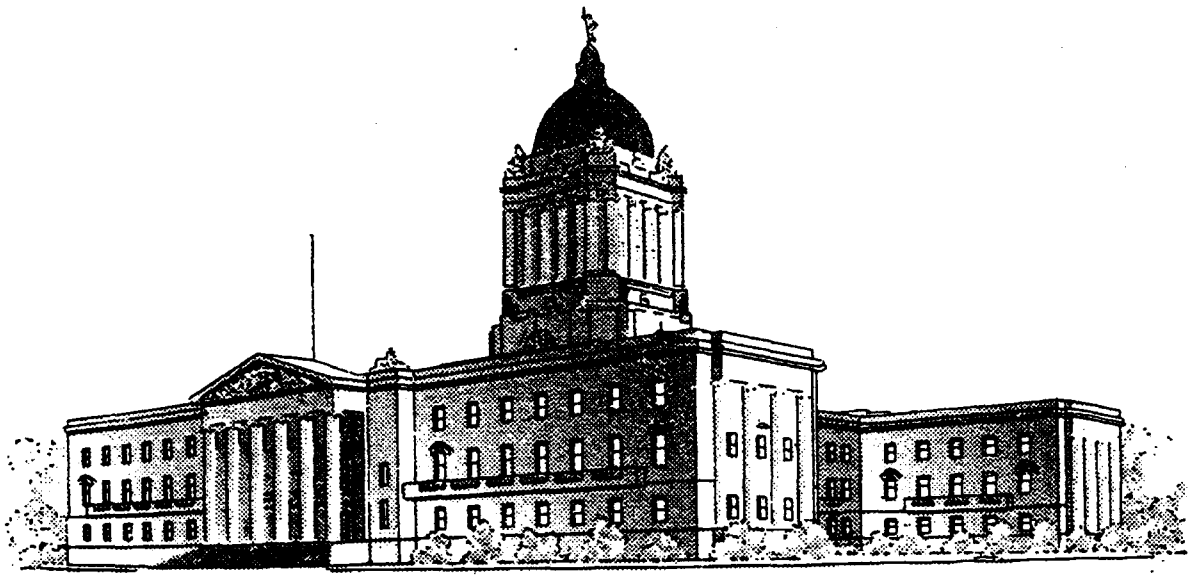
First Session - Thirty-Sixth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee on Municipal Affairs

Chairperson
Mr. Mervin Tweed
Constituency of Turtle Mountain



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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS

Thursday, October 26, 1995

TIME – 2:30 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Mervin Tweed (Turtle Mountain)

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

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

Ms. Barrett, Ms. Friesen, Mr. McAlpine, Ms. Mihychuk, Messrs. Pitura, Struthers, Sveinson, Tweed

Substitutions:

Mr. Laurendeau for Mr. Pitura at 4:35 p.m.
Ms. McGifford for Ms. Mihychuk at 5:25 p.m.

APPEARING:

Hon. Jim Ernst, Minister of Consumer and Corporate Affairs
Mr. Kevin Lamoureux, MLA for Inkster

WITNESSES:

Bill 5–The Education Administration Amendment Act

Mr. Ed Lipsett, Manitoba Association for Rights and Liberties
Ms. Linda York, Manitoba Teachers' Society
Ms. Claudia Sarbit, Seven Oaks School Division
Ms. Carolyn Duhamel, Manitoba Association of School Trustees

Bill 6–The Public Schools Amendment Act

Mr. Ed Lipsett, Manitoba Association for Rights and Liberties
Mr. John Gisiger, Manitoba Teachers' Society
Mr. John Wiens, Seven Oaks School Division
Mr. Dwight Botting, Manitoba Association of Principals

Bill 17–The City of Winnipeg Amendment Act (2)

Mr. Glen Murray, Councillor, Fort Rouge Ward, City of Winnipeg

MATTERS UNDER DISCUSSION:

Bill 5–The Education Administration Amendment Act
Bill 6–The Public Schools Amendment Act
Bill 17–The City of Winnipeg Amendment Act (2)

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Madam Clerk Assistant (Patricia Chaychuk): Order, please. Will the Standing Committee on Municipal Affairs please come to order. Before the committee can proceed with the business before it this afternoon, we must elect a Chairperson. Are there any nominations?

Mr. Gerry McAlpine (Sturgeon Creek): I would like to nominate Mr. Tweed.

Madam Clerk Assistant: Mr. Tweed has been nominated. Are there any other nominations? Seeing as there are no further nominations, Mr. Tweed, you are elected to the Chair. Please come and take the Chair.

Mr. Chairperson: Order, please. As the first order of business, the committee will have to elect a Vice-Chairperson. Are there any nominations?

Mr. Frank Pitura (Morris): Mr. McAlpine.

Mr. Chairperson: Mr. McAlpine has been nominated. Are there any other nominations? Seeing that there are none, Mr. McAlpine is elected as Vice-Chair.

Good afternoon. Would the Standing Committee on Municipal Affairs please come to order. This afternoon

the committee will be considering a number of bills, including Bill 5, The Education Administration Amendment Act; Bill 6, The Public Schools Amendment Act; Bill 17, The City of Winnipeg Amendment Act (2); Bill 21, The Rural Development Bonds Amendment Act; and Bill 22, The Municipal Amendment and Brandon Charter Amendment Act.

To date we have had a number of presenters registered to speak to bills that have been referred for this afternoon. At this point I will now read aloud the names of the persons who have already registered to speak to the bills.

Bill 5, The Education Administration Amendment Act: Ed Lipsett, Manitoba Association for Rights and Liberties; Linda York, Manitoba Teachers' Society; Claudia Sarbit and John Wiens, Seven Oaks School Division; David Church, Manitoba Association of School Trustees.

Bill 6, The Public Schools Amendment Act: No. 1, Ed Lipsett, MARL; No. 2, Linda York, Manitoba Teachers' Society; No. 3, Claudia Sarbit and John Wiens, Seven Oaks School Division; and No. 4, Dwight Botting will speak on behalf of Peter Narth of the Manitoba Association of Principals.

Bill 17, The City of Winnipeg Amendment Act(2), No. 1, Councillor Glen Murray, City of Winnipeg Historic Buildings Committee.

If there are any other persons in attendance who would like to register to speak to the bills whose name does not appear on the list, please register with the Chamber branch staff at the table at the rear of the room.

In addition, I would like to remind persons making presentations who are handing out written copies of their presentations that 15 copies are required. If you require copies to be made, please contact either the Chamber branch staff at the back of the room or the Clerk Assistant and the copies will be made for you.

The first order of business, does the committee wish to establish a time limit on presentations heard this afternoon? No? Does the committee wish to hear presentations on the bills in numerical order of the bills? So be it. At this point, does the committee wish to indicate how late it wishes to sit this afternoon?

Ms. Becky Barrett (Wellington): Mr. Chair, I would suggest that we hear all of the speakers on all of the bills first, then make a determination as to what time it is and if we want to go clause by clause before we conclude the day's meetings. That way, the presenters who are in attendance will not have to wait for us to go through clause by clause on each bill.

Mr. Chairperson: Is that the will of the committee?

Some Honourable Members: Yes.

Mr. Chairperson: So be it.

* (1450)

Bill 5–The Education Administration Amendment Act

Mr. Chairperson: Mr. Ed Lipsett, will you please come forward to make your presentation to the committee. I would ask, do you have written copies of your brief for distribution?

Mr. Ed Lipsett (Manitoba Association for Rights and Liberties): Yes, Sir. I believe we submitted it to the Clerk's Office.

Mr. Chairperson: She is passing them out now. Thank you. Please proceed.

Mr. Lipsett: Mr. Chairperson, honourable members, my name is Edward Lipsett, and I am representing the Manitoba Association for Rights and Liberties, MARL.

The Manitoba Association for Rights and Liberties is a provincial, nonprofit, nongovernment volunteer organization established in 1978 as a human rights and civil liberties advocacy group. MARL's objectives are to promote respect for and observance of fundamental human rights and civil liberties and to defend, extend and foster the recognition of these rights and liberties in the province of Manitoba.

We respectfully wish to make several comments concerning Bill 5.

Section 2(2) of the bill reads:

The following is added after Clause 4(1)(b):

(b.1) respecting the establishment of school advisory councils for schools, including their formation, composition and mandate;

MARL has a number of concerns and suggestions relating to this section. We believe that the act itself should specify the constituent groups entitled to representation. This, of course, includes parents with children in a particular school. Teachers, and perhaps other staff members, ought to have direct representation.

Furthermore, at least at the high school level, the student body should also be considered an independent constituency with a guaranteed right to elect one or more members to the council. That is to be compared with the scheme set out in the honourable Mr. Manness's "Guidelines: Advisory Councils for School Leadership" on page 4. He suggested that where there is a student council, a president should be a member. We are respectfully suggesting that there should automatically be at least one student member, at least at the high school level. Perhaps some representation from the community at large is also appropriate.

Although we acknowledge that many details concerning these councils might be best dealt with in the regulations, we believe that the act itself ought to at least articulate the basic principles and parameters concerning the mandate and operation of these bodies. Furthermore, certain matters must be expressly excluded from their mandate, and certain limitations must be placed on their operations. In particular, they must not have any jurisdiction over or other involvement in disciplinary or academic matters of individual students, or disciplinary or personnel matters of individual teachers or other staff members. Additionally, they must not have access to the records of any student, teacher or staff member. Caution is needed to protect the substantive and procedural rights, reputation and privacy of all persons.

Moving down to Section 2(3). Section 2(3) of the bill reads:

Clause 4(1)(d) is repealed and the following is substituted:

(d) respecting the suspension of pupils, including

(i) authorizing a teacher to suspend a pupil from a classroom,

(ii) authorizing a principal, a teacher acting as a principal and the superintendent of schools to suspend a pupil from school,

(iii) providing for the circumstances under which pupils may be suspended, the periods of suspension that may be imposed, and for any other matter related to suspensions.

The Manitoba Association for Rights and Liberties also has several concerns with this proposed new clause. We respectfully suggest that it unnecessarily expands and facilitates the exercise of the substantial disciplinary powers over pupils which the existing clause, as well as Section 48(4), of The Public Schools Act provides the school authorities.

Additionally, it needlessly weakens the substantive and procedural protection for pupils facing disciplinary action that those provisions might imply. If any legislative amendments are needed in this area, we believe that substantive and procedural protections for students ought to be improved. At any rate, it is our opinion that the proposed substitution for Clause 4(1)(d) would be an inappropriate and unnecessary measure, and we respectfully request that it not be enacted.

Before dealing with specific points, we have a few general comments. We acknowledge the need for appropriate standards of conduct for pupils and that sometimes sanctions are needed when they are violated. However, these standards or the methods of implementing them must not be arbitrary or unfair. We do not share the frequently expressed fear that reasonable substantive and procedural protection for pupils will break down discipline or otherwise have deleterious effect on the educational system. We believe the contrary is true. In our opinion, treating pupils with dignity and fairness and providing

appropriate due process, where necessary, is pedagogically sound.

Respecting the basic rights of pupils and treating them with actual and apparent fairness might enhance their feelings as members or citizens of the school community. This might engender a greater degree of respect for school authorities and help to motivate the pupils to co-operate with them in educational endeavours. Conversely, actual or perceived arbitrariness or unnecessary harshness might alienate certain pupils and exacerbate disciplinary problems.

It must be recalled that in many areas of life, an individual's occupational status or job has some substantive and procedural protection. Professional licensing statutes generally state substantive grounds, albeit often vaguely worded, and specific procedures as prerequisites to revocation or suspension. In some, though regrettably not all, employment situations there are statutory, collective or individual, contractual or common law protections against or remedies for unjustified managerial decisions. In the educational system itself, teachers have certain statutory protections concerning employment and certification, although it seems that in some circumstances these protections might need strengthening.

In principle, a pupil's educational status ought to be considered at least of similar importance to one's job or occupational licence, though, of course, there are many practical differences. Indeed, one of the purposes of education is to prepare students for their adult working lives, and interference with a pupil's education could profoundly limit his/her career options. Providing pupils with some substantive and procedural protection in the educational setting could help to impress upon them the importance and seriousness of education. As well, it can help prepare them for citizenship and life in the workaday world. The ability and readiness to assert and protect one's rights and legitimate interests is as important as the capability and willingness to fulfill one's occupational and civic responsibilities.

Conversely, actual or apparent unfairness in the treatment of pupils by the educational system could produce a considerable amount of cynicism in them and adversely affect their current motivation and future outlook.

We also note that there may be a constitutional dimension to student disciplinary procedures. The United States Supreme Court ruled in Goss versus Lopez, 95 Supreme Court Report 729, in 1975, that: Students facing temporary suspension have interests qualifying for protection of the Due Process Clause, and due process requires, in connection with the suspension of 10 days or less, that the student be given oral or written notice of the charges against him, and if he denies them, an explanation of the evidence the authorities have and an opportunity to present his side of the story. The clause requires at least these rudimentary precautions against unfair or mistaken findings of misconduct and arbitrary exclusion from school–page 740.

The court states as a general rule, notice and hearing should precede removal of the student from school, although it acknowledges that in certain emergency situations, immediate removal is permissible, and that the necessary notice and rudimentary hearing should follow as soon as practicable.

The court emphasizes that in most brief disciplinary suspensions a formal evidentiary hearing is not required and that the informal procedures referred to would be satisfactory. However, it concludes the discussion as follows, quote: We should make it clear that we have addressed ourselves solely to the short suspension, not exceeding 10 days. Longer suspensions or expulsions for the remainder of the school term, or permanently, may require more formal procedures. Nor do we put aside the possibility that in unusual situations, although involving only a short suspension, something more than the rudimentary procedures will be required–close quote.

* (1500)

We acknowledge that it is not certain whether Canadian constitutional law requires procedural protection in school discipline. The Goss decision was based on the Fourteenth Amendment to the American Constitution, which reads in relevant part: Nor shall any state deprive any person of life, liberty or property, without due process of law. The relevant provision of the Canadian Charter of Rights and Freedoms would be Section 7, which reads: Everyone has the right to life,

liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice. At this time, the Supreme Court of Canada has not yet ruled as to whether this provision is even applicable to disciplinary proceedings undertaken by statutory professional licensing bodies or public school authorities. Although it is hoped that our Supreme Court will decide that such important powers over individuals are subject to constitutional procedural standards, it is still very much an open question.

However, we do not base our position primarily on constitutional requirements. We believe that sound public policy, educational interest and, indeed, basic fairness demand that the rules of natural justice and the duty to act fairly apply fully to school discipline. Legislation ought to enhance rather than diminish these basic common-law principles. It is, of course, possible that courts would interpret statutory provisions to require that natural justice and fairness be followed when the legislation is silent on the issue. It would seem wiser, however, to remove all doubt on the issue and possibly even reduce the risk of litigation by expressly enacting procedures which fully respect these fundamental concepts.

Possibly, it is the honourable minister's intention to make regulations which will provide substantive and procedural safeguards for pupils facing risk of suspension. We do not necessarily oppose a legislative scheme which leaves certain matters of detail to regulation. However, we respectfully suggest that it is of vital importance that the act itself at least sets out the basic principles, parameters, procedural framework and limitations concerning disciplinary jurisdiction. We believe that any statute which allows for open-ended substantive disciplinary power, or which fails to provide for basic procedural norms in accordance with natural justice and fairness is unacceptable. We respectfully submit that this proposed new clause fails both these tests.

We will now address some specific points. The existing Clause 4(1)(d) reads: "authorizing the superintendent of schools or the principal of any school or a teacher acting or designated as a principal to suspend a pupil for conduct deemed injurious to the welfare of the school." It is unfortunate that the proposed substitution would omit the words "for conduct deemed injurious to the welfare of the school," and not insert equivalent or preferably stronger restrictions on the suspension power in its place.

Whether intended or not, the new wording can be read as ostensibly creating or at least authorizing the creation of an unqualified power of suspension. The terminology for conduct deemed injurious to the welfare of the school, although somewhat vague, at least could give some indication that suspension ought not occur without significant reason. Furthermore, some procedural obligation could at least be inferred from this wording. Removing it could be construed as an attempt to remove the rules of natural justice or the duty to act fairly.

It is to be noted that even the wording of the existing Clause 4(1)(d) of The Education Administration Act seems to provide less safeguards for the pupil than Section 48(4) of The Public Schools Act.

That provision reads: Subject to the regulations, and notwithstanding any other provisions of this act, a school board may suspend or expel from a school any pupil who upon investigation by the school board is found to be guilty of conduct injurious to the welfare of the school.

Even that provision, I respectfully suggest, is less than completely satisfactory. Though the wording is certainly amenable to an inference that the rules of natural justice or at least the duty of fairness must be observed in the course of such an investigation, all doubt should be removed. We believe that the entire legislative scheme for school discipline needs greater safeguards for pupils. The grounds for discipline should be stated in narrower, more precise terms. Furthermore, there must be express statutory provision entitling a pupil and parents to a full evidentiary hearing by the school board or an independent body according to all the rules of natural justice before expulsion or lengthy suspension can be imposed.

For very brief suspensions a more rudimentary hearing, of the kind envisaged in Goss versus Lopez before a principal or superintendent might be

satisfactory. However, even in such cases the pupil and parents should be entitled to appeal to the school board.

Additionally, it might be appropriate to establish an independent appellate body where a pupil or parent can appeal an adverse decision by the school board. This was suggested in the report of the Panel on Education Legislation Reform submitted in February 1993 and discussed briefly in Mauro's comments on the report of the Panel on Education Legislation Reform which was also written by your humble petitioner and adopted by the board of directors on January 18, 1994.

However, it seems that consideration of these broader changes are for another day. Right now we are simply requesting that the proposed substitution for Clause 4(1)(d) of The Education Administration Act not be enacted.

We wish to acknowledge and congratulate the government for one major improvement this bill has over the one which died on the Order Paper when the Legislature was dissolved. That bill would have empowered a teacher to suspend a pupil from school as well as from a classroom. Other persons and groups have successfully demonstrated how dangerous this would have been. We are pleased that the government has withdrawn that proposal.

However, we have several caveats concerning the remaining proposal authorizing teachers to suspend a pupil from a classroom. We acknowledge that a teacher may need the power to remove a disruptive pupil for the remainder of the period. We believe, however, that a significantly longer suspension should only be possible with the approval of the principal or superintendent after observing appropriate procedural safeguards and that the principal's or superintendent's decision should be appealable by the pupil or parents to the school board.

We note that the teacher's prime function is teaching and having immediate supervision of the pupils in the class. Broader administrative roles, such as major discipline, belong to the principal, who usually has greater time, resources and information available which would enable him or her to assess the disciplinary situation more thoroughly. Undoubtedly, most teachers would take their authority to suspend very seriously and apply it fairly and conscientiously.

However, instructing and supervising the pupils in a teacher's class is a serious enough responsibility in itself. Teachers may not have the time or ability to reflect on the issues involved in suspending a pupil from class for a lengthy period while still effectively performing their main functions.

Additionally, fairness would dictate that any significant sanctions should be reviewed by another party. A teacher, acting in complete good faith but under the frustration of the situation, may overestimate or misinterpret the seriousness or significance of the pupil's actions or even be mistaken as to what actually occurred.

Furthermore, though most teachers would be fair, the summary power of a teacher to suspend from class could be abused, or used inappropriately. This could especially occur where speech is involved. In a class discussion of controversial issues dealt with in the curriculum, a pupil might express a bona fide opinion which a teacher might erroneously construe as disrespectful, disruptive or otherwise inappropriate. Additionally, personality clashes could develop between a teacher and a pupil which could unduly influence a teacher's attitude and action toward that pupil.

* (1510)

We emphasize that these comments should not be construed as a criticism of Manitoba's teachers, most of whom exercise their responsibilities in a highly competent, conscientious and dedicated manner. However, wherever there is power, there is risk of abuse or error. Requiring a principal's approval for suspension from class could be an important check and balance which could reduce these risks. Thank you for your kind attention.

Mr. Chairperson: We thank you for your presentation. Do the members of the committee have any questions they wish to address to Mr. Lipsett?

Ms. Becky Barrett (Wellington): Thank you very much for your presentation. As always, the

presentations from MARL are well thought out and very clearly put.

I just wanted to make a couple of comments in agreement with some of your specific statements, particularly the paragraph on page 3, where you talk about the councils. While many details concerning these councils might be best dealt with in regulations, the fact that the act itself ought to at least articulate the basic principles and parameters concerning the mandate and operation of these bodies, we feel very strongly that that is something that is missing in this piece of legislation, that there is a role for regulations, but they should not be matters of principle and the broad parameters of policy. Those should be in the act, and thank you very much for the rest of the comments you have made in that paragraph.

Also, just generally, I think the issues about the teacher's ability to suspend and the possibility, remote though that may be, that it may be misapplied are very well taken, and I am hoping that the government will hear your comments and act on them–but an excellent presentation.

Mr. Chairperson: Any other questions, comments?

Hon. Linda McIntosh (Minister of Education and Training): Just a comment, Mr. Chairman, I just want to thank you and say that I do not have any questions. It is not because you have not raised good points; it is because they are very clear. It is clear to me what you are saying here, so I thank you for the clarity in the brief. It is easily understood and, I think, not subject to misinterpretation, so I appreciate your taking the time to bring those points forward. We are planning to address most of them in regulation and I guess the debate will be regulation or act, but I thank you for your considered opinion here.

Mr. Chairperson: Mr. Lipsett, any comment?

Mr. Lipsett: I thank you for your comments. That is all I have to say. I was wondering, I have also got a brief on Bill 6. Is that after all the Bill 5 ones are done? How does it work?

Mr. Chairperson: Yes, that is the order.

Mr. Lipsett: Okay. Thank you for your attention.

Mr. Chairperson: We thank you for appearing before us.

I now call upon Linda York of The Manitoba Teachers' Society. Will you please come forward and make your presentation to the committee? I will ask if you have any written copies of your brief for distribution.

I will just wait until everybody has their presentations. Please proceed.

Ms. Linda York (Manitoba Teachers' Society): The Teachers' Society welcomes the opportunity to present its views and recommendations concerning Bill 5 to the Law Amendments committee.

The society supports the concept of school advisory councils and the government's initiative to empower teachers with greater control of their classrooms. We do, however, have some reservations about how these concepts and initiatives may be implemented.

On school advisory councils, the society supports parental involvement in children's education. We welcome any regulation that helps parents maintain close communication with their children's teacher and fosters consultation and collaboration between parents and teachers. While we support the establishment of school advisory councils, we strongly recommend these guidelines for their operation:

the councils' operation and composition should be governed democratically;

the majority of council members should be parents of the children in the schools concerned;

teachers who are also parents should have the right to be elected to the council as parent members, and other school board employees who are parents should have the same right;

teacher representatives elected by teachers of the school should be voting members of the council;

the school principal should be a member of the council;

the council's role should be advisory only; the school board must maintain total responsibility for matters of personnel, subject to legislation and the provisions of the collective agreement;

teachers may be invited to meet with the advisory council to discuss school programs or curriculum; teachers may not be required to appear before school advisory councils on contractual or personnel issues;

the school board must maintain final responsibility for student placement in schools, subject to proper consultation with the teaching staff of the school concerned; and,

the legislation or regulations must require advisory councils to act in a fair and reasonable manner at all times;

These guidelines would ensure that teachers and parents could work together effectively for the general improvement of the school and for the greater welfare of students in the school. The society believes school advisory councils or parent advisory councils should play a significant role in the education program of the school, the development of policies on various aspects of school life including discipline and school-community relations.

The Manitoba Teachers' Society is very concerned about school discipline and particularly about violence in the schools. Children's behaviour undoubtedly reflects the values of society, and the discipline and violence problems in the school may only be resolved by reforming our society. That, of course, will take time. In the meantime, other measures however imperfect have to be attempted.

The society supports the government's initiative to give teachers the power to suspend a student from class when that student makes it impossible for a teacher to teach or interferes with the ability of other students to learn.

If the government develops regulations in this area, such regulations should require schools and school divisions to develop policies covering suspensions from the classroom. These policies should include clear provision for a student's care during the suspensions.

We have a concern that these this is not part of the brief–but our concern is that these children are not let loose from the classroom, that there are clear policies or protocols in the school that designate where the children will be and that the children remain under supervision of somebody.

We are pleased that the government has chosen not to give individual teachers the power to suspend students from the school. That power belongs to the school and must involve teachers and school administrators. Each school must have a discipline policy and protocol. These policies and protocol must be discussed fully with parent advisory councils, be understood by parents and students, be fair and reasonable, and provide for the safety of students and the protection of teachers.

The society will be pleased to work with the Department of Education and Training personnel and with representatives of appropriate organizations in developing appropriate regulations to implement Bill 5.

Mr. Chairperson: We thank you for your presentation. Do the members of the committee have questions they wish to address to the presenter?

Ms. MaryAnn Mihychuk (St. James): I appreciate your comments and your brief. The Manitoba Teachers' Society represents what I believe are the second most important people in schools, second to our children themselves. The teachers are there in the classroom, and I think it is a very important voice that we hear.

Does the Teachers' Society have an opinion as to whether the description of the school advisory councils should be in regulation or do you believe they should be included in the act itself?

Ms. York: I guess our question is the Francophone School Division Advisory Council in the front here, and advisory councils are in The Public Schools Act. We wonder why this has a different status. They should be equal. We would like the opportunity when

changes occur to be able to debate them more or speak to them in hearings, so we would prefer to see them in the act.

* (1520)

Ms. Mihychuk: Can you tell us your experience with models that include–and I am familiar with school councils that have teaching staff as voting members on school councils versus councils that have teachers as observers or are there to provide advice. Can you explain to us what the difference is and how, from your perspective, they work, the two models?

Ms. York: I do not have personal experience with the two kinds of models. But it would seem to me that, if you are going to make decisions that have to be implemented by the school staff, it would only make sense for those people to have the ownership that comes with appropriate input; and, if it is going to be voting, then they should have the same status as anybody else on the committee.

I think a lot of our advisory councils that are out there, to this point, have not been structured so that there has been a voting mechanism. It has been more a consensus model. But if we are going to move to a model where voting is required then teachers, as I say, as the implementers of a lot of the processes, should have the same status as anybody else on the council.

Mr. Chairperson: Are there any more questions?

Hon. Leonard Derkach (Minister of Rural Development): Ms. York, thank you for your presentation, and as I looked through it and listened to you, I could not help but think that you concur with many of the steps that have been taken with regard to advisory councils. I am wondering what the most significant departures are of your presentation from the regulations or the guidelines as set out for advisory councils.

Ms. York: The main point would be the status of the teachers in the whole process. We want to see a democratic process. We want to see teachers have a legitimate voice in the process, and we do not want to see the advisory councils acting as second employers. We want it very clear that our members may be, as we said, invited to attend an advisory council meeting for clarification but not required to attend as they would be before the school board as their employer. We see a very clear distinction between that.

Whereas the school board can require its employees to attend a meeting for whatever purposes, the advisory committees we do not see having that power. Teachers in the school are not at the beck and call of the advisory committee, and I guess that is the point that we are making in that area. Those would be the significant things, just legitimizing the professionalism of the teaching staff in the school divisions.

Mr. Derkach: But, on that point, are you suggesting that the status of the teacher is not legitimized in a school division?

Ms. York: I am saying in the guidelines for advisory committees, no, they were not. They were seen as–the impression we had when the first guidelines appeared for advisory councils was very much that the teachers were being disenfranchised, that they were not seen as legitimate members of the councils, that they had their own agenda, they would somehow subvert the process of the advisory committee if they were allowed to have the same status as parents, that it would overwhelm the parents.

There have been modifications to them. Teachers are being given a legitimate voice, and we are pleased to see that happening. But we had some real concerns when the guidelines initially came out, and we want to emphasize that there needs to be respect for the voice of teachers in any area of the education process.

Mr. Derkach: In your second-last point on page 1 of your presentation, I guess it is, where you state the school board must maintain final responsibility for student placement in schools subject to proper consultation with the teaching staff of the school concerned, that is not a departure from the current status, as I understand it. That is still the practice that is carried out today, unless I am misunderstanding what you mean by student placement in schools. Could you please clarify that?

Ms. York: Yes, by placement, what we are talking about is that the school board has the authority to say

which school a child will attend. We are addressing the issue of schools of choice. If it comes down to a difficulty of where a child will attend, the ultimate decision is with the school board, not with the parent advisory committee or the individual parent. So I guess the point we are making here is we cease parental choice of schools. If all goes well and there are places in the schools and the parent can move their child there, that is fine, but, if there is a difficulty or a dispute, the ultimate decision rests with the school division or the school board.

Mr. Derkach: On that point, Mr. Chairman, I would just like to pursue it for a second because I think what we have heard throughout the province is that we should allow students to attend the schools of their choice or the schools of their parents' choice, if you like. Are you suggesting that a particular school board then be the appeal body or the body that would make a decision if in fact there was a problem in terms of school placement or in terms of having that student attend the school because of too many students or overpopulation?

Ms. York: Yes, that is exactly what we are saying.

Mr. Kevin Lamoureux (Inkster): Ms. York, you made reference to the Francophone School Division in terms of the new legislation. I am not that familiar with the legislation, right offhand anyway, that there are guidelines that are actually included in the legislation. MTS, I take it that they have gone through those guidelines. Do they have any problems as it is portrayed in that piece of legislation?

Ms. York: You are asking me if we have difficulties with the structure of the Francophone School Division advisory committees?

Mr. Lamoureux: Right.

Ms. York: Yes, we do have some problems with it, but that is not the issue here as far as these guidelines. We would prefer all of the school advisory councils to follow the guidelines that we outline here. They have a different setup in the Frontier Division, where it is regional, and they feed into an overall body that makes decisions. I may be corrected here, and I will ask John to pop in if I am wrong on this one. With the Francophone School Division, with the whole issue of formation of the Francophone School Division, the advisory council and the method of parent input, because it was so diverse, was part of the legislation that put it in place. So it is in legislation, and it is representative again to a main body. The individual schools make representations to a council which then speaks to the school board.

That is different than what we are saying here. Here the school councils are just advising at the school level. They are not structured to go into the schools. They are not another layer of government as they are in the other ones, and we would prefer this model. But our concern is that that is legislated, this is regulation, and you have to go through a lot more hoops to change them in the other two situations than you do here. We would be more comfortable to have government have to jump through the hoops because we would have the opportunity at each hoop to have some input.

* (1530)

Mr. Lamoureux: I appreciate the clarification, and I know that you have some very well detailed guidelines that you have put forward in your presentation. There is one, the third one, that interests me, where there has been a great deal of discussion in the past, where teachers who are also parents should have the right to be elected to the council as a parent member, other school board employees who are parents should also have the same right.

Would there be any limitations to that? Like you do make reference in terms of the percentage of the overall school board. Should there be any concern with respect to the percentages on that, or do MTS feel that if 75 percent of a parent advisory group are parents, of course, but also teachers or workers of that particular school? Has that sort of a discussion took place? If so, was there any perception of a conflict of interest?

Ms. York: We have no difficulty with that. If a school community chose to elect 10 members who happen to also be teachers or secretaries or bus drivers, parents of children in the school, then that should be the decision of that community. I do not think it should

be mandated that they are not allowed to choose or they should be restricted in their choices of parents that they choose.

Ms. Mihychuk: On that area, in your opinion or on behalf of the MTS, do you feel that limiting the number of teachers, those people who happen to be educators on advisory councils, is a form of discrimination based on occupation?

Ms. York: I think it indicates a level of distrust. As I said before, the message I think to teachers is that they are going to hijack the process somehow, that we are going to overwhelm the parents and not do what is best for the school. There is that sense that perhaps teachers are not as interested in the welfare of the school as a parent might be so that message is certainly there.

Ms. Mihychuk: Do you concur with that opinion?

Ms. York: Well, I concur with the opinion that–are you saying, is it my impression personally? Yes, I think teachers should be. If a teacher is a parent of a student in a school, they should have the same rights as any other parent.

Being a rural teacher, that is very significant for me because in the school where I taught–I taught in Whitemouth, Manitoba; it is a K-to-12 school–if you eliminate, even for practical purposes to eliminate, all of the school employees, you would not have enough people left to serve, or be interested to serve, on the advisory committee. But, yes, I think it is discriminatory to say if you are a teacher, you cannot have the same rights as other parents in the school.

Ms. Mihychuk: When proposals were initially brought forward, the initial model actually restricted the number of teachers based on the theory that teachers had a great deal of influence in the school, and therefore, that teachers, in general, had more than enough ability to make decisions in the school. What is your feeling of that perception?

Ms. York: I think teachers do have authority in the school, but this new government structure, advisory structure, is being set up that potentially will have great influence in the school. Whether a teacher has influence at the staff-room table talking about the duty roster, and whether or not what you are going to do for your administration and how you are going to develop your math curriculum is different than sitting at an advisory council that may be deciding some things that have a very direct impact on your professional life and the life of the children in your classroom, I do not see them as one and the same thing.

Ms. Mihychuk: Thank you.

Mr. Derkach: Mr. Chairperson, I just have a couple of other comments and questions.

First of all, I am impressed with your presentation, because I think this speaks well to parent councils and the need for them in schools, and I am pleased that the Manitoba Teachers' Society is supportive of that. I think that is a step in the right direction.

I would like to–[interjection] Yes, spoken by an old teacher. I would like to just address the issue of teacher representation on the advisory committees. I believe it is important to have teacher representation on advisory committees, because I do believe that they have some insight that parents perhaps sometimes do not have because they are not in the school all the time. However, I also believe that it is important to have other community members and parents on the advisory councils as well.

I have here a news release that was put out by our government, and it basically says that initially up to one-third of the parent councils or advisory councils can be made up of teachers and staff, and that once the council is formed, a resolution may be passed to increase the number of positions available to teachers and staff to a maximum of one-half.

I think in any community, that certainly speaks well to the teacher representation on an advisory council, because you do want to have a mix of people from outside of the teaching area, and I am wondering whether you feel that this is now an equitable position to have in terms of the numbers of professional teachers who are involved in an advisory council.

Ms. York: I think it is a better position, but I still maintain that if a local school community decides for

whatever reason they want to have all teachers on the advisory committee who happen to be parents, that is their right to do that.

I am not saying I want to see the advisory committee made up totally of teachers, but I do not see the need to have to mandate to the community what their decision should be. I think the community is well able to decide what the needs of that community are, and I would assume in the normal procedure they probably would end up with–I do not know–a third, a half, whatever, but like I say, if they chose for whatever reasons at Greenway School to have all of the advisory committee made up of teachers, that parent group and the majority of the parents came out and had a vote and did that, that is their right to do it.

Mr. Derkach: Well, I guess it should be stated that teachers, by virtue of their positions within a school division, do have an ability to be an advisory council by themselves to their school division, and through their principal or through meeting with school board representatives, they have ultimately a leg up, if you like, on being able to approach a school board with issues within that school.

However, I think it is important, as you state on the first page, that the society supports parental involvement in children's education, that we do have parents who are from outside the education system as such, to be involved in the educational process, because only in that way are we going to bring the parents into the school system so that they understand what is going on and so that they can indeed be of some assistance to teachers in these difficult times in the classroom, and I know the challenges that teachers have to put up with in the schools.

I think our attempt here was to try and encourage more participation by people who are not in the milieu 100 percent of the time.

Ms. York: I understand what you are saying, but I guess what you are doing is supposing you know better than the local community council what they need. I know you are facilitating parent input, and I agree with that. My point is: by putting artificial quotas on it, I am not sure if you are serving the best needs of the community.

Mrs. McIntosh: Thank you, Madam President, Ms. York. I am delighted to see you here and most interested in the comments that you have put forward. The thinking and the reasoning behind them is very much appreciated.

Just on the comments that have been made in terms of limitations and restrictions, I would just like to point out a few other areas where limitations are placed upon professional representation, on advisory councils or groups or professional bodies. For example, the Association of Professional Engineers, their governing body, their association by law limits the number of professional engineers that can sit on that. It is the professional engineering association responsible for certification and all of those things. They are limited in the number of professional engineers they can have upon it. They must have layperson representation on it.

* (1540)

The College of Physicians and Surgeons is limited in the number of doctors they are allowed to have on it. They must have layperson representation, people who are not of their discipline, not of their background and training. While that is not an advisory council to school, it still acts in a way to influence and advise and discipline and so on.

But the reason they need and require by law layperson representation is to bring that outside objective opinion to their groups so that the whole board is able to have someone who can stand back and see the forest, so to speak, because they are not living it on a daily basis.

It is a similar analogy at the Parents' Forums that were held. Parents indicated quite clearly that for whatever reason and not necessarily for negative reasons, negative reasons as applying to teachers but perhaps within the parents themselves a sense of insecurity, that they wanted to feel a little more empowered and that sometimes when they were with a group of people who all were specialists trained in a particular profession, they felt inhibited, shy, intimidated, not because of overt actions by anybody but just because of their own lack of training. They felt that they did not have the empowerment to speak up, so

they wanted to have an ability to make sure that they would at least have some companions and some ability to be on an advisory council that did have a focus on nonprofessionals as opposed to professionals.

Having said that, I quite agree with the concern that you have expressed that teachers who are parents of children in schools should not have to feel that they are excluded. We have tried to address it here as best we can but as time goes on and things are up and running we will be setting regulations that can–I mean, in the law we will have certain statements, in the regulation we will have certain regulations.

We are trying to put as much as we can in the regulations so that modifications can be made were necessary but that thinking is behind that. While no solution is going to please people who say there should be no teachers or people who feel that as many teachers as wanted should be on it, in this situation there is no way we can please all of the people all of the time, because they do not all agree.

There are other limitations regarding teachers and their ability to serve in their own division, in their own community. For example, teachers cannot run for election on the school board if they have a contract with that school division. So there is a limitation placed on them there that if I am teaching in St. James I cannot run for the board in St. James because of all of the limitations that are there, properly I feel, against my being able to do that.

Having said that, though, I do appreciate the point you are trying to make, and we are trying to be as inclusive as we can here, and if there is a better solution down the road, we are willing to consider it; but, for now, that is the best we can do.

I wanted to just quickly address–you have answered, and I appreciate you answering questions that I was going to ask that some of other members asked, so I will not repeat them, but just for a brief response. In terms of the school board maintaining the final responsibility for student placement in schools, I agree with you on that and say to you that parents can choose a school for their students provided that there is room in the receiving school. Programs do not have to be changed to accommodate the child and that the child be transported there at the expense of the parents, if it is above and beyond the route. So the final responsibility for student placement will eventually rest with the school board and will be subject to those restrictions.

One other thing I wanted to indicate, I think Mr. Lamoureux touched on it, that the Francophone and Frontier School Divisions are run differently. The councils there are actually the governing entities, whereas the advisory council is simply that. It is advisory. They have no power to decide.

I agree with you, as well, school councils should not be acting as second employers. That is not our intention, and we do not intend to see them acting that way, so we will try to make sure that everything that is put down ensures that they are not second employers.

I have been advised of the time limitations we might be facing here. You and I, I know, will get together and talk about these things at length. I just wanted to put a few responses on the record, but I thank you very much because I am keenly interested in your comments, and we will talk again on implementation of these things. Thank you very much for your presentation.

Ms. York: I guess, I do not want to flog a dead horse. I think you have to be very cautious not to overregulate the process to the point that it becomes so restrictive that in a lot of small towns, it is impossible to fulfill all of the requirements of the committee, if it becomes too regulated.

I would like to also take the opportunity to thank you or your department people for the invitation to sit at the table in the development of the handbook, because that is a novel experience for us, and we do appreciate it. Thank you.

Mr. Stan Struthers (Dauphin): I was listening intently to what the Minister of Rural Development (Mr. Derkach) was quoting with the news release that he was talking about, which you answered very well. I want to flip the coin over that the minister was talking about.

The line that he has given us was that there was a third, with the possibility of moving up to a half,

through regulations. Are you worried that from the third, through regulations, the government could move it down from a third to something smaller, a smaller fraction of what is out there?

Ms. York: Yes, I would be concerned about that, and, again, just to restate what I had said before, if those kinds of decisions are being made, I would hope that we would be allowed some input or some reaction before the decisions were made.

Mr. Struthers: The only other question I had was spurred by comments that the Minister of Education made about hiring somebody, a teacher being elected on a school board in St. James who taught in St. James and that that would not be allowed. I believe the minister is correct in saying that. Do you see a difference, though, between being elected on a school board and being elected on something that is strictly an advisory board?

Ms. York: Yes, I see that as completely different. One, I hope, will stay as an advisory board; the other is very much a government structure.

Mr. Chairperson: Are there any other questions from the committee? We thank you for appearing before us. I will call on Mr. Ernst.

Hon. Jim Ernst (Government House Leader): Mr. Chair, as government House leader, I would like to advise the committee that should you not finish your business by six o'clock, I will be calling the committee again for eight o'clock this evening to continue your deliberations. That is both for your information and for the information of those people who are presenting and who may not get on before six o'clock. So we will call the committee again for 8 p.m.

The committee, however, will not meet in this room, unfortunately, because there is a committee advertised already for this room. It will meet in Room 254, which is at the other end of the hallway.

Mr. Chairperson: Just for information if people did not hear that, if we do not get through all the presentations by six o'clock today, this committee will stand again tonight at eight o'clock in Room 254.

I would like to now call on Claudia Sarbit and John Wiens. Will you please come forward to make your presentation, and I ask if you have any written copies of your brief to be distributed.

Please proceed.

* (1550)

Ms. Claudia Sarbit (Seven Oaks School Division): My name is Claudia Sarbit. The person sitting in the chair is our Superintendent John Wiens, and also with us is Coralie Bryant, one of our assistant superintendents. We are appearing on behalf of the students, parents, other residents and employees of Seven Oaks School Division, whom we represent.

We thank the committee for granting us this opportunity to present our views regarding Bill 5, The Education Administration Amendment Act.

First, to address Bill 5, Section 2(1), Section 2(2) and (3), in turn, we wish to begin with a general statement regarding the issues and governing principles of each followed by what we view as the practical difficulties of each section as it stands and suggestions for revision.

Regarding Bill 5, Section 2(1), the board takes a position that the existing clause is sufficient to include principals and that in practice this is what occurs. Therefore, while this section may constitute a redundance in that principals are teachers under The Public Schools Act, it cannot hurt to emphasize their equal status regarding rights before the law.

As for Section 2(2), the addition of Clause 4(1)(b.1) to existing legislation warrants considerable comment, particularly considering that this enabling legislation is being introduced subsequent to rather than prior to policy announcements and corresponding action on the part of government.

The board of trustees supports the existence of parent councils. The board has actively promoted parent councils for over 20 years. Its efforts have resulted in all schools having active councils in place. The board believes that parent councils should be

actively involved in areas and activities vital to the life of the school, many of which are outlined in the government's document Renewing Education: New Directions. It agrees with the notion that parent councils are only involved in fundraising, as we all too often hear, is outdated and must be dispelled. Finally, the board wishes government to know that our parent councils are active in a wide variety of activities both inside and outside their schools.

Even more importantly, the board supports and affirms parental involvement in their children's education and has taken initiatives to ensure that all parents have a voice in the education of their children. The record of parental involvement in Seven Oaks School Division bears this out.

The board and its agents have been extremely active on the advocacy of all children's rights to appropriate and desired education. Thus, while it finds itself quite willing to support enabling legislation, the board is reluctant to embrace the policy initiatives that flow from the legislation, and therefore suggests a revision which, it believes, clearly reflects a more appropriate division of responsibilities while still achieving the aims of government for accountability and responsiveness.

In particular, it should be noted that the document Renewing Education: New Directions confuses two very distinct relationships. By blurring or ignoring the distinction and the contribution between parent or advisory councils–a largely political structure–and parental involvement in their children's education and educational concept, the government has indeed opened the door to greater parental dissatisfaction and the potential denial of individual parental rights and responsibilities by a vocal and politically astute minority.

To the second matter first, that is, parental involvement in their children's education, it is true, as the aforementioned document in referring to advisory councils for school leadership states–and that is on page 23–that student achievement improves with parental involvement. It is, however, also true that what is referred to in the literature is not political involvement, but educational assistance and support. Where parents know the people in the school, know their children's teacher and have a relationship with them, their children seem to achieve more of what both parents and the school desire.

When parents are familiar with their children's programs, show interest in their children's progress and spend time with their children on school and educational matters, children do better. For example, in homes where parents read to their children, have books present and discuss what they are doing, children will learn to read more easily and believe reading to be important and essential.

The same is true in other areas of schooling which parents openly believe to be important. Young children, in most cases, are pleased to have their parents active in school activities, particularly those in which they themselves are participating: academic fairs, school productions, family social events, parental reading days, and the like. On the other hand, involvement in advisory councils, while it may serve to enhance the above parental participation, is no substitute for, and does not necessarily lead to, better student achievement.

In fact, if the mean spirit in which the current policy initiatives are written prevails, they are more likely to undermine than enhance student achievement. This is precisely the case because just as parents who have a supportive reciprocal relationship with the school enhance their children's achievement, parents who have a deliberate or predetermined contentious or adversarial relationship with the school often thwart or diminish their children's academic achievement.

Students who sense discontent sometimes hesitate to do well because it does not support their parents' view of the school may use their parents' dissatisfaction as a means to achieve noneducational needs or may simply believe that school, therefore education, is generally not desirable nor worth pursuing. Thus, it is first the tone of the public rhetoric surrounding the legislative and regulatory change which must be reversed, followed immediately by a clarification of the type of parental involvement that is most likely to result in greater student achievement.

To that same end–in regard to the first matter, that is, parental involvement in parent councils–the duties of

the advisory councils should remain more flexible and less onerous. Our current parent councils have carved out a very rewarding relationship with our schools and school community. They exclude no one; they feel empowered to ask difficult questions, including those about staffing, budgeting, use of facilities and personnel, and programs, policies and practices as diverse as discipline, retention-in-grade, wind chill, nonresidency, transportation and the like. They appear before the board whenever they wish; they are in frequent contact with the superintendent's team; and, by and large, they enjoy excellent relationships with the community and the school administration. They are the major initiators of new programs in school; they sit on study committees and task forces; and they assist in implementation either through organization of support, through volunteering and/or funding. They, in fact, are knowledgeable and active in every aspect of the school's operation.

It is a relationship which, while it continues to evolve, experiences some jurisdictional tensions and requires considerable understanding and reciprocity, but generally it works well. They are guardians of education in our school division in a nonoffensive, nonadversarial way, without having to be watchdogs and accountants. Mostly, in our discussions with them, they do not wish that relationship to change greatly. In general, they see no need for a change from their present status. This board suggests that such is the parent community's right.

* (1600)

Most parent councils in our division neither wish to nor tend to pursue the role outlined for them in the new policy framework. In most cases, they believe that their administrators are responsive, that the educational programs in our schools are sound, that the schools are open to change, that they have input into matters like behaviour policies, violence policies, reporting to parents and the like; their belief is also warranted and justified. They do not believe that the board and professionals are attempting to subvert their intentions, are generally poorly organized and self-serving, are trying to find ways to deny students an education, nor that mandated annual action plans will become more than an exercise taking time from other more important matters. They wish to know what is happening in school and why, and are generally satisfied that they do.

For the most part, they do not want to be involved with individual student cases except on a general policy level. In fact, neither they, the board, nor the administration believe it is their legal or moral right to participate in decisions or actions regarding individual students other than their own children. [interjection] You can ask your questions later.

Mr. Chairperson: Sorry, please continue.

Ms. Sarbit: They see parent councils being in a conflict-of-interest situation in such cases. Many, in fact, fear that attempting to meet the mandate set out in Renewing Education: New Directions will detract them from the activities which they wish to pursue. In short, parent councils would like to decide for themselves, in conjunction with the administration and teachers at their schools and their elected board member, how they can best serve education and their own schools. In Seven Oaks, the ability to do that currently exists. Parents do not believe they need to invoke the heavy hand of government to achieve their ends.

Finally, the directives from the Department of Education and Training and the minister's comments as reported in the Winnipeg Free Press (Appendix C) tend to confuse parents and exaggerate their powers, while minimizing their potential accountability.

Are the powers to be strictly advisory? Many parents believe them to be more than advisory. Are they merely to be consulted, or does consultation mean that decisions are to be made in accordance with the wishes of as few as 10 active parents, some of whom may not have any direct involvement with the school? Although accountability is noted in New Directions, little attention is paid to it in public pronouncements, nor are there attempts made to clarify statements to the contrary.

The board does not believe that the legislation can give parents the powers of boards as The Public Schools Act now stands nor can parents be held liable

for decisions which contravene or undermine legislation, collective agreements or other legal authority. Unless they are to be held legally responsible for the decisions, they should not be given authority to interfere with boards, superintendents and principals carrying out their legal obligations under the current legislation.

To that end, the Seven Oaks School Division No. 10 Board of Trustees respectfully submits that legislation is not required at all, nor does the composition and/or mandate need to be as prescriptive as outlined in New Directions; however, if the government deems this absolutely necessary, that this legislation be changed to reflect a local board's responsibility to ensure and support effective parent organizations at the school level and a simultaneous duty to exercise its accountability to the province by reporting how that goal is pursued and achieved.

In this way, not only is the government's need for accountability achieved, but also local wishes are respected, and the educational agenda can remain the focus of local activity. The prescription that Bill 5 forces on school communities is a curse, not a cure.

Regarding Bill 5, Section 2(3), the substitution of Clause 4(1)(d)(i), (ii) and (iii) for existing Clause 4(1)(d), the board has concern regarding justice extended to children and their parents. Without a doubt, the government should know that the board applauds the intention of this revision, that being the maintenance and protection of a classroom environment conducive to students achieving the understandings desired for them, by themselves, their parents and teachers, indeed, society in general.

Like government, the board recognizes that sometimes strong, difficult and contentious means must be used to ensure such an educational setting; however, we believe that the revisions to the legislation as proposed have the potential, to the detriment of us all, to exacerbate rather than enhance educational opportunities for those seemingly most in need of education.

On the surface, and at the theoretical level, this revision appears to be most reasonable and beyond contention. In practice, however, it has a potential to be extremely arbitrary and controversial in that it places an unwarranted balance of rights and authority in the possession of the person most likely to benefit from the maximum penalty being visited on those under authority. True, the authority is based upon responsibility to others, but may, in fact, relieve those in authority of the commensurate responsibility to some of those in their care. In this case, it seems that the old adage fits: If it is not broken, do not fix it.

Now, there are obviously cases where students disrupt their classes to the point where, at the time, their continued presence is detrimental to most others in the class, either in educational or management terms or both. In fact, without attempting to make light of many serious situations, we can suggest that this has always been the case. There have always been and will always be people who do not fit the norm, be it educationally, socially or in any number of ways.

Children are no different and need to be constrained, restrained or estranged as a result just like others; however, this must never be done arbitrarily or capriciously if we wish to uphold everyone's rights in our society. To that point, what happens currently for students is less likely to result in arbitrary action against them than the procedure implied in the proposed legislation.

Under today's conditions teachers often remove children from the classroom in a variety of ways for various lengths of time, usually until they have time to speak to them, for the remainder of a class period or the like. If they desire lengthier periods of suspension, they must, as a rule, consult with the supervisor, usually a vice-principal or principal. This consultation, by its very nature, partly because it is usually governed by legislation, regulations or policy, and/or partly because it simply engages the judgment of another responsible caregiver, results in a variety of actions and consequences depending on the circumstances and the desired short- and/or long-term effectiveness of the management action.

Furthermore, most boards now have policies limiting the power of principals to suspend or expel students and ensuring the prior involvement of parents. Such a

process, while it may appear cumbersome, is much more likely to result in reasonable action than that of a single individual who has ultimate authority, albeit for a limited period of time. It is also more likely to result in a preventative plan of action to prevent the necessity of further drastic action. In the view of the board, sufficient authority now exists to maintain control of classrooms and schools and to initiate alternate approaches to suspensions and expulsions.

In fact, current practices and conditions have spawned a myriad of ways to keep children in schools, to mitigate their behaviour, and to cause as little disruption to their education as possible, even in extreme cases. They include all types of counselling, mediation, peer assistance, tutoring, anger management programs, and the like. They also include time-out areas, shared responsibility for students among teams of teachers, student assistance centres, crisis lines and procedures. The list is only limited by the ingenuity of parents, teachers and schools. The outcome is a better chance of all children to becoming truly part of society and society's benefiting from their inclusion and participation.

We must be reminded that violence comes in many forms, but potential violence against children as expressed in this bill is irresponsible and detrimental to society. Our schools, now more than ever, reflect the human struggle to include and accommodate people, students in this case, alienated from the world. It is our hope of living together in a world which we eventually must all share.

* (1610)

When current practices break down, it can usually be attributed to lack of resources, administrative inflexibility and irreconcilable relationships. These will always exist but cannot be dealt with through legislating inordinate authority nor mandating procedural justice. They can only be addressed through the realization of responsibility and accountability supported by willingness to dialogue and seek resolutions to such human dilemmas.

To that end, we recommend that the current legislation and regulations stand and that provincial officials enter an immediate dialogue with boards to ensure that the aims of the government to achieve an optimum learning environment be realized in such a way as not to grant students and their parents fewer rights than others on matters of such importance as education. The current provisions of law and regulations are sufficient for our collective purposes.

We thank the committee for its time and patience and respectfully request that you give our suggestions and recommendations due consideration. Thank you.

Mr. Chairperson: Thank you for your presentation. Do the members of the committee have questions that they wish to address?

Ms. Barrett: Not a question, but just a brief comment. Again, a very well thought out and presented brief. I was particularly interested in how the parent councils or the school advisory councils in Seven Oaks feel about the provisions of Bill 5. I think it is important to hear from parent advisory councils or school advisory councils in a division that, from what I know of it, seems to work very well.

Seven Oaks does excellent work, and I think that they can serve as a model for many of the school divisions throughout the province. So I was pleased to hear the comments that the parent advisory councils have on the problems they see with Bill 5. Thank you very much.

Mr. Lamoureux: First, I extend congratulations to Ms. Sarbit in her campaign. But to ask a question: how many schools do you actually have in this school division? If you can indicate to the committee, do all of the schools in Seven Oaks have active parent councils?

Ms. Sarbit: Presently we have 23 parent councils in the division and 23 schools. We have 23 schools, 23 parent councils.

Mr. Lamoureux: Can you give us some sort of an idea, let us say, of the average size of a parent council? I take it they would be, in all likelihood, meeting on a monthly basis. Just give some sort of an average. That is all the questions I have.

Ms. Sarbit: Generally, the parent councils are not large, depending on the feeder area for the school. In a new school that is just being built in a new community, you will probably have much larger parent councils. You may have as many as 15 or 20 on a parent council but, generally, parent councils will probably be around 12 to 15. But the parent councils will sometimes also have meetings where they involve all the parents in the school and generally parent council meetings are open to every parent in the school. So although there are people who are elected as representatives to the parent council, whenever they hold a meeting they hold it open to the entire parent body.

Mr. Lamoureux: Finally, I know that Seven Oaks is actually one of the more very progressive school boards. Do you actually have alternative settings for kids or young adults that are being suspended from class? Do you provide anything of that nature?

Ms. Sarbit: The superintendent could probably answer in more detail, but we do have some alternative options. There are some students who do not fit into the regular program. We do have some alternative programming available for them but, for the short term, we try to deal with the situation as it arises and try to make the decision that is in the best interests of the class and of the student involved. We do not have a zero tolerance policy in our division. We do not think that to be that healthy.

Mr. Struthers: Ms. Sarbit, I think you have put your finger right on one of the areas that I am concerned with and I think is probably the one that we should all be most concerned with concerning Bill 5, and that is the duties and the powers of the parent advisory council versus the duties and the powers of the school board. We have been making the case that there has to be a very clear distinction as to which group is responsible for what duties and responsibilities.

In my previous lifetime, before I got into politics, I was a school principal who was involved in the start-up of one of these parent advisory councils, and I know the kind of discussions that need to take place before you get started and as you work through setting up a council.

One of the things that I think we all have to remember is that, as a school trustee, you yourself have some sort of protection as a school trustee in the form of incorporation of the school board, which is something that is not available to an advisory group. So I would suggest that we have to be very careful as to the duties that we assign to the parent advisory group and make sure that we do not give them responsibilities that could put innocent, civic-minded parents, educationally minded parents into a tough situation where they could be hurt. Is that something that your school division has considered in making this presentation?

Ms. Sarbit: Yes. When you think of how parent advisory councils are elected, every single parent in that school does not have a vote to determine who is part of that council. What happens is generally they attend a meeting and people will generally not even vote. They will say, yes, I would like to be on the council, I would like to be on the council, and sometimes there is a vote and sometimes there is not. So these people do not necessarily have the support of the entire parent community in decisions that they are making. There is no accountability in that sense.

Generally, our parent councils run well because we include everyone who wants to be involved, and then they determine who is going to be president, vice-president and take on certain responsibilities after that point in time. It is not a prescriptive type of thing at this point in time.

Mr. Struthers: Yes, I agree, and maybe that is the political side of it. I think as politicians we are aware that it is hard to get the consensus of the group around, of your constituency.

My concern is more of a legal or insurance liability side and what is available there to a trustee as the protection of incorporation. As long as the trustees act in good faith they have that kind of protection. What I am worried about is the school advisory groups would not have that protection available to them, and we may end up having powers given to a parent advisory council in which they are making decisions involving large budgets or some sort of legal liability that the school division could find themselves in and the next

thing you know you have an innocent person up to their eyes in court cases or whatever. That is the point that I was trying to make. Was that ever something that was talked about as you were going into your presentation?

Ms. Sarbit: Right now what has been suggested is that school councils are in an advisory capacity so they do not make the final decision at this point in time. I guess our concern is that the legislation that is being recommended is recommending the establishment of these advisory councils without us knowing before hand what exactly is going to be the prescription of these councils, and maybe at a later time it may be other than an advisory capacity. Certainly, we wholeheartedly agree with the advisory nature of the council and pretty well everything that has been suggested that advisory councils should encompass.

* (1620)

We try to encourage our councils to get more involved than just fundraising. For those of you who have had a background as school trustees, sometimes school-parent councils really do not want to do a whole lot more. You know, their mandate, maybe they want to do playground equipment and they want to improve the libraries in that school for that year and that is where they want to spend their efforts. They do not want to make some of these other kinds of decisions. It should be up to them to make that determination what they want to do.

Mr. Chairperson: Are there any other questions of committee? If not, I would like to thank you for appearing before us today.

I would now call upon Mr. David Church, the Manitoba Association of School Trustees. Will you please come forward and I will ask you if you have written copies of your brief for distribution to committee members.

Ms. Duhamel, I trust you are making the presentation on behalf of Mr. Church.

Ms. Carolyn Duhamel (Manitoba Association of School Trustees): Yes and I will explain. I think it was just imminent precaution on David's part, not knowing the results of yesterday's trustee elections and not knowing whether we would have a sitting president or not. I am she and I will make the presentation on behalf of the association.

Mr. Chairperson: Welcome, and please proceed.

Ms. Duhamel: First of all, I am pleased to be here this afternoon to make this presentation and present the prospectus of the Manitoba Association of School Trustees on Bill 5. Our comments will address the clauses in the bill in the order in which they are printed.

First of all, with regard to the duties of principals. The duties of principals are currently outlined under the provisions of the Education Administration Miscellaneous Provisions Regulation. Given that these regulations already exist, it is not entirely clear to us why this phrase is being added to the act at this time.

There is some concern that this clause in Bill 5 could be used in a way which undermines the rights of school boards as employers and diminishes the control which locally-elected school boards have over the schools of their communities.

Our request to the government in this regard is fairly straightforward and simple. Do not make any regulations which redefine the duties of principals without consulting with school boards, the principals' employers. This employment relationship must be respected in any regulation which this or future ministers might contemplate under this clause. Failure to consult with school boards on this issue will inevitably cause confusion and uncertainty regarding the roles of these key educational leaders, our school principals.

Secondly, we would like to speak at some length to Clause 4(1)(b) with regard to school advisory councils and specifically the clause which reads: respecting the establishment of school advisory councils for schools, including their formation, composition and mandate.

MAST certainly appreciates the value of parental and community involvement in education and will continue to support efforts which encourage

meaningful parental involvement as a means of improving the educational experience of children. The position of the Manitoba Association of School Trustees was formalized at the association's 1994 convention. At that time, a resolution was passed to, and I quote, support the establishment of school-level advisory committees or parent councils and encourage greater participation and collaboration in educational issues, end of quote.

Many school boards have in place policies encouraging the establishment of parent advisory councils, and these policies have contributed to an expansion in the number and role of parent advisory councils in the province. A recent MAST survey indicated that such councils do in fact exist in many different forms in over 85 percent of the public schools in Manitoba. However, MAST and its member school boards realize that more can and must be done to encourage parent and community participation.

While MAST supports the government's intent in this amendment to The Education Administration Act, we are very concerned about the exact nature and effect of this amendment. We will list several of those concerns for this committee and then propose a solution which we hope will meet with the committee's approval.

Our first concern is prompted by the fact that this proposed amendment to The Education Administration Act would effect the establishment of advisory councils for school leadership by ministerial regulation. This would be a departure from the way in which community consultation processes of both Frontier and the Division Scolaire Franco-Manitobaine are defined. For those two divisions, their processes for community representation are laid out in full in The Public Schools Act itself, and not in regulation. The wording of this legislation was developed in consultation with affected school divisions.

Our concern is that the process for developing ministerial regulations is not sufficiently consultative to ensure that a workable model for school advisory councils is given the force of law. Ministerial regulations are normally developed by the Department of Education personnel working behind closed doors with government lawyers. That is not a criticism; it is simply a fact of the way the regulations process currently is. There is no opportunity for consultation with the public or with affected parties on the exact wording of ministerial regulations.

School boards in Manitoba are very concerned about the prospect that a Minister of Education, without further consultation, could enact regulations having the force of law which will then define the exact rules by which parents would be involved in the life of their schools.

Our concern about process is exacerbated by what we know about the government's views on parent involvement as described in the recently published Guidelines for Advisory Councils for School Leadership. The document establishes a very specific model to which parent councils are required to conform in order to be recognized by the government as advisory councils for school leadership, and the model is of concern for a number of reasons.

First, the guidelines will remove from school communities the right to organize themselves as they see fit. The guidelines insist on an executive model of governance which could have the effect of creating mini school boards in every school. School advisory councils following these guidelines will be denied the opportunity to maintain a town hall style of governance, which is currently employed by the majority of councils in Manitoba. In this regard, school communities will be constrained rather than empowered by the imposition of this model of advisory councils.

Second, the guidelines could undermine existing school-based parent organizations. Over 85 percent of Manitoba's schools already have some sort of parent advisory committee. These guidelines will increase the likelihood that competing parent groups will be established within one school. At the other end of the spectrum, the guidelines allow for only one advisory council per school, even though schools serve students with a wide variety of needs and interests, for example, dual-track schools or K to Senior 4 schools.

Parents in many communities have developed creative solutions which respond to their unique needs

and circumstances. These guidelines require one form of parent organization in every circumstance and, in our view, are not flexible enough to meet the diverse needs of school communities across the provinces.

The guidelines propose as well that the minister have the power to dissolve advisory councils for school leadership. This is beyond the scope of the minister's powers and may well be unconstitutional. Our experience in dealing with community conflict suggests that other strategies of intervention are much more likely to succeed.

The powers of curricula promised to advisory councils appear to contradict The Public Schools Act, 48(1)(v), which ascribes to school boards the power to establish and to provide for any course of study approved by the minister. A Foundation for Excellence states that individual schools working with advisory councils for school leadership will determine which courses will be offered. Transferring this power to advisory councils may negatively affect the articulation of course offerings within individual school divisions and may affect student mobility within and between school divisions.

Finally, the advisory councils for school leadership established in these guidelines demonstrate a socioeconomic bias, and I do not think it is necessarily intentional, but that is often the effect of this particular model of governance. It is often a model that is poorly suited to communities which are highly transient and whose parents lack experience in committee processes.

* (1630)

Other communities will also find this model of school advisory committees unsuitable. Gerald Caplan, co-chairman of the Ontario Royal Commission on Learning, predicts that similar councils proposed by the Ontario government will find that their membership is dominated by well-off professionals who will not necessarily represent the interests of the majority of public school students. The same potential exists for advisory councils for school leadership constituted under the proposed guidelines. School communities in Manitoba have often employed town hall models to ensure that all voices are heard, but this form of governance will not be permitted under these guidelines, at least not with the same jurisdictional authority and jurisdiction that the others have.

Many useful models for parent councils have been developed in recent months. Manitoba's own Boundaries Review Commission presented a model for school advisory councils which is less restrictive and more adaptive. A coalition of education partners in Ontario developed a common statement on school community councils that outlines principles for school councils, and, finally, Alberta Education has established a school councils handbook which, among other strengths, allows parents to choose any model of governance that they wish for their schools. By drawing on sources such as these and the combined expertise of Manitoba's education partners, we have the ability to develop legislation or regulations in Manitoba that will support advisory councils for school leadership to the benefit of Manitoba students in the years ahead.

Moving then to teachers' right to suspend, MAST appreciates the change which the province has made to this bill since it was first introduced into the Legislature. The original wording of this clause would have given teachers the power to suspend students from school and was certainly a great source of concern to school boards. The bill has been improved by limiting its focus to suspension from class, and we are confident that the vast majority of teachers would not find it necessary to use this power except in extraordinary situations.

However, our association does still have concerns regarding this amendment. It is likely to frustrate the efforts of its advisory councils for school leadership. Given the high level of parental concern about school discipline, these councils will expect to participate in the development of codes of student behaviour. Advisory councils will also expect that teachers will abide by codes of student conduct developed at the school level. This will not be the case if teachers are authorized to suspend students from school without reference to divisional or to school policy.

We recommend that this clause be amended to include a phrase which would make the teacher's right

to suspend subject to policy developed at the school level with the involvement of all students, parents, community and certainly teachers and other school staff. The addition of such a phrase would ensure that the teacher's power to suspend pupils is exercised within the parameters of a locally developed behaviour management policy.

With regard to regulations around pupil suspensions, the final clause in Bill 5 authorizes the development of regulations providing for the circumstances under which pupils may be suspended, the periods of suspension that may be imposed and for any other matter related to suspensions.

School boards currently receive the authority to suspend or expel students from school under The Public Schools Act. The role of principals in student suspensions is described in the regulations to The Education Administration Act. Periods of suspension are already outlined in these regulations. Many school divisions and districts have developed policy in this area by working in consultation with pupils, with school advisory committees and with employee groups. These locally developed policies are an effective way of defining the consequences which are most appropriate for the broadest possible range of student behaviours.

The only substantive effect of this clause is to allow the minister to regulate the circumstances under which students may be suspended. We would strongly urge the minister to refrain from regulating in this area. In our view, this is an issue which is best dealt with in diverse communities and the schools of our province and not through provincial legislation.

In conclusion, I think two things that we are suggesting to the committee today are that, first of all, in this area to which I have just spoken, it is perhaps an area where ministerial regulation is problematic and ill-advised. But, more importantly, we are concerned that the regulations Bill 5 enables may be developed without taking into account the advice and the concerns of the people in the field who will have to make the system work in the schools and the communities of our province.

Traditionally, the process for the development of ministerial regulations has not involved public hearings or a consultation process. We were pleased to note the announcement by Government Services Minister Brian Pallister on August 22 of this year in which public input into government regulations was promised. We would support the government's intention, as stated in that news release, to screen regulations to ensure that they are absolutely required and to look for alternatives to regulations. While the audience for Mr. Pallister's announcement was the small business community, we are confident that the provincial government would agree that regulations affecting the governance of over 700 public schools in this province would warrant similar consideration.

Our concerns can be addressed if the government is willing to make a commitment to work co-operatively with the education partners to develop principles which could be widely supported and incorporated into regulations. Such consultation can only succeed if all parties approach the discussion with open minds and without preconceptions about the outcomes. We agree with the provincial government that we must take advantage of this opportunity to empower educators, parents and community members to ensure the success of our schools. Our request is simply for the opportunity to participate in a significant way in the development of the regulations which will define this process.

The Manitoba Association of School Trustees would be proud to participate in such an endeavour, and we would be greatly relieved and supportive if the government would promise an opportunity for involvement in the development of regulations proposed under Bill 5.

On behalf of Manitoba's 57 school boards, I thank you for this opportunity to present our perspective on Bill 5.

Mr. Chairperson: Thank you, Ms. Duhamel.

Committee Substitution

Mr. Chairperson: Before we proceed with questions, I would just like to inform the committee that a substitution concerning the membership of the committee has just been moved in the House. Mr.

Laurendeau has been substituted onto the committee for Mr. Pitura effective immediately.

* * *

Mr. Chairperson: Do the members of the committee have questions they wish to address?

Mrs. McIntosh: Mr. Chairman, I do not have questions at this point, just a very quick comment which is, first of all, thank you very much and, secondly, of an awareness here that we need to do a better job of properly advising people about these committees, not so much yours but the previous brief was just so full of misinformation. You have something here I need to just clarify for you and then we can touch base later.

The comment that guidelines will remove from school communities the right to organize themselves as they see fit is just totally wrong because school communities, if they do not wish an advisory council, do not have to have one. It is entirely up to them. So I just wanted to indicate that because a lot of the assumptions in the presentations so far seem to assume that each school will be forced to have one, even if they do not want one. If they have an alternate method they prefer that is what they can have. It is their choice, Mr. Chairman.

Ms. Duhamel: I appreciate the clarification. Certainly there is the perception out there in the field in many parent groups that they do not have a choice and that in fact if they wish to have input on particular issues that there is only one model of school governance that will allow them to do that. If in fact the intent is to allow them to organize themselves in different ways in order to have input on similar kinds of questions then we do not have a disagreement.

Mrs. McIntosh: That has been quite clear from the very beginning, and it is crystal clear in all the presentations made by the deputy. I think they had one at the Polo Park Inn that was made very, very clear that it was where 10 people requested it that it would exist. If 10 people did not request it, they could do whatever they wanted. Somehow we have not been getting some of these messages out and we will try to be more clear in our communications on it so that misunderstandings are cleared up.

I thank you very much. You have addressed some excellent points here, and we will be talking to you later about some of the points you have raised in terms of regulations. I appreciate that very much.

Ms. Jean Friesen (Wolseley): Mr. Chairman, on the same point really, that is, the flexibility of schools to develop their own kind of advisory committees and parental and community councils, is it your understanding that an existing council may be working well, as many of them are, but if a group of 10 parents come along and want to apply for an advisory council for school leadership under the minister's guidelines that in fact they will be allowed to form that and the first council, the existing council must then disband itself? Is that your understanding? Perhaps the minister might want to comment on that afterwards too.

* (1640)

Ms. Duhamel: It certainly is what has happened in some situations out there in the province that we are aware of, where a parent organization, council association, whatever name you want to give that has been functioning and seems to have been functioning well for a number of years, and with what is being proposed, a small group of people have come forward and have suddenly said after all of this time and all of these years, you are no longer the legitimate voice of parents in this school.

We have received feedback on that issue. It is a problem in some areas. I do not think it is rampant across the province but it is there and certainly there is a sense of vulnerability among many existing parent groups and parent organizations that all they need is 10 people to challenge, and it may be 10 people who do not represent the majority of parents, but if they ask for such a council it must be so constituted. Then you have parents warring with parents within the same school. It has happened and it still is happening in some areas.

Mrs. McIntosh: Since clarification has been requested here, you know, we have had the ADM, people going

out to explain to people how this works. We have been encouraging people to phone the department to ask for clarification. Principals have been well notified, superintendents have been well notified and I am surprised that there are some people who think that that is the way it has happened and that it is happening incorrectly.

As I say, we will make sure we do a better job of making sure people know–like the flaws in the Seven Oaks, there are too many to even try to address here. In yours it is not that many but basically what it is, if 10 parents wish to have a parent council that is set up this way as opposed to the way that a school council might be set up currently then they have the right to come forward and ask for the election. If the parents in the school do not agree with those 10 parents, obviously the process that is put in place to decide whether or not to have this model would be defeated because the majority of parents in the school would not want it. It takes 10 parents to begin the process to decide whether or not this model will be used. The process for this model is quite clear, I thought. So those 10 parents could get the process started but if the school votes it down, then the elective process has made a decision.

That, I thought, had been made clear to people, at least certainly the deputy here had a big presentation at Polo Park Inn last year. But we shall endeavour to make sure the correct information gets out. We may have a communication problem that I did not realize we might have had.

Ms. Duhamel: I do not know if it is strictly a communications problem. Certainly, I think that is part of it. But, certainly, in the eyes of parents out there in the system, the interpretation they are giving to what has come down so far, in many cases, is that if these 10 people or individuals request this that we no longer have a choice. It must be. So certainly then there is need to work on that because that is clearly the way many parents are interpreting it, and we do have some wars and some fires to put out there.

Mrs. McIntosh: I appreciate your drawing that to my attention. We will maybe get in touch with some of the parent councils that have managed to set it up correctly and follow the process as described and see if we can get some sharing of communication going on between those who have misinterpreted or who, for some reason, have been misadvised by somebody some place, and we will attempt to get those communications cleared up. Thank you for drawing it to our attention.

Ms. Friesen: I am still on the same point for my clarification at this stage. It was my understanding that when the 10 parents came forward–and, obviously, we are dealing with the minister's guidelines now; we are not dealing with the regulations that have yet to be established–but in those guidelines, it says the process for the establishment of an advisory council must be initiated if 10 or more parents so request the process. Now that process, I think, many people have understood that to mean the process of the election of the advisory council, not a referendum-type question of whether or not to have a council under these types of guidelines. So perhaps the minister could clarify that.

Mr. Chairperson: A point of order.

Point of Order

Mr. Marcel Laurendeau (St. Norbert): Mr. Chairman, I think the time for the opposition to bring this forward and question the minister will be after we are finished with the presentations. At this time, I think we are here to clarify the positions of the presenters, and I do not think we should be taking up their time with the debate that we will carry on after this. Not that I want to cut the member off, I understand her concerns, but we do have a number of presenters here and I would like to see that we have dealt with them first.

Mr. Chairperson: The Chair respects the point of order. The questions are to be the questions of the presenter for clarification.

* * *

Ms. Duhamel: If I might just make a comment to ensure that our intent is understood, what we are hearing from some parent groups out there is they do not perceive that once this process is initiated that they have a choice of saying yes or no. They perceive it, in many cases, as okay the process has begun and so we

must do this. I think if that is not the case then we simply need to communicate that more clearly and it is perhaps a communications problem then.

Mrs. McIntosh: I will not go through it all right now. I will just leave you this one thought. Ten or more parents can make the request, but if you even just look at the make-up of an advisory committee, the advisory committee must have community reps on it. Parents can make the request and start the process, but, if there is nobody in the community willing to take part on the advisory council, there will be nobody for them to vote for to set it up. So that is what I am saying, and we will talk about it after, but I thank you for that.

Mr. Chairperson: Are there more questions from the committee of the presenter? If not, I would like to thank you for the presentation today, and that will be it. Thank you.

Ms. Duhamel: Thank you.

Mr. Chairperson: It has been brought to the Chair's attention, and, if it is the will of the committee, we would bring forward Bill 17, The City of Winnipeg Amendment Act (2). It has one presentation. It is the decision of the committee.

What is the will of the committee? [agreed]

Bill 17–The City of Winnipeg Amendment Act (2)

Mr. Chairperson: I would like to call on Councillor Glen Murray, City of Winnipeg Historic Buildings Committee, and we will have to change ministers. I understand that you have a written brief, and they are being distributed now. I would ask that we proceed.

Mr. Glen Murray (Councillor, Fort Rouge Ward, City of Winnipeg): Thank you very much, Mr. Chairperson, Mr. Minister, honourable members and former colleagues and friends.

As a member of a City Hall standing committee, I will try to be mercifully brief because I have learned one lesson; if you can do it in under five or ten minutes, they will actually listen. So maybe, if I could have your ears, I will try to be as brief as I can.

I would like to start off by commending the government on an excellent piece of legislation. Bill 17, 474 (2) and 474 (3)–I believe, page 2 of the bill–are the paragraphs I would like to briefly speak to.

When I started my political career, this was one of the first things that I was involved in as a city councillor, in the preparation of that report. In the appendix, you will see the range of people who were brought together to really develop, I think, what is in North America the most innovative and thoughtful heritage policy. We brought people in from the Construction Association, the real estate community, the heritage preservation community, consultations with members of the government, members of the two opposition parties as well, who were, in a very nonpartisan sense, very, very supportive and, as well, members of the provincial public service.

* (1650)

I would like to thank you for the support the provincial government has given us through the development of this policy, and now the city and the province find themselves, I think, in a very exciting partnership that will develop some great benefit.

There has been a lot of discussion lately about the city of Winnipeg sort of being a doughnut with a growing hole, and maybe, rather than trying to deal with what is outside the doughnut, this is a proposal to sort of fill in the hole. It is maybe something that, no matter what your political philosophy or perspective on it, it is something that could bring people together.

What we are looking at here is a city, and if you have read Arthur Frommer's Economic Studies on Economic Development in Older Urban Centres, one of the things that he has articulately pointed out, the biggest attraction that any city has as a tourism destination is its older downtown sector. That is as true for smaller cities in Manitoba and towns as it for larger cities like Winnipeg.

In western Canada there is no city that holds a candle, comes close to, the wealth of historic buildings and the scope of the heritage district that Winnipeg has. Unfortunately, as you may know, it has been a dying

district. It is a district that has seen flight of business, has seen increasing crime, and has seen great difficulty in retaining a residential population.

What we would like to propose, what I think the bill says, is it proposes a carrot rather than a stick solution. It says if we can work together with the private sector and with the various levels of government, we have the potential to create an environment where there is real private-sector investment that sees the development of older buildings into residential apartments and lofts and the revitalization of the older commercial business and industrial districts of the centre of the province's largest city.

If any of you have ever been to Denver, downtown Denver has an historic district about the same size, age and scale, with lesser-quality architecture than Winnipeg. The major difference is downtown Denver's historic district is packed with loft apartments, art galleries, microbreweries, brew pubs, niche businesses, light manufacturing, new technology industries, and has some of the highest-priced real estate in the western United States, and Denver is viewed as one of the most successful cities.

What we see here, and I guess what I am asking each of you as members of the provincial Legislature regardless of political affiliation, is to go beyond this legislation. This tax credit, I think, is an innovative solution. We will be the only jurisdiction in North America with this policy in place. What it does is the following: if I have a million dollars to spend–only if– and I was looking at an investment, if you look at the policies of all three political parties, you look at the Round Table on Sustainable Development, what we say as a province is we do not want to cart buildings off to the dump. The biggest throwaway nonrecyclable in our society, and in Winnipeg, is buildings. The landfill sites, as Mr. Laurendeau can well tell you, because he is quite familiar with them living almost next door to the largest one in the province, are filled with old building parts.

From a sustainable development perspective, what you are doing as a Legislature and as a government is saying we are no longer prepared to throw away those buildings. As a matter of fact, we realize the economic and environmental life-cycle costs of destroying these buildings is unrecoverable. It makes no economic sense, it makes no business sense, it makes no environmental sense.

This is probably the biggest piece of environmental legislation that we have seen passed–hopefully, it will pass–in the last five years, because what it is going to allow people to do with their million dollars is rather than build a new building–and with a few notable exceptions, please find me an attractive building that has been built in downtown Winnipeg, and I say there are some, but they are few. We have not exactly blessed lately with innovative architecture. Just look at the GST building on Broadway to get you an idea of where we are going with architectural trends, and then look at the number of absolutely priceless, irreplaceable heritage buildings in downtown Winnipeg that stay empty.

It is not from a lack of commitment from the private sector. If you look at what Marwest has done with some of the bank buildings that they have put money into but sit empty. You put a million dollars into that building and you, today, allow us, as a city, to give people a $500,000 tax credit, up to that much, up to 50 percent against their property tax, against their business tax or against their amusement tax and what happens? I will bet you dimes to donuts, pardon the pun, that you will see more buildings lit up in downtown Winnipeg in the next 10 years than you have in the last 20.

You will see more of that great tourist asset that we have, unlike any other city in Canada, coming into use. You will see brew pubs and loft apartments and interesting businesses and streets filled with people because for the city this is a no-lose proposition. We have no money. The City of Winnipeg is broke. We have the highest debt of any city in Canada right now. We are not in good financial shape. We cannot start giving out grants like we once thought we could. We do not lose anything because what happens here is when that $500,000 is given in a tax credit, right now, on most of those big buildings, we are getting nothing, the assessed value of the built portion, the building portion of the assessment, is zero. If we continue with the existing policy as Mr. Reimer, the minister, well knows, because we have had a number of discussions

about this, we will continue in 10 years to get zero. We have gotten nothing.

The $500,000 that that private-sector investor walks away with is real money to him. It reduces the cash flow of renting the building, and if you look at the Electric Railway Chambers Building, which you just rented some space in, 50 percent of the cost of that building is taxes between the three levels of government. This provides real substantial reductions to the per square foot rental value of all of those buildings,but to us it is no-loss money because we would not see that anyway. But what it does mean, over a five or 10-year period, once that building is built and that tax credit has been given, which really cost us nothing, and that investment is made, eventually, that comes online as assessable property. Eventually, all of those improvements to that building do become taxable because the tax credit runs out.

At that point, the investor has a full building. He has a cash flow or she has a cash flow. We have a building that is full of dynamic new businesses. We have an historical piece of public art, which is unmatched on this continent, alive and back to life. This is an incredibly exciting thing.

I want to briefly mention jobs. We are all, as governments, whatever your political stripe or philosophy, trying to find ways without going further into hock or raising taxes to get people back to work.

I would also suggest to you, and I say this not lightly, that this is one of the best job-creation strategies that you can have. This is not make work. This is not workfare. This is not a politically loaded problem. This is real jobs with real high wages. It is also providing, and I am going to get into that in a moment because this is an economic development initiative as well and a substantial one.

As a matter of fact, I would lay anyone on this committee a bet that if you use this properly, you can create more jobs in downtown Winnipeg in the next 10 years through this initiative than you can on the Winnipeg Development Agreement or any other kind of comparable economic initiative, and they will be sustainable jobs that will create more jobs. They are not make-work government subsidized, the kinds of jobs that do not–thank you.

By that, I mean the following. If you turn to page 64, let me just quote some of the studies to give you some idea of the difference between, if we can start getting into renovation of these large buildings rather than new construction: Canadian studies have concluded the labour component of renovation activity is 1.7 to 2.2 times greater than for new construction because the amount of money going into the labour portion is so much higher, in most cases, more than twice as high.

* (1700)

If you have a million dollar building going up that is new, you create half as many jobs as you do if you are gutting an old building because the basic infrastructure does not have to be replaced, and that investor is putting $2 down in wages for every $1 dollar in new construction. Canada Mortgage and Housing Corporation says an expenditure of $1 million yields 27.8 direct jobs in renovation compared to 12.8 direct jobs in new construction, and that federal study has been sustained over and over again.

If you do not like Canadian statistics, the Americans have found out, U.S. studies, it has been estimated that for a given expenditure of money the labour intensity of rehabilitation can result in two to five times as many jobs as are stimulated by new construction. That is a more generous observation than the Canadian studies, and remembering that the Americans have had a federal tax credit program in place for about 20 years and have found it, whether they are Republicans or Democrats, that this has been the most successful sustaining revitalization tool in large American cities, and if you have turned on the news from Detroit you know what kinds of problems they have with inner city decay.

I do not think this is a partisan issue. I do not think this is an ideological issue. I think this is a common sense issue, and it involves a strong commitment from government and the private sector. If we simply pass this legislation on November 3 and let it collect dust, it will not be successful.

We, you and I, as leaders in our community have to go out and sell this. We have to create a political

environment as well as a tax environment and an investment environment that promotes this, and I think it is an incredible opportunity. I grew up in another city, and I have lived in four other Canadian cities. I always thought the diamond in the rough in Winnipeg was the Exchange District and the downtown. I have also been to Stonewall and I have also been to many other smaller communities. I hope that you will bring forward amendments, and I am sure you will–there will be other legislation so other municipalities other than Winnipeg can benefit from this. I really think that this should be a level playing field in the province as well.

This has incredible potential. If we cannot create a couple of thousand jobs in the next few years through this, and the thing about these jobs that we create is, once the work is finished that building now is employing people. Those small businesses are now employing people. No one wants to go and look at boarded up buildings. Who wants to go and look at the Royal Bank tower downtown, which is now boarded up, which the city just took in tax sale? If that is not the total failure of a policy when we are taking buildings and own–the major theatres are now owned by a city government–the city government has become the heritage building owner of last resort. We have a failed policy because we have not had a policy since Core Area Initiative, and that is not to blame any level of government. We just have to work together.

I have tabled with you the whole report, because I was not prepared to speak to the whole thing, but that is–we have worked for three years, nonpartisanly, from right to left on City Council, widely with the community in community groups as well as business, to try and present a long-term strategy which we think is one of the key economic development and sustainable environmental policy initiatives that we need. We desperately need your help for it on this.

I also want to say that I have noticed a different tone in the content of this legislation, that it is very flexible. It is nice to see as a city councillor legislation coming from the Province of Manitoba that gives us a lot of latitude. We work really hard, and I know you get very frustrated in your relationships with your federal cousins in having strings attached to mandates. We also share a high degree of frustration. Winnipeg is probably the most regulated major municipality in Canada, and we are really glad to see a little trust developing where we can set the parameters and the mechanism. I hope we can continue.

In the future and in the coming months we hope that you will move in a direction of allowing us to establish historic districts so we can get out of designating individual buildings. We would also like to see, to avoid some duplication here, a foundation, rather than us having separate operations, to look at the province and the city combining on a foundation.

This has not been a partisan issue. I really want to say that. I thank the government members who have been so helpful; both the New Democrats and Liberals have provided with great support of interest. I do not think this is, hopefully, something that anyone is going to have any problems with, and I certainly look forward to a working relationship. I have quite enjoyed my working relationship with the minister, Mr. Reimer. I would describe our relationship as very positive. We hope that this is a foundation for great co-operation between the two governments in the future, and I want to thank you for your time, Mr. Chairman.

Mr. Chairperson: We thank you for your presentation. Do the members of the committee have questions they wish to address?

Hon. Leonard Derkach (Minister of Rural Development): First of all, I would like to congratulate the presenter on his re-election to council, and, secondly, thank you for the presentation. As someone who does not live permanently in the city of Winnipeg, I can tell you that I sometimes wonder why we have not done more in terms of beautifying this city because it certainly is a gem in the rough, if you like. I think this is a positive approach in that there has to be a working together at all levels of government in partnership and also with the private sector in order for us to be able to restore some of the city and make it the city that it should be.

One of the things, again, as someone who does not live in the city all the time, I pick up our local papers, and I sometimes am disappointed about how the media view our city and our province. We are sort of our own

worst enemy. Your presentation, I think, can go a long way in terms of establishing that working relationship together to make our city one of the finest in this country. When you do go to other cities and you recognize the fact that they do not have any richer resources or any more beautiful buildings than we have down here, I think there is a lot of potential. All we have to do is get our energies channelled in the right direction. So I would just like to say to the presenter, it was enlightening, and I thank him for it.

Mr. Chairperson: Mr. Murray, do you have any comment?

Mr. Murray: No. I would like to thank him. I also would be really remiss if I did not draw attention to the fact that part of the reason we have had a very successful strategy is that we have had huge support from the provincial public service in both Urban Affairs and Culture and Heritage and of the city department. I know that it has been very popular lately to run for election by bashing public servants, but this is a remarkable level of research.

If you had ever seen the documents, Mr. Derkach, that came across my desk that they went through, it was like if you took the New York and Chicago city phone books and duplicated them about 200 times, the amount of research to give us, really, when you pass this, what is going to be groundbreaking certainly worldwide, in North America. I do not know anyone who is doing this. Vancouver read this report, to give you an idea of how–it is nice to lead and not be waiting for other people to do things.

Vancouver is already trying to implement this report. They are almost ahead of us now in these initiatives, and we really do not want to let them get the jump on us. So that is why I will conclude by saying, the sooner we can get this to the floor of the Legislature, the happier I will be.

Hon. Jack Reimer (Minister of Urban Affairs): I just wanted to congratulate you also on your re-election back in the City Council, and I look forward to working, not only with you as a councillor but all councillors and the mayor and that because, as mentioned, we are dealing with a very, very dynamic and a very proud city here. I just wanted to thank you very, very much for your presentation here. Thank you.

Mr. Chairperson: Are there any more questions of the presenter? Thank you, Mr. Murray.

Mr. Murray: Thank you for the privilege of appearing earlier. It greatly helped my schedule this evening. Thank you.

Mr. Chairperson: I would like to ask if it would be the will of the committee to recess for five minutes, and then we will come back to Bill 6. Is it the will of the committee? [agreed]

The committee recessed at 5:03 p.m.

After Recess

The committee resumed at 5:07 p.m.

(Mr. Gerry McAlpine, Vice-Chairperson, in the Chair)

Bill 6–The Public Schools Amendment Act

Mr. Vice-Chairperson (Gerry McAlpine): Will the committee please come to order. We will proceed with presentations on Bill 6, The Public Schools Amendment Act.

We will hear presentations from Ed Lipsett from the Manitoba Association for Rights and Liberties; Linda York, Manitoba Teacher's Society; Claudia Sarbit and John Wiens, Seven Oaks School Division; and Peter Narth from the Manitoba Association of Principals.

I would call forward Mr. Ed Lipsett. Do you have the–yes, I see you have just submissions for distribution. You may proceed, Mr. Lipsett.

Mr. Ed Lipsett (Manitoba Association for Rights and Liberties): Good afternoon, Mr. Chairperson, honourable members. I have been here before so I will dispense with the introductory logo spiel about MARL.

Before I get down to the presentation, I would like one procedural question. Unlike the other brief, our office did not type in the quotes from the bill we will be discussing. Do you want me to read that into the record or do you want me to quote from the actual bill into the record, or is that not necessary? Do you have it there?

An Honourable Member: That is not necessary.

Mr. Lipsett: All right. Fine. Okay.

(Mr. Chairperson in the Chair)

We respectfully wish to make several comments concerning Bill 6, proposed section 231(1).

We question whether it is really necessary to make this a penal offence in light of a principal's power under proposed Section 231(3) to direct unauthorized persons to leave.

At any rate, it seems that the widening of its scope over Section 231(a) in the existing legislation might be too far reaching and unfair. Questions concerning interpretation that come readily to mind include: Could replacing "Any person who as an agent or salesman enters a public school . . ." with "No person shall canvass . . ." be construed to cover persons who are normally and legitimately on school property?

Could the new wording refer to a pupil selling such materials to fellow pupils or teachers or a teacher selling such materials to other teachers? Does merchandise include literature or other expressive material or tickets to concerts or charity raffle tickets?

It seems inappropriate for such matters to be made penal offences. In some cases, freedom of expression interests may be implicated. This is not to deny that schools may make reasonable internal or disciplinary regulations concerning such matters subject to appropriate respect for expressive and related rights. However, it seems that involving the penal law in this case goes a bit too far.

Proposed section 231(2)(a)–for all material purposes this is the same as section 231(b) of the existing legislation. We respectfully suggest that if it is needed at all this provision be more narrowly drafted or at least be provided with definitions. As written it could pose an overbreadth and vagueness problem.

This wording gives no clear indication as to what is prohibited. It could cover legitimate and otherwise legal activity, some of which would be constitutionally protected as freedom of expression and freedom of peaceful assembly, inter alia.

This could be construed to cover, for example, peaceful picketing outside of school property. If such picketing interfered with ingress or egress, intimidated other persons or was too loud, such problems could be specifically addressed in either existing legislation or common law concepts or by specifically dealing with such matters. However, it is possible to interpret the term "disturb" merely as to cause temporary psychological discomfort or cause a momentary distraction of attention. Similarly, interrupt could include only a minimal temporary interruption caused by such distraction. We question whether this is sufficiently serious to warrant the use of penal legislation.

There may be methods of narrowing such provisions to avoid penalizing innocent activity that only marginally affects school life. Inserting "wilfully" before the prohibited actions and/or specifying the particular problems that are aimed at, e.g., excessive noise, are means that come readily to mind.

For an interesting and instructive American Supreme Court case dealing with these matters, we respectfully refer you to Grayned versus the City of Rockford, 92 Supreme Court Report 2294, 1972.

Proposed Section 231(2)(b)–perhaps the term "trespass" should be defined or at least limits analogous to those in The Petty Trespasses Act should be placed on the operation of the concept. It is to be noted that under The Petty Trespasses Act there was no offense unless the lands or premises are wholly enclosed or the persons enter after being requested not to do so or refused to leave upon request to do so. Furthermore, The Petty Trespasses Act provides a defense of honest and reasonable belief that he or she has the right to do the act complained of.

By contrast, the proposed clause in question does not seem to provide any qualifying factors. Under proposed Section 231(3)(b) a principal may direct a trespasser to leave. Perhaps it was intended that the offence does not occur until such direction or direction or notice under any provision of proposed Section 231(3) or Section 231(4) is given. However, as worded, the proposed clause could create the offence even in the absence of prior direction or notice. This could lead to an unfair application of the law.

We respectfully suggest that trespass on school premises should not become an offence unless either the person is expressly and personally notified to leave and/or not return, as provided in the rest of the proposed section, and he or she disobeys such instructions; a person is notified in advance not to come to school and disobeys; there is adequate group notice to disperse, as in the case of a crowd or demonstration which became ugly, and the persons refuse; or there is a clearly visible sign or notice expressly prohibiting unauthorized presence at certain hours.

* (1720)

We acknowledge the need and the right of school authorities to ensure that their premises are used effectively for educational purposes, to prevent crimes and perhaps other harmful activities and to protect the safety, security and privacy of all students and staff. We are certainly not suggesting that there be unlimited public right of access to school facilities.

However, traditionally schools have not been considered completely off limits to members of the public and many people, quite reasonably, can believe that they are allowed to enter school premises. In our opinion, fairness demands that clear warning be provided to an individual of the inappropriateness of his or her presence before prosecution for trespass is possible.

Proposed Section 231(3)(c): It seems that this terminology is too unclear and wide. It may give potentially arbitrary power to a principal. Policy concerning access to the public and limitations thereon and grounds for exclusion of particular individuals should be more clearly articulated and defined.

Additionally, we believe that the legislation should provide a person directed to leave or given notice not to return pursuant to Section 231(3) or 231(4) a right to protest against or appeal such decisions to the school board at a future time.

Proposed 231(6): MARL believes that the penalties in this section are unduly high. If a person in violation of this section also engaged in activity prohibited by the Criminal Code or similar legislation, appropriate charges could be brought. However, most actions envisaged by this section alone would likely merit only a relatively minor fine.

Thank you for your kind attention.

Mr. Chairperson: Thank you for your presentation, and I would ask if any members of the committee have questions they wish to address to the presenter.

Since there are no questions, we would like to thank you for appearing before us.

I would now like to call on Linda York from the Manitoba Teachers' Society.

Mr. John Gisiger (Manitoba Teachers' Society): I wonder, Mr. Chair, if I could go in her stead. I am John Gisiger, General Secretary of the Manitoba Teachers' Society. Linda is currently indisposed and may not be able to come back.

Mr. Chairperson: Okay. You have a written presentation which you are passing to us. Could I get your name again?

Mr. Gisiger: John Gisiger. G-I-S-I-G-E-R.

Mr. Chairperson: Thank you, Mr. Gisiger.

Mr. Gisiger: I will simply read the presentation we have here.

Mr. Chairperson: Please proceed.

Mr. Gisiger: Bill 6 gives school principals greater power to exclude people who interfere in the work of the school from school grounds. It allows tougher

penalties for this type of interference as well as for trespassing. The Manitoba Teachers' Society supports the amendments to The Public Schools Act through this bill.

School is a place where students and teachers must be able to learn and work safely and securely. We welcome the enactment of Bill 6 and hope appropriate regulations will be adopted to implement it.

These regulations should foster co-operation between school authorities and police. While school authorities deal with most of the issues that arise among teachers and students in school, we do not believe they should be responsible for people who trespass on school premises, for whatever reasons.

Regulations must be adopted to ensure school authorities have easy access to and support from police when they need it.

We would like to add, perhaps, to this that where such regulations are made, it should go beyond simply indicating that this should happen, but there should be some mechanism to ensure that it actually does happen, that there are protocols perhaps that develop between local school divisions and the police authorities in question so that when problems arise, there will be a mechanism in place to make sure that the support is there. Thank you.

Mr. Chairperson: Thank you, Mr. Gisiger.

Committee Substitution

Mr. Chairperson: Before we take questions from the committee, I would just like to advise you that the committee has been informed of another committee substitution, and it has been moved in the House that Ms. McGifford has been substituted onto the committee for Ms. Mihychuk.

* * *

Mr. Chairperson: I will ask if there are any questions to the presenter.

Mr. Marcel Laurendeau (St. Norbert): I only have one question of Mr. Gisiger. When you had said that some type of within the regulations, what type of implementation or what type of process would you like to see in place?

Mr. Gisiger: There should be something in the regulation that would go beyond simply saying that this should happen, that a mechanism should be developed at the school division level and at the local police force, in many rural areas it may be the RCMP, whereby an arrangement will be developed so that if something happens you know what procedures to follow to obtain the support that is required.

Hon. Linda McIntosh (Minister of Education and Training): I want to thank you very much, John, first of all, for putting it on one page. That is wonderful. We have an amendment that we will be suggesting later that might fit, I hope, part of the other concern that principals had expressed to us and we will mention that when we get to it.

Your points are taken well, and I very much appreciate them.

Mr. Gisiger: We will be very pleased to discuss the matter with you further in the light that we have mentioned and the one you just have.

Mr. Chairperson: Since there are no further questions, I will now call upon Claudia Sarbit and John Wiens. I obviously see that you have some written presentation, so before we proceed we will pass them out. Mr. Wiens, I would ask you to proceed.

Mr. John Wiens (Seven Oaks School Division): Mr. Chairman, I am expecting that I am going to get an accolade for this too, because I am less than a page.

My name is John Wiens, and the chair of the board has gone home. She had a very late night last night.

On behalf of the board I would like to make this very brief presentation. The board would thank the committee for granting it this opportunity to present our views regarding Bill 6, The Public Schools Administration Amendment Act. While the board believes it now has the rights under The Public Schools Act and The Petty Trespass Act to act according to

most of the provisions outlined in Bill 6, it welcomes their inclusion in The Public Schools Act along with commensurate consequences for violation of the law. Such legislation can only enhance and protect the special status of children and schools in our society, that being the responsibility of the state and its agents to care and protect children and to support the institutions that have a moral, social and legal responsibility to care for them.

On behalf of the board, I thank the committee.

Mr. Chairperson: Does the committee have any questions of Mr. Wiens?

Mrs. McIntosh: Just a comment again to thank you for the brevity of the proposal and the support and to indicate, as well, to you that there will be an amendment that will address some concerns made by the principals that may probably also be acceptable to you.

Mr. Weins: Thank you very much.

Mr. Stan Struthers (Dauphin): In a previous submission, it was stated that there may be some activities that go on within the school that might suffer as a result of regulations that could be developed in the future by the government. Do you have a worry, or do you share that worry? Are there some legitimate fundraising or other school activities that may suffer as a result of either this act or regulations down the road?

Mr. Wiens: I really do not consider any of the things that are in this act or any of the previous acts to be very obstructionist at all.

We have had a policy for the whole time that I have been a superintendent, something like 15 years or so now, which requires that all of these visitors to the school that are mentioned in the earlier part of this act have to report to me and get permission to even submit literature and whatever in the school. I think that has worked very well as a protection for the schools. We, not only have not had any complaints about that, we think it is the right thing to do. So we do not see it as being obstructionist.

* (1730)

Mr. Chairperson: Any other questions from the committee? Since there are none, I will thank you.

I would like to call now on Dwight Botting from the Manitoba Association of Principals and ask you if you have a written presentation.

Mr. Dwight Botting (Manitoba Association of Principals): No, I do not.

Mr. Chairperson: Okay, then I will ask you to proceed.

Mr. Botting: I will try to be as brief as possible, but I do have some suggestions, and I would like you to entertain them.

First of all, I would like to make some obvious points, but I think they are worth making, that safety is a community concern and should not be exclusively pointed at the schools. I do not think you are doing that, but we are all responsible for safety, whether it is in the school or on the streets. As it has been said in previous presentations, schools should be fundamentally sanctuaries that are free from intrusions that disrupt the day and certainly inhibit the safety of the people who are conducting business in them, including the students.

The school principals are not looking for more authority. We are certainly willing to assume our big share of the responsibility in school safety, but we feel we are part of a larger effort, including trustees, the provincial government, police, et cetera, so I think it would be a mistake if people thought that they could end up with safer schools by simply giving principals more authority. Perhaps I could explain that as I proceed.

What we are most concerned about is not nuisance trespassing; what we are concerned about is trespassing which is dangerous and trespassing which creates threatening situations. To give you an idea–I believe that this kind of trespassing is increasing in our schools, rural and urban–last year–I am principal of Tec-Voc High School–we had two incidents that I would consider to be threatening, which we had to deal with without the support of, what I felt, clear legislation as

well as clear police direction. This year, we have had one to date. So we are talking about one, two or three a year in large high schools in the central district of Winnipeg.

We appreciate the fact that the government recognizes this concern in introducing the legislation, and we see this as a concrete measure which will help to strengthen the authority of the educational system. To reiterate the point, though, this will not solve the violence problems in our community.

I would like to make one comment about the legislation that I think is worth emphasizing in terms of a positive thing. In Section 231(2), it refers to actions on school premises or in close proximity to school premises, and I am glad that the government recognized that. There are several high schools–I am talking about high schools and junior highs–which are in the middle of residential districts, and intruders can literally stand on the boulevard off school property and create a dangerous and threatening situation. So the phrase, I think, "close proximity" covers that kind of situation.

I would like to raise two questions which I think could improve the bill, and I would like to refer to 231(3), where it indicates that the principal or a person authorized by the school board may direct any person to leave the school premises. I think when safety issues arise in schools, I do not think it is wise–let me restate that–I think we would better off if we removed the discretionary power from the school board authorities and made it obligatory. In other words, if there was an unsafe situation, and I think there are ways to define that, it would be the obligation of the principal or the school authorities to attend to such.

This accomplishes a number of things. First of all, the recipient of a threat–and in the case at Tec Voc last year one of our teachers had his life threatened twice within two minutes by an intruder. This individual teacher was unwilling to press charges under the Criminal Code because he feared that worse things would happen to him and, therefore, we were handcuffed, rather than the intruder handcuffed, from pursuing any criminal action.

Secondly, I think if we were obliged to press a charge that it would depersonalize the situation or tend to depersonalize the situation, and the individual would see that the school system was acting, rather than an individual making a judgment and, therefore, a number of people could be involved in pressing the charge, and it would not put a lot of pressure on a certain individual or a lot of focus on a certain individual. I think also it would provide more assurance to the public that these matters will be dealt with, and not, if I could use the phrase, pushed under the table like they are in some jurisdictions, because you do get bad publicity if an unsafe thing happens in your school.

I think we need more than a policy to make this obligatory. I think that the province has the expertise to write some kind of provision in The Public Schools Act to provide the opportunity for a consistent response to dangerous intruders across the province, from division to division and not leave things up to individual school divisions in order to dream up or to come up with procedures.

I think in these extreme cases where I would certainly be willing to pursue a court order against a named individual, that I think would somewhat allow the individual to have his or her rights protected. At the same time, it would allow us to come forward or allow the system to come forward.

My second point is the idea of written notice in 231(4)(b). I think it is very important that individuals be warned before they are charged, but the whole idea of giving a dangerous intruder written notice is really not practical. Certainly giving a dangerous intruder written notice on the spot is highly impractical. The No. 1 goal is to restore order and safety, and secondly, to get the individual off the premises and not have them wait until a signed letter is handed to them, and who wants to hand this letter to the individual anyway?

In a lot of these cases–and I have dealt with a few of them–I have been a high school principal now 11 years–we can identify the individual, not at the time, but through the grapevine and some detective work within a week or week-and-a-half we can usually find out who the individual was, but many times they have no address. So the whole idea of sending them a letter or a registered letter is somewhat inappropriate.

I think it is ironic that the more serious the problem is for the school in terms of intrusion, the harder it is to

provide notice to the individual. I think when an individual comes in and threatens the teacher or a student or creates a threatening situation or an unsafe environment, the individual should not necessarily have to receive two notices before he or she is charged. However, I do realize it is incumbent upon the system to demonstrate that the actions of the individual were unsafe.

The third point I would like to make, and it was made by Mr. Gisiger of the MTS but I would like to re-emphasize it, is that whatever legislation is passed, people in the schools, principals primarily, need to know how to conduct themselves when an individual intrudes into a school. They need to know what constitutes legitimate notice, what constitutes legitimate evidence that an individual has been present, and they need to know how to process that information.

The police have to know what the protocol is for charging an individual. At this time, it is fair to say there is a lot of confusion in the Winnipeg police department about how to deal with trespassers when it comes to charging them. I also think that the prosecution people have to dialogue with the police and school board authorities to set up a tight protocol.

I would just like to close by restating that I think teachers have the right to work in safe schools and certainly students have the right to have an education in safe schools. I would like to indicate that I have met with the minister. MAP, Manitoba Association of Principals, has met with the minister and discussed a lot of this, and we appreciate the time that you have given us in that regard. We hope that we can come up with the most effective legislation possible. We see this as a nonpartisan issue.

Mr. Chairperson: Thank you, Mr. Botting. I would ask if any of the members have questions to ask of the presenter.

* (1740)

Mrs. McIntosh: Just for clarification. On the clause that you were just referring to, 231(4)(b), the concerns–

Mr. Botting: I hope I was right there.

Mrs. McIntosh: Were you talking about the written notice and the difficulties that are faced sometimes in being able to give a written notice in terms of trying to leave a paper trail or a documentation, sort of proof that the individual has been notified which I think is what this is getting at? Do you have an alternative suggestion there?

Mr. Botting: I am not a lawyer, but one suggestion could be that if a court order were obtained, it would be up to the judicial system to present the named individual with the court order so that our obligation then would be to appear before a judge to make our case and ask for the order. The obligation to present the order would be with the judicial system.

Mrs. McIntosh: For further clarification, and I do not mean to be putting you right on the spot, but do you have substitute wording that might fit there, in your mind?

Mr. Botting: No, I do not.

Mrs. McIntosh: No. Okay. But you have identified the problem. Thank you.

Ms. Jean Friesen (Wolseley): I want to clarify some of the things you were saying about the person authorized by the school board. Your preference is to leave it as principal. I am not familiar with schools in that sense. Who might be authorized, other than the principal, to do this?

Mr. Botting: I think, in the case of directing to leave school premises, it would be the principal or in fact the teacher in charge. This afternoon I have designated a teacher in charge because I am here. In the case of 231(4), the written notice or the action to appear before a judge could be taken by the secretary treasurer or designate from the superintendent's department, and I see the school authorities working with those people. So it would depend on the school division and who the school division feels is most appropriate to proceed forward. Certainly, the principal has to play a role in terms of the evidence and the preparation of the points.

Ms. Friesen: I am not quite sure of the point you are making. Are you looking for an amendment that deletes, or a person authorized by the school board?

Mr. Botting: No.

Ms. Friesen: Is it the "may" that is the problem? It is not the designate.

Mr. Botting: In 231(3), it is the "may" which I feel is the discretionary aspect of the proposal.

Ms. Friesen: The other point you raised dealt with protocols that you believe are necessary to develop. Are there any models of that that we could look at or that you know of? Are there urban schools, Toronto, Vancouver, where those kinds of protocols are well developed?

Mr. Botting: I do not know of any specific protocols. I discussed this with the B.C. principals and vice-principals association, and they feel that in Vancouver they have a fairly clear process that school principals can follow, but I have not seen it.

Ms. Friesen: Do you think that these protocols should be developed on a school board basis or by the minister?

Mr. Botting: I think the minister or the government should take the leadership in ensuring that the discussions take place between the prosecutions, police authorities and school board officials, and, at some point, the decision as to who should do things and how they should be conducted should be the decision of the school division. But I do not think the school division should be given too much choice in the matter, and I think that is a provincial responsibility.

Mr. Laurendeau: Mr. Chairperson, I would just like to go back to the one that you were discussing on 231(3) with the section of removing the "may." Where I have my concerns on this is, without the "may," what would you do in the cases where it was not a serious offence, where it was someone who was just, you know, doing something that was not to the extreme sense? If that clause was removed with the "may" and put into the other context where you had to, how would you make that judgment call?

Mr. Botting: I am getting it right finally. I have thought about that, and what I would do is write a separate section for dangerous intruders which would say, "be obligated" or "will." In the other cases, the discretionary word "may" would remain. That was the one way I thought about it.

Mr. Laurendeau: Then if I could relate it to you this way: You are moving towards the extreme case on the 231(3) which you are thinking should have an extra clause put in. Then, when we are talking about 231(5) or 231(4)(b), you were talking of court orders, if I am correct, because that, as it is stated today, is only a letter from the school or the school board, but you would like that changed into a court order, which again would revert to the extreme case, which the two could slide in together into one clause. Am I following you?

Mr. Botting: That would be one way to do it, yes.

Ms. Friesen: I wanted to follow up on some comments you made about situations that you faced in your school where this legislation would not help or would not address. What is it we are missing in terms of legislation that you have been unable to deal with?

Mr. Botting: I think if this legislation were passed, we would be more effective at dealing with it than we are at present, and I am not as familiar with the present legislation as I should be. I am just frustrated with trying to get a prosecution under it, but I think it would even be more effective if the government entertained some of the suggestions that we are making.

Mrs. McIntosh: Mr. Chairman, we are going to be putting forward an amendment which will cover one of your concerns. The other one that you had, legal counsel advises is much more complex to obtain, but there is a third little change I am thinking of making here if you feel that it would be helpful, and that is back to the little point you made before about written notice.

I am wondering if in that 231(4)(b) the words "verbal or written notice" were placed if it would give you a little more leeway. The written notice, of course, could be after the fact written by the police, but if we just inserted the words "verbal or" before written, would that assist you somewhat in the concern you were pointing to in your verbal presentation here?

Mr. Botting: Offhand, I would say yes, that would definitely. There would have to be a witness or something, but that sounds very good.

Mr. Chairperson: If there are no more questions of the committee, I would like to thank you for your presentation.

I would now canvass the audience one last time to see if there are any other persons in attendance wishing to speak to one of the bills that is before the committee this afternoon.

Seeing as there are none, is it the will of the committee to proceed to clause by clause consideration of the bills when it meets at 8 p.m. in Room 254 [agreed].

* (1750)

Bill 17–The City of Amendment Act (2)

Mr. Chairperson: Is the agreement of the committee to do a clause by clause of Bill 17? [agreed]

If I could have order, please, we will proceed on Bill 17, The City of Winnipeg Amendment Act (2). Does the minister responsible have a brief opening statement?

Hon. Jack Reimer (Minister of Urban Affairs): No, the minister does not have an opening statement.

Mr. Chairperson: We thank the minister.

Does the critic from the official opposition party have a brief opening statement?

Ms. Becky Barrett (Wellington): No.

Mr. Chairperson: We thank the member.

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

Does the committee wish to have blocks of clauses called? [agreed]

Clauses 1 to 3–pass; Clauses 4 to 6(1)–pass; Clauses 6(2) to 7–pass; Clauses 8(1) to 8(2)–pass.

Clause 8(3).

Mr. Reimer: Mr. Chairman, I move

THAT the proposed section 608.1, as set out in subsection 8(3) of the Bill, be struck out and the following substituted:

By-law re authority to terminate variances
608.1(1) Council may by by-law authorize a designated city administrator to terminate orders of variance under subsection (2).

Termination of variance
608.1(2) Notwithstanding anything in this Act, the designated city administrator may terminate an order of variance with the written consent of every person who is an owner as defined in The Real Property Act in respect of which the order of variance was granted.

[French version]

Il est proposé que l'article 608.1 énoncé au paragraphe 8(3) du projet de loi soit remplacé par ce qui suit:

Pouvoir de mettre fin à une ordonnance
608.1(1) Le conseil municipal peut, par arrêté, autoriser l'administrateur désigné de la Ville à mettre fin, en vertu du paragraphe (2), à des ordonnances de dérogation.

Fin de l'ordonnance
608.1(2) Malgré les autres dispositions de la présente loi, l'administrateur désigné de la Ville peut mettre fin à une ordonnance de dérogation si toutes les personnes qui sont propriétaires au sens de la Loi sur les biens réels des biens faisant l'objet de l'ordonnance y consentent par écrit.

Mr. Chairperson: Discussion on the amendment?

An Honourable Member: No.

Mr. Chairperson: Shall the amendment now pass–pass; Clause 8(3) as amended–pass; Clauses 9 and 10–pass.

I will call Clause 11.

Mr. Reimer: I move

THAT the proposed section 612.1, as set out in section 11 of the Bill, be struck out and the following substituted:

By-law re authority to terminate conditional uses
612.1(1) Council may by by-law authorize a designated city administrator to terminate approved conditional uses under subsection (2).

Termination of conditional use
612.1(2) Notwithstanding anything in this Act, the designated city administrator may terminate an approved conditional use with the written consent of every person who is an owner as defined in The Real Property Act of the property in respect of which the conditional use was approved.

I move this both in English and in French.

[French version]

Il est proposé que l'article 612.1 énoncé à l'article 11 du projet de loi soit remplacé par ce qui suit:

Pouvoir de mettre fin à l'usage conditionnel
612.1(1) Le conseil municipal peut, par arreté, autoriser l'administrateur désigné de la Ville à mettre fin, en vertu du paragraphe (2), à l'usage conditionnel de biens approuvé.

Fin de l'usage conditionnel
612.1(2) Malgré les autres dispositions de la présente loi, l'administrateur désigné de la Ville peut mettre fin à l'usage conditionnel de biens si toutes les personnes qui en sont propriétaires au sens de la Loi sur les biens réels y consentent par écrit.

Mr. Chairperson: Shall the amendment pass–pass. Clause 11 as amended–pass; Clauses 12.1 to 15–pass; Clauses 16 to 18–pass; preamble–pass; title–pass. Bill as amended be reported.

I would now advise the committee that since it is not finished with the bills referred to in it, the committee will again meet at 8 p.m. in Room 254 to continue consideration of the Bills 5, 6, 21 and 22.

Some Honourable Members: Agreed.

Mr. Chairperson: Agreed and so ordered.

The time being six o'clock, the committee shall rise.

COMMITTEE ROSE AT: 6 p.m.