



**Fifth Session - Thirty-Sixth Legislature**

**of the**

**Legislative Assembly of Manitoba**

**Standing Committee**

**on**

**Law Amendments**

*Chairperson*  
*Mr. Jack Penner*  
*Constituency of Pembina*



**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Sixth Legislature**

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

**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON LAW AMENDMENTS**

**Tuesday, June 29, 1999**

**TIME – 10 a.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Mr. Jack Penner  
(Emerson)**

**VICE-CHAIRPERSON – Mr. Peter Dyck  
(Pembina)**

**ATTENDANCE - 10 – QUORUM - 6**

*Members of the Committee present:*

Hon. Mr. McCrae, Mrs. McIntosh, Messrs.  
Praznik, Toews

Messrs. Dewar, Downey, Dyck, Ms.  
Friesen, Messrs. Jennissen, Penner

*Substitutions:*

Hon. Mr. Enns for Hon. Mrs. McIntosh

**APPEARING:**

Mr. Tim Sale, MLA for Crescentwood  
Ms. Rosanne Wowchuk, MLA for Swan  
River  
Dr. Digby Home, Medical Officer of  
Health, Public Health, Department of  
Health

**WITNESSES:**

Bill 7–The Public Schools Amendment Act  
Mr. Doug McGiffin, President, Manitoba  
Association of School Trustees

Bill 8–The Ozone Depleting Substances  
Amendment Act

Mr. Mark Miller, Executive Director,  
Manitoba Ozone Protection Industry  
Association

**MATTERS UNDER DISCUSSION:**

Bill 19–The Agricultural Credit Corporation  
Act

Bill 3– The Fatality Inquiries Amendment  
Act

Bill 5–The Highway Traffic Amendment,  
Off-Road Vehicles Amendment and Con-  
sequential Amendments Act

Bill 6–The Highway Traffic Amendment Act

Bill 7–The Public Schools Amendment Act

Bill 8–The Ozone Depleting Substances  
Amendment Act

Bill 9–The Securities Amendment and  
Commodity Futures and Consequential  
Amendments Amendment Act

Bill 13–The University of Manitoba Amend-  
ment Act

Bill 15–The Cemeteries Amendment Act

Bill 16–The Court of Queen's Bench Small  
Claims Practices Amendment and Parental  
Responsibility Amendment Act

\* \* \*

**Mr. Chairperson:** Will the Committee on Law Amendments come to order. This morning the committee will be considering the following bills, and I will move Bill 7 up to the first place, but we will be considering Bill 3, The Fatality Inquiries Amendment Act; Bill 5, The Highway Traffic Amendment, Off-Road Vehicles Amendment and Consequential Amendments Act; Bill 6, The Highway Traffic Amendment Act; Bill 7, The Public Schools Amendment Act; Bill 8, The Ozone Depleting Substances Amendment Act; Bill 9, The Securities Amendment and Commodity Futures and Consequential Amendments Amendment Act; Bill 13, The University of Manitoba Amendment Act; Bill 15, The Cemeteries Amendment Act; Bill 16, The Court of Queen's Bench Small Claims Practices Amendment and Parental Responsibility Amendment Act; and Bill 19, The Agricultural Credit Corporation Act.

Those will be the bills that will be presented before committee today. We have one presenter this morning, and that is on Bill 7. What is the will of the committee? Should we move Bill 7 up to first hearing, hear the presenter and then deal with the bills as per order? [agreed]

If there are any other persons in the room currently that wish to present, would you please notify the Clerk at the back of the room so that he can notify us as to the additional presenters. In addition, if there are written items to be handed out by the presenters, could you make sure there are 15 copies; and, if you need copies made, the Clerk can help you with making copies, but 15 copies for distribution.

Did the committee wish to indicate how late they wish to sit this morning, or should we leave that for a later time to determine?

**An Honourable Member:** Agreed.

**Mr. Chairperson:** Agreed that we will leave that then? [agreed]

Did the committee wish to use limitations on presentations? We only have one presenter, so—

**An Honourable Member:** Probably no need to do that.

**Mr. Chairperson:** No need, yes.

**Mr. Peter Dyck (Pembina):** Mr. Chairman, I would ask the leave of the committee to make a committee change.

**Mr. Chairperson:** Is there leave? Agreed? [agreed]

#### **Committee Substitution**

**Mr. Dyck:** I would like to have the honourable member for Lakeside (Mr. Enns) replace the honourable member for Assiniboia (Mrs. McIntosh) as a member of the Standing Committee on Law Amendments, with the understanding that the same substitution will also be moved in the House to be properly recorded in official records of the House.

**Mr. Chairperson:** Agreed? [agreed]

#### **Bill 7—The Public Schools Amendment Act**

**Mr. Chairperson:** We will then proceed, and we have Mr. Doug McGiffin, president of MAST, to make a presentation on Bill 7. Mr. McGiffin, will you come forward, please? Have you a presentation for distribution? The Clerk will distribute.

**Mr. Doug McGiffin (President, Manitoba Association of School Trustees):** Yes, I do, Mr. Chair. This top one has my card on it.

**Mr. Chairperson:** Mr. McGiffin, you may proceed with your presentation.

**Mr. McGiffin:** Good morning. I have with me Heather Demetriooff, co-ordinator of Policy and Research, for any questions that I cannot field from the committee after the presentation.

The Manitoba Association of School Trustees welcomes this opportunity to present to the Law Amendments review committee its views on changes to The Public Schools Act proposed in Bill 7. In this presentation, we will restrict our comments to Sections 2 and 3 of Bill 7, which would affect Section 74 of The Public Schools Act.

The Public Schools Act's current Section 74 requires ministerial or finance board approval prior to the purchase, erection, enlargement, or remodelling of school or other buildings on property owned or leased by a school division or district. The proposed Section 74 would expand that requirement for ministerial or finance board approval to the leasing of a school or other building. This change could, we believe, adversely affect the ability of school boards to make timely decisions that are in the best interests of their schools and communities.

School boards decide to lease or rent buildings for a variety of operational reasons. In some instances, leasing space enables a school division or district to deliver a program in a location appropriate for a targeted community. Leasing may provide space that is close to certain amenities, such as businesses involved in a co-operative education program. Leasing space also enables school boards to respond in a more timely manner to newly emerging needs. In

some instances, when such a need is short term or time limited, leasing or renting may be the only appropriate means of acquiring needed space. In each instance, the school board gives careful consideration to all options before the decision to lease is made.

MAST is concerned that the requirement for preapproval by the minister or finance board proposed in Bill 7 could compromise a school board's ability to make operational decisions such as these in a timely manner. In particular, we are concerned that the time required to obtain such approval may, upon occasion, result in school boards missing the opportunity to lease properties suitable for the identified needs. Without assurance of rapid consideration of the school board's request for leasing approval, we cannot support this amendment.

As well, we are not convinced of the need for such a mechanism for monitoring school board decision making. Leasing a building is not the same as constructing, purchasing, or undertaking a major renovation of one and should not be treated the same in legislation. The construction, purchase, or renovation of a building is a long-term commitment requiring a one-time outlay of large amounts of money. While entering into a lease or rental agreement also commits a school board, the term of that commitment is shorter and the cost associated with it far less. In most instances, lease payments would be included in a school division's or district's annual budget, which is already submitted to the minister for approval. We believe that this is an adequate check and do not see the need for additional monitoring of school board decision making in this regard, nor do we believe that the minister or finance board are in a better position to determine a division or district's needs or how those needs can best be met than is the local school board.

School trustees are in a position to know what their communities expect and need from their schools. They are in tune with their communities in terms of emerging demographic trends that may affect those expectations and needs of the years ahead. Because they live in the communities they serve, they know about the local market conditions and about what may or

may not be available in the division or district for lease or purchase.

\* (1010)

We do not believe that the minister or the finance board, no matter how well intentioned, can know each of the communities that comprise Manitoba school divisions and districts as well as the school boards that were elected to serve those committees. For this reason, we believe that decisions about where and when to lease buildings for instructional and other purposes are best left at the local level.

I would also like to comment briefly on the amendments which have been made to Bill 7 since its publication. The first of these expand the application of the legislation to include leasing a portion of a building, as well as the building in its entirety. The concerns we identified above apply equally to this amendment. By requiring the board to seek permission prior to its leasing of a portion of a building, in some instances perhaps no more than a single classroom, the legislation would further restrict the board's ability to make timely operational decisions.

The second amendment would see the development of regulations to give force to this section of the act. Our experience has been that the consultative processes accompanying the drafting of regulations are frequently inadequate to give voice to the concerns and interests of Manitoba's educational partners. The law amendments review process in which we are currently engaged does guarantee a public forum in which we can have input into draft legislation. No such guarantee exists in the case of regulations.

In summary, I would like to reiterate the following points. School boards lease space to meet a variety of operational needs and any unnecessary restrictions on their ability to do so in a timely fashion could compromise their ability to meet those needs. Leasing a building does not entail the same type of commitment or expense as does purchasing, constructing or undertaking a major renovation of one and so should not be treated in the same legislation. As locally elected officials, school trustees are in a

better position to determine the needs of their communities in terms of programming and operations, and the most appropriate way to respond to those needs then are centrally located officials.

In light of these issues and concerns identified in this presentation, the Manitoba Association of School Trustees respectfully requests that Bill 7 be amended by striking Sections 2 and 3. Thank you for your time and consideration. I am open to any questions of the committee, Mr. Chair.

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

**Ms. Jean Friesen (Wolseley):** Mr. Chairman, thank you for the presentation. The two points that you make on the role of local school boards and the importance of having local decision making, I think, are very important ones. There are times, of course, when you will hear the minister say the same thing, but obviously not in this context.

I am wondering if you can give me any examples of where this aspect of the legislation might create difficulties for school boards. Are there any examples in the recent past, say, in the last couple of years that would help us understand the impact of this?

**Mr. McGiffin:** Some of the instances of where quick reactive leasing is required is the Upward Bound Inc. program that is done by the aboriginal people in Winnipeg. They presently have three school divisions. Winnipeg No. 1, Seven Oaks and St. Vital all have programs. That is one example.

In addition to that, there is the Morris-Macdonald partnership that is taking place with Anokiwin training institute. In addition to that, we have the Winnipeg Technical college which is very reactive. I just spoke with the director, Leonard Harapiak, this morning, and he informed me that if this type of legislation goes through, it would be devastating to the operations of the centre.

Presently, we rent space upstairs in the Bueno Supermarket to meet the needs of the

Filipino community that wanted health care aide courising. We rent in the Cornish Library where we are serving the needs of the Misericordia Hospital. In order to put a training course on for them, we are in the Cornish Library. The Aboriginal Centre is another place where we provide courses where they are required by the aboriginal community. River and Osborne Village Centre, we have courses going on there, as well as the site at the Urban Circle on the north Main.

In addition to that, there is presently a program taking place called Creotech [phonetic], which is a group of three school divisions—Morris-Macdonald, Fort Garry and Assiniboine South—who are partnering with the University of Manitoba in an undertaking of the arts community and trying to get together to react to some of the needs of our students in the arts.

In addition to that, there are other examples in rural Manitoba. One that comes to mind is Flin Flon. They have an alternative program that is working quite well for the children that are at risk in the Flin Flon area. We also have an alternative program down in Fort Garry shared by Morris-Macdonald and Fort Garry. It is a Streets program that meets the needs of the children, and it is located right on Pembina Highway. It would be in a space that is only part of a strip mall. So those are examples that I have made note of just this morning.

**Ms. Friesen:** Mr. Chairman, yes, and many of those, I know, are very recent, so that if we went back perhaps five years, there would be a much longer list. The issue that you point to in your brief is the issue of speed and flexibility I think. I believe you have had some discussions with the minister. You make reference to some aspects of that in the paper. You were looking for some assurances of speed and flexibility. Do you have any sense that that will be forthcoming?

**Mr. McGiffin:** We have been given assurances by the department that regulations would not be done without some sort of consultative type of input from the education partners. Our experience with the last amendments to The Public Schools Act were that the regulations were perhaps somewhat one way and more

served as notice. So it is a history of regulation. Regulation is set by the minister, and that is the direction that has to be followed. Those assurances do not give us enough feeling of assurance that we will be consulted in a timely manner.

As for the other business of whether or not we could be reactive enough, it is highly unlikely. When we are in a competitive market trying to meet the needs of industry as well as trying to meet the needs of students, we have to turn around and lease properties on very, very short notice. If we are doing that on short notice, it has been my experience with government, if you have to go for ministerial approval or Public Schools Finance Board approval, it will take too long a time to keep us having that competitive edge.

**Ms. Friesen:** Can you give me a sense of what kind of assurance you will be looking for from the minister this time in terms of regulations? Is there some wording, is there some commitment to a series of meetings? Are there some areas of commitment that you feel were overlooked last time that you would like to see this time in the making of regulations? I am assuming that the government is going to pass this bill, and I am looking for some safeguards on your behalf. What should we be asking for?

**Mr. McGiffin:** My feeling, representing the association and also being on the board of governors of Winnipeg Technical college, is that the only way that this can be met is if the bill is amended and amended guaranteeing that ministerial approval would not be necessary for short term with the time line set into it, those time lines being, I would say, a minimum of 10-month coursing.

Just one thing, I happened to look through the Winnipeg Free Press this morning. Going back as far as 1968, you can see that the Brandon School Division—there was an article there about a human rights decision—but it says there that the Brandon School Division had to, in 1968, lease property at an independent school, and that type of demand was made on the Brandon School Division because of the need to get alternative space when they had overregistration. We are seeing that all the time.

\* (1020)

**Ms. Friesen:** You made reference in your paper to amendments—I am on page 2: "I would also like to comment briefly on the amendments which have been made to Bill 7 since its publication." I am not clear what you mean by that. I only have the bill as presented in the House. Do you have some sense that there are amendments, or is this an amended one that I am looking at? Are those amendments to a bill that you perhaps saw in draft earlier on? I am just not clear what that meant.

**Mr. McGiffin:** In early discussions with representatives from the Department of Education and Training, we were led to believe that there would be other amendments coming forward.

**Ms. Friesen:** So we are looking at the same Bill 7 here, the one that is published? Okay. Thanks very much.

**Hon. James McCrae (Minister of Education and Training):** Thank you, Mr. McGiffin, for your attendance and presentation this morning. I know that you say on the top of page 2 of your presentation that, "without assurance of rapid consideration of a school board's request for leasing approval, we cannot support this amendment." Frankly, I agree with you. I concur in what you are saying, and I do have an amendment that I propose to move this morning to deal with that aspect of your presentation, that one dealing with the regulatory process.

Also, I would like to give you the undertaking that, as we have already done, we would be quite happy to meet with the Manitoba Association of School Trustees in order to get their input into regulations that would be required to make this process that we are calling for here a fast and effective process.

I guess what I am saying is that I am giving Mr. McGiffin and his organization the undertaking that, of course, as we have done leading up to the presentation of the bill to the Legislature, we would want to be consulting with MAST with respect to any regulatory requirements that would flow from this, the regulatory requirements being for the purpose,

the sole purpose, in my view, of making this process an efficient one.

I remind also this committee, as well as Mr. McGiffin, that there are significant powers existing already in The Public Schools Act, and I think I would have described what we are doing here with Bill 7 as being in the nature of administrative and housekeeping in order to make laws that already exist more effective. For example, under The Schools Act—and this reminds me of discussions I have with the honourable member for Wolseley (Ms. Friesen) in the House from time—but under Section 2 of the act, that the minister is responsible for the supervision, control and direction of all public schools and of all other schools established pursuant to this act, which is a pretty sweeping power. But then I guess the act goes on to define the nature of the powers of the government in regard to the education of our children.

There are administrative issues here; there are safety issues here; there are issues related to cost from time to time in school division plans. The Department of Education and Training would not be doing its job if it did not want to be consulted about issues related to the leasing of space either all or part of a building for instructional purposes. So, in that sense, the department would not be responsible if it did not ask that it be consulted about the plans of divisions to enlarge into leased space. I think that, in furtherance of the consultations that we have already had, I would like you to have that undertaking that we do not want this in any way to be used in any way to unduly lengthen the time it takes for divisions to be able to react in a time when that is becoming more and more important. So I just wanted to give Mr. McGiffin that comfort around those issues.

**Ms. Friesen:** Mr. Chairman, I understood the minister to say he was bringing an amendment to this bill and that he will be presenting that later.

**Mr. McCrae:** Yes, Mr. Chairman.

**Ms. Friesen:** The minister has also made reference to the issue of safety, which was the context he put this bill into when he spoke in the House. I wondered if I could ask Mr. McGiffin,

while he is still here, about the issues of safety, whether he believes there are any examples or if he has any idea of what would give rise to this in the provincial government around the issues of safety.

**Mr. McGiffin:** On the subject of safety, in our initial meeting with the deputy minister there were some concerns about safety. We have the position as an organization of also being the parenting organization of the Manitoba schools insurance program. Parenting the Manitoba schools insurance program, we definitely would like to know of any safety concerns or safety issues that are taking place in our schools, because we insure some 780 buildings throughout the province. We are not aware of any specific buildings that are unsafe at this time. If we were, we would be in default of our insurance. Our parent insurance company would not cover us and it would also be remiss on our part to allow children to be in an unsafe condition. I do not feel that there are any unsafe schools in Manitoba at this time and hopefully never will be.

**Mr. Tim Sale (Crescentwood):** Briefly, Mr. McGiffin, it strikes me as a former trustee that the province does have a legitimate interest in the question of how much real estate and commitment is made by a school division, but it seems to me it is a question of scale. Would you agree that leases over a certain length of time—I do not know what that should be, three years, five years—should be subject to approval, albeit speedy approval, but that what you are looking for is the administrative flexibility to lease space, as you say, on a reactive basis, for program demands within your existing budgets, within your existing capacity and mandate to deliver programs. Is that a fair way of characterizing what you are asking for?

**Mr. McGiffin:** I would say that, with the Schools Finance branch the way it is set up, we have to have our budgets in every year. They have to be approved by the minister every year, and I think it would be ample to have 10-month or 12-month leasings. I would not see anything three to five years because three to five years makes a commitment on government, makes a commitment on the Department of Education and the Public Schools Finance Board which we



may not necessarily be responsible for. As you know, trustees are now only elected for four-year periods. If we entered into a five-year leasing agreement then we would be putting something on perhaps our following trustees.

**Mr. Sale:** So, Mr. McGiffin, it sounds like your position is that anything over a year, you would agree, might be something the department should have a reasonably speedy but a regulatory role in but that under a year, trustees are quite capable of making those decisions and need to make them quickly often for purposes of delivering programming.

**Mr. McGiffin:** Yes, trustees have that responsibility now on a local, autonomous way of setting their budgets for a year. There is no reason why we could not put something like this into our operational needs.

**Mr. Sale:** Just one other question. Do school divisions routinely lease other things like large copiers worth millions of dollars, school buses from time to time, vehicles? Are there other leases that school divisions enter into?

**Mr. McGiffin:** We enter into a variety of leases, not only for things like copiers and computers and other things like school buses. We also enter into contracts for legal services, for accounting services, audit services. So we have entered into quite a few contracts over the year.

**Mr. Sale:** Mr. McGiffin, can you see any conceptual difference between a lease for five years for a huge Xerox copier system and a lease for 12 months for a classroom to deliver a program? Is there any difference in terms of how it affects your books or what sort of planning and difficulty is involved in making the decision to lease or not to lease?

\* (1030)

**Mr. McGiffin:** I think under public school finance, we have to balance our books regardless, and we either have to find the money within our means, or find the money by adding a special levy. If our books do not balance, the minister is usually letting us know, and we have

to make special dispensation to get rid of that debt within the following year.

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

**Mr. McCrae:** Just for further clarification, I think it needs to be understood here that the present law, that is, The Public Schools Act, grants a fair bit of power already to the government, to the minister. This amendment today, or through this bill, could very well be seen as narrowing that fairly significantly to buildings used for instructional purposes only.

For example, Section 74 of The Public Schools Act says: "The school board shall not purchase, erect, enlarge or remodel school buildings, teachers' residences, students' residences or any buildings on property owned or leased by the school division or school district, or any one or more of them, or enter into a contract for any of these purposes, unless (a) the purchase, erection or enlargement, as the case may be, has received the prior approval of the minister; and (b) the remodelling has received the prior approval of either the minister or the finance board."

That is what is currently in existence. If you look at the bill, when you combine it with the amendment that we have undertaken to bring forward a little later, we are talking about all of these things that are used for instructional purposes. The amendment that we are going to bring forward refers to instructional purposes, so in a very real way, what we are doing here is narrowing what already is in existence, but that is not to say that we should not be concerned and take our responsibility under Section 2 of The Public Schools Act.

Just in case that should be problematic or inconvenient, we want to make sure that MAST is involved with the development of regulation to ensure that this can all be done in a timely fashion which in no way would interrupt the free flow of the business of our divisions. But I cannot step back from any issue related to the safety of our children. I think that would be a dereliction of my duty.

**Mr. Chairperson:** Thank you very much, Mr. McGiffin, for your presentation. Are there any other presenters on Bill 7? Seeing none, that will conclude then the presentations on Bill 7.

### **Bill 8—The Ozone Depleting Substances Amendment Act**

**Mr. Chairperson:** I have a presenter for Bill 8, The Ozone Depleting Substances Amendment Act, who has walked in. Is it the will of the committee to hear that presenter now? [agreed]

Mark Miller, would you come forward, please. Mr. Miller is the executive director of the Manitoba Ozone Protection Industry Association. Mr. Miller, do you have a presentation for distribution?

**Mr. Mark Miller (Executive Director, Manitoba Ozone Protection Industry Association):** No, I do not.

**Mr. Chairperson:** No, you do not. You may proceed with your presentation.

**Mr. Miller:** Good morning, everyone. My name is Mark Miller. I am the executive director of the Manitoba Ozone Protection Industry Association. It is an industry association that was formed some five years ago, under the will of various industries throughout Manitoba, those who use CFCs, substances harmful to the ozone layer, quite frankly, perhaps one of the most important environmental issues of our day today. With depletion of the ozone, as you probably are quite aware, we have such health effects as skin cancer and those kinds of things that are very important to our society.

This amendment today, we are very supportive of that particularly because, as CFCs, those harmful substances, are phased out of production, new substances which cause climate change and global warming in fact replace those. Those are as well harmful to human health and exposure, and we want to stress that it is very important. This legislation here today that we are looking at is only enabling legislation. It is not something that would cause a lot of controversy. In fact, as I say, industry in Manitoba is very supportive of that. We represent some 5,000 people in the province who

use CFCs, as well as hundreds of businesses throughout the province that use chemicals harmful to the atmosphere.

So we believe that it is an important step forward and just want to register our strong support both by industry and, I am sure, the general public. I will not take any more of your time at this particular point.

**Mr. Chairperson:** Thank you, Mr. Miller, for your presentation. Are there any questions from the committee?

**An Honourable Member:** No.

**Mr. Chairperson:** Thank you very much again for your presentation. Are there any other presenters in the room on any of the bills that I identified before? Are there any other presenters? Seeing none, I will then assume that this draws to a conclusion the presentation.

**Hon. James McCrae (Minister of Education and Training):** I have just been approached by our extremely busy Minister of Agriculture (Mr. Enns) who has been doing some very important work for Manitobans. Bill 19, The Agricultural Credit Corporation Act, I think it would be very helpful to the representatives of the corporation, who have come a great distance to be with us this morning and perhaps also to the minister, if we could deal with Bill 19 first. I would ask the indulgence of the committee for that to happen.

### **Bill 19—The Agricultural Credit Corporation Act**

**Mr. Chairperson:** Is there concurrence in the committee that we hear Bill 19 first? Can I also ask for concurrence to consider the bills in blocks of clauses? [agreed]

We will deal then with Bill 19. Could the minister come forward please.

We will set aside the title and the preamble as normal. We will deal then with the blocks of clauses. Would Clauses 1 to 26 pass?

Are there any opening statements from the minister?

**Hon. Harry Enns (Minister of Agriculture):** Mr. Chairman, just to acknowledge and introduce the general manager from Manitoba Agricultural Credit Corporation, Mr. Gill Shaw, and Ms. Charlene Kibbins, who is a director of the corporation, is present as well to answer any specific questions that members of the committee have that were raised during second reading of the bill.

In essence, Mr. Chairman and committee members, this bill modernizes the Manitoba Agricultural Credit Corporation legislation. The corporation has provided invaluable service to farmers, specifically young farmers, in Manitoba for the past 40 years I guess. We have been amending it piecemeal, and what in essence the bill is, a rewrite of the act—modernize some of the language; recognize some of the changes in agriculture and recognize the kind of changes of coming together of the agricultural enterprises that are going on out there that were not present 40 years ago when the bill was made.

It enables, for instance, just as an example, the corporation to provide loan support for the purchase of shares in the new generation closed co-ops that comes under the legislation we passed just a year ago, and that is finding considerable growing interest in the agricultural community where a group of growers, a group of farmers will come together to add value to their product, form a business venture. The act specifically made it difficult for the Manitoba Agricultural Credit Corporation to respond to these kinds of needs. I cite that only as an example. It does not change fundamentally the principles that will govern the corporation. Their emphasis is still on young farmers, entry farmers. It raises the limits, recognizing financial requirements of today's farming. I recommend the bill for consideration to the committee.

**Ms. Rosann Wowchuk (Swan River):** I just want to make a few comments on the bill as well. When we saw the piece of legislation coming forward to amend The Agricultural Credit Corporation Act, my first thought was: well, we just amended that. We made amendments last year, and why had those things not been looked at. But it becomes obvious that as time goes by there are major changes that have to be made and a modernization of the act.

I want to just recognize the important role that the Agricultural Credit Corporation plays in the farm community. I believe that it is a very important tool and, as agriculture changes, one that we have to look at broadening the role of. Certainly there are many things that are provided through the Agricultural Credit Corporation that were not provided years ago. These changes, we have looked through them. There is nothing that we would oppose. Those were the comments that we made in the House. We are prepared to let this bill pass.

\* (1040)

**Mr. Chairperson:** Thank you very much, Ms. Wowchuk. Are there any further comments? No.

Clauses 1 to 18—pass; title—pass; preamble—pass. Bill be reported.

Is it the agreement of the committee that we now revert to numerical order as per agenda. [agreed]

### **Bill 3—The Fatality Inquiries Amendment Act**

**Mr. Chairperson:** We will then proceed to Bill 3, The Fatality Inquiries Amendment Act. As per the other agreements, we will set aside the preamble and the title.

Clauses 1 to 3—pass; title—pass; preamble—pass. Bill be reported.

### **Bill 5—The Highway Traffic Amendment, Off-Road Vehicles Amendment and Consequential Amendments Act**

**Mr. Chairperson:** We will set aside again the title and the preamble.

Clauses 1 to 28(2)—pass; title—pass; preamble—pass. Bill be reported.

### **Bill 6—The Highway Traffic Amendment Act**

**Mr. Chairperson:** Title and preamble will be set aside as normal.

Clauses 1 to 16—pass; title—pass; preamble—pass. Bill be reported.

**Bill 7—The Public Schools  
Amendment Act**

**Mr. Chairperson:** The title and the preamble will be set aside as normal. We are dealing with Bill 7, The Public Schools Amendment Act.

**Ms. Jean Friesen (Wolseley):** Mr. Chairman, I had some questions for the minister which I had spoken of at second reading and which I had given the minister additional advance notice of. I wonder if this is the time to look at them. They deal not with the issues of the presenter but with the second part of the bill, which deals with vaccination.

**Hon. James McCrae (Minister of Education and Training):** I believe that, in accordance with the discussions the honourable member for Wolseley and I had about this, what we have done is we have invited Department of Health personnel to join us today. We have Ms. Donna Hill with us and Dr. Digby Horne from the Health department to assist us in getting the questions raised by the honourable member appropriately responded to. So here we go.

**Ms. Friesen:** Part of the purpose of this bill is to drop the requirement for students entering schools to present a certificate of vaccination. Part of the reason for that is that the procedures for vaccination have changed to require two rather than one doses.

The second argument that was given for this change was that the province maintains a computerized data list of students since 1980 who have been vaccinated. My concern was for the possible outbreak, an epidemic at the school level or a regional level, of the ability of the school board, who I believe is responsible in this case, and of the principal, who would have to act relatively quickly, to exclude students who have not been vaccinated in the event of an outbreak.

I did ask a number of questions in both departments of Health and Education and was not really able to see it for myself from a practical school principal's point of view. So that is my question. How will the principal know

who is vaccinated and who is not? Would it be the acceptable practice in the event of an epidemic to exclude children who have not been vaccinated?

**Mr. McCrae:** Would it be all right with the committee to ask Mr. Horne to respond directly?

**Mr. Chairperson:** Is the committee agreed? [agreed]

**Mr. Digby Horne (Medical Officer of Health, Public Health, Department of Health):** The way that the principal would know who is not immunized is public health regional staff would go through the school lists in the event that there is a case of measles identified in a school and would notify the principal. Public health staff would be advised if there are any cases of measles, since it is a reportable disease.

**Ms. Friesen:** Is there a protocol in place for a school principal to submit the list of children in the school every year to the public health authorities, or is this something that will have to be done on an ad hoc basis should an outbreak occur?

**Mr. Horne:** The present policy is not for the principals to submit a list. The present policy, since the introduction of the second dose, is for the public health staff to notify the principal if there are children who do not have two doses of measles.

**Ms. Friesen:** How would the public health officials know who is in which school?

**Mr. Horne:** The Manitoba Immunization Monitoring System clerks would obtain school lists from the schools every fall. That is how they would know who is in the schools and which classrooms. Then they can run a check on their immunization status.

**Ms. Friesen:** I am looking for accountability and authority here. It is a public health protocol which requires a school principal or a school board, I would like to know which one, to submit every year in the fall the list of their

students to the public health authority. Is that the case?

**Mr. Horne:** Normally each regional health authority will contact their schools and make arrangements to get the class lists.

**Ms. Friesen:** What procedures are in place or what protocol exists for children who change schools? I have schools in my constituency, for example, where there are children who have been in 11 schools in one year. How is that mobility dealt with?

**Mr. Horne:** I know the lists would normally be checked in September, or October they would get the class lists. I am not sure how many times they are checked every year. I doubt that they would be checked 11 times.

**Ms. Friesen:** So in general—we would hope that is an extreme example—how is student mobility dealt with in this protocol?

**Mr. Horne:** It would be dealt with at the beginning of every school year. Measles outbreaks have been relatively infrequent. We have not had a case of measles in at least five years, but, if there were cases occurring, I would believe that the regional health authority would find out which schools they are occurring in and check to make sure that the lists of students are updated and that they know what their immunization status would be.

**Ms. Friesen:** Where would I look in public health protocols—or is it in yours—for a written statement of the appropriate responsibilities?

**Mr. Horne:** You are talking about the responsibilities for excluding students and checking on their immunization history. Under the diseases and dead bodies regulation of The Public Health Act, the regulation states that it is a prerequisite for children entering school to have received two doses of measles vaccine. Also, there is a communicable diseases control protocol manual which advises that the regional health authority has the ability to exclude students who are susceptible to measles in the event of an outbreak.

\* (1050)

**Ms. Friesen:** Do we have a sense of the rate of immunization amongst Manitoba children? There is a perception I think that there is a decline in the universality of immunization. Is that true? Do we have any numbers on that?

**Mr. Horne:** The estimates for immunization are approximately 80 percent to 85 percent. I cannot say that there has been a decline in immunization rates. There are always people opposed to it, but we have not noticed a substantial decline in measles immunization.

**Ms. Friesen:** We have a wide range of regional health authorities now dealing with quite different types of issues across the province. Is there a specific person designated in the regional health authorities who would be responsible for this, and is there a uniformity in each of the health authorities so that you would know in each health authority who was responsible, or would it be something that might change from year to year? How much flexibility do the regional health authorities have, I guess, in public health is what I am asking?

**Mr. Horne:** In the event of a measles outbreak, the regional health authority and most likely the Medical Officer of Health would be responsible for managing communicable disease control issues. So it would be up to them to manage any school outbreaks. In the regional health authorities, there are also Manitoba immunization monitoring system clerks who would work with the local schools to obtain lists and check immunization records. Now, that is not to say that in every school, all the time, everyone's immunization history is known but in general, there are mechanisms to check on that.

**Ms. Friesen:** Two final questions. How long would it take for the regional health authority, once it had the list in hand, to check and to respond to the school so that action can be taken? Are we looking at a matter of days or hours?

**Mr. Horne:** In the event of an outbreak that information could be obtained within 48 hours, and the principal would have that information. In terms of the normal school year, it would probably take several months for the regional health authorities to accumulate and sort out all

the students in the different classes and check their immunization histories.

**Ms. Friesen:** But just for assurance—and I guess I am asking for a medical opinion here—which may not be what you had in mind when you asked the staffperson to speak, so it may well be something I should be asking the minister. It can be done in 48 hours. Is 48 hours fast enough?

**Mr. Horne:** Yes, that would suffice.

**Ms. Friesen:** Just for the record, would there be any cost to the school division or to the school in the use of MIMS, the computerized system?

**Mr. Horne:** No.

**Mr. Chairperson:** Thank you very much. We will deal then with The Public Schools Amendment Act. The title and the preamble have been agreed to; we will set it aside. I will ask that we deal with Clauses 1 and 2. Shall the items pass—passed. Clause 3, I understand there is an amendment.

**Mr. McCrae:** Mr. Chairman, just a little while ago I made a copy of this available for the honourable member for Wolseley (Ms. Friesen), and we did discuss it when Mr. McGiffin was here making his presentation. I move, in both French and English,

THAT the proposed section 74, as set out in section 3 of the Bill, be struck out and the following substituted:

#### **Approval to acquire property**

**74(1)** Subject to the regulations, a school board shall not do any of the following without the approval of either the minister or the finance board:

- (a) purchase, lease or otherwise acquire a building or part of a building to be used for instructional purposes;
- (b) erect, enlarge or remodel a building or part of a building to be used for instructional purposes;
- (c) enter into a contract for any purpose described in clause (a) or (b).

#### **Regulations**

**74(2)** The minister may make regulations respecting approvals, including regulations governing the circumstances under which an approval must be obtained and procedures for the finance board to follow in the approval process.

#### **[French version]**

Il est proposé de remplacer l'article 74, énoncé à l'article 3 du projet de loi, par ce qui suit:

#### **Approbation de l'acquisition de biens**

**74(1)** Sous réserve des règlements, il est interdit aux commissions scolaires qui n'ont pas obtenu au préalable l'approbation du ministre ou de la Commission des finances:

- a) d'acheter, de louer ou d'acquérir d'une autre façon la totalité ou une partie d'un bâtiment qui sera utilisé à des fins pédagogiques;
- b) d'ériger, d'agrandir ou de modifier la totalité ou une partie d'un bâtiment qui sera utilisé à des fins pédagogiques;
- c) de conclure un contrat aux fins prévues à l'alinéa a) ou b).

#### **Règlements**

**74(2)** Le ministre peut, par règlement, prendre des mesures concernant le processus d'approbation, les circonstances dans lesquelles une approbation doit être obtenue et la procédure d'approbation que la Commission des finances doit suivre.

**Mr. Chairperson:** Dispense.

Shall the item pass?

**Ms. Friesen:** Is it a subamendment to the amendment proposed by the minister? Is it in order to read it now?

**Mr. Chairperson:** I will deal with that one, yes.

**Ms. Friesen:** I move

THAT the proposed amendment to section 3 of the Bill be amended by adding the following at the end of the proposed subsection 74(2): "Such

regulations must take into account the need of school boards for flexibility and timeliness."

**Mr. Chairperson:** Thank you, Ms. Friesen. We are going to wait for the copies to be distributed before I deal with the subamendment.

There is a proposed subamendment to Bill 7, The Public Schools Amendment Act, moved by Ms. Friesen,

THAT the proposed amendment to section 3 of bill be amended by adding the following at the end of the proposed subsection 74(2): "Such regulations must take into account the need of school boards for flexibility and timeliness." Shall the item pass?

**Mr. McCrae:** I know exactly what it is that brings the honourable member to bringing forward this subamendment which talks about flexibility and timeliness.

Flexibility and timeliness are built into what we have brought forward already. I am not a lawyer, but I have been hanging around enough of them long enough to know that this subamendment begs for any number of interpretations. I respect very much what the honourable member is trying to do, and I agree with her. That is why we brought in the amendment we did in order to bring about exactly what the honourable member is asking for and, I think, what Mr. McGiffin is asking for.

We are not, by bringing forward this legislation, in any way trying to overbureaucratize or make the administration of The Public Schools Act any more onerous than absolutely necessary. In fact I would say we have narrowed The Public Schools Act because we are talking about, in the bill, for instructional purposes only, which leaves school divisions quite free to do a lot of things with respect to residences, with respect to administrative office space and all of those sorts of things.

Regretfully, I cannot support the honourable member's subamendment because I think that what we are doing accomplishes exactly what it is she is trying to accomplish here. I just say again that I think the amendment she brings forward—there is the old Mack truck expression

comes into it that with due respect I raise—because I do believe it is open to any type of interpretation one might like to put on it.

\* (1100)

**Mr. Chairperson:** The subamendment before us I think is a proper subamendment, and therefore I would ask that there be a vote taken.

**Hon. Vic Toews (Minister of Justice and Attorney General):** I would just like to speak on the amendment as well.

**Mr. Chairperson:** Subamendment or the amendment?

**Mr. Toews:** The subamendment. Of course, I have read the bill and I have had the opportunity to listen to the lone presenter on this bill. I looked at the amendment that the honourable Mr. McCrae has brought forward which essentially assures us, as I understand it, that the minister may make regulations respecting these approvals, including regulations governing the circumstances under which an approval must be obtained and procedures for the finance board to follow in the approval process.

What concerns me in respect of the particular subamendment is the potential for an extensive litigation that could occur. If we look at it, it states: "Such regulations must take into account the need of school boards for flexibility and timeliness." I think that that is certainly a goal that all of us want to see. We want to ensure that school boards are flexible and can react in a timely fashion. In fact, I notice the minister's comments in the House from time to time, and I know it is a philosophy that he shares, that the Department of Education should not be acting in the role of big brother or whatever the modern term is that would take into account both aspects, both sexes, maybe big sister and big brother, but I think the point is made when we just simply say big brother. I share the member's concern that there is flexibility and timeliness because we do want to respect the independence of school boards.

I know that there has been some question about whether a board should be entering into contracts such as some of the television

programming and the extent to which the Department of Education and the minister should be involved in. I know the minister's position has always been let the school boards determine these matters; do not interfere in an overly intrusive way.

I think what the minister is, in fact, doing in his amendment that he has moved is that the basis by which government would limit the flexibility and timeliness must be set out in law so that everyone understands directly what can be done in that respect.

I think that it is important to have that specifically set out in law. I know that the regulation-making process, while it does not have as formal a process as this for public meetings, that in the process of creating regulations, vested interest such as school boards would be consulted. So rather than see a broad regulation which, quite frankly, and as proposed by the member for Wolseley (Ms. Friesen), I am concerned about the broad wording of that particular subamendment which says such regulations must take into account the need of school boards for flexibility and timeliness, Mr. Chairperson.

Regulations can only do what is specifically authorized in the statute. I have a concern that this amendment would not only create litigation in terms of determining what is the need of any particular school board for flexibility and timeliness, but also might raise ultra vires arguments regarding whether the school board or the regulation falls squarely within the four corners of the statute.

I do not know whether any of my other colleagues have anything to add, but those would be my concerns in respect of this amendment, and I would like to support Mr. McCrae's amendment, but, unfortunately, I could not support the subamendment. I appreciate the intent, I appreciate what the drafters have tried to do here, but I am a little concerned that it is too broad, too general and will create more legal problems than solve administrative or other problems.

**Mr. Chairperson:** The question has been called. Shall the subamendment be passed?

**Some Honourable Members:** No.

**Mr. Chairperson:** No.

#### Voice Vote

**Mr. Chairperson:** All those in favour of the subamendment, would you say yea?

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, would you say nay?

**Some Honourable Members:** Nay.

**Mr. Chairperson:** I declare the Nays have it. I declare the subamendment lost.

We will then deal with the amendment as moved by the Honourable Mr. McCrae. Shall the item pass—pass. Clause 3 as amended—pass; Clauses 4 to 6—pass; title—pass; preamble—pass. Bill be reported as amended.

#### Bill 8—The Ozone Depleting Substances Amendment Act

**Mr. Chairperson:** Bill 8, The Zone Depleting Substances Amendment Act, as all previous bills, the title and preamble will be set aside until the conclusion of the bills.

Clauses 1 to 7—pass; title—pass; preamble—pass. Bill be reported.

#### Bill 9—The Securities Amendment and Commodity Futures and Consequential Amendments Amendment Act

**Mr. Chairperson:** Bill 9, The Securities Amendment and Commodity Futures and Consequential Amendments Amendment Act, the title and preamble shall be set aside.

Clauses 1 to 3—pass; title—pass; preamble—pass. Bill be reported.

#### Bill 13—The University of Manitoba Amendment Act

**Mr. Chairperson:** Bill 13, The University of Manitoba Amendment Act. Ms. Friesen is



declaring a conflict of interest and is removing herself from the committee for this item. Is it agreed that Ms. Friesen will exempt herself from the committee for this item?

**An Honourable Member:** She does not need our agreement, does she?

**Mr. Chairperson:** Bill 13, The University of Manitoba Amendment Act, the title and preamble will be set aside.

Clauses 1 to 6—pass; title—pass; preamble—pass. Bill be reported.

**Bill 15—The Cemeteries Amendment Act**

**Mr. Chairperson:** Bill 15, The Cemeteries Amendment Act. The title and preamble will be set aside.

Clauses 1 to 8—pass; title—pass; preamble—pass. Bill be reported.

\* (1110)

**Bill 16—The Court of Queen's Bench Small Claims Practices Amendment and Parental Responsibility Amendment Act**

**Mr. Chairperson:** Bill 16, The Court of Queen's Bench Small Claims Practices Amendment and Parental Responsibility Amendment Act. The title and preamble will be set aside as normal.

Clauses 1(1) to Clause 3—pass; title—pass; preamble—pass. Bill be reported.

That concludes the hearing of the committee. Committee rise.

**COMMITTEE ROSE AT: 11:11 a.m.**