

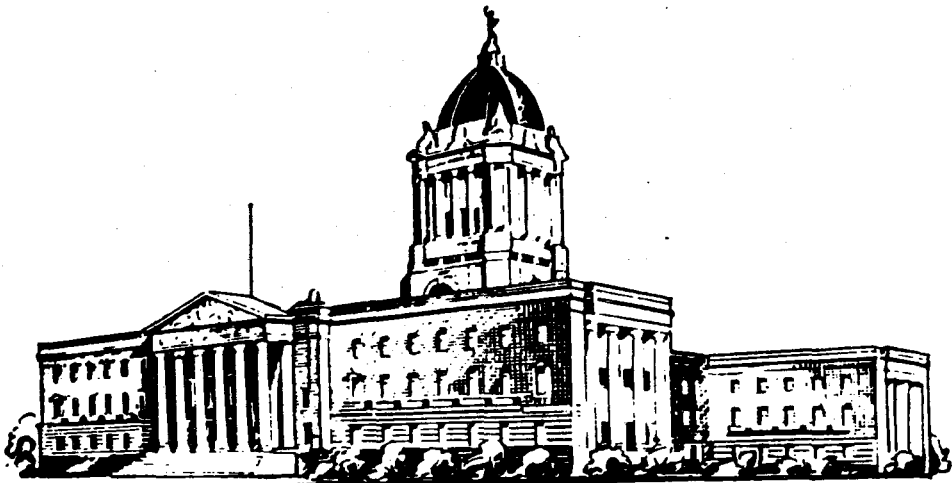


Legislative Assembly of Manitoba

STANDING COMMITTEE ON PRIVILEGES AND ELECTIONS

Chairman:

**Mr. J. Wally McKenzie
Constituency of Roblin**



Tuesday, October 23, 1979 8:00 P.M.

Hearing Of The Standing Committee On Privileges and Elections

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CHAIRMAN, Mr. J. Wally McKenzie.

CHAIRMAN: Committee will come to order. I call Mr. Clifford. from the Winnipeg Teachers' Association of the Manitoba Teachers' Society.

T. CLIFFORD: Mr. Chairman, Mr. Minister, members of the Committee. On behalf of the Winnipeg Teachers' Association I would like to thank the Intersessional Committee for the opportunity making this presentation. As the Winnipeg Teachers' Association is a division association of The Manitoba Teachers' Society, it must be acknowledged that this brief is being presented with the permission of the Society.

The Winnipeg Teachers' Association has several concerns about the proposed Bills 22 and 23 and we were represented in May when The Manitoba Teachers' Society organized informal meetings with the members of the Legislative Assembly at the Legislature to express these concerns.

As you are aware, Section 41(5) of Bill 22 states:

"Special Programs: Every school board shall, as far as is possible and practicable in the circumstances, provide or make provision for resident persons who have the right to attend school and who require special programs for their education".

For the purposes of this brief it should be noted that "special programs" is interpreted as programs structured to satisfy special needs. Without attempting to define "special needs" rigorously, the Association would classify special needs under the following broad categories:

1. mental
2. physical
3. emotional
4. Learning disabled
5. English Second Language
6. culturally alienated for social and ethnic reasons
7. culturally different because of country of origin
8. gifted

As the Section is presently worded, a school board may decide not to provide special programs. Indeed there would be an attraction for any board, using the excuse of expense, to provide only regular programs. In many cases those special programs would be denied to those persons least able to protect their interests. Ironically, a physically handicapped student is required to attend school under Section 261(2) of the proposed Bill 22 but a school board is not required to attend to his/her needs.

It must be stressed at this juncture, that the Association is not criticizing directly or by implication, any school board of Winnipeg School Division No. 1, who, we believe, have generally provided special programs once needs have been identified. There remains, however, needs which have to be identified pending the implementation and funding of more extensive and sensitive screening procedures.

The Association believes that it is the responsibility of a school board to see that all children within its geographical area of jurisdiction are entitled to have their educational needs met and should not be subject to what could be the arbitrary whims of a particular school board.

Accordingly, the Association proposes that the phrase: "as far as is possible or practicable in the circumstances" be deleted from this Section. We would see the effect of this deletion as making mandatory for school boards to identify the special needs children in their area and then provide special programs to meet these needs.

The Association is of the opinion that it is particularly important at this time to ensure that special programs are established for those students who require them. The number of students who have special needs is not necessarily increasing as such, though the number whose cultural background

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is non-European and non-Western suggests that English Second Language related needs will increase. There is, however, evidence to support the notion that the number of students with special needs is increasing because more of them are being identified, in part through identification programs initiated and funded by the provincial government in , co-operation with school divisions. In the past, many children who were unable to cope in public schools were never identified. Some of them attended classes sporadically and became early dropouts. Many others had no program of education at all. A few were removed from their homes and placed in special residential schools at provincial expense.

If the needs of these children are not met there could be short term savings which are not only financial, but the long term effects on those individuals and society generally would be detrimental. A healthy and humane society requires that all its members have access to educational opportunity, and later to employment opportunity. In the short run, the well-being of the individual students and their families is at stake. In the long run, since most special needs students with appropriate help can become partially or completely self-sufficient economically, the well-being of the total community is an important factor to consider.

For many small school divisions there will be circumstances where the cost of operating a program will be high on a per pupil basis. This will occur most frequently where the number of students with a particular need is small. This cost could well place an untenable financial load on a school board with meagre resources. There is evidence from the United States that the expense of a special needs student ranges from more than twice that of a "regular" student to 30 or 40 times as much. Those short-term costs, which are admittedly high, should be compared with the much greater long-term social cost of maintaining such an individual in a totally dependent state at public expense. This may well be the result if the appropriate educational programs are not available. Some of this expense can be reduced by school board sharing resources or by pooling resources in geographically convenient places. The Association is not proposing a completely centralized and/or residential system. Where a student is able to function at home and in a "regular school environment, this should occur. Any return to an institutional format would be met with resistance. Such co-ordination of programs could best be done by a provincial authority in co-operation with the local division.

It should be the Provincial government's responsibility to assume the excess costs of providing these programs. Included in these costs should be such items as transportation, building modification, physical aids and extra staffing to provide the necessary personal attention. It is assumed that there would be no additional charges made to parents or guardians other than those incurred by the parents or guardians of "regular" students.

Having spoken to the deletion of a particular phrase, the Association would submit that there are also omissions from the proposed Bill.

Where it is considered necessary for a person to enter a special program, it should be incumbent on the board to ensure that the parents or guardians are counselled and are encouraged to become part of the decision-making process. Where there are differences of opinion, the principle of "least restrictive alternatives" should be observed. Placement should be reviewed regularly with the involvement of the person, where appropriate, the parental guardians, the teacher, the relevant experts, and a school board administration. Any change in placement between such periodic reviews, should require that the parents or guardians be involved.

In summary, we would submit that it is necessary that the phrase giving school boards the right to opt out of providing special programs be deleted. We are aware that this action could cause financial difficulties to the divisions concerned, but suggest that a method of financial support from the Department of Education could be determined and finally, that the rights of the child be protected.

In conclusion, the Association would like to thank you for the opportunity to present this brief.

MR. CHAIRMAN: Thank you, Mr. Clifford. Questions from the Committee for Mr. Clifford? Mr. McBryde.

MR. McBRYDE: Thank you, Mr. Chairperson. Mr. Clifford, as I listened to your brief, I get the impression you're talking mostly about the low incidence-high cost type of special need as opposed to the large number of students that have special needs that could be corrected with a lesser effort than what you seem to be talking about here.

MR. CLIFFORD: I would suggest that perhaps there would be a greater temptation on the part of school boards to delete the high expense programs but I'm not implying by any means that one should try to make some judgment. If there are special needs they have to be satisfied whether

ney are high cost or low cost.

MR. McBRYDE: Do you have any guesses or any figures in terms of the number of students or percentage of students that might be called special need students?

MR. CLIFFORD: Across the province, no. Various numbers float at around my own particular division which is as high as 15 percent and the school that I am teaching in — at least when I'm not doing this job — are likely significantly higher. I teach in a core area school.

MR. McBRYDE: Yes, the chairperson of the Winnipeg board said it could get up to 50 percent or special needs students and I guess she was talking about fairly minor kinds of problems that could be caught and corrected, and probably in the long run it would save, in terms of financial terms, save school divisions money by catching these kinds of less serious problems fairly early.

MR. CLIFFORD: I have the brief. I imply as I think that if you can catch it early you are likely saving much longer term and greater expenses in later years.

MR. McBRYDE: Are you aware that there has in fact been fairly recently an actual reduction in the screening to determine special needs students in Manitoba schools?

MR. CLIFFORD: I'm sorry, I . . .

MR. McBRYDE: The screening that has been done by the provincial Department of Education to try and determine the special needs that there has been an actual reduction in that screening?

MR. CLIFFORD: With declining enrolments, yes, I could see that. My own experience is, however, that the particular problems that are coming through are in fact becoming more complex. So the student that perhaps went through the system when I first started teaching and the students that are coming through now, I see some significant change. Numerically I might acknowledge that the number of them is smaller. I would suggest, and this is my own personal reaction, that the complexities are somewhat greater.

MR. McBRYDE: Yes, I think that you're probably aware, Mr. Clifford, that every organization that has spoken to this section of the bill is making similar recommendations, except for MAST which said they would make similar recommendations if they could be assured by the province that resources would be available to deal with special needs. So, thank you for your brief.

MR. CLIFFORD: Thank you.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, Mr. Clifford, why did the Winnipeg teachers pick out this particular aspect to make their brief on? Were there no other concerns that they have or was this such an overriding concern that they wanted to concentrate on it?

MR. CHAIRMAN: Mr. Clifford.

MR. CLIFFORD: We were aware that the Manitoba Teachers' Society was presenting a brief and we had some idea. The executive, in fact, of the association decided to concentrate on one. Likely they picked on this one because perhaps in the Winnipeg School Division No. 1 we have got a great number of students with special needs and if we were going to concentrate our forces, likely this would be the one best to concentrate on.

MR. WALDING: Can you give me any idea of how many children would come into Winnipeg No. 1 from suburban school divisions to take advantage of programs that Winnipeg has that the suburban areas don't?

MR. CLIFFORD: I really forget. Any number that I'd give you would be a guess and that wouldn't help anybody.

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MR. WALDING: Is it a considerable number?

MR. CLIFFORD: Considerable is a relative term and I really have no idea, so therefore I am really unable to make a comment.

MR. WALDING: Are you aware whether or not the Winnipeg school division charges on a full cost recovery basis to the suburban school divisions for services that they provide for students coming in from outside?

MR. CLIFFORD: I believe they do. That is a belief, however.

MR. WALDING: No further questions, Mr. Chairman.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: Has there been any attempt, Mr. Clifford, by the Winnipeg Teachers' Association to review the report that was given to the Attorney-General recently on the juvenile correctional system?

MR. CLIFFORD: None at all to my knowledge.

MR. BOYCE: There is in that report — I'm sorry I haven't got a copy here, I could make arrangements to send you a copy — but on Page 18 there are three recommendations, the gist of which is that attempts should be made to try and alleviate the problem of these youngsters having their educational process interrupted because of some difficulty. But has there been any dialogue between the Winnipeg Teachers' Society and the people who provide juvenile services? I know in the core area that they have made some attempt with the juvenile police division. Where does this actually sit now at the moment?

MR. CLIFFORD: I'm sorry, I'm not aware of that as a symbol. Maybe Ms Thompson would have better indication but I simply do not know.

MR. BOYCE: Are you familiar with any attempts over the last couple of years to continue the dialogue between the people and the teaching profession and those who are responsible for dealing with The Child Welfare Act?

MR. CLIFFORD: I think there is ongoing contact likely the most convenient route that we would be using, would be through the Child Guidance Clinic directly. There is a lot of contact naturally between particular teachers, particular agencies, and the guidance areas for example. They would seem that at least on the staff on which I am associated, they seem to spend a lot of their time dealing with numerous group homes, for example, and the various agencies that are involved in those homes.

MR. BOYCE: I know that for the past two decades that there has been an influx of people to whom you refer, who are non-European and non-western as far as their culture is concerned, is the system that we are trying to provide, is it meeting the need or is there some area that should be included in legislation? You know, further to just special needs in general, or is there some strengthening of program or should that be dealt with under the financing of education, or is there some statutory provision that we should consider to be of further assistance to these people that we you referred to on page 3 of your brief?

MR. CLIFFORD: I think there is the overt language problem which is going to exist. I think for example, Winnipeg recently has hired a Vietnamese to assist in a school where numerous students are going and I would presume at least in part, that that is in order to give some cultural orientation at least.

MR. BOYCE: I wonder if Mr. Clifford could comment on the impact in this area of moving the International Friendship Centre from William and King Streets out to — I think it's about Redwood and Main. Has this had any effect in decreasing the services in that area?

MR. CLIFFORD: My understanding, and I have been talking to some of the teachers of the ESL Program, that they are enchanted at the increase in space that they are getting. Incidentally, I believe

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hey've moved into the Ellen Douglas facility. On the other hand, they are somewhat less enchanted about the more formal school format that does exist there so that there are pluses and minuses. I'm not aware of any radical changes in the population of the school however.

MR. BOYCE: I guess the only way we can assess this is by the seat of our pants at the moment. Is there federal funding for these programs, through you, Mr. Chairman?

MR. CLIFFORD: I am sure there is. What it is, I do not know. I know that for the English second language there is a grant which, if my memory serves me, is \$1.13 per student per hour, for the ESL program and there are supplementary funds on top of that for materials and equipment.

MR. BOYCE: Well, why I ask this question, when it comes right down to it, as far as the provision of services, is dollars. From your experience is there some way that we could define that which is a federal responsibility, in that immigration is under the federal government. As one component of the financing of education that in this area that there should be a definite federal responsibility insofar as the financing of the special programs relative to the non-European and non-Western peoples.

MR. CLIFFORD: If you were able to get any money out of the federal government for any reason at all I'm sure we would all be quite pleased with that. I'm not sure how, parochial, perhaps jealous, each provincial government is of its own rights in education, and I am not sure how much a federal government . . . I'm certainly no politician and you would have that knowledge in that area far better than I.

MR. BOYCE: Well, I don't want to be out of order by going down a path that you can't get any government money out of this government either, I wouldn't be out of order to pursue that.

MR. CHAIRMAN: You can try it for size. Any further questions?

MR. BOYCE: Education is being adequately funded we're advised. Thank you very much Mr. Clifford.

MR. CHAIRMAN: Any further questions of Mr. Clifford. Mr. Cosens.

MR. COSENS: Yes, Mr. Chairman. Mr. Chairman, I'd like to thank Mr. Clifford for the Winnipeg Teachers' brief and perhaps just ask a couple of questions. On the top of Page 2 you mentioned, Mr. Clifford, that, as the Section is presently worded "a school board may decide not to provide special programs". I just wanted to refer to that for a minute. How many school boards would you say there are in Manitoba, at this time, that are not providing special programs?

MR. CLIFFORD: I don't have those resources, it's likely nothing. On the other hand I do see a certain retrenchment taking place, not only within this province, but I suspect across the country. What I would not like any school division to do is to perhaps use that as an excuse. I would like to see it actively prevented, rather than having to be stopped after the event.

MR. COSENS: Also, Mr. Clifford, I am sure you are aware that we are seeing a steadily annual increase in expenditures by school divisions across the province, and by the provincial government as well, in the area of special education. And I am not saying these things to you inferring that enough is being done, I merely wish to point out, or at least to see if you would agree, that there is an expansion in services across the province in this regard.

MR. CLIFFORD: Assuming your statement, I would just encourage that more, but I would also suspect that, as I suggested earlier on, the problems are not decreasing, the problems are increasing, and I would encourage any government, of any hue, to meet those needs. I fully acknowledge that education is a fairly expensive business and it would seem to, in the end, have no direct product at the end that is measurable.

On the other hand if you consider education just within the age range of say, 6 to 16, you may be saving money there within one department only to precipitate greater expenses in another department when that person is an adult.

MR. COSENS: No further questions, Mr. Chairman. I merely wanted to point out that these services are increasing yearly. Once again, I would be in sympathy with Mr. Clifford that probably not as

quickly as we would like to see them increasing nor as extensively. But I think we have to admit that there is a gradual and annual increase in expenditures and the level of services that are being provided.

MR. CHAIRMAN: Mr. McGill.

MR. MCGILL: Mr. Chairman, I would like to draw Mr. Clifford's attention to Page 3, second paragraph of his brief, the final sentence, which contains a very encouraging message. It says, "the long run, since most special needs students with appropriate help can become partially or completely self-sufficient economically, the well-being of the total community is an important factor to consider."

Mr. Chairman, I think that that is a statement that is most encouraging and I wonder, Mr. Clifford do you have some statistical evidence to support that statement.

MR. CLIFFORD: With me, no. On the other hand, the statement was not made without due thought and I could likely provide it if it were required.

MR. MCGILL: So you do feel that this is based upon some hard factual information. . .

MR. CLIFFORD: I believe that to be so.

MR. MCGILL: . . . that the Committee might be able to receive if. . .

MR. CLIFFORD: If it is requested, certainly.

MR. MCGILL: Yes. Well, I do think it is a most encouraging statement, Mr. Chairman, and I would hope that some information along that line could be obtained by the Committee.

Mr. Clifford, I know that the burden of your message here today is essentially the message that we have received from a number of other briefs, that each school division should receive the authority from the Statute that they should provide all of the special needs for each individual student in their division.

Have you any assessment as to the cost of that kind of message from the Government of Manitoba to the divisions in Manitoba? Have you been able to make any assessment of the total cost, in addition to the costs now being received and considered by each division in Manitoba?

MR. CLIFFORD: I have got no real idea of what the total costs may be, and I would acknowledge that as the identification of some of these special needs students becomes refined we may, in fact be identifying more of them.

I would, however, submit that it is an expense which is a valuable expense at its onset. If you can turn a student around the corner and get him to be a fully functioning member of a society, it is to the benefit of everybody.

MR. MCGILL: So that the two assessments are pretty important to the final decision in this, and the statistical evidence that we are able, if we adopt this approach, to enable special needs students to become economically self-sufficient, we should relate that, I imagine, to the costs that would be entailed in each division providing this support.

MR. CLIFFORD: Always assuming, Mr. Chairman, that one necessary factor is available and that is jobs for the people concerned.

MR. CHAIRMAN: Mr. McGill. Mr. Boyce.

MR. BOYCE: To follow through just a little bit on the Minister of Education's comment. If inflation is running at 12-1/2 percent and the increase is roughly 6 percent, is that an increase or a decrease?

MR. CLIFFORD: Depends on which argument you care to propose. There's an increase in real cash or there is a decrease in buying power.

MR. BOYCE: And at bottom line, is it an increase or a decrease?

MR. CLIFFORD: I would argue that. . .

MR. BOYCE: Maybe it is me, Mr. Clifford.

MR. CLIFFORD: No, in what you can purchase for your dollar, obviously you are not getting as much from the total sum of money as you could have got in the preceding year. If your two figures were to be accurate, and I am not challenging them. . .

MR. BOYCE: I used them as an example.

MR. CLIFFORD: Okay, as an example, certainly that which you would be able to purchase in the second year would be certainly less than that which you could purchase in the first year.

MR. BOYCE: I want to thank my colleague, the Member for Brandon West, for pointing that out because it outlines the importance of your brief, because there is still some validity in the assumption that if people are developed to their fullest possible potential, there is a greater possibility that they will be able to participating productive citizens. Is that. . .

MR. CLIFFORD: I think you are paraphrasing that which I have said before.

MR. BOYCE: So that the better able we are to diagnose some of the difficulties, which is causing youngsters not to develop this potential, that it is in the long range public interest to invest the money in this kind of endeavour.

MR. CLIFFORD: Certainly.

MR. BOYCE: Thank you, Mr. Chairman.

MR. CHAIRMAN: Any further questions from Mr. Clifford?
Mr. Hanuschak.

MR. HANUSCHAK: I am wondering, Mr. Chairman, whether Mr. Clifford has any comment to offer with respect to the section of Bill 23, Section 4(1)(e), which opens a door to the Minister to make regulations governing the operation of public schools and the fees and charges, if any, to be paid by the pupils. In other words, imposing a user fee.

MR. CLIFFORD: I would suggest that the general public, through taxation, is already paying for education and certainly I would not like to see any extra charges than basically what I, as a parent who have a child in the system, would pay now — occasional pen, paper — but in the brief it does stipulate that even for special needs students the extra expenses has to be carried by either the school division, perhaps if it can afford it, or indeed the government. There is no way that the parent can possibly carry some of these inherent costs, particularly if you look at some of those students who are listed, for example, if you have an emotionally disturbed, physically mentally disturbed, often in a lot of these cases the students are from culturally deprived backgrounds. How can you possibly put extra charges when the parents of those students, if they have parents indeed, in many cases simply do not have any money.

MR. HANUSCHAK: Thank you.

MR. CHAIRMAN: Any further questions?
Mr. Clifford, we thank you and the Winnipeg Teachers' Association for your presentation.

MR. CLIFFORD: Thank you, Mr. Chairman, Mr. Minister.

MR. CHAIRMAN: I call Ms Deanna Schultz. No, it's the Society for Crippled Children — I apologize — and Adults of Manitoba, Mr. Carmichael.

MR. J.A. CARMICHAEL: Mr. Speaker, I would like to introduce Dr. Arthur Majury, the Vice-President of our Board of Directors to make the presentation.

MR. CHAIRMAN: Thank you, sir. Proceed, Doctor.

DR. A. MAJURY: May I have your permission to remain seated while I . . . ?

MR. CHAIRMAN: You have, sir.

DR. MAJURY: I had a temporary accident, I hope. Mr. Chairman, I have with me five members of the staff of the Society of Crippled Children and Adults and I would request that they may be allowed to help me with answering any questions which you may have at the end.

MR. CHAIRMAN: That's quite in order, sir.

DR. MAJURY: May I have them come forward?

MR. CHAIRMAN: Right, have them come forward. There's chairs there. I hope there's enough.

DR. MAJURY: Yes, thank you. I'm accompanied by Mr. Archie Carmichael, who is the executive director of the Society., Mr. Bud Phillips who is the Director of Services, Mrs. Donna Zdoluk who is the senior supervisor of children's services, Mr. Ernie Masiowski who is the supervisor of rehabilitation counsellors and Mr. Michael Owen who is the supervisor of the Deaf Program.

Mr. Chairman, the Society for Crippled Children and Adults of Manitoba welcomes this opportunity to respond to the proposed new Public Schools Act. And in our brief we have the full support of the Canadian Arthritis and Rheumatism Society and the Manitoba Society of Occupational Therapists. Because the Society has worked closely with special needs children in schools throughout Manitoba for more than 25 years, we understand the vital significance of appropriate educational programs in the lives of these young citizens. We wish the government to know, therefore, that based on our experience Bill 22 does not go far enough in specifying the educational requirements and resources which are needed by the children whom we serve.

The Society for Crippled Children and Adults of Manitoba serves children who have a wide variety of physical disabilities including profoundly deaf children. The Agency's objectives in serving these children is, to ensure that the necessary services are made available to disabled children in Manitoba referred to this agency, which will enable them to grow to their optimum potential, physically, intellectually, socially and emotionally."

One of the many services which we attemt to provide is the facilitation of an educational program in a setting best suited to meet the individual needs of the child. The school divisions throughout Manitoba have used the services of the Society over the years and have generally implemented our recommendations in planning programs for their physically disabled and hearing impaired children. The Society believes that a thorough assessment, physical, intellectual, social and emotional is necessary in order to help schools plan effectively for each specific child according to his particular needs. After the assessment is made and the school division places the child, our field staff follow the child, facilitating reviews of his progress, and acting as a resource person to the school staff in their work with him.

There are several issues of contention in Bill 22 as it presently exists. The major issue is that the bill provides no statement of intent. It is recognized that Sections 260, 259 and 41(5) of the bill seek to include rather than exclude special needs children. However, an overall statement of broad intent in philosophical terms is absent. This poses difficulty in determining the intent of various sections and statements throughout the proposed Act, for example, if the goal for education of special needs students is mainstreaming then the requirements for programming staff, etc., may be considerably different than if the goals are to provide special schools or classes for special needs students. The lack of a statement of intent in Bill 22 contrasts the clearer statement of intent and definition of the responsibility of school divisions with respect to special needs children which was stated in Section 465(22) of the previous Bill 58, and this one stated:

"Every school Board shall provide or make provision for the education of all resident persons who have the right to attend school and who require special programs for their education".

The wording of Section 41(5) of Bill 22 is considerably weaker and places no real requirements on the School Board. The words, and I quote: "As far as is possible and practicable in the circumstances" allows the school division the alternative of providing the very minimal standards of education for special needs students. This should be re-worded to allow for flexibility in prograing to meet the child's needs, that is, the provision of mainstreaming for some students, special classes for others, combination of both for still others and movement from one setting to another as the child's needs change. This is consistent with the Society's policy toward educational placement and which was presented to the House in a similar brief when Bill 58 was discussed, and I quote from this brief:

"All handicapped children should have access to public education and should be placed as close

o the educational mainstream as the individual child's special needs permit."

Therefore, the recommendations for school placements which are provided by this Agency are in the direction of the "least restrictive" available program. Fortunately, many school divisions already have attempted to program in the same direction for disabled children. However, because of the limitations of school divisions' resources, many actual school placements fall short of fulfilling the needs of the individual child and thus many differences exist in programming among school divisions. It is imperative that the new Public Schools Act ensure standardization of educational programming for special needs children throughout the province.

This brief will deal with the issues and recommend solutions to providing satisfactory educational experiences for the special needs children in five areas, the areas of accessibility, transportation, special equipment, programming and staffing. First of all,

(1) Accessibility — The issue of accessibility refers to both physical accessibility of the schools and the accessibility and usability of educational programs by the physically handicapped student. The problem of accessibility is exemplified in the following case examples:

1. A Portage la Prairie school with numerous stairs is attended by two nonambulant disabled students. A chair lift had been promised many months prior to their arrival. A complete school term later none has been installed.

2. A rural school with many portable classrooms has failed to provide ramps for a youngster who attends on a regular part-time basis and requires access to several of these classrooms.

3. A recent incident indicated the need not only for special modifications for physically disabled students but also a degree of quality regulation. A ramp has been installed in a rural school for a youngster confined to a wheelchair. The ramp is of such poor quality as to be dangerous for its use and also to normal walking children due to the fact that it is very steep, not properly secured and fitted with loose ended, slippery indoor-outdoor carpeting.

4. Again, a kindergarten youngster, confined to a wheelchair in a Swan River School, had to be accompanied to school by her mother in order to gain access to the classroom which is in the basement and the mother had to remain at the school during the day to take the child to the toilet.

5. A Grade 9 student in The Pas, confined to a wheelchair was unable to attend school in her home community because the high school building was not modified to provide wheelchair accessibility, and ultimately she had to attend a residential school away from home. This local school board was unable to provide a solution to this situation.

Bill 22 falls short of insuring access to schools and to programs for the handicapped youngster by its failure to state a commitment to the National Building Code provisions of free and unimpeded access without assistance. Section 41(1)(a) states, "It is the school board's duty," and I quote, "to provide adequate school accommodation for the resident persons who have the right to attend school as provided in Section 259." The word "adequate" is weak and open to interpretation and does not insure full accessibility, that is, barrier-free design. Generally, Section 41 outlines duties of school boards but falls short in not making it a goal of every school board to make schools accessible to all students.

Section 74, dealing with the approval of the Minister to purchase, erect, enlarge or remodel school buildings makes no commitment to the condition of adhering to National Building Code provision of free and unimpeded access without assistance.

Sections 43 to 47, dealing with transportation, make no provision to insure adequate transportation for handicapped students. This issue of transportation is dealt with in more depth in the next section of this brief, but it's important to note the integral relationship between accessibility and transportation. Accessibility to programs, such as identified in a later example of participation in field trips and attendance in shops or home school economics, cannot be possible unless adequate transportation for the handicapped student is provided. That is, where special transportation for handicapped students may be required in order for them to participate in these aspects of their educational curriculum. Nowhere in these sections of the Act, dealing with transportation, is it stated that handicapped children have portal-to-portal transportation for educational purposes.

The issue of accessibility also raises the question of the provision of persons to serve as aides for some handicapped students in order to insure that the handicapped youngster may have accessibility to programs. As the issue of resource people is dealt with more thoroughly later in the brief, it is sufficient to mention the relationship between accessibility to programs and provision of appropriate support resources to make such programs usable by the disabled student.

Nowhere in the Act does it require school boards to provide support to enable programs to be accessible to the handicapped youngsters, and to guarantee the handicapped student's inclusion in programs, such as in the example of a physically handicapped youngster who may require an aide to allow him to participate in a field trip. Generally, the Act fails to address itself to solving

the problem of accessibility to schools and programs, because of its lack of commitment to a goal of renovating existing non-accessible buildings and the lack of a statement of a commitment to barrier-free design in new schools, or major additions thereto.

The Society recommends (1) that the Act state a commitment to the National Building Code provisions of free and unimpeded access, without assistance. This could be accomplished by adding a statement making it a requirement of every school board to make schools accessible to all students, and wherever a handicapped student resides in that school division, that it be the school board's duty to make the school accessible for him.

This could further be accomplished by adding a clause stating a commitment to adhere to the National Building Code provisions of free and unimpeded access, without assistance, that is barrier-free design.

The second recommendation is that the Act state that handicapped children have adequate portal-to-portal transportation for educational purposes, where required. This could be accomplished by adding a clause to insure that handicapped children have adequate and safe portal-to-portal transportation for educational purposes, and for all aspects of their academic program.

And the third recommendation, that the Act must be amended to insure that handicapped students have appropriate support resources to enable them accessibility and usability of educational programs.

Under the heading of transportation. Transportation to and from school is an absolute necessity for handicapped children if they are to be able to participate in regular or special school programs and benefit from the same opportunities as their peers. Over the past years, a number of concerns have been brought to our attention, and these should be mentioned.

(1) Wheelchairs have not been secured sufficiently, and when the bus has stopped suddenly, the chair has rolled and tipped, causing a very unsafe situation for the child.

(2) Buses often park across the playground, making the distance to the school building hazardous for the child on crutches or in a wheelchair, and in some cases, no assistance was given by the driver.

(3) The length of time children have to spend travelling to and from school is often over one hour each way, thus adding extra hours to their school day, which many handicapped children cannot tolerate for health reasons.

(4) One severely handicapped child was in great distress when travelling to and from school because the seating arrangement was so inadequate that it caused serious pressure sores to appear on his sensitive skin. A 16-year-old teenager with braces and a wide awkward gait is being literally dragged up the steps onto the bus, because there is no handrail or a doorway wide enough to enable her to manoeuvre herself into the bus. This is an extremely embarrassing situation for her to endure and one she should not have to accept.

On a number of occasions we have been made aware that children have not been able to participate fully in the school program because the classes, such as home economics, special shops, swimming, etc., have been held outside the school building, and no transportation has been made available to take them to class. Similarly, some students are not included in field trips or other school excursions due to lack of transportation resources, and as a result, they often miss a very necessary part of their education.

Transportation sections of the Act deal only with normal vehicle operation and safety, mechanical maintenance, emergency procedures, driver testing and responsibilities, and some compensation for parents who transport their own children. In Sections 43(1) and 46(4) there exists some contradiction with regard to the distance of a mile or one mile at which transport would be provided. One section mentions half a mile and the other one mentions a mile. Neither regulation is appropriate for physically handicapped students, who have problems with ambulation. Nowhere in this portion of the bill is there any mention of provision for handicapped children to receive special transportation considerations.

For example, drivers are not required to receive any special training to handle or lift physically handicapped children, or to understand special equipment such as braces, chairs, etc., and there does not appear to be any regulation that states wheel chairs should be properly secured and that seat belts are required for children.

The Society recommends that (1) regulations and standards should be made very specific for driver training to include lifting and handling of handicapped persons, and an understanding of special equipment such as braces, wheelchairs, and anchoring devices for wheelchairs, seat belts, etc.

(2) that buses be adjusted to make them accessible through handrails, wider doors, lifts, or ramps, and that provision be made for special seating if it is required.

(3) it should be stated quite clearly that transportation will be provided from the disabled child's

come to the school building, regardless of the distance, and that it is the driver's responsibility to provide assistance. It is the responsibility of the school division to provide transportation and the parents should not be required to provide transportation.

4. No child should be on the bus for more than one hour each way.

5. Transportation should be provided for students to attend the special shop classes or activities held outside their own schools, so that they can take full advantage of all educational opportunities.

The third heading is under Special Equipment. This topic can be divided into (a) special equipment which facilitates the learning of the physically handicapped student i.e. educational equipment, and (b) equipment which facilitates the students' mobility, physical function and independence in self-care skills.

In dealing first with Educational Equipment. This can refer to a wide range of items used to alleviate difficulties that the student experiences with the manipulation of materials and other fine motor tasks, such as: writing, coloring and cutting with scissors in the early grades. As the student progresses, he requires aids to assist in taking notes, writing and mathematics. Such aids include non-slip mats, adapted pencils and scissors, paper holders, special typewriters, calculators, tape recorders and audio-visual aids. Bliss symbols equipment which, with display and interfaces, may also be required by non-verbal physically handicapped students. In other instances a classroom may require carpeting in order to muffle the background noises for children using hearing aids. Educational equipment may also be required for special programs within the school curriculum. An Occupational Therapy Assessment is frequently necessary to establish the adaptations required to make these programs accessible to the physically handicapped student. Educational equipment for physically handicapped students should be introduced only after an adequate assessment of each individual student.

As regards Functional Equipment. Many devices and aids are prescribed by the attending physician and medical specialists belong to the child and are paid for by the Manitoba Health Services Commission. These include such items as artificial limbs, braces, walking aids, wheelchairs and special inserts. There are, however, other aids to independence which are personal to the student, but which will be required to facilitate his functioning in school. For example, in the washrooms, adaptations like toilet rails and grab bars may be required. Toilet seats and commodes are sometimes needed. Aids to personal hygiene include tap extensions and turners, soap and towel dispensers accessible from a wheelchair, accessible light switches, etc. Adaptations for showering safety include non-slip mats, stable stools and a hand held shower. In the classroom some children require special seating and desks with wheelchair clearance and tilted tops.

With regard to physical education and gym programs, adaptations to existing equipment are needed to make it suitable for physically handicapped students. Supplementary equipment such as exercise bicycles may be required for students who cannot participate in activities involving running. Gross motor equipment is desirable for those students who cannot benefit from, or take part, in existing physical education programs.

Adaptations to the Home Economics classrooms in addition to general accessibility may require that equipment be adapted for students in wheelchairs who have limited hand and arm movements. This might include aids for reaching into cupboards, pot and bowl stabilizers, non-slip mats, spiked vegetable boards, jar and can openers, etc. Sewing machines may need adapted controls and electric scissors may be required.

Adaptations to the shop program facilities and equipment may also be required to facilitate the physically handicapped student.

Equipment such as adapted sanders and jigs that stabilize materials are often needed for carpentry and other activities. Tool adaptations and non-slip mats under equipment may be required.

Section 48 of Bill 22 is the only section which makes reference to providing any apparatus, materials, appliances or equipment. The requirements of physically handicapped students, as outlined above, are not mentioned.

The Society recommends that:

1. To assist the physically handicapped student to function successfully in school, classrooms must be adapted and this includes supplying the student... with any special aids he requires at no cost to the student or his family.

2. The physically handicapped student and his school must be assessed to define the need for any special equipment necessary to enable him to function in the school setting and to participate on an equal basis with his peers. Periodic reviews of the student and his equipment must occur.

3. With regard to special equipment prescribed by the physician and belonging to the child,

it is recommended that an occupational or physical therapist who is familiar with the pupil and the way he uses his equipment be available.

4. Teachers and aides receive adequate instruction in the use of any special equipment and the student's ability to use it and that this instruction be reviewed regularly.

As regards to Programming for Special Needs Students. Bill 22 clearly states in Section 260(2) that handicapped children shall attend school, unless specifically excused in writing by the Minister of Education. This condition is reinforced in Section 261(2). This part of the Act ensures the right of special needs students to enter into school, and the S.C.C.A. is pleased that the Act is so definite about this area. However, the question still remains about what will be provided for handicapped children when they do attend school. We are very aware of a wide disparity among school divisions in their capability to provide appropriate programs for their students. Certainly Winnipeg School Division No. 1 is ahead of most school divisions, particularly rural divisions, in the scope and depth of providing the most relevant programs to meet the wide variety of special needs.

The central issue in programming for physically disabled and hearing impaired children is the provision of suitable courses of instruction within the least restrictive setting possible, and using the most appropriate special resources required for optimum learning. Our experience shows that many children are robbed of their opportunities for learning because of gaps in one or more of the areas mentioned.

After defining very carefully the needs for individual children there is often no appropriate placement for the child in the present school system. For example:

1. In Winnipeg a small group of severely multihandicapped students who are not learning academically are going through the motions of attending school when their needs indicate a more creative life experience type of program.

2. Further two young students ages 7 and 8 in a rural school division, who test in the trainable retarded range, are placed with a small group of adolescents who are at various stages of retardation and some of whom display serious behavioral problems.

3. Also four hard of hearing students in a Northern Manitoba Division, who have been assessed as needing frequent one to one speech therapy, are not receiving any at this time because of workload demands and staff shortages.

4. And finally, several rural School Divisions exclude physically disabled youngsters from industrial arts classes held in a central location and field trips because no transportation is provided.

From these examples, and from our experience in general, assessing the needs of many disabled children has been easier than facilitating an appropriate school placement which will meet these needs. . Too often schools are let off the hook because parents of disabled students are grateful for what is offered (even if programs are less than adequate in the opinion of the professionals involved in the assessment) and therefore parents do not take issue with their school division in order to ensure better education for their children. Thus it is imperative that educators, who are the experts in the field, take more responsibility to guarantee satisfactory education programs.

The Act, as it now stands, is too general and does not guarantee quality education for students with special needs. Section 41(5) sets the tone for the whole Act in its approach to education for special needs students when it states "as far as is possible and practicable in the circumstances." This phrase allows far too much room for inconsistent standards and too wide a variety of interpretations of responsibility of the school divisions and the Department of Education to ensure opportunities for quality education for all students.

Further, Section 48(1)(a) states that subject to regulations, the school board may "provide a course of instruction and training for children between 3 and 6 years of age in nursery and kindergarten schools or both". This section does not recognize the importance of early detection and provision of pre-school programs for physically disabled, mentally retarded, profoundly deaf and other handicapped children. The Society has provided such early education programs for many of these pre-school children in Winnipeg for many years and also for a limited number of rural children on a short term basis. There is no doubt as to the validity of such programs for all disabled pre-school children.

Age of eligibility is critical, not only with regard to pre-school years but also with respect to school leaving age. There is need in some cases to extend the upper age limit beyond the present age of 21 years as mentioned in Section 259, for those handicapped students who require a longer period to gain the maturity and knowledge to enable them to take their place as a contributing member in the society in which they live.

Also Section 48(1)(e), (k) and (v) all indicate some opportunity for school divisions to, and I quote "establish and conduct special courses, provide technical and vocational instruction and to establish and provide for any course of study approved by the Minister". However, the qualified "may" in the initial statement of Section 48 minimizes the potential of defining a standard for the education for special needs children in Manitoba.

Although Bill 22 relates itself to programming in a number of ways, it does not promote anything new or better for the education of disabled children. The Act, in fact, allows for confusion by allowing inconsistencies among school divisions to persist. And the Society recommends that:

1. Strong emphasis must be placed on early detection, consistent diagnosis and the identification of early needs. Screening and diagnosis is a continuous process involving both the Departments of Education and Health and Community Services as well as other Community Agencies.

2. A thorough assessment of the child's total needs should precede placement. Placement should involve parents, child, educators and professionals from health and social services agencies which are involved in those cases. Placement should also be open-ended, that is, should be reviewed on a regular basis and at least annually.

3. Placement arbitration be clarified, as it is the critical "last resort". The role of the "education administrative consultant" as specified in Section 261(1)(b) and Section 265 is unclear in this regard as is the foundation upon which he bases opinions and decisions about the standard of education offered to any individual child. Any placement arbitration mechanism should have access to a professional with expertise in the handicapping condition involved in the case under consideration.

4. Programming be instituted for pre-school special needs children, after a system of detection and screening is implemented throughout Manitoba. Similarly the upper age limit be made flexible for those in need.

5. This government and the Department of Education take the leadership necessary to establish the goals and standards for educating special needs children in order to ensure uniformity in educational programming among all school division. By setting the direction for the province and by developing programs and resources which can be used by school divisions, this government can take an important step in eliminating the wide disparity of education available for special needs children through the elimination of words such as "possible" and "may" in this critical area of education.

And in the last area of Staffing and Resource Personnel:

Physically disabled, hearing impaired and other special needs children require assistance from well trained experienced personnel in order to maximize their potential. In many schools, this is not always available among the teaching staff or among various resource personnel who work in the schools. Bill 22 makes mention of "teacher aides" in Section 91(2) but only with respect to certification and being authorized to be in charge of students without a certified teacher in attendance. In the Act, there is no statement to set new directions for solving the problem of large gaps in the training and availability of more qualified personnel. The Society of Crippled Children and Adults has experienced many situations related to appropriate staffing and availability of "teacher aides" and if may give a couple more examples:

1. The lack of preparation of school personnel to deal with disabled students both in terms of personal attitudes and the knowledge and skill to teach these students. Recently, a new teacher in a special program for physically disabled students shared his frustration about having no working knowledge in the area of learning disabilities which are frequently associated with physically handicapped children. Also, a rural school resisted the entry of a severely physically disabled child to the point of a threatened mass resignation of the teaching staff. This problem was solved through a timely transfer of the family to another province. However, this child would not have entered that school without a major battle.

2. The availability of the aides in schools to help special needs children to function continues to be a critical problem. For example, a rural teacher with some twenty young students had to either leave her class to toilet a physically disabled student, or ignore the student and put up with the smell. No hands could be found by the school division to help. Also, in a school where such aides are available, older adolescent boys are sometimes being toiletted by female aides. In some situations there are not sufficient personnel to help disabled children on field trips, or in classrooms when these students need to borrow "a pair of hands" or when the need for a full time attendant to monitor life-giving electrical equipment for a severely disabled student. Often, a mother has had to spend her day with her child in the school in order to provide the necessary help with toileting, feeding, and supervision.

3. Many severely disabled students are in need of intensive therapy such as speech therapy, occupational therapy and physiotherapy. These professionals are often not available or when they are, can give only a diluted service. The rural schools are greatly underserved in this area. For example, physiotherapists do not often go into a school because the Canadian Arthritis and Rheumatism Society with whom they are employed, is not able to recover the costs for this service from the Department of Health and Community Services. Similarly, the number of speech therapists, trained teachers of the deaf and itinerant teachers for the deaf, is limited or non-existent in many regions.

4. Qualified psychological services are also in critical short supply. Most disabled children have particular learning problems as well as emotional problems that are associated with their disability. It is unrealistic to expect that psychologists who serve the general population can be attuned to the particular needs and complications which arise occasionally in low incidence disabled students. A well trained psychologist in the area of physical disability can be the key to effective individual and small group programming for disabled students. Teachers would receive the kind of specific information and support that would make it possible for an effective learning experience for the student. We have examples where effective psychological intervention has assisted the school and the student in a productive effort. Unfortunately, Bill 22 makes no commentary on training requirements for educators who work with special needs children. The Minister of Education has made available the sum of \$65,000 for special education and professional development purposes in the whole province for the academic year 1979-80. This amount is very limited and is available only on a request for grant basis.

The kind of training available through in-service is much too limited, also because of the grant structure and the fluctuations of the grant size from year to year, long-range planning is extremely difficult, if not impossible.

Similarly, the question of support personnel is not dealt with in the new Act. Provision of resource people in the schools seems to be based on the attitudes of the school boards and not necessarily related to any objective standards of education. Support personnel coming into schools are employees of various departments of government, the school divisions themselves and a number of private agencies working in the field. This phenomenon often is confusing to schools, and since there is no overall co-ordination of these services, there are serious gaps in their quality and availability to many school divisions.

In order to deal with the issues mentioned, the Society recommends that:

(1) General in-service and the recognition of learning difficulties encountered by special needs children be instituted for all staff in schools.

(2) An in-depth training program be developed for those staff who will be receiving students with special needs.

(3) Training in special education and reading instruction be made a mandatory part of all teacher education courses.

(4) Bill 22 be changed to require liaison and co-operative effort among the Departments of Education, school divisions, and the Department of Health and Community services and rehabilitation agencies, to develop standards for the quality and the number of support personnel employed by the schools and coming into schools from other service systems.

(5) The role and powers of the proposed education of administrative consultant, as outlined in section 261(1)(b) be clarified with respect to the area of adequate staffing and support personnel, as it influences the educational process of special needs children.

Summary and Conclusions. This brief has presented some of the issues, needs and possible solutions to the costly and complicated area of education for special needs children, particularly those with physical disabilities and profound deafness. Although opportunities for education of these students have improved in recent years, we are keenly aware of the gaps and limitations which are still present in the current educational system. Most of our young clients do not have the same opportunities for educational achievement as the general school population in Manitoba. Because of this fact, the Society for Crippled Children and Adults is committed to advocating for the availability of those resources, accessible buildings, mobility, special equipment, programs and trained personnel, in order to change the disadvantage faced by handicapped students into an equal opportunity which the majority of young people in our community have today.

This government has the opportunity now, in the form of Bill 22, to take some giant steps in that direction. We urge the government to use this occasion to set some new goals and standards for special education. The stepping stone is Section 41(5), I quote, "where possible and practicable in the circumstances. . ." A more definitive statement here, and subsequent adjustments to some of the other sections of Bill 22 as discussed in this brief will lay the foundation for fair and equal education for all students. This is an ideal well worth the effort.

Mr. Chairman, I must thank you for the patience with which you have listened to a rather long brief.

MR. CHAIRMAN: Thank you, Doctor. Questions? Mr. McBryde.

MR. MCBRYDE: Mr. Chairperson, I'd like to thank the Society for such a thorough and detailed brief. One of the problems with such a thorough brief is that it doesn't leave many openings for questions because you've answered all the questions in the brief. But I managed to find one.

On Page 3, you're talking about the school buildings and having them constructed in such a

way that the physically handicapped could use the buildings. The other day, yesterday, when the Manitoba League for the Physically Handicapped was in, there were some questions to them and they weren't sure of the answers. One of the questions was whether they were aware of any new schools that are just coming onstream or just completed that didn't have these kind of facilities built into them. And I wonder if you or your staff were aware of any of the . . .

MR. CHAIAN: Doctor Majury.

DR. MAJURY: Your question is, are we aware of any new schools built that do not meet with these requirements? Mr. Carmichael says no, we're not aware of any new schools, but we know of many older buildings that need renovation.

MR. McBRYDE: That's all the questions I have.

MR. CHAIRMAN: Any further questions of Dr. Majury? Mr. M Hanuschak.

MR. HANUSCHAK: Mr. Chairman, Doctor, do you see the provision within Bill 23, the Education Administration Act, which opens the way for the Minister to levy a user fee as a way to provide for some of the services that you've indicated in your brief are presently lacking within our education program?

DR. MAJURY: Mr. Chairman, we didn't really make any brief on Bill 23 because I understand it deals with administration of the Act, but as a society we are opposed to user fees, and we are opposed to any fee which would mean that the handicapped student or the parents of handicapped students would be responsible for some fees which the parents of non-handicapped students would not be responsible for. We are opposed to user fees in general, and in particular in user fees to the type of child we're dealing with.

MR. HANUSCHAK: Thank you.

MR. D. JAME WALDING: Doctor, you mention a few specific examples in your brief. Can I ask you if you have brought these to the attention of the Minister, so that he might use the weight of his office to see that something is done in these particular areas?

DR. MAJURY: These have all been documented examples. May I ask Mr. Carmichael if he would answer your question. Mr. Masiowski, our Supervisor of Counsellors.

MR. ERNIE MASIOWSKI: Yes, Supervisor of Rehabilitation Counsellors at the agency. Basically, around the examples, the way we rectify or resolve many of those situations is through ongoing negotiation at the school level, with the administrators of the school, the special education co-ordinators of the various divisions, and generally we work out various compromises to deal with the various situations that we come up with. Those compromises are often less than satisfactory in the sense of providing the equal opportunity for education of disabled students in the same sense that normal children would have. Normally we don't go up the ladder and to try to blow the whistle on people that we work closely with, because that certainly would interfere with our relationships with individual schools and so forth, so basically we try to negotiate as best we can for compromises and do the best that is possible with the resources the division has.

MR. WALDING: Mr. Chairman, the suggestion in here is that satisfactory arrangements have not been worked out. Is that actually the case and if so, would you like to mention them to the Minister, perhaps privately, where they are?

MR. MASIOWSKI: At this point I'm not sure. For example, some of those situations around ramping and so forth, would actually be worked out over a long term, because our staff usually would be out talking to the school personnel and so forth. Certainly some of the longer — bathroom accessibility, begging and borrowing equipment at various places to help students in schools, some of those things do work out to a more satisfactory level.

The specific examples that were cited were as such in August and I know I haven't checked specifically on those examples about the progress that we may have made in the various negotiation.

I think one of the things that we encounter is the ongoing problem of having to battle and to negotiate and beg and borrow to satisfy some of those needs and make those compromises which

often exclude students from participating, say, in field trips or other situations. Certainly the girl who is being dragged up the steps of the school bus is getting to school but we certainly will be trying to negotiate a situation for her where she'll be, I suppose, more socially acceptably getting on the bus and getting off the bus and we hope that we'll be successful with that.

MR. WALDING: One further question. You make some reference in your brief to the profoundly deaf. You don't make any mention at all of the Manitoba School for the Deaf. Does your Society have any position on whether that should continue as an institution or whether it should be phased out so that those students can go into the public school system, or is it a bit of both?

MR. CHAIRMAN: Dr. Majury.

DR. MAJURY: Mr. Chairman, may I ask Mr. Owen, our Supervisor of the Deaf program to deal with that question.

MR. CHAIRMAN: Mr. Owen.

MR. MIKE OWEN: Mr. Chairman, with the hearing impaired children there are a lot of special needs and certainly we deal with children with a varying degree of hearing loss right from the mild to the severe and profound. A number of these children are multiply-handicapped as well. A lot of them are deprived socially and so that there are many varying degrees of handicapping conditions with these children.

We recognize that a lot of these children can be and many are being mainstreamed either through the use of oral programs or in the case of the School for the Deaf, there are some students I think that are attending the Tuxedo-Shaftsbury School classes, some specific classes there, so there is attempted mainstreaming there. But we recognize that there will probably always be need of some sort of special institution or special grouping of deaf students because of the nature of the handicap, the communication problem.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Thank you.

DR. MAJURY: May I add to that, Mr. Chairman?

MR. CHAIRMAN: Yes.

DR. MAJURY: To answer, I think, your specific question as to whether our board feels there should still be a separate organization for the deaf, I think the answer would be, our board feels, yes, there should be; that this is a very specialized program and that they are doing a good job on behalf of the deaf and we would support them in their efforts to remain as an individual organization.

MR. WALDING: Thank you. No more questions, Mr. Chairman.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: Through you, Mr. Chairman, to Dr. Majury. Your brief, as well as a number of others, has suggested that the shift, or the modification of "shall" to make it less imperative to more permissive is not in the public interest. But in listening to the presentations and in reading some of the legal precedents where "shall" is not modified in some way or is in the judgments in our judicial system to be more imperative rather than less imperative. It is not imperative in all instances even the "shall" standing by itself.

Now there has been one recommendation that as far as if "shall" should stand by itself, then perhaps there should be an Ombudsman appended to this section. I really don't think the government can be accused of a diabolical plot to dismantle the system because I think no matter what government is faced with the administrative responsibility of this Act, they would be faced with the same problem.

The one suggestion was an Ombudsman, and then another suggestion was made that there be a review panel or board of "experts", both of the other presentations while advising the committee that they thought that the word "shall" should be more imperative rather than less imperative, they seemed to both present an approach to the problem which may occur. That without putting in a

statute the two words which appear in the suggested amendment to the Act, has your association got some suggestion of how this clause could function without the modifications to make it less imperative?

MR. CHAIRMAN: Dr. Majury.

DR. MAJURY: Mr. Chairman, Page 8 at the bottom on Section 3, we did envisage there just such a condition where an arbitration as to whether the needs were being properly met or not might be necessary.

We realize that some earlier societies have suggested the possibility of an Ombudsman-type of person to overlook this. Others have suggested a Committee of Appeal. We wondered whether this education administrative consultant, as mentioned in the Act, would be the person who would undertake this duty, but in looking at his duties more closely in the Act, he seems to be just a school attendance officer and not really very much more. I would agree with the question that where areas of dispute do crop up as to whether the school board is carrying out its responsibility in providing a program for a child or whether the program is adequate or not, that there will be areas of dispute and we would feel that some appeal process should be written in or should be available, and something that can act quickly, not something that's going to take six or twelve months, as many legal proceedings take, that maybe there should be something in the form of an arbitration, an independent arbitrator, to help decide on these problems. Now whether that can be written into an Act or not, I would leave that to the drafters of an Act. But this was our reaction to this question.

MR. BOYCE: Well, this is a drafting problem but it causes all of us legislators concern because it — and I certainly can't speak for the government — but it's my impression from speaking to the members individually that it's more of the apprehension that it will not be operational in the sense that it will precipitate law suits, just by the very nature of it. And this is kind of reinforced by some of these decisions that I've been reading as a result of the conversations yesterday.

May I, Mr. Chairman, go back a bit? Under the former administration as a result of all of the involvement of your organization, and other organizations, coming up with that which was written into Bill 58 and wasn't proclaimed because it was hoped that some type of administrative procedure would have evolved which could be handled by the system and the various components of the system, the various school divisions and the schools in the system, and the apprehensions built up that this was not going to be possible without some modification of the word "shall" to make it less imperative. So that would it not be in the public interest in this regard to have — oh, I'm going to get myself into political hot water here for sure — would it not be better at this point in time in the interests of the evolutionary process to accept the modification — and not necessarily these two words — but if we could challenge our legislative draftsmen to modify "shall somewhat", still to have the slant towards the imperative but to make it so that it isn't absolutely imperative?

DR. MAJURY: Well, Mr. Chairman, if I may answer really by saying that suggesting that deleting, every school board "shall" provide or make provision for the education of all resident persons who have the right to attend school and who require special programs for their education, and changing that — and I'm not a lawyer — but changing that to the effect that as far as is possible and practicable in the circumstances they will do this, I think that weakens and leaves it very much up to individual school boards to do the very minimum or to do nothing, almost, if they wish. And I would think that saying every school board "shall" provide, is not really weakening our case but is more affirmative and more positive as far as the parents and students are concerned about what will be available for them.

MR. BOYCE: Well, I too am not a lawyer, so I don't know either. But the public I feel — because all I have is a feeling in this regard — fully supports the position that we, as people, have arrived at in Manitoba in pushing forward in the concept of Bill 58, if I may.

But if we accept the "shall" by itself, then you yourself in your brief have alluded to the necessity of putting in place another bureaucratic function to see whether it is practical.

DR. MAJURY: Well, I think, Mr. Chairman, the Society just really wants to see an Act which will allow equal opportunity for all our children in Manitoba, whether they be handicapped or unhandicapped; if some way can be found to ensure that and make sure that the Act states or defines the responsibility of the school board towards that, then the drafters of the Act, if they can come up with something that will ensure that, I think the Society will not quibble over a few words, as long as it is quite clear that we feel the responsibility is with the school boards to see

that all students should have equal opportunities for their educational training, whether that requires special assistance etc., as I have outlined in the brief.

MR. BOYCE: Thank you very much, Dr. Majury.

MR. CHAIRMAN: Any further questions? Mr. Cosens.

MR. COSENS: Mr. Chairman, perhaps I could just end our discussion by thanking Dr. Majury and his colleagues for this very comprehensive brief. I think the problems that we as a government find in looking at this legislation have been brought forward in the questioning that's been directed to you. That's what we're trying to contend with.

We'd very much like to see all of these services provided now. But I believe, sir, you have indicated some of the problems in that regard, particularly in remote and remote rural areas. You mentioned such things as the distance children have to travel by bus to get to school. These are realities, whether a child be handicapped or not handicapped, that we have to contend with. In the case of the handicapped child it becomes much more of a problem.

I'll just say, sir, I appreciate very much your brief and thank you for coming.

DR. MAJURY: Well, thank you Mr. Cosens and thank you Mr. Chairman for the patient way in which you have heard our rather long brief.

MR. CHAIRMAN: Thank you, Dr. Majury and Mr. Carmichael and the rest of your committee and the Society for Crippled Children and Adults for your presentation.

DR. MAJURY: Thank you.

MR. CHAIRMAN: I call Ms Deanne Schultz of The Manitoba Association of Student Councils.

MS DEANNE SCHULTZ: Mr. Chairman, our presentation will take approximately twenty minutes plus whatever time it takes to answer questions from the committee. If the committee is willing to continue beyond 10 o'clock, we would be willing to go ahead. If, however, the committee must end at 10 o'clock, we ask that we may delay until tomorrow morning.

MR. CHAIRMAN: Well, that's up to the committee. What's your desire?? Proceed? Proceed.

MS DEANNE SCHULTZ: Mr. Chairman, Members of the Committee, my name is Deanne Schultz, and I am a high school student enrolled at Vincent Massey High School in Brandon, and an executive member of the Manitoba Association of Student Councils.

Although I have not yet reached the age of majority, I hope the Committee will allow me to make this presentation.

MR. CHAIRMAN: Proceed.

Ms SCHULTZ: Thank you.

The Manitoba Association of Student Councils is an association of high school student councils across the province. MASC was formed in 1972 by high school student presidents to facilitate communications between student councils and to represent student views and concerns on a provincial level. The Association was supported by the Provincial Government in the past and, as we have heard, will continue to receive support this year as well. The Federal Government, through its International Year of the Child Committee, has supported MASC this summer as did the the Canadian Council of Christians and Jews. Also, the Manitoba Teachers' Society and the universities and community colleges in Manitoba and across the country, support the Association.

The Manitoba Association of Student Councils has examined the proposed Public Schools Act as presented in Bills 22 and 23 and is honoured to have this opportunity to make presentation to this committee of the concerns of Manitoba high school students.

In order to preserve the concepts of democracy upon which our society is based, it is necessary for children to learn them. A respect for the principles of democracy and the recognition of the importance of accepting the rights and responsibilities which our society demands of its individuals must be imparted to each successive generation.

In order for children to accept and understand the rights and responsibilities of our society, it is necessary for them to experience these rights and responsibilities so that they may learn to respect and see the need for them.

Privileges and Elections
Tuesday, October 23, 1979

In attempting to teach individuals the principles of democracy, schools must provide an environment which itself contains and reflects these principles. Such learning must take place in a medium which allows and encourages direct experience with the democratic process.

Learning takes place primarily with experience. Textbooks serve to make people aware of theories, but unless these theories can be applied and experienced, they cannot be fully understood.

The Manitoba Public Schools Act contains extensive legislation regarding the operation of our schools. It creates the system of funding, the framework of curriculum and the rules by which our schools function. It provides for the building of our institutions and sets out the roles and responsibilities of our elected school officials, our administrators and our teachers. This extremely detailed Act exists to sustain and govern the means and methods by which the children of our society are educated.

There is, however, one major omission in the Act: It fails to define the role of the children for which it exists.

References to students concern themselves with administrative detail. They do not extend into the area of the rights and responsibilities of students.

Without some definition of the rights and responsibilities of high school students, there can and do exist situations where their importance is overlooked.

In such schools, there exists a situation where students are expected to learn respect for the democratic system, to accept responsibility and develop self-discipline in an environment which allows a little opportunity for the experiencing and exercising of these concepts.

High school students democratically elect a student council to represent their views and concerns. When these councils are prohibited to deal with any areas beyond the organization of social activities, the lesson learned is not respect for the democratic process, but disdain.

When high school student newspapers and other forms of expression are censored well beyond the areas of demation, obscenity and slander to the point where comment is not allowed, the concept of freedom of expression and the understanding of the need for members of our society to express their concerns is not learned, it is discouraged.

When schools do not function with the medium of the principles of democracy, these principles cannot be learned.

This is not to say that all secondary schools deny students the opportunity to experience democracy. Many schools currently understand the need to recognize the rights of their students and the success of such schools justifies their continuation. But this is by no means uniform throughout the province and is therefore in need of provincial legislation.

Many powers and responsibilities are given to our school boards to enable them to reflect the diverse views and desires of different regions of the province. But basic guidelines are laid out through legislation to provide a framework in which our boards must operate so that our fundamental principles are defined and guaranteed.

It is with these premises that the Manitoba Association of Student Councils approaches this committee on behalf of high school students in Manitoba.

A statement of the fundamental rights and responsibilities of high school students has been drafted by the Association. The statement originated from the 1978 annual conference of the Association.

This first draft was taken to students across the province, to the Manitoba Association of School Trustees, the Manitoba Teachers Society, and to other interested individuals for comment and criticism. Through this process, the statement underwent numerous drafts, becoming more refined with the feedback from each group.

The statement was then presented to the 1979 annual MASC conference where the representatives of 90 secondary schools discussed and amended the statement into its present form. It was ratified by an overwhelming majority.

The statement is being presented today to aid the committee in formulating a section of high school student rights and responsibilities for inclusion in The Public Schools Act.

And now with the Committee's permission, I would like to call on one of my colleagues to continue with the presentation of the statement of Rights and Responsibilities oor High School Students. Thank you.

MR. STEFAN DEPREZ: I am Stefan Deprez, a high school student from Winnipeg.

MR. CHAIRMAN: Just for the record, could you spell your name?(Spelled) Thank you, sir. Proceed.

MR. DEPREZ: Excuse my nervousness.

MR. CHAIRMAN: Now, don't worry; we're just guys like yourself. Carry on, sir.

MR. DEPRez: Thank you. Mr. Chairman and members of the Committee, I would like to present to you the Student Bill of Rights and Responsibilities.

Preamble: This Bill of Rights is intended to recognize the rights of Manitoba high school students based on the following premises:

1. Every individual has an equal opportunity to make himself or herself the life that he or she is able and wishes to have in accordance with his or her duties as a member of society, and should have an education which is consistent with these aims.

2. Education in Manitoba high schools should promote the full growth and development of each student's potential to the end that he/she will become a self-reliant, self-disciplined participating member of society within a democratic context.

3. Students develop responsibility in situations where they are systematically provided with the opportunities for exercising options in order to learn skills that will enable them to shape their physical and social environments.

4. Students learn from models and environments as well as from subject content. Therefore, the school should provide the environment of a democratic institution to teach basic principles of democracy.

5. A high school student has the right to be heard and to participate personally or be represented in all processes affecting his/her future.

6. All Manitoba high school students have the right to due process and to natural justice.

7. All Manitoba high school students have the right to privacy and access to records containing personal information for any purpose, including the purpose of ensuring accuracy and completeness.

The following statements are presented consistent with the premises outlined in the preamble.

I. RIGHT TO AN EDUCATION

1. All Manitoba high school students have the right to an education of a quality which promotes full growth and development of their potential and encourages thought and self-discipline.

II. RIGHT TO BE HEARD

A. Democratic Representation

1. Every Manitoba high school student body has the right to elect and maintain a representative student government.

2. All regulations governing the eligibility of candidates and procedures of student elections shall be set by the student council consistent with the premises set out in the preamble.

3. Students have the right to present their opinions to the student council.

B. Freedom of Expression

1. Students have the right to express their opinions publicly and without fear of retribution.

2. Students have the right to assemble on the property of the school at which they are in attendance, where such assemblies do not interfere with the learning/teaching process.

3. All Manitoba high school student bodies have the right to produce and distribute publications free from censorship by school authorities excluding cases involving defamation of or obscenity.

4. No article may be removed or altered by school authorities simply because it comments on school policy or procedure.

5. Students have the right to express their opinions publicly without fear of retribution.

C. Right to Appear

1. Every student has the right to appear and be heard in any process affecting his/her rights.

III. DISCIPLINE PROCEEDINGS

A. Breach of School Rules

1. Every student is entitled to know in advance what types of actions are considered offences by school authorities and to know the types and degrees of penalties for those offences.

B. Grievance Procedures

1. All Manitoba high school students are entitled to due process and natural justice.

2. All students have the right to be informed of the mechanics of discipline proceedings and of the routes of appeal.

IV. PRIVACY

A. Cumulative Records

1. Students shall be informed of the existence of any records or information kept on them in their school.

2. Students have the right to view their cumulative records in the presence of someone qualified to interpret them.

3. Accumulated subjective information shall be removed from a student's file on his/her request when he/she reaches the high school level.

4. Students have the option of denying anyone, other than legal authorities, their parents, teaching staff or administration access to their records.

5. Students have the right to know the uses to which their records are being put and with whom the information is shared.

B. Student Lockers

1. Students are entitled to the privacy of their lockers. The administration may not open a student locker unless the student gives permission. The student is entitled to be present when the locker is being opened.

V. EVALUATION

1. At the beginning of each course, students have the right to be made aware of all methods to be used in evaluation.

2. At the beginning of each course, students have the right to participate in determining the amount of notice given before any evaluation takes place.

3. Students have the right to an alternate date for tests where they have a legitimate excuse or their absence.

Any societal group must accept certain responsibilities in accordance with their rights. The following student responsibilities are presented consistent with the premises outlined in the preamble.

RESPONSIBILITIES

Students are responsible for active and positive participation in, and contribution to, the learning process.

Every student council is responsible for the setting of guidelines regulating student elections.

Students are responsible for ensuring that the elected student representative are accountable to the student body.

Students should ensure the responsible use of newspaper and other media. They must respect the laws of the land which prohibit the use of defamation and obscenity.

Students are responsible for ensuring that due process and natural justice exist in all disciplinary actions.

Students are responsible for acquainting themselves with disciplinary actions involved in breaches of school rules.

Students have the responsibility of being aware of the methods by which they will be evaluated.

I refer you to the Appendix and Interpretations for further information.

In closing, I would like to remark that the high school students of Manitoba are endeavoring to achieve recognition of their rights and responsibilities, utilizing the means and processes of our democratic system. All communications are presented through the appropriate channels established to allow individuals and groups to voice their concerns. And it is our hope that such a method demonstrates the sincerity and responsibility with which the high school students of Manitoba approach the issue of rights and responsibilities.

It is our sincere belief that the widespread recognition of these rights and responsibilities will serve to strengthen and improve the spirit of communication among all groups participating in the school community and help posture a climate with mutual respect and appreciation. Thank you for your attention and patience.

I will now endeavour to answer any questions you may have and ask that I be allowed to call upon the other representatives of the Association present here to aid me in responding.

MR. CHAIRMAN: No problem. Thank you, Mr. Deprez, and Ms Schultz, for your presentations. Some questions from the committee; Mr. Boyce.

MR. BOYCE: First of all, through you, Mr. Chairman, and to the representatives, I wish to express my appreciation for your briefs, because, you know, it restores my faith. You've knocked my pet argument relative to bills of right into a cocked hat by coupling to it responsibilities. Because this is the first time in my 10 years experience that anyone has done that because people are very prone to saying, you know, they want bills of rights but they don't mention responsibilities.

But the specific questions I have are precipitated by your brief. There has been in existence in Manitoba, for a number of years, an institution that served us well. It started off as a Tuxis Boys Parliament and then, I think, today it's called the Youth Parliament, in the evolution of a system

to have younger people, in a high school system, participate in the political involvement, how the system works. Could you see that possibility of developing a system where the student council actually form the government for the high school, in a rather limited sense, as we take one step at a time perhaps. I say this in light of the experiment which is taking place, I understand, in the Brandon judicial district where they are involving some younger people directly with the justice system. But if I may, Mr. Chairman, just sort of broadly suggest that there is an increasing suggestion or a suggestion with increasing strength, that the operation of the political system, and the justice system, and other systems which you people will hopefully take over and do a better job than we're apparently doing, that you should have the experience, because I agree wholeheartedly with it, the theories and the books and things are fine and we have to use what we have.

Do you see your council studying this and making recommendations further to your brief that within a year, or two, or three that we could try and develop a system wherein we could accept certain responsibilities as far as the schools are concerned and as far as the province is concerned?

MR. DEPREZ: I don't think I'm capable of answering that question because I'm pretty new with the Manitoba Association of Student Councils so I would like to refer that question to another representative of the Association.

MR. CHAIRMAN: Could we have your name please?

MR. MICHAEL MILLER: Certainly, Michael Miller. Yes, I certainly see there is room for students to become involved in some of the decision-making going on in schools. As was pointed out in the brief, we're looking at our children, our young people, sort of acquiring all the existing systems. They must have experience in these systems and for this reason I think it is a very good idea that students start looking into involving themselves in the democratic process of schools.

In response, basically to your question, I think it is something that the Association itself and individual councils can certainly look at.

MR. CHAIRMAN: Thank you. Mr. Boyce.

MR. BOYCE: Mr. Chairman, to bring it down closer to home, we don't want to spend too much time on the esoterics, perhaps. It was a surprise to me, when I first became involved with student councils, that the — I think it was a \$2.00 student fee — that was charged at the time which in the particular school amounted to roughly \$4,000, and that money was spent, by and large, at the discretion of the teachers. It evolved that the student council was given more and more authority. But I notice in one of the briefs that was presented to us, that they are asking for some restriction on this, that this is actually — I don't want to take words — I think it said something, the property of the Board, the student fees are the property of the Board. So, is it presently in place that the student council, in administering the funds that are collected as student fees, is that the usual practice in the high schools and schools throughout the province?

MR. MILLER: It varies very much from division to division. Some divisions allow students to charge student fees, it's not a compulsory thing, it would be on the basis of, if you'd like to join the student association there is a fee involved. As far as the dispensation of those funds and the usage of those funds, although technically it could be said that the student councils are responsible for them, it depends on the administration of any particular school as to whether or not they are, indeed, responsible and in charge of them. In many cases the council will endeavour to do something with their funds and be turned down by the administration. So, to that extent, I would say that really it isn't the case that students have control over their own funds. Does that answer your question?

MR. BOYCE: Yes, it does answer my question, but I don't know if it's changed, as I said, but nevertheless with the \$4,000 there — and I don't say that the money was spent badly — but with a student council sitting there and somebody would make a suggestion that we would purchase this and if I, as a teacher, would suggest that we purchase that, it was more possible that they would buy that than this.

MR. MILLER: Oh, by far. The influence of a staff advisor in administration is great. And it is great basically because in the final end, regardless of what a council feels, the administration prevails.

MR. BOYCE: In this area, it's a small area but I think it's an important area, why should you be deprived of the right to make your own mistakes?

MR. MILLER: I agree with you wholeheartedly. If we're trying to train our people to learn to deal with these things and understand them and accept the responsibilities, we have to be prepared to allow them: 1) the opportunity to do so; 2) to make mistakes, because you do learn through mistakes.

MR. BOYCE: Thank you, Mr. Chairman.

MR. CHAIRMAN: Any further questions? Mr. Kovernats.

MR. KOVERNATS: It appears under (b) student lockers, "students are entitled to the privacy of their lockers." I would imagine these lockers are school property. The rest of your submission shows that you have nothing to hide. Under what circumstances would you want your lockers to be your own personal lockers with nobody having permission to enter your lockers?

MR. MILLER: Okay. Basically the circumstances where this would be necessary is in some schools administrations will frequently just go through and check all lockers. There was a case a while ago where the administration was searching for alleged drugs in the school and there is no right to be drugs, this is perfectly agreed. But upon finding cigarettes and upon finding other such things the students involved were put in a great deal of trouble. And it is basically the same idea as afforded to other members of our society, that their home, their private place, is to that extent, their own property. Students very often pay a rental fee for a locker and I think this entitles them to a certain amount of privacy.

You will note that if a student agrees to allow the administration, there is certainly no problem there; and secondly, in the case of any legal proceedings, of course, there's no way that we're trying to cover that. If there is a serious concern on the part of an administration that there's a bomb or drugs in a locker, then to that extent, of course, the legal officials can be called and that locker can be opened.

MR. KOVERNATS: Yes. The only comment, other than what I've made before, is that the rest of your submission is really so open I couldn't quite understand your reluctance to have your locker open. Are you talking about ordinary cigarettes being found in lockers?

MR. MILLER: No, certainly not. Of course, as I said before, anything like funny cigarettes that were found in lockers are illegal, are not allowed to be there, and it is perfectly within the jurisdiction of the police to search a locker and to confiscate such things and to go through criminal proceedings. We're talking about regular cigarettes, and because you are not allowed to smoke on school property the students who were found having cigarettes in their lockers had them taken away. Another example involves a case where students were trying to publish a newspaper; this was a case where there was an article and it was a constructive article, in the paper on the school administration and the school system. Basically the locker was gone into and all copies of the material were taken and this is another case where the privacy of a student's locker should be maintained.

MR. KOVERNATS: I'll defer to Mr. Hanuschak, I'm sure he has got a question on user fees.

MR. HANUSCHAK: Carry on.

MR. CHAIRMAN: Mr. Cosens.

MR. COSENS: Thank you, Mr. Chairman. I would like to thank the presenters here this evening and compliment them on the very capable way in which they have put forth their ideas. I am not as surprised as perhaps the Member for Winnipeg Centre, having spent some 25 years in the company of young people very similar to yourselves. I'm well aware of the potential and the intellectual capabilities of people like yourself.

I just had one or two questions. Your brief deals specifically with high school students, yet you say many things in the brief that would apply to all students of all ages. Is there any reason why you have limited it just to high school students; would this apply to junior high students as well?

MR. MILLER: Well, our mandate is strictly a high school student mandate and for that reason

we dealt only with high school students. We do not represent junior high students, nor elementary students. If, of course, in considering a statement of rights and responsibilities for high school students the government would like to extend this to all students, I think that would be a very fine idea.

MR. COSENS: That was my only question, Mr. Chairman. Once again, I thank Mr. Miller.

MR. CHAIRMAN: Any further questions? Mr. McGill.

MR. MCGILL: Thank you, Mr. Chairman. I'm also pleased with this brief that was presented by the students. I think it is not a regular occurrence that we receive briefs from students. I have one question here, and this I was really taken with, it says: "students have the right to an alternate date for tests where they have a legitimate excuse for their absence." You know, I never thought of that when I went to school, and I just wondered what you considered a legitimate excuse for not being there on the day that an examination or a test was being held. Do you have some definition of "legitimate" in that respect.

MR. MILLER: We didn't endeavour to define "legitimate" specifically because there's bound to be things we leave out. And, also, if you'll notice in the bill we are not endeavouring at all to make limitations upon teachers because that is not the purpose of this bill. The point here was basically to make teachers and administrations aware that a test, or an evaluation, is something of great importance, particularly because the marks are used for a lot of important things. For this reason it is felt that if a student does miss, and the obvious reasons simply are illness, complete absence, there was no way they could be there, or other circumstance. Basically, I would say, it is left to the discretion of the teacher involved. And the point of including it was just a general awareness thing to allow people to realize that there should be alternates allowed.

MR. MCGILL: Well, Mr. Chairman, then this would mean that if the student were unable, for reasons which you might consider legitimate to attend, that the teacher would then have to set an alternate paper, set a complete new test, or would they do, as they normally do, I expect, when a student misses an examination, assign some kind of an evaluation of their class performance in lieu of a test mark. I think this is normally what happens here, but you're almost suggesting that a complete new test be set up here, did you really mean that?

MR. MILLER: No, certainly not. We're not saying, you know, any test must be written and that the student must have the right to write that test. I think the point is more along the lines of alternate methods of evaluation, whether that be the same test or another test.

MR. MCGILL: That's all.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, I just had a few questions, basically in sympathy with what you've written here, and it's very well written too I might say. Generally when people make proposals of this nature they do so because of specific instances that they want rectified. Do you have specific instances in all of these cases?

MR. MILLER: Yes we do. I can go through them if you like.

MR. WALDING: A couple of generalities, if I may. I'm glad to see in here that there are responsibilities listed as well as claimed rights. I don't see any responsibility in here parallel to Part B, Freedom of Expression. What would you see is responsibility matching freedom of expression?

MR. MILLER: I would say that the responsibilities there would be that students must be responsible for the type of press that's put out in their schools, for the legitimacy of that press and for the accuracy of that press, and students must also be responsible to express their opinions when there is a need for those opinions to be expressed. That this was not included is a very good point on your part, and perhaps the committee, in considering it, will consider putting in a comment on that.

MR. WALDING: You've heard the old saying about, freedom of expression doesn't include the right

to shout "fire" in a crowded theatre, for example. Under that same heading, you mention cases involving defamation or obscenity. Do you have a definition of those terms?

MR. MILLER: The definitions involved in defamation and obscenity in legal precedence and even in the dictionary is about six or seven pages long, a number of different cases. For this reason, we didn't want to define it because we were bound to leave something out. So we're relying basically on precedent cases and the judgment of any particular court to define that.

MR. WALDING: The courts have had great difficulty in defining obscenity.

No. 4 under that same heading, I really don't understand what it's about. Perhaps you can tell me what provoked that No. 4, "no article may be removed or altered by school authorities", simply because it comments on school policy or procedure.

MR. MILLER: There have been cases where articles, and I mentioned this before, even constructive criticism articles, on a school system, or on an administration, are now allowed in the press. And therefore the press is extremely limited to covering social activities and niceties, which is basically not the purpose of a press at all, and if we're trying to teach children to understand the uses of media and expression, this is not a very good way to go about doing it.

MR. WALDING: Supposing someone put up some posters around the classroom wall that were very insulting to the teacher involved . . .

MR. MILLER: I believe that would be defamation, and therefore . . .

MR. WALDING: Would the teacher sue you?

MR. MILLER: This point, from the way it's worded basically, the administration has the first say in censoring something. It's up to the student to then appeal it, so in such a case, and this is giving a lot to an administration I would believe, these posters would come down immediately if there was any sort of contest over whether or not this indeed does constitute defamation. Then it would be up to the student involved to make a process of it.

MR. WALDING: I understand. Thank you. Do all high schools have student councils?

MR. MILLER: Almost all schools have student councils. Presently, I think there are about six in Manitoba that do not.

MR. WALDING: Just one last question. Why is this matter something that should go into a provincial statute, rather than the subject of a by-law at the school board level?

MR. MILLER: That's a very good question. We covered this a bit in our presentation, the reason here being that we believe that the necessity and the importance of recognizing student rights and responsibilities, for the reasons of involving students in democratic processes so they can learn, are so fundamental and basic that they should not be left to the discretion of an individual board, that, just as the Public Schools Act lays out the framework in which our school boards can work, this should be part of that framework.

Individual school boards are allowed a lot of power and a lot of authority to make decisions and to basically tailor individual school divisions to the desires and perspective of the people within that area. However, something like student rights and responsibilities is fundamental to all students in Manitoba, and just like you wouldn't leave the fact that you must have 12 grades in Manitoba, or the fact that you must teach mathematics to the discretion of the school board, we feel that the idea of having recognition of the student rights and responsibilities is something which must happen on a provincial level.

MR. WALDING: Thank you. No more questions.

MR. CHAIRMAN: Mr. McBryde.

MR. McBRYDE: Perhaps my question, Mr. Chairperson, is an extension of Mr. Walding's. In this legislative process that we're involved in, I'm not perfectly clear of your hopes for what you've presented. Do you hope to have this included in the bills that are under consideration, or are you hoping to have this as a separate piece of legislation, what are your hopes for this?

MR. MILLER: We're hoping to have this included as a section in The Public Schools Act, much in the same way as the freedoms and responsibilities of the other members of the education community, the teachers and the principals and the school officials are defined.

MR. McBRYDE: The section on the right to an education, would I be fair in interpreting that as a support for many of the other submissions here in regard to the rights of handicapped or special needs students to an education of a quality that promotes full growth? Would you be in agreement with those other briefs that were encouraging these rights for special need students?

MR. MILLER: Yes, we certainly would. This was one of the major considerations in putting this comment in in the first place. This was brought up in discussion at our conference. As it says, all Manitoba high school students have the right to an education of a quality which promotes full growth and development. This would necessarily include handicapped students.

MR. McBRYDE: The other question, while we have you and your delegation here, and perhaps you haven't had a chance to consider it as an organization, but probably as a group you have had a chance to be aware of it, and that's Section 227, which says that no employee or no pupil shall be a trustee of the school division or school district of which he is an employee or a pupil. What is your opinion on that particular clause of our legislation that's before us?

MR. MILLER: Again, this was discussed by our organization as a whole and it was felt that a pupil should have the right to run for school board within their own division. I can see the concerns, possibly, in putting this statement in; that way the pupil would end up almost being the boss of the teachers within that area. But nonetheless, I think to limit a person's access to a public position, especially if a pupil is concerned enough and interested enough, and supported well enough to be elected to that position, I think it should be allowed.

MR. McBRYDE: The concern that I believe was expressed before this committee was one that there would be a conflict of interest if a pupil were a trustee. Would you care to comment on that?

MR. MILLER: I suppose there is a possibility of a conflict of interest, as I said before, because the teacher, or the administration is basically hired by a school board and you have a school trustee being a pupil. But this is something which is. . . it's a question of anyone who is running for school board and who is elected will certainly take into account. I don't think a person would get elected to school board if they're the sort of person that would start using this as a conflict of interest. I think they would have to be very concerned about this and very aware.

MR. McBRYDE: In order that Mr. Kovnats not be disappointed, I would like to ask you, what would your position be on the imposition of user fees for students?

MR. MILLER: Again, this was discussed, and user fees are something we certainly would not like to see happen in education. We have a general policy in the society of accessibility, and once you start on the basis of user fees, this becomes more and more limited. You'll also see situations where schools in suburban or more affluent areas will have even a greater — well let's put it this way, the discrepancy between a school in an affluent area and a school, let's say in the core area, will go even greater to the fact that user fees can be paid much more readily by people in an affluent area.

MR. McBRYDE: Thank you very much. No further questions.

MR. CHAIAN: Mr. Boyce.

MR. BOYCE: Mr. Chairman, I think the record will show that I said I was refreshed, not shocked. I wasn't in the system for 25 years. I've been out of it ten years and I miss it. But I'm sure the Minister of Education and I will endeavour to make sure that one or the other of us goes back to it. I would rather he return to it than myself. They help me, they take away my constituents.

First of all, what does the term, "in loco parentis" mean to you?

MR. MILLER: "In loco parentis", as far as I know, basically gives to an administration, to a school,

a teacher, the authority of a parent over a child.

MR. BOYCE: With Mr. Kovnats' question relative to the locker, unless we modify that definition, it is not the case that a parent has the right to go into a . . . It's a difficult question. Your argument is very well taken, though. Should it be the case that the committee, in its wisdom or lack of it, doesn't include this particular section in The Public Schools Act at this time, have you considered presenting it to the Legislature as a Private Member's Public Bill?

MR. MILLER: No, but that's certainly an excellent idea.

MR. BOYCE: If the student council would be at all interested in pursuing that avenue, I would be only too happy to be of assistance in presenting such a bill.

MR. MILLER: Thank you. That's very interesting.

MR. BOYCE: It might be that you know other MLAs. It is a well presented brief, and I don't know whether the committee can, in the time available — there's a question of not just accepting this but there's all the other briefs to go through, and I'm not certainly trying to get one off the hook in it, but nevertheless the question is such that it should be properly addressed.

MR. MILLER: I would agree with you, and I do hope that the committee would consider its priorities to an extent. This is an area which is completely undecided, and in our minds, very much an area which needs definition. For that reason I would ask that the committee very seriously consider taking a bit of the time that you do have to prepare this bill, or the bills that you will be presenting, and look very seriously at including statements, maybe as outlined here in our bill or just basically making the intent and including them in The Public Schools Act.

MR. CHAIRMAN: Any further questions?

MR. BOYCE: Just one final comment, in your response to one of the other questions, when you say the definition of the words that Mr. McBryde referring to, you said that there were six pages in the dictionary, and you had said that you didn't want to use those definitions because you would perhaps not put one in. This is the fundamental difficulty with Bills of Rights, that that which you don't state, you exclude. Thank you, Mr. Chairman.

MR. CHAIRMAN: Any further questions? Thank you, Mr. Miller, Miss Schultz and Mr. Deprez and the other member of your committee for your presentation.

Tomorrow morning, the first brief will be from the Social Planning Council of Winnipeg. That's the only one I have scheduled for the morning. In the afternoon we have the Manitoba Association of School Superintendents, and one other one, Fort Garry School Division. Those are the ones that I have listed that will be here for sure tomorrow.

Committee rise.