting in a substantial decrease to programs or much larger tax increase, both of which are unacceptable.

It is necessary to keep in mind that rural areas are currently in a financial crisis. The NDP Government promised to support rural Manitoba.

One final point is in reference to the transition clause. If, as it is stated in 7(6), that section 104 of The Public Schools Act is to be repealed "six months after the day the minister lays the commission's report before the Assembly," it appears that the findings are a foregone conclusion. This does not allow for the possibility that the status quo with regard to class size and composition would continue. The present government must realize that rural school divisions are unique. They support and, in some ways, ensure the continuance of the rural small community. If the legislative changes occur along with the possible amalgamation, the rural aspect of Manitoba may greatly be eroded, if not destroyed. Rural students put in long days of work and study, and develop the skills necessary to thrive in the economy of today. To destroy this is to destroy the foundation of rural Manitoba. These long-term effects will impact more dramatically in rural areas than in urban areas. We believe that Manitoba is a rural province and must be supported as such.

In conclusion, the electors will recognize the fact that the NDP Government, with the legislative changes proposed by The Public Schools Amendment and Consequential Amendments Act, will cause taxes to rise, and to

remove the authority of local jurisdictions. The Conservatives are remembered as the party that tried to destroy health care, and if this legislation continues, the NDP, after the next election, will be remembered as the party that destroyed the public education system in rural Manitoba.

Thank you for the opportunity to present our concerns.

**Mr. Vice-Chairperson:** Thank you, Ms. Huberdeau.

**Mr. Derkach:** Thank you very much for your presentation, Ms. Huberdeau. I want to thank the other presenters for their presentations, the individuals who presented on behalf of school teachers' associations.

As I have listened to the presentations, I see two opposite or diametrically opposed views of how we should address the whole issue of teacher bargaining and the accommodation of teacher bargaining in the province of Manitoba. On one hand, we feel that Bill 72 did not, I guess, reflect the needs of teachers, and now we feel that this proposed legislation, Bill 42, is not going to meet the needs of trustees. In all of this it appears that the people who are left holding the bag are the taxpayers, and perhaps the students in our schools. It seems to me that, if reason were to prevail, we have to find some common ground in all of this to allow for a balance in the whole negotiation process, and having been a teacher and a trustee years previous, I know that, whether a teacher or a trustee, you are always striving to achieve the maximum in terms of advantage for your negotiating cause.

I do not believe your last comment. I do not believe that the PC government tried to destroy health care, and I do not believe that the NDP government is trying to destroy education, but I do believe that we are trying to resolve issues in a way in which we see it from our perspective as members of political parties.

I want to ask you, as a trustee who has been elected to do what is best for the students and the people of your community, what impact you see legislation like this having, not only on your taxpayers, but I guess more importantly on the

human resources in your school division and on the students in your school division.

**Ms. Huberdeau:** I believe our concern is that each year there seems to be less dollars coming from the Province for the funding. We, in our division, have tried to keep up and not lose any of our programs. I do not believe that we have. We have tried to leave them intact. We also try to look to the classroom, the people-teacher ratio. We try to use that as the last plausible thing we even look at in our budgeting process. Being that our area is very much rural and farming, we are just finding it harder and harder to balance out what we need, what the costs are that go up that we have no control of, especially with salaries and so on, as well, not really knowing what you can budget in and what will be accurate. I guess we are very much concerned that in our division it will come to the point where, very reluctantly, we may have to look at programs and things that affect the kids' lives every day, whether it be transportation, classroom. We do not want to go there. We are trying to hold off on that.

**Mr. Caldwell:** Thank you for your presentation this evening, Ms. Huberdeau. I found some of your perspectives to be quite interesting, and I thank you for them. I also thank the Member for Russell (Mr. Derkach) for the comments vis-à-vis health care and education, and I share them. Thank you for that very much.

I just want to ask a question, just based upon the taxation increases that you have been forced to pass along to your ratepayers over the period of time that you have been a trustee. Approximately what percentage would relate to teacher salary increases, and what percentage would relate to back-filling provincial cuts?

*Mr. Chairperson in the Chair*

**Ms. Huberdeau:** I probably cannot give you-

**Mr. Chairperson:** Excuse me, I need to recognize you, Ms. Huberdeau.

**Ms. Huberdeau:** I probably cannot give you the accurate information for that. I could give that to you if I had a mailing address.

**Mr. Caldwell:** Notionally would be fine.

**Ms. Huberdeau:** Could you clarify the question again?

**Mr. Caldwell:** Just notionally, I want to get a sense for the wage settlements that have been going on during your time as a trustee and roughly what the implications are of those and approximately what the implications are of decreasing provincial support.

**Mr. Huberdeau:** Given the hour, I will try to answer that as well as possible. I believe it has been through arbitrations in the past, not just necessarily salary or whatnot, that we have had things which had, previous to arbitration, been negotiated off the table, that when we arrived at arbitration, where arbitrated in, which cost us greatly, too, that was previous to 1996. Noon-hour supervision was one of the examples that has affected us. It has been a combination. It has been decreased provincial funding and increasing costs that we do not seem to have any control over.

**Mr. Chairperson:** Thank you, Ms. Huberdeau. That ends our time. The next presenter is Colleen Jury or Neil Whitley from Rolling River School Division. They are not here.? Next out-of-town presenter is Val Thomson, private citizen. Is Val Thomson here? Please proceed.

**Ms. Val Thomson (Private Citizen):** Hello. I am Val Thomson, a teacher and vice-principal at Birtle Collegiate in lovely Birtle—"Communities in Bloom" provincial winner, 1999. If I get home at about four o'clock this morning, I have to be up for a local town clean-up before the judges for our national entry come in a couple of days.

\* (00:50)

I am what my colleagues kindly and perhaps euphemistically refer to as a seasoned bargainer. While I have not been around quite long enough to have experienced the black years prior to the 1956 establishment of fair collective bargaining, I thought for a minute it had happened when the Tory tornado touched down and sucked us back into the dark.

But I am here tonight to rejoice at the re-establishment of light. And it is a bright light. I am glowing in the warmth of kept promises, a

level playing field, and everything-on-the-table fair and honest negotiating.

I would like to choose at this time, though, to ignore the threatening shadow that looms on the horizon, the class size and class composition exclusion. Why two such critical, fundamental learning and teaching conditions should be omitted from fair hearing beats me. I stood before a committee several years ago and shared some class composition. Class composition is an odd phrase because it actually refers to people, and you have to imagine individuals, real people. Anyway, we shared some stories which would just about break your heart, and those heartbreakers are still in our classroom and still need exceptional teachers to teach them. Do not close the door on their needs by shutting them out of an arbitration hearing.

I am going to ignore that blot on the horizon because I am loving the way this bill brings us up to date and on par with other employee groups. I am excited by the Bill's closeness to The Labour Relations Act. I am not only a professional, but I am also able to collectively bargain fairly and freely. I am a vice-principal. I love that part of my job. Thank you for ensuring that principals and vice-principals retain their collegial status with all educators. I could not have borne the separation from my colleagues if I had been forced to leave the Society. We cannot hope for better teachers, schools and learners without striving for our goals together.

Will this bill increase our taxes? Lord knows, you mention taxes, and the anguished wail will follow. It is the method of funding public schools which affects taxes, not fair collective bargaining. But that, as Rex Murphy would say, is another question for another day. So, to this bill, I say a qualified: "Wahoo."

**Mr. Chairperson:** Thank you, Ms. Thomson.

**Mr. Caldwell:** Thank you, Ms. Thomson, for that perspective, and for the "wahoo."

**Ms. Thomson:** I learned that from my daughter when she graduated.

**Mr. Caldwell:** Okay, I appreciate that at 1 a.m., truly, as I am sure most of us here do.

I find it interesting, your comments being a vice-principal, because I know that this has been an area of contention with this particular legislation. In fact, historically, in recent past, in recent years, at any rate, the division between principals and vice-principals on the one hand and teachers in the classroom on the other hand, and you have mentioned the collegial aspect that you feel is important in that regard. Could you elaborate a little bit upon the significance of that particular sense, yourself personally, and perhaps with some of your colleagues who are also principals or vice-principals?

**Ms. Thomson:** I wondered, when I first became vice-principal, whether wearing two hats would create a rift, but I found that I was a teacher first and foremost and that when I sat on the collective bargaining committee I was there to improve education. I would have fought just as hard for Mr. Derkach's rights when he was a teacher, as a vice-principal, as I would as a teacher.

**Mr. Derkach:** Thank you for your presentation, and take our best wishes back to Birtle. Certainly, congratulations are in store to Birtle for everything they have done, and the community looks beautiful. I hope that that dark cloud you were referring to, that tornado, was not part of the two tornadoes that touched down in our communities in the last number of years in that area. I am just a little facetious about that.

I have to say that your presentation is—I understand where you are coming from as a professional teacher, and I respect that. I would expect that as a teacher and a vice-principal you have to stand up for your profession. As I sit here in opposition, I look at amendments that could be made to Bill 72, and I wonder whether the pendulum is not swinging from one side to the other and whether perhaps down the road all of us will not look for common ground where we could look at a balance which better reflects the needs of communities, so that indeed there is more harmony in communities with respect to teachers and the community at large.

I believe that teachers in our communities are a very important factor. When I look at the people who volunteered to coach, whether it is hockey or many other events, it is always the

teachers that we reach out for. When I look at community clubs, whether it is Lions or whatever clubs, they are usually headed by teachers. You yourself were involved in the community, and I respect that. I certainly do have an admiration for what teachers contribute to our society and to our communities.

So our view on this legislation is simply trying to establish something that is fair to the taxpayer and yet does not impede the rights of teachers in any way. I just wanted to put those comments on the record. Thank you for your presentation.

**Mr. Chairperson:** Thank you, Ms. Thomson. The next presenter is—*[interjection]* I did not see any hands.

Ms. Thomson, we do have a question from Mr. Faurschou if you do not mind coming back to the microphone. We are not all wide-awake here right now.

**Mr. Faurschou:** Mr. Chairperson, I appreciate and want to say ditto for myself in regard to community involvement in teachers as well, in Portage la Prairie. I would just like you to try and clarify it for myself insofar as that we have heard on numerous occasions this evening not wanting any special treatment as teachers. One wants to be recognized in fairness and equity with other labour organizations.

What other labour organizations, to your knowledge, in fact, have management such as yourself all still remaining with the bargaining unit? Do you see that not as a conflict, or how do you see that in harmony in the special circumstances of the teaching profession where it does not—to my knowledge, no other profession has that special provision?

**Ms. Thomson:** I do not see it as a conflict at all. I do not understand why it would be conflict. It has not been a conflict. We have a principal who is a collective bargaining chair. We have a principal who is about to speak after myself tonight, and we are completely supportive of this legislation. We are teachers.

**Mr. Chairperson:** Oh, we are out of time. Thank you very much. The next presenter, Mr.

Claude Vigier, is going to present en français. With the leave of the Committee, I would like to ask for permission for anyone else who wants to present en français to do it now just for convenience, since we have the translator here. Is there anyone else who wishes to present in French who is still in the room? If so, would they let the Clerk know.

Well, I guess I need to ask if there is leave of the Committee as well.

**An Honourable Member:** Leave.

**Mr. Chairperson:** Is there leave of the Committee to hear any other presentations in French at this time as well? I heard leave granted. [Agreed] Please proceed, sir.

**Mr. Claude Vigier (Président, Association des éducatrices et éducateurs franco-manitobains):** Monsieur le président, Monsieur le ministre, chers députés de l'Assemblée, Mesdames et Messieurs et Monsieur le traducteur, je m'appelle Claude Vigier et je suis président de l'AÉFM. L'AÉFM, c'est l'Association des éducatrices et éducateurs franco-manitobains de cette province.

\* (01:00)

Je suis heureux d'être ici au nom de nos 360 enseignantes et enseignants francophones parsemés dans cette province afin de vous livrer nos préoccupations concernant ce Projet de loi 42 présentement en étude. Notre division scolaire, la DSFM, compte 22 écoles et 4460 élèves.

D'emblée, nous sommes heureux de voir la disparition de la loi 72. Cette loi particulièrement injuste empoisonnait les relations de travail entre les employés et le patronat et limitait la portée des négociations. Le fameux rapport Dyck-Render a fait la sourde oreille aux inquiétudes soulevées par les 12 500 enseignants et enseignantes de notre province. Le tollé suscité par cette loi n'a jamais soulevé autant d'amertume chez mes collègues dans mes 20 années d'enseignement.

Nous avons, commissaires, enseignants et enseignantes, cohabité pendant 40 ans

auparavant dans un climat de confiance mutuelle et de paix incontestée au Canada. Pourquoi aller chambarder le système de l'époque? De 1956 à 1995, les élèves du Manitoba n'ont jamais perdu une journée d'école en raison d'une grève. Les dispositions de la loi 72 ont envenimé le climat éducatif au Manitoba. Cette loi était punitive de nature et visait uniquement le personnel professionnel de nos écoles.

En mai 1995, l'ancienne ministre de l'Éducation avait farouchement dénoncé les délégués à la réunion annuelle de la Manitoba Teachers' Society lorsqu'ils s'étaient rendus à la Législature pour s'opposer au Projet de loi 72. Elle nous avait accusés de ne pas être de vrais enseignants. Bien au contraire, j'enseigne depuis 20 ans. Je suis fier de ma profession et de mes contributions à l'éducation dans cette province. Et oui, je suis un vrai enseignant, comme les 360 autres dans ma division scolaire. L'AÉFM est de l'avis que la loi 72 était un abus de pouvoir.

Le Projet de loi 42 n'est pas ce que l'AÉFM aurait souhaité. Nous voulons être assujettis aux mêmes dispositions et aux mêmes conditions de travail que nos homologues dans la fonction publique. Pourquoi sommes-nous à l'écart de la Loi sur les relations du travail? Les gouvernements semblent faussement croire que les enseignants et les enseignantes sont des employés à caractère distinct. Nous reprochons ceux et celles qui étiquettent notre profession injustement.

La décision de ce gouvernement de nous empêcher d'apporter la taille de la classe à un conseil d'arbitrage préoccupe également l'ensemble de nos membres. Nous avons plusieurs classes à multi-programmes dans notre division avec des élèves ayant des besoins particuliers. Qui s'occupera de ces jeunes? Les formules d'allocation du personnel et le financement actuel marginalisent ces élèves. Il faut que ce projet de loi facilite le processus de négociation, tout en s'occupant de ceux et celles sans voix à la table de négociation. Nous sommes les professionnels de l'éducation. Comment pouvez-vous confier la taille de la classe aux autres intervenants?

Nous avons des situations dans lesquelles quatre niveaux se retrouvent dans la même salle

de classe. C'est très difficile de gérer une salle de classe d'une trentaine d'élèves quand la composition d'une classe comprend des élèves avec des besoins spéciaux, des élèves surdoués, des élèves avec des problèmes de comportement et quatre différents niveaux. Les enseignantes et enseignants dans notre division deviennent de plus en plus stressés car ils n'ont pas les ressources et l'énergie nécessaires pour s'acquitter de leurs responsabilités. Nos primes au plan d'invalidité à long terme continuent d'augmenter de façon vertigineuse d'année en année. Le système de santé est assez précaire à l'heure actuelle. Il faut arrêter de placer nos professionnels dans des situations impossibles.

Nous ne voulons pas le droit de grève. Nous avons les intérêts de nos élèves et de nos parents à cœur. Il est fautif de déduire que ce projet de loi va faire escalader les taxes foncières des contribuables. Monsieur Filmon avait promis de financer l'éducation à 80 pour cent des coûts. Si son gouvernement avait maintenu sa promesse, les taxes foncières au Manitoba ne seraient pas aussi élevées. L'éducation n'est pas une dépense coûteuse mais un investissement dans l'avenir de notre collectivité.

L'Association des commissaires d'école du Manitoba, dans une annonce qui est parue dans le *Free Press* samedi dernier, sème la terreur chez les contribuables. Avant la loi 72, et même après, les hausses salariales étaient soient semblables, soient inférieures comparativement à celles des autres employés dans d'autres secteurs. Nos hausses salariales n'ont jamais été supérieures à la tendance provinciale ou nationale. Notre division scolaire n'a pas endossé l'annonce de l'Association des commissaires d'école du Manitoba. L'Association des commissaires d'école sème la zizanie aux dépens des enseignants dans cette province.

Il est néfaste de croire que les droits de gestion seront menacés par le Projet de loi 42. L'éducation, c'est comme un mariage. Il faut prendre des décisions ensemble pour le bien-être de l'union, et surtout pour le bien-être des enfants. Les enseignants ne veulent pas gérer le système scolaire. Ils veulent une gestion participative.

La loi 72 nous empêchait de discuter certains sujets car ils étaient exclus de la table de négociation. Si nous ne pouvons pas en discuter,

comment allons-nous effectuer des changements bénéfiques pour l'ensemble du système scolaire et pour les enfants? L'assignation, l'évaluation et la mutation des enseignants doivent faire partie des ententes collectives. Trop souvent, ces éléments sont assujettis à une autorité subjective. Les griefs se multiplient. Le stress s'installe. Vous avez un climat de travail malsain qui s'infiltra dans les salles de classe. Les ententes collectives doivent contenir toutes les conditions de travail et doivent prescrire fidèlement les paramètres à suivre.

L'évaluation est un autre sujet qui devrait être entériné dans les ententes collectives. Dans notre division scolaire, l'Arrêté V-94 énumère les pouvoirs de nos comités scolaires. Nos comités scolaires ont plus de pouvoir au sein de nos écoles que n'importe quel autre groupe ou juridiction au Canada. Notre expérience démontre que nos enseignantes et nos enseignants sont souvent un point de mire sans protection. Il faut que les élus, les parents et les enseignants travaillent dans un milieu où les lignes de communication et les lignes d'autorité sont bien définies.

Le Projet de loi 72 allait à l'encontre des principes fondamentaux de la négociation. C'était une façon originale d'imposer des gels des salaires. C'était l'ancienne loi 22 bien déguisée. Il faudra que ce gouvernement et les autres à suivre cessent de jouer un jeu de tennis de table avec les lois qui régissent le processus de négociation. Soyez juste, soyez transparent et adoptez une loi qui nivelle le terrain de jeu. Notre association aimeraient pouvoir négocier toutes les conditions de travail. Notre division scolaire est unique dans cette province en raison de notre géographie, notre financement et notre structure politique. À notre avis, la loi 72 était une loi à sens unique.

L'essor économique que nous vivons présentement envisage l'avenir avec confiance. Les politiques draconiennes de l'ancien régime ont provoqué une pénurie dans le secteur de la santé dans cette province. Cette crise, particulièrement évidente en campagne et dans les régions éloignées, verra le jour dans le système scolaire bientôt si l'on ne commence pas à rendre cette profession plus alléchante. Nous craignons que la dévalorisation de la profession

enseignante contribuera à décourager les jeunes de se destiner à l'enseignement.

Dans notre division scolaire, un tiers de notre corps professionnel a plus de 50 ans. La pénurie d'enseignants commence à se manifester partout dans la province. Si nous ne sommes pas capables d'offrir aux nouveaux arrivés à la profession de bonnes conditions de travail et un climat d'accueil, ils ou elles quitteront pour d'autres provinces ou ils ou elles iront travailler dans le secteur privé.

Récemment, le gouverneur de la Californie a suggéré d'abolir la taxe d'état de la Californie seulement pour les enseignants afin d'attirer plus de professionnels en éducation. Ici au Manitoba le gouvernement précédent nous a incités à rester en imposant YNN, en imposant des tests standardisés, en imposant la loi 72 et en nous menaçant avec les rapports Dyck-Render et Scurfield. L'exode des cerveaux a commencé il y a cinq ans lorsque ces mesures ont été entérinées.

D'autre part, il faut faire confiance au processus de négociation et, lorsqu'il y a impasse, aux arbitres qui tranchent les litiges entre les commissions scolaires et les syndicats d'enseignement. Ces personnes nommées par le gouvernement ne sont pas aveugles aux réalités de la société. Arrêtons d'abaisser leur impartialité. MAST ne semble pas faire confiance à ces arbitres. Néanmoins, dans mes 20 ans d'enseignement, je n'ai jamais vu un arbitre trancher des questions uniquement pour un côté ou pour l'autre. Ce qui est injuste ne fera pas partie d'une entente collective. Ces arbitres sont neutres et conscients de l'impact de leurs décisions.

\* (01:10)

Un règlement tranché par un conseil d'arbitrage est maintes fois plus avantageux qu'une grève dont les séquelles peuvent durer longtemps. Regardez les retombées des grèves en Ontario et au Québec. Le taux de décrochage dans les secondaires au Québec est le plus élevé au Canada à 34 pour cent. Le parascolaire est absent dans les écoles et vous avez un climat de confrontation omniprésent. En Ontario, le même phénomène existe. Le harcèlement, le

Harrissement comme vous le connaissez, a donné naissance à des émeutes, des grèves et des tensions entre les enseignants et enseignantes et les commissions scolaires. L'Association des commissaires d'école du Manitoba préconise le lockout et la grève. Cette disposition dans la loi serait néfaste à nos élèves, à nos parents et à notre société en général.

Nous souhaitons que le gouvernement de l'heure revoie cette ébauche de loi et nous accorde un processus qui est digne de notre profession. Nous ne recherchons pas un statut spécial mais une reconnaissance de la complexité de notre travail et des contributions que nous apportons à notre société. Ce projet de loi est un bon pas dans la bonne direction. Néanmoins, il faut arrêter de placer les enseignants et les enseignantes sous l'égide de la Loi sur les écoles publiques et en même temps sous l'égide de la Loi sur les relations du travail. Placez-nous sous le parapluie d'une loi afin que nous puissions accomplir notre travail dans un climat de travail uniforme à tous à travers cette province. Nous voulons justice et équité.

Les dispositions de cette loi doivent être claires et précises afin d'éviter des interprétations coûteuses à long terme. Lors des dernières élections provinciales, le parti Néo-démocrate avait promis d'arrêter la médecine dans les couloirs. Il est aussi temps de réinvestir dans les écoles et d'arrêter l'éducation dans les couloirs.

Lorsque nous parlons du processus de négociation, nous parlons évidemment de finances. Le système de financement en place actuellement, FRAME, est difficile à comprendre et il est désuet. Une augmentation de 3,8 pour cent cette année aux commissions scolaires ne se traduit pas en ce montant dans les coffres divisionnaires. Le gouvernement devrait revoir le financement de l'éducation à l'échelle de la province et modifier ce processus. Trop souvent les contribuables sont confus et frustrés car ils ne comprennent pas d'où provient le financement et comment il est distribué.

Nous souhaitons que votre comité ait le courage de revoir ce projet de loi et d'y apporter les modifications nécessaires. Au nom de notre association, je vous remercie de l'attention que vous porterez à nos recommandations. Si vous

désirez des précisions sur les points que j'ai soulevés dans ma présentation, cela me fera plaisir de répondre à vos questions. Merci beaucoup.

[*Translation*]

Mr. Chairman, Mr. Minister, members of the Assembly, ladies and gentlemen and Mr. translator, my name is Claude Vigier and I am the president of the AÉFM, the association of Franco-Manitoban educators of this province.

I am pleased to be here, on behalf of our 360 Francophone teachers scattered throughout this province, to communicate to you our concerns about Bill 42 that is currently being examined. Our school division, the DSFM, has 22 schools and 4460 students.

To begin with, we are pleased to see the end of Bill 72. This particularly unjust law poisoned labour relations between employee and employer and limited the scope of negotiations. The famous Dyck-Render report turned a deaf ear to the concerns raised by our province's 12 500 teachers. This law raised a greater outcry and caused more bitterness among my colleagues than I have ever seen in my 20 years of teaching.

We, the trustees and teachers, cohabited for 40 years until then in a climate of undisputed peace and mutual trust. Why go and overturn the system of the time? From 1956 to 1995, Manitoba students never lost a single day of school as the result of a strike. The provisions of Bill 72 inflamed the educational climate in Manitoba. This law was punitive in nature and exclusively targeted the professional staff of our schools.

In May 1995, the former minister of Education fiercely denounced the delegates to the annual meeting of the Manitoba Teachers' Society when they went to the legislature to oppose Bill 72. She accused us of not being real teachers. On the contrary, I have been teaching for 20 years. I am proud of my profession and of my contributions to education in this province. And yes, I am a real teacher, like the other 360 in my school division. It is the opinion of the AÉFM that Bill 72 was an abuse of power.

Bill 42 is not what the AÉFM would have wished. We want to be subject to the same provisions and same working conditions as our civil service counterparts. Why are we outside the scope of the Labour Relations Act? Governments seem wrongly to believe that teachers are employees of a different kind. We object to those who label our profession unjustly.

The decision of this government to prevent us from bringing class size to an arbitration board is also of concern to all our membership. We have many multi-program classes in our division with special needs students. Who will look after these young people? The staff allocation formulas and current financing marginalize these students. This bill needs to facilitate the bargaining process while taking care of those who have no voice at the bargaining table. We are the education professionals; how can you entrust class size to others?

We have situations where four grade levels are found in the same classroom. It is very difficult to manage a class of around 30 pupils when it is composed of special needs students, gifted students, students with behaviour problems and four different grade levels. The teachers of our division are becoming increasingly stressed because they lack the resources and the energy necessary to fulfill their responsibilities. Our long-term disability premiums continue to rise at a dizzying rate from one year to the next. The health system is quite precarious at the present time. We have to stop placing our professions in impossible situations.

We do not want the right to strike. We have the interests of our students and our parents at heart. It is incorrect to deduce that this bill will cause property taxes to climb. Mr. Filmon had promised to finance education to 80 percent of costs. If his government had kept its promise, property taxes in Manitoba would not be as high as they are. Education is not a costly expense, but rather an investment in the future of our community. The Manitoba Association of School Trustees, in an advertisement that appeared in last Saturday's *Free Press*, is fear-mongering among taxpayers. Prior to Bill 72, as well as after, salary increases were similar or

lower when compared to those of employees in other sectors. Our salary increases have never been higher than the provincial or national trend. Our school division did not endorse the advertisement of the Manitoba Association of School Trustees. MAST is sowing discord at the expense of the teachers of this province.

It is wrong to believe that management rights will be threatened by Bill 42. Education is like a marriage; you have to make decisions together for the well-being of the union and above all for the well-being of the children. Teachers do not want to manage the educational system. They want participatory management.

Bill 72 prevented us from discussing certain subjects because they were excluded from the bargaining table. If we cannot discuss them, how will we effect changes that are beneficial for the educational system as a whole and for the children? Assignment, evaluation and transfer of teachers must be included in collective agreements. Too often, these aspects are determined by a subjective authority. Grievances multiply, stress sets in and you have an unhealthy work environment that seeps into the classrooms. Collective agreements must contain all working conditions and faithfully prescribe the parameters to be followed.

Evaluation is another subject that should be included in collective agreements. In our school division, bylaw V-94 sets out the powers of our school committees. These have more power within our schools than any other such group in Canada. Our experience show that teachers are often totally unprotected. Elected officials, parents and teachers must work in a milieu where the lines of communication and the lines of authority are clearly defined.

Bill 72 went against the fundamental principles of bargaining. It was an original method of imposing wage freezes. It was the old Bill 22 cleverly disguised. This government and others that follow will have to stop playing Ping-Pong with the laws that regulate the bargaining process. Be fair, be transparent and adopt a law that levels the playing field. Our association would like to be able to negotiate all working conditions. Our school division is unique in this province because of our geography, financing

and governance structure. In our opinion, Bill 72 was a one-way street.

The current economic forecast is positive. The draconian policies of the former regime created a shortage in the health sector in this province. This crisis, particularly evident in rural and remote regions, will repeat itself in the education system soon if this profession is not made more appealing. We fear that the devaluation of the teaching profession will contribute to discouraging young people from choosing it.

In our school division, one-third of the professionals are over the age of 50. The teacher shortage is beginning to show everywhere in the province. If we are unable to offer newcomers to the profession good working conditions and a welcoming atmosphere, they will leave for other provinces or will go to work in the private sector.

Recently the governor of California suggested abolishing California state taxes solely for teachers in order to attract more education professionals. Here in Manitoba, the former government encouraged us to stay while imposing YNN, while imposing standardized tests, while imposing Bill 72 and while threatening us with the Dyck-Render and Scurfield reports. The brain drain began five years ago when these measures were adopted.

It is also important to trust in the bargaining process and, when there is an impasse, in the arbitrators who settle disputes between school boards and teachers' unions. These persons, who are appointed by the government, are not blind to the realities of our society. Let us stop calling their impartiality into question. MAST does not seem to trust these arbitrators. Yet in my 20 years of teaching, I have never seen an arbitrator settle issues solely in favour of one side or the other. What is unfair will not become part of a collective agreement. These arbitrators are neutral and are aware of the impact of their decisions.

A settlement by an arbitration board is far better than a strike, the consequences of which can be long-lasting. Consider the repercussions of strikes in Québec and Ontario. The secondary

school dropout rate in Québec is the highest in Canada at 34 percent. Extracurricular activities are absent from schools and you have an omnipresent climate of confrontation. In Ontario, the same phenomenon exists. Harassment, or "Harrism," as you know, has given rise to riots, strikes and tensions between teachers and school boards. The Manitoba Association of School Trustees advocates lockouts and strikes. This provision in the law would be harmful to our students, our parents and our society in general.

We want the government of the day to review this draft law and grant us a process that is worthy of our profession. We are not seeking a special status but a recognition of the complexity of our work and of the contributions that we make to our society. This bill is a good step in the right direction. However, we need to stop placing teachers under the authority of the Public Schools Act and the Labour Relations Act at the same time. Cover us under a single law so that we may carry out our work in a labour climate that is uniform for all throughout this province. We want justice and fairness.

The provisions of this law must be clear and precise in order to avoid interpretations that are costly in the long term. During the last provincial election, the New Democratic Party promised to put an end to hallway medicine. It is time as well to reinvest in schools and put an end to hallway education.

When we talk about the bargaining process, we are of course talking about finances. The current financing system, FRAME, is difficult to understand and is obsolete. An increase of 3.8 percent this year to school boards does not translate into that same amount in the divisional coffers. The government should review education financing province-wide and change the process. Too often taxpayers are confused and frustrated because they do not understand where the financing comes from and how it is distributed.

We wish your committee to have the courage to re-examine this bill and make the necessary changes to it. On behalf of our association, I thank you for the attention that you will bring to bear on our recommendations. If you would like

any further details on the points raised in my presentation, I will be pleased to answer your questions. Thank you very much.

**Mr. Chairperson:** Thank you.

**Ms. Linda Asper (Riel):** Oui, Monsieur Vigier, merci beaucoup. Ça me fait un peu de chaleur au cœur d'entendre vos remarques ce soir. Je crois que vous nous avez donné plusieurs idées à examiner.

Je serais curieuse, à la page 3, quand vous avez dit que les enseignants ne veulent pas gérer le système scolaire, ils veulent une gestion participative, puis le fait que la loi 72 nous empêchait de discuter: est-ce que vous pourriez me donner un exemple?

*[Translation]*

Yes, Mr. Vigier, thank you very much. It warms my heart to hear your remarks this evening. I think that you have given us several ideas to think about.

I would be curious, on page three you stated that teachers do not want to manage the school system; they want participatory management, and then the fact that Bill 72 prevented us from discussing certain things: could you give me an example?

**Mr. Vigier:** Juste pour vous donner un exemple, cette année, l'AÉFM et la DSFM, on a conclu quand même une entente historique dans la province du Manitoba. On a conclu 10 ententes collectives. On a fusionné 10 ententes collectives, ce qui n'a jamais été fait dans cette province. Ça nous a pris six ans à négocier, mais c'est quand même une entente qui est convenable aux deux parties et cela a été fait sous l'égide des anciens règlements. Ça n'a pas été fait sous l'égide de la loi 72. Et je crois que si on avait été obligés de négocier sous l'égide de la loi 72, on ne serait pas arrivés à une entente, parce qu'il y aurait eu un niveau de confrontation. Et aussi on a pu négocier des choses qui étaient hors de la portée de la loi 72, par exemple la mutation et l'assignation. Ce sont deux éléments qu'on a pu négocier.

Je dois remercier Madame Mariette Ferré [*orthographe phonétique*] et Madame Sue

Cumming de MAST qui nous ont aidés dans tout ce processus. Mais ça démontre quand même, si on regarde la possibilité de fusionnement dans l'avenir, que c'est possible de négocier selon les anciens règlements sans aller en arbitrage et d'arriver à une entente convenable aux deux parties.

[*Translation*]

Just to give you an example, this year the AÉFM and the DSFM reached an agreement that is historic in the province of Manitoba. We concluded ten collective agreements. We merged ten collective agreements, which had never been done before in this province. That took us six years to negotiate, but it is an agreement that suits both parties and it was done under the old regulations; it was not done under the terms of Bill 72. And I think that if we had been obliged to negotiate under the terms of Bill 72, we would not have achieved an agreement, because there would have been a level of confrontation. As well, we were able to negotiate things that were outside the scope of Bill 72, for example transfer and assignment. These are two aspects that we were able to negotiate.

I must thank Ms. Mariette Ferré [*phonetic*] and Ms. Sue Cumming of MAST who assisted us in this process. Anyway, this shows, if we are considering the possibility of mergers in the future, that it is possible to negotiate on the basis of the old regulations without going to arbitration and to reach an agreement that is acceptable to both parties.

**Ms. Asper:** Merci. Thank you.

**Mr. Caldwell:** Merci, Monsieur Vigier. Excusez mon français, je suis un anglo-manitobain.

[*Translation*]

Thank you, Mr. Vigier. Pardon my French, I am an Anglo-Manitoban.

**Mr. Vigier:** Non, non. Félicitations. C'est très bien.

[*Translation*]

No, no. Congratulations. It is fine.

**Mr. Caldwell:** Mais votre présentation est très instructive et je vous en remercie.

[*Translation*]

But your presentation is very instructive and I thank you for it.

**Mr. Vigier:** Ça me fait plaisir. Merci beaucoup.

[*Translation*]

I am glad. Thank you.

**Mr. Chairperson:** Thank you, sir. Is there anyone else who wishes to present en français? Hearing none, we will go on to the next presentation, Mr. Doug Halmarson, private citizen. Please proceed, sir.

**Mr. Doug Halmarson (Private Citizen):** Mr. Chairperson, honourable ministers, honourable members and all other persons in attendance of either gender. I still have not found the right word for ladies, so my wife asked me to leave it out.

I would like to thank the Committee for the opportunity to speak tonight and also give a sincere thank you to the present government for coming forth with such important legislation so quickly. I think I am here as an individual, although I am very, very active in our local association, and I am not sure whether I am here by accident or through a conspiracy. I stood outside the Legislature in 1996 as a member of the large rally. I wrote a few letters, and I did complain to my local board, but that is as far as I went, and I probably would have stayed in that position even now if a couple of things had not happened over the last few days. Number one, someone, I do not know who it was, managed to make sure that a copy of Hansard from last week got into my hands, and the ads showed up in Saturday night's paper. Those have precipitated my arrival here this evening, or morning.

I have taught in Portage la Prairie since 1970, and I have been very involved in the local association for most of that time. I have served as president of the association twice, and I have been involved in bargaining on several occasions, including chairing the bargaining

committee for the past four years. During this recent time, we have concluded two collective agreements with our board and I have negotiated under both Bill 72 and the old system. I feel it is my responsibility to my colleagues to speak out in favour of amending the most draconian legislation that was ever aimed at a single group of employees in Manitoba.

I was dismayed by the full-page advertisement in Saturday's *Winnipeg Free Press*. This type of fearmongering is beyond contempt. There is absolutely no evidence that Bill 42 will cause an increase in wage settlements. School boards are fully aware that increases in taxation have not been caused by wage settlements and increased working conditions. These increases are completely the result of the former government's failure to live up to its commitment to the education of the youth of our province. In Portage la Prairie, the school board was even asked to join with the teachers' association in making presentations to the Government to express our displeasure with the inequitable funding arrangements imposed on them, and the board flatly refused to even discuss the possibility.

Portage la Prairie has one of the best tax bases in the province, and it also has one of the highest mill rates. The Honourable Member for Portage, in his statements in Hansard, would have you believe that this situation was precipitated by the massive increases given to the teachers by misguided arbitrators.

The truth is that both city council and the school board have set their priorities. It is clear that the education of the young people in our community is not one of those priorities. Of all the divisions in the province, Portage la Prairie has the ability to pay their teachers. What is obvious is that they are not willing to pay.

Boards across the province believe that Bill 72 would give them the ability to keep their teachers in line and were more than happy to jump on the bandwagon and follow Mr. Filmon in his attempt to denigrate the educators of this province.

One member also went to great lengths to assure the Legislature in this committee that fair

and balanced negotiations had been the order of the day. With a few exceptions, everyone who has negotiated in rural Manitoba knows that there is no such thing as negotiating happening at the table, let alone fair and balanced negotiating.

\* (01:20)

I would like to spend just a few moments to clarify the situation in Portage la Prairie. On reading Hansard, it is obvious that this committee has received at best inaccurate information about the nature of bargaining and the relationship between the teachers' association and the school board. It is true that we have negotiated contracts under Bill 72, but both agreements were settled after many months of sitting and waiting.

Negotiations in Portage and, I am sure, in most rural areas of the province have consisted mainly of teachers presenting proposals, boards saying no, and teachers then amending the proposals until there is almost nothing left except a modest wage increase.

It is true that we managed to coerce the board into agreeing to a few working conditions over the past two sets of negotiations. The latest round of negotiations ended in an agreement after applying for arbitration. The previous round ended when the teachers finally stood up for their rights and refused to accept the deal that did not include any reference to working conditions that they felt were important.

Mention has been made about the Cadillac noon-hour duty clause in Portage. It is true that we the teachers estimated the cost to be approximately \$50,000 to \$80,000. It is also true that the Board spent a little over \$105,000 last year. It should be pointed out that the teachers' association offered to work jointly on a method of dealing with the situation, but the offer was refused. The board had many options including having users pay for at least part of the cost, but they chose to use the most expensive option available and then had the nerve to blame the teachers for the costs involved.

I forgot to mention that reference was made to the situation before the clause was negotiated

in Portage la Prairie. At no time did teachers ever have time before or after the noon meal period to eat their lunch. They ate their lunch while walking the halls and supervising.

My honourable member concluded his remarks by stating that this bill is an indication that teachers and trustees are not getting along and that he finds that hard to imagine. In my years sitting across the negotiating table I have seen almost no indication on the part of trustees that they are concerned with the working conditions of their employees. Attention is only paid to the bottom line and that good old catch phrase, for the good of the children.

During negotiations it should be remembered that even though we are all in this for the good of the children, we teachers are not negotiating for the children, we are negotiation for our children, the ones we have at home. Teaching is not a position that we have taken as a public service to the province. This is our profession and our livelihood. We need to be fairly compensated for the work we do and for our contribution to society. We need the ability to negotiate the conditions under which we work.

Board members are officially called trustees and as such are considered to be the safekeepers of the public education system and the people that work in that system. In negotiations all we see is the trustees' role as managers. Boards consistently argue that members of the public require them to keep costs to a minimum. I acknowledge the difficult task they have. But when was the last time the teachers were able to pick up a copy of a newspaper and read an article that had trustees telling the public what a good job their employees were doing and how much stress has been put upon the system?

I know I speak on behalf of all of the teachers in Portage la Prairie when I say that relations between teachers and the board are at an all-time low. At a time when society is placing more and more demands on our education system, boards are looking for any way to abdicate their responsibility to their employees. The Executive Director of MAST had to admit publicly on CBC today that, although school boards were not happy with cuts

to education under the previous administration, it is only when an issue concerning the welfare of their employees, the teachers of Manitoba, comes up that they are willing to spend large amounts of money on a campaign to oppose it.

If this is not a clear indication of the lack of understanding of the needs of teachers by their employers, I do not know what is. I feel that Bill 42 is an excellent first step in restoring a balance to negotiations, and I applaud the Government for showing the fortitude to stand up to the outcries of boards and municipalities and do what is fair and right. Thank you.

**Mr. Chairperson:** Thank you, Mr. Halmarson.

**Mr. Faurschou:** This is a rather unique experience, 1:30 in the morning. Mr. Halmarson, I appreciate very much your participation here this evening, and, for all those present, Mr Halmarson is an absolute outstanding and dedicated teacher in the Portage la Prairie School Division. Also, too, I feel it a privilege that he is also my neighbour in Portage. I might have to return his rake after this evening.

I think in some cases one has to perhaps just draw attention to the fact that, yes, Portage la Prairie is highly taxed, and I believe my comments were saying that it gave little latitude to the school division to effectively raise the mill rate to which we were quite prepared to want to do on behalf of the children and the education system in Portage la Prairie. Portage la Prairie was one of, I believe, only four divisions within the province that chose not to participate in what is commonly known as Filmon Fridays, because we believed, as a school board and in co-operation with the local, that the students were the most important factor.

In relationship to the situation that is now present, and I have been away from the board now for almost three years, I am disappointed that that is the case because it is very, very vital and important to have that trusting and good working relationship for the behalf—because the mission statement states that.

Mr. Halmarson, Doug, I appreciate you expressing all the concerns that you have here

this evening. Without question, I want to take this opportunity to applaud your dedication to Portage la Prairie, and, hopefully, at the end of the day, we will all be on the same page for the benefit of all the kids. Thank you.

**Mr. Halmarson:** It should be mentioned through some peculiar arrangement that came about many, many years ago, far before Mr. Faurschou and I moved into the neighbourhood, the gate on my side of his fence is this high. It was designed for me never to get over there, right?

I know there is a common ground. We all know there is a common ground. I guess, this being my first time here, I found it very frustrating because we have been dancing all night. There is a common ground. We know that funding to school divisions has to change, and once it does, many, many of the problems we have discussed here tonight are gone.

The only other thing is the mention of an arbitrator all the time. The old system and the new system do not have an arbitrator who will arbitrarily decide. They have an arbitration board with members chosen by each side to make sure that their views and their concerns are brought to bear. Teachers have been looking for getting that back for a long time now.

**Mr. Caldwell:** Thank you, Mr. Halmarson, for being here tonight. There are three of us that have some connection with Portage. That is the home of my mother, and my grandparents are both buried in the community there, and I still have aunts and uncles and cousins and so forth. So I have many, many fond memories of Portage from my youth and from more recently as well.

The issues that you raise, particularly the issues that had some salience for me, revolve around the degree of respect given to educators and the support that we give to educators, and indeed, trustees and the very difficult job the trustees and teachers have of managing classrooms and creating educational excellence in the province of Manitoba. I wonder if I might get you to elaborate, just briefly, on your experiences as a teacher vis-à-vis Bill 72 and previous to it, in that light.

**Mr. Halmarson:** As I said, I have negotiated off and on for the past thirty years. I can remember a time when negotiations were less political, I guess you could say. I hate to use that word. When we could go at each other for hours on end and then go for coffee. Actually, in those days, we did not even go for coffee. We did not have to worry about driving home. That does not happen anymore. I feel that Bill 72 accomplished one purpose that was rarely discussed, and that was to drive a wedge between boards and teachers, and the healing process from that wedge is going to take quite a while. It is not impossible, but it is going to take time.

\* (01:30)

**Mr. Chairperson:** Thank you, Mr. Halmarson.

The next presenter is No. 44, David Rondeau, private citizen. Please proceed.

**Mr. David Rondeau (Private Citizen):** Merci beaucoup, Monsieur le président. I am just kidding. Thank you, Mr. Chair, Mr. Minister and committee members, and good evening, or good morning, ladies and gentlemen.

My name is David Rondeau, and I would like to thank you for the opportunity to address you this evening as a private citizen and to respond to the proposed amendments to The Public Schools Act, specifically Bill 42. I have been a resident in the Island Lakes district of St. Boniface for the past eight years, and I currently reside in the provincial riding of Southdale. I have been employed as a public school teacher in the Transcona-Springfield School Division for the last 13 years, where there are more than 8000 students presently attending public schools. I have also been representing the collective interests of my 568 teaching colleagues as their collective bargaining chair since 1996, and, as a result, I have been following very closely what has been developing in the political arena for the past several years.

Like the vast majority of public school teachers, I was very insulted and very displeased when the previous Conservative government passed Bill 72, which effectively altered the balance of employer and employee collective bargaining rights, and firmly placed the balance

of power in the hands of management, that being the school division.

After 40 years of purposeful collective bargaining practice under the former Public Schools Act, which produced results in favour of both teacher groups and school divisions on several occasions, I resented what this change of legislation did to the collective bargaining rights of teachers, as it clearly and irreparably affected any hope of maintaining a fair and open negotiations process with our employer.

Bill 72 also had a detrimental effect on the dispute resolution mechanism, as only one person would now act as mediator and then arbitrator in a process which now excluded important working conditions such as transfer, evaluation and class size from arbitration, while emphasizing the importance of a school division's ability to pay as being the key criterion in arriving at a final decision.

Very clearly, my rights to a fair and impartial collective bargaining process as a teacher had been dramatically affected and any chance of addressing issues and concerns of grave importance to teachers and, consequently, to our students had been radically reduced as a result of Bill 72's changes.

I attended the public rally on the Legislative grounds in 1996, and I was very pleased then to hear Mr. Gary Doer, then the Leader of the Opposition, proclaim with certainty and with conviction that, if and when the NDP would form government, they would rescind Bill 72. As a private citizen of Manitoba, a resident taxpayer, and a teaching member of the public school system, I must commend both Mr. Doer and the NDP Government for being true to their word. It is truly important for the maintenance of public trust that government follow through with previous promises such as the revision of Bill 72.

The introduction of Bill 42 will effectively realize this government's previous affirmation on this matter, and I applaud this initiative. Bill 42 will address several of the inequalities and restrictions that Bill 72 produced, and teachers and school divisions will return to a collective bargaining process that will yield a fair and more impartial final result.

It is also very important to illustrate and to understand that Bill 42 will not result in increased costs to school divisions or increased property taxes to local taxpayers, as suggested by the Manitoba Association of School Trustees and its various political allies.

Teachers' salaries are controlled and mandated by current collective agreements between teacher associations and school divisions. Any changes to a collective agreement and, by extension, to teachers' salaries must either be freely negotiated and be arbitrated by a third party, who must fairly and reasonably base his or her decision on current economic trends and realities. Therefore, current teachers' salaries cannot affect property taxes.

However, the provincial government under the Progressive Conservatives reduced its commitment to finance the cost of public education from over 80 percent of total financing in the 1980s to below 60 percent of total current contributions, thereby requiring school division to increase school taxes. If the provincial government continues to reduce its obligation to finance public education, this underfinancing will result in the necessity for school divisions to download costs onto the collective shoulders of local taxpayers. This will indeed have a dramatic and pronounced effect on property taxes.

Now, generally speaking, I would like to stress that I am pleased with this government's initial attempt to address some of the inequities that are currently in collective bargaining between teachers and school divisions, and Bill 42, for the most part, will do just that. However, Bill 42 still comes up short in regard to providing teachers with a complete open scope in bargaining. For instance, two major issues of extreme importance to the parents, educators, and students are class size and class composition, and these two very important working conditions are excluded under Bill 42. These two areas have an enormous effect on the ability to learn and to teach effectively, as both students and teachers are directly affected by the dynamics associated with these two issues.

I have two nieces who live in Coquitlam, B.C., and neither of them has had more than 21 other classmates, as a result of class size

restrictions within that province. Now, I love both of my nieces dearly, but, with apologies to my sister, they are not more special than Manitoba students, who are not subject to B.C. class size restrictions.

In my own personal experience as a phys ed teacher, I have had to teach several classes of well over 35 students on numerous occasions, the largest being that of 42 students. A colleague of mine in my school last year had to teach a choir class from August to June to a class, a group of 53 students. Classes of this size are ridiculous. Teaching and learning efficiency decrease as a result simply based on the need to provide and to have appropriate space, resources, books and activities. I am not stating that the magic number to a class size should be 18 or 20 or 22 students. I am saying that teachers should have a right to negotiate and, if necessary, to take the issue of class size to arbitration.

Unfortunately, under current Bill 42, this provision is not possible. Furthermore, the issue of class composition is becoming more and more of an important concern these days, especially in light of special needs programs closing down as cost-saving measures, such as the one that was being offered in Transcona-Springfield's Park Circle School. Each child deserves the right to learn in a caring and nurturing environment and to be provided with the appropriate resources and supports in order to facilitate the learning process.

The students that were receiving the special attention and care in Park Circle School will now be relocated into regular classrooms, along with 24 to 28 other classmates—some of whom with their own special needs—and will no longer receive the additional resources and supports that are still necessary for appropriate learning conditions to prevail. Inevitably, learning conditions and teaching conditions in class compositions such as these will be severely taxed and will be adversely affected as a result. Once again, teachers should have a right to negotiate and if necessary, to take the issue of class composition to arbitration. Unfortunately, under current Bill 42 this provision, too, is not an option.

Mr. Chair, by no means do teachers want to receive more special or preferential treatment

than other employee groups in the province of Manitoba. We have been insisting for several years now that we would simply like to be included under The Labour Relations Act and to be treated as equals along with other employee groups, such as nurses, doctors, and lawyers. Bill 42 is indeed a positive initiative of significant promise for teachers. I support its intent and I applaud its resolve, but it can only be seen as an initial attempt by this government to try to resolve some of the many inequities and imbalances inherent to The Public Schools Act. It is my hope that the NDP will realize that the final solution to this educational dilemma is to ultimately place the teachers of Manitoba under The Labour Relations Act.

In closing, I would like to thank you for your time and for the opportunity to express my concerns regarding Bill 42 and about education in general. I would like to thank you all very much.

**Mr. Chairperson:** Thank you, Mr. Rondeau.

**Mr. Caldwell:** Thank you Mr. Rondeau for appearing here this morning. I appreciate it very much. We are moving on close to 2 a.m.

I am intrigued a little by the comments contained in the last two points of your presentation, vis-à-vis The Labour Relations Act. I understand your views that you feel that the ultimate placement of teachers in Manitoba under The Labour Relations Act would be most desirable by yourself, and I know I have heard that from other teachers, as well. It leads me to reflect upon some of the earlier presentations tonight from some of the trustee groups, where we had the suggestion that they would be, too, happy to have the teachers placed under The Labour Relations Act in their briefs.

\* (01:40)

I wonder if you might comment a little with regard to your own experiences and your own discussions with fellow teachers, and perhaps trustees, as well, because this is a position that is new to me. I was quite intrigued by it, in fact, would have perhaps liked to have had that position expressed to me by the trustees in January and February as this process began, as

opposed to tonight. I am happy that I heard it here tonight, because that provides fodder for future discussion, because we have not seen trustees enter down that road before. So could you elaborate a little bit upon your feelings in that regard?

**Mr. David Rondeau:** I still feel that The Labour Relations Act would place teachers on an equal footing with other employee groups. I applaud, again, the effort of Bill 42. I do not want to take anything away from that initiative. However, I believe it was in 1997 that the delegation, the decision-making body of AGM for teachers overwhelmingly supported the initiative for us to pursue The Labour Relations Act, and I believe that is still our mandate in terms of policy.

I can tell you from the Transcona-Springfield Teachers' Association's point of view, as its collective bargaining chair and as its former vice-president, we voted unanimously when we had to discuss this resolution, how did they want us to go about presenting our points of view to AGM. It was unanimous in consent of trying to be placed under The Labour Relations Act. I, too, Mr. Minister, felt either buoyed or overwhelmingly surprised with the response of several trustees this evening stating the very same thing that I just did, that they would have been very happy being placed under The Labour Relations Act, and I applaud that type of perspective.

**Mr. Faurschou:** I appreciate your presentation in sitting out the whole evening with us here. In regard to The Labour Relations Act, I am not familiar with the Act. You have obviously studied it to make this recommendation.

Is there not a definition in The Labour Relations Act that if in fact you are deemed to have responsibilities considered managerial, you are not considered any part of that same bargaining unit, and could you clarify that for me, please?

**Mr. David Rondeau:** I really do not have the expertise that you assume I do with regard to The Labour Relations Act. I would, however, defer that question to the Manitoba Teachers' Society when it is their turn to make the

presentation. I suggest you ask it to them for a more elaborate response.

**Mrs. Smith:** Thank you for your presentation. We appreciated what you had to say. Can you come up with some ideas? You made reference to the trustees' presentation. There is also the Manitoba Chamber of Commerce, Canadian Federation of Business. There are an awful lot of organizations who have stepped forward with real concerns about Bill 42, and it has certainly brought them to our doorstep.

How do you think this can be resolved in terms of working together and getting an understanding in terms of the raising of funds? Do you have any ideas in that area?

**Mr. David Rondeau:** Well, of course, I would like to see this government over the course of the next couple of years try to reduce the gap that was created by the PCs and go back to at least to what we had in the '80s of 80% financing and perhaps even do more than that and better than that. I think that would resolve a great many of the issues we hear tonight from both sides.

**Mr. Chairperson:** The next presenters are Amy and Peter Buehler from the Brandon Teachers' Association. Please proceed.

**Mr. Peter Buehler (Brandon Teachers' Association):** Good morning. I am Peter Buehler. I am a citizen and a taxpayer in Brandon. I am also the current chairman of the collective bargaining committee of the Brandon Teachers' Association, so I speak not only on my own behalf but also on behalf of the association.

I am here this evening with co-presenter Amy Buehler. I am sure you realize by now we have not burdened you with any additional paper, though if we say something so timeless or gripping that you must have hard copy of it, we can provide that before this evening's coming session.

To begin, I want to make sure I do not forget to commend the Government for bringing forward this legislation. We are indeed very grateful for that. In fact, I think it is worth noting that not one teacher I know and have spoken to has told me that Bill 72 was good legislation and

that it somehow improved learning or teaching or working conditions in Manitoba classrooms.

On the other hand, I have spoken to a great many teachers who felt they were dead set against Bill 72, and many felt they had waited far too long already for it to repeal. Now, when looking at Hansard, I realize that some MLAs have been concerned that Bill 42 compromises teacher professionalism. They should relax. It will enhance my standing as a professional. Sometimes the very best remedy to a problem in schools is through collective bargaining, and the almost totally open scope of bargaining we would enjoy as a result of Bill 42 would allow teacher associations to exercise their professional judgment about teaching and learning conditions by bringing their concerns to the bargaining table when that is appropriate.

I am not scared of the name of The Labour Relations Act. Labour is a noble thing for teachers and everyone else. I am very pleased with what its provisions will allow us teachers to try to do at the bargaining table. To suggest that being subject to The Labour Relations Act makes teachers less professional is just an attempt to alarm us about Bill 42. In fact, the whole set of alarmist scenarios that have been suggested about the outcomes of the implementation of Bill 42 unfairly casts a shadow of doubt over the ability of arbitrators to reach fair, wise and judicious decisions and, in fact, they even cast that same shadow of doubt over school boards own ability to argue on their own behalf.

They should give themselves more credit. Under Bill 42, when it is implemented, they will come to the table with exactly the same rights and opportunities that we have. If they argue well and better than we do, they will carry the day. I think it is also a bit wrong, as I think many presentations this evening have suggested, to think that inevitably negotiations go to arbitration. In my experience as a teacher that has only happened twice. I have been teaching since 1975. Most of the time negotiations reach an agreement at the table.

In fact, I can see nothing in Bill 42 that prevents a school board or a teacher association for that matter from trying to argue the

importance of ability to pay, so school boards should not be alarmed on that count. They have lost nothing. Nor does it mean that because under Bill 42 certain matters such as transfer or assignment of teachers could go forward to arbitration, that school boards have lost control of these things. They need only argue skilfully to retain that control. Nor does Bill 42 shift decision-making power to local teachers' associations, and I have heard that said several times this evening. It only gives teachers' associations the chance to try to negotiate a wider range of educational issues than they could under Bill 72.

\* (01:50)

I would like to mention particularly the method of impasse resolution that exists under Bill 72, as compared with that which will be available to us under Bill 42 when it comes to be. Under Bill 72, the bargaining process was severely prejudiced because the mediator and arbitrator were the same person. In our experience in Brandon, two attempts at mediation failed immediately and abysmally under this system. In fact, in the first case, mediation did not happen at all, it was so apparent that we were not going to make any progress with it. To explain briefly to you why that is, if the mediator and the arbitrator are the same person then you cannot try very creative solutions with that mediator and not have that prejudice what he knows as an arbitrator later on. Under the system before that, it was possible for people to meet with a conciliator to try to be inventive, to try to reach a last-ditch settlement before going to actual arbitration and often that worked. The second time around with mediation in Brandon, it was over in less than, by my watch, two hours. Now we did not actually end up going to arbitration. We returned to the table and reached a settlement but the mediation phase was a waste of time. Under Bill 42, we would recover that opportunity to have that in-between step in mediation or conciliation before going to the arbitration panel.

Now we are only asking to be given the same bargaining opportunities that other organized workers in Manitoba enjoy, to be able to bring any issue we judge to be important to us and to students in our schools to the bargaining

table. Other professionals subject to The Labour Relations Act, such as doctors and nurses and some lawyers can do this. Other essential public employees subject to The Labour Relations Act, such as police officers and firefighters can do it too. We should be able to do that as well.

**Ms. Amy Buehler (Brandon Teachers' Association):** I would also like to thank you for the opportunity to speak to you this morning. I would have preferred that opportunity last night but there you are. The time and temperature has left me very tired and nervousness earlier today also meant that I did not eat supper so I am also very hungry, so if I faint or fade away during this presentation you have the explanation.

I am a teacher in the Brandon School Division. Like Mr. Halmarson earlier, I read Hansard and the ad that appeared in the paper, and I would like to respond to three statements that have been made, both in those two documents in the discussion of Bill 42.

One comment that I dispute is that MTS does not speak for or represent the thinking of the regular day-to-day classroom teacher. I am a regular day-to-day classroom teacher, and the MTS does represent me. The people at McMaster House do not control me or direct my thinking, far from it. The MTS sets no policy, undertakes no new initiatives, except under the direction and instruction of Manitoba teachers, ordinary, regular teachers like me. And I would like you to keep that in mind when the MTS brief is presented later.

It has also been stated that the MTS told its members how to vote in the last election. That is not true. The recommendation of the Society was to examine the issues and vote according to your own assessment of those issues.

Bill 72 and the repeated cuts to education funding under the Conservatives are the issues that convinced me to vote for and work for the NDP in the last election. I joined with hundreds of other teachers in Brandon and cheered when Gary Doer announced his intention to repeal Bill 72 if elected.

Bill 42 addresses many of the unfair aspects of the current legislation. It brings teacher

bargaining in line with other professionals in Manitoba by having provisions of the LRA applied to teachers. I thank the Premier (Mr. Doer) for sticking to his promise, and I thank the Minister of Education, Drew Caldwell, for his efforts in bringing Bill 42 forward.

I am concerned, though, that the arbitration of class size and composition are excluded from Bill 42. I believe the commission to study this issue will confirm what teachers, parents and students already know, and that is that class size and composition are critical to student learning and student success and that limits on class size are essential.

The last statement that I wish to respond to appears in MAST's letter to the citizens of Manitoba which was printed in local newspapers and has been referred to several times here this evening. In their statement, they speak about limitations on arbitrators in areas of management rights, and we certainly heard those several times this evening. They stated that, and I quote: "The existing legislation balances this limitation by giving teachers the right to grieve school board decisions in areas precluded from arbitration."

The experience of one Brandon teacher proves that that is simply not the case. Her story shows how flawed Bill 72 was and how important it also is for class size and composition to be included in the arbitration provision of Bill 42. Class size has been a major issue in Brandon for a number of years.

I consider myself a large-class-size survivor. I have taught classes of 30, 31, 32, 33 and 36. The class of 36 was a few years ago. I never went into that class without being concerned about the safety of the students. It was an art class. They handled sharp implements, like pencils, paintbrushes, scissors, and that classroom would comfortably fit 25 with the space we needed for our art. With 36 students, 2 of which had high behavioural needs, they had teaching assistants coming with them. Because of the overall size of the class, there was another teaching assistant and myself. So in that class that could accommodate 25 people, there were 40. It was too crowded. Those students did not

have a quality art education that year. They did not have an adequate art education that year.

I have said that I am a large class size survivor. Well, the teacher that I want to tell you about was not a large class size survivor. She had art classes in the same school several years after I did, classes of 30 and 34, and again the composition of the classes had several high-need students in the classrooms.

Under the provision of Bill 72, teachers could grieve unreasonable, unjust actions of their employers. So this teacher decided that she would initiate a class-size grievance. As soon as she put into motion the early grievance mechanism, which is contacting the association, having the association talk to the Division, as soon as that happened, she had the assistant superintendent in her room observing, not once, not twice, not three times, but up to nine, or perhaps ten times in a few weeks.

Now, it was a difficult situation; it was with difficult students. She was making the grievance because it was a situation that was too hard to handle. Now how would she feel with the assistant superintendent watching her in a situation that was too hard to handle? It was recommended that maybe she could go and visit other art teachers, with other large class sizes, who were doing a good job, certainly, letting her know that her superiors thought she was doing a bad job. She was made to feel incompetent; she was made to feel inadequate; and she was made to feel responsible for a situation that was not in her control.

The grievance mechanism under Bill 72 did not work. She withdrew her grievance. The visits from the assistant superintendent stopped, as she hoped they would. She left the Division; the situation was very difficult for her; and she accepted employment elsewhere.

I do not think that it should be left to individual teachers to take on divisions' unfair and unreasonable practices. These issues should be bargained, and, if not resolved at the table, they should be arbitrated. I urge the Committee to consider an amendment, which does not exclude class size and composition from arbitration.

**Mr. Chairperson:** Thank you, Amy and Peter Buehler.

**Mr. Caldwell:** Thank you, Amy and Peter, for presenting this morning and for being here for the last five and a half hours since this process began.

I just wanted to pick up on the last point you make about composition and class size just for a moment—seven hours, I am just advised, sorry. It seems like only five and a half. The issue of class size and composition, I know that the decision making that went into that particular call was to try and stimulate some broader public discussion on this. As I indicated earlier tonight, you know it is an open end how that goes. I do not want to put any prejudgments on what may or may not result from the class size or composition.

Could you outline a little bit more just briefly why your views are what they are on that particular issue?

**Ms. Buehler:** I believe that large class sizes affect my workload probably more than anything else. I believe those large class sizes affect the learning of students and the success of students more than anything else. When you teach large classes, you speak to parents who have children in large classes. So I speak to those parents all the time when I am teaching large classes.

\* (02:00)

In one conversation with a parent, I was looking for an analogy that would really show why large classes are so difficult. The parent was a truck driver, so I came up with an analogy that I really think works. At Kemnay, which is close to Brandon, there is a low bridge, and there are warnings for quite a ways ahead of the bridge that trucks larger than the height of the bridge cannot go under. So I said that is exactly the way it is with large classes; you get to a point where the class is too big. It is like the truck that is too big; it does not work.

With teachers with large classes, we are often told: Work harder. If you work harder, it will work. Well, do you tell the truck driver drive harder, drive faster, you will get under the

bridge? Of course not. You do not accuse the truck driver of being a bad truck driver for not trying, and yet you accuse, or I have heard teachers be accused of being bad teachers because they do not do a good job with classes that are just too big.

**Mr. Chairperson:** Thank you for your presentations. The next presenter is Harvey Bridgeman, President of Mountain Teachers' Association.

Mr. Bridgeman, please proceed.

**Mr. Harvey Bridgeman (President, Mountain Teachers' Association):** Thank you. My name is Harvey Bridgeman. I am the President of the Mountain Teachers' Association. Thank you for the opportunity to present my opinions to the Committee. I am President of the Mountain Teachers' Association of the Manitoba Teachers' Society. I represent approximately 80 teachers teaching in Mountain School Division located some 75 miles southwest of Winnipeg.

The teachers of Mountain Teachers' Association have long supported the inclusion of teachers under the LRA. Teacher bargaining rights were set down in the PSA in 1956 and, though up-to-date at that time, went virtually unchanged for 40 years while bargaining rights of other workers, working Manitobans, improved steadily over that time. Teachers resented being left behind and not having the same rights as other workers.

Inclusion under the LRA was a goal we sought for many years. We did not want the right to strike. We were happy with the system of arbitration in place. Our local has never received an arbitrated settlement. We have proceeded to arbitration twice but both times settled before any award was handed down. All other settlements were made between the parties through negotiation and conciliation. The system worked for us, even though as teachers we were behind some of the other associations which had gone to arbitration to achieve better collective agreements, particularly in terms of working conditions.

Then came the infamous imposition of Bill 72 by the previous government. This legislation and other regressive labour laws passed at that

time were designed to get back at the teachers of the Manitoba Teachers' Society for exercising their democratic rights during the previous election campaign. I might add, after the first 15 presenters tonight, I think that the design was to aid the people whom they support and that support them. It was also designed to put a damper on wage increases for teachers by including ability to pay in the criteria an arbitrator should consider in giving awards.

Although teacher wage settlements in the years just before Bill 72 had been at or near zero percent, 10 years of inadequate funding had caused huge increases in local property taxes. Teachers resented being singled out and having their bargaining rights severely restricted. We wanted and still want open-scope bargaining. Any issues affecting our working conditions, including class size and composition, should be on the table for discussion and resolution. Teachers' working conditions are students' working conditions, and school boards and administrators often do not understand what it means to have large class sizes, classes containing numerous special needs students and their supporting staff, heavy course loads, no preparation time, increased working hours, assigned compulsory extracurricular activities, supervision time, and no adequate lunch break.

As an association, we need to be able to discuss these issues and come to a resolution to problems teachers face. I can give you examples of classes in the area of 32 students, double-graded, with several special needs students. Teachers in my division often teach eight to ten separate course programs in the course of the day. Many of our teachers have no preparation time, and the lucky ones that get any have very little.

Our school board arbitrarily increased the length of the school day by 16 minutes per day several years ago. If you want to calculate that, that is one extra week of work by a stroke of a pen and the passing of a motion, because students needed it. Yes, and it is something that we have suffered under ever since then. We start at six minutes to nine. We have short lunch breaks. We go past 3:30, anything to get the extra 16 minutes in, because that is within the

rights of the school boards, the management's right to set the school day.

If our board could, they would make it longer. That is only one thing, and many people have been much more articulate than I can be about these things. Some of these things are pretty frustrating when I heard so many people talking about management rights in the first few minutes of this or first few hours, I should say, of this meeting.

I suggest strongly that the next time you do this you listen for as long as you need to to MAST and then for as long as you need to to MTS and then go through the process that you have done tonight, because those of us who have stood up here, although extremely articulate, and I am very proud of my colleagues, cannot do it the same way as the people we pay to represent us and we elect to represent us. I strongly feel you should have listened to them first.

I would like to be here tomorrow night to hear them and hear your response to them and see what kind of reaction you have. I am sorry for diverting from here.

Teachers in many of our schools are on supervision duty morning, recesses and after school every other day. Open-scope bargaining is the only way to adequately deal with these and other similar issues. The push towards amalgamation of school divisions is also creating problems for teachers. I do not know if you know, but my division was one of three looking to amalgamate a few years ago. Then my division decided that they would not amalgamate and become Prairie Spirit. The other two did. Now we are sitting surrounded by Prairie Spirit School Division and having no input into what the policies of that division will be. The board will live to regret that.

That division, recently a teacher asked for a transfer. She had been teaching in colonies, as I do, for several years, had paid her dues and asked for a transfer to the local town where her husband teaches. They received the letter and a few weeks later transferred her 75 kilometres to the other side of the school division. She has to drive 75 kilometres one way twice a day. These are the issues of transfer that will really become

important when larger school divisions are in place. Management rights or no management rights, what does that do to a teacher's life and to their career?

I was transferred after 5 years of teaching in Mountain School Division, 21 miles. I drove for 9 years 21 miles one way. You know how many thousands of dollars that cost me to drive 21 miles one way? And this person is driving 75 kilometres, I do not know how many that is, 45 miles. That will cost her \$6,000 to \$8,000 out of her annual salary to pay the expenses of running that car and paying for the gasoline. We need to be protected from that kind of arbitrary transfer, whether it be they pay expenses, the driving expenses, something to compensate her and I am sure dozens of the rest of us that will have that happen to us when there are maybe 10 or 12 school divisions instead of 48.

The push towards amalgamation, divisions will become much larger geographically and transferring teachers within divisions will become a very important issue. Boards already use transfers within divisions as a threat and a punishment for teachers. When divisions become larger, this power will be much more of a threat. Teachers need the right to bargain rights regarding transfer within divisions.

Bill 42 will restore this right, and we thank you for that. Teachers need open-scope bargaining. There is no reason why teachers in Manitoba should remain behind other teachers in Canada and other organized workers in Manitoba in terms of their bargaining rights and their working conditions. Bill 42 will not cause property taxes to rise. Fund education adequately from provincial coffers and grant teachers many of the rights they deserve by passing this bill.

Thank you for your attention. I sincerely wish you well in your deliberations on this issue.

**Mr. Chairperson:** Thank you, Mr. Bridgeman.

**Mr. Caldwell:** Thank you, Mr. Bridgeman, for coming up to Winnipeg last night, I guess, to present this morning. I really do appreciate the remarks of individuals in this regard, because you cast it in a light that is more subjective. I

appreciate that. I just wanted to put those remarks on the record. Thank you very much.

\* (02:10)

**Mrs. Smith:** I thank you for your presentation tonight. It was quite moving to hear some of the things you went through. It must have been extremely frustrating. I certainly can understand how you must feel, because I had a couple of situations when I was teaching that kept me awake at nights as well.

I just have a question. Part of your solution is to ensure that the Government does fund education adequately from the provincial coffers. Up to 80 percent, I would assume is what you are talking about. In order to be able to do this, it is back to what I said earlier. It would grieve me a great deal if teachers were put in a spot where they were blamed if taxes went up or something like that happened. I have heard many presentations where that fear is there. Maybe we are at a time now where we have to really work together to find common ground and be part of the solution.

Some of the things that you went through would be a great motivator to become involved very actively in a teacher union, although all of us who are certified teachers do belong to the union.

Do you have any ideas in terms of how teachers could bring forth some ideas to allow the funding to be there for education, for instance, the AMM task force on education funding? Is that a possibility? I know there are so many things. The problem is, whenever I ask a question like that, I remember when I taught. There are hardly two minutes to think, let alone have extra time. But we are going into a new era now. I think that we have to start thinking about these things. Do you have any ideas?

**Mr. Bridgeman:** Yes, firstly, I would like you to ask MTS, when they make their presentation tomorrow, about that committee. We were discussing it as a group, or in a group meeting. It seemed to me as if it was that we were not wanted, but I would like you to ask that same question to our presenters tomorrow, because I am sure they will participate if they are asked,

and I am sure they will have lots of excellent recommendations.

The 80 percent that we were at or that was promised to us by various governments over the last time is a benchmark. I personally believe that there needs to be 20 percent or some percentage where the local board can make those decisions, and they can say, we want to fund a band program, so if we do that we are going to charge some local taxes, and people will understand that. But we have gotten so far away from that in the last 10 years that that is not even a consideration anymore. It is simply whether we can keep our teachers and whether we can keep them healthy.

You have not even heard one thing about the ageing population of teachers in Manitoba. Wait till you have to attract teachers, let alone keep teachers like me, when you have to start attracting new ones and when we see teachers who are starting in the profession now, and then after two years saying to heck with this, I can go somewhere else and make just the same money without all the hassles.

Ten years of funding cuts, ten years of denigration of teachers, ten years of the imposition of massive amounts of curriculum guides. I teach in a Hutterite colony. I have a storeroom full of them, three-quarters of them with the plastic still on them. I cannot possibly, possibly implement those. Even a teacher in my school division with double grades looking at so many new curriculums implemented plus whatever else we have been talking about tonight about class size, you know, you are looking at daily work just to be ready for tomorrow, let alone reviewing for new stuff, finding new things, preparing new units that fit with the new curriculums. It is impossible, it is impossible under those conditions that we are under to do that.

With all the things that were imposed, we cannot do this, and something has to give. Right now we need the right to bargain those things and say these stories to our employers who seldom come into classrooms and hear these stories.

**Mr. Chairperson:** Thank you, Mr. Bridgeman.

The next presenter is Craig Blagden, Midland Teachers' Association.

**Mr. Craig Blagden (Midland Teachers' Association):** This presentation will be short. I would like to first say I am upset that a presenter said that the presentations by teachers would just be about money going into their pockets. I would like to say for the record that I did not pay a babysitter to look after my daughter until eleven o'clock tonight, drive in from Carman and miss putting my daughter to bed. Spending time with my daughter is more valuable than anything I could ever bargain for. I am here because I care about this bill and have something to say about it.

I would like to say this is a typographical error. Instead of good evening, it should be good morning. Ladies and gentlemen, my name is Craig Blagden. I teach in Midland School Division and I live in Carman. I would like to thank you for giving me this opportunity to speak to you about Bill 42 and the changes to The Public Schools Act. I am very pleased to see the changes that the Government has presented to improve teacher bargaining. I was on our association's bargaining committee last year and saw the problems that were associated with Bill 72. Bill 72 restricted teachers' rights to arbitrate many of their working conditions, for example, transfers, evaluation and assignment and Bill 42 eliminates most of these restrictions.

The provincial government has done a good job in making changes to The Public Schools Act, but I am disappointed that we cannot arbitrate the class size. I know teachers who taught computer courses with 26 students in the classroom and only 13 computers. Now it is very difficult to teach how programs work when you have two students to a computer.

I keep reading how this bill will increase property taxes. Property taxes have not gone up in Manitoba because of teachers, but they have gone up because the province has cut back on our funding for public schools. Funding is now less than 60 percent of what it costs to send students to public school. In the '80s that was 80 percent.

One extremely good part of Bill 42 is that it continues the practice of not allowing strikes or

lockouts. Teachers do not want the right to strike because we have the best interests of our students and parents at heart. I congratulate and applaud the NDP Government for initiating the promised changes in The Public Schools Act. They are an excellent beginning to fairly change the bargaining process that was destroyed with Bill 72. What I would like is to have a fair and impartial way to collectively bargain. I do not want special treatment. I only want to be treated fairly and Bill 72 did not do that.

Thank you very much.

**Ms. Barrett:** Thank you for coming here tonight and for staying here tonight and this morning. I am very impressed actually, I must say, with all of the presentations on whichever side of Bill 42 we are discussing. Your presentation was short but it does encapsulate many of the concerns that have been raised by other teachers in their presentations so far and I am sure will again. Rest assured that we are listening to everything people are saying and we will be taking into account all of those issues.

I particularly think it is important that you are raising, along with others tonight, the distinction between the tax going up because of teacher demands and the reality which is that property taxes have gone up because of a reduction in provincial funding. That is an issue that we are dealing with as government and will be continuing to deal with. Thank you for your comments on Bill 42.

**Mr. Chairperson:** Thank you, Mr. Blagden.

**Mr. Blagden:** You are welcome.

**Mr. Chairperson:** The next presentation is Pam Stinson, private citizen. Is Pam Stinson in the room or in the hall? No. The next is Andrew Peters, private citizen. Please proceed.

**Mr. Andrew Peters (Private Citizen):** Mr. Minister, honourable members, ladies and gentlemen. My name is Andrew Peters, and I would like to thank you for this opportunity to present on Bill 42. I am presently the principal of Birtle Elementary School in the Birdtail River School Division. It is near the Saskatchewan border, just to give some geographical

perspective. I am presenting both as a concerned citizen and a concerned educator.

\* (02:20)

I would like to commend the NDP Government on fulfilling its election promise and repealing Bill 72. I, along with many other teachers, saw the previous government's passing of Bill 72 as a direct attack on teachers and on the public school system. Bill 72 clearly targeted teachers and forced them to bargain under vastly different rules than any other employee group in the province. Good and fair working conditions for teachers mean good learning conditions for students. I know you have heard that many times tonight, but it is inherent in the education system.

One area of concern for me still is the fact that my working conditions are not governed under The Labour Relations Act. Every other employee group in the province lives under the LRA except for teachers. For me, this is a concern, albeit less a concern now because most of the provisions of the LRA apply to the PSA under Bill 42. I thank this government for that progressive step forward, but I would still far rather have my interests projected under the LRA than the PSA. I do not want special treatment; rather, I want the same treatment as any other employee in the province. I do not want to see another attack specifically targeted against teachers, as was possible under The Public Schools Act. The LRA, if you are going do it to somebody, you are going to have to do it to everyone, not target specific people because, for whatever reason, you do not like them.

My other area of concern is the section in Bill 42 which does not allow for the arbitration of class size and composition. In a province as large and diverse as ours, we have many school divisions and school boards with different philosophies towards this issue. In my mind, it is imperative that all items be open to negotiation. It does not mean that they will be granted, but sometimes that is the only way a board can get a clear message that there is a problem or in fact even an issue. Open-scope bargaining is critical in meeting these needs.

Let me give you an example. Birtle Elementary School has a significant at-risk

population of students. In any given year, we can easily have anywhere from 75 to 150 incidents involving violence towards staff and other students. Those are specific incidents of violence. They do not include major misconduct, those types of things. Those are physical violence. This year there were approximately 100. In one incident this year, a Grade 3 student in a phys ed class picked up a pylon, held it in a threatening way towards the gym teacher, who was pregnant at the time, and said I am going to kill your baby. As a staff, we know that the best way to help these students and protect staff and students from violence is to keep class sizes relatively small and to provide a variety of programs in which these students can succeed. We know that class size and composition is critical in reaching these kids now, before they become older and even more dangerous in the future. It is a matter of pay now or pay a heck of a lot more later.

In our division, class size is granted on a formula basis simply based on population. Special needs and special circumstances are not a part of the formula. We also have a number of schools with very odd teacher to student ratios, some which are of great benefit to students and some which are not. This formula certainly is a step in the right direction but still remains usually flawed in a number of areas. To restrict one's ability to question this through collective bargaining not only makes for extremely unfair working conditions for teachers but also makes for unfair learning conditions for students.

These flaws and issues need to be brought to the Board's attention, and the collective bargaining process is the most logical, legal and appropriate vehicle in which to do it. Class size and composition are critical issues. Again, good working conditions for teachers are good working conditions for students.

The local municipality's and MAST's concerns about an increase in property taxes due to Bill 42 are rather interesting to me. All other employees within their control bargain under the LRA, secretaries, bus drivers, garbage dump supervisors, doctors, nurses, everybody. It is only teachers who have been restricted in their scope of bargaining. This to me is simply an equity issue. As a citizen, a taxpayer, and a

parent in Manitoba, should I not enjoy the same rights as any other worker and member of society? There is absolutely no evidence an arbitrator would not take in ability to pay. Arbitrators always take a wide range of other factors into account before making their decisions. A number of years ago, before the dark days of Bill 72, we received an arbitration which awarded us duty-free lunch hours. In the arbitrator's decision, he clearly stated had he not granted us noon hour non-contact time, he would have awarded teachers a further 0.4 increase in salary. Teachers paid for their own lunch hour.

In conclusion, I would like to commend this government for moving in the right direction. The repeal of Bill 72 shows a strong commitment to fairness and equity within our province for all citizens. I thank you as a teacher, a principal and a parent for levelling the playing field and allowing all stakeholders in education the opportunity to bargain in such a way that provides for the best learning conditions for students.

**Mr. Chairperson:** Thank you, Mr. Peters.

**Mr. Caldwell:** Mr. Chairperson, thank you, Mr. Peters, for travelling from Birtle east to Winnipeg to present here this morning. As I mentioned earlier, I certainly appreciate, in particular, hearing from individuals who have a perspective that they can bring to it, and your perspective as a principal in Birtle is very interesting to me. There was a lady earlier who is a vice-principal that presents similarly, and I thank you for that very much and for your presence here this morning now. Thank you.

**Mr. Chairperson:** Thank you, Mr. Peters. Next is Mr. Garry Hornung, private citizen. Go ahead.

**Mr. Garry Hornung (Private Citizen):** Howdy. I am not so sure whether it is morning or night, but we will see what is left of the voice by the time we are through.

As in my classes, first I talk and then you get the notes. Okay. So you have to listen in my class. Sorry. Mr. Chairman, members of this legislative committee, good evening to you all, good morning, howdy, whatever. Thank you for

this opportunity to speak. I will do the Reader's Digest condensed version.

*Mr. Vice-Chairperson in the Chair*

My name is Garry Hornung, and I am about to begin my 28th year of teaching, and the last 25 with the Garden Valley School Division based in Winkler. In that time, I have been just an English teacher. In that time, I have held various portfolios in my local teachers' association.

Bill 42 means a return to a semblance of fairness that had prevailed in Manitoba collective bargaining for about 40 years. Bill 42 means a levelling of the playing field. Fairness, not advantage or special treatment will be applied to teachers and boards and employers alike. Bill 42 means the removal of political ideology. The impact of this ideology was almost prestidigitation, pitting on one hand the teacher and the school board against each other, while downloading education financing with the other.

But downloading to the school divisions—you have heard it—in the '80s, 80 percent, in the 2000s, cut the 20 percent. Why? Oh, yes, it is all the same dollar, by the way. But perception really is important. It is not the province that raised taxes. It is the locals who raised taxes. I think we learned very well from our federal mentors not too long ago. Bill 42 signals the end of the draconian legislation of Bill 72, and yet, while some restrictions have been removed from this proposed legislation, class size and composition are still excluded.

You know, it has been a funny thing in these last four years and in the time that we have watched government. Rather than reasoning, prevailing bitterness has been generated and young people have been the pawns in this game. Let us drop management rights. Let us drop teacher working conditions and replace both with the right conditions for student learning. The young people of this province are the ones we are here to benefit after our fitful fevers have shaken us.

My own division in the last few years has had a number of horror stories. This year, we

will have several kindergarten classes of 29-plus. Last year, we had an elementary school with an average class size of 15. That was rectified, because the other elementary school at the other end of town was burgeoning at 32. Guess what? A bus route was established. My school division will spend considerable time and money training a teacher for a reading recovery program at the early years, and yet we will wonder why only 2 learners per session when it is such a good program and I have 29, so to speak, in kindergarten class.

My own high school will be very congested this year. We will have 23-plus in auto vocational school in a situation set up for 18. We have home ec labs, pardon the pun, that are stuffed, when in fact there should be 4 people to a lab, 20 to a class, there are 6. I suppose that makes a difference in that class. I teach 30, 32 in my class. We play sardines. I am 6' 5"; I am 300 pounds. I have no discipline problems. I was asked by a kid 5' 2", 160 pounds, did I believe in God and was I prepared to meet my maker this year. Amen.

\* (02:30)

Yes, the impact of class size and composition, that is working and learning conditions, is of great consequence. And yet, let us not go into Bill 42 and the arbitration business. I do not care what you are going to do, but in the end, please, optimum class size for students in regular programs and a proportionately lower number in programs for students with exceptional needs. That has to be our goal. Pick your side. That has to be our goal.

Teachers with smaller classes can spend time and energy on creative teaching, not just discipline and management situations. I only wonder when the parents of an average child will litigate. Charging me? my principal? my division? the Province? Charging what more could have been done with and for their child were it not for those management problems which dominated the teacher's time and so usurped their child's opportunities.

Back to Bill 42. These recent full-page advertisements in local papers would have people believe by its suggestion that property

taxes will soar as a result of this legislation. And yet, we all know, as we have heard, that provincial cutbacks to education are the root and cause of this issue. Couple these with this ability-to-pay trash, there can be no wonder that relations between signatories to an agreement—do you understand that? Two sides, theoretically equally, signing. I have done that. Signing a contract that will hold us, and yet, master-servant would seem to be the way we are going. Why?

Stakeholders. I like to hold steaks, just as they go onto the barbecue, medium rare. Moving right along.

You know, I would very much like to have the 19 percent, since 1983, that I have lost to inflation, recessions, and cutbacks. I would not mind that at all. I guess we all had to share in the pain. Oh, yes. I suppose arbitrators now are going to go hog wild, doling out money to teachers by the wheelbarrow. I wish. In reality, those who arbitrate, do so for a living. They like to do so, they want to continue doing so, and so they do not take long walks off the short pier of reason. They seek a balance, and in so doing, take into account many conditions beyond ability to pay. They seek to be re-selected as much as politicians seek to be re-elected.

The current means of financing education and this increasing burden on property taxes is the problem. It must be addressed, not by blaming teachers. I did like Mr. Motheral's 80-20 situation. As I was beginning my schooling in 1957, a strange event took place. It caused great fear, awe and anxiety. It changed the way education and educators were regarded. It was 60 centimetres, 2 feet, in diameter. It weighed 84 kilograms or 185 pounds, and with its 3 sisters the need for an education change. Education became a priority. The best, the brightest, were encouraged into the classroom today across North America; 2 million new teachers are being sought. In Manitoba's faculties of education, the ratio of seven female to three male teachers exists, almost as it did in the pre-sputnik era. We are behind. Others are able to launch into cyberspace.

I urge you to put partisan politics and rhetoric behind you. I urge you to see a new

sputnik in our heavenly horizons, that which generates fear and anxiety in our students about their future. That new sputnik, I guess it is that confidence to embrace change before it passes them by, our students, our future, our source of all that is to come, those who must have the skills and the knowledge to find a niche and a new economy, if that is not the key purpose of our school system, we really have to wonder what the heck is, do we not?

I am proud not to have had to strike in my teaching career, and I am even pleased that Bill 42 is going to prohibit strikes and lockouts too. I have watched with admiration, awe, and trepidation, as Ontario teachers took to the streets opposing legislation as hobbling as any in Manitoba under the previous government. I have had, my students have, and hopefully Manitoba students will have, more than 40 years of uninterrupted service and access to a good education.

Ladies and gentlemen, Bill 42 is not an expensive luxury. It is common sense. By the way, you might also consider legislation and policies to achieve the goal of keeping students in class that go far beyond encouraging them to stay in school, something that will actually get them to complete their schooling. I thank you.

**Mr. Vice-Chairperson:** Thank you, Mr. Hornung.

**Mr. Caldwell:** Mr. Chair, as has become my custom since about 1:30 this morning, I want to pay tribute to you, Mr. Hornung, for enduring the last seven and a half, eight hours, and I thank you for your remarks. As I have mentioned earlier, I appreciate the personal perspective that you bring to this item, and I thank you for your remarks. Please do give your remarks to the Clerk's office because I would like to review some of the things that you have said. Thank you very much.

**Mr. Vice-Chairperson:** Thank you, Mr. Hornung.

**Mr. Hornung:** I have suggestions for you, Mrs. Smith, but you did not ask me any questions, especially the fundraising ones.

**Floor Comment:** Oh, feel free.

**Mr. Vice-Chairperson:** There are no further questions.

**Mr. Hornung:** No further?

**Mr. Vice-Chairperson:** Thank you, Mr. Hornung.

The next presenter on the list is Ward Kay. Is there a Ward Kay in the audience here this evening? Thank you, Mr. Kay, for your patience. Please proceed, Mr. Kay.

**Mr. Ward Kay (Private Citizen):** Mr. Chairman, ladies and gentlemen, good morning. A short drive from Swan River yesterday has brought me here to talk to you about Bill 42. My name is Ward Kay, and I am a member of the Swan Valley Teachers' Association. I teach at the high school in Swan River. I would like to thank you for giving me the opportunity to speak to you about Bill 42.

As a resident and taxpayer of rural Manitoba, I would like to commend Mr. Doer and the NDP Government for keeping their election promise to scrap Bill 72. From the perspective of a rural teacher, Bill 42 will address many of the inequalities in the bargaining process caused by Bill 72. In terms of resolving disputes, the mediator and arbitrator will no longer be the same individual, and important working conditions such as transfer and evaluation of teachers will once again be arbitrable.

Recent comments by MAST and school boards contend that Bill 42 will drive up property taxes significantly for years to come. This simply is not the case. Taxes are not linked to the collective bargaining process. The problem is how schools are funded, and trustees know that only too well. We must remember that under the Progressive Conservatives the provincial government reduced its funding of public schools from over 70 percent to below 60 percent. As a result, school taxes were increased placing an increased burden on local taxpayers.

Again, I applaud the Government for following through on their election promise to

the voters of Manitoba by introducing Bill 42. However, there are still two areas that cannot be referred to arbitration, class size and class composition. These items are vital to the day-to-day working conditions for teachers, as well as learning conditions for our students. Speaking from personal experience, I know how important these issues are.

\* (02:40)

As a young teacher, I was given a Grade 12 English class of 36 students. The number of students in this class affected several aspects of the teaching-learning environment. First, there was the physical size of my classroom. Students were crowded together in long rows facing the front. No other seating configuration would allow for all 36 students. What does that mean for me as a teacher? Well, learning activities such as group planning or group presentations were difficult to organize. There simply was not enough room to form small groups. I had to book a larger classroom ahead of time, and this facility was not always available when my students needed the extra space. Class size affected my teaching style as well as my teaching strategies. Class size also affected the interaction between me and my students.

With so many students, it was very difficult to provide instruction to individual students on a daily basis. If a student needed further clarification of a question or assistance with an assignment, I did not always have the time in that class period to help him or her. For some students, class time is the only time to ask for help. Commitments to family, job, or extra-curricular activities can prevent the student from going for extra help during or after the school day. Class size also affected student-teacher rapport. The large class size meant that on some days I dealt more with discipline issues than teachable moments. One or two disruptive students sometimes required more attention than the remaining 34 students. The education for these co-operative students suffered. This class assignment was an invaluable teaching and learning experience for me as a young teacher. However, much of the stress and strain would have been more manageable with 20 or 24 students, rather than the 36 that I had.

As teachers, we must be able to discuss issues such as class size and class composition

with our employers, and if necessary, take the issues to arbitration.

Again, I would like to thank you for this chance to speak on Bill 42. Bill 42 addresses many of the restrictions placed on a fair and open collective bargaining process by the former Bill 72. By introducing Bill 42, the provincial government is keeping its election promise to the citizens of Manitoba. My colleagues and I truly appreciate the efforts of this government to make our working lives easier. Thank you for your time.

**Mr. Vice-Chairperson:** Thank you very much, Mr. Kay.

**Mr. Caldwell:** Mr. Kay, thank you very much again for bringing a personal perspective to this. I particularly appreciate your remarks reflecting back yourself as a young teacher and the challenges that you faced with a large classroom. I appreciate your very much spending the eight hours, I guess we are on to eight hours and fifteen minutes here. *[interjection]* The Chair said who is counting, but I appreciate it very much, and I think I can speak for all members of the Committee in giving thanks to you for attending.

**Mr. Vice-Chairperson:** Thank you, Mr. Kay.

**Mr. Schuler:** I have a question for the Committee. Could we canvass the audience and see how many more presentations?

**Mr. Vice-Chairperson:** We are just about to do that. Since that was the last presenter that we had on our list of the out-of-town presenters, I would like to canvass members of the audience here this evening to find if there are other out-of-town presenters who may wish to make a presentation here this evening, who perhaps were not on the list. Going once, going twice, three times. Thank you.

We would like to canvass members of the audience here this evening to find if there are other presenters who may also wish to present here this evening. If so, would you please come forward one at a time, perhaps in order of the sheet that we have. Perhaps if you can identify yourselves, then we can go through the sheet. I

know Mr. Fraser perhaps may want to make a presentation this evening.

**Mr. Harry Schellenberg (Rossmere):** Lori Johnson is next on the list here.

**Mr. Vice-Chairperson:** All right. Lori Johnson, if you would come forward please. You may proceed, Ms. Johnson, please.

**Ms. Lori Johnson (Chairperson, Board of Trustees, Winnipeg School Division):** Good morning. Mr. Minister, Mr. Chairperson, members of the Committee, ladies and gentlemen of the gallery, the Board of Trustees of the Winnipeg School Division No. 1 welcomes the opportunity to provide comment to the Law Amendments Committee on proposed changes to The Public Schools Act with respect to the collective bargaining process for teachers.

You have the brief that we have prepared. In interest of the lateness or the earliness of the hour and, given that many of the points that are in this brief have been raised both by delegations speaking in opposition and delegations speaking in support of Bill 42, I will move around the brief and direct you where I am speaking from.

The Winnipeg School Division No. 1 is the largest school division in the province and is responsible for the education of approximately 33 500 students. This education is provided by approximately 3000 members of a bargaining unit that will be affected by changes to the collective bargaining process. This represents approximately 20 percent of all teachers employed in Manitoba. Any changes to the collective bargaining legislation for teachers will impact the Winnipeg School Division No. 1 more significantly than any other school division in the province.

The Board of Trustees believes in treating employees fairly and in utilizing the collective bargaining process in addition to other processes for this purpose. The Board firmly believes that its legal obligation to provide educational services to school-age children as well as the ability of the general public to pay for these educational services should not be compromised as a result of the collective bargaining process.

The Winnipeg School Board believes that any changes to The Public Schools Act should be based on the interests of students as the paramount consideration in the adoption of any dispute resolution process. The interests of students would be best served by an educational system that would limit or prohibit the collective bargaining of matters which affect the rights or interests of students in the general public. Any system put in place should ensure that the interests of students are served and that a proper balance is maintained between the private and collective self-interests of teacher associations and the responsibilities of elected school boards to students and to the public. Any alternative which is adopted should continue the autonomy of school divisions to negotiate collective agreements based on the particular needs of their division. Any alternative which uses strike-lockout as the final dispute resolution process will disrupt the education of students and make their needs a secondary consideration.

A school division's ability to pay is largely controlled by provincial revenue. The remainder comes from other revenue, the drawdown of surplus, and the educational levies. Where arbitral awards are made which are beyond what a school division is able or prepared to pay, the Division is forced to go to the taxpayer with a tax increase which may not be supported by or be seen as realistic in the eyes of the community or the trustees. The alternative for the Division is to review the expenditure side of its operation in an effort to bring expenditures in line with available revenue. If parameters are not placed on the awards being made, this could result in a division having to downsize or re-adjust the programs it offers. This could have a serious implication for the quality of education offered to students by the Division or to tax increases, or both.

The Winnipeg School Division No. 1 recommends that Bill 42 be amended to include provisions that an interest arbitrator be required to take into account the total monetary cost of their award and the impact any non-monetary items may have on the Division's ability to efficiently and effectively meet the educational needs of the diverse student population it serves.

*Mr. Chairperson in the Chair*

The Board of Winnipeg School Division appreciates that some of its concerns have been addressed in Bill 42, in that the preamble recognizes the purpose of the public school system is to serve the best educational interests of the students. The preamble also recognizes the important role school divisions have in providing education that is responsive to local needs and conditions. The preamble recognizes as well that resources must be managed efficiently and effectively, and the Winnipeg School Division No. 1 believes that this means, or this is based on a school division's ability to pay. The preamble recognizes as well that the financing of public schools is a shared responsibility between the Province and the school division. This division recommends that Bill 42 be amended to ensure that these preamble statements be reinforced by including specific wording in the collective bargaining section of the Act.

\* (02:50)

I will proceed to page 11 in the brief for benefit of members of the committee. Winnipeg School Division No. 1 has a history of providing strong and creative programming for the diverse population of school-age children that this division serves. We have been able to do this as a result of an ability to effectively and efficiently manage our fiscal and human resources. It is particularly important that the Winnipeg School Division has the latitude to continue to manage these resources to meet the many needs of the constantly changing nature of the students it serves. We in Winnipeg 1 have 17 percent of all students attending school in Manitoba. These children come from families not only living in some of the most affluent neighbourhoods but also families living in the very poorest of neighbourhoods from across the province.

The children put in our charge come from First Nations and every ethnic and racial background representative of the people living in this province. In serving the educational needs of these children, special measures have had to be put in place. As one example, in many areas of the Division, breakfast and lunch programs are provided to children who come to school without having been fed at home, and in order that they may have a chance to learn without having to

concentrate on their lack of nourishment, we do provide them with food.

One of the needs identified by research and by the aboriginal and other minority communities is that students require adult role models and modified education programs which deal with issues, cultures and mores of the communities being served. The Winnipeg School Division No. 1 has been actively recruiting teachers from these communities for years and has been quite successful in doing so. Currently, through policy and legislation, the Division has the authority to transfer and assign staff to where it believes they are best suited to provide service. In addition, during the time of fiscal restraint and downsizing, Winnipeg 1 has been very successful in maintaining these teachers because of the flexibility that the Division has enjoyed.

An arbitrator having the ability to make a decision in one of these areas could put all of this at risk by making an uninformed decision based on what has occurred in another jurisdiction or by not understanding the issues involved. In dealing with the issue of class size and composition of classes, the Board is unsure that there is merit in having a commission appointed to consider whether a provincial policy should be established.

The Winnipeg School Board is the body that is elected and is responsible to the electorate and the students for the allocation of resources within the Division. It is charged with the responsibility of determining the needs and conditions of the local community it serves. If an arbitration board were allowed to modify the class size by reducing the pupil-teacher ratio by just one student, the impact of this decision within Winnipeg 1 would require the hiring of 163 extra teachers at an approximate annual cost of \$9.5 million. Since the Division would not earn additional base support from such a change, the total cost would have to be absorbed by the Division as a taxation increase under the system that we currently are working under. For the average homeowner with a house having a market value assessment of \$65,111, the education tax special levy would increase by \$30.53 annually or approximately 4.1 percent. In addition, the Division would be required to

provide additional classroom space, most of which is not available to us. Although we are unable to estimate this cost, we presume that the public schools' finance board would have no other alternative but to make this a priority in the allocation of their budget.

The Winnipeg School Division has approximately 20 percent of all Level III special needs students funded by the province. The number of Level III students continues to grow. Any limitation on the Division's ability to determine the composition of a classroom, where the teacher who will teach these students, may have a devastating impact not only on programming for but also on how the educational needs of these students may be met. Decisions in this area could mean that students may not be provided for in their neighbourhood schools or that these students may be forced into environments which are not conducive to their learning. Winnipeg 1 will continue to advocate for students and the general public. The Board believes that the interests of students would be best served by a system that puts limits on or prohibits the collective bargaining of matters that may critically affect the rights of students in the education process or the public in the education of the children placed in our charge.

The current legislation recognizes that the responsibilities detailed in section 126(2) of The Public Schools Act are responsibilities that a school board must exercise in order to effectively manage its fiscal and human resources to enable it to provide a quality education to the students it services. Although the current legislation does not allow these responsibilities to be arbitrated, a school board does not have an unfettered right of management in these areas. The current legislation provides an obligation for a school board to act fairly and in good faith in administering its policies and procedures in the areas outlined in section 126(2) of the current legislation. This is done through section 131(4) of The Public Schools Act which states that a school board shall act reasonably, fairly, and in good faith in administering its policies and practices related to the matters described in the subsection. The current legislation further provides a teacher with a process to deal with what is perceived to

be unfair, bad faith administration of the Division's policies or procedures in section 131(4) of The Public Schools Act which states any failure by a school board to comply with subsection 1 may be the subject of a grievance under the collective agreement and may be dealt with in accordance with the grievance process set out in the agreement.

If Bill 42 remains unchanged, what will be the responsibilities of school boards to provide quality educational programs? How will divisions establish and effectively manage programs based on the educational needs of their local communities and the children they serve? Winnipeg 1 recommends that section 104 of Bill 42 be deleted and that section 126(2), as it currently appears in The Public Schools Act, be retained in the amended Public Schools Act. The Winnipeg School Board considers an application for arbitration under The Public Schools Act to be analogous to a decision to go on strike or lockout under The Labour Relations Act. That is to say we take it that seriously. The Winnipeg School Division No. 1 recommends that Bill 42 be amended to include a provision that, prior to filing an application for arbitration, the general membership of the local teachers' association be required to hold a secret vote on the Division's last offer. Conversely, if a division were making an application for arbitration, the school board would be required to hold a secret vote on the association's last offer.

Winnipeg No. 1 supports the recommendations contained in Bill 42 to have the Manitoba Labour Board determine matters related to collective bargaining. In particular, such matters as certification, merger of school divisions and unfair labour practices should fall within the jurisdiction of the Manitoba Labour Board and be subject to the same scrutiny as is given to these issues if they come forward from any other bargaining unit in Manitoba.

The members of the Board of Trustees of the Winnipeg School Division No. 1 thank you for the opportunity to present our thoughts and suggestions to you. We wish you understanding and wisdom as you consider and determine the changes that will be made to the collective bargaining section of The Public Schools Act. It

is important to remember as you do so that The Public Schools Act is your provincial legislation.

School boards are here on a day-to-day basis to interpret, administer and ensure that your legislation efficiently and effectively provides the best education possible to that most valuable resource which the public of Manitoba entrusts to us, their children. In fulfilling this responsibility, school boards are charged with providing you with information and advice regarding the impact of any proposed changes when you contemplate revisions to your legislation. We urge you to remember that your decisions will establish the tone and the environment in which teachers and school boards will interact with each other. More importantly, however, your decisions will ultimately have a major and long-lasting impact on the success, effectiveness and efficiency of how the public school system in Manitoba serves the diverse and ever-changing needs of our children.

Attached at the end of the brief, Mr. Chairperson, is a summation of the recommendations that are contained within.

\* (03:00)

**Mr. Chairperson:** Thank you, Ms. Johnson.

**Mr. Caldwell:** Thank you, Lori, for appearing. I note Kristine Barr at the back. So thank you for being here for so long, and presenting your report. I find the report to be a very thoughtful document, and I want to assure you that the recommendations that you make at the end of the document will be seriously considered by myself and the Department in terms of this legislation as it moves forward. I also want to note that I have tremendous respect for the work that Winnipeg No. 1 does. I know I have said this before, and I do not tire of saying it because the challenges faced by Winnipeg No. 1 are unique in our province. The work that your division does and the work that your trustees do in ensuring that those who live in the centre of the city of Winnipeg receive a quality of education that is second to none is certainly noted and appreciated by myself and by those you serve. So please take that back to your fellow trustees. Thank you.

**Mr. Chairperson:** Thank you, Ms. Johnson.

The next presenter is Peter Kotyk for Rod Giesbrecht, private citizen. Please proceed.

**Mr. Peter Kotyk (Private Citizen):** Thank you. I just want to say that I never thought in my wildest dreams I would be here almost to three o'clock from starting at 6:30, but anyway. I am making this presentation on behalf of Rod Giesbrecht. Rod is away in Prince Edward Island on a CSBA conference. I thank you for this opportunity.

I welcome this opportunity to share with this committee my views, Rod's views and opinions on Bill 42, The Public Schools Amendment and Consequential Amendments Act. It is Rod's belief that this legislation has been introduced in the hope that it will contribute to improving the education of our children, and therefore the enhancement of our society. Unfortunately, he has hesitations in thinking that it will move us towards either of these goals. His concerns are related to a number of issues, and these I would like to list and subsequently elaborate on.

My concerns are in the following area: Incorporation of portions of The Labour Relations Act into The Public Schools Act, changes from Bill 72, and new issues that may be opened to arbitration 104 (2).

Incorporation of portions of The Labour Relations Act. Teachers have long enjoyed the designation of professionalism and the implications associated with it. The Labour Relations Act does not apply well to an employee with this designation. For example, the Manitoba Teachers' Society suggests that teachers work nine and a half hours per day. This number is arrived at using a complicated formula of preparation time, as well as classroom time. This formula could not be applied to most hourly workers.

Is it in the best interest of students to reclassify teachers as hourly workers? The proposed legislation seems to allow for teachers to retain the benefits of the previous system—no lockouts, no strikes—and gain the benefits of The Labour Relations Act system. For teachers, it is

a win-win situation in bargaining and places the employer at a distinct disadvantage.

Changes from Bill 72. It has been suggested by quotes in the media that Bill 42 is intended to make right abuses found in Bill 72. Gone are such things as reference to school boards' ability to pay from arbitration. Gone are formerly non-arbitrable management rights such as transfers and duty-free lunch periods. Will these changes improve our society or our education of children? If arbitrators gave an award that results in financial hardship to the residents of the school division, is that improving society? Already we can hear seniors telling elected officials that high school taxes are forcing them out from their homes. Parents have also less disposable income to invest in their children, because taxes are consuming their income. Schools are intended to build society, not tear it down.

Removing management's ability to provide care and appropriate instruction is counter-productive to the education of children. Rod works in a hospital and understands that children's lives are at risk if management does not have the ability to govern such issues as employee period breaks and transfers. Children may not be at as great an impending risk, but the public knows the importance of management maintaining these rights to ensure safety and quality.

New issues that may be open in arbitration 104(2). The proposed bill makes clear reference to the establishment of a commission to examine class sizes and composition. Broad brush strokes are used to describe the commission's composition, responsibility and terms. While this, in itself, is a cause for concern, the greater question is why this commission is struck in a bargaining context. Obviously, there will always be concern expressed regarding these issues, and a curriculum-based examination of the issues is appropriate. But is there an implied agenda to follow the examples of other jurisdictions and mandate, small and selective classrooms? One cannot say for sure what is implied, but clause 104(2) does make one think for a specific intent is implied.

If employers have been labelled unreasonable, unfair and bargaining in poor

faith, in the opinion of some they may have done so with the majority support of the general public, as demonstrated by the public's voting record at election time. More specifically, if you compare Manitoba's quality of education results with British Columbia's where small and selected classes exist, you see very positive results being arrived at under the existing Manitoba system. So why is change necessary? Is the commission's intent something other than excellence in education?

Secondly, if an arbitrator were to consider clause 104(2) in making a ruling prior to the Commission's bringing a report, a report of the Commission would be effectively circumvented by this action. Therefore, I believe that clause 104(2) must be removed.

Conclusion: Schools are a microcosm of our whole society, and as such they are interrelated. You cannot injure one without harming the whole. Quality education for children requires a plan that does not injure the larger whole.

Staff costs have risen over the years to the point that education is being negatively affected. River East School Division, for example, spends 86 percent of their budget on staffing. This means reduced funding for technology, resources, and programming. Bill 42 would increase staff costs with further negative effects. Our children deserve better. The immediate ramification of Bill 42 would result in higher costs to school divisions and, ultimately, taxpayers. The return for this investment is no improvement in education standards. The long-term ramifications are even more disconcerting. Will school yards be littered and playgrounds expropriated by temporary classrooms to meet the small and selective class size guidelines? Who will pay for unparalleled increase in funding required by the school divisions? Who will pay?

Some have suggested that Bill 72 altered a system that had been successful for many years. I ask you to consider: Who exactly enjoyed the success? Taxes rose at an alarming pace. Teachers who enjoyed wage parity with middle-class earners found themselves leaving their peers behind. All the while school boards taxed those same peers to pay difference. This spiral

has served to cast a shadow on a once noble profession. While Bill 72 needed some adjustment, I believe it is still wrong to throw out the baby with the bath water. I would implore you to carefully examine the changes needed by sincerely consulting all interested parties before passing Bill 42.

The media have quoted members of the Government by saying that repealing Bill 72 was an election promise, and they intend to keep their promises. Can I also ask the Government to keep another promise they made—good government that best serves the needs of all the citizens of Manitoba, not a specific bargaining unit.

\* (03:10)

In closing allow me to tell you a story of Gus, a resident in the riding of Rossmere. Gus is a retired widower in his late sixties. His pensions come from our government and, yearly, he has seen school-tax increases exceed those of his pensions. He owns a modest house where he has lived for over 40 years. A few years ago, he would have taken brief holidays and enjoyed an occasional game of golf. But now it seems harder to make ends meet. He still finds time to contribute to the neighbourhood by snow blowing the sidewalks in winter and cleaning up litter in the summer. He does this to help out. You see, Gus lives close to a school and students can walk easier on cleaner sidewalks. Children find pride in a well-maintained environment. Today making ends meet is hard and higher taxes make the hard seem impossible. Maybe Gus will have to leave his home and move into an apartment, but who will care for the community? There will not be a lot of neighbours like Gus around. By increasing taxes, we not only hurt the vulnerable like Gus, but we also deny our community its most valuable resource.

Bill 42, among other things, means increased taxation which leads to abuse of people who want nothing more than to be a part of a good community.

I ask you: Does Bill 42 meet its objective to improve the education of our children, and

therefore, the enhancement of our society? Thank you.

**Mr. Chairperson:** Thank you Mr. Kotyk.

**Mr. Schuler:** Thank you, Mr. Chairman, and to Trustee Rod Giesbrecht who could not make it because he was on business, and Trustee Peter Kotyk. I do not know whom I commend more, the individual who did the report or the individual who stayed and read it. I think the honour goes to you, Trustee Kotyk. I served on the board of River East School Division, and if there is one thing I have known you for, it is your ability to stay until the end. We certainly appreciate it and appreciate the fact that you have stayed to the bitter end.

**Mr. Kotyk:** I know that when Rod asked me to read this, I did not think in my wildest dreams that—because he mentioned I was No. 6 on the list, I thought I might be out of here by maybe 7:30 or 8. Unbeknownst to me, a couple of Nesteras and Cokes and stuff, and I almost had a Cheezie there for a minute. But it is almost three o'clock when I would be coming home from work anyway. But I never thought in my wildest, I would be here for almost nine hours. But it is well worth it. This is very, very important.

**Mr. Caldwell:** I will echo the comments of my colleague from Springfield. I appreciate, and indeed the honour does go to Mr. Kotyk for remaining with us all these hours. Again, I do appreciate the personal kind of anecdotal, subjective story that is told in this response to the Committee's work. Please pass along my thanks to Mr. Giesbrecht as well for the presentation.

**Mr. Kotyk:** If I can just make one last comment. It almost seems like, during the presentation, it seems teachers against board members or people that are more board members. We all introduce ourselves as plain or just ordinary citizens. You can be an ordinary citizen and be a school trustee. You can be an ordinary citizen and be a schoolteacher. I do not think we are that far apart. It just seems that, for some reason, it is like we are trying to separate ourselves, for some reason.

I think we all have the children's best interests at heart. We do not want to scrap with our employees. I used to be on negotiation for four years. Believe me, that is a tough thing to fill. I do wish that somehow, somebody other mentioned, we can get together and actually come out of this type of synergy where we can all work together. Perhaps Bill 72 was not perfect. But I would also maybe comment perhaps that maybe Bill 42 is not quite perfect. Somewhere between 42 and 72, maybe we can reach a Bill 62 or something. I do not know. But let us use all the best of both to, actually, just basically improve the children's situation. If we can do that, I think the Committee is doing their job. I thank you for that opportunity.

**Mr. Chairperson:** Thank you, Mr. Kotyk. The next presentation will be from Mr. Bob Fraser, Chairperson, River East School Division.

**Mr. Bob Fraser (Chairperson, Board of Trustees, River East School Division):** Thank you very much. Thanks for the opportunity this morning. Since I have a tee-off time at 11 a.m., I am very happy that I could do this now.

The River East School Division No. 9 welcomes the opportunity to share with this committee its views and opinions on Bill 42, Public Schools Amendment and Consequential Amendments Act. With the proposed legislation, no doubt, its belief is that, if enacted, it will improve education for the children of our province. In the final analysis all legislation affecting education must be put through that filter—that is, what will this do to help the education of our children? It is with this question in mind that we have approached our response to Bill 42.

First, let me deal with the perception created by incorporating portions of The Labour Relations Act into The Public Schools Act. Until now there has been a belief that teachers are professionals who are entitled to fair compensation, proper working conditions, and due respect. But they are not hourly workers. Within reason, therefore, they do what it takes to educate and care for the children with whom they are entrusted. However, placing teachers under the provisions of The Labour Relations Act signals a new belief and perhaps a new era

that being a teacher is an hourly worker. One wonders whether doing so will be in the best interests of the education of our children.

Also Bill 42 essentially returns us to pre-Bill 72. That legislation, while not perfect, was a definite attempt to provide fair bargaining for employers and teachers, yet recognize the very significant costs involved in the education enterprise. In Bill 42, gone is any reference to the board's ability to pay. Also gone is any provision save one to what issues may be considered by an arbitrator. Consequently, great potential has been created for costs to escalate because few if any management rights remain.

For example, many boards have negotiated or have clauses imposed by arbitration that entitle teachers to approximately one hour of duty-free lunch. The boards retain the flexibility of determining when that duty-free lunch will occur. If, however, in the future, by arbitration that flexibility is removed, it may be impossible for boards to assign sufficient teachers to supervise students without hiring additional teachers or other adults as supervisors or without imposing lunch fees or some other solution which will be less than ideal for children and more costly to parents and taxpayers. In addition to providing the opportunity to have an arbitrator severely restrict the board's ability to transfer or assign teachers, Bill 42 reduces our ability to manage and may potentially set the stage for stagnation in the system.

On a different note, let me say we are pleased to see, for the time being, class size and composition are not referable to arbitration. Bill 42 also established a commission to study these important matters. For that we commend you. One wonders, however, why clause 104(2) was created. How can a commission do its work fairly, openly, without fear or favour when the potential exists via your grievance provision for an arbitrator to set precedent and to shape and define what is fair action by school boards with respect to class size and composition? Such arbitrary decisions have the potential to render the commission's work redundant. We would suggest that while the commission was working, you not have clause 104(2). Trust the boards will continue to act fairly and reasonably and let the commission do its job without other influences.

\* (03:20)

The Board of Trustees has the ultimate responsibility for the quality of education provided to its students. While we share that responsibility with others, the board must be able to discharge its management functions. Although not an exhaustive list of management responsibilities, the items currently included in The Public Schools Act as items not referable to arbitration very implicitly reflect the management's responsibility in any circumstance. Premier Doer himself acknowledges the existence and extreme importance of management rights and declared so in statements he made regarding negotiations with Manitoba Government Employee Union. Premier Doer stated that the decision to be made on staffing levels are not going to be bargained away. Those are management rights that are not even on the table. We are responsible for those. We ask the integrity to be upheld and we are afforded the same rights and privileges in exercising our duties as employers.

Respecting aspects of Bill 42 detailing dispute resolution mechanisms in general, we accept the value of binding arbitration as a fair means to settle differences. However, since the Bill makes no provision for either compulsory conciliation or mediation, it seems that a march from negotiation to arbitration is somewhat inevitable. We value conciliation and/or mediation since either provides opportunity for sober-second thoughts. Consequently, we ask you to rethink the fact that they have been omitted from Bill 42.

Last and not least, we wish to address several disconnected matters. First, Bill 42 uses the definition of a teacher that is different from that in the current use of The Public Schools Act. The definition will encompass substitute teachers and will presumably entitle them to all the benefits contained in a collective agreement. This will cost boards and, hence, taxpayers money.

Bill 42 maintains that principals, vice-principals, are still part of the same bargaining unit as teachers. But if matters no longer barred from arbitration end up in collective agreements, we contend it would become increasingly

difficult for school-based administrators to do their jobs. The fact is the less principals are permitted to manage, the more difficult it is for them to do their jobs and the greater the potential for conflict in the building. We contend this will hurt children. Further, having school administrators remain part of the teachers' bargaining unit means any curtailment of the Board's ability to transfer or assign teachers will similarly curtail the transfer or assignment of school administrators. Given the crucial role played by school administrators in the success of the school, the children of our schools will suffer through administrator stagnation or ineffectiveness sets in.

In conclusion, the River East School Division No. 9 cannot support Bill 42. Bill 42 will, with virtual certainty, increase our costs in the face of limited resources and curtails our authorities but not our responsibilities. Teachers' collective bargaining cannot be addressed in the traditional labour-management context because in education there is a direct involvement of the public interest.

The preamble of Bill 42 clearly and distinctively refers to the public interest in education. The preamble states very specifically that it is in the public interest to further harmonize relationships between teachers and their employers through a process of collective bargaining consistent with the principle that resources must be managed effectively and efficiently.

Unfortunately, the amendments contained in Bill 42 contradict this premise. Public interest in a quality education cannot be served adequately unless the party which has responsibility and accountability can exercise its authority and effective management of the system. In order that the democratic local school division and districts can play an important part in providing public education that is responsive to local needs and conditions, we respectfully request that you do not pass Bill 42.

**Mr. Chairperson:** Thank you, Mr. Fraser.

**Mr. Schuler:** Mr. Chairman, I would like to thank Trustee Fraser for his presentation and the work that went into it, and more importantly, the

fact that he made this presentation at 3:30 in the morning. Need more be said.

**Mr. Caldwell:** Mr. Chair, I concur with my friend from Springfield in this regard, and we have agreed on issues before as well, so it is kind of nice.

Mr. Fraser, perhaps it is has been a long time since I raised this issue, and you may have missed it or we may have all forgotten about it by this stage, but I refer to page 2, the second last paragraph, with regard to conciliation and mediation. In the legislation, it is provided for under the provisions of the LRA. So I mentioned that in the previous presentation just to allay that concern.

I do also take note of your concerns vis-à-vis definition of teachers and substitute teachers, and I acknowledge that concern. So I thank you for bringing to my attention a number of issues from the perspective of the River East School Division. Thank you for staying here so long last night and today, and good luck on your tee-off tomorrow. I am in cabinet at eight o'clock tomorrow morning, so I empathize with you.

**Floor Comment:** We have another spot.

**Mr. Fraser:** Just thank you again very much for the opportunity. I think Peter said it very well. We have to work together, and the unfortunate part—and I have to say this—about this whole meeting yesterday and tonight and this morning and tonight is that it appears like it is going to be teachers against trustees and boards, and whatever wedge was—and I heard it earlier this evening—a wedge driven between teachers and school board members, I believe this exercise is only going to drive that wedge further. Hopefully, we can get that out of the way and get down to the real business that we are all interested in and that is educating our children. Thank you.

**Mr. Chairperson:** Thank you, Mr. Fraser.

The next presenter is Doug Edmond, President of the Manitoba Association of School Superintendents. Please proceed.

**Mr. Doug Edmond (President, Manitoba Association of School Superintendents):** Mr. Chairman, Mr. Minister, members of the Committee. I do not know if this is going to work, but I kind of feel that at this late hour that

I finally get the feeling that I now know what it is like to be a newly trained or a newly inexperienced comedian at the Viscount Gort on amateur night. There is no one here to hear my good jokes. Anyway, with that I will certainly try to be brief. I do have certain sections that I would like to read in and others that I think the points have been made time and time again. So I will try and dispense and highlight those.

The members of the Manitoba Association of School Superintendents, to quote our mission statement, seek to provide education which is in the best interest of school-aged children. It is the interest of Manitoba's school children and the tools we need as educational leaders to champion those interests which lie at the heart of our response to Bill 42. Our theme today echoes paragraph 2 of the preamble in the new legislation, which affirms this goal of providing the best possible education for our children.

We commend the Minister for putting children, rather than teachers or trustees or administrators or politicians or possibly superintendents, at the heart of the preamble—I say that in jest—and I think it echoes some of the comments that you are hearing from the late presentations that you are hearing tonight, that we certainly need to work together regardless of what circumstances or what bill or what conditions we are under in terms of, let us say, serving the children that are in our classrooms.

Our focus today will echo paragraph nine of the preamble, which emphasizes effective and efficient management of educational resources. The use of the word "efficient" recognizes that resources are finite and ought not to be squandered. No challenges are closer to the daily work of school superintendents than to ensure that the work, which educators do for children, is effective and that it is efficient. Our concern is that while the preamble charges school systems with the responsibility to manage effectively and efficiently in the best interests of children, later sections of the proposed legislation and much of the ultimate decision-making powers about management of our schools to arbitrators, those arbitrators are given no instructions to consider effectiveness, efficiency, or whatever it might be in the best interests of children. That oversight is regrettable.

\* (03:30)

We will leave it to other presenters, and certainly that has occurred tonight, that other presenters before this committee have focussed on the potential dollar costs to the Manitoba taxpayers. Arbitration awards in the past have already suggested that additional burden on available resources likely will arise under a model where all aspects of working conditions are subject to arbitration. Consider the cost implications of arbitration awards in the past such as lunch supervision, extra-curricular activities, professional development, educational and personal leave, part-time staff, or attendance at staff meetings. Even class size, which has immediate and substantial cost implications, will in two years or sooner, be imposed by legislation or determined by arbitrators who have no requirement to think about effectiveness or efficiency.

Our concern in our presentation is primarily about effectiveness and efficiency of the administrators to provide the best possible education for the children. Under Bill 42, all is able to be arbitrated and therefore negotiable. We are concerned that collective agreements will grow increasingly large and unwieldy, restricting management's ability to meet the needs of students. Now, what I will do is comment briefly on a number of the points because they have been made already tonight.

For instance, teachers professionalism may, and we feel will, be hindered. Locating negotiating process under The Labour Relations Act will further move teachers from a professional status that they have long aspired to. More and more, work conditions will be governed by collective agreements. There is less and less room for teachers and administrators to exercise professional judgment about how best to serve the students.

Within my notes, I show a number of examples, one of which is making the definition of prep time possibly being considered non-student contact time and what that possibly might be interpreted by as an arbitrator. Another example might be parent nights, open houses, program information evenings, restricting the

number of such events from occurring within a school year.

Item 2 that we are expressing concern about is the definition of "teacher," and certainly you have heard that tonight. We are concerned that it presents confusion, and you have already acknowledged the fact that there is some confusion. Certainly, The Public Schools Act made reference to the form 2 or form 2A contract which would give more light, less confusion.

Item 3, definition of "unit," is clearly unclear. There is confusion regarding what is a group of teachers. I was trying to well, never mind. I will not make the joke. I will not do it. It is too late. Our concern in that context was also with regard to the unit of being a group of teachers. Was it a single board? Was it more than one board? We wondered whether this might be leading somewhere related to school board amalgamation. We would appreciate further clarification in that regard.

Item 4, arbitrator rulings on selection assignment transfer. Teachers may encumber both effectiveness and efficiency, and you have heard that tonight as well. Where will the flexibility for school boards be in consultation with staff, the community, to identify and execute staffing philosophies they deem to be in the best interests of the local community and the local children in that community?

One example that we show here I think would highlight. What if an arbitrator were to impose a ruling regarding placement of subject specialist teachers? What happens to the ability of the school to develop interdisciplinary instruction? Further complicating the matters, what is the dividing line between staff assignment issues and class size and class composition issues?

Section 104(1) of Bill 42 stipulates that class size and composition are non-arbitrable at this time. But if a teacher grieves a transfer to a certain class size, because of its size or composition, the matter proceeds to arbitration. Does not one meld into the other? The potential is great for arbitrators' rulings to play havoc with both local school budgets and local school

division management with regard to efficiency and effectiveness.

Arbitrators' prescriptions regarding evaluation of teachers performance. We are concerned with regard to the evaluation methods that might be arbitrable. We would suggest or encourage a return to the conception of fairness under existing policy simply because it is difficult to see how most external arbitrators would have the educational expertise to improve on the sophisticated or professional teacher-pedagogical evaluation processes already developed by educators. How did I get that out? Sorry.

Item 6: Including principals and vice-principals with teachers may hinder effectiveness. Here I would express some concern in terms of how can those who develop teachers' working assignments, supervision, evaluate teachers and recommend on renewal or termination of teachers' employment be deemed appropriate for inclusion in the teachers' bargaining unit. Is there any other instance in The Labour Relations Act where supervisors are included? We have heard tonight that that is not the case. Seems that the inclusion of administrators with teachers is open to be challenged under The Labour Relations Act. In other words, there may be a challenge to that situation. Further, arbitration rulings regarding selection, assignment, and transfer of employees may, if principals and vice-principals are part of the teachers' bargaining unit, restrict a school division's ability to manage schools in the best interests of children. Administrators' appointments are vital to a school community. Such appointments have significant impact on an educational experience of our children. Why are we setting up a system where this critical administrator appointment will be intrusively encumbered by the rulings of an external arbitrator?

Item 7: External rulings on class size and class composition may be restrictive, expensive and unresponsive to the changing local needs. Again, you have heard tonight that situations that might occur in the north, situations within my own division, Winnipeg School Division, may not be the same. If we move to a provincial policy, so to speak, it may have the inability of meeting the needs in the local community.

Following that there may be provincial policy on class size across the province, depending on the commission's recommendations and the will of the government, if no provincial guiding policy were introduced at that time, class size and composition would still become subject to arbitration under The Labour Relations Act.

We conjecture that there will be an expectation to act fairly, but the bottom line appears to be that either provincial policy or arbitration rulings rather than the local school board will govern class size and composition issues in Manitoba. We question how shifting decision-making powers about class size and composition away from the local school boards will improve the lot of Manitoba's school children. We provided a number of examples within our brief. As an example, one would be a school where a new family moves in during the month of January or a number of families move in the month of January putting some classes over the size prescribed by the collective agreement or the provincial policy.

Who in the provincial bureaucracy will rule on cases or exceptions to the provincial policy, and if there were no provincial policy would the arbitrator have to rule on this? How long would it take for that ruling to occur? Another example, a school in which there is consultation to find a certain grade level to have a smaller class size of students to meet those students' needs. Will that be considered an exception or will that be something that will be subject to the provincial guidelines on class size?

I will leave the last example. Sorry, it is getting rather late, Mr. Chairman.

Item 8: The commission's terms of reference on the class size and composition restrict consultation. The Minister informing the commission, and the commission itself in doing its work are to consult with teachers, trustees, parents, even pupils, but not with principals and superintendents. Why are precisely those persons charged with forming classes, with the most experience in forming classes and with a balanced system-wide view on forming classes omitted from the suggested consultation list? We were somewhat dismayed by that and assumed that it was somewhat of an oversight. I heard

tonight that the Minister made reference to this in terms of other concerns expressed to that regard, so I will dispense with that.

\* (03:40)

In a broader context, superintendents are educational leaders and managers of Manitoba's school divisions and play a key role in Manitoba's education. They are the persons charged with making the system work. Superintendents can provide very important perspectives on school division operations, perspectives that would be valuable in developing good legislation. During the development of Bill 42, superintendents were deliberately denied a direct channel to the Minister by which they might have contributed the benefit of their administrative and management experience. We believe we could have been of valuable assistance before now and urge the Minister to now include us specifically by name among those whom the commission would consult regarding class size and composition.

In conclusion, we commend the Minister for shunning strike-lockout as an option in the negotiation process, and we are pleased that Manitoba's children will not have their classroom experience disrupted by labour disputes. We thank you for the opportunity to be heard. We offer our support and expertise in helping the government develop the best legislation for Manitoba's school children. Thank you very much.

**Mr. Chairperson:** Thank you, Mr. Edmond.

**Mr. Caldwell:** Thank you, Doug, for spending all these long hours with us. I appreciate your comments, particularly the definition of "teacher" inviting confusion. We have heard that a few times tonight in this regard. I have taken note of that—or this morning, sorry. I also take note of the other seven concerns that MASS has and particularly the last point you make about the terms of reference restricting consultation certainly was not the intent, so I will have another look at that particular issue with regard to superintendents and principals. The Deputy went home to bed, so I do not have the opportunity to talk to him about it right now, but we will speak about that tomorrow.

Thank you for the commendation in the last paragraph. I sure appreciate that, and I know, as the previous two presenters have mentioned, Mr. Kotyk and Mr. Fraser, that this is a rough patch in terms of our mandate collectively as stewards of public education in the Province of Manitoba, whenever you have a conflicting situation that it creates particular challenges, and I do look forward along with probably everybody that has been in this room tonight to concluding this particular process and getting on with some of the real positive work that we all need to participate in together, so thank you for being here this evening and this morning, or last evening and this morning.

**Mr. Faurschou:** I want to thank you for taking the time to present this most thoughtful document this evening. Just so there is no misunderstanding as to the observation or perspective to this which document comes, I would like you to define perhaps the membership of the superintendents' department and what it may entail as far as actual classroom expertise or experience so that when this is debated at a later date it is founded in experience.

**Mr. Edmond:** The superintendents' association is composed of all school division superintendents that would be classified to be responsible for duties associated with the management of the running of the schools, so, as an example, you will either have school superintendents, superintendents of schools, assistant superintendents, directors, any of those individuals that, let us say, have teachers reporting to them or principals, consultants, teacher consultants, support teachers. There is a whole raft of different organizational structures within the province and different titles that school divisions now use to define what is considered to be the senior management team responsible for the education component of the school division. Those individuals are all eligible to join our association. We have around 135 members representing the 57 school divisions across the province. All school divisions have superintendents that are members of the association.

**Mr. Faurschou:** In regard to that, do you yourself have teaching experience? What I was

really trying to get at, you have explained two-thirds, is that teaching experience is important when one is trying to disseminate the observations you have made this evening.

**Mr. Edmond:** I am 48. I have worked in five school divisions. My current board, I have been a superintendent for 13 years. Most of our membership, we are just going through a review of our long-term disabilities, so we actually got to see a breakdown of our association. Our average age is around 52. Of that, more than half of their educational experience would have been classroom/school administration experience prior to becoming a superintendent. In most cases, superintendents are responsible for evaluating principals. In some cases, they are also responsible, like myself, for evaluating teachers/consultants, if that helps.

**Mr. Chairperson:** Thank you, Mr. Edmond. The next presenter is Mr. Roy Schellenberg of St. Boniface School Division.

**Mr. Roy Schellenberg (Vice-Chairperson, Board of Trustees, St. Boniface School Division):** My staying this late is not because of an interest in speaking at this late hour, but I would have difficulty getting back because of other commitments tonight, and it is not a tee-off time either.

Honourable ministers, committee members, St. Boniface School Division is committed to creating a community of learners where successful student learning is the concern of all. The Division will provide a safe, open and trusting learning environment where all have the opportunity to develop high expectations for themselves as lifelong learners, to learn and to exercise respect and civility for one another, to discover and to celebrate the rich cultural diversity of the larger community, to acquire the knowledge, skills and attitudes to act as resourceful and responsible citizens in a democratic society.

This extract from our mission statement and beliefs about children and learning and teachers and teaching is consistent with the student-centred and local community-based focus of the preamble to the proposed legislation. We view

the inclusion of this preamble as a positive and important addition to The Public Schools Act.

However, it is our experience that flexibility and balance are needed to create the kind of environment that supports the objective of running the operation, to quote the preamble, "efficiently and effectively." It is our belief that Bill 42, as proposed, will impinge on the school division's ability to meet that objective and the Board's elected mandate to be "responsive to local needs and conditions," again to quote from the preamble.

We ask that you consider the following recommendations in deliberating the content and wording of this bill. We view these as being the primary recommendations, in discussion among our trustees at the board table. Number one, legislation should recognize the responsibility of school divisions by including clauses of the current legislation and/or by strengthening the preamble of the proposed legislation with reference to the following areas:

**Salaries and benefits:** Salaries and benefits account for over 82 percent of our budget. Even a small increase in salaries and benefits will have a significant impact on the budget and ultimately on local property taxation. For example, in a school division such as ours, an arbitrator's award that results in a 0.5% increase in costs beyond what was being negotiated would result in additional annual costs of \$150,000 to the taxpayers of the Division. To some, this may not appear to be significant. However, the feedback from residents at our annual public budget consultations has sensitized us to the effects of property tax increases. This is especially true in the case of seniors and other people on fixed incomes.

\* (03:50)

We need to ensure local control of these expenditures to avoid shifting more of the costs to local property taxes. Having an arbitrator render a decision that may include clauses to the collective agreement other than those already considered by the negotiating parties is a real concern to our school division. What reference points would the arbitrator use as a means of affirming that the additional award was

appropriate within the local circumstances? Entrenching in legislation the right of an arbitrator to include factors in an award that were not part of the negotiation process stands in contradiction to the proposed legislation that states "and WHEREAS democratic local school divisions and districts play an important role in providing public education that is responsive to local needs and conditions." The proposed legislation does not require arbitrators to be responsive to local needs and conditions. They are therefore not accountable for the effect of their decisions on students in our classrooms and on local residents.

There is a second point under that recommendation, items referable to arbitration. Under the proposed legislation, the selection, appointment, assignment, and transfer of teachers and principals; the method of evaluating the performance of teachers and principals; and the scheduling of recesses and the midday break are now items referable to arbitration.

The proposed legislation would have serious implications for school divisions. For example, if we need to transfer a teacher in a circumstance that is essential to the best interests of the students and classroom environment, and we have had those, the terms of a collective agreement as decided by an external party, the arbitrator, may prevent the change from being made. This could occur in spite of the fact that our divisional policy on evaluation, including transfers, is based on a professional growth and collaborative model that supports a positive learning environment for students and a safe teaching environment for our teachers. The outcome for students would be to remain in a less than ideal learning environment.

Finally, under this first recommendation, just a comment on class size and composition. Under the proposed legislation, a commission is to be established to study class size and composition. The articulation of its mandate and anticipated recommendations do not appear to include the status quo as one of the options. Our concern is the difficulty of optimizing the student-learning opportunities and of meeting the objective of efficiency and effectiveness as referenced in the Bill's preamble. A mandated province-wide student-teacher ratio or policy on

preparation time could remove the ability to reflect local requirements and limit the options available to our division. The diversity of the educational needs of our students must be supported by a flexible and balanced policy framework.

Our second recommendation, the definition of a teacher should be clarified and specified under the proposed legislation. Under the definition proposed in Bill 42, section 97(1), someone who has a teaching certificate but may not be on contract could be covered by the terms of the collective agreement. Examples include substitute teachers, evening school and summer school teachers to name a few. Will they be entitled to the same benefits as teachers on contract? Will they be given full rights and privileges of participation in the bargaining unit as teachers on contract?

A further concern is that the definition of a "unit" in the Bill as having "the same meaning as in the Labour Relations Act" implies that other school division employees, i.e., paraprofessionals, would not be included. However, the definition of "unit" in section 1 of The Labour Relations Act means a unit that is appropriate for collective bargaining whether it is an employer unit, craft unit, technical unit, plant unit or any other unit. Will only teachers on contract be included under the collective agreement?

Finally, the reference to a unit as a group of teachers employed by a single school board or two or more schools boards requires clarification. The legislation should not allow units from different school divisions to merge except in those situations where school divisions are amalgamating. Having just concluded a successful amalgamation within the last few years, we can confirm that the success of the amalgamation was predicated on the good will and active participation of all partners, including teachers and trustees.

Our final recommendation is that legislation should include provisions for conciliation or mediation prior to proceeding to arbitration. The collective bargaining model outlined in Bill 42 does not include an intermediary step between negotiation and arbitration. Either party—teachers or trustees—can request the move directly to

arbitration, once the minimum time allotment for negotiation, 90 days, has been met. Depending on the time of year and circumstances, it has been our experience that there have been no negotiations for some periods of weeks or even months after the expiry of a collective agreement. An example would be over summertime when few of us really want to meet in committee.

Either party could, therefore, opt to proceed to arbitration before any significant and real bargaining has taken place. Issues that may or may not have been identified could end up being determined by a third party, namely, an arbitrator, who as earlier referenced, is not ultimately accountable to the constituency. A solution agreed to by the teachers and trustees of the Division, whether accomplished alone or with the assistance of a conciliator or mediator, is much preferred to a solution imposed by a third party through arbitration. By moving directly to arbitration, the provisions for conciliation and mediation provided under The Labour Relations Act may be by-passed entirely.

If I could just add a comment. Mr. Minister, I know you have mentioned that The Labour Relations Act includes provisions. Our specific concern is that there be wording in The Public Schools Act that would ensure that that step is taken.

In conclusion, the proposed legislation could have potentially serious implications for school divisions, and ultimately students and residents. The inclusion of a preamble that focuses on the needs of students and communities is a positive and important addition to The Public Schools Act. To ensure that school divisions and employee groups have the flexibility to respond to their local needs and conditions is imperative. We do have key concerns with the proposed legislation. We appreciate the opportunity to present these recommendations and trust that government will make the necessary changes to the proposed legislation. Should there be further consultation regarding Bill 42, we would welcome the opportunity to participate.

On behalf of the Board of Trustees of St. Boniface, thank you.

**Mr. Chairperson:** Thank you, Mr. Schellenberg.

**Mr. Caldwell:** Mr. Chair, thank you, Roy, for tonight and this morning and sticking with it. I just want to comment that I do appreciate the fresh view that the presentation from your colleagues in the St. Boniface School Division bring to the table. I think the analysis that the trustees of St. Boniface have undertaken in this regard is, to me, refreshing because it does, as I say, provide a view that involves specifically the concerns of the St. Boniface School Division, and it is stated in your own words. I think that is useful on a number of reasons, and at this hour not the least of which is just some fresh language. So I appreciate that very much.

Some of the comments that are made in the document vis-à-vis definition of teachers and so forth, we have made some reference to that earlier this evening. I will take a good look at that item again in terms of definitions and so forth. I do note, and I did note when you brought it to my attention specifically, the desire to have a specific section in The Public Schools Act that refers directly to conciliation and mediation, as opposed to having it provided for under The Labour Relations Act. So I appreciate your presentation, and certainly appreciate your stamina. I wish you well in your journey tomorrow. Thank you.

**Mrs. Smith:** I appreciated your presentation and your stamina very much, as well.

I had one question for you. In this presentation, you did present what appears to be some common ground by making some suggestions where you talked about student-centred and local-based focus within the context of what you are talking about, and yet you also talked about the ability of divisions to pay. You pointed out the salaries and benefits and the ramifications salaries and benefits play on a budgetary level. Do you have any further ideas, Roy, concerning how we can get the teachers and the boards working together to put something together, to have input in such a way that teachers feel as if they are a part of the process and yet not put the taxpayers in jeopardy, because the Bill, as it stands right now, has raised serious concerns across the province,

and yet, you heard clearly tonight how the teachers felt disenfranchised in many ways as well? So do you have any further thoughts on that?

I thought I would ask you a deep question, it is only four o'clock in the morning.

\* (04:00)

**Mr. Roy Schellenberg:** Let me just really make a couple of comments, and one of them actually will reiterate an underlying theme of what we have said in our presentation.

First of all, I think in any situation there is an underlying responsibility on the part of boards to look at the entire picture, and to that extent we cannot avoid looking at the financial part while we look at bargaining or any other piece of what may be pertinent to our doing our jobs effectively.

In doing so, though, I wanted to make reference to a second point that we actually made in the presentation, and that is we would like to see that the opportunity for the two parties themselves to work through the issues and differences be the maximum possible opportunity and that any additional conciliation/mediation, or if ultimately arbitration is needed, that those be kind of the last resort in ensuring that the two parties are always talking to each other.

I think this can be done in several ways. I know we have tried to do it. I suspect we are not perfect either but from the standpoint of policies around professional development, around safe environment, I think it is important for boards to be considerate of those and to be fully open to discussing all aspects of those with teachers where concerns exist. I think if there is an openness and if there is a candour and a willingness to work through to the core issues, then that, in the framework of a larger provincial policy, ensures that results are achieved, and, I think, can help to move us away from a confrontational context to one that is more positive and productive in terms of meeting the needs of kids in classrooms, as well as creating a safe environment.

**Mr. Chairperson:** Thank you, Mr. Schellenberg.

The award for the greatest stamina may go to the next presenter and maybe the last presenter. With leave of the Committee, we will hear from Sandra Paterson-Greene on behalf of Scott Johnson, St. James-Assiniboia School Division. Is there leave to hear this presenter?

**An Honourable Member:** Leave.

**Mr. Chairperson:** Leave. Ms. Paterson-Greene, please proceed.

**Ms. Sandra Paterson-Greene (St. James-Assiniboia School Division):** Thank you and good morning. On behalf of the St. James-Assiniboia School Division No. 2, the Board of Trustees welcomes this opportunity to present to the Law Amendments Review Committee its view on changes to the teachers collective bargaining process in The Public Schools Act as proposed in Bill 42.

As an educational partner in the province of Manitoba, the Board appreciates the invitation of the Minister of Education (Mr. Caldwell) to work with him to maintain effective and efficient systems, administration, to provide the best possible education for our children. It is within this context that the Board presents comments and specific concerns related to the deletion of section 126(2) from The Public Schools Act.

"Matters not referable for arbitration. Notwithstanding any other provision of this Act, the following matters shall not be referred for arbitration and shall not be considered by the arbitrator or included in the arbitrator's award:

"(a) the selection, appointment, assignment and transfer of teachers and principals;

"(b) the method for evaluating the performance of teachers and principals;"

The Board has serious concerns with regard to the proposal for the selection, appointment, assignment and transfer of principals and vice-principals to be arbitrable.

The Board views school-based administrators, specifically principals and vice-principals, to be a very important component of our division's management team. With the implementation of the Renewing Education: New Directions plan, principals assumed significantly increased responsibility as lead managers of their schools in areas such as participating in the hiring and assigning of teachers, administrating the terms of the collective agreements as agents of the Board and evaluation of teachers.

Michael Fullan, OISE 1998 states: principals are middle-managers. Lortie, in 1997, concludes that successful innovation requires highly sophisticated managerial behaviour at both the system, superintendent and school principal levels. Leithwood, 1999, relates that the principal is central to the maintenance and changes in the culture of the school. Robbins and Alvy, 1995, devotes a chapter Leader is Manager in their book *Principal's Companion*. They state that effective principals are effective managers and further, that good leadership requires effective management.

In light of the preceding research, the Board believes that it is imperative that they maintain the right to select, appoint, assign and transfer the Division's middle managers, principals and vice-principals.

Our board is concerned that Bill 42 amends the collective bargaining process and potentially allows arbitrators to put in place a system which provides for greater weight to be given to seniority and length of service, as opposed to the key critical attributes of qualifications, competence, capabilities and merit that are currently used by the trustees in the Division's management process.

Future arbitration rulings regarding selection, assignment and transfer of employees may severely restrict our division's ability to manage schools in the best interests of children. Our board believes that it is vital to consider the needs of school communities in the appointment of administrators. Such appointments have significant impact on the educational experience of children. This belief is in concurrence with

the recent legislation regarding the role of parent councils in the school staffing process.

As an illustration, consider the scenario of two teachers applying for an administrative appointment. Both teachers have a master's degree in administration. One teacher has one year more experience. The teacher with seniority arrives at work 15 minutes prior to the first class and leaves work 15 minutes after the last class. The only times that this individual gives time beyond the regular school day is for staff meetings held once per month, and parent-teacher conferences held twice during the school year. This teacher's students generally achieve below the Division and provincial means on exams.

The less experienced teacher, on the other hand, takes initiative to assume leadership, and takes on added responsibility by serving on major school and/or division committees, mentoring new teachers, writing articles for publication and making presentations, serving as department head program implementation assistant, augmenting students' programs via organization, supervision of extracurricular activities, such as school plays, debating teams, student council, school dances, ensuring students achieve at least 5 percent above the Division in provincial exam.

Such provisions similar to those existing in collective agreements outside of education be imposed because qualifications—I am in the right place. I am so tired, ladies and gentlemen. Should provisions similar to those existing in collective agreements outside of education be imposed, and because qualifications are seemingly equal, the more senior teacher would be considered automatically for the administrative position. If the Board, with input from schools, parents, councils, chose to appoint the teacher with less seniority, the more senior teacher could grieve this decision. This critical administrator appointment could be intrusively encumbered by the ruling of an external arbitrator potentially not familiar with the complexity of appointing administrators and the need to stress capabilities more than length of service.

Further concerns with regard to the possibility that the common practice of seniority will become the overriding factor in the selection, appointment, assignment, and transfer of principals and vice-principals are sighted below: Ensuring longevity within the administrative ranks if staff with less seniority are not appointed; meeting the cultural diversity needs of individual school communities such as French immersion; meeting needs of specific school populations such as cluster schools for students with special needs and challenges; building strong administrative teams where strengths offset weaknesses; developing the skills of teaching staff and administrative modelling of best teaching practices by designating previous program co-ordinator experience as a definite asset; achieving gender balance; planning for appropriate growth; enhancing personal career paths.

From a financial perspective it is advantageous for the trustees to maintain their right to appoint, assign, and transfer principals and vice-principals. The potential exists for costly legal fees, as litigation becomes necessary to settle possibly numerous grievances. In jurisdictions such as the Province of British Columbia, where similar legislation is in place for teachers, it has necessitated the hiring of full-time labour relations personnel to deal with increasingly and ever growing, unwieldy collective agreements. British Columbia's history and experience with teachers' clauses in their collective agreements over the past 10 years certainly can serve as an example to the possibility of a similar experience for administrators in Manitoba in the future.

\* (04:10)

Principals and vice-principals currently have legislation in place that allows for due process as concurrently with section 126(2) of The Public Schools Act. The Legislature enacted section 131(4), which provides: a school board shall act reasonably, fairly, and in good faith in administering its policies and practices related to the matters described in subsection 126, Matters not referable for arbitration. Any failure by a school board to comply with the subsection may be the subject of a grievance under the collection agreement and may be dealt with in accordance

with the grievance process set out in the agreement.

The preceding clearly requires trustees to act fairly in administrating its policies and practices. Administrators also have protection under section 92 of the Act. They cannot be dismissed without just cause.

It is the opinion of our board that this not an area that requires fixing. Current legislation is appropriate and working well for all stakeholders. Our board believes that the deletion of section 126(2)(a) and (b) from The Public Schools Act will impact negatively on public education in our province. It is difficult to envision how external arbitrators, often lawyers and non-teachers, will have the educational expertise to rule on critical administrator appointments and to improve on the sophisticated and professional administrator and pedagogical evolution process already developed by educators.

Will arbitrators be ultimately striking the best deals and in the process be compromising our educational delivery of service to children? The British Columbia experience with similar legislation has moved the province's educational path to be one which is more employee-centred with jobs as the priority as opposed to student-focused with education and learning as the focal point.

The enactment of Bill 42 as currently proposed may result in the utilization of a recipe approach with a focus on seniority and diluted generic criteria for principal and vice-principal appointments. There also is the potential for the addition of costly legal fees as the necessity for litigation increases.

Our current policies and procedures for the selection, appointment, transfer of principals and vice-principals have proven over the years to work well and to the benefit of our students and school communities.

Our board respectfully reiterates the request to amend Bill 42 to retain section 126(2)(a) and (b) of The Public Schools Act. On behalf of the St. James-Assiniboia School Division Board of Trustees, thank you for the opportunity to

convey our views and concerns regarding proposed amendments to The Public Schools Act contained in Bill 42. We trust that you will give due consideration to the suggestions we have offered in our presentation.

**Mr. Chairperson:** Thank you, Ms. Paterson-Greene.

**Mr. Caldwell:** Thank you, Ms. Paterson-Greene, for closing out our session this morning. I appreciate, as I mentioned to Mr. Schellenberg previously, the perspective that St. James-Assiniboia brings to this issue with regard to the issue of seniority, which no other presenter has mentioned in such detail as you have. I think that provides some fresh insight into this, and I appreciate the fresh insight rather than, as I mentioned earlier, the recycling of documents.

I also think your suggestions vis-à-vis—I am going to have to refer to it here—seniority certainly provides some fresh insights. Also, the issues of amending the Act rather than rejecting it completely are helpful. I appreciate those two comments. I, again in closing, thank you for bearing with us all through this process.

I note that the Member for Portage was clean-shaven when he got in here. He resembles Fred Flintstone right now. So I think all of us who grow whiskers look a little bit more dishevelled than we did at the beginning of the process. We are like that, except for Mr. Reid, of course, who has a beard, so you cannot really tell. But those of us that shave, all look like we need one after sitting through this process.

So thank you very much for adding some fresh perspectives on this issue. I do appreciate that. It is always a pleasure to come out to St. James-Assiniboia. I am sure I will be out there again in the not-too-distant future. Thank you.

**Ms. Paterson-Greene:** Thank you. Good night, everybody.

**Mr. Chairperson:** Mrs. Smith, Fort Garry, has a question.

**Mrs. Smith:** I just want to thank you for your perseverance. You did bring up parent councils. Another presenter mentioned parents on a couple of occasions, but I appreciate you doing that and thank you for taking the time. Your commitment to speaking to this bill is commendable. I want to thank you very much for that.

**Ms. Paterson-Greene:** I do not know what other school divisions do, but we meet every year with all of our parent councils vis-à-vis staffing. They tell us what they want, not a name, but the type of person that they are looking for. We find that very valuable.

**Mr. Chairperson:** Mr. Derkach.

**Mr. Leonard Derkach (Russell):** No comment.

**Mr. Chairperson:** Thank you, Ms. Paterson-Greene.

**Ms. Patterson-Greene:** You are welcome. Good night.

**Mr. Chairperson:** Is there anyone else who wishes to present this morning? No.

The hour being 4:19 a.m., what is the will of the Committee? Just a reminder that an additional meeting of this committee has been called for this evening, Wednesday, July 26, at 6:30 p.m., again in this committee room. Committee rise.

**COMMITTEE ROSE AT:** 4:19 a.m.