



MANITOBA

Second Session - Thirty-Sixth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee

on

Law Amendments

Chairperson
Mr. David Newman
Constituency of Riel



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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
STANDING COMMITTEE ON LAW AMENDMENTS

Friday, November 1, 1996

TIME – 9 a.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. David Newman (Riel)

VICE-CHAIRPERSON – Mr. Peter Dyck (Pembina)

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Mr. Enns, Hon. Mrs. McIntosh, Hon. Mr. Pallister

Ms. Cerilli, Mr. Dyck, Ms. Friesen, Mr. Laurendeau,
 Ms. McGifford, Ms. Mihychuk, Mr. Newman, Mrs. Render

APPEARING:

Mr. Gary Kowalski, MLA for The Maples
 Mr. Steve Ashton, MLA for Thompson

WITNESSES:

Bill 32–The Council on Post-Secondary Education Act

Mr. William Pruitt, Private Citizen
 Ms. Maggie Ross, Lesbian, Gay & Bisexual
 Collective
 Ms. Twilla McDonald, Private Citizen
 Mr. Joseph Donatelli, Private Citizen
 Mr. Richard Orlandini, Private Citizen

MATTERS UNDER DISCUSSION:

Bill 32–The Council on Post-Secondary Education Act
 Bill 72–The Public Schools Amendment Act (2)
 Bill 48–The University of Manitoba Amendment Act

Mr. Chairperson: Good morning. Will the Standing Committee on Law Amendments please come to order.

This morning the committee will resume consideration of Bill 32, The Council on Post-Secondary Education Act; Bill 72, The Public Schools Amendment Act (2); and Bill 48, The University of Manitoba Amendment Act.

As agreed by the committee last night, registrations for Bills 72 and 48 are closed off now and the committee will continue with hearing presenters on Bill 32 only. The names of the persons who are registered for Bill 32 are before committee members and are also posted outside of the committee room. If there are any other persons in attendance who wish to speak to the bill and whose name does not appear on the list, please register with the Chamber Branch personnel at the table at the back of the room.

Just as a reminder to those persons wishing to hand out copies of their briefs to the committee, 15 copies are required. If assistance is needed to make the required number of copies, please contact the Chamber Branch personnel at the rear of the room or the Clerk Assistant and assistance will be provided.

Just as a reminder to committee members, it has previously been determined by this committee that a 10-minute time limit for presentations would be used to be followed by a five-minute time limit for questions and answers. It had also been previously agreed by this committee regarding Bill 32 that names would be dropped to the bottom of the list when called for the first and second time, when the presenter is not in attendance, with the name to be dropped off of the list after a third call.

We will now proceed with the hearing of presenters.

Ms. Jean Friesen (Wolseley): Mr. Chairman, we had a little bit of confusion at the end of the last time, so I just wanted to put on the record that John Whiteley, who was No. 37 on yesterday's list, I believe, was the one who went over that midnight hour, so that after that we were not dropping anybody off of the list, but those who were here could present. Following from that—that is issue one—the second issue from that is the ordering. We have

a new list today which deals essentially with—it has Lionel Steiman as No. 1, whereas according to our list from before, No. 1 today, No. 38 yesterday, would have been Ed Bruning. So I wonder if we could continue with the ordering that we had yesterday. I do not think it makes any difference in terms of the final numbers. It is a question, simply, of who had anticipated that they would be here and the order in which they would be appearing.

Mr. Chairperson: I think the issue raised by Ms. Friesen is, given that we have made an agreement that at midnight we would canvass the presenters at the rear of the room, at midnight occurred some time, she believes, after John Whiteley's presentation and maybe immediately after, and then we proceeded through the list, that in fairness, because others would have anticipated that they would have been called immediately after John Whiteley's name this morning, that we should start then with Ed Bruning. Without wasting a whole bunch of time on that, if we can agree on that, why do we not start with Ed Bruning? Is Ed Bruning here? Ed Bruning will then drop to the bottom of the list. Professor Anne McGillvray. Professor Anne McGillvray, not being here, she will drop to the end of the list. William Pruitt. I see Professor Pruitt here. You may come forward, professor.

Mr. William Pruitt (Private Citizen): I want to tell you a story, and this is a true story. In about 1958, Edward Teller, so-called father of the H-bomb, came to Alaska with a plan, a plan to use his favourite toys and nuclear weapons to blast the harbour in northwestern Alaska by subsurface blasts of six simultaneous blasts on the coast, subsurfaced.

The politicians and the businessmen of Alaska greeted this plan with open arms and delight because this was going to be the greatest thing for the economic salvation of Alaska. Things were going along very well, as far as Teller was concerned, and they decided to have some preblast studies. At that time, I was associate professor of biology at the University of Alaska, and we spent three years working on the Arctic coast in the vicinity of this proposed blast.

* (0910)

From the results of my studies, and others, we concluded that because these blasts were going to be

particularly dirty in biological terms, that there was great danger of harm to the lichens, which would be transmitted into the caribou and transmitted from there into wolves and people. We found this also from results of our studies, as well as perusal of some rather obscure European scientific literature. So radio contamination was a very real possibility. When we made this public, there were furious outbursts from the local businessmen and the politicians because we were going against the best interests of the future of Alaska as they saw it.

So great pressure was put on three of us and because at that time the university did not have tenure, everyone was on a year-to-year contract and our contracts were not renewed, as a nice way of saying we were fired. Not only that, but my report was censored by the university before it was submitted to the Atomic Energy Commission, and I was blacklisted from a number of other U.S. universities. That is the reason I immigrated to Canada, and this pointed out to me the absolute necessity for a university to be not only isolated but insulated from any government pressure or any economic or businessman's pressure at all.

The interests of politicians and businessmen usually are quite different from the interests of a university, and if a university becomes subservient in any way to financial or academic influences or direction from outside, it is really no longer a university, but it is a community college or a trade school. Remember also that a university belongs to a worldwide community of scholars and if a university becomes subject to financial or academic influences or directions from outside, the word will get around and then the university will suffer loss of prestige, loss of good students and loss of good faculty.

Later on—a number of years—it has only been after the Soviet Union collapsed and the Soviet Arctic was opened up, we saw the results of the situation where universities and where researchers were subjected to great pressure and outside influences when we realized and we discovered the gross radio-active contamination that has gone on in the Soviet Arctic. We also found out that Project Chariot was actually an effort by the U.S. Atomic Energy Commission to break free of the Nevada test site and if Chariot had blown, then they had plans for other nuclear weapons' blasts and tests in the Alaskan Arctic. Because of the craven subservience of the Canadian government to the U.S. military, such as the matter of

cruise missile testing, it is quite clear that the Canadian north would probably be in the same situation today as the Soviet north is, and that is why I am very definitely against this proposed bill. Thank you. Have any questions?

Ms. Marianne Cerilli (Radisson): Thank you, Mr. Pruitt, for your presentation. Some of the things I am interested in following up with after, but I will stick with Bill 32. A number of people in other presentations have called this bill a hammer, I think, and I think they have made that reference to other bills as well. But with the story that you told us, I am wondering if you—I am sure you were also aware that the Premier of the current government had sent letters to the president of Brandon University to try and have him convince a professor of biology at Brandon University not to make public research that he was doing of the effects of fertilizer on trees. I am wondering if you could tell us if you are familiar with that and what the effects of that were on the scientific community and the province, or what the response was and what potentially the effect could be on the worldwide community of scholars you talked about in terms of Manitoba's reputation.

Mr. Pruitt: I think from what I have heard is that the university and this professor have successfully resisted this outside influence and outside pressure, and the way the university system is constructed in Manitoba we are safe in that direct influence and direct pressure cannot be brought under the present legal system.

Ms. Cerilli: Well, after knowing that the Premier (Mr. Filmon) was willing to write that sort of letter to Brandon University and there was also a letter written to Harvard, a similar kind of letter it seems, I am wondering if you would agree that this bill is trying to put into legislation what they were not successfully able to do, but with intimidation.

Mr. Pruitt: Exactly so. The successful faculty strike at the University of Manitoba we thought had clarified the atmosphere, but it seems that the government has gone around behind and is trying to get the same results by legislation in a different way. I think that the person who wrote that letter to Harvard, it was clear that he did not know much about what he was talking about; he did not know the difference between astrology and astronomy.

Hon. Brian Pallister (Minister of Government Services): Thank you for your presentation, sir. You had made the comment that the interests of politicians and business—and I hope I am not misquoting you, sir, if I am, please clarify—are completely different from those of faculty.

Mr. Pruitt: No, I do not believe I said that. I said that the interests of politicians and businessmen are different from those of the university.

Mr. Pallister: Thank you for that clarification.

That being said, sir, do you not see some common interests between the people who are elected and accountable to the people of the jurisdiction and the people who perform the task of administering the programs within the university and the people who instruct at the university, a common view that they may share as far as the goals that they have for the future of the jurisdictions in which they operate?

Mr. Pruitt: One would hope that there would be a community of interest, but nonetheless it is different and this is why tenure and absolute independence of a university is so vitally important because it is a rather fragile thing and it does not really take too much outside influence to make people change their minds. I saw that at the University of Alaska. There were several faculty members who were on the studies with me who succumbed to the pressure of the business interests and the politicians. There were a couple of us who were just stupid enough and pigheaded enough that we did not succumb.

Mr. Pallister: Respecting your past experiences, sir, and the wrongs that have been done to you, in your mind, do you believe, sir—you have said, I think—if universities become subject to financial pressures, they will lose their credibility? What do you say to those who say that a university that is not, to some degree at least, accountable to the financial pressures that the rest of society is accountable for and must respond to, that a university that is immune to those pressures will lose its credibility?

Mr. Pruitt: University is not a factory. It is not a business thing, a business organization; it is a unique thing. It is one of the great advances in the evolution of mankind that could generate an idea of isolating a group

of scholars and teachers from outside influence, so that they can go ahead and study and publish and say what the data tells them to say regardless of outside financial pressures. The business community or the politicians may not like it, but if that is the way it is, that is the way it has to be published and it has to be said. This is why you cannot treat a university the same way as you make regulations governing hazardous goods or something like that. It is a unique situation. It has to be treated in an entirely different way than any other aspect of human endeavour.

Mr. Pallister: So just to be sure I am clear on your point, sir, you are saying that the university is a unique entity that should be subject to no one but itself and should be accountable to no one but itself, is that correct?

Mr. Pruitt: That is right. Now it can be within the financial grants that come from government, but once that grant is made, then government, the business community, has no further business of interfering with how the university decides to use it.

* (0920)

Ms. Friesen: Thank you for the presentation and for reminding us of what can happen in universities in jurisdictions where these relationships have not been made clear.

I wanted to follow up from what Mr. Pallister was asking on the issues of accountability. The bill gives the power to the new council to create, in consultation with universities, methods and standards for accountability. I wonder if you think it would be acceptable or feasible for the council to be given the responsibility of ensuring that each college and each institution have standards of accountability that are appropriate for their institutions. It puts the responsibility or one level of accountability back to the institutions, and there are different levels or different types of accountability, I think, required for a variety of institutions. It gives the council the role of ensuring that those are in place. Would that have met the situation you encountered in Alaska?

Mr. Pruitt: No, I do not think so, because a university, by its organization, sets up its own levels of accountability. Believe me, we know exactly where they are and how important these are. If this is imposed on

them from the outside in any way, it can very easily degenerate into unwanted warranted pressure. Now maybe the present group of people who are going to be on this council, maybe they have the best interests of the whole world at heart. That does not say that five or 10 or 20 years from now the same kind of people are going to be on it.

Ms. Friesen: Perhaps you could tell us what standards, methods and reporting of levels of accountability there are within the scientific community of which you are a part, and within the university, department and faculty of which you are a part.

Mr. Pruitt: These come down in budgets through several levels of university governance by the university itself, and they go through the senate. Senate is the supreme academic body, and it is very sensitive to the amount of money that is available and proportioning this out, and recommending the various faculties and the amount that they have. It is not subjected to outside influence. This, I think, is really the important thing. Senate particularly has to be isolated from pressure, and the whole university has to be isolated and insulated from outside pressure.

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

Mr. Pruitt: Thank you for your attention.

Mr. Chairperson: I have, through the clerk, a special request from Maggie Ross, who was dropped off the list last evening. She indicates it is because she could not attend due to other commitments and is asking for consent to be heard. What is the will of the committee?

An Honourable Member: It is good.

Mr. Chairperson: At what stage do you want to have her heard?

An Honourable Member: Is she here now?

Mr. Chairperson: Maggie Ross, you may come forward.

Ms. Maggie Ross (Lesbian, Gay & Bisexual Collective): Thank you for hearing me this morning. I

would like to speak on behalf of my constituents. I am the director of the Lesbian, Gay & Bisexual Collective at the University of Winnipeg. Although I am on the board of directors of the U of WSA, the University of Winnipeg Students Association, I cannot speak on the board's behalf except to say that UWSA President Susan Kushneryk did not in fact represent the board of directors when she said in her previous presentation that we supported the spirit of Bill 32. In fact, no collectively agreed upon position on the bill was ever reached at the board level.

I can, however, safely say that I speak on behalf of the members of the Lesbian, Gay & Bisexual Collective with whom I have consulted for this presentation.

A few major concerns were brought forward as a collective, as well as by individual members of the gay community on campus. First of all, many students have a problem with the idea of having a nonrepresentative committee, specifically, that there are to be no students on the committee even though graduates may sit on the council. We believe that the only way to listen to students' needs is to allow student voices to be heard in the form of actual student representation on the committee.

Students are also concerned that their voices will not be heard if the committee is made up completely of appointed members. It is assumed by students that the appointed members would not reflect the needs of students, rather that they would reflect the attitudes of a provincial government that has not had a great past record with regard to supporting post-secondary education.

Lesbian, gay, and bisexual students have a particular concern about the Council on Post-Secondary Education's right to make decisions regarding how the universities will spend money and for what programming they will spend allocated funding. This is seen as a particular threat to LGBC students as it ultimately gives the council power to cut funding for certain types of programming. Specifically, lesbian, gay and bisexual curriculum is at risk of being cut if the council is nonrepresentative of these students' needs due possibly to blatant homophobia among council members which may be avoided if they were elected. We at this point would have no control as to who would be making decisions about our curriculum.

Also, students from the Lesbian, Gay & Bisexual Collective are concerned that the last-hired-first-fired philosophy will be implemented regarding lesbian, gay and bisexual curriculum at the university. Since LGBC-oriented materials and courses are relatively new to university campuses, we feel that they would be the first to be cut in all likelihood.

The final concern of my constituents is the fact that many of the LGBC students on campus chose the University of Winnipeg, because it is widely viewed as a more progressive, gay-positive campus than the others in our province. If the council thought it was in the best interest to cost-cutting measures to assimilate programming so that, for example, only one campus would offer specific courses for general bachelor of arts or bachelor of science degrees, many students would be forced to go to the other campus that offers the courses for their degrees.

It is our opinion that students should not have to move to a less progressive campus in order to fulfill their basic bachelor of science or bachelor of arts requirements. The question from the Lesbian, Gay & Bisexual Collective at the University of Winnipeg is this: Where is the democracy in a system set up for students that has no intention of letting our voices be heard at the council level and at the level of decision making? Thank you.

Mr. Chairperson: Questions.

Ms. Cerilli: Thanks for your presentation. We had one other presenter one other day when I was on the committee who specifically made reference to—I think it was a Classics course or a poetry course, or literature course, I should say. I cannot remember which one and that it was specifically on gay-lesbian literature. I am wondering if you can tell us how many other courses would have that specific kind of content where it would have that orientation on campus.

Ms. Ross: At the University of Winnipeg specifically?

Ms. Cerilli: Yes.

Ms. Ross: That is the only one that I can think of. The course you are referring to is Keith Fulton's gay and lesbian literature course, and it is the only one, basically, of its kind right now that is geared specifically towards

lesbian, gay and bisexual curriculum. It has been a really, really long, long struggle to get any kind of curriculum implemented, but the University of Winnipeg, especially, is becoming a lot more progressive in tackling gender issues, sexual orientation issues within especially the arts programming. One thing that we are concerned about is that course would either become a token course, you know, okay, fine we have taken care of you people, or be cut out altogether because it is seen as unnecessary.

Ms. Cerilli: Does your collective get involved in trying to work within the university now to promote more courses similar to that course, or are there any other plans for developing additional courses?

Ms. Ross: I could not tell you what the actual plans for developing curriculum are. We work closely with the lesbian, gay and bisexual resource centre here in Winnipeg on Osborne Street, who work on curricula and materials like that. Mostly what the collective does now is represents individual students and the gay community at large in advocacy and visibility on campus. We ourselves have not taken on the task of building a curriculum but, I mean, we are certainly there to encourage it and sit on the board to advise the faculty and the senate.

Ms. MaryAnn Mihychuk (St. James): Thank you for your presentation. Actually you have brought something to my mind which I guess I knew before but now it is solidified. I think it is interesting that there is a rush to have six students on the board of governors at the U of M, which of course is a very good idea, but to have no students on the post-secondary education council, so there seems to be something a little out of whack there.

But what I wanted to ask you about was the course in gay and lesbian literature at the University of Winnipeg, and I wondered if you know, is this a regular, fully funded course in the English department or is it funded by SAIP money? I do not expect you necessarily to know that. I just wondered if you did.

* (0930)

Ms. Ross: No, I do not know that. I do not know.

Mr. Gary Kowalski (The Maples): There was one comment in your presentation that was unclear to me. I

cannot quote you verbatim, but something along the lines that if people were elected, they could better protect minority groups, small groups, than people who are appointed, and I am just wondering what you base that on because, if society as a general moves in the wrong direction and there are only a few enlightened people that are open-minded and that, would not the protection of that small group be better protected by people who are appointed as opposed to an election where if the society is being stampeded in the wrong direction, a few enlightened people might protect the rights of small groups than elected people? So I was not too sure on what you base that assertion on.

Ms. Ross: Well, thanks for bringing that up. It sort of stands to reason that if people have their own personal agendas that their voices need to be heard as to whom they are going to elect. We cannot ensure that people who are appointed will have the best interests of the minority groups at heart or of anybody at heart, and voting, electing representatives is one way that people can ensure that our voices are heard.

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

Ms. Ross: Thank you.

Mr. Chairperson: Delores Keahey. Delores Keahey, not being here, will go to the bottom of the list. Jacquie Vorauer. Jacquie Vorauer. She will go to the bottom of the list. Linda Murray. Linda Murray, not being here, will go to the bottom the list.

Starting at the top of the list, Lionel Steiman. Lionel Steiman, not being here, will go to the bottom of the list. Dr. Ram Diwari. Dr. Ram Diwari, not being here, goes to the bottom of the list. Alastair Cameron.

Ms. Twilla McDonald (Private Citizen): I have Alastair Cameron's statement to read into the record.

Mr. Chairperson: Your name, please.

Ms. McDonald: My name is Twilla McDonald.

Mr. Chairperson: I am sorry, your first name?

Ms. McDonald: Twilla. T-w-i-l-l-a.

Mr. Chairperson: Thank you. Is there leave for her to read it into the record? [agreed]

You may proceed.

Ms. McDonald: He begins his comments on Bill 32, currently under consideration in the Manitoba Legislature.

Let me preface my comments by introducing myself. I am Alastair G.W. Cameron, professor of astronomy at Harvard University. I was born in Winnipeg in 1925. I have deep roots in Manitoba. My grandfather C.N. Bell was an officer of the Winnipeg Grain Exchange for many years. My father, A.T. Cameron, served as professor of biochemistry at the Manitoba Medical College since shortly before World War I. My sister and members of her family continue as residents of the province. I graduated from the University of Manitoba with a B.Sc. Honours in 1947 and obtained my Ph.D. in physics from the University of Saskatchewan in 1952. I spent most of the next decade at Atomic Energy of Canada Limited in Chalk River.

Then the space program attracted me to the United States and in 1973 led me to Harvard. Several scientific societies have awarded me medals, and I have been elected a member of the honorary societies including fellow of The Royal Society of Canada and a member of The National Academy of Sciences in the United States. I have been quite active in advising the federal government in the United States, including six years as chair of the space science board of The National Academy of Sciences.

Last year, the Faculty Association of the University of Manitoba went on strike to preserve the principle of faculty tenure and academic freedom which was threatened by new regulations that the administration wanted to impose upon the university. When I heard about this, I was very disturbed and proceeded to send to the Premier an e-mail message containing a warning about the likely consequence for the university and the people of Manitoba if tenure and academic freedom were lost. Briefly, without tenure and academic freedom the best members of the faculty would leave, and the best students would seek their education elsewhere. The reputation of the university would suffer greatly and the students remaining in the system would find it

considerably more difficult to get into the better graduate schools of their choice.

I sent a courtesy information copy of this message to the Faculty Association who proceeded to make it public with my permission. Then, rather to my surprise, I had a flood of e-mail messages and phone calls from students and parents concerned about their futures. As indicated in the previous paragraph, there is a very good reason for their concerns. I also found there was a great deal of misinformation among the students and the general public about the meaning of tenure and academic freedom. I was interviewed by CBC Radio both local, in Winnipeg, and national. The reporter referred to our local labour dispute indicating that he did not understand the nature of the strike.

Faculty should not be hired and fired at the whim of some political boss. The rules of tenure permit a reduction in programs and in staffing levels in financial exigencies, but there are specific guidelines that must be followed. These guidelines protect against arbitrary actions by individuals in positions of authority. The Faculty Association managed to preserve the principles that they wanted to protect. However, when I visited Winnipeg earlier this month I learned about Bill 32, which once again threatens tenure and academic freedom as well as university autonomy.

Allowing the government through a minister and other political appointees to impose terms and conditions on program changes will result in just such losses of university autonomy, academic freedom and tenure. I have the impression that the government of Manitoba is trying to impose a new barbarism on the citizens of Manitoba by destroying much of their cultural, educational and technical amenities.

Let me explain. As compared to the United States, Canada is much less willing to support basic research on the grounds that what the country needs are practical applications of science that will demonstrably benefit the economy. World class research activities at Chalk River are presently being dismantled. In the United States, the government relies heavily on The National Academy of Sciences and its sister academies acting as the U.S. national research council to provide a wide range of scientific and technical advice, whereas the Canadian government has shown no interest in obtaining similar

guidance from The Royal Society of Canada. I cite these examples because of my own familiarity with them, but without a healthy environment for basic research, applied research and technological development will, in its term, become stunted.

For many years, the Japanese have relied heavily upon basic research in the United States and Europe and underfunded it at home. But, they have now realized that this is a mistake and it is being corrected with extensive new funding for basic research. For Canada as a whole, and Manitoba in particular, the lesson is clear. The health of the economy will be enhanced if there is good basic research environment. Knowledge-based enterprises set up shop next to major research universities in order to draw upon the expertise of faculty and to be able to hire the graduates produced there. The major research universities attract the most desirable faculty by providing a secure tenure and academic freedom and by expecting the faculty to engage in basic research in large numbers of areas of knowledge, and they require correspondingly reduced teaching load in order to provide time for that research.

In contrast, small colleges and trade schools have larger teaching loads and generally do not expect the faculty to exhibit research productivity. You cannot provide one set of rules common to the governments of both of these types of institutions. Yet, as I understand it, Bill 32 would attempt to establish a single homogenous system in Manitoba. Wipe out tenure and academic freedom and administer all educational institutions in the same way, and you will indeed achieve the lowest common denominator, especially, when those who are doing the top level administering are political appointees with no requirement that they have any educational expertise.

My mental image of the citizens of Manitoba in these circumstances is of a herd of lemmings headed towards the edge of an educational cliff. I do very much hope that my alma mater, the University of Manitoba, will not be subjected to these disastrous consequences. However, I feel that I must once again warn about the consequences of further assaults on academic freedom and tenure and on the autonomy of its major institutions.

If the economy of Manitoba is to thrive, it must diversify its knowledge-based enterprises. To do that, it

must make its political educational institutions attractive to those potential enterprises. A.G.W. Cameron, October 30, it was prepared, 1996.

Mr. Chairperson: Neil Besner. This is the last call for Neil Besner, Neil Besner is now off the list. John Braun. This is the last call for John Braun; John Braun is now off the list. Karen Zoppa; Karen Zoppa is now off the list. Candice Stearns. Last call for Candice Stearns; she is now off the list. Joseph Donatelli.

* (0940)

Mr. Joseph Donatelli (Private Citizen): Good morning. My name is Joseph Donatelli and I am an associate professor of English at the University of Manitoba. I wanted to come here today to speak to the committee and to speak specifically to Bill 32 not only on my behalf, but on behalf of those of us who have been appointed more recently at the University of Manitoba, who are proud of our appointment and proud of being at this institution, but who see in fact various interventions—let us put it neutrally—in the institution over the past two years. Interventions which our colleagues who have found jobs at other institutions have not in fact had to deal with. I consider Bill 32 to present particular difficulties for the academic community and for those of us who are trying to make a change at the University of Manitoba.

Let me say that I am not here to argue for status quo. My degree is in medieval studies. I have a Ph.D. from the University of Toronto. I trained long and hard to get it. Since coming here, I have taught a variety of courses in the English department not only in my area of specialization but I have trained myself in other areas. Most recently, I have built and am director of the multimedia computer lab of the English department. I have developed software programs that are now being used to teach your first-year students in the English department. I see a time when that use of software can be effectively used to harness, first of all, students' interest in education. That is what we are talking about here, right, education, and to administer programs more effectively and more economically, let us say, which is I think in both of our interests.

I differ from my older colleagues because I know the kind of expertise that it takes to develop and administer

such programs. Somebody has to be at the helm. Someone has to do it and it has to be someone with expertise. It is not as if it is technology over here, or business for that matter over here, and the university over here. I think some of the things that we are doing in the university are of interest to you are on your behalf. We are educating—and that is not just the technology button, though that is a hot button to push in 1996—but as well in training students to think critically, to be competent writers—I speak in my own area of specialization—and in fact, to take forward a certain kind of cultural profile that will allow them to develop into full citizens of this province.

Having said that, let me speak to the bill specifically and to the kinds of interventions that I see as difficulties. First of all, I think you must acknowledge that the University of Manitoba has had and continues to have certain bodies that are appointed to regulate it. The UGC at one level, through budgetary means, has allocated funding to universities. Those of us who are—and I am front line—front line know the effects of those cuts. In fact in the everyday operation of the university, if we came and as relatively young academics we know how hard it is—you should know how hard it is—to get a job these days as an academic, we came ready to give 150 percent. I would say we are giving 200 percent now because of the attenuation of resources which has been dictated through the budget. So there are direct budgetary effects at the university.

There has been as well a recognition, and again as a medievalist, I can point to it historically, there has been a recognition of the autonomy of the university. Medieval kings had a talent for trying to interfere with Oxford and Cambridge, and it would behoove us to remember in 1996 that this act in a sense has the same kind of spirit.

What I would question is whether those of us who have developed through many years and in fact by a professional commitment, because I take my title as doctor very seriously. I am a doctor and entitled to that as much as anyone who operates and is a medical doctor. I think sometimes that distinction is lost. We are highly trained, and therefore there is a level of expertise that goes into the everyday running of the university because we know the kinds of operations that we are performing there.

There are institutions such as the senate. I know my dean—I served on the executive committee for the past two years—is very concerned about the matters that you have raised here. So at various levels of the university, these issues are being debated, are being discussed. In fact, the multimedia lab is a direct effort to find innovative technologies, innovative solutions for doing business differently at the University of Manitoba. Do we need a council, however, on post-secondary education that is appointed by the government and that will ultimately have the power to oversee day-to-day university administration insofar as it can make interventions in programs, in determining the priorities of the institution and specifically in advising and assisting universities and colleges in planning for the development and delivery of academic programs?

It seems to me that unless those people have the same level of expertise that one finds within the university community, we might well ask whether they are qualified in a way that UGC is not presently qualified to administer and intervene in the life of the university so directly. It is clear to us that with publicly funded universities—and I think they are a great boon to Canada—we do in fact have questions to answer when the government asks. There are decisions that are made at the governmental level about funding filtered through the UGC that have a direct effect on the kind of university that you will have to send your children to. The problem with Bill 32 is that it empowers a group of people outside the academic community to make decisions that they are not qualified to make.

I believe in accountability, I believe in change, I believe in an alliance between the university and other sectors of this community. I am not interested in defending what may have been perceived to have been the status quo. I think we have a creative and upbeat future at the university. I would like to think that the University of Manitoba is a place where I will want to send my children, but I do not think Bill 32 promises good things for our university or for our university system. Some of the threats, warnings, admonitions that you have heard will affect the quality of this institution in serious ways, because you would no sooner turn over the day-to-day operation of a hospital to people who are not qualified in medicine than you would I think make the kinds of interventions that you are contemplating by a government-empanelled board in the life of the university. Thank you very much.

Mrs. Shirley Render (St. Vital): Thank you very much for your presentation. Have you seen the Universities Grants Commission as being ineffective or working to the detriment of the university? Has that been a problem?

* (0950)

Mr. Donatelli: I would not say a detriment; I mean, this is not an ideal world. I think if I remember correctly in Toronto when I was a student there, there was always, in a sense, a buffer commission which in fact administers the funds and allocates funds throughout the universities in a given province. The budgetary funding and the levels of budgetary funding have created problems at the university as administered by the UGC. Even though I would not say the UGC is a perfect body, it has constituent-representation which I do not find on the new board.

Mrs. Render: But it has not intervened, in your opinion, in the delivery of programming or that sort of thing? You see it purely as a financial—

Mr. Donatelli: Well, clearly financial decisions are tied ultimately to—they have an effect on programs at the university. The closing of a specific program or the real allocation of sources in a program occurs at a local level.

Once the money is distributed to the university, it is then distributed to the faculties, and faculties have to make very hard decisions about where that money is going to go.

Mrs. Render: I guess my question to you is then, did you know that under the Universities Grants Commission that the Universities Grants Commission did have the authority to establish, and I am quoting from the bill here—not the bill but the legislation—establish, offer, provide or create new services, facilities or programs of steady, or extend or expand any service facility or program in studies?

I get the feeling when I am listening that professors seems to feel that the present body only has a fiscal responsibility, whereas in fact the Universities Grants Commission can do many other things. I have not heard complaints that the Universities Grants Commission has interfered in these academic areas.

Did you realize that the Universities Grants Commission actually had a far greater mandate, which I do not know the university realized?

Mr. Donatelli: I take your point, but the fact is that there is a difference between that kind of broad-based definition of powers and the very specific areas that had been outlined in Bill 32.

Mrs. Render: Thank you very much.

Ms. Diane McGifford (Osborne): Thank you very much, Dr. Donatelli, for your presentation. Thank you for outlining the ways in which universities have directly responded to very specific and some very utilitarian needs of government and business, and thank you for pointing out the need for alliance and your belief in the need for alliance.

I have a couple of questions and one of them was that you began your address this morning by telling us that there had been various interventions in university life, and I wonder if you could give a little bit more information about these interventions.

Mr. Donatelli: You mean to date? The problems to date?

Ms. McGifford: Yes.

Mr. Donatelli: Well, first of all, I do not know how much you know about the day-to-day funding of the universities, presumably quite a bit, but the university runs on—there are certain budgetary allegations and commitments and then there is soft money.

That soft money does a lot in terms of the day-to-day running of the university and the administration of our programs. I can only say that in the faculty of arts that money was under threat until the very, very last minute and had that money in fact not been dispensed, I do not know exactly where it came from, there would have been a dramatic difference in our ability to offer courses, because we are in a position where more and more of our program is offered under soft money and is therefore subject to review every year—every year.

If the English department were only to offer those courses which it actually could offer without any soft

money, we would not be able to meet our commitments to the students that are enrolled there. So let me just say that in terms—I use this as one example—of a long-range planning exercise, I have always argued, for example, that what we should do with that soft money is to hire people on a national scale, because there are a lot of very good people out there who would be delighted to come here as sessional lecturers. If the coffers, however, are only opened in May or June, and it is a rear guard action as to whether we can fund these positions or not, then we cannot make the kinds of decisions that are really going to promote excellence, and that is what I am interested in; I am interested in excellence.

Mr. Chairperson: We are down to 10 seconds.

Ms. McGifford: I wanted to ask you, since you were a young professor, about three questions actually; the number of courses you taught, the number of students in your courses and the number of hours you put in on a weekly basis.

Mr. Chairperson: Is there leave to respond?

Some Honourable Members: Sure.

Mr. Chairperson: Leave granted. That is a question from Ms. McGifford.

Mr. Donatelli: I teach 50 students in this experimental cybersection of first-year English. We have doubled the enrollment over last year when it was offered as a pilot project with 25 students. I would like to publicly express my gratitude for the support of the dean of arts and the president's office for these initiatives. It is hard to come by money. They have funded it, and we have 50 students in there who are actually composing their papers now on worldwide websites as we speak. They are due on the 19th, and will be in the spring using multimedia programs to compose their papers. So it is a matter of combining traditional writing with technology.

In my upper level course, I teach 25 students in an advanced critical theory course, and I am director of the multimedia lab, as well. What was your second? I am sorry.

Ms. McGifford: I also asked the number of hours you work on the average in a week?

Mr. Donatelli: I would say 50 to 60, but I love the work. I love what I do so I do not make any apologies for that. So nobody owes me anything.

Mr. Chairperson: Thank you very much, professor.

Mr. Donatelli: Is that it?

Mr. Chairperson: Yes.

Mr. Donatelli: Thank you.

Mr. Chairperson: Jesse Vorst. Jesse Vorst goes to the bottom of the list. Professor Earle Rosenbloom. Professor Rosenbloom goes to the bottom of the list.

I got a note about Roland Penner. He is No. 11 on the list. He wants his name not to be dropped off the list. He is teaching a class until 11, 11:30 and will be here. He is the former Minister of Education and has something to say. Do we have agreement that he can be put on the bottom of the list but kept on the list at the moment, and then when he arrives he can speak? Is that agreed?

Mr. Pallister: Mr. Chairman, I could be wrong but I believe the way you stated, he could remain on the list in perpetuity even if he never showed up.

Mr. Chairperson: Definitely not. No, no. He has had one call now. This would be his second call, so he is still alive at the bottom of the list and if he does not arrive at 11, 11:30, then we will have to relook at it.

Mr. Pallister: Sorry, just for clarification. If we happen to go through this list prior to that time we would read his name at the appropriate time and not delay the work of the committee specifically for that individual person to arrive at his appointed time? Is that correct? Is that understood?

An Honourable Member: That is correct. Okay, let us keep it going.

Mr. Chairperson: Grant Woods. Grant Woods goes to the bottom of the list. Sue Bruning. Sue Bruning, not here, goes to the bottom of the list. John Loxley. John Loxley, not here, goes to the bottom of the list. Richard Orlandini. Sir, you may begin your presentation.

Mr. Richard Orlandini (Private Citizen): I do not have a written presentation to offer you. I want to thank the committee for the opportunity of coming before you and expressing my point of view. It is not my intention here to mince words with this committee. I have rather strong feelings about what you are trying to do.

I object to this government's actions in trying to meddle in the affairs of the university, and I base that objection on two premises. The first premise is a simple one. I do not think this government is intellectually capable of working with the administration of the university to maintain its drive to excellence. That is my first premise. My second premise is that your government is ideologically incapable of maintaining any level of objectivity in meddling in the affairs of the university.

I want to deal with my first premise and, to do that, I will deal with your august leader, the Premier of the province, who showed his level of intellectual expertise during the faculty strike at the University of Manitoba when he received a letter from the chairman of the astronomy department at the University of Harvard. That letter from the chair of the astronomy department simply stated that what this government was doing in regard to the faculty strike was jeopardizing the good will and the accreditation of the university. This intellectual giant of yours, your Leader, Gary Filmon, responded to that letter in a rather patronizing way, going to the president of Harvard University rather than addressing the professor directly, and he did so and named the chair not of the astronomy department but of the astrology department.

Now, perhaps a Gary Filmon-led government working in the university would indeed get rid of the astronomy department and replace it with an astrology department, but even the board of governors in their own muddling fashion would not stoop to that.

* (1000)

This is the same Gary Filmon, this intellectual giant, who attended the University of Manitoba and did a master's thesis as an engineer that put forward a rather remarkable hypothesis. What he wanted to do is, and as Jimmy Breslin would say, you can look it up. It is in the record. What he wanted to do was use small-scale thermonuclear devices to create irrigation canals to irrigate western Canada. This intellectual gigantism by

any rational human being would be considered a prelude to ecological catastrophism. The less charitable would have just called the idea stupid. But this is the man that this government finds is the intellectual light that is going to allow them to meddle in the affairs of the university.

Enough of the Premier (Mr. Filmon). Let us turn to the cabinet, a cabinet whose main qualification, I suppose, of intellectual excellence is during the Question Period to adroitly avoid answering any of the questions that are put to them. It is a skill that I am sure is a very worthwhile one for cabinet and for politics, but it is a skill that has no bearing and no use whatsoever in terms of the administration of a university.

Finally, we turn to the backbenchers of the government. Their idea of participating in intellectual debate is to thump their desks like a colony of trained seals during Question Period, an evolutionary advancement, I suppose, over some of what others are capable of but still not the kinds of qualifications that really leads one or the public to have any faith in them sitting as members of a committee that would give guidance to the university. The fact that you are an elected government in no way qualifies you to take on the task of the administration of universities. I have a vision of a caucus full of Forrest Gumps thumbing the university down to the level of the Legislative Assembly.

Now your ideological incapability of remaining objective, secular bodies in the past have meddled in university life. A pope did it. Copernicus paid the price. Galileo was forced to recant with the meddling of a secular body. Other governments have tried to enforce their economic parameters on universities. You are in very interesting company—1923, Benito Mussolini did it in Italy; 1936, Adolf Hitler did it in Nazi Germany; 1972, Augusto Pinochet tried to do it in Chile. Perhaps Winston Churchill was right when he said that we can judge men by the company they keep. Perhaps government should be judged by the same standards.

The idea that a government that appears to have as its modus operandi bean counting should be placed in any way or any capacity responsible for what happens at the university I quite frankly find appalling. History has shown what happens when governments do that. University administration needs good historians. They do not need bean counters. You people are the Bob

Cratchits of the world. You have all of his characteristics except his humanity.

I would ask you to reconsider the thrust of your government to do what very few other governments in North America ever attempted to do and that is to meddle in the academic freedoms and affairs of the university bodies. There are great universities in Canada and the United States that have managed very well to provide both the economic base of what a university is to do and the intellectual base. If the bean counters and the bean counters alone are the ones who are going to determine what is the general thrust of the university, then the idea of a student going to university for the love of knowledge and not simply to go there to see how much more money they can make will be something of the distant past.

I think you owe it to future generations of university students to maintain the excellence that we have in the universities here in Manitoba. You can best do that, you can do us all a favour by keeping your hands off of the administration. Thank you.

Mr. Pallister: Thank you, sir. Your presentation was mildly entertaining. In the process of defending academic freedom, sir, you have insulted the ideas of an individual pursuing a master's thesis.

Mr. Orlandini: And how did I do that?

Mr. Pallister: Just let me finish, sir. In the process of defending academic freedom, you have said that the ideas of a researcher or someone furthering their education are stupid. You can consider the adequacy of your terminology later, if you like. You asked for objectivity and you defend one profession while attacking another, sir. Ask yourself in later reflection if that is a justifiable argument or approach. You make a blanket condemnation of people who, if nothing else, if talentless, at least are accountable to someone, sir. You demonstrate your lack of accountability to even yourself in your arguments. You ask for honesty and objectivity and you make a purely partisan, truly superficial presentation which deals not to one iota with the specifics of the legislation but deals in simply general terms. I invite you to respond.

Mr. Orlandini: I did not say that I considered this proposal stupid. I said that many people would.

Ms. Friesen: One of the principles of the bill is to join together colleges and universities for the purpose of looking at a post-secondary sector and for educational planning, and I wondered if you had any thoughts about that. Is that something you would support or is that something that you think is not appropriate in Manitoba or anywhere else?

Mr. Chairperson: Professor Orlandini.

Mr. Orlandini: I am sorry. You addressed me as—

Mr. Chairperson: Your name.

Mr. Orlandini: Oh, thank you.

Mr. Chairperson: You are not a professor, sir?

Mr. Orlandini: No, sir, I am not.

Mr. Chairperson: Okay. Mr. Orlandini.

* (1010)

Mr. Orlandini: I am not a politician either.

The idea of melding the two in some circumstances has some merit. I think it is the sort of thing that the administrations of the academic body should sit down and look at. I think they are better equipped to do it than any government committee.

Ms. Friesen: The new council has been given what appeared to be rather wide-ranging powers of review, and I wondered if you had any concerns there. It is in the last section of the act under General Provisions. Minister's power to review the council's mandate is the heading, but, in fact, the actual wording deals with the power to review or appoint a person to review any matter concerning the council or this act. It has been brought to our attention by one or two presenters of the implications this has for privacy issues of personal and personnel records, and I wondered if you had given any thought to that.

Mr. Orlandini: I think that the government has no business in the bedrooms of the country and it has no business in the classrooms either. In taking on that kind of broad and sweeping responsibility, I think you would be going a long way in jeopardizing academic freedoms.

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

Ed Bruning. Ed Bruning, Ed Bruning will go to the bottom of the list. I called him before. He is now off the list. Professor Anne McGillivray. No response. Professor Anne McGillivray is off the list. Delores Keahey. Delores Keahey, last call, off the list. Jacquie Vorauer. Jacquie Vorauer, she is off the list. Linda Murray. Linda Murray, not being here, is off the list. Lionel Steiman. Lionel Steiman, not here, goes to the bottom of the list. Dr. Ram Diwari. Dr. Ram Diwari, not here, goes to the bottom of the list. Jesse Vorst, last call for Jesse Vorst. Jesse Vorst, not being here, is off the list. Professor Earl Rosenbloom. Professor Earl Rosenbloom, not here, is off the list. Roland Penner. Roland Penner, not being here, is off the list. Grant Woods. Grant Woods, last call, not being here, is off the list. Sue Bruning. Sue Bruning, not being here, is off the list. John Loxley. John Loxley is now off the list. Lionel Steiman. Lionel Steiman, not being here, is off the list. Dr. Ram Diwari, not here, is off the list.

That then completes the presenters. Is it agreed then that presentations are closed with respect to Bill 32? [agreed]

Mr. Marcel Laurendeau (St. Norbert): Before we go into clause by clause, might we recess for 15 or 20 minutes, or so? Do you want half an hour? Do you want five?

An Honourable Member: Why do you want to recess?

Mr. Chairperson: Five-minute recess.

Hon. Harry Enns (Minister of Agriculture): Mr. Chair, I just want to place it on the record, the only occasion that I have standing in for the minister, I want to inform the committee that I feel eminently qualified to deal with the many complex amendments that will be brought to this bill, but if some committee members wish a little break, I have no objection.

Mr. Chairperson: Well, I think we have had a request for a break for five minutes by two sides, a five-minute break, back at 10:20? [interjection] She is here by 10:30, 10:30, okay.

The House recessed at 10:15 a.m.

After Recess

The committee resumed at 10:36 a.m.

Mr. Chairperson: Is it the wish of the committee then to proceed with Bill 48 first, then Bill 72 and then Bill 32?

Ms. Friesen: I just wanted to check with our House leader again because I had raised this with the minister yesterday, and it was my understanding that there was no agreement to proceed with clause by clause and I wondered if the minister had checked with her House leader on that. Given that we are finished earlier, I think, than we had anticipated with the hearings, we would be prepared to proceed with clause by clause on Bill 72 and —well, I cannot speak on 48, but I believe there is one other bill. But on Bill 32, we understand that there is a number of new additional amendments that the minister is bringing, and we would like to adhere to the agreement for that.

Mr. Chairperson: You want to defer the discussion then on Bill 32 because that would be the one to go last anyway, and then proceed with 48 and 72?

An Honourable Member: Excuse me, what do you mean by defer?

Mr. Chairperson: We will just deal with that after we have completed Bills 48 and 72. Then it is agreed we will begin with Bill 48.

Bill 48—The University of Manitoba Amendment Act

Mr. Chairperson: Did the minister responsible have an opening statement to make with respect to Bill 48?

Hon. Linda McIntosh (Minister of Education and Training): I think the remarks made in the House when the bill was at second reading stage would probably suffice. Our desire here is to increase student representation and to enable universities to include clauses on age-related clauses in their collective agreement, should they so desire, concerning retirement particularly.

Ms. MaryAnn Mihychuk (St. James): Mr. Chairman, I would just like to make a brief statement on the bill and put our position forward for the record. We are supportive of the increased representation of students; however, we are very concerned and object to the loss of faculty representation with the structure of the board of governors. So, therefore, we are going to be opposing the bill.

In addition, on the second portion of it, the mandatory retirement, we would suggest that the bill actually is discriminatory focusing on one institution, that if the government chose to pursue with this type of legislation that they do it through the Human Rights Code and make it universal and not target one institution.

We will not be presenting amendments. I just wanted to present our concerns.

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

Clause 1—pass; Clause 2—pass; Clause 3—pass; Clause 4—pass; Clause 5—pass; Clause 6—pass; Preamble—pass; Title—pass. Bill be reported.

An Honourable Member: Procedurally, if we wanted to record our opposition, do we vote by division?

An Honourable Member: That is right. Just say on division.

An Honourable Member: Okay.

Mr. Chairperson: So you wanted to record opposition on division.

An Honourable Member: On division—opposition.

Bill 72—The Public Schools Amendment Act (2)

Mr. Chairperson: Bill 72, The Public Schools Amendment Act (2). Did the minister responsible have an opening statement?

Hon. Linda McIntosh (Minister of Education and Training): Thank you very much—

Ms. Diane McGifford (Osborne): Pardon me. Could we just wait for Ms. Friesen who absented herself because of a conflict of interest?

* (1040)

Mr. Chairperson: Certainly. Recess briefly until Ms. Friesen comes back.

Honourable minister, did you have an opening statement?

Mrs. McIntosh: No, Mr. Chairman, other than to indicate a brief recounting of the history here in that this bill was brought to the House at the request of the Manitoba Association of School Trustees who in two or three successive years had passed amendments at convention indicating their concern that binding arbitration had altered so much over time in terms of the way in which it was used and the type and scope of items bargained that it required amending—that like in a broken marriage, they were having difficulty surviving with the spouse.

In order to ensure that the original protection and fairness for teachers that was inherent in 1956 was enshrined, we have included articles in the bill that are at the request of the Manitoba Association of School Trustees to ensure fairness. We believe the bill now has corrected the imbalance that has occurred in binding arbitration over time and that this will work to the best interests of teachers, trustees, ratepayers and, most specifically, the children of Manitoba.

Mr. Chairperson: Does the critic for the official opposition have an opening statement?

Ms. Jean Friesen (Wolseley): Mr. Chairman, I think perhaps as everyone is aware, as we have said in the House, we are opposed to this bill. We did raise in the House in a particular motion the prospect of having a six-month hoist. We believe that the government does not have the consent of the government in this case. We heard from formal bodies of teachers across the province, as well as many, many individual teachers of their opposition to this bill. It seems to me that good government is based upon the consent of the government, and I do not believe that it is there.

We believe that in six months and with genuine goodwill on both sides, which I think is there, it might

have been possible to have reached an agreement, and we think that given the seriousness of the issues that this bill addresses that that was worth trying. That was defeated and the minister has brought in some amendments. I have not seen the amendments yet, but it is possible that they do address some issues, but my sense is that the amendments do not address the fundamental issue which is the wedge, I think, that has been placed between teachers and trustees by the government. These are the two groups of people who must face each other across the bargaining table. These are the two who have to consent to the framework which is being proposed.

So unless the minister's amendments address that issue, then I think we will still be opposed to this. I believe that it is part of a much larger project on the part of the government to reduce public sector wages. I believe that that is also part of the way in which governments, particularly Conservative governments, are dealing with the globalization and, in particular, with the Free Trade Agreement. The narrowing and the decreasing of public sector wages that we have seen in Manitoba over the last five or six years I think is to be accelerated by particularly the attack on teachers' wages.

The minister says that it comes from a context of MAST resolutions at their conventions, but it also must be recognized that it comes in the context of what clearly teachers perceive as the undermining of their profession, and I have referred to this in Bill 33 which has already gone past this House, I believe undermined elements of teacher professionalism. The teachers and citizens and some parent groups were very upset by the proposals in enhancing accountability. I do not believe that the issues that were raised there have been addressed by this bill. So it is the context of an undermining of confidence in public education which many people see being carried out not only by a broader public agenda but also by governments. Teachers are looking for the support of their government. They are looking for support of public education and they are seeing it in many areas being undermined and diminished, in part, by their own governments.

So that is the context in which this bill is being presented, and I believe that that is important to recognize and that is why we proposed six months. The minister has said many times, and I have no reason to disbelieve her, that she values the work of teachers, but

I think she needs another six months to get that message across at least, and that is why we proposed a hoist on this bill and I still believe that that would best serve the interests of the province.

Mr. Chairperson: Thank you for that. The bill will be considered clause by clause. During the consideration of the bill, the title and preamble are postponed until all other clauses have been considered in their proper order by the committee.

Clause 1—pass; Clause 2—pass; Clause 3—pass. I understand there is a proposed amendment respecting Clause 4.

Mrs. McIntosh: Mr. Chairman. I move

THAT section 4 of the Bill be amended by adding the following after the proposed subsection 110(1):

Collective bargaining by mutual agreement

110(1.1) Nothing in subsection (1) prevents the parties to a collective agreement, by mutual agreement, from beginning collective bargaining before April in the year the agreement expires, in which case a notice to begin collective bargaining is conclusively deemed, for all purposes of this Part, to have been given under this section on April 1 in that year.

[French version]

Il est proposé que l'article 4 du projet de loi soit amendé par adjonction, après le paragraphe 110(1), de ce qui suit:

Entente — négociations collectives

110(1.1) *Le paragraphe (1) n'a pas pour but d'empêcher les parties à une convention collective d'entamer les négociations, d'un commun accord, avant le 1er avril de l'année au cours de laquelle la convention expire. Dans un tel cas, l'avis de début des négociations collectives est, pour l'application de la présente partie, péremptoirement réputé donné le 1er avril de l'année en conformité avec le présent article.*

Motion presented.

Mr. Chairperson: Honourable Minister, speaking to the amendment

Mrs. McIntosh: Very briefly, Mr. Chairman. The Manitoba Teachers' Society had indicated some concern with this clause in that they often wanted to start earlier than April. We had put in the April for the express purpose of teachers being able to acquire access to full budgetary information and trustees being able to present full budgetary information which, of course, does not occur until close to the end of March.

Subsequently, trustees also indicated that they too had member boards that would like to begin earlier than April. So we have on both sides, some wishing to begin before April and some not unhappy with this agreement with this particular clause. What we have done is we have tried to build flexibility in so that if indeed there is the mutual agreement to begin before April that both teachers and trustees have indicated occurs in some divisions, that they could by mutual agreement be free to do that. The fall-back position then would be the April date.

* (1050)

Mr. Chairperson: Any further discussion on the amendment? No discussion on the amendment.

Amendment—pass; Clause 4 as amended—pass; Clause 5—pass; Clause 6(1)—pass; Clause 6(2)—pass; Clause 7—pass; Clause 8—pass. Clause 9.

Ms. Friesen: Thank you, Mr. Chairman. It has been raised with me, and perhaps this is the time for the minister to clarify it. It is possible by agreement under this bill for the parties to agree to a wide variety of methods of achieving a settlement. I wanted to ask particularly about final offer selection, because it is governed by other legislation as well. Is final offer selection open to the parties in these disputes or in these negotiations?

Mrs. McIntosh: Mr. Chairman, there is nothing to preclude the two parties from getting together and selecting an individual to do a final offer selection for them, if that is what they choose to do. But in the event of a dispute, under the law, these would be the two, the conciliation officer, mediator-arbitrator, would be the method here if there was no mutual agreement. I do not know if that answers your question or not.

Ms. Friesen: Thank you. I think the general direction does. I wonder if we might need to be more precise,

although I know that explanations and intent are not normally part of the court's considerations. Maybe I can repeat back to the minister what I think she intends, and she can tell me whether that is right. Under this bill, under this law, both parties will be able to agree to final offer selection, but in the event that there is a disagreement after that final offer selection, if one party for some reason then breaks the agreement and believes that the final offer is not appropriate, then the rest of this bill comes into effect and that conciliation, mediation, arbitration is the route which must then be followed.

Mrs. McIntosh: That is not quite accurate in that if both parties agree, and they make a formal agreement that they are going to go with final offer selection and they select a person to do this for them, then they are stuck with it, more or less. If they do not agree, if only one party wants the FOS and the other does not, like if they do not agree, then the clauses that are in the bill are the ones that they would have to go to.

Ms. Friesen: So, in effect, what had become the normal procedures for final offer selection are available to people by mutual consent under this bill. That is not precluded.

Mrs. McIntosh: By mutual consent they can agree to do this.

Mr. Chairperson: Clause 9—pass; Clause 10—pass; Clause 11—pass; Clause 12—pass; Clause 13—pass; Clause 14—pass. Ms. Friesen respecting Clause 15.

Ms. Friesen: This was raised by one of the presenters, the difference in the oath of office that the minister is presenting here. There is a difference between this oath of office and the one that was formerly used, and one presenter raised it and suggested that there was a difference in intent, and I wondered if the minister had prepared a response to that or whether she had some advice on that.

Mrs. McIntosh: This alteration of wording was on the recommendation of legal counsel to update it. There is no intention to use the oath in any different way or for any different purpose than before, but rather just to modernize the wording a bit. I realise it was raised by someone here questioning why, but it was not a source of concern, or at least it was not mentioned by either of the two official bodies as a concern, nor to my own purposes here did we spend a lot of time worrying about what they call the

updating of the language. Whenever they open an act, they try to update other language as they go through it, and there is one change, of course, in referring to arbitrator rather than board of arbitration.

Mr. Chairperson: Clause 15—pass; Clause 16(1)—pass; Clause 16(2)—pass; Clause 16(3)—pass; Clause 16(4)—pass; Clause 17—pass. I believe there is an amendment respecting Clause 18.

Mrs. McIntosh: I move,

THAT proposed subsections 129(3) and (4), as set out in section 18 of the Bill, be struck and the following substituted:

Other factors

129(3) The arbitrator shall, in respect of matters that might reasonably be expected to have a financial effect on the school division or school district, consider the following factors:

- (a) the school divisions's or school district's ability to pay, as determined by its current revenues, including the funding received from the government and the Government of Canada, and its taxation revenue;
- (b) the nature and type of services that the school division or school district may have to reduce in light of the decision or award, if the current revenues of the school division or school district are not increased;
- (c) the current economic situation in Manitoba and in the school division or school district;
- (d) a comparison between the terms and conditions of employment of the teachers in the school division or school district and those of comparable employees in the public and private sectors, with primary consideration given to comparable employees in the school division or school district or in the region of the province in which the school division or school district is located;
- (e) the need of the school division or school district to recruit and retain qualified teachers.

[French version]

Il est proposé que les paragraphes 129(3) et (4), énoncés à l'article 18 du projet de loi, soient remplacés par ce qui suit:

Facteurs

129(3) *Dans le cas des questions qui pourraient vraisemblablement avoir une incidence financière sur la division ou le district scolaire, l'arbitre tient compte des facteurs suivants:*

- a) la capacité de la division ou du district scolaire de payer, compte tenu de ses recettes actuelles, y compris le financement obtenu du gouvernement ou du gouvernement du Canada, ainsi que de ses recettes fiscales;*
- b) la nature et le type des services que la division ou le district scolaire peut avoir à réduire par suite de la décision ou de la sentence arbitrale si ses recettes actuelles n'augmentent pas;*
- c) la climat économique actuel au Manitoba et dans la division ou le district scolaire;*
- d) une analyse comparative des conditions d'emploi des enseignants de la division ou du district scolaire et de celles des employés exerçant des fonctions similaires dans les secteurs public et privé, dans le cadre de laquelle analyse il est donné plus de poids à la situation des employés qui exercent des fonctions similaires dans la division ou le district scolaire ou dans la région de la province où est situé la division ou le district scolaire;*
- e) la nécessité dans laquelle la division ou le district scolaire se trouve de recruter des enseignants qualifiés et de retenir leurs services.*

Motion presented.

Mr. Chairperson: Discussion on the amendment.

Mr. Marcel Laurendeau (St. Norbert): Not on the amendment. If I could just ask for leave of the committee at this time that we might understand that all amendments are being moved in both official languages, any amendments that are moved today.

Mr. Chairperson: So agreed. Discussion on the amendment.

* (1100)

Mrs. McIntosh: Mr. Chairman, as you know, this clause is the heart of the bill, so to speak, in that it was the main concern expressed by trustees in terms of the precedents that had been established over time, whereby at some point in the past, a precedent on how to deal with the school division's ability to pay was given a ruling and then that ruling was followed regardless of local circumstances.

This is the result of both teachers' and trustees' and, as well, taxpayers' desire to have local bargaining instead of provincial bargaining and, in the public hearings, it was stressed repeatedly by all parties, they wanted local bargaining not provincial bargaining. Local bargaining then does require this type of indicator as well as provincial bargaining might in a different context.

This clause was originally drafted with the word "primarily", a separate clause initially indicating that the arbitrator's decision would be based primarily on revenues, and then the teachers were concerned and asked to have other factors considered. A subsequent clause called "other factors" was developed.

The trustees conducted a series of regional meetings during which, in examining this particular issue, came to the conclusion that, albeit for different reasons, they preferred the wording that the Manitoba Teachers' Society had suggested.

The Manitoba Teachers' Society does not wish an ability-to-pay clause. They would prefer not to see this clause in, but they have indicated that if it has to be in, then this wording was preferable to the previous wording.

Trustees came to the same conclusion, as I say, for different reasons, feeling that the word "primarily" would in boom years advantage the teachers. I had been trying to say that to the teachers and they did not agree with the argument.

So as a result we have now wording that is the suggested wording for such a clause from both parties, which pleases us. We understand the teachers still do not

wish the clause. We know the wording now is acceptable to both parties and, therefore, we are pleased to present this wording in an attempt to satisfy more closely the expectations of both teachers and trustees.

Ms. Friesen: Mr. Chairman, just a brief note. The minister is right to say that this is the heart of the bill and that she has removed one word, "primarily." In my view that does not address or alter in any way the intent of the clause. The intent of the clause is, of course, to introduce the concept of government revenue, taxation willingness, and local incomes as a means of determining teachers' salaries. This is a shift in Manitoba, and it is one again which I think is part of the low-wage strategy of the government. It is one which I think will run into difficulties. Section C, for example, the current economic situation in Manitoba and in the school division or school district is, I think, quite imprecise. The government has used a number of measures of economic situation depending upon whether it is writing a letter to The Globe and Mail or preparing a paragraph for enhancing accountability.

So, I think, there are some areas which will lead to difficulties. I think the intent is to reduce teachers' wages. I have made many references as to the teachers who presented to the wide variation of income across the province. One of the, I think, achievements of Manitoba since the Duff Roblin years, and I will certainly say that it began then, is the way in which Manitobans have been able to equalize opportunities across the province, enable school divisions to offer similar kinds of programs, and to hire teachers with similar ranges of experience and training. I think that this moves us away from that to greater inequalities across the province.

Mrs. McIntosh: I do not want to get into a prolonged debate on this because we have gone through, but I think it is important for the record that it be noted that both in legal terms and in expectation terms this is not a minor adjustment. The legal counsel and indeed the Teachers' Society and the many hundreds of teachers that have contacted me over the last few months have indicated that this was the single most major concern, and that the word "primarily" was central to the cause of their concern. Legal counsel advises it is a major shift in terms of the effect of the clause. In the original draft, all other factors were subservient to the revenues of the division. Very clearly and legally so that the arbitrator would examine in

light of revenues and the other factors would all be compared against the decision on the basis of revenues. With the word "primarily" gone and all factors listed in one list with no one having primacy over the other, a very significant change has occurred.

The member should know that the last clause in terms of the need to retain and recruit qualified teachers is very, very much in the teachers' favour in this new wording, and that the current economic situation in Manitoba was one very strongly desired by teachers who felt then that the ability to pay, while they still wanted local bargaining, would also have to be considered in the context of a year in which Manitoba might be having a boom economy and a little local district, for some reason, not benefiting in that.

So the clause is substantially changed in a significant way. Legal counsel advises it is significant, and it is the one thing I have had many teachers tell me over the months, including senior people in the MTS, that if the word "primarily" could go out of this clause that they would then not have the degree of trouble with it that they were before.

Mr. Chairperson: Amendment—pass.

Shall Clause 18 as amended pass?

An Honourable Member: No.

An Honourable Member: On division.

Mr. Chairperson: Clause 18 as amended is accordingly passed on division. Clause 19—pass; Clause 20—pass; Clause 21—pass; Clause 22.

Hon. Brian Pallister (Minister of Government Services): Many in Manitoba society view teachers, and rightly so, as defenders of public education, and Manitobans place implicit trust in teachers to defend the educational processes and institutions of this province and to enhance them. I am one of those.

With all due respect to our school boards and the tremendous challenges they face and to the parent councils and the vital and important role they play, the teacher is still the front-line person whom we look to in our society to advance public education's cause. These clauses acknowledge that role. They show respect where

respect should be shown to educators in this province. They acknowledge the rights that teachers have to be treated fairly in all respects, including those areas which are not arbitrable. By so doing, they acknowledge the ability that teachers have to influence the system in a positive way through a grievance process if absolutely necessary but hopefully without such a process being necessary.

Given the pre-eminent influence of teachers on our children, on Manitoba's children, on my own children, and their historical role and actual role in today's society as the defenders of public education and the defenders of our families in that regard, I view this as appropriate, right, and it is very important that this be in our bill today.

* (1110)

Mr. Chairperson: Clause 22—pass; Clause 23—pass; Clause 24—pass; Clause 25—pass; Clause 26—pass; Clause 27—pass; Clause 28—pass; Clause 29—pass; Clause 30—pass; Clause 31—pass.

There is an amendment, I think, with respect to the next clause, Clause 32(1).

Mrs. McIntosh: I move

THAT Section 32 of the bill be amended

(a) in subsection (1), by striking out "section 4" and substituting "sections 4 and 22"; and

(b) in subsection (2), by striking out "Section 4 comes" and substituting "Sections 4 and 22 come".

[French version]

Il est proposé que l'article 32 du projet de loi soit amendé:

a) dans le paragraphe (1), par substitution, à "de l'article 4", de "des articles 4 et 22".

b) dans le paragraphe (2), par substitution, à "L'article 4 entre", de "Les articles 4 et 22 entrent".

Motion presented.

Ms. Friesen: This is the first time that I have seen this amendment. Would the minister offer some explanation?

Mrs. McIntosh: This amendment is being made at the request of the Manitoba Teachers' Society to ensure that the fairness provisions they had requested come into effect at the same time, January 1, that the other does. It was intended to come in, and this just clarifies that it will to give them that comfort of assurance.

Ms. Friesen: Mr. Chairman, just for clarification then, there is no portion of this bill then that is being withheld from proclamation.

Mrs. McIntosh: I just was doing a double check on clauses that might or may not be proclaimed in all of the bills here. This is simply to ensure that they come into proclamation simultaneously, those two particular clauses. Am I summarizing that succinctly? They will come into force at the same time. They did not want one coming in without the other, and this will ensure that they come into force simultaneously.

Ms. Friesen: I appreciate that. Can we take it one step further on the proclamation and then Royal Assent?

Mrs. McIntosh: All clauses will come into effect in this bill retroactively except for these two, which will come into effect on January 1. I do not know if that clarifies your—it does? Okay, thank you.

Ms. Friesen: It is just a comment on the amendment just to express my concerns about retroactive legislation. It is something which always puts me in mind of the War Measures Act, which I actually saw passed in the House and has left an indelible stamp on me. Retroactive legislation is not the way for any government to go. I know many governments have done it, but just a personal comment on this bill.

Mrs. McIntosh: I just want to indicate that we are talking a matter of weeks, we are just going back a couple of weeks and that the whole field has been aware of that so that any activities that have been undertaken have been undertaken knowing that this was to be the date. It is as close as possible to the start of the school year as we could get. And it was not unknown.

Mr. Chairperson: Amendment—pass; Clause 32(1) as amended—pass; Clause 32(2)—pass; Clause 33—pass. Clause 34—pass.

Mrs. McIntosh: I move, and I am on the understanding again that this, like all the others in these amendments, is in both official languages

THAT Legislative Counsel be authorized to change all section numbers and internal references necessary to carry out the amendments adopted by this committee.

[French version]

Is est proposé que le conseiller législatif soit autorisé à modifier les numéros d'article et les renvois internes de façon à donner effet aux amendements adoptés par le Comité.

Motion agreed to.

Mr. Chairperson: Preamble—pass; Title—pass. Bill as amended be reported.

Next, consideration of Bill 32.

Mr. Steve Ashton (Thompson): I would ask that we not proceed with the clause by clause. The intent was not to deal with clause by clause, actually, with any of the bills today. The discussions focused on ensuring time for public presentation. We had no difficulty with the previous two bills, but I would suggest that we come back on this clause by clause, and I can indicate that we will be more than willing to accommodate, in terms of scheduling, possibly even Monday afternoon when the House is sitting, by leave, to be able to deal with it. So the intent of the scheduling of these committees was actually for public presentation, and while we had no objections on the previous two, bills we would suggest that the intent of the discussions that I had with the acting House leader be followed through and that we not proceed clause by clause. I am not trying to be difficult. It is a fairly detailed bill, and I know our critic has amendments, the minister has amendments, and it is fairly standard practice on many bills to separate the public hearing process from clause by clause.

So I would suggest that we not proceed with clause by clause. In fact I can publicly offer at this committee that we would be willing to sit Monday afternoon, by leave, to deal with it.

* (1120)

Mrs. McIntosh: Sorry, Mr. Chairman. I guess maybe government House leaders get together without the knowledge of the committee members and make deals, but my understanding was that we would hear the presentations and when the presentations were done we would do clause by clause. We were not expecting to get through all of the presentations today necessarily, but we had arranged to meet again tomorrow so that we could go right through. So we had struck three dates, and the reason we had struck three dates, my understanding, and I recall the discussion that went here, at least with the people at this table, was that we set three dates so that we would have time to hear all the presenters and do the clause by clause. Otherwise we would have only scheduled two. So I am quite surprised, actually, by what you have said. We have the amendments ready, the field is aware of the amendments. It is not a surprise. Even the committee members are aware of the amendments because I have indicated the intent of them to them. So we should all be ready.

I do not know if the opposition has amendments they have not shared with us, but we can see them cold with no problem. We have indicated what our amendments intend to be to everybody, so we are ready and this is a change I am not expecting. Maybe others here have some other knowledge of something I missed along the way. The government House leader (Mr. Ernst) has not talked to me about this. Maybe he does not have to. I do not know.

Ms. Friesen: Thank you, Mr. Chairman. I did put this on the record at the beginning of yesterday's presentations in order that the agreement that I understood had been made could be verified by the government side, and it seems that that has not taken place. I am not sure where we go from here. It was on the record.

Mrs. McIntosh: No, it was not.

Ms. Friesen: Well, what I put on the record was that we had agreed not to go—that the government House leaders had agreed not to go clause by clause. The minister at that time expressed surprise, and I assumed that that would be verified. It has not been. I find that a bit disappointing.

We did suggest at the beginning—I mentioned it again at the beginning of today's hearings that that was my

understanding of the agreement but that since we had finished the presentations that we would be prepared to proceed with Bill 48 and with Bill 72. So this is the third time it has been raised. If the government does not understand that that agreement has been reached, I think maybe that is something for the House leaders to discuss.

Mr. Chairperson: Just a clarification, that reference to putting it on the record, that was yesterday you are talking about, and with respect to yesterday I think that was certainly my understanding and probably the understanding of the committee. But you are raising it again today, so you certainly have raised it, Ms. Friesen.

Ms. Friesen: Yes, I did raise it yesterday. I raised it, I believe, as a matter of general understanding for how we would proceed on these bills. It was also yesterday that the minister indicated that she had sat down with university presidents, I think was the group that she had met with, and that they had drafted more amendments. I asked how these were to be presented to the committee. She said they would be sending them to the presidents for verification that the intent had been met and then they would be being brought to this committee. So we have amendments going back and forth between one group, but there has been a much broader presentation at these hearings that it seems to me that it is appropriate that we have time to look at those.

Mrs. McIntosh: Thank you, Mr. Chairman. I think that this committee has been unusual in the amount of information about proposed amendments that has been given and in as much detail as possible. The university presidents made their requests clear here at committee. We have indicated verbally the way in which we intend to respond to those. We have the amendments here, drafted, now. I have indicated each step along the way that we intend to introduce amendments on accessibility, et cetera. I have said what the intent of the amendments is going to be, which ones, as presenters made suggestions, that we would be inclined to accept. So I would think in this instance the opposition critics would have much more information than they would normally have going into a clause-by-clause discussion.

Hon. Harry Enns (Minister of Agriculture): Mr. Chairman, this committee, perhaps above all other committees, has dedicated a great deal of their time to listen to the large number of presenters on these

important issues. We find ourselves now, though, at 11:25, a fine Friday morning, to be able to proceed with the business at hand, and the business at hand of this committee is to pass through this committee the piece of legislation when due attention has been paid to public presentations. An opportunity has been made both for the opposition and from the general public and from the ministry to reconsider some particular clauses and fine-tune them with amendments.

All that work has been done, and I remind you, Mr. Chairman, that this Friday is somewhat unique as to other Fridays of other years. We as legislators purposely set aside the Friday, we do not convene the Chamber. To do what? To do committee work. It seems to me that, you know, with the opportunity that we have at hand with the staff that is present, with the very generous airing, if you like, of the issues that have been brought to fore with this kind of legislation—I was present last night when some of the proposed amendments that the minister has to provide to bring forward on this bill were being discussed openly with one of the main concerned parties, namely the president of the University of Manitoba, who graced our committee room last night with her presentations.

So the individuals, institutions most directly impacted and involved in the legislation, who are most directly involved about potential amendments are, in the main, aware of what the minister is proposing. I would really think that we ought to demonstrate some efficiency ourselves in the running of government and utilize the time that we have and move this bill through committee. I would strongly recommend that we do that.

Mr. Ashton: Mr. Chairperson, I really do not understand what the problem is. As House leader, I have worked with both the government House leader and, in this case, with the acting House leader to try and cooperatively schedule hearings. We were not anticipating dealing with clause by clause at all today. We did it with the two bills we were prepared to deal with. All I am

suggesting is that we schedule a meeting, and I am willing to agree on our side, you know, publicly agree now to do it Monday during the session. That requires leave by the way, but we are willing to give leave to do it—[interjection] To the minister responsible—actually, maybe if we can just adjourn for a couple of minutes.

Mr. Chairperson: Recess for five minutes by agreement. [agreed]

The committee recessed at 11:29 a.m.

After Recess

The committee resumed at 11:38 a.m.

Mr. Laurendeau: Mr. Chairman, I think that we have come to an agreement that this committee has concluded for today and there will not be a necessity to sit tomorrow, and that the House leaders will call us into committee for Monday afternoon by leave of the House.

An Honourable Member: To consider clause by clause.

Mr. Laurendeau: To consider clause by clause of this bill.

Mr. Chairperson: Just so I can understand that clearly, presentations are over for Bill 32? Is that agreed? [agreed]

We are doing clause by clause then, to be called Monday by the House leaders, Monday afternoon next, by leave of the House? Is that agreed? [agreed]

Committee shall rise.

COMMITTEE ROSE AT: 11:38 a.m.