



Second Session - Thirty-Sixth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Law Amendments

Chairperson
Mr. David Newman
Constituency of Riel



MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

Members, Constituencies and Political Affiliation

Name	Constituency	Party
ASHTON, Steve	Thompson	N.D.P.
BARRETT, Becky	Wellington	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave	Kildonan	N.D.P.
CUMMINGS, Glen, Hon.	Ste. Rose	P.C.
DACQUAY, Louise, Hon.	Seine River	P.C.
DERKACH, Leonard, Hon.	Roblin-Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary	Concordia	N.D.P.
DOWNEY, James, Hon.	Arthur-Virden	P.C.
DRIEDGER, Albert, Hon.	Steinbach	P.C.
DYCK, Peter	Pembina	P.C.
ENNS, Harry, Hon.	Lakeside	P.C.
ERNST, Jim, Hon.	Charleswood	P.C.
EVANS, Clif	Interlake	N.D.P.
EVANS, Leonard S.	Brandon East	N.D.P.
FILMON, Gary, Hon.	Tuxedo	P.C.
FINDLAY, Glen, Hon.	Springfield	P.C.
FRIESEN, Jean	Wolseley	N.D.P.
GAUDRY, Neil	St. Boniface	Lib.
GILLESHAMMER, Harold, Hon.	Minnedosa	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KOWALSKI, Gary	The Maples	Lib.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
MACKINTOSH, Gord	St. Johns	N.D.P.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McALPINE, Gerry	Sturgeon Creek	P.C.
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McINTOSH, Linda, Hon.	Assiniboia	P.C.
MIHYCHUK, MaryAnn	St. James	N.D.P.
MITCHELSON, Bonnie, Hon.	River East	P.C.
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PALLISTER, Brian, Hon.	Portage la Prairie	P.C.
PENNER, Jack	Emerson	P.C.
PITURA, Frank	Morris	P.C.
PRAZNIK, Darren, Hon.	Lac du Bonnet	P.C.
RADCLIFFE, Mike	River Heights	P.C.
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REIMER, Jack, Hon.	Niakwa	P.C.
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ROBINSON, Eric	Rupertsland	N.D.P.
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SVEINSON, Ben	La Verendrye	P.C.
TOEWS, Vic, Hon.	Rossmere	P.C.
TWEED, Mervin	Turtle Mountain	P.C.
VODREY, Rosemary, Hon.	Fort Garry	P.C.
WOWCHUK, Rosann	Swan River	N.D.P.

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

Monday, October 21, 1996

TIME – 7 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. David Newman (Riel)

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

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Mrs. McIntosh

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

APPEARING:

Mr. Steve Ashton, MLA for Thompson

WITNESSES:

Mr. William Bruneau, President, Canadian
Association of University Teachers
Mr. Robin Giles, Member of Physics Department,
Brandon University, and Vice-President of the
Faculty Association
Mr. Erik Blaikie, Brandon University Students
Union
Ms. Noreen Barlow, Brandon University Students
Union
Mr. William R. Eichhorst, Chancellor, Church-
Related Colleges of Manitoba
Mr. Lewis Layman, Private Citizen
Mr. C. Dennis Anderson, President and Vice-
Chancellor and Chair of Senate, Brandon University
Mr. Gerard Bashforth, Assiniboine Community
College, Brandon
Ms. Betty Green, Manitoba Association of School
Trustees
Ms. Betty Ann Watts, Manitoba Association of
School Trustees
Mr. Howard Friesen, Garden Valley School Division
No. 26
Mr. Jason Wiebe, University of Manitoba Students'
Union

Mr. Trevor Lines, University of Manitoba Students'
Union

Mr. Edward Lipsett, Manitoba Association for
Rights and Liberties

Mr. Earle Ferguson, President, University of
Manitoba Faculty Association

Ms. Sylvia Jansen, University of Manitoba Faculty
Association

Ms. Marsha Hanen, Chairperson, Council of
Presidents of Universities in Manitoba

Ms. Susan Kushneryk, University of Winnipeg
Students' Association

Ms. Cheryl Herda, Red River Community College
Students' Association

Mr. Jim Clark, Private Citizen

Ms. Claudia Wright, Private Citizen

WRITTEN SUBMISSIONS:

Mr. Edward Lipsett, Manitoba Association for
Rights and Liberties

Mr. Edward Lipsett, Private Citizen

Ms. Marsha Hanen, Chairperson, Council of
Presidents of Universities in Manitoba

Mr. Ed Klassen, President, Manitoba Association of
School Business Officials, Inc.

Mr. W. Reuben Kaufman, President, Association of
Academic Staff, University of Alberta

MATTERS UNDER DISCUSSION:

Bill 12–The Barbers Repeal and Hairdressers
Repeal Act

Bill 32–The Council on Post-Secondary Education
Act

Bill 33–The Education Administration Amendment
Act

Bill 47–The Public Schools Amendment Act

* * *

* (1910)

Mr. Chairperson: Good evening. Will the Standing
Committee on Law Amendments please come to order.
We have before us the following bills for consideration:

Bill 12, The Barbers Repeal and Hairdressers Repeal Act; Bill 32, The Council on Post-Secondary Education Act; Bill 33, The Education Administration Act; and Bill 47, The Public Schools Amendment Act.

Before continuing on with the business before the committee, there are certain matters concerning process to clarify at this point.

First, for the committee's information, three of the four bills before the committee this evening have persons registered to speak to them.

Bill 32, The Council on Post-Secondary Education Act, has 69 persons; Bill 33, The Education Administration Act, has seven people; and Bill 47, The Public Schools Amendment Act, has nine persons.

A list of the presenters should be before all committee members as well as posted at the back of the room.

For the public's information, if there is anyone present this evening who wishes to appear before the committee and is not yet registered, you may register at the back of the room and your name will be added to the list.

In terms of how the committee will proceed with the presentations, I seek the committee's guidance. Which bill did the committee wish to hear public presentations on first?

Ms. Jean Friesen (Wolseley): Mr. Chair, I think there is one bill, Bill 32, where there are a number of presenters who are from out of the province. I wondered if it would be—[interjection] Out of town? I think perhaps some are out of province as well. There is on page 4 of your list. It does say "out of province."

Mr. Chairperson: Ms. Friesen, perhaps I could help on that. With respect to that, what could be done and has been done in the past is out-of-town presenters, including the out-of-province, of course, on all three bills could be heard to save them from coming back, if that is the will of the committee. Mr. Penner?

Ms. Friesen: That would be acceptable.

Mr. Jack Penner (Emerson): I would move, Mr. Chairman, that we hear all the presenters from out of

town first. That is the will of the committee and that we limit the presentations to 15-minute periods with 10 minutes allotted to the presentation and five minutes for questioning.

Mr. Chairperson: Perhaps we could take that in two pieces.

Mr. Penner: Okay, we can do that.

Mr. Chairperson: Can we have agreement on the out-of-town presenters going first? Is that agreed? So agreed.

Ms. Friesen, you had a comment about the second part of limiting the time.

Ms. Friesen: Mr. Chairman, the second part of that has become, of course, a standard introduction to each of these committees, and our response is that a number of these bills very significantly alter some aspects of public education, and in many of these areas there has been little opportunity for public consultation.

In the case of Bill 32, for example, there were no public consultations. There were private consultations of a very short period of time, so we do believe that it is important that people—and I think we can see that there are a large number of people interested in that—have the opportunity to express themselves as fully as they would need to, and that may indeed take longer than 15 minutes. So our preference is certainly to have open discussion of that and not to limit the time.

In the cases of Bills 33 and 47, again there have not been public consultations ahead of those bills. They were last discussed, I believe, by the Roy White committee in the late 1980s. A good deal has changed since then, and, again, I think people have a good deal to say on both of those bills. So we would appreciate it on this side of the committee if each of the presenters was allowed the courtesy of a full hearing without limit.

Mr. Mervin Tweed (Turtle Mountain): In all the committees that I have attended and taken part in, with the number of people that are here tonight and are probably further down the list, if we do put a limit of the 10 and five, it would certainly provide them with an opportunity to know when and where they might speak.

I think it would be considered in fairness to all here with the time limit that has been suggested and has been adhered to throughout most of the committee hearings, as well as a lot of the procedure inside the House, when members are allowed to speak for 10 minutes only. So I would go with the motion from the member for Emerson (Mr. Penner).

Mr. Chairperson: Further discussion on this motion.

Ms. Diane McGifford (Osborne): Mr. Chairman, I think that we, tonight, at the table have to remember that these bills are changing the face of public and university education in this province, and I think we owe presenters the time that they believe they will require in order to make their presentations. I am sure that we can trust presenters to speak carefully and to the point and I think I, for one, would like to believe that this is what presenters will do. It seems to me it is only democratic and judicious to give presenters the time they require, and I would like to remind my colleagues opposite that just because they have chosen not to debate these bills or to ask questions of presenters does not mean that Manitobans do not want to speak. Clearly many Manitobans do want to speak, and I think we should give them the time that they require.

Mr. Penner: I suppose, Mr. Chairman, if the mover speaks to the bill he closes debate on the bill, and I am quite willing to do that. I take some exception to the comments that were made by opposite members of the Legislature. We chose, as legislators, to enact a different procedure in the House, to introduce all the bills in the spring of the year and leave those bills to the public discretion all summer long, which has seldom every been done before. Therefore, I would argue that the public has had a very significant amount of time to review, to debate and discuss and consult with elected members such as myself. I have taken this issue very seriously and have chosen to notify school boards, educators and others through either the media or through public meetings and notices to organizations that I am quite willing to discuss the issues of the bills and the contents therein with them. I think that is our job, whether we are opposition members or government members, and most of us have chosen to do that. So I would argue that we have had a much better consultative process in place and allowed for better discussion and debate of these bills in the public than we have ever had before. So I would make the

argument that we should remain with the 10 minutes and the five-minute period for questioning.

* (1920)

An Honourable Member: Question.

Mr. Chairperson: The question has been called. The motion is that the time limit be 10 minutes for the presentation with five minutes for questions and answers, and I might say, if that is adopted, the procedure would be to give a warning before the 10 minutes are up and a warning before the five minutes are up. What I would do if that is adopted is give a two-minute warning of the 10 minutes being up and one minute of the five minutes being up.

The motion is before you.

Voice Vote

Mr. Chairperson: All in favour of the motion, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: The motion carries.

Mr. Steve Ashton (Thompson): I request a recorded vote, please.

Formal Vote

Mr. Chairperson: A counted vote.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 6, Nays 3.

Mr. Chairperson: The motion carries six to three.

The time limit will be 10 minutes plus five minutes with a two-minute warning which I will do as a matter of courtesy, unless I am going to be interrupting someone in midflight, and a one-minute warning of the five-minute time limit.

One thing that can happen, just by way of guidance. We found that with very, very long evenings in these

types of meetings, we only get through 20 or 22 on this sort of time limit basis sitting into the wee hours of the morning. What members of the audience who are presenting might want to bear in mind is that to the extent you can capsule your presentations where there has been duplication and make reference to your points rather than just repeating them, sometimes that can speed things up. But that is not for me to do, other than by guidance.

Mr. Ashton: Thank you, Mr. Chairperson, for that advice, but I suspect there are some of us that are quite prepared to sit here for the 15 minutes that the government so generously allow presenters. I am wondering too if we can also discuss some arrangements in terms of times because I know certainly in the opposition caucus we are prepared to sit here for other meetings of the committee to allow for full consideration. I can say, as opposition House leader, we have always worked to try and schedule additional hearings. So I am wondering if we can perhaps get some agreements to not sit past too late an hour tonight and I can assure you from our caucus's position that we are more than willing to come back for however long it takes.

Mr. Chairperson: Could I suggest this for consideration of the committee, that perhaps we examine where we are at, at say, eleven o'clock tonight and then take a look at that and make a decision. Then we can do that periodically from that point on. Does that make sense? [agreed]

Another issue which I anticipate, and maybe we could deal with it now, is that it is noted that a number of the presenters are presenting on more than one bill, particularly with respect to 33 and 47. In that case, I would interpret the motion to be that the presenter would then have the double time. Is that the will of the committee?

Some Honourable Members: Yes.

Mr. Chairperson: Okay. Is it the will of the committee then to hear someone that comes forward and speaks to both bills at the same time so that then they would have the maximum of 30 minutes to speak on two? Well, 10 plus the five. I am talking about 10, 20 minutes, 10 minutes for questions. Is that the will of the committee? That is agreed?

Mr. Marcel Laurendeau (St. Norbert): I see there is also one—32, 47 is a duplication. There is nobody on all three bills is there? There is one that is on all three? So that would be a 45-minute presentation.

Mr. Chairperson: That is the maximum that the entitlement is. No one has to use up all the time if they do not need it, but that is the way I interpret the ruling, and that is the guidance I am getting from the committee. That is everyone's understanding? So agreed? [agreed]

The committee has received a written submission to Bill 32 from the Association of Academic Staff, University of Alberta, and a submission to Bill 47 from the Manitoba Association of School Business Officials. The submissions have been distributed to committee members excepting the Chairman. Does the committee wish to have these submissions appear at the back of a Hansard transcript of this committee's meeting? Is that agreed? [agreed]

Another housekeeping matter is, a normal practice of the committee that where a call goes out to a presenter and the presenter is not here, that person then goes to the end of the list, and if called a second time and the person is still not present, the name is then dropped off the list. Are we going to follow that standard practice?

Mr. Ashton: Of course, our concern about that, when you start running into committee hearings, unless some consideration is given, particularly, you know, for those who cannot make it at another hearing, I would suggest that three times would be more appropriate. It usually does not make a huge difference, but there are some people that, you know, have various responsibilities that require them to leave by certain times, and I would hate to have somebody's name called once at 11:30 at night and once at 1:30 in the morning and then not be able to speak.

I think usually the process when we have several committee hearings is to make sure that there is at least one more hearing where we can essentially hear those that have not had a chance because they had to leave at other times. So I would suggest three, I think, would be more reasonable.

Some Honourable Members: Agreed

Mr. Chairperson: Agreed? Three times and then you are off the list. Is that agreed? [agreed]

We will now begin to hear public presentations. Well, what are we going to proceed with first? All out-of-town presenters on Bills 30—well, all out-of-town presenters. So we will then deal with all out-of-town presenters whether it is The Barbers Repeal and Hairdressers Repeal Act, The Council on Post-Secondary Education Act, The Education Administration Act or The Public Schools Amendment Act, and the first presenter from out of town will then be William Bruneau, President, Canadian Association of University Teachers. Mr. Bruneau or Professor Bruneau, Dr. Bruneau. Maybe you can identify yourself, sir.

Mr. William Bruneau (President, Canadian Association of University Teachers): All of them.

Mr. Chairperson: Do you have a written submission, Dr. Bruneau?

Mr. Bruneau: It is my intention to provide one to the committee in the next two days, and one of the members of the association here has suggested that it will be possible to provide the Clerk with one in the next 48 hours.

Mr. Chairperson: Fine. You can proceed.

Mr. Bruneau: Thank you. Chairperson, minister, members, ladies and gentlemen, the Canadian Association of University Teachers may not be well known to you all. It is the professional organization of 26,000 university teachers in Canada. The association works to promote academic freedom in Canadian universities and colleges. We support and work hard for open and transparent governance in public higher education, and we assist professors and instructors in universities in Canada to bargain collectively with their administrations.

Canadian university teachers think that the best way to assure high quality in a university system is to keep it accessible, to fund it properly, to make sure that it stays truly public. High quality post-secondary education means giving each university in the system in the province in which it is situated a mission, a mission that makes sense in its region but also in a world where

students will work and learn in many places, indeed, in many cases, in many countries, will hold many jobs and will have to do their own research and critical thinking all their lives long and in circumstances we can only begin to imagine. So to limit post-secondary education to the interests or to the history or to the peculiarities of one province and one time would be a serious mistake. At the level of post-secondary education, it would be a short and swift road to mediocrity. Our theory is that Bill 32 may be a step in that direction.

* (1930)

We think that in aid of quality it makes sense to open up public higher education and not close it down, and let me be a little clearer about what I mean by an open university, one that is truly public. It means in our sense of the word "open" that decisions are taken in universities in public meetings of senates and boards of governors. There, information about funding, salaries and research and teaching are or should be freely available, and there those who are most affected by decisions will have the means of participating in them. That is to say that we favour very strong and open university senates. We think that these arrangements are the best guarantees you can have of accountability, quality and the essential quality of publicness that I called for at the beginning. Without these things, the university is indeed headed straight down the road to mediocrity.

The CAUT is concerned about this because what happens in Manitoba affects the rest of the country; it affects university teachers across the country and it affects university students across the country. Staff, professors, students across Canada are watching what goes on in this room and in this Legislature over the coming days with the greatest interest. The CAUT and indeed professors in Canada think that Bill 32 falls dangerously short on many counts, indeed, most of the counts that I listed earlier. My list of the things that make universities truly accountable and excellent is a demanding list. I accept and agree that it is a tough list to follow, but surprisingly enough, in the history of Manitoba in the 120-odd years of post-secondary education that you have to your credit here in Manitoba, you have managed to make a tremendous number of strides in the direction of those kinds of openness and accessibility for which I have called. You are well on the road to that kind of

excellence already. Bill 32 is, in my view, a step backward and an unfortunate one.

The proposed council is dangerous to post-secondary education in Manitoba and in the country for just a few main reasons. It has under Section 14 given to the council, the proposed Council on Post-Secondary Education, the power to open and close programs and to control funding decisions inside the university as well as outside the university. This surely contravenes the various acts of this same Legislature with respect to other universities in the province. How can, on the one hand, you say that the council will have the powers to open and close programs, that the council will have the power to decide how funds will be distributed inside the university and indeed how they will be supplied to the university in the first place, when on the other hand you have said that boards of governors ought to be making those decisions. It is not up to such a council, it seems to us. It is up to senates and boards of governors properly empowered in your universities to take those crucial decisions about programs and about finance. If you do not do that, it seems to us that you do run the risk, for the reasons I have given, of mediocrity.

The main difficulties go on. This, it does not seem to us, is the way to introduce accountability into the university system, and I want to say a word about accountability very briefly. To my mind an accountable university is one that is entirely open to public scrutiny. It is a university that can say what it is doing and why. At the present Manitoba universities are in a reasonably good position to do that. It would be better if your senates were stronger and your boards of governors were stronger, it seems to me, because of course I think these publicly constituted participatory bodies are the way to go. Strengthening them makes sense. Imposing a one-way council filled with political appointees does not seem to us to be the answer. Make no mistake, this is not accountability as most people in the world would understand it.

Now, there is some mention of the word "co-ordination" in the wording of the proposed regulations and the legislation concerning the council. I do not find it easy to understand how this council would co-ordinate. It seems to me that it would control, so I have a problem with language in the act and so do most of the readers of this act outside the province. We fail to see how

planning which involves the opening and closing of programs and decisions on finance is consistent with mere co-ordination. This is planning with a big capital "p." Co-ordination where it involved consultation and open decision making in senates and boards of governors would not be a problem if universities were able freely to speak to one another in some sort of council that did not have the draconian powers of this council, I would see no particular difficulty. But that is not what we are talking about in the case of this proposed council.

One of your worries seems to be that the universities have gone down the path to excessive duplication, and I would like to address that for a moment. Is it duplication when basic calculus, basic English grammar and skills of critical thinking are taught across the board to students in every university? Of course not. Every student requires a certain basic understanding of critical thinking. Every student requires some basic scientific literacy. Every student deserves a liberal education. The people best placed to make those decisions are the people who participate in university education and in the university system, it seems to us, not that we pay no attention to the input of the public. That is what senates and boards of governors are for, but it seems to me that in that open, considered, reasoned system that you have a better chance of getting real accountability and quality than you would in the system which is proposed. It seems to me that the argument that in order to avoid duplication you must bring in a hammer, which is the proposed council, seems to me an excessive and very strained argument.

In taking decisions about teaching programs, it seems to me also that this council is automatically taking decisions about research and that is a dangerous road to take. If you decide to close down a program in university X and the consequence is that you also close down research in that whole area, and indeed research and teaching are so closely linked that one is the other, do you know what the consequences of giving up that program of research may be? It seems to me that the social, economic well-being of Manitoba imposes on you the duty to leave those programs of teaching and research open to reasoned discussion in public bodies and particularly discussion that takes seriously into account what researchers and teachers themselves may say to you. The council is in no particularly good position to keep in mind those complicated questions or to keep fully in mind the long-term benefit from welfare of Manitobans.

On all those grounds I ask you to reconsider the council, and I have three proposals for you. It seems to me that the powers of the council should be restricted to true co-ordination and not aimed at direct control as they are now, particularly under subsection 14. It seems to me that its membership should be representative of all constituencies in Manitoba higher education and not in the large measure to be appointed by the minister.

Finally, for the sake of proper accountability, the council should be concerned with strengthening senates and boards of governors in Manitoba universities. Thank you.

Mr. Chairperson: Thank you very much for your concise submission, Dr. Bruneau. Now question and answer: the minister first, then Shirley Render and then Ms. Friesen.

Hon. Linda McIntosh (Minister of Education and Training): Thank you very much for your presentation. You had referred to 14. I wonder if you could just indicate which? Is it 14(2) that you have been specifically referring to? I wonder if you are familiar with our Universities Grants Commission Act as it is currently written?

Mr. Bruneau: Somewhat.

Mrs. McIntosh: Are you aware that, in bringing together the Universities Grants Commission and the Colleges Secretariat, this particular clause is one that has been in existence for however many years. It is in The Universities Grants Commission Act that they do have to get written approval right now, and I am just wondering why it would suddenly be a problem now when it has not been for the last few decades. Can you explain why you feel it is going to now cause a problem when it did not in decades past?

Mr. Bruneau: . . . in decades past.

Mrs. McIntosh: Pardon me?

Mr. Bruneau: It has done in decades past. I cannot speak for previous presidents of the Canadian Association of University Teachers and I cannot speak for previous commenters on the legislation that made possible the Universities Grants Commission, but I have to say that if the Universities Grants Commission is

largely constituted of political appointees and has the extreme powers which are outlined here, then I would object to it as well.

Mrs. McIntosh: Indeed, the Universities Grants Commission has always been made up of qualified lay people appointed by the government, and never to our knowledge in searching the records has there been a complaint about having to get written approval from the Universities Grants Commission, but nonetheless I indicate that there are a number of items that you referred to. In your presentation it appeared to me that you were thinking there were new items that have always been in existence in Manitoba under the Universities Grants Commission.

Mr. Bruneau: Honourable Minister, it seems to me that in taking on these powers, whether you choose them or not, you create a dangerous precedent. It may be that in your wisdom you may not choose to use those powers, but that is no guarantee that your successor will not.

Mrs. McIntosh: Just one last clarifying note. Then the fact that the precedent has already been set in decades past and no harm has come from it does not nullify your fear that something might change because it is now in an act with a different name, that suddenly it might become abused?

Mr. Bruneau: It seems to me that the circumstances in which this act comes forward, that is, a time of economic difficulty and political stress both in the province and in the country, suggests that you are going to be under some stress, under some pressure to make use of provisions in this act, provisions that you might have hesitated to appeal to in past times. So it seems to me that this is a risky proposition at this particular moment for the particular reasons that apply now, but in any case, I would be against it on principle.

Mrs. Shirley Render (St. Vital): Actually, I was just going to make the same point as the minister, but let me just pass on to one of your other remarks. I know we are running short. You mentioned that, in your opinion, we should be looking at making the senate and the board of governors stronger. What exactly did you mean by that?

Mr. Bruneau: Senates are the natural place to balance the economic, financial, administrative side of the university against the academic side. They are strongly

given to reasoned debate on the whole, and they make it possible for members of the public who have every right, lay members of the public who have every right to know what is going on in universities and why things go on as they do, to hear that reasoning in a public forum, to take responsibility for the decisions that they will take in that public forum and to take into account the long traditions which universities build up, the long chain of responsibility which they also have to the region, to the province and to the country. The senate is the natural place for that, not the Legislature and not a council which is essentially dependent on the Legislature for its rights, powers and existence.

Mr. Chairperson: Ms. Friesen, we are down to one minute, so with leave of the committee you would have to get an extension; otherwise, make it as quickly as you can.

Ms. Friesen: Thank you, Mr. Chairman. Mr. Bruneau, the minister was not being quite direct with you on the comparison to the UGC. Similar powers, not entirely the same, but similar powers were there, but they were of course in the hands of an arm's-length agency. This particular agency, the new post-secondary council, is not of course intended to be an arm's-length agency. It is to operate within the framework of government economic policy as directed by the minister.

I wanted to ask you about national standards and where you think these changes that the government is proposing, what kind of effect they will have upon the standing of Manitoba's universities in a national and an international sense? Do you know of other jurisdictions where these kinds of changes have happened and what have been the consequences?

Mr. Chairperson: Is there leave for this question to be answered with overtime? [agreed]

Mr. Bruneau: Yes, I do know of other jurisdictions where these sorts of things have been tried and failed. For one thing, we have four cases in Canada where bodies of this kind have been tried and rejected, the most recent one being the Ontario Council on University Affairs which was evaporated, I believe, in September, finally. The three provinces west of Manitoba have all experimented with bodies like this. That is one thing.

This direct and politically charged demand that universities pay attention to the requirements, economic

and social, of one jurisdiction, one province, one society, one small community, that is extraordinary. You would have to go back a hundred years to the province of Ontario, 1895, 1896, for a reasonably close analogy. In that period you had a government which for various reasons, some of them linked to religious politics at the time, insisted that the universities pay close attention to the economics, politics and social requirements of that society in that time. The result was mediocrity at the University of Toronto until the appointment of a strong president who managed to persuade the government to back off in 1908. That is the last precedent I can think of in this country where a government dared to do something quite as radical as this, at least on paper. In Europe, you have the example of the French government which for 150 years operated a policy of this kind and which has been trying over the last 50 years to recover from it.

You asked about the reputation of a university which would be subject to a policy of this kind. That reputation is going to suffer. People who know that research and teaching are being done at the beck and call of a council, not because knowledge and the expansion of knowledge requires that research to be done but because the government requires it to be done, people will look at that at Harvard, Stanford, at my university, the University of British Columbia, at universities across the country, and they will be asking some serious and hard questions about the quality of those programs and the quality of the graduates. It just simply will not do those students any good in the rest of the country, so far as I can make out.

There are other ways to get at the question of standards. We are talking about the possibility of bringing in a national council on accreditation, for example. It has been in the wind for many years. It seems to me an obvious and sensible alternative to this one if the concern is quality. I have no impression at all that Manitoba universities are anything but excellent at the moment, so I do not understand the reasoned basis for going at this legislation anyway.

* (1940)

Mr. Chairperson: Thank you, Dr. Bruneau, for coming out of town and making this presentation. Your written submission, when received, will be circulated to all committee members. Thank you very much.

Mr. Bruneau: Thanks very much.

Mr. Chairperson: The next presenter to come forward will be Professor Errol Black, president, Brandon University Faculty Association. While Professor Black is coming forward, there is an option to people standing. Room 254 has been wired for sound. So Room 254 just down the hall with chairs in it, for those who are standing, is available to those who wish to go there. If not, you are welcome to stand here, but the sound should be going through to that other room. Please identify yourself, sir.

Mr. Robin Giles (Member of Physics Department, Brandon University, and Vice-President of the Faculty Association): In case you think there has been a strange metamorphosis going on—

Mr. Chairperson: I did.

Mr. Giles: . . . a number of people in the room know I am not Errol Black, and, obviously, some of you know I am not Errol Black. Errol Black had to be in Regina today. I am pinch-hitting. Dr. Robin Giles, a member of the Physics Department at Brandon University and Vice-President of the Faculty Association.

Mr. Chairperson: Thank you. You may begin.

Mr. Giles: First, I would like to thank the committee for arranging that out-of-town visitors are allowed to bat early, another advantage of living in Westman.

Bill 32, The Council on Post-Secondary Education Act, has profound implications for the future of post-secondary education in Manitoba. In particular—

Mr. Chairperson: Sorry, there has been a point of order raised.

Point of Order

Mr. Laurendeau: Mr. Chair, could you ask the presenter to possibly raise the mikes. We are not picking it up and some members—just raise that one up, and I think you will be fine.

Mr. Giles: This one?

Mr. Laurendeau: That is it.

Mr. Giles: Testing, testing.

Mr. Laurendeau: You might even bring the other one up if you want to.

Mr. Chairperson: We will begin your time slot over again.

* * *

Mr. Giles: I will start again then.

Bill 32, The Council on Post-Secondary Education Act, has profound implications for the future of post-secondary education in Manitoba. In particular, the act, one, signals the abandonment of a long-standing commitment in Manitoba to bring accessibility to universities and colleges for all Manitobans. Two, it usurps the autonomy of universities and colleges to establish academic priorities and develop academic programs and, three, erodes the capacity of universities and colleges to maintain both the academic integrity of programs and academic standards.

Bill 32 represents the culmination of a process designed to give government greater control over post-secondary education in Manitoba, a process moreover which effectively excluded faculty members of Manitoba's universities and colleges.

Following the election in April 1995, Mrs. McIntosh created an interim transitional committee to draft legislation for the establishment of a Council on Post-secondary Education. The interim transitional committee solicited input from university administrations and students. It did not solicit input from faculty organizations. The Manitoba Organization of Faculty Associations sought and obtained a meeting with the interim transitional committee of which the MOFA representative presented the core ideas in the pamphlet, *The Future of Post-Secondary Education in Manitoba*. At the conclusion of the meeting, the interim transitional committee indicated it would meet with MOFA again prior to finalizing of the draft legislation. The transitional committee neglected to follow through on this promise. Individual faculty associations, including my own MOFA, also sought meetings with the interim transitional committee. Leo LeTourneau, executive director, advised the faculty association that a meeting would be arranged prior to the tabling of legislation so

that the interim committee would have the benefit of faculty input. The promised meetings never materialized.

We believe Bill 32 opens the door to direct government intervention in the internal affairs of universities, intervention that will limit accessibility, curtail university autonomy and undermine the academic integrity and academic standards of universities. The differences between the Universities Grants Commission and the council are of such significance we can only conclude the government intends to integrate services and facilities, intervene in academic policymaking processes and bodies, set program priorities, target funding and regulate academic programs within institutions and within the post-secondary system. Moreover, in carrying out its mandate and exercising its powers, Bill 32 stipulates that the council, quote, "shall operate within a framework of accountability established by the minister," including, quote, "priorities the council should follow," and "co-ordination of the council's work with the programs, policies and work of the government." That is Section 4.

Bill 32 is legislation under which unspecified post-secondary education and priorities and policies will not only be determined by the Minister of Education but will be harmonized with the government's political agenda. Such policies clearly threaten long-standing university traditions. In particular, university autonomy, self-governance and academic freedom are threatened. Moreover, and perhaps more importantly, such policies clearly pose a threat to the education opportunities and ultimately employment opportunities of students in Manitoba.

Sections 11 and 12 give the council much more policymaking authority than the Grants Commission has through a series of mechanisms for government intervention in the affairs of post-secondary institutions. Section 11 directs the council to: "advise and assist universities and colleges in planning for the development and delivery of academic programs, services and facilities; advise and assist universities and colleges in the development of a clear mandate for each institution; develop and implement . . . accountability requirements for the core functions of teaching, research and service, including the development of consistent and effective criteria for measuring their performance."

As well, Section 12 assigns the council the following powers: "review and evaluate post-secondary programs

and services and any other related matters; . . . develop policies for specialization and cooperation; . . . require a university or college to provide . . . any financial information . . . the council considers necessary; establish policies for tuition fees charged by universities and colleges; appoint a person or a committee to review and report on any matter concerning a university or college."

Bill 32 lacks any clear statement of what specific policies and priorities these duties and powers are designed to achieve. So how will the universities be affected by Bill 32? The effects of Bill 32 on universities will be largely unknown until the council is appointed and operational. However, the following implications of the bill are apparent: The Minister of Education will have the authority to determine academic policies, priorities and accountability mechanisms; the council will have unprecedented authority to intervene in university academic affairs, reduce or eliminate responsibilities of senates and boards and reduce, combine or eliminate specific departments and programs; as well, faculty associations and the relationships between faculty associations and boards, such a collective bargaining, may well be subject to interference by government.

Bill 32 is unacceptable. In our view the contents and consequences of Bill 32 are unacceptable. The underlying vision for the bill seems to be that of the university as a delicatessen responding to the whims of the marketplace with its menu dictated by government. Such a vision is implicit in much recent government rhetoric which talks about university courses and programs as products and services and which shows the students as consumers.

The point that is not mentioned in the references to a market-driven and/or consumer-driven post-secondary education system is that the guiding principle for Manitobans seeking opportunities for a quality post-secondary education will become caveat emptor. Clearly, this vision is singularly inappropriate as a foundation for something so important to the lives of Manitobans and the future of Manitoba as university education.

Specifically, we would endorse the amendment submitted to this committee by the senates of Brandon University, the University of Winnipeg, by MOFA, and the faculty associations of the three universities. The complete list of suggested amendments is listed in your

sheets. I will just briefly outline what we are suggesting here.

Number one, the preamble contains no reference to institutional autonomy, and we suggest a change which we have given to you. The rationale is institutional autonomy is essential for ensuring the protection of academic freedom and self-governance within the university.

Section 3.2, subsection (a), we would suggest the modification, and the rationale is The Universities Grants Commissions Act made specific reference to the right of universities to form academic policies. This amendment restores that right in Bill 32.

Section 4, we suggest this section is deleted completely. The council should establish its own framework for accountability priorities. It is should not be entirely an instrument of the minister.

* (1950)

Section 5(1) refers to membership. We recommend a different membership, 14 members, one from each senate or college council at each of the seven post-secondary institutions and seven members appointed by a Lieutenant-Governor-in-Council in consultation with each of the seven institutions. The rationale is the election of some council members ensures a measure of accountability for the action of the council.

Section 11, we have a suggested amendment. The rationale: The council should be acting in the framework established during its own deliberations from consultation with post-secondary institutions and not within a framework solely established by the minister—

Mr. Chairperson: Two minutes.

Mr. Giles: Section 11(e) refers to the mandate, and we suggest that if performance indicators are to be developed, then the universities, colleges and the professional accreditation organizations should be developing them, not the council itself.

Section 14(2), which was mentioned earlier, we suggest that the amendment is made such that the wording in The Universities Grants Commission Act as

presently retained. This refers to permission to reduce programs in addition to expansion.

Section 14(3), we suggest an amendment, the rationale being, imposition of unspecified terms and conditions is, again, an intrusion into university affairs.

Finally, in Section 19, we suggest an amendment because we feel the government wording seems to imply that the University Grants Fund would now fund both the universities and the colleges, and we have a suggested amendment to make this clear in terms of the college funding and university funding. Thank you.

Mr. Chairperson: Thank you very much.

Mrs. McIntosh: Thank you very much for your presentation. I should just indicate off the bat that we do have some amendments we are planning to bring forward which I will speak to later. I was trying to write down all you were saying there, but one of them that we will be making, because it is something we have been telling people when the legislative drafters are going through it and trying to in addition to combining Colleges Secretariat and Universities Grants Commission, they are also trying to streamline the act, it was felt that in 3(2) that enabling the college to set its own standards that words like "policy" were also redundant.

However, we have heard back from the field that that dropping of the word "policies" seems to have unsettled people. It does not change any of our intent in the least, but if it provides comfort to the field to have the word back in, redundant or no, we are quite willing to put it back in to provide that comfort because, as I say, it does not in any way change our intent, but it has caused the field, because they are questioning all aspects of it, to be uncomfortable. We do not wish that to be. So we will be popping that word back in, and that may satisfy your concern on the one clause.

We do have some other amendments as well that we will be looking at as we go through, but that one came up as you were talking. I would also just ask though in terms of the consultation, because I feel that this never was a bill so widely consulted upon as this one in that Duff Roblin initially, I am sure you know, went around and talked to hundreds of people. My understanding is that he talked to professors in that round of consultations.

Then the ITC, again, did talk to professors, including the MOFA group, maybe you wanted more than once, but they did at least have that one consultation. Then, again, it has had the whole summer.

I have met with professors and heard their concerns as well. Do you not agree with Roblin, I guess is what I am asking, because this act brings forward into life the Roblin commission report. We had asked the universities to respond to the Roblin report, and I am just wondering if your comments now are different than they were at that time.

Mr. Giles: I think the point we are making is, you indicated that you have talked and the ITC talked with professors. Well, there are professors and there are professors and there are professors, but there are three faculty associations who represent the professors, and I think that is the point we are making here.

Ms. Friesen: Mr. Chairman, I think there are a number of areas that this bill is not, in fact, responsive to the Roblin commission. Roblin did, as you know, propose cabinet committees. He did propose that there be regular meetings between the presidents of the universities and the minister, and there are a number of areas I think where Roblin has been departed from. So I think there may be some room for some discussion there.

I was interested in your opening statement, which talked about the maintenance of academic standards, and I wondered if you could elaborate on that for us. In what way do you think that this bill poses a danger to the ability of each of the universities and colleges to maintain the academic standards?

Mr. Giles: Academic standards are under the, currently, gift of the senate to the university, and we are just wondering whether there are some implications for the new council, who will get in amongst that. We guard those standards very dearly and carefully with responsibility, and we will wish to do that in the future. So we are just not sure about the council and where it might come in on that aspect.

Ms. McGifford: Dr. Giles, thank you for your presentation. I am sure the drive in from Brandon was not a lot of fun this evening.

In your opening remarks you talked about the post-secondary education signalling the abandonment of a long-standing commitment in Manitoba to promote accessibility to universities and colleges, and I wonder if you could expand on those remarks for me, please.

Mr. Giles: Brandon has a lot of students who have some financial difficulties, need grant aid, struggle very hard. I have a student who cannot take a full load this term because he has not enough money to take five courses. He is taking three. He is a very good student. If this tuition-fee policy which has been dictated, in the way this implies, we would be concerned that this would reduce accessibility to a lot of people. We have a lot of native students in our university. They could be affected by some of the accountability and financial issues raised in this act. So we are concerned for a group of students who we believe we serve well and want to continue to serve well and properly in the future.

Mr. Chairperson: Thirty seconds.

Mrs. McIntosh: I am just puzzled by something here. I first of all need to indicate that the member opposite, the opposition critic, Ms. Friesen, who has never asked me this question before, and perhaps it would have been wise of her to ask me some of these questions before we came to committee, but I indicate in terms of the cabinet committee, Roblin did recommend a cabinet committee and it is our stated intention to have a cabinet committee. Members never asked me that. When we went to have the bill drafted, the legal counsel here indicated—but, I mean, had she asked me before she would not have had to ask you the question now, because what legal counsel indicated when they were drafting is, they could find no precedent to have—

Mr. Chairperson: Time is up. We have to get leave if there is to be any more.

Mr. Giles: May I just make one final statement?

Mrs. McIntosh: May I just finish the one sentence?

Mr. Chairperson: Is there leave for the minister to finish and then the response? Is there leave? [agreed]

Mr. Giles: I hope this committee considers very carefully the views being presented by a large number of

extremely dedicated people who work in post-secondary education. My second hope is that I get home tonight because the weather is bad in Brandon.

Mrs. McIntosh: I did have a question. I just wish to indicate that we do intend to proceed with the cabinet committee. Legal counsel could find no precedent where it would have the council reporting to a committee. It has to report to a person. Therefore, they took the person responsible for the committee and put that in.

But you had indicated that you were concerned you would not be able to set standards. Do you not interpret 3(2) (a) when it says the minister and the council may not interfere with the basic right of a university or college to formulate standards, et cetera, that that prohibits the government from setting your standards?

Mr. Giles: Our amendment to 3(2) is this matter you raised earlier, academic policies, I understand. So these tend to go together. The loss of the policies I think is our concern. Academic policies and standards go together, and the loss of policies creates a problem.

Mr. Chairperson: Thank you very much, and have a safe trip home.

Next presenter is Erik Blaikie, Brandon University Students association.

The minister has offered to share with the committee what the proposed amendments are, if the committee wishes to grant leave for that now. It might facilitate some of the presentations. [agreed]

* (2000)

Mrs. McIntosh: It will not take long. It just might help. It might also indicate the two things, the one that the opposition critic asked the question on a minute ago, and that is that when we sent this for drafting we said cabinet committee, but the legal counsel could find no precedent for having people report to a committee.

So they said under past practice, because accountability in legal drafting always has to reside in a person or a minister, they had to substitute the word "minister" for "committee," but that by my stating it here in the hearings on the bill that it is our intent to have a cabinet

committee, those interpreting the bill can look to these comments that are being made right now for verification that that is our intent. Had the opposition asked me that before they would not have had to ask the question here. That is all I was saying.

Okay, I also want to indicate that in terms of our amendments—

Point of Order

Mr. Chairperson: Point of order being raised by Ms. Friesen. Dr. Friesen.

Ms. Friesen: On a point of order, I think the minister is quite well aware that in the House specific questions on legislation before the House are not permitted in Question Period. So I think she might want to perhaps present the full story.

Mr. Chairperson: I rule it is not a point of order. However, maybe you can just proceed.

* * *

Mrs. McIntosh: That will be interesting to remember the next time questions come up on bills in the House. We will quote it back.

We will indicate that we are doing amendments that, as I indicated, we are quite happy to put the word "policy" back in, even though it may be a little redundant to provide comfort to the field that they require over their concern about somebody interpreting it as their policies not being there. That is in Clause 3(2)(a).

As well, in Clause 11(b), and this is in response to requests made by the presidents of the student unions in Manitoba of the local associations, we will be adding in Clause 11(b), quote, and after consultation with the universities and colleges and students to be inserted after framework established by the minister.

We intend to similarly and again in response to the request to have our stated intention to consult articulated in the bill that Clause 2(e) be amended by adding in consultation with the universities and colleges and with students at the beginning of the clause, and similarly in

14(1) we will be putting in the definitions that were requested. We will strike out the definition of reduce and add the following: Expand in respect of a program of study means to increase the number of students in the program or the length of the program. Reduce in respect to a program of study means to decrease the number of students in the program or the length of the program.

Similarly in 21(1) we are going to be inserting a consequential clause. This is a standard procedure as a result of a change in The Municipal Act where they had talked about grants in lieu of taxes. We will be inserting the consequential amendment to The Municipal Act 21(1.1) which will indicate that amounts paid under Subsection 1 shall take into consideration the obligation of universities and colleges to pay grants under Part 10, Division 7, grants in lieu of taxes of The Municipal Act. That is a standard consequential when it has already been passed but must be included here as well.

After Section 24 in terms of restrictions on incurring liability, 24.1, we will be inserting: Notwithstanding any other act, a university or college shall not incur any liability or make any expenditure in a fiscal year beyond the unexpected amount of grants made to it by the council and its estimated revenue from other sources to the end of that fiscal year unless an estimate of the liability or expenditure has first been submitted to and approved by the council, and that is not a new concept or a new idea. It should have been in. It was oversights. It is now being included.

The last amendment that we are proposing, and we may make others, depending on the presentations we hear tonight, so long as they do not violate the intent of our purpose of the bill. If you are looking for clarification of intent or a greater understanding of what we are intending to do, we will be pleased to consider other amendments. We also will be adding 27.1, grants to other institutions, the Lieutenant-Governor-in-Council may on any terms or conditions, the Lieutenant-Governor-in-Council may determine, authorize the council to make grants to post-secondary institutions to which this act does not otherwise apply. That would include those other post-secondary institutions that currently receive government funding.

So those are some of the amendments that we are planning to bring forward at this point that may help

some of those presenting, and I will just leave it at that. We can discuss them when we get to them.

Mr. Chairperson: Ms. Friesen, is this a point of order?

Ms. Friesen: Well, Mr. Chairman, I am not sure what you call it, but I would like the minister to table those amendments that she is proposing because it does take a while for Hansard to catch up with the committee hearings. So if the minister could table those, I think that would be very helpful for everyone concerned.

Mr. Chairperson: The Minister has agreed to do that so that will be done.

An Honourable Member: I am pleased to do that.

Mr. Chairperson: You may proceed with your presentation. Is it Erik Blaikie?

Mr. Erik Blaikie (Brandon University Students Union): Erik Blaikie, yes.

Mr. Chairperson: Could you identify who is with you?

Mr. Blaikie: What is that?

Mr. Chairperson: Who is with you?

Ms. Noreen Barlow (Brandon University Students Union): Noreen Barlow. I am the Arts Commissioner for BUSU, and I am also a student senator.

Mr. Chairperson: Welcome. You may proceed.

Mr. Blaikie: First off, I would like to say thanks for those amendments. It is a start, and we hope to be progressing even further today.

First of all, here we are, we are two students sitting here, we are voicing our concerns. We are the future of Manitoba, we are the future of Canada, so I really hope you take into consideration what we are going to say tonight.

I would like to thank you on behalf of 3,000 students for the opportunity to voice our concerns regarding the proposed Bill 32. Through various meetings with Mrs. McIntosh as well as numerous meetings with different

subcommittees for the ITC, the government is trying to show that it is responsive to the concerns of the student population. Tonight we ask you to listen to us once more. I would also like to thank you for the initiative in changing the UGC.

We applaud the concept of Bill 32. It has great potential but, like all new systems, it also has its flaws. One of the positive things that this provincial government has been able to do at Brandon University with this legislation is unite students, faculty and administration in opposition to this bill. In fact, it seems to have united the entire province. We even have people from out of province. Unfortunately, we cannot thank you for that until you amend the bill.

What you see here today is a large number of students, senate representatives, administration, faculty, even concerned citizens all saying the same thing, that there is one main problem with this bill. That problem is the loss of university autonomy. I do not have to explain to you the importance of university autonomy. Others will be speaking about it and you know it yourselves.

This bill decreases university autonomy. Despite promises that your government is not going to encroach on that autonomy, future governments will be able to use your machinery to manipulate the very centres of our culture, of our science, our research, of our future.

You claim that you are trying to improve on UGC. Well, now it is time to do it. Protect our students, protect our future, return university autonomy as outlined by recommendations of the Manitoba Organization of Faculty Associations, which we, as a students union, fully endorse.

The second concern the Brandon University Students Union has is that of representation on this new Council on Post-Secondary Education. There should be elected representation from each of the seven areas affected. This representation should constitute at least 50 percent of the board. Also, students should be eligible for these positions. We would suggest that the best way to ensure this at the universities would be to have those representatives elected from senate. That way there would be an equal opportunity for students, for faculty and for administration, a democratic way.

* (2010)

We have seen the effects of cuts from federal transfer payments. Now the ball is in your court. Taking control of university governing is not the answer. It is not even the problem. The problem is chronic underfunding. Look at our universities. Enrollment is dropping across the province. Four years ago there used to be 1,000 more students at Brandon University. We have lost 25 percent of our population. We have gone from 4,000 to 3,000 students. That really hurts a university.

It is not because our students cannot get jobs, it is because they cannot afford the tuition fees. We the students have been arguing that the administration and the faculty members of our universities have not been listening to us. Now we are all on the same side because of this bill. You cannot ignore the virtually unanimous recommendations of all the stakeholders, can you? Thank you.

Mr. Chairperson: Thank you very much for that presentation. You did credit to the students.

Mrs. McIntosh: Thank you very much, and I am delighted to find there is one campus in Manitoba that is united on the issue. Yours is the only one. So you do have a collegial family.

I would like to ask you if you can indicate to me why it is that your student association and the University of Manitoba Students Union have such a different perspective to this particular legislation? Aside from wanting to have the consultation with students spelled out, which we have done, they are supportive of this bill and you are not.

Can you explain to me why there would be such a difference between the University of Manitoba and Brandon students and the college students? Why do you feel differently than the other student organizations, except for the Canadian Federation?

Mr. Blaikie: Canadian Federation of Students?

Mrs. McIntosh: There are two groups that have indicated that their bodies do not support the legislation, yours and the Canadian Federation of Students, but the other students have all indicated they support it, and I am

wondering why the difference between your group and the other student's groups.

Mr. Blaikie: It is not just Brandon University Students Union. It is not just the Canadian Federation of Students. Every senate in this province disagrees with this bill in some form or another. Also, there are boards of governors who disagree. Every faculty association disagrees with this bill. I cannot speak for UMSU, for University of Manitoba Students Union. What I can say, however, is, I have some understanding that UMSU signed an agreement with the president and with senate—I do not know all of the details with this—in disagreement with certain aspects of the bill, and those aspects are loss of university autonomy and representation.

Mrs. McIntosh: My second part of my question is, how will university autonomy be changed under this bill from what it currently is?

Mr. Blaikie: Because what we are going to see with this bill is the government reaching its hands, working its way into micromanagement of the universities. Now, I know you say, we do not want to get involved in this, the government does not believe in doing this. Well, if you are not going to get involved, then get rid of the power. If you are not going to use it, write it out, write it out of the bill.

Ms. Marianne Cerilli (Radisson): Thank you for your presentation. I know when we met with students that there was particular concern from Brandon students, and I am wondering if you can first of all tell us, as you look into the future with the universities and the province governed under this new council and by this bill, what the implications, you believe, are for Brandon University.

Mr. Blaikie: To be perfectly honest, I am scared. I am scared for the future of Manitoba. I am scared for the future of our students. Look at me; I am a third-year philosophy student, and what jobs are there going to be out there for me unless I bust my ass—can I say “ass” in here?—unless I bust my ass? It is getting harder and harder these days. Debt loads are increasing. It is phenomenal what young people have to do these days.

Ms. Barlow: If I may, another very important issue is the fact that drastic cuts due to funding—

Mr. Chairperson: Please identify yourself. I forgot her name.

Ms. Barlow: Noreen Barlow. Funding cuts affect programs. For example, some of the programs at B.U. only have two professors in their faculty, and people are trying to get four-year majors or specialist degrees, and because of the fact that there are not enough classes and there are not enough professors, you get a very limited degree.

That does not help your education. If you are trying to get a degree in international relations and the only courses that are offered are all in Canadian government studies, it does not really help you in your career plans; but if you want to go to a small university that has good relations between its profs and sometimes good relations between its administration, then that is something that you have to put up with, and that is something that students should not have to put up with when they are paying money for quality education.

Mr. Blaikie: I would not go to any other university. I have good relationships with every one of my professors. It is a small university. It is a family atmosphere, but each year we are seeing fewer, fewer courses offered. We are seeing fewer professors. We are seeing hikes in tuition, and students are being deterred from going to university.

Mr. Laurendeau: My question is to the gentleman—I am sorry, I forgot your name. [interjection] Mr. Blaikie, you had said to write it out. When you were talking “write it out,” were you talking write out the rights of universities or colleges to formulate academic standards, the independence of universities or colleges in fixing the standards of admission and the independence of the universities and colleges in the appointments of staff? Were you talking that the council should not have any powers to interfere in those three areas?

Mr. Blaikie: I would not go that far. What I am suggesting and as I outlined—it would take a long time to go into it, but I guess we have all night here. What we are endorsing are recommendations made by the Manitoba Organization of Faculty Associations, which is supported by senates across the board, faculty associations across the board and the Brandon University

Students Union, and I could go over each of those sections if you would like.

Mr. Chairperson: Ms. Barlow, you had a comment.

Ms. Barlow: I think more to the point of that is—the bottom line is, if you are not going to use a power, do not put it in a bill. Your government may not want to interfere in anything they may have power to do, but some other government may. So, if it is not provided for in the first place, then it cannot be used at all.

Mr. Laurendeau: Well, that is exactly my point. Those areas that I spoke of are written out of the bill. It is written right in the act under Section 3(2) that the council will have no authority over those areas, so they are written out of the bill.

Mr. Blaikie: No, sir, I am sorry, they are not.

Mr. Laurendeau: Yes, sir. Read the—

Mr. Chairperson: Mr. Blaikie, you may respond to that, or Ms. Barlow.

Mr. Blaikie: Thank you very much. Could I quote Section 4? “In carrying out its mandate, the council shall operate within a framework of accountability established by the minister, who may give the council general direction on matters that relate to its mandate and that are, in the minister's opinion, of significant public interest, including, but not limited to, (a) priorities the council should follow; and (b) co-ordination of the council's work with the programs, policies and work of the government.”

Mr. Chairperson: Two minutes.

Ms. Cerilli: Mr. Chairperson, it seems like there is a real conflict then between Section 4 and Section 3, but I wanted to ask you a different question. I wanted to ask you about your comments on representation of students on the council. I know we raised this in the Legislature today and the minister confirmed that the voice of students will only be heard through consultation and not through direct representation on the council, and you had a very specific recommendation.

I am wondering if you could tell us how the minister dealt with your representation when you met with her and any other comments that you would like to make about the representation of students on the council?

* (2020)

Mr. Blaikie: What we see are the government taking baby steps in the right direction. See, it is not fair to say to students, who control one-quarter of the operating grants that go into all the universities in the country, okay, we understand, we will hold your hand, we will let you speak, but you cannot sit down at the table with us. You cannot have direct input into the process of the way this works. It is fine to say, we saw this process go over the summer and over the months of September. We have said this time and time again.

There are problems with this bill. That is what the people are doing here. What we are seeing tonight is an entire group—69 people here—who are getting up and they are voicing their concerns and they are all saying the same thing. That is exactly what we would be doing if we were sitting and we are allowed to come and talk to you, but we have no input into the power of what is going on here, until the election, I might add.

Mr. Chairperson: Mr. Tweed, real quick.

Mr. Tweed: Just a short comment in the sense that I do not think, Mr. Blaikie, you should be speaking on behalf of all the presenters here tonight.

Mr. Blaikie: No, I am speaking on behalf of 3,000.

Mr. Tweed: Not hearing what they have all said, I think that—

Mr. Chairperson: Mr. Blaikie, one final comment. This is it.

Mr. Blaikie: One final comment, and do I have support from the people?

Mr. Chairperson: Oh, no, please do not play the gallery. Okay. Thank you very much for your presentation.

The next presenter will be William R. Eichhorst, Chancellor, Church related Colleges of Manitoba.

Point of Order

Mr. Penner: Mr. Chairman, it has been customary in committee, over the past eight and a half years that I have sat around these committee tables, not to allow applause in committee, similar to actions taken in the House that we do not allow the members in the audience to respond in any way to what goes on in the Chamber, and I would ask that you remind the people here today that we have the ability and the authority to clear the room if we cannot maintain order. I would ask you that we ask those here present today abide by the rules that we have to abide in the House.

Mr. Chairperson: The ruling that I make on that is, indeed, that has been the practice of these particular hearings and there has been a certain liberty given to freedom of expression which is now encroaching on the speakers. I will rule that one in the audience is not permitted to respond and interrupt the speakers in that fashion. The same rules apply in the House and it is all in the interests of promoting civilized debate. This is not designed to be entertainment but, rather, to be informed commentary to assist the committee in its deliberations.

I appreciate your indulging that rule, which might seem archaic to some, but it works very well.

William Eichhorst, please.

* * *

Mr. William Eichhorst (Chancellor, Church-Related Colleges of Manitoba): I have a written presentation which I would like to distribute to you.

Mr. Chairperson: It will be distributed to the members of the committee, and you may proceed, Mr. Eichhorst.

Mr. Eichhorst: I am Bill Eichhorst, and I am Chancellor of Providence College, but I represent the Church-Related Colleges of Manitoba. They are listed in the presentation and I will take time to read them so that others can hear them as well. There are six institutions: Canadian Mennonite Bible College; CMBC is an approved teaching centre of the University of Manitoba

since 1964; Catherine Booth Bible College. Catherine Booth is an approved teaching centre of the University of Manitoba and an accredited member of the Accrediting Association of Bible Colleges.

There is Concord College, and Concord College has an agreement of academic association with the University of Winnipeg since 1970.

Menno Simons College, affiliated with, and on, the campus of the University of Winnipeg. The affiliation is similar to church colleges at the University of Manitoba.

There is Providence College, an accredited member of the Accrediting Association of Bible Colleges, with over 140 courses transferable to the University of Manitoba, University of Winnipeg or Brandon University.

There is Steinbach Bible College, an accredited member of the Accrediting Association of Bible Colleges, with a credit transfer agreement with the University of Manitoba.

These six aforementioned colleges have served the citizens of Manitoba for many years, some over 50 years, and they constitute a combined enrollment of more than 1,800 students, head count, and represent the interests of parents and alumni and many constituents. These institutions function as approved teaching centres, as affiliated or associated colleges, and/or otherwise accredited bodies in relation to Manitoba's universities. A majority of courses offered are either cross-credited or transferable to the universities. In other words, we are not talking here about theology, we are talking here about liberal arts courses transferable to the universities.

The church-related colleges are autonomous institutions which contribute a valuable human and financial resource to the province. Many of the college employees are highly skilled. For example, there are about 50 faculty members who hold Ph.D.s or equivalent degrees on their staff. Local students who have chosen to attend these colleges will remain in the province to receive their education in Manitoba. In other words, without these colleges the students would probably leave the province.

We believe that more co-operation and co-ordination among post-secondary educational institutions in

Manitoba can be beneficial to students and to the public alike. All students would appreciate the implementation of appropriate credit transfer arrangements between universities and colleges, for instance, as called for in Bill 32. The church-related colleges believe they make a valuable contribution to Manitoba society as they participate educationally, culturally and religiously.

However, Bill 32 in its present form fails to encompass all accredited post-secondary education in the province. The new council, we believe, should have the sanction of government to consider the interests and welfare of all of Manitoba's university students. So we therefore recommend that Bill 32 be amended to broaden the scope of the council on post-secondary education to include the church-related colleges as recognized post-secondary educational institutions in the province, thus enabling the council to consider the church-related colleges as participants in post-secondary education with other institutions in the province, and to be included in transfer-of-credit policy arrangements and to be included in a rationalized granting policy. It is that much in my presentation.

Ms. Friesen: You will not yet have seen the amendments that the minister tabled, but she did read them into the record, and my understanding is that one of those might meet your suggestions, and that is that the Lieutenant Governor may determine, authorize the council to make grants to post-secondary institutions to which this act does not otherwise apply.

Do you believe that would include the church-related colleges or, for example, private training institutions in the province?

Mr. Eichhorst: I would hope so, and I would think that it would.

Ms. Friesen: Thank you. Could you tell me, or do you have any sense of how much public money goes into the existing Bible colleges, the half dozen, I believe, which used to have their taxes paid under an earlier Education minister, and which now may be encompassed within this legislation. Do you know how much money we are talking about there?

Mr. Eichhorst: How much money is presently being given? Right now there is a total grant to six institutions

of \$480,000 which is divided amongst the institutions on a per-student basis. amounts to—Mr. Chairman, that amounts to a total of \$576 per student.

Ms. Friesen: You know that the rest of the bill makes provisions for transfers of monies from the previous Universities Grants Commission. It does not make any changes to the monies coming from The Colleges Act. Now we are introducing a third element here, that is the money that was paid to private bible colleges. Should there also be a consequential amendment that transfers that \$480,000 to the new Universities Grants Commission?

Mr. Eichhorst: Mr. Chairman, I do not know how to respond to that exactly, specifically to the question. I think that council itself is going to have to simply—what we are suggesting is that the council now can rationalize what kind of support should be given to these institutions as a part of its overall plan.

Ms. Friesen: Well, what I am looking at, of course, is the prospect of a larger number of institutions sharing in what has been in the last number of years a diminishing pie. So I am wondering if at the very minimum this should be accompanied by an amendment that transfers the existing amount that you have been receiving into the Universities Grants Commission so there at least is a record aligned in the budget from the government to this council that is a historical record of what has been given to the private colleges.

* (2030)

Mr. Eichhorst: Mr. Chairman, I think that is something that the government will have to take under advisement. I am not sure how the government should proceed on that.

Let me just add to say that our institutions now do benefit from student loans which are federal loans. We now benefit from bursary assistance as recognized students. We have received grants in the past. Providence College, for instance, has received a grant from the previous government under the Howard Pawley premiership. So this is not new to us, but we have been receiving small grants during the past few years.

Mr. Chairperson: Honourable minister and then back to Ms. Friesen. Go ahead, Ms. Friesen, you wanted a question.

Ms. Friesen: Thank you, Mr. Chairman. There are obviously areas where the bible colleges do teach the same kinds of things which are taught at other universities. This particular bill places quite an emphasis upon the avoidance of duplication. Do you have any comments upon that? You teach philosophy, you teach English, you teach mathematics, you teach languages; I assume all of these would be similar, in fact in some cases the same course numbering that are at existing universities. How do you come at that issue of duplication?

Mr. Eichhorst: Mr. Chairman, personally I believe that a certain amount of duplication in the first two years particularly of a student's life are quite proper, because I think that that is a time in which students get the very basics in education. After that when it narrows down to specific programs, I think that is where the specialization begins and that is where not every institution needs to go into that specialization, and we should all recognize that I think in education in Manitoba.

Ms. Friesen: This particular bill establishes a much greater degree of direction for universities and colleges than the previous arm's-length agency did. Private colleges, bible colleges in particular, have guarded their independence quite carefully. How do you look at the new directive aspect of this particular council? Do you see any difficulties, for example, in a bible college being required to conform with the economic policies of any government?

Mr. Eichhorst: Mr. Chairman, I would suggest, first of all, that we all agree on academic standards that should be maintained for institutions, and I do not think bible colleges have any problem with that. We think that government has a legitimate right to expect certain things of institutions if they are funded and if they are recognized in the province, so we have not experienced any difficulty, as I remember, in working with government.

Ms. Friesen: But in the past, the Universities Grants Commission has been an arm's-length agency. We are now looking at a very different kind of agency, one that for the rest of the bill is dealing with public institutions which have different forms of accountability, annual public meetings, for example, than do many of the Bible colleges.

So I think this issue of private-public is an interesting one, and I wondered how you came at it as a representative of a private institution which wants to be incorporated into a bill which is, in fact, dealing with very public institutions and very particular forms of accountability.

Mr. Eichhorst: Mr. Chairman, I should say that we are not asking as colleges to be included in the Definitions section of this bill. We are not placing ourselves there. We are simply saying, as you will notice, that the council should have the sanction of government to consider the interests and welfare of all Manitoba university students and that the council therefore should have a broadened scope so that they could include our students and our institutions but not necessarily in the same way throughout the bill and, therefore, we are not asking to be in the Definitions section.

Ms. Friesen: I thank you for that. That is an interesting distinction. So my initial question, the amendment that the minister is proposing here, this is not, in fact, the way you want to go. You do not want to be included under this post-secondary council. You want a different kind of position which has not been stated.

Mr. Eichhorst: That is correct.

Ms. Friesen: So as I understand what you are saying, this section of the bill, then, you would not expect to apply to you. You would not want it to apply to you, the new amendment that the minister is proposing.

Mr. Eichhorst: Mr. Chairman, we are not asking, again, to be under this bill in the Definitions section. We are saying, we make a valuable contribution to the province. We offer recognized education. We believe we are an important part of the province, and we believe that it is appropriate to be recognized, but we are not asking to be a public institution.

Mrs. McIntosh: I wonder if you could indicate for the benefit of the committee, looking down all of the colleges that are affiliated with a university, and I know from having visited at the university and visited at the colleges, including the Bible colleges, the religious faith-based colleges, that in some cases you not only have the same course numbering, but you will have the same course taught by the same professor as on the University of

Manitoba campus. The professor will travel back and forth between two campuses.

Can you indicate, when you talk about Menno Simons College, you say, the affiliation is similar to church colleges at the University of Manitoba, and I think all members here are familiar with St. John's and St. Paul's and so on. Can you describe that similarity that Menno Simons has, for example, compared to St. John's College, which is my alma mater?

Mr. Eichhorst: Mr. Chairman, as I understand it, Menno Simons College courses are taught right on the campus, and the courses are registered with the University of Winnipeg courses and are credited in the very same way. They are included in the overall curriculum possibilities for the students there.

Mrs. McIntosh: Thank you very much. Taking a look at the proposed amendment that is being put forward, and I know it is difficult to ask you to make definitive statements that you might be held to on the spur of the moment, but if you look at that proposed amendment, and I do not know if you have the proposed amendments before you or not, it indicates 27(1). There is some question as to whether that would cover your particular circumstances. Now the member for Wolseley (Ms. Friesen) has a slightly different interpretation of this clause than I do. I will read it for the record. It says: "The Lieutenant Governor in Council may, on any terms and conditions that the Lieutenant Governor in Council may determine, authorize the council to make grants to post-secondary institutions to which this Act does not otherwise apply."

It seems to me that this might cover your circumstance in that you do already receive grants, you are a post-secondary institution that is clearly, if you look at Menno Simons, absolutely articulating with the existing universities, same professors even in the courses. Without holding you to it, because you may wish to converse with your colleagues, might that not cover you off, the way it is worded?

Mr. Eichhorst: Mr. Chairman, I think it does because it says this act does not otherwise apply, and as I have stated earlier, we are not within the definitions and therefore we are not included in the same way for the entire bill.

Mr. Chairperson: We are now down to just over a minute.

Ms. Cerilli: I will pass my turn to Ms. Friesen. I am sure she is going to raise the same issue.

Ms. Friesen: I understand I think now what you and the minister are saying is that you want this bill to authorize the payment of public money, but you do not want to come under the accountability sections of the bill, and I know that sounds rather blunt but let us be clear about it. What exactly is happening here?

Mr. Eichhorst: Mr. Chairman, we are not saying that we are unaccountable. We are accountable academically. We are accountable in terms of presenting our budgets and our audited statements. We are accountable in terms of presenting our purpose to the public. We simply are saying that we are not asking to be taking the place of the universities. We work with the universities in the province. We hope we are an important part of their educational program, but we are not trying to replace them; we are not trying to duplicate them. We are doing something which we believe is specifically in the interests of the people representing our institutions, the many constituents and the many students who, in many cases, otherwise leave the province.

* (2040)

Mr. Chairperson: We are out of time. Thank you very much.

An Honourable Member: Leave?

Mr. Chairperson: Is there leave granted? Leave granted. One more question.

Ms. Friesen: Thank you, Mr. Chairman. On the issue of duplication then, since your desire is not to come under the rest of this bill, it then does not become possible for this council to say, ah, x and y are taught at the Bible colleges and hence are duplications of what is happening in the public system, so the whole issue of duplication then in the Bible college—I am putting duplication in quotes here—is taken off the table. Is that your understanding of it?

Mr. Eichhorst: Mr. Chairman, I would suggest that if the Bible colleges wish to offer any kind of program other

than what the council would recommend or approve, that should be entirely on our own funding and should not be based on any funding from the public.

Mr. Chairperson: Thank you very much for your presentation, Mr. Eichhorst, and safe journey.

We now have the next out-of-town presenter, Gail Loadman, No. 32. Is Gail Loadman here? Maybe, while the Clerk is looking for Gail Loadman, we could see whether or not—number 38, I am told, Dr. John Mallea phoned in and said he would not be able to make it. So Dr. John Mallea will be put to the bottom of the list, and the next person is going to be No. 50, replacing T. Patrick—I am sorry, 46, Lewis Layman. Is Lewis Layman here?

Mr. Lewis Layman (Private Citizen): Yes.

Mr. Chairperson: Has the Clerk confirmed that Gail Loadman is not here? [interjection] Gail Loadman will therefore go to the bottom of the list, followed by Dr. John Mallea, and now we are hearing from Lewis Layman who is having his brief circulated. You may begin, Mr. Layman.

Mr. Layman: Thank you very much. This speech is going to be like me, short. I was originally going to speak in favour of amending 3.2(a) and suggest you add a policy. I am glad to see that. I am glad that we agree on some things. I agree with the student that this is a good start but only a start.

I will make this speech short because I do not want to reiterate—that the same thing is being said over and over again. It is worth noting, I think, that, on one hand, obviously the university must be accountable to the students, to the people of Manitoba, to the government which represents them. At the same time, it is crucial that there be a counterbalance, that the university have the ability to make decisions independently of government and political interference. My concern is the same, I think, as you have been hearing all night. We are afraid that this balance is being lost and that Bill 32 greatly increases the power of the government to control the university. The interests of the university and the government will often be the same, but sometimes they will conflict as well. For that reason then I urge you to support the MOFA amendment to 5.1. It, quote, consists

of seven members appointed by the government and seven elected by the various post-secondary institutions in the province.

The important point may sound like a cliché, but here it is. I think it is important that there be a working partnership of equals not government dominance. Bill 32 is, in my view, not the best way to cope with the situation. Having been a school trustee nine years, a board chair three years and having done some administration at the university, I am very aware, as I think most people are here, as you are, that there is a financial crisis, that we face extremely difficult times. I am aware and we are aware that the universities must change.

Having said that, I would like to say that I think it is time that somebody stood up for the University of Manitoba. I am proud to be a member of the English department and I am proud to have been and to continue to be a professor at the university. It seems to me that the assumption of this bill is that there is something drastically wrong, that we need drastic change. I personally do not believe that. Obviously we have to change. Obviously we have to adapt to the times. We will do it, but what we need—this works with a class but it does not work quite as well with the Legislative—

Mr. Chairperson: You are coming through.

Mr. Layman: Okay, I am glad to hear that.

I was suggesting that basically what we need is support, understanding, co-operation and funding. By the way, I would say, judging by the way that the students spoke tonight, we must be doing something okay. It is about time that was acknowledged. We hear the negative only. There is a danger in tough times, I think, of our turning on each other, of students, of professors, administrators, the university administration, the government pointing the finger and blaming the other people. That would be destructive. It seems to me that what we need is not a full government control of the institution, as I am afraid and everybody here is afraid would be implied by Bill 32, but what we need is to understand each other and all work together for the benefit of the children and all the people of Manitoba.

If that sounds a little Pollyannalytic, so be it. But I am glad to be from St. Adolphe, I should say, aside from

when it is flooding in the spring. I got another advantage tonight in going early. I hope that you will listen carefully and with open minds to all the different points of view, and thank you for hearing me tonight.

Mr. Chairperson: Thank you, professor. Honourable minister, then Mrs. Render, then Ms. Friesen.

Mrs. McIntosh: Thank you very much for your presentation, and delighted to meet a long-serving trustee.

Mr. Layman: It has been a long time.

Mrs. McIntosh: It is good to see you here, and your presentation was very good. I do love the way you have put it on one piece of paper with points, and I thank you for that because it makes it so much easier to read.

I just want to indicate a couple of things: First of all, you do not have to be sick to get better, for starters. In trying to improve the university and college system and seeking to implement the Roblin recommendations, we are looking to make improvements. If you like the way the students spoke so far, and they were very articulate, hang around and hear the rest of them because they are equally articulate and will be giving a different message. I think it is good for both of us to hear both of those perspectives from differing student bodies.

I also wish to indicate that I agree with you, some of the points that you have made here, that we do need a partnership, and we are not even saying of equals. We are saying the universities will still have dominance. There seems to be an underlying assumption with the bulk of the faculty members, and they are mostly who are presenting to this committee, that somehow the government is going to be taking control. You said government should advise about university policy and I would love that, so we are saying that we would like to be giving general direction on matters of significant public interest within strict controls.

Basically when you say the government should advise but not control, we are saying that on matters of significant public interest, we would like to be able to give general direction to the council within those safeguards that are presently there, lifted from the UGC and identified. So I think maybe we are doing what you have asked here, but there is a fear out there. We are

putting in some words to try to clarify that, to give back the comfort, including after consultation with colleges, universities and students, et cetera.

I wanted to ask you one question, though. When you indicate that the council should have elected members, seven from each of the seven institutions and seven appointed by the Lieutenant Governor, knowing this council is to replace the Universities Grants Commission, have you had difficulty or are you aware of difficulties that were experienced in the past by a commission that essentially performed these functions that was appointed? The Universities Grants Commission was appointed, lay people. Have you or your colleagues had difficulty with that body because it was not elected by the faculties or the institutions?

* (2050)

Mr. Layman: I am not sure about that.

Mrs. McIntosh: Okay. I thank you very much for some of the things you have said here, and we will be looking at having an amendment that includes the consultation with the universities which I think is one thing you had indicated was a concern. Thank you.

Mrs. Render: Professor Layman, you mentioned that universities must adapt and change. Can you just explain a little bit more what you mean by that, and what do you see as some of the changes that universities, in your opinion, should be making?

Mr. Layman: Well, I can talk in terms of the English department, if you would like, as a part of Plan 2000—

Mrs. Render: Could you bring the microphone down a wee bit or maybe that tall one down a little bit?

Mr. Layman: This one?

Mrs. Render: Yes, thank you.

Mr. Layman: Can you hear me?

An Honourable Member: Yes.

Mr. Layman: All right, my next number is going to be Elmer's Tune here.

I said that I was going to talk in terms of the English department and Plan 2000, which I am sure you know indicates that the university is committed to doing things in a somewhat different way from what they did in the past. We are bringing in developmental courses. We have brought this in in the last two years for students who are having difficulty in writing, this in addition to the remedial courses, because too many students have been lost in the shuffle. That is, too many students have been at the university, found themselves unable to cope and have simply dropped out and been lost. So this is one change.

We are bringing in and trying three credit hour courses instead of six. We are bringing in new kinds of courses, interdisciplinary, say, law and literature, or a course which deals with fiction and popular discourse. On the other side, we used to have a very successful Honours program in which the students learned, took courses separately from the students in the general program. This works well, but three years ago we dropped it for a number of reasons. One of which, a very good one, was that we could no longer afford to give those small classes.

So there are all kinds of particular ways I think in which we have to change and in which we have been attempting to change and which have not been very widely acknowledged. I mean, the talk was last year as if the university was being reduced for the first time, but our department has gone down from 53 full-time members to 23 in the last 20 years. So let us face it, this reduction is not something that is coming upon us now, it is something that we have been experiencing and suffering from and having to cope with as best we can.

It means offering bigger classes and it means offering less classes, and that is one of the things I think that was implied when the students said that they were suffering. They have to pay more, they have less opportunities for employment after and they have less courses to choose from in the meantime.

I did not mean to use up all the five minutes there.

Ms. Friesen: Professor Layman, I was glad in fact you did use that time because I think you were able to put on the record two things which really respond to the assumptions of the Roblin commission and I think are some of the underlying assumptions behind this bill.

First of all, the Roblin commission seemed to think that universities were unchanging, and I think you have given us some very good examples, including the new university introductory year, of the ways in which universities are trying to adapt to the conditions which have been forced upon them, as well as the ones that they would want to make given the best of all circumstances.

I wanted to ask you about another assumption of the Roblin commission and that was that Manitoba's universities are not serving Manitoba well. If you remember, there were a number of—

Mr. Chairperson: Two minutes.

Ms. Friesen: —elements there which looked at the absence of community service, wished that more courses dealt with Manitoba, wished that university research was particularly focused upon Manitoba. I wonder if you could tell us how your department, including theatre and film, has in fact been serving Manitobans and been serving the community.

Mr. Layman: Yes, I think that film has been serving Manitoba very importantly in a number of ways. We have been asked to be more community oriented. The film program is exactly that. If there is a thriving industry of film in Manitoba, I do not think we should claim responsibility for it, but we are very strongly connected to it. We have people in our department writing plays, working with people in the film industry, making films, advising and consulting. Our theatre program has a working relationship with the Prairie Theatre Exchange. I guess I feel we have been getting a bum rap from the papers and from the public. We are asked to be community oriented. We attempt to do that, and we are doing that to an extent. As I said, there is always room for improvement.

Mr. Chairperson: Ms. McGifford, if you want a question, you are going to have to go.

Mr. Layman: That is my final—

Mr. Chairperson: Last question.

Ms. McGifford: Dr. Layman, I thank you for putting on the record the economic spinoffs of post-secondary education regarding the film industry, but I wanted to go

back a little bit. Your remarks in response to Ms. Render's question indicated to me that your department is responding to the needs of students of its own volition without the post-secondary education council. Is that what you were telling us?

Mr. Chairperson: Mr. Layman, a short answer.

Mr. Layman: It is obvious that we have to do that. As I said, the universities can and will change, but I really do not think that Bill 32 is the answer.

Mr. Chairperson: Thank you very much for your presentation and a safe trip home.

Mr. Layman: Thank you very much.

Mr. Chairperson: I would next like to call on Dr. Dennis Anderson, Brandon University, is replacing T. Patrick Carrabré. I am sorry, No. 50, Dr. Dennis Anderson. You may begin. You are now circulating a submission.

Mr. C. Dennis Anderson (President and Vice-Chancellor and Chair of Senate, Brandon University): Mr. Chairman and members of the committee, on behalf of Brandon University Senate, I appreciate the opportunity to make a presentation to you. As noted on the list, Dr. Patrick Carrabré, who is the vice-chair of senate, was to make that presentation. He was unable to come. He dislocated his neck and is wearing a brace and was not able to travel. There are reports around the university that he was seen going into a meeting with the deans without the brace on his neck. I do not know what happened.

I am here as chair of senate to communicate senate's suggested changes to this bill to you, and I have circulated the text of the changes. Senate had a special meeting on this. There is appreciation that it is necessary for the post-secondary system in Manitoba to change, to remain vital and to provide the quality of education that Manitobans deserve. I think there is a common objective and senate agrees, common objective between the institutions and government to have a stronger post-secondary system for Manitoba students.

The specific changes I will address. I am sorry I did not pick up the minister's suggested changes to Section 14. If someone could pass that to me, I could perhaps be briefer when I come to that section. I would like to suggest that senate, while there was no motion that addressed the overall concept of the legislation, no motion that suggested that the concept be done away with, there are some concerns. There are concerns about the need for modifications in the preamble, also in the section dealing with the council mandate and the role of the minister and in the section dealing with the powers of the council to regulate programs. In the latter two areas, there is, at least in the existing text, some concerns about micromanagement of the institutions which we are hearing from the minister that it is not the intention of the university to do that. I would agree with our student president who presented here earlier that it would certainly be desirable that, where there is no intention to act, the words be consistent with that intention. I think that is a healthy thing to have.

To go over the suggested changes, in the Preamble to the act, there is a belief that this is the section where the government can set the tone and the vision for the post-secondary system in the province, where they can emphasize some of the common objectives that are shared among the institutions and between the institutions and government, and where there can be an expression of the partnership between government and the institutions in having a quality competitive, nationally and internationally, system for our students.

In the last WHEREAS, there is a suggestion that words be added and words be deleted. The suggestion specifically is in the last WHEREAS, that the words "to plan and co-ordinate" be deleted and be substituted with the words "to co-operate with universities and colleges," so that that section would read "and WHEREAS it is in the public interest to enact legislation that establishes a council to co-operate with universities and colleges to ensure a strong and dynamic post-secondary education system in the province."

By taking out the words "to plan and co-ordinate" it takes away the impression that the council will be the active planner and the active co-ordinator. The universities, the colleges themselves do planning; they do co-ordination right now. They have a lot of expertise in that area and it certainly should be that the council, while

having an interest in how the system is planned and co-ordinated, should co-operate with the universities and colleges and not replace those bodies, those institutions in having responsibility for planning and co-ordinating the system.

The second suggestion relates to the mandate of the council. The suggestion there is that we at least remove one of the phrases. One of the places where the phrase occurs, that the objective is to eliminate unnecessary waste and duplication in the system. Specifically within Section 3.1, the suggestion is that the mandate of the council be revised in the last part of Section 3.1 to add the phrase "encourages fiscal responsibility and ensures Manitoba students access to the best post-secondary education system possible," and that phrase would replace the current phrase which reads "and avoids unnecessary duplication of effort and expense." This phrase we are suggesting is a more positive statement. It is one that recognizes that the Manitoba post-secondary system and indeed the students and faculty members in it are connected in a national and international system, and we should ensure that our students have the access to the best system possible within the funding parameters. It is a much more positive statement.

I will add parenthetically that there is no definition in this act of unnecessary duplication, and if that phrase is to remain in the act, I would suggest it be defined. You heard some comments earlier that something certainly should not be included in the definition of unnecessary duplication. That is the offering of the basic core courses at a variety of institutions. I would further suggest to you, if you look at the parallel in other professions, whether it is the legal profession, the accounting profession, surely one would not define the existence in multiple sites within the province of auditing services, of legal services, of family services.

We would not suggest that is unnecessary duplication. That analogy I believe applies to universities and I think will provide some fuel for you at least defining that term and not including in the definition the multiple offerings of the basic core programs to which citizens in various geographic regions of this province have a right.

The third suggestion is regarding the limitations of the act. That section, I am pleased that the minister has said that will be changed to add the word "policies." I believe

that "academic policies" should be added to that section to Section 3.2, and in addition we suggest that the phrase "institutional priorities" be added there because the institutions themselves do have a responsibility for not only their academic policies but for setting institutional priorities, and I do not believe that the government nor the council wants to take over the role of the internal resource allocation within the universities. If you do not put in the words, "institutional priorities," then it certainly leaves the expression or the sense that indeed someone else is going to determine those internal resource allocations, and I do not believe that is the role for the government or for this council.

Another area of concern is the direction from the minister. That is Section 4, and we are suggesting that while general direction is okay, that the following phrase be added and it suggests that: Provided such general direction is compatible with the academic policies and institutional priorities of universities and colleges and that the specifics under (a) and (b) in Section 4 be deleted. Those specifics are the priorities the council should follow and the co-ordination of the council's work with government.

In terms of the duties of the council, we suggest that phrasing be revised, specifically in Section II(b). We suggest that the framework within which the institutions are to operate, that there should be a framework established by the council, not by the minister, and that that be worked out in co-operation with the universities. I understand that is another place where the minister is prepared to put in the phrase about co-operation.

The further revision to Section II(b) would have the effect of the council not being able to determine allocations of funding to specific programs. That addresses the issue that the institutions themselves should be able to determine their internal resource allocation priorities.

Suggestions six and seven relate to the powers to regulate new and expanded programs. We make some suggestions there that the definition of reduce be deleted, and that the words "or expand" be removed from the title and indeed that the title should focus on new programs, not on current or existing programs, and that the powers of the council be limited to requiring institutions to get prior letters of permission when they are intending to

expand new programs. I think most would agree that new facilities should be included in that. We are used to that under The Universities Grants Commission Act.

I just had passed to me what the minister is suggesting under 14(1). During the question section, perhaps we can address the differences between what we are suggesting here and what the minister was suggesting.

Mr. Chairperson: I did not want to interrupt this very specific presentation but we are now eating into the question part of the section. Just so you are aware.

Mr. Anderson: I would be happy to answer your questions. There are a couple of queries there that are for your information.

Mrs. McIntosh: Mr. Chairman, I was just going to indicate that some of the questions we would be asking are probably going to be in the explanation you are about to give. So maybe Mr. Anderson could finish his presentation and it might save a couple of questions.

Mr. Chairperson: Leave of the committee? [agreed]

Please complete your submission.

Mr. Anderson: I am essentially completed. I did mention that in Section 14, I wanted to see what the minister's changes were, so I would not consume time on that. I was preoccupied when that was mentioned. I have them before me, and I leave the last part of it, the three queries or questions that our senate has passed on. I leave that for the committee. So I have concluded my presentation.

Mr. Chairperson: Okay. There will be questions.

Ms. McGifford: Can you hear me? I do not know whether the mike is picking me up.

Mr. Chairperson: Move it closer to you.

* (2110)

Ms. McGifford: It will not come closer; it was rigged.

Mr. Chairman, I wanted to ask Dr. Anderson if he could explain to us how the senate is composed at Brandon University. Is it democratically elected?

Mr. Anderson: The composition of senate is specified in the regulations under which Brandon University is operated, and in those regulations it indicates that there are approximately 32 or 33 members of senate. The composition is specified to include student senators, and I believe there are eight faculty and professional staff. I do not know those numbers. There are administrators as well. There is one appointee by the Deputy Minister of Education, and there is one appointee by our board, so it includes administrators, faculty, professional staff, students and one appointee by the minister and one by our board.

Ms. McGifford: In other words, the senate is reflective of the various constituents in the university.

Mr. Anderson: Yes, it is.

Ms. McGifford: I wonder if you could comment on the nature of the debate at senate at which these motions were passed, whether it was long, short, involved, complex, because it seems to me quite remarkable that a group of people were to achieve almost unanimous agreement. I wonder if you could comment, please.

Mr. Anderson: There was a notice of motion circulated to senate. The notice of motion was essentially similar to the position taken by the Manitoba Association of Faculty Associations. At senate, the presenter of those notices of motion, in response to some general discussion at the beginning, decided to bring forward a reduced set of motions and those were focused on by senate. Some were passed, some were not passed. What you have before you here are those that were approved by senate, and they parallel in some respects some of the specific motions brought forward by the mover, but many of them were amended in the process of going through senate.

Mrs. McIntosh: Mr. Anderson, you are indicating that you, the faculty, the senate, the students, everybody at Brandon is in complete accord on these motions you put before us here tonight.

Mr. Anderson: It was requested by senate that either the chair of senate or the vice-chair of senate communicate senate's motions to this committee, and I am here in that role communicating those motions. You will be hearing later on in the presentations the presentation by Dr. Hanen from the University of

Winnipeg, and that presentation represents some suggested changes that were agreed to by the presidents of the universities and colleges.

My role here tonight is to communicate senate's motions to you. A number of those motions are in parallel with some of the matters that Dr. Hanen will be raising; others are not.

Mr. Chairperson: Before the honourable minister proceeds, we need leave if any questions are to be asked. I do note that there are several questioners who wish to go after the minister. Is there leave of the committee to entertain questioning for several more minutes or—

An Honourable Member: Leave.

Mr. Chairperson: Leave is granted.

Mrs. McIntosh: Just for clarification on the first one, Dr. Anderson, these motions that are here have been agreed to, not just by the senate but by the students, by the faculty, by everybody at Brandon University in all quarters. Is that a correct assumption? The students came forward and said they had complete unanimity at Brandon University, and yet they presented something that was a little different from this. I am reading the faculty association's, theirs is a little different, but I am hearing you say you all agree, and so I am just wondering, are these the ones that everybody agrees on?

Mr. Anderson: To be clear, these are the motions that senate passed after discussion in a special meeting. I am communicating them to you. I do not believe that they map 100 percent of the positions that are being brought to you by the students or by the faculty association. I did mention—sorry.

Mrs. McIntosh: I think we can address some of the points that are in there. These are quite different, and I wonder if you could just, because I want it clear for my understanding and for the record, Mr. Black's presentation also indicated complete unanimity at Brandon University. I am wondering if you could tell me if you, as president, on behalf of the board of governors agree with this statement: The contents and consequences of Bill 32 are totally unacceptable. The underlying vision for the bill is that of a delicatessen.

Such a vision is wrong. It refers to students as consumers and so on and so forth.

Do you agree that students should not be referred to as consumers and that the contents and consequences of Bill 32 are totally and absolutely unacceptable?

Mr. Anderson: I think I have explained the capacity in which I am here, and the content that I am speaking to is the content that I have circulated. It is not the content that others have circulated. They can speak to their matters. I think—

Mrs. McIntosh: They are speaking on behalf of you. Do you agree with what they say about you?

Mr. Anderson: The others take liberties of including or excluding me from a variety of things.

Mrs. McIntosh: Thank you.

Mr. Anderson: The final point is that universities are a place where differences of opinion are tolerated, and I think that is what you are seeing here tonight.

Mrs. McIntosh: Would you also say that they are a place that when people come to present they should be speaking the truth, the full truth, the seeker after truth and the fully accurate truth?

Mr. Chairperson: I would rule that out of order.

Mrs. McIntosh: It is a question. People speaking on your behalf.

Mr. Chairperson: Ms. Cerilli, do have a question?

Ms. Cerilli: I have a few questions. First of all, you have sort of drawn to the committee's attention a couple of areas where the preamble in the bill does not jibe with the mandate of the council outlined in the bill, and you have done that in your first two recommendations. The first one you have included into the mandate a reference to accessibility which is in the preamble but was excluded in the mandate which is the enforceable main body of the bill, so I think that is good. I think that is a really good and important thing to have in the mandate of the council.

I am just wondering further to that though in the amendment that you have made in the preamble to eliminate "to plan and co-ordinate" is still in the mandate which is going to be the part of the bill that has the full enforceable weight of the law, so to speak, so I am wondering if that was merely an oversight and your intention is that there should also be some consideration to change that phrase in the mandate, that the council is mandated to plan and co-ordinate the development of a post-secondary education system.

Mr. Anderson: Yes, I noted that inconsistency and senate had a number of issues to deal with. I cannot speak for them because they did not make a specific statement on that, but I think you will see when you hear other presentations that there is a suggestion that the active plan and co-ordination by council should be modified, that in consultation with the universities and colleges, to essentially help them and assist them in planning and co-ordinating. I could take that matter back to my senate. My guess would be that senate would indeed agree that Section 3.1 should have a similar change in it to the last WHEREAS statement, but since senate did not address that specifically, I cannot give you a definitive answer on that. I can only give you my opinion.

Mr. Chairperson: Can we have one more question, either you or Ms. McGifford?

Ms. Cerilli: I just want to follow up on this very sweeping powers that are being given to this council to plan and co-ordinate in the bill and I do not know how many staff this council is going to have to perform that kind of function, but I am wondering if you could tell us at your university the amount of administration that is involved in doing that kind of work so we can get some sense of the scope of those powers.

* (2120)

Mr. Anderson: It is a major effort on the planning and co-ordination of various committees of senate and the board, also the administrators and the individual departments and faculties. My view is that the post-secondary system is a partnership between government and the institutions, and I do not disagree with there being some assistance and some suggestions on the planning and co-ordinating. What concerns me is the

council assuming, by the language that is in here, that it is their active role to be the initiators and deciders on that. It has to be a co-operative thing and the expertise resides within the universities. I really do think that that is the place where we need the change to: in co-operation with the universities the council will, or: the council will assist the universities, in phrases like in co-operation with the universities, rather than the active: to plan and co-ordinate, that role being given to the council. In practice, that will not happen.

So let us change the text to be consistent with what the past practice has been and what the future practice will be. It is an important change taking away the assumption from the council to be established now or a future government or a future council that somehow we sit out there waiting for someone to tell us what to do. That is not the case. We are not overly humble people. We can be blunt. We are not immune to criticism. We do have ideas of our own, so we see ourselves as having a significant responsibility to keep a dynamic and an innovative and a competitive quality educational system, competitive to other provinces in this country and indeed internationally we see ourselves as being in partnership with government. It would never occur in practice that the council would do all the planning and co-ordinating, so let us not leave the words in there that imply that we sit out there and wait for somebody else to do a very important part of our business. We are happy to get your advice; we are happy to get your assistance, but we are not happy to have you assume a major responsibility for the institutions.

Mr. Chairperson: Ms. McGifford, last question.

Ms. McGifford: President Anderson, would it be accurate to say that yours is a powerful document because it is a consensus document reflecting the views of some students, faculty and administrators?

Mr. Anderson: Certainly the senate is comprised of those representations and on these matters there was virtual unanimity. I believe there is a high correlation between these items and what you will hear from the university and college presidents as a group. We differ in some places. Those differences can be healthy, and this committee presumably will have to wrestle with different advice on specific clauses, and I am sure the committee will be able to deal with that.

Mr. Chairperson: Thank you, Dr. Anderson, for your very complete presentation. I would now like to call on someone who was missed and is an out-of-towner. Brenda Cooke and Paul Crane, Assiniboine Community College, have been replaced by Gerard Bashforth who I understand is from out of town, Brandon area. Number 42, Gerard Bashforth, replacing Brenda Cooke and Paul Crane.

Mr. Gerard Bashforth (Assiniboine Community College, Brandon): Thank you very much. I was wondering if Brandon had finally swallowed up Winnipeg and we were not out of town anymore.

Mr. Chairperson: Temporarily.

Mr. Bashforth: Thank you.

Mr. Chairman, Madam Minister and committee members, thank you for the opportunity to present on behalf of Assiniboine Community College. Brenda Cooke has had a death in the family, is in Ontario, and both of our board members are caught with our weather and are uncertain if they can get back home. I am not sure about myself, but—so thank you. So they asked me to present on their behalf.

The college recognizes the need for co-ordination and planning of the system of education and training in Manitoba to most effectively and efficiently meet the needs of the province and in this light the college is supportive of the creation of the Council on Post-Secondary Education. I wanted that on record.

We have some points. Looking back over the University Review Commission that we would like to bring to the committee's knowledge and to be recognized. One is that we would like to ensure that the new council retains the spirit of the University Review Commission, and that commission talked about the underfunding, I quote: the subordinate, relatively isolated place in Manitoba's post-secondary education system and recommending the doubling of enrollment in diploma programs over the five years and recognizing the relative undercapacity of college potential within Manitoba versus the rest of Canada.

One of the major points we would like to make is that the colleges in Canada and Manitoba have had a very

unique role, and for the last 30 to 60 years have been colleges that have worked with industry and been very supportive of industry demands. We would not want to lose the ability to be flexible and meet the needs of industry under the new council. We want to ensure that articulation and transferability are very important parts between the colleges and universities but that they should not take a higher priority over the need to meet labour market demand, and that is a very important point that we want to make.

We also want to ensure that we maintain the strength of the college system. It has developed for a unique need within the post-secondary education system and we want to ensure that is maintained. Along those lines the points are, the power of the board, and since we have been moved to a board governance in '93, we have been greatly strengthened and we have been able to meet the needs of our community much better, and we do not want to see the power of our board undermined by reporting to a council which could be viewed as a board reporting to a board.

The program approval process that the colleges had is very, very flexible for us, and it allows us to meet industry demands very quickly. We do not want to be caught underneath the approval process of universities at this stage, so that is another point that—I am sure it was not the intent of the council in the act, but we want to ensure that our flexibility of program approval of being able to respond to industry needs very quickly is maintained.

I have talked about the ability for informal dialogue with government is very important for us; we worked closely with them and relationship with industry. We recognize the need for rationalization and support the idea of rationalization of programs among institutions in Manitoba and, in some cases, on a national level with the goal of creating a comprehensive, effective system; however, the colleges wish to note that there is often need for multiple offerings of programs, which would not constitute duplication. I guess our business administration programs are needed throughout all of the colleges in all of Manitoba, not just in one, as an example.

There are some real benefits to rationalization on a macro level, and it could be one of the major economic

development thrusts of the province if they so choose to look at some of the examples of education building outside of Winnipeg, or for rural Manitoba, there are real benefits of consolidating some of the training in some of the areas in northern, western Manitoba and some of the other towns and cities. This major restructuring is not without its costs, but it has great benefits in the long term for this province.

I guess with specifics to Bill 32 we just point out a few things that are of concern to us. One is the collegiate being excluded from the collegiate programs. We do offer a number of upgrading programs that grant Grade 12, and in conjunction with Brandon School Division, this leaves some confusion around how we would deal with that in this act and also with how we would report on the division of accounts in 23(2). We would like attention on that.

We note that when we moved to governance the three colleges moved with a fiscal year-end to June 30. We see no problem with moving back to a March 31 year-end to coincide with the new post-secondary council and with the universities. It would likely make our life simpler at this stage. The June 30 year-end has not been a great advantage to us.

With Section 14(2), the colleges and Assiniboine has found the article 5(2) under The Colleges Act much more conducive, easier to work with than the powers of 14(2) under the new council on post-secondary act in the brief. We are in agreement; the college board and management agree with the powers under 12(b) and 12(d) and want to conclude again that we are supportive of the things but want to bring these important items to your attention. Thank you.

* (2130)

Mrs. Render: I am not too sure if I understand what you mean on page 2, No. 4, Rationalization: the college wishes to note that there is often a need for multiple offerings of programs which would not constitute duplication.

I think I know what you mean, but so often we sometimes come at things a different way, and this is not the time to be not understanding correctly.

Mr. Bashforth: We agree that in some programs—and we in the college system have tried to avoid duplication—there are some programs and technologies that I think there should only be one offering in the province. In other ones that are quite common, our office administration, our business administration programs, there is a need throughout all of the colleges, and all three colleges should be offering them. We do not see that duplication; we see that as services meeting the needs of the area that we serve.

Mrs. Render: Okay, just one comment. We certainly take note of your comments on flexibility and the fact that your college does respond quickly to the needs of the community.

Mr. Bashforth: Thank you.

Ms. Friesen: I am interested to hear what your reflections are upon the maintenance of The Colleges Act. As you know, the UGC is dissolved but The Colleges Act remains in place, and you have quoted from one section of it where you think it serves you better than the new act.

Do you have any sense or have you had the opportunity to consult with the interim transition committee on the anomalies that might be present in maintaining those two lines of jurisdiction; The Colleges Act and a new post-secondary education council?

Mr. Bashforth: My understanding—this is just mine alone—is that The Colleges Act gave power to the minister, now under The Colleges Act, who it will give that power to the council on post-secondary. We do not see a lot of problems and duplications with keeping The Colleges Act. However, as I say in this article here, The Colleges Act was softer, general, that they “may” interfere. The other one is that they “shall” have the power and written permission is a stronger control mechanism.

Ms. Friesen: You have drawn to our attention one area where there is not necessarily a conflict, but certainly it is open to two different kinds of interpretations. I wanted to ask you again about the interim transition committee. Was the college able to meet with the committee in order to present some discussion of these anomalies or the way in which perhaps the road was open to different interpretations of two acts?

Mr. Bashforth: Yes, we have—

Mr. Chairperson: Mr. Bashforth.

Mr. Bashforth: We should catch on by the time the night is over. Thanks.

Yes, we have met with the interim committee twice and also have had input into the tuition discussion and the funding session, so we feel we have had fairly good input into the interim transition committee.

Ms. Friesen: What was the response of the interim transition committee then which drafted the legislation to the points that you are bringing up?

Mr. Bashforth: I think most of them—we met very early with the transition committee, again talked about our flexibility, our uniqueness. I guess there is some degree of disappointment in that one could read into this that the program approval process could get caught into the whole articulation process and the university approval process, and it could take us four to five years to get a program approved if we had to get full approval across that. Now we are assured by the transition committee that was not the intent and is not the intent, that we will still have the power to do that. It is a concern, and we bring it forth.

Ms. Friesen: I am still concerned about two acts which offer parallel ways of proceeding. Did the interim transition committee deal with that? Did you bring that specifically to their attention?

Mr. Bashforth: I cannot comment. I was at the first meeting. I was not at the second meeting when our president and board met with the interim, so, no, I cannot comment on that. Sorry.

Ms. Friesen: You talked in your introduction about one of the major recommendations of the Roblin commission, and that was to double the enrollment in diploma programs over a five-year period. I wonder if you could tell us what kind of progress Assiniboine Community College is making towards that.

Mr. Bashforth: I think over the last three years we have made significant progress in introducing new diploma programs, consolidating. We wanted to make a major

effort to be viewed as an alternative in post-secondary, not a default, and diploma programs have allowed us to do that. On the other part, there is a major need for training in Manitoba that is not offered at this stage. We have about a third of the capacity of the Canadian average and about a fifth of Alberta and Ontario for college programming. It is a concern that affects Manitoba.

Mr. Chairperson: Ms. Friesen, then honourable minister, then Ms. Cerilli.

Ms. Friesen: I know that you did not come for these kinds of questions, but I am very interested in that recommendation of Mr. Roblin. I wonder, do you have any numbers with you about the number of new diploma programs that you have introduced and the enrollment? You said they are increased. How far along are we on that road? By how much have they increased?

Mr. Bashforth: We have increased our enrollments by about 250 students, and we have about 1,100 students now in the last three years. So we have increased about 30 percent, and we have increased from six diplomas to 13.

Mrs. McIntosh: I appreciate your very thorough presentation, and we will definitely take a good look at it. Some of these points I recall from my last visit out to the college, particularly the concern about being able to respond quickly to market-inspired courses and so on and the comments you made at that time about the “and training” component. You have others there as well, and we will take a look at them all. I believe that we may be able to do some things to address the concerns you have. You have seen our preliminary indication of the amendments that we have indicated we will proceed with so far, and there may be a few others coming at the discussion at the end of the bill. You have some here that we were aware of that we have not put together yet, but we see them reflected here again. So I thank you for the comments that you have made, appreciate them very much, and we will take a look at them.

Ms. Cerilli: I just have one quick question. I do not mean to be presumptuous with this, but I think it is important to raise because you mentioned in your comments about market-driven courses and how important that is for the colleges, and it makes sense in

training for specific jobs or trades from the colleges, but I know there are many people from the universities who are concerned that this bill is going to lead to market-driven universities. I wonder if you would acknowledge that this is one of the differences between colleges and universities, that the universities are there for not necessarily training for a specific job per se, but they are a place for critical thought and theoretical approaches and a place for higher thought and academic thought, not so much practical in a lot of their programs. So I am just wanting to get you to comment on that. We support bringing the colleges and universities together in a post-secondary council but want to recognize that there is a specific distinction and difference in the universities in that sense.

Mr. Chairperson: Mr. Bashforth, a short answer.

Mr. Bashforth: I respect that in the universities' situation. Being university trained as an agronomist and with a number of brothers who are engineers, I also see the market-driven side of universities and the desperate need in this province for a market response as well, if we are going to expand mining or wood processing or some of the high-level technology that we need. We also need market driven. But I do respect the other part and higher learning and education.

Mr. Chairperson: Thank you very much, Mr. Bashforth and safe trip. The next presenter is Betty Green, wearing two hats, speaking to Bill 33 and Bill 47. Betty Green.

Ms. Betty Green (Manitoba Association of School Trustees): Good evening.

Mr. Chairperson: Do you want to sing in harmony?

Ms. Green: This is my co-presenter, Betty Ann Watts, Vice-President of the Manitoba Association of School Trustees.

* (2140)

Mr. Chairperson: Welcome. Your presentation is being circulated and you may begin the presentation. It will be Betty Green going first.

Ms. Green: That is right.

Mr. Chairperson: Go ahead.

Ms. Green: Prior to beginning, Mr. Chair, may I ask the minister if she has any amendments that will be presented in regard to the legislation on Bill 47 and on Bill 33?

Mrs. McIntosh: I do not have any here tonight because I did not think we would be getting to these tonight. I figured with the number of presenters on Bill 32 that we would be working on it, but I do like the idea of doing all of the out-of-town presentations at once because it gives them an opportunity.

Ms. Green: Thank you, then I will certainly address my comments beginning with Bill 47 and proceeding, if I may, directly into Bill 33. There are some significant connections between the two that I think would warrant the presentation of the two together.

Mr. Chairperson: Okay. Do you want me to then do this on the basis of a time limit each separately?

Ms. Green: No, I would prefer if you would allow for the time limit to reflect for the two together, in other words, my total presentation.

Mr. Chairperson: Agreed? [agreed] Okay, go ahead.

Ms. Green: The Manitoba Association of School Trustees welcomes this opportunity to present to the Law Amendments review committee its view on changes to The Public Schools Act proposed in Bill 47. MAST appreciates that the rapidly changing times in which we live require careful and ongoing examination of the laws that govern us in order to ensure that we remain current, viable and relevant. We commend the government for its recent efforts in this regard.

MAST's position on Bill 47 has been shaped primarily through two processes. As always, the association's policies as determined by resolutions at its annual convention are a critical determinant of any stance taken by the association. Where appropriate, these policies are forwarded annually to the Minister of Education and Training and other ministers for consideration and possible action. We are pleased to see that many of the changes proposed in Bill 47 and other legislation before the Legislature reflect concerns the association has recently brought forward to the minister. In light of the extent of changes proposed by Bill 47 and other legislation, MAST augmented its formal policy positions

by holding a series of special regional meetings, a special round of regional meetings, on proposed legislation changes during September. Six meetings were held across the province in the first two weeks of September, and more than 200 trustees and senior school board administrators attended these meetings, representing all but two of MAST's member boards.

These meetings focused on those aspects of the legislation which were considered to be of the greatest provincial, rather than local or regional, implications. The proceedings of these meetings give direction to much of what follows.

We recognize that MAST's presentation is substantial and will take some time to present. Please keep in mind, this is being represented and presented on behalf of our 56 member school boards whose responsibilities for the education of over 195,000 students in our public schools are affected by the amendments proposed in this bill.

I will begin with Section 6(2), duties of the school board, of Bill 47. This would add six new requirements to the duties of school boards listed in Section 41(1) of The Public Schools Act. Five of these new duties are considered below; the sixth, the obligation to provide school committees with information, is dealt with elsewhere in the presentation. Before examining the individual additions, I would like to make some general comments about the duties of school boards. The Public Schools Act currently lists 19 duties in Section 41(1). Bill 47 will see the repeal of one subsection, leaving 18 duties of school boards from the current legislation. The six additional duties proposed represents a substantial addition.

With this in mind, the amendments were first reviewed to determine whether the proposed new duties for school boards are clear and well defined. Secondly, consideration was given to whether boards could reasonably be expected to fulfill the obligations which would result from the new duties proposed. Thirdly, the amendments to the duties of the school boards were scrutinized to determine whether they were consistent with the board's responsibility to their local voters, ratepayers and students.

The first proposed addition, (u) each school board shall co-operate with schools to develop courses, programs and

instructional material, subject to the approval of the minister.

This proposed new duty is an accurate description of the current process for the development of courses, programs and instructional material in Manitoba public schools. Schools and school boards routinely co-operate to ensure that a relevant and responsive curriculum is available to the students in their division. We expect this co-operative process to continue.

However, the proposal to legislate this co-operation activity as a duty of school boards is fraught with problems. The proposed new duty introduces, for the first time, the word "co-operate" to The Public Schools Act. No definition is provided in the act for the word, raising concerns about the criteria by which judgment would be made about the board's compliance with this duty.

The overriding concern with this section has to do with its potential to confuse the relationship between the school board and the schools established and maintained by that board.

Section 41(1) already ascribes to school boards the duty to determine the number, kind, grade and description of schools to be established and maintained. The proposed new clause would add to this duty of boards to co-operate with schools they establish. Placing on the board the duty to co-operate with its schools compromises the board's authority over the schools for which it is responsible.

School boards also have an existing power to establish and provide for any course of study approved by the minister. This proposed new duty would effectively qualify this power by adding the requirement that they co-operate with the schools for which they are responsible.

School boards are also concerned that their ability to fulfill this duty to co-operate with schools in the development of courses and programs will be limited by the financial constraints that affect them.

In summation, MAST's position is that we recommend that this clause be reconsidered to take into account concerns about the word "co-operate" and to better reflect the relationship between school boards and schools.

The second addition, (w) every school board shall provide the minister, at the time and in the form and manner he or she determines, such information as the minister may require.

* (2150)

The primary concern with this proposed duty is the potential for the minister to require school boards to compile information that is not already available and that compiling this information will require the expenditure of a substantial school board amount of resources in terms of time, manpower and money.

The scope of the clause is also a concern, as it in no way indicates what might be required of the school boards to fulfill this additional duty.

School boards are also uncertain as to the intent of this clause. School boards recognize the authority of the minister and already make every effort to provide the minister with information as he or she requires.

Finally, it should be noted that this clause and clause (y) are redundant. The concerns that are raised in our comments in clause (y) also apply here. MAST has reservations about the scope of and the need of this clause and asks for it to be re-examined in light of the issues outlined in this presentation.

The third additional duty that we will address here: Every school board shall, on an annual basis, report to the residents of the school division or school district or, in the case of the Francophone School Division, to parents of pupils who attend schools operated by it, any results of assessment of the effectiveness of school programs.

Our discussion with school boards confirmed that there is a general confusion as to the intended meaning of "assessments of effectiveness of school programs." Many would equate this with student evaluation while other envisioned a requirement that school boards undertake a new type of program assessment.

During MAST's meetings to review these proposals, one group summed up the major concern with this section as follows: We assess students, not programs. The department assesses curricula and makes changes.

Without a definition of "assessment of the effectiveness of educational programs," boards have no way of knowing what difficulties they may encounter in complying with this proposed duty.

To summarize, MAST opposes the inclusion of clause (x) as an additional duty of school boards, and MAST recommends that this clause be referred to the minister's advisory council on implementation or to some other nonlegislative venue for discussion and clarification.

And (y): Every school board shall comply with directives of the minister. School board members have expressed a great deal of concern over what might constitute a directive of the minister. Recently Ministers of Education have published a number of comprehensive documents, often described as government policy, detailing expectations for educational change and identifying deadlines for their implementation.

Much of the contents of these ministerial policy pronouncements have since been abandoned, amended or substantially altered. Time lines for implementation are notoriously fickle. These will all appear to have been ministerial directives, and school boards could not possibly have complied with them.

Schools boards recognize and accept the fact that they are established by the province and exercise on its behalf the responsibility of ensuring that students and communities receive appropriate educational opportunities at a cost which their communities can sustain. Over many decades the province of Manitoba has articulated its expectations of school boards in great deal through The Public Schools Act, The Education Administration Act, and the attendant regulations of these acts. The minister is given considerable latitude in making regulations in areas where additional detail or frequent change is anticipated.

In addition to their obligations to administer education according to the terms of the provincial Legislature, school boards also have an obligation to the voters who elect them, to the ratepayers who provide them with financial support and to the parents who entrust them with the responsibility of educating their children. School boards are very concerned that directives of the minister could conflict with existing legislation or with a board's obligation to its constituencies.

If there are new expectations which should be systematically communicated to school boards, this should be accomplished through the legislative processes in which we are currently involved; however, in the extent of this well-established and detailed legislative process, it must be said that this section is too broad in scope to be an appropriate inclusion to the duties of school boards and therefore MAST opposes the inclusion of clause (y) as an additional duty of school boards. Every school board shall ensure that each school in the school district or school division prepares an annual school plan; that is the fifth of the additions that we will speak to at this current time.

School boards recognize the value of defining and articulating goals through the development of annual school plans. In many school divisions and districts across the province, the development of annual school plans are already an established practice. MAST is actively supporting the efforts of school boards and schools to implement effective school planning processes, and therefore MAST supports the inclusion of (z) as an addition to the duties of school boards.

Mr. Chairperson: I just thought I should warn you, Ms. Green, that you are halfway through your presentation and only halfway through the first brief and that does not account for questions and answers, so you may wish to either summarize—the whole brief can be in effect read into the record notionally and become part of Hansard, and all the committee members have the brief. So I just offer that to you at this time.

Ms. MaryAnn Mihychuk (St. James): I am going to ask the committee to consider leave, given that Ms. Green is representing the school trustees of Manitoba and that it is vitally important that we hear their position in total.

Mrs. McIntosh: I would concur with that. Everybody here is representing somebody, so I do not want to set a precedent that is going to be bad, but I know how far away Ms. Green lives, and in light of the fact that she is an out-of-town presenter who does live a long way from here, I would give leave for her to continue.

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

Some Honourable Members: Leave.

Mr. Chairperson: Leave is so granted. You may proceed.

Ms. Betty Ann Watts (Manitoba Association of School Trustees): I will then continue on behalf of the Manitoba Association of School Trustees.

Mr. Chairperson: Do we now have the other Betty?

Ms. Watts: Betty Ann Watts.

I will begin my presentation with reference to Section 6(3), transfer fees. The need for a transfer fee has not been established and appears to be proposed in a way which will expose school boards whose students choose to study elsewhere to the double jeopardy of loss of provincial grants and loss of local tax revenue without any significant reduction in the education costs which the division must bear.

The proposed 58.4(1) states that a nonresident pupil shall be enrolled in a school of their choice unless there is insufficient space or unless enrolling the pupil would require a significant expenditure to expand the program. In effect, the legislation is stating that nonresident pupils will only be accepted into the classrooms where there is available space and therefore little additional cost to the receiving division. In return, the receiving division will receive provincial funding available for that pupil along with the transfer fee. This transfer of funds between sending and receiving divisions will introduce high levels of variability in division budgets and will result in boards experiencing unanticipated losses of revenue and possible deficits.

The province should carefully study and consider the implications of the dynamics which it is introducing in public schools before implementing this legislation. School boards also have some very practical concerns about the implementation of the proposed transfer fee. One of these concerns relates to timing. Fees assessed once a year, such as at September 30, would not necessarily reflect the actual enrollment at other times of the year, for example, the second semester of a high school. With so much uncertainty surrounding the extent and implications of Section 6(3), school boards are extremely anxious to see the regulations that would give force to this amendment before committing themselves to the concept it envisions. Therefore, MAST recommends

that the province postpone passage of Section 6(3) during the first two years of the implementation of its schools choice policy.

* (2200)

(Mr. Jack Penner, Vice-Chairperson, in the Chair)

Related to this, Section 10, Access to Schools and Programs. The first part of Section 10, Access to Schools and Programs, deals with procedures under which a student may enroll in a school outside of the student's home division or district. Some school board concerns in this regard are similar to those raised about transfer fees, as identified in my earlier comments. Issues such as the timing of school choice decisions and the length of time a student would commit to a school have important implications for school funding and staffing levels. Legislation and regulations addressing this issue must enable schools to make longer-term plans based on reliable enrollment and funding projections. While some school boards may support the concept of school choice, all are wary of the pitfalls that must be avoided in the implementation process. Rather than enhancing equity by increasing student mobility, a poorly conceived or implemented school choice initiative has the potential to do just the opposite. School choice could become a costly option available only to those students whose parents can afford to take advantage of programs outside their home district or division.

On a very practical note, we would suggest, if the new Section 58.2, Program information, et cetera, is added to The Public Schools Act that the department work with school boards to establish a standard format for the information package school boards would be required to make available to parents and students. This would ensure that students and parents will receive the information they need to make informed decisions while lessening the likelihood of boards viewing this as a directive to undertake potentially expensive public information campaigns. As a result, I would state MAST's position as having serious reservations about the implications of legislated school choice as outlined in Section 10.

Section 7 refers to deficit reduction. This is a new section which outlines procedures which are to be followed in the event that a school board incurs a deficit.

Overall, school boards see this section as a positive addition to The Public Schools Act. They support the legislative recognition that situations can arise which force school boards into a deficit position, and that immediate steps are to be taken to erase that deficit. School boards are concerned, however, about the need for and implications of Section 41.1(3), which would give the minister the power to require school boards to take whatever measures the minister deemed appropriate to eliminate the accumulated deficit. Practically, it would seem that this subsection is unnecessary in light of subsection 41.1(2)(b) which requires that school boards submit their deficit reduction plans to the minister for approval. By simply withholding that approval, boards will be required to rework their plans until such time as they develop a plan that both meets their needs and the minister's approval.

Subsection 41.1(3), as it presently stands, would give the minister the authority to require school boards to increase local taxes, cut programs or increase teacher-pupil ratios in order to balance their budgets. School boards have a responsibility to their electorate to decide these and similar local matters in a way that is responsive to the community's needs and wishes. School boards do not want the authority to run budget deficits on an ongoing basis. What they do want is the authority to determine how any budget deficits that do occur will be eliminated. MAST supports the inclusion of subsection 41.1(1) and 41.1(2) in The Public Schools Act. MAST is opposed to the inclusion of subsection 41.1(3) action by the minister, in The Public Schools Act.

Section 8, access to pupil records. Section 6(1) repeals Section 41(1)(s) of The Public Schools Act which dealt with access to pupil records as a duty of school boards. A new procedure for accessing student records is proposed under Section 8. School boards support the idea that students and their parents have a right to access student files. There is, however, some concern about certain details and definitions. Although Pupil File would be defined in a new 42(2) as a record or collection of records respecting a pupil's attendance, academic achievement and other related matters in the possession or control of a school board, this definition leaves a number of important questions unanswered. For example, it is not clear whether other related matters might include a teacher's classroom notes or a counsellor's raw notes of a session with a pupil. School

boards are also unclear as to what the legislation requires in Section 42.3(2)(b) which speaks of boards being able to deny access to information that would be detrimental to the education of the pupil. Clarification of the intent of this section would be appreciated.

School boards also have some concerns about legislation as it addresses access to files of adult pupils. As it stands, the legislation would require that parents receive the permission of their adult children to access their child's pupil file. School boards believe that there needs to be some exceptions to this clause. The parents of adult special needs students may need to be exempted. It should be noted also that roughly half of graduating Senior 4 students have reached the age of majority. The province may wish to make some distinction based on whether the adult child was residing at home with his or her parents; otherwise the parents of 50 percent of graduating students would legally require their child's permission to see their final report card.

On a final note, an issue not addressed in this section but of growing concern to school boards has to do with the potential liability of school boards for sharing information in pupil files with Health, Justice and Family Services agencies. Agencies such as these frequently request the information contained in a pupil's file for their own legitimate purposes, but in the absence of legislative authority to provide such access, school boards are faced with a dilemma. Anticipated changes to provincial freedom of information and privacy legislation may alleviate this concern, but in the meantime it would seem that this section could be amended to provide school boards with some immediate direction.

MAST's position is as follows: We support the inclusion of this section in The Public Schools Act. We have concerns, as outlined, about the accessibility of files of adult pupils to supporting parents, and we request that this section be augmented by provisions that address school board's concerns about providing relevant information to other agencies and departments.

Ms. Green: Section 10: Rights and Responsibilities of Parents and Pupils. The second part of Section 10 is a new addition to The Public Schools Act, which outlines both general and some specific rights and responsibilities of students and their parents. School boards support this section in principle, although they do have some concerns

about how the responsibilities mandated in this legislation can in fact be enforced.

Responsibility of a parent for damage caused to school property by his or her child, in the new Section 58.8 of The Public Schools Act, is strongly endorsed, although some clarification would be helpful. In particular, there is some confusion about the term "converted" as it is used in this section and whether or not losses caused by theft would also be covered.

School boards also have some concerns about the intent in Section 58.6 (b) which would give parents the right to consult with their child's teacher or other employees of the school division. We believe that "other employee" should be more clearly defined so as to limit a parent's right to consult to relevant professional staff. Therefore, MAST's position is to support the inclusion of this section in The Public Schools Act and that we request that the wording in Sections 58.8 and 58.6 be modified in light of the concerns outlined before.

Section 6(2) (v), the final additional responsibility of school boards, and Section 15, informing and consulting with advisory councils. One of the additional duties which would be required of school boards under the amended Public Schools Act would be to provide a school advisory council, local school committees and school committees any information that is reasonably necessary for their operation. Although school boards support the intent of this additional duty, they are very concerned about the implications as it currently stands. School boards are concerned with how "reasonably necessary" can or should be interpreted. More appropriate wording, we believe, would incorporate the concept that the information school boards are required to provide be relevant to the mandate of advisory councils.

* (2210)

A second concern with this section is similar to one voiced above, concerning Section 6(2) (w), which would require school boards to provide information to the minister. As in that instance, school boards are concerned that the information requested by advisory councils may not exist or may not be readily available and that school boards may face considerable expense in compiling the information requested.

(Mr. Chairperson in the Chair)

This concern may be alleviated somewhat, we believe, by substituting the word "record," which is used in the Manitoba Freedom of Information Act, for information in 6(2) (v). Therefore, MAST's position would oppose the inclusion of Section 6(2) (v) as it is presently worded, and we would support the inclusion of a revised version of this section provided those revisions clearly indicate that the information school boards are required to provide include only those records that are relevant to the advisory council's mandate.

Section 15 would require that "A school board shall not approve its annual budget until it has consulted with every school advisory council, local school committee or school committee in a school division or school district."

School boards are concerned by the use of the word "consult" in this context. The word does not exist anywhere else in The Public Schools Act and no division definition is proposed. We believe that this word is likely to be interpreted to mean that two-way communications and even consensus are necessary in order to fulfill this duty. By refusing to consult with the board on the budget, an advisory council could hold up its passing. This would put school boards in conflict with other sections of The Public Schools Act, which require them to pass their budget by a set date.

The question of the mandate of advisory councils and school committees is also raised by the inclusion proposed here. We believe that advisory councils and other school committees are more properly involved in discussions of the school budget, rather than the school division budget. The consultation process identified in Section 15 seems to have the potential to turn school communities against each other in the fight for scarce resources. School boards also anticipate many logistical questions that will be raised by this obligation to consult. For instance, does the consultation have to be face to face? Does each council have to be consulted with separately or can they be consulted as a group? Would a wider public consultation on the school board budget preempt the need for consultation with advisory councils? Would that wider public consultation perhaps be more appropriate, for instance, and should such legislation acknowledge that possibility? Is the new consultation required when the draft budget is revised?

To summarize, MAST opposes the inclusion of Section 15 as it is presently worded. MAST would support the inclusion of a revised version of this section, provided those provisions clearly reflect the advisory nature and mandate of advisory councils, respect the time constraints boards face in their budgeting processes and acknowledge the validity of wider public consultation of school divisions or school districts.

On behalf of the Manitoba Association of School Trustees, I would like to thank you for the opportunity to speak on Bill 47. These amendments have the potential to impact significantly on public education in our province. We trust that you that you will give due consideration to the suggestions that we have offered in our presentation and we trust that you will accept them in the spirit in which they are offered, with an eye to improving education for the more than 195,000 young people enrolled in Manitoba public schools.

Mr. Chairperson: Thank you for that, and you can now move to the brief on Bill 33.

Ms. Green: Again, we welcome the opportunity to speak briefly on Bill 33, The Education Administration Amendment Act and its implications for public schools in Manitoba.

The effect of Bill 33 would be to grant to the minister some new powers and to introduce a number of new areas in which the minister would have the authority to make regulations. Many of the specifics in Bill 33 can be tied directly to the changes in The Public Schools Act proposed in Bill 47.

Section 4 of Bill 33 is one such area. It would amend Section 8(1) of The Education Administration Act to read: that the minister may establish procedures for evaluating education in or any other aspect of the operation of public and private schools and at his discretion conduct or cause the evaluation to be conducted.

By granting the minister the authority to evaluate not only education but any other aspect of the operation of public schools, this legislation would augment substantially the role of the minister and diminish that of school boards and the communities that elect them. School boards recognize and accept the fact that they are

established by the province and exercise on its behalf the responsibility of ensuring that students and communities receive appropriate educational opportunities at a cost which their communities can sustain.

However, in addition to their obligation to administer education according to the terms of the provincial legislation, school boards also have an obligation to the voters who elect them, to the ratepayers who provide them with financial support and to parents who entrust them with the responsibility of educating their children.

As we have done in some sections for change proposed under Bill 47, we question the need for the addition of a clause of such scope. Over many decades, the Province of Manitoba has articulated its expectations of school divisions in a great deal through The Public Schools Act, The Education Administration Act and the regulations that accompany those.

The minister is given considerable latitude to make regulations in areas where additional detail and frequent change is anticipated. If there are new expectations that would be systematically communicated to school boards, this should be accomplished through the legislative process in which we are currently involved. This should not be achieved through the adoption of amendments that are both vague and all-encompassing.

With the exception noted above, MAST appreciates the intent of the other amendments to The Education Administration Act proposed in Bill 33. Section 2(a) expands upon the existing power of the minister to approve courses of study. It articulates the minister's power to establish courses of study, including setting the amount of instructional time and authorizing programs and instructional materials. Section 2(b) gives the minister the power to release information related to pupil achievement and the effectiveness of programs. MAST believes that these are appropriate powers for the minister to hold.

Section 3 is somewhat more problematic. This section identifies six new areas in which the minister may make regulations. Although we do not dispute the need to make regulations in these areas, we would like some assurance that those regulations will be developed in such a way as to take into account the legitimate concerns and roles of affected parties. For example, a regulation under

the proposed (r.1) prescribing methods and procedures for the assessment and evaluation of any aspect of pupil achievement has the potential to undermine the professionalism of teachers if it is not carefully crafted.

In a similar vein, a regulation developed under the proposal (r.4) respecting information regarding pupil achievement that school boards are required to release to the public and procedures governing the release of information has the potential to dictate to school boards how they must communicate to their constituents. We would expect to take an active role in the development of these regulations in order to ensure that they are workable, effective and respect the role and obligations of everyone in the public school system.

* (2220)

Once again, thank you for the opportunity to share our views on both of these bills, and we hope that you will give serious consideration to our suggestions.

Mr. Chairperson: Thanks, Ms. Green and Ms. Watts.

Mr. Penner: Mr. Chairman, just a couple of brief questions. In regard to the two acts that you have addressed, how long have you had access to these two bills?

Ms. Green: We have had them since they were released to us back in June.

Mr. Penner: End of May or the beginning of June. Of course, everybody had access to these bills since that time if they chose to view them.

Ms. Green: To my knowledge that would be true.

Mr. Penner: Thank you. In Section 7, Mr. Chairman, deficit reduction, you questioned the powers given to the minister in Section 41.1 (3) that you would give to the minister in dealing with the accumulated deficits of a given school board.

If a given school board runs a deficit it is quite simple now for them to deal with this matter, is it not? That is simply by going to a municipal council and saying, we need more money and, therefore, we are going to ask municipal council to raise an appropriate amount of

money to make up that deficit and/or provide additional funding to a school board through the method of taxation. Is that the correct procedure that is normally followed?

Ms. Green: No. Our particular school division that I am a board trustee for did find themselves in a deficit, and we followed a format very similar to what you have proposed in Section 7, deficit reduction. So this is very much the process that has been used by the minister in directing school boards who are currently running into deficits, and they are the process that we would use to find our way out of it.

Mr. Penner: Mr. Chairman, when a school board has determined a budget for a given year the budget is submitted to council of the local municipality, whether it is the City of Winnipeg or wherever, and they then in turn apply the appropriate mill rate to raise the funds that are required by the school division to raise the money. How would this addition or change to Section 41(1) (3) impose upon school boards?

Ms. Green: First of all, the budgets are submitted to the Minister of Education, and we set the special levy required by our municipalities and local government districts. When we find ourselves in a deficit, and the suggestion that we have made here in 41(1) (3) is that we would submit the plan to the minister who, upon receipt of that and approval of that, would give us the latitude to move forward with our plan. Should she withhold the approval then that would be an indication to the school boards that they would have to return to the drawing board and find another plan that would find their way out of the deficit position.

Ms. Mihychuk: My questions are going to begin with Bill 47. In general, the new duties assigned to school boards basically have more reporting sections to them, more consultation involved, and a great deal more direction by the minister.

Can you give us an idea of what this will do to the school boards' budgets? Are we looking at a decrease in administrative costs or an increase?

Ms. Green: I think certainly the amount of consultation that is required to operate a school board is increasing, and that also increases—the cost of consultation goes up as well. We do not deny the need for consultation;

however, we are concerned about the amount of time required to participate in that consultation, and it always has to be balanced with the time that is required to spend on issues that relate directly to the students in the classroom.

Ms. Mihychuk: Given the minister's desire for school boards to reduce administrative costs, do you find that there is a conflict between that mandate and the mandate as presented in Bill 46?

Ms. Green: Any additional responsibility to hold meetings increases costs. That always has to be balanced with the value of the consultation that is being undertaken.

Ms. Mihychuk: In your opinion, do you feel that the amendments as presented to The Public Schools Act will improve a child's learning?

Ms. Green: I think there are certainly areas that we support, and we support it on the basis that we believe that that will improve the education system. There are other areas that we have clearly indicated that we do not support, and I think, again, it is based on our belief that that will not improve the education of our children.

Ms. Mihychuk: Why do you feel that the minister is becoming more directive towards school boards? Perhaps you could elaborate as to why this would be necessary.

Ms. Green: I am not sure that I am prepared to speak on behalf of the minister and her intents. I certainly am prepared to speak on behalf of the Manitoba Association of School Trustees and our views of how those new duties will impact on our operation at the school board level.

Mr. Chairperson: The last question.

Ms. Mihychuk: The last question. Under subsection (y), where the addition is that every school board shall "comply with directives of the minister," in that discussion portion, you cite that there have been numerous new directives, a new high school agenda, a blueprint and several different modifications.

What has been the impact of those suggested changes and then the delays and sometimes the postponement on our schools?

Ms. Green: Any time there are directives that are proposed by government or by the Department of Education, school boards and schools take seriously the responsibility to give consideration to those. We also take seriously our responsibility to react to those by either in person or corresponding with the minister to indicate that there are changes necessary in order to implement those changes or good reasons why they cannot be implemented. For that reason, we often move forward with those areas of concern and express those to the government. As a result of that, I think, sometimes there are changes.

Mrs. McIntosh: Just picking up on the question that was asked by Ms. Mihychuk. Ms. Mihychuk had asked what effect the delays and postponements that have taken place, the implementation of the blueprint, have had upon the system. It is my understanding that those delays and postponements that the member for St. James (Ms. Mihychuk) referred to have been very helpful for the system, and I am wondering whether you are able to confirm that for me.

Ms. Green: There certainly are times when changes to original directives are most helpful to school boards, and, as I indicated earlier, those often are in areas where we have expressed some concern.

* (2230)

Mrs. McIntosh: I thank you for that because most of those delays and postponements have been at the direct request of the stakeholders in the field, and I did not want an impression left that they had been because we had not been able to get to them here.

I will not ask too many questions because we have already talked about some of these issues, but I want to thank you for the amount of effort and work that has gone into these very detailed presentations. We will be looking at them over the course of the next few days as we begin to debate here. So I will just leave it at that, and thank you again for, as I say, a very detailed comprehensive presentation. Thank you.

Mr. Chairperson: I know I have Ms. McGifford, Friesen, Laurendeau and Cerilli. We have been up for 49 minutes on this particular presentation. Everybody agreed that the leave would be extended, so maybe we can keep them short, one each maybe.

Ms. McGifford: I have a very specific question in regard to Bill 47, Section 8, access to pupil records. Having dealt recently with the subpoenaing of sexual assault records and the complexity this introduces into our legal system and the effect on the relationship between a counsellor and a client in that case, I think you have raised a really important issue regarding the privacy of the relationship between a counsellor and a pupil. I note that you have raised concerns, but my question is, has MAST a position?

Ms. Green: We would certainly like to work in the development of regulations that would deal with access to pupil records. We have recently made a presentation to the Manitoba Freedom of Information hearings that are also ongoing and will continue to provide information through that avenue.

Ms. Friesen: My question is very specific as well. It is on page 4 of the presentation on Bill 47 when you talk about the requirement to report assessment. When I read that particular section, I went back to the panel on legislative review. Remember four Education ministers ago when we had the Roy White commission. What he suggested there was a much simpler, more direct recommendation that school boards have an annual meeting with their electors. Would something like that meet your concerns perhaps, and later on I will be able to see whether it meets the minister's concerns, but an annual public meeting such as the universities have, such as Crown corporations have? I know some school divisions have it, some do not. Is that the kind of thing that might be simpler and get perhaps what the minister is after as well?

Ms. Green: That was certainly part of the discussion that surrounded the dialogue as we went around and talked at regional meetings. I think that is what we need clarification for. Would that be sufficient? As you have indicated, many school boards already conduct ratepayers' meetings or annual general meetings for information to their constituents.

Mr. Laurendeau: Mr. Chairman, my question is going to be following along the same lines as Ms. McGifford's, and it is all in the access to the records. Where we are at is, have you investigated the channel of the Children's Advocate at all, and do you think we are using it to its full potential at this time?

Ms. Green: I am not sure if I am prepared to answer that. We have had some conversations around that, but I am not sure we have investigated that fully.

Ms. Cerilli: First of all, on Bill 47, the section dealing with rights and responsibilities of parents and pupils, I am looking at this as being incongruent with what the government did last year with the bill on parent councils, parent advisory councils, and we are looking at a way that we can have rights and responsibilities for parents and students enshrined, but we think that that should be done in consultation with school boards and parents. Would you support that kind of an approach, especially since there, in this proposal, is no right to an education, in this bill?

Ms. Green: MAST always supports the opportunity to consult with government prior to legislation or regulation, and this would be no different.

Mr. Chairperson: Thank you very much for your presentation. It was long, and thanks for your patience.

We will now call on the last out-of-town presenter, Howard Friesen, and he is registered for Bill 47. You may proceed, Mr. Friesen.

Mr. Howard Friesen (Garden Valley School Division No. 26): Thank you, Mr. Chairman and Mrs. Minister and members of the committee. My name is Howard Friesen. I represent the Garden Valley School Division Board of Trustees. The board of trustees in our division feel that we represent the residents and are duly elected to fulfill those responsibilities under the provisions of The Public Schools Act.

The revisions in Bill 47, I think, to some degree, maybe even a significant degree, modify and restructure the role of trustees as decision makers. Secondly, the opening point we would like to make is, some of the expanded roles of the advisory council seem to extend beyond an advisory capacity.

Specific examples may include the input into budget process and developing new policies and to the development of program. Garden Valley School Division welcomes parental involvement and open communication. We value our parents but do not want to weaken the role of school trustees who are directly responsible to the electorate for the operation of the whole division.

Thirdly, the repeated emphasis on following the minister's directive seems to set a tone for the erosion of board control. The minister's prerogatives, we feel, to some degree should also be subject to controls and accountability.

Specifically to the act of Bill 47, you have that act, I am sure, in front of you, so I will not read the sections to which I refer other than to the letters and numbers.

Section 6(2) refers to duties of school boards. The new items there, item u, I would like to make a comment on. The word "co-operate" seems to imply that the school board will agree to all course, program and instructional material development initiated by the schools. Currently the board does initiate and work together with its schools. All course and program developments, however, we feel should remain subject to the board approval.

Item (x): The board agrees with the publishing of educational program assessment results but only on a divisional-wide basis. If parents require this information for a specific school, that information can be provided by the school itself. The principal of each school should be responsible for communicating school assessments and results.

Item (y): This clause is somewhat redundant in that it is implied in all of the sections in The Public Schools Act that the boards shall comply with the directives of the minister.

Section 6 speaks to transfer fees on nonresident students. The board agrees with paying a transfer fee to another school division for students who choose to enroll in a program offered in another school division that is already offered in its home division provided that the calculation of the transfer fee or the residual costs do not exceed the local levy of the sending school division. This transfer should apply to public schools funded by provincial and local taxes only.

Section 8 speaks to pupil files. We support the fact that parental access to those files should be there within prescribed parameters. The content of any submissions made by a parent to a pupil file should be subject to human rights legislation and the divisional code of behaviour.

* (2240)

The back page of our handout, under Section 9, powers of school boards on nonresident fees: I think we need a clear definition of what a school program is. Our concern is that students would be requesting transfers in and out of schools on requests for other than valid reasons, other than programming reasons, so I think we need a clear definition of what a program is.

Under Section 15, budget consultation and reporting: The school board agrees with the concept of including advisory councils' input into the development of our budget. There is a concern as to what extent the board is actually obligated to any recommendations that might be brought forward by these advisory councils, and the term "consulted" needs to be clarified.

We, of course, had an opportunity to formulate part of MAST's presentation. We took the opportunity as a board to attend the area or regional meetings that were held, and so much of that report is items that we would concur with. In conclusion, though, we would like to say that Garden Valley supports the definitions and clarifications which assist school divisions in meeting the local educational needs.

Many of the proposed changes are already part of our present practice and part of our present policy. The specific suggestions we offer are respectful and intended to improve Bill 47 as an enabling piece of legislation to even better our education in Manitoba.

Ms. Mihychuk: Thank you very much for your presentation. I appreciate that and hope you well on getting back home tonight.

The position that your board has taken, you said, went through a process obviously local. Can you perhaps elaborate if you were consulted on the MAST presentation, and in what process that organization

involved you as a local school board to present their presentation?

Mr. Friesen: MAST had a number of regional meetings to which they invited boards and at that point went through the legislation. Then what you heard here tonight was a summary of those discussions and, certainly, we had that summary in our hands prior to this evening so that we could have a look at it.

Ms. Mihychuk: I want to ask a question on your presentation here in terms of item (x) which is new duty of boards, and that is to the publishing of educational program results. Can you elaborate why you would be opposed to, for example, posting the exam results of your students on the local school or make it available to the community?

Mr. Friesen: I think one of the concerns, or the main concern that we have is that we would hate to see schools going into competition with each other and vying for students with that type of reporting system. We feel if there is a disparity amongst schools, it is probably better addressed than an open competition for students moving from school to school.

Ms. Mihychuk: Garden Valley, if I am not mistaken, is in the Portage la Prairie area?

Floor Comment: No, no.

Ms. Mihychuk: Mistaken. Can you perhaps remind me of where Garden Valley is? Oh, it is in the banana belt. Closer to Morden, is it? Pembina

The concept of school choice for some rural divisions is a serious concern. Has your board had discussions as to what that will mean, perhaps, to some of your smaller schools?

Mr. Friesen: We have had some discussion. We would likely try and develop some policy in light of what the legislation offers to parents as far as school choice goes. There are some concerns that the movement of students from small schools to larger schools will not only put financial pressure on our division to maintain or close schools—so certainly that is a concern to us

Ms. Mihychuk: One more question. Do you believe that the move towards school choice will enhance competition, as you say you are fearful of, in the public education system or co-operation?

Mr. Friesen: It is difficult to say what the fallout of that will be. Competition in many areas of our life is obviously good and produces better results. We are generally supportive of school choices; however, I think there needs to be some functional parameters so that the cost of that system is not prohibitive for school divisions.

Mr. Peter Dyck (Pembina): Thank you for your presentation, Mr. Friesen, and for coming out all the way from Winkler.

My question is: Under Section 3, there are the transfer fees for nonresident students. That part there where you say, "provided the calculation of the transfer fee or residual costs do not exceed the local levy of the sending school division." Could you just elaborate on that a wee bit please?

Mr. Friesen: The local levy collected throughout different divisions of course varies, and when a student is either entering our school division or leaving our school division, our cost to educate that student in our division should be the cost that flows with the student so that is basically the premise of that idea.

Mr. Tweed: Mr. Chairman, I would just like to make a comment about the discussion with the viability of smaller schools. One of the smaller schools in my constituency, of which I think there are four or five school divisions, are currently in a letter-writing campaign suggesting the benefits of the small school to the people. So I think that there is a potential of flow of students not only to the larger centres but also to the smaller centres where they have the ability with more one-on-one with the smaller classrooms, and they certainly will present some positive advantages to people that are interested in that small school education.

Mr. Friesen: Agreed. We have not particularly seen the flow in that direction in our school division, but if you would ask me to send my student to a classroom with 10 or 15 students, I would probably agree with you.

Mr. Chairperson: Ms. Friesen, then honourable minister.

Ms. Friesen: I want to talk to you about Section 58.4, which is the listing of requirements for school choice, giving the means by which schools must choose nonresident pupils. There have been some suggestions, and, again, I go back to the panel on legislative review in 1988-89. There were suggestions that, if these kinds of obligations were to be put upon school boards, there be some mechanism of appeal. Do you envisage the need for that in your school division?

Mr. Friesen: We have a lot of students transferring into our school division, some transferring out as well. Thus far, of course, it has not been a problem for us to accommodate those students, but I think there need to be some very specific guidelines as to, for instance, what insufficient space actually means, so that school boards can go to some point to some legislation that gives them the authority to say the things that they are saying.

Ms. Friesen: Mr. Chairman, I was wondering how in your division you do resolve disputes. Is there a special committee of your board which resolves disputes between citizens and the school board? Do you go to an outside panel? How does it work, or has it never happened?

Mr. Friesen: On the issue of students transferring into our division?

Ms. Friesen: On any issue. What is the arena for appeal in your school division?

Mr. Friesen: The public has full access to make submissions to the entire board. That is the appeal process that I am most familiar with. I do not think that we have experienced an appeal beyond that form.

Mrs. McIntosh: I know time is short, and I want to thank you first of all for taking the time to present to us tonight and for, again, the concise paper which is so easy to read.

I will just give the one question. I will certainly be taking the points you are raising into consideration. I just wanted to ask on Point 2, where you have: "Some of the expanded roles of the Local Advisory Councils extend beyond an advisory capacity. Specific examples include the budget process and developing new policies and programs." Reading the act as I do, our intent, and I believe the wording reflects, that advisory councils are

advisory councils and the school boards are the decision-making authorities. What we are asking is that there be a formalized process for ensuring that local advisory councils have the opportunity to provide their advice, but no obligation is on the board to accept that advice because the trustees are the ones with the Xs beside their names elected to make decisions. Are we reading it differently, or have you been given some other information that is different than that?

Mr. Friesen: First of all, I should say our board certainly welcomes the input of the advisory councils, and we have taken the approach to set up a general meeting with all our advisory councils that will take place next month, but as to whether we are reading it differently, my encouragement to the minister would be that the legislation is written in such a way that there is not the possibility to interpret it any other way than advisory councils are advisory and school boards have the mandate to carry out.

* (2250)

Mr. Chairperson: Thank you very much for that presentation, and safe trip home.

That now completes our rural submissions, so we are now going back to the beginning of the list. From time to time, by the way, if members of the committee leave, it is because of necessities that they must take a bit of a break, so it is no reflection, if that happens, on anyone who happens to come forward at any time.

The beginners of the list then are Trevor Lines and Jason Wiebe with respect to Bill 32. You may begin your presentation, gentlemen. Who is going to go first?

Mr. Jason Wiebe (University of Manitoba Students' Union): I just have a brief word to start. My name is Jason Wiebe. We would like to say at the outset that the University of Manitoba Students' Union has come to agreement with the University administration and board of governors at the University of Manitoba on a number of issues regarding Bill 32. This agreement can be seen in UMSU's endorsement of the senate ad hoc committee's report on Bill 32 which was distributed to the minister. However, we do have additional comments than what we said in that report, and for these I will defer to Mr. Trevor Lines.

Mr. Trevor Lines (University of Manitoba Students' Union): Thank you. First I would like to take this opportunity to thank the committee members for the opportunity to address Bill 32, an act establishing the Council on Post-Secondary Education. This bill has the potential to positively impact the delivery of post-secondary education in the province of Manitoba. I say potential because there are concerns we have regarding the bill in its present form. As the president of the University of Manitoba Students' Union, I would like to point out the areas that concern the students of the University of Manitoba.

Over the past year, the executive of the University of Manitoba Students' Union has embarked on a process to find out what students believe to be the central difficulties with the education they are receiving at the University of Manitoba. After extensive consultation with the students, a document entitled Path to Excellence was produced in June of 1996. The document proposed 37 recommendations on how the delivery of post-secondary education could be improved. The five areas of concern are broadly characterized as institutional priorities, professorial accountability, governance, teaching differently and, finally, consumer orientation. I mention these now to illustrate the comprehensive nature of the document and the students' vision it sets out for the future of post-secondary education in this province.

Let me make clear at the outset of my presentation that the University of Manitoba Students' Union supports the introduction of the Council on Post-Secondary Education. In fact, the Path to Excellence recommendation 2.1(b) points to the need to establish a council that would seek to achieve the goals set out in the preamble of Bill 32. We believe that the passage of this legislation will provide a much-needed vision for a system of post-secondary education. However, we do not come here today just to merely pat the government on the back. There are concerns that we have that are of paramount importance to the students at the University of Manitoba. We believe that without addressing some of these concerns the council will not achieve the goals it has been set out to accomplish. Let me refer to those concerns now.

Clause 11(c) of Bill 32 refers to the council's mandate to advise and assist universities and colleges in planning for the development and delivery of academic programs.

We hope that within this process universities and colleges will be able to advise the government at the same time. I think I can say with a great deal of certainty that the legislation establishing the Council on Post Secondary Education must provide a process of consultation with the education institutions and their constituents.

It is important that the consultation is held early in the process so that any preconceived notions are supplemented with factual information on the requirements of each institution in the province. This process should be formalized within the regulations governing the council so that each stakeholder is aware of the opportunity to present their case to the council. A formalized process will afford each stakeholder an opportunity to affect decisions. This process achieves a level of accountability that is currently absent from the legislation. It ensures that the council will be making informed decisions that will benefit all the stakeholders of post-secondary education.

Clause 5, the first of the membership provision on the council. We are aware that the intentions of the bill are not to allow interested parties direct membership on the council due to the real prospect of creating a body that has members looking out for their own interests. We recognize that the avoidance of such a situation is a desirable end provided that an alternate council membership structure can be achieved that includes the necessary expertise.

To ensure that the council does not lose touch with the community that it is intended to serve, it is imperative that the council include, amongst its members, an individual that has recently experienced, firsthand, post-secondary education in this province. As such, we would propose that guidelines for membership be established such that a recent graduate sits as a member on the council. We would suggest that a recent graduate be defined as an individual who has attended a post-secondary education institution in the province of Manitoba within two years of the appointment.

We arrived at the two-year requirement from the realization that for this to be meaningful the individual will have last attended an institution five years prior to the expiration of the term of the employment. This provision will provide the council with the student

perspective on the operations of the post-secondary education system. As consumers of educational services, it is this perspective that often yields the necessary input on how to positively impact the delivery of education. Much like the parental involvement in the governance of the K-12 education system, student involvement is essential.

Clause 4: even if the concerns I have mentioned thus far are adopted, there are still further changes of the bill that are indeed necessary. As you are all aware, there is a grave concern that the council will be operated in a closed system. This, too, is another concern of the students of the University of Manitoba.

Clause 4 of the bill indicates that the council shall operate within the framework of accountability set by the minister. UMSU recognizes that by the nature of government consistent with current democratic processes, the minister is ultimately accountable. However, we feel it is imperative that a further mechanism of accountability be provided in Section 4 of the bill. For this we urge the committee to consider a provision for transparency. The decisions of this council should not be made behind closed doors but rather should be fully explicated to the public so that a greater public understanding of the post-secondary education system is being operated.

The practice of issuing a one-line response to the institutions of the province, informing them of their operating grant they received for the coming fiscal year is simply unacceptable. How is the public to be assured that prudent decisions are being made with all relevant information considered if the process is not open. We believe that the system will become transparent if public hearings are held that outline the requirements of all institutions of higher education in the province. The rationale on how the council arrived at its decisions in a public forum will go a long way to enhancing the accountability of how the government has spent hard-earned tax dollars.

In this respect, the final decisions of the operating grants for each institution can be judged within the context of the system as a whole. In fact, this will provide a further mechanism through which individual institutions can strategically plan for the future, which leads me to another concern of the university community.

Clause 18 refers to the annual funding plan. We believe that the ability to forecast the operating grant from the provincial government would be extremely beneficial for strategic planning in each institution.

As such we would recommend that the funding allocation to each institution be given in a multiyear package. This recommendation is also in the Path to Excellence as recommendation 2.2(e). This provision could be included in Bill 32 as a responsibility of the council.

We recognize that a precise figure may be difficult to achieve and for this reason such a provision may merely provide for a maximum deviation. This will set the parameters for the subsequent grants that will give administrators the necessary information to determine the priorities for the respective institutions. If this were to be accomplished, students would have a better idea of the program offerings through the duration of their studies. For instance, I have personally seen the devastating effects that a year-by-year operating grant creates.

* (2300)

When I entered the political studies program in 1992 there were approximately 20 professors and a broad array of course offerings. It seemed clear that this program could provide the flexibility I desired. When I graduated from the honours program in 1996 there were 10 professors in the department and far fewer course offerings. This meant that I had to go outside my field of study to complete the degree requirements. Had the department and the faculty been given the tools to determine the long-term budget, students like myself could have made their academic decisions accordingly.

Clause 11(b), the final issue I wish to address today is perhaps the most important. The Council on Post-Secondary Education will have within its mandate a clear directive to see that institutions determine their priorities. Given the preceding remarks on consultation and transparency, we applaud this theme within the bill. No longer can institutions afford lateral cuts to all programs and faculties when government funding decreases. Lateral cuts are representative of the lack of priorities that currently exist within the institutions. This practice serves to maintain the widest range of programs at the expense of enhancing quality programs. While this does

promote accessibility, it does so at the expense of achieving excellence.

The Path to Excellence acknowledges that unnecessary duplication of services both within and between institutions must be reduced in order to have the ability to offer quality programs. As the students of the University of Manitoba put it, we can no longer attempt to do everything for everybody. Clause 11 of Bill 32 addresses this concern. However, having said this, I would like to point out that without consultation this mandate of the council may extend too far as I have already mentioned.

In conclusion, on behalf of the students at the University of Manitoba, I would like to thank the members of this committee for hearing our central concerns and would be happy to answer any questions.

Mr. Chairperson: Thank you, Mr. Lines and Mr. Wiebe.

Mrs. McIntosh: Thank you both very much. I really appreciate your presentation, the points you have made, and very much appreciated the earlier Path to Excellence document.

I think I can indicate to you, in light of some of the refinements you are suggesting here, that we will be bringing in a clause to have consultation with students articulated in the bill as a regular process. We have a potential draft amendment ready now but after the deliberations we will take a look at that. But it is a good suggestion. I particularly appreciate your last point because it is I think a very important one, and I know it is one that the students at your campus have raised frequently in the past, and I know it is the central point that Roblin was trying to address.

You indicated as well, and I think I can tell you that we have already decided to do this, so I can tell you we will ensure that a recent graduate sits on the member for council. You are proposing two years as a time line, and we will take a definite look at that. No, we will not be having direct representation from special interest groups, but we are going to attempt to have people who are still close to and intimate with those. So just as the Universities Grants Commission right now is appointed lay people, so will the council. We will ensure there will be a recent grad, and we will look at the two-year time limit you suggest here.

I am intrigued by your position on transparency, because that is not one we have discussed internally. I do not know that the council would want to have every meeting in public, because a lot of the work would be in camera in nature, but perhaps there is something we can do there in terms of your request for transparency or provision for transparency that would allow rationale such as we are doing here to be made available for public observation. I am intrigued by that, so we will take a look at that. In terms of the multiyear planning, I just wanted to ask you something here, because this is something we are striving towards—very difficult of course because we need to get our own revenue projections clearly enunciated.

You mentioned here about parameters, and if it were possible for a government to be able to say something like this: while we are not able to give you the exact percentage change, we can indicate that it looks like there is a possibility of a slight increase or a slight decrease or probably not much change this year, those kinds of indications, is that what you are talking about when you say setting parameters or provision may provide for deviation? Is that what you are talking about?

Mr. Lines: I guess, clearly we would like to have the exact dollar and cents, but barring that we would like some sort of indication so that faculties, departments can do some long-term plans, and therefore then students will have an idea of what they are getting into. I talk about the story about myself, how things dramatically changed from the time I started to the time I finished. So I guess in short that would be great. I mean, it is better than what we have now.

Mrs. McIntosh: You are aware—you know, the tuition fee policy, and I think they are working now to make some recommendations to the council when it is up and running. I think one of the things we are looking at there as well is, is there any way it is possible to give an indication to students as to what their overall university bill might be over the course of their studies, not just annually. Have you had discussion at all on that aspect? I believe you have—David Gratzner is on that committee, is he not?

Mr. Lines: That is something we recommended when we did present to the subcommittee on that issue, and clearly it would be great for students to have an indication as to what their tuition would be.

Mr. Chairperson: We are now down to the last few minutes.

Mrs. McIntosh: Sorry, the others may have a question. Thank you again for your support and for your suggestions for amending, and we will take a good look at them.

Ms. Friesen: I am interested in your proposals for accountability as well, and I wondered if you would support a proposal to have an annual public meeting just as the university itself does and just as we have heard some of the school boards do. It is another form of accountability. Would you support something like that?

Mr. Lines: I do not see that as being a problem at all. I mean, the whole thrust of what we have said today is that the public should have a greater understanding of what the council is deciding. Of course, we would not want every meeting in public form, but we do want or we are recommending that the public knows why the decisions were being made so that we can look towards the future to decide perhaps different avenues that can be taken for decision making.

Mr. Chairperson: The last question for you, Ms. Friesen, because you have two other colleagues who have questions.

Ms. Friesen: My other question dealt with tuition fee policy. The bill specifically says tuition fee. I wondered if you would support changes to that that would encompass loans, bursaries and scholarships, looking at the whole financing of a student's education.

Mr. Chairperson: Is leave granted for several more questions and finishing this? [agreed]

Mr. Lines, in response. You may respond.

Mr. Lines: Accessibility is clearly a chief concern of the students union. Just recently, we have established a scholarship and bursary program. That is not enough. I do not think anything is enough; we need to continue doing more. If that was part of a tuition fee policy, then hats off, we would applaud that.

Ms. Friesen: Thank you.

Ms. Cerilli: I want to ask you a question about your comments in Clause 18 and Clause 11(b). You talked

about the problem with lateral cuts right after you described the situation for yourself at university where the professors in the poli sci faculty went from 20 to 10. I am wanting you to explain the contradictions sort of between those two comments but also to describe for us—you alluded to in your comments that you may have made different decisions if you had known at the beginning of your four years that there was only going to be 10 profs and less courses by the end. I am wondering if by that you meant you would have gone to another university, and if what we are seeing is some people feel that this bill is going to mean that in some of the universities there will be an even further reduction of courses and students will be forced to make those kind of choices.

Mr. Lines: I will answer your second question first and your first question second.

When I was speaking about my personal experience, I would have taken courses on a different time line. I recognize that the political studies program at our university is excellent. I would not change my decision for the world, but as it turns out some courses were not offered in my fourth year that were offered in my third year and the opposite. So that kind of thing would have been helpful. It would have been helpful for me to know exactly what kind of courses were going to be offered throughout the duration of my studies.

Going back to your first question. The thrust of that is to talk about how can we best offer, how can we deliver education best in Manitoba, and that does not necessarily mean doing everything for everybody and we have said that right in our presentation. What we would encourage is more co-operative ventures with the University of Winnipeg, Brandon University and other post-secondary education institutions within the province. Perhaps, there is a better way that we can deliver it and make it more cost effective.

Ms. McGifford: Mr. Chairman, I wanted to ask our two presenters how they arrived at the positions presented in this paper. Did you consult with the student body?

Mr. Lines: Yes. The position that we have taken is consistent with the Path to Excellence which was approved by last year's council, last year's executive policy committee, our executive. We have gone through

a consultation like crazy. Like I say, these are very consistent with what we have already passed through the students, and therefore we are confident that we can speak on behalf of them.

Mr. Chairperson: Thank you very much, gentlemen, for your time this evening.

Mr. Lines: Thank you.

Mr. Chairperson: I would now like to call on Mr. Edward Lipsett.

* (2310)

Mr. Edward Lipsett (Manitoba Association for Rights and Liberties): Good evening, Mr. Chairman, honourable members. Before I start, I would like to get some procedural matters clarified. I am the person with three briefs; the first two bills, 32 and 47. I have typed notes and I am speaking on behalf of MARL and they are quite important. I will need the full time. The third one, Bill 33, is just in my individual capacity and I just have a few brief notes. If it pleases the committee, I would appreciate doing Bill 32 first and then being questioned, then Bill 47 and then being questioned, and then briefly Bill 33, if that pleases the committee.

Ms. Mihychuk: Just a point of order on a procedural question. Mr. Chairman. When we started the committee, we discussed perhaps talking about the timing of the committee at approximately eleven o'clock. Our presenter is going to be speaking on three bills and then question period after that, so we are looking at a fairly late night. I am wondering, there are numerous people who are anxious to present but are uncertain whether they are going to have that opportunity tonight, so in fairness, it would help if we defined the time lines and then told people we will reconvene and on what date. So I look for guidance.

Mr. Chairperson: Thanks for reminding all of us that we said that at about eleven o'clock we would take a look at the situation and determine time parameters. I ask the committee to express views on that if they wish to.

Mrs. McIntosh: I do not know how many people are here to present or here to watch, and maybe that would help us if we knew, because it does not look like that many to go through if you look at the room.

An Honourable Member: There are more outside

Mrs. McIntosh: They are outside the room too, eh?

Mr. Chairperson: So there are lots who want to present. Any other views?

Mr. Tweed: Mr. Chairman, I do not know if it can be done, but I guess if there are that many people still here and if they show an interest that they want to continue and make the presentations, recognizing that they have other lives tomorrow too, I think we should try and accommodate as many people as we possibly can.

Mr. Chairperson: Okay, should we then take another look at it at one in the morning? Agreed? [agreed]

Now, if anyone has to take a break, if committee members, please—

Ms. Cerilli: Just a moment. A point of clarification. That does not really deal with the issue of us being able to tell people that are perhaps No. 55 down on the list, if they can go home tonight and be assured that they will get a phone call from the Clerk and be told in due time when they can come back to make their presentation. So I think we should decide now on how far we are going to go tonight in terms of time.

Mr. Chairperson: I am going to suggest this. Can we have the Chamber staff do a survey as to how many would be willing to stick around tonight? How many would be willing to stick around until, say, 2:30 in the morning?

Mr. Laurendeau: Mr. Chairman, I might have a recommendation that might work out here. As you are aware, we have a number of bills that are going to come before us. We have some time allocation that is going to have to be necessary, so if we might agree to just start calling the names, and those presenters that are still here tonight, we will hear. The others can drop down, and we will just go through the second read tomorrow. Let us do those that want to be here.

Mr. Chairperson: There is a board meeting tomorrow.

Mr. Laurendeau: Well, whenever the next meeting is.

Mr. Chairperson: That has been indicated.

Ms. Friesen: Mr. Chairman, I think what we are all looking for is some certainty for the presenters who are still here, and it would be my suggestion that we finish at one o'clock and that the Clerk provide a list of people who are willing to speak until one o'clock. I think we know, more or less, the time allotment that that would take, and then we have an agreement to come back.

Mr. Chairperson: You are going to have get agreement of all committee members, too.

Ms. Friesen: I understand.

Mrs. McIntosh: Just knowing people as I do, there may well be people who are quite willing to stay later than that, those of us who are nightawks. I mean, I can remember sitting in committee in 1987 or whatever, till three o'clock in the morning waiting to present and just being fascinated by the debate, and there are people like that. I do not know if there are any here tonight, but maybe we should try to find out rather than just assume that everybody is not interested in the other presenters and would be tired.

Now, we try to accommodate those who do not want to stay, but in case there are those who are willing to sit here with us till 2:30 a.m. or 3 a.m., why not? So how do we determine that, that is my question. A show of hands, or what?

Mr. Penner: Mr. Chairman, I certainly support what the minister has indicated, and I would suggest that you ask for a show of hands from those who are still here as to how many would want to present today or tomorrow morning, as it might be.

Mr. Chairperson: There are no committee meetings set for tomorrow; there is no committee meeting scheduled.

Mr. Penner: I am suggesting that this be a continuum after 12 o'clock, and so I would suggest that you ask for a show of hands as to how many people would want to remain and present as long as we hear them.

Mr. Chairperson: How many are willing to stay for the duration this evening or this morning?

How many would be prepared to stay until 2:30 in the morning as opposed to—

Mrs. McIntosh: As opposed to coming back another day.

Mr. Chairperson: Well, is anyone prepared to stay here until 2:30, two o'clock, 1:30?

Let us carry on with the presentation. We will review things again at one o'clock. How is that?

Ms. Friesen: Mr. Chairman, I understand you are trying to get consensus in a difficult situation. I did have a proposal on the table that we end at one o'clock in order to give certainty to those people who are here, so that another time could be set. It seems to me that that is fair to all.

Mr. Chairperson: Are we in agreement then that it end at one o'clock?

Mr. Tweed: Mr. Chairman, I can accept that, but I would like to make a comment that as I sit through committee after committee, my constant suggestion that I hear from the opposite side is that we are trying to limit debate and not wanting to hear from the people. I am suggesting if there are people here that want to make a presentation tonight we should accommodate them, that is all I am saying. If it is one o'clock, fine, then I have no problem with that.

Mr. Chairperson: Without perpetuating it, it sounds as if we have agreement at one o'clock, Ms. Friesen.

Is that correct? Do have agreement at one o'clock?

Ms. Friesen, then Mr. Laurendeau.

Ms. Friesen: I did not want to leave the honourable member's comments on the record because I think what we are looking at here is a pause, not a cutting off of debate. There is no intention and there is no possibility here of cutting off anybody who wants to present. The issue is a pause, and that is how I understand it, Mr. Chairman, so I wondered if you could perhaps comment on that as well, that that is your understanding.

Mr. Chairperson: Well, there is no continuation scheduled for this hearing, so I cannot answer that question. That will be up to the House leaders to deal with.

Mr. Laurendeau: Mr. Chairman, I have no problem that at one o'clock we say that that will be the final hour, but I do think at one o'clock if there are any presenters that are still here who want to be heard, I think we should hear them out at that time. I do not think we should just shut them out. I think if they are still here at one o'clock, they want to be heard, but we will not drop anybody off the list. That is exactly what I am saying. Let us not drop anybody off the list, but anybody who is here after one o'clock who wants to be heard, let us hear.

* (2320)

Mr. Chairperson: I noted nods of approval. It looks like you have a winner, Mr. Laurendeau. Is that agreed? [agreed]

Mr. Lipsett, you may proceed.

Mr. Lipsett: Mr. Chairman, if you can read my handwritten notes on Bill 33, and if a clerk is willing to photostat them for all 15 members, I will be glad to waive oral presentation of Bill 33, but Bills 32 and 47, which are typed and I will have distributed, I would like to present, so it is up to the Chair basically.

Mr. Chairperson: Certainly I think accommodating other people's time will be most appreciated, so if you wish to begin your proceedings on what you were circulating, you may begin your presentation.

Mr. Lipsett: Okay, 10 minutes from now, actually. Oh, Bill 32, yes, I am sorry.

Mr. Chairperson: Beginning with Bill 32, Mr. Lipsett. You are beginning with Bill 32, you said?

Mr. Lipsett: Yes, Bill 32. My name is Edward Lipsett, and I am speaking on behalf of the Manitoba Association for Rights and Liberties. Please let me know if I am going too fast or—you know.

MARL does not oppose the creation of this council. We acknowledge the benefit of co-operation among post-

secondary educational institutions and the need for a certain degree of co-ordination of the post-secondary education system. However, we note that the mandate given to this council seems somewhat greater than that given to the Universities Grants Commission. For example, The Universities Grants Commission Act, which Bill 32 would repeal, states at Section 3: It is the intention of this act that the commission should restrict its activities to the fiscal arrangements of universities and should not interfere with matters very similar to those referred to in Section 3(2)(a) to (c) of the new bill. Furthermore, the council's power under Section 12(a) to review and evaluate post-secondary programs and services and other related matters and related provisions seems broader than the power granted to the Universities Grants Commission to inquire into the financial arrangements and requirements of the universities and colleges, Universities Grants Commission Act, Section 13.

This expanded mandate, as well as other provisions and omissions in the new bill, seem to open the possibility that the council could interfere with the academic or intellectual freedom of members of the university and college communities, become at least indirectly involved with personnel matters or unduly interfere with the substantive academic endeavours of the universities and colleges and their members.

We are certainly not suggesting that such scenarios are the intention of the authors of the bill or even a likely occurrence. However, we will point out some specific provisions that raise these concerns and respectfully offer some suggestions for safeguards that hopefully could reduce or eliminate these risks.

We will begin with the preamble. It is problematic, not for what it states but for what it omits. Certainly the instrumental values of knowledge and higher education referred to in the first two paragraphs are of vital importance, but so are the intrinsic values of research, knowledge, inquiry, and higher education. Furthermore, as this was eloquently pointed out, incidentally, by I think the speaker from the CAUT this evening, their benefits, though important to the well-being of the province and its citizens, are also vital to all of humanity throughout the national and international community.

Manitobans have benefited and continue to benefit from academic and research activities throughout the

world. We would hope that such activities at our universities and colleges would also have benefits worldwide and that we will continue to co-operate with and welcome students and scholars from around the world. Failure to mention these matters could unduly narrow the vision for our post-secondary education system that the legislation might portray. It is to be hoped that this will be remedied.

Furthermore, the preamble omits reference to the fundamental and traditional academic values, such as academic and intellectual freedom, independent research, critical inquiry and evaluation of ideas, search for truth and freedom of expression. If a preamble purports to contain some or all of the values connected with or purposes of higher education, these omissions create a very unbalanced picture indeed. Furthermore, these vital values and concepts are somewhat vulnerable.

Various circumstances and sources, including increased government and private-sector involvement, fiscal restraints, reliance on outside funding, internal and wider community pressures, and political correctness, can create or exacerbate risks to these already endangered but essential academic norms. Mentioning them in the preamble and/or elsewhere could at least alert the council and the public of the need to give them some protection.

Refer to Section 3. I trust you have copies of the bill; I do not have to quote. We respectfully suggest that the limitations in Section 3(2) should not be subject to the power to regulate programs under Section 14, but that those powers, as well as all of the powers in the act, be subject to, or at least should have to take into consideration, the limitations in this subsection. Additionally, we believe that Section 3(2) should be further amended by prohibiting interference with something like, if not, these precise words: (d) the academic and intellectual freedom of faculty and staff members and students in accordance with academic responsibility and standards.

Go down to Section 11(e). It seems that this could needlessly open the door to outside interference with these core functions of the universities and colleges and could lead to inappropriate pressure in these matters. For example, this could touch on matters dealing with the substance of teaching and research or regulatory and disciplinary jurisdiction concerning faculty members. It

seems that universities and colleges, in conjunction with their faculty unions, are in a better position to deal with these matters in accordance with the well-developed norms of academic freedom and responsibility and with appropriate procedural protections. It might be better to eliminate this clause completely or at least insert safeguards to eliminate or reduce the risks referred to earlier.

Section 12. In exercising powers under Section 12, protection is needed for individuals and/or groups who could be implicated by attempts to review, evaluate or report. Perhaps some substantive limits ought to be imposed, i.e., prevention of wide-ranging inquiries into alleged misconduct or incompetence or attempts to duplicate what really are discipline or personnel matters. At any rate, some protection may be needed for the privacy and reputations of persons concerned.

Additionally, appropriate procedural protection, according to the norms of natural justice and fairness, perhaps ought to be expressly enacted. Ideally, personnel matters should be expressly removed from the possible scope of this section. It might be advisable to add a subsection which would read something like 12(2): Nothing in this section shall authorize the council or a person or committee appointed by it to review, evaluate or report on the competence or conduct of any individual or group of individuals or to have access to any individual's personal records without the consent of that individual.

I am on the last page. Section 25. The expression or any other matters concerning the council or this act could be quite wide and might be used as an indirect route to investigate matters, which, as noted earlier, ought not to be investigated by the council itself. Perhaps any limitations stated concerning the jurisdiction of the council ought to be expressly stated to apply here as well. Additionally, an expressed prohibition on the investigation of the conduct or activities of individuals or access to personal records might be appropriate here as well.

Section 26. The protection from liability provided for in Section 26 seems too wide. Certainly the individuals referred to must have immunity from damages for good-faith attempts to perform their duties. However, it seems inappropriate to protect the council or the Crown-

council I recall is an agent of the Crown—from liability for actions that might be tortious ultra vires or otherwise unlawful. Furthermore, care is needed to avoid unduly restricting any judicial review that might otherwise be available from the council's purported actions. Thank you for your kind attention.

Mr. Chairperson: You may now proceed with your presentation on Bill 47.

Mr. Lipsett: Before the questions here? Okay, fine.

Mr. Chairperson: We will leave them all to the end.

Mr. Lipsett: Okay. Now I am getting to Bill 47.

Mr. Chairperson: You may begin.

* (2330)

Mr. Lipsett: We will begin with Clause 6(2) which would amend Section 41(1), new Clause (v). It should be expressly stated that this does not include pupil files, personnel records of teachers or other staff or other personal information.

New clause (x). It might be necessary here also to state clearly that this does not include personal information concerning any individual.

Section 8, new Section 42.6. This provision might leave too much discretion to disclose such information to third parties. It might be better to state a general principle that pupil records and the information contained in them are presumed confidential. Possibly the legislation should expressly state that they can only be made available or disclosed to a third party, (1) with the consent of the parent or pupil, (2) when otherwise expressly required or authorized by law, example, court order or other legislative provision, (3) in case of emergency or necessity.

Section 10, new Section 58.4(1). It might be appropriate to provide for an appeal from the principal's decision to the school board where the pupil and/or parents would be entitled to a hearing if the decisions were based on clause (e) or otherwise were based on an alleged fault or lack of qualification of the pupil.

New Section 58.6. Perhaps in the case of older children, at least 16, the right to select the program should belong to the pupil rather than the parent. Perhaps even at a younger age, beginning of high school, a child who is mature enough to make a reasoned decision should be entitled to choose his or her program of studies him or herself or at least be able to challenge their parents' decision. If parents have unrealistic expectations of their children or if their decision would deny the child the opportunity that he/she is capable of, is it fair to leave the child without a remedy?

New Section 58.6(g). This right should perhaps exist concerning suspensions and other important decisions as well.

New Clause 58.7(a). We respectfully suggest that this clause be deleted completely. Although parents' co-operation with the school system is certainly to be hoped for, we do not believe this is an appropriate matter for creating a legally enforceable obligation. Matters of how parents raise their children, how families operate and the nature and extent of the parents' involvement in the education of their children should be largely free of state regulation or intrusion. Undue state involvement in this area could seriously violate the privacy and liberty of families and their members. Furthermore, this particular clause might be unduly vague or uncertain. It is unclear what parents are actually to do or how they are to co-operate or ensure the child's compliance.

Additionally, it seems to leave a considerable amount of discretion to the school officials to determine the circumstances when it would apply and what is expected of the parents under those circumstances. The extent that this clause could impose a duty on parents concerning what the teachers say to their children or how to discipline their children, it would involve a direct intrusion into family life that would, as mentioned earlier, be inappropriate. Additionally, in certain circumstances parents may, for religious, philosophical or other reasons, disagree with certain aspects of the school's student discipline and behaviour management policies. Requiring active co-operation with, or endorsement of, those policies by parents, or requiring parents to teach, instruct or encourage your child to comply could infringe a parent's freedom of conscience, religion or expression under those circumstances.

Attempting to enforce parental co-operation could create serious practical problems as well. It must be remembered that while the pupils are at school, they are under the school's care and supervision, and that at that precise time there is very little, if anything, parents can do to control their children. Attempting to monitor or evaluate the child's and parents' home and family life to ensure co-operation might be impossible without an especially severe degree of intrusion. Additionally, there are cases where, despite sincere and diligent efforts by parents, their children are effectively beyond their control. Attempting to legislate parental co-operation might put additional strains and stresses on individuals and families who are already overstressed and might even prove to be counterproductive to the goal of encouraging appropriate behaviour by pupils.

We also note that Section 237 of The Public Schools Act makes contraventions or omissions a penal offence subject to a fine or possible imprisonment. That section would, it seems, apply to this proposed new clause. The possibility, however remote, of imprisonment makes this provision, in our respectful opinion, that much more unacceptable. We would respectfully request that this proposed clause not be enacted.

New Section 58.8 We respectfully suggest that this proposed clause be deleted. First, we will deal with the potential liability of the child. The common law already provides for liability of children in tort under limited circumstances. We believe that expanding these circumstances would be unfair or oppressive. At any rate, even if a child is theoretically liable, pursuing him or her in an action for damages is often not a particularly realistic or practical option as children do not have the funds to satisfy a judgment awarded against them and do not carry liability insurance. From that perspective, we acknowledge that there is a degree of logic in attaching liability to the parents. However, as will be explained, we believe that such action is unfair in principle and of limited practicability and we respectfully oppose that aspect as well.

We respectfully oppose imposing liability on the parents as envisaged in the section. This is for several reasons. The main reason we suggest is that at least, in most circumstances, holding an innocent person responsible for the actions of another individual is inherently unfair. We acknowledge that the common law

and various statutory provisions do sometimes depart from this principle. For example, an employer is usually vicariously liable for the torts of an employee in the course of employment. However, the law ought to be very reluctant to extend concepts of vicarious liability and, in this case, it would be particularly inappropriate.

We note that in some circumstances, the common law of negligence could render a parent liable when his/her failure to provide adequate supervision of a child in a foreseeable dangerous situation causes harm to a third party. However, it would be most unfair to extend or expand this concept to a general or presumptive liability of a parent for the wrongdoing of a child. It would be especially unfair to impose liability on parents for actions of their children while at school. When the child is at school, he/she is under the direct control and supervision of the school. It is impossible for the parent to control the child at that time. Indeed, the common law of negligence imposes liability on the school personnel and/or school division if their failure to provide adequate supervision for a child results in foreseeable injury to a third party or to the child himself or herself. It would seem almost a perversion of basic principles to render parents liable for the actions of their children while in school.

I will dispense with the reading of the last paragraph and go down to the next thing. You have the copies there.

New Section 58.9(2): (a) Perhaps provision should be made allowing a pupil to challenge or appeal from evaluations in certain circumstances.

Section 58.9(2), new subsection: (c) Though this is definitely a step in the right direction, it seems too limited. For example, why limit these to expulsion? Sometimes suspensions have very serious consequences. It seems that this is a bare minimum that a pupil should be entitled to at any level of decision making including the principal or superintendent. It seems that the procedural protections of pupils facing disciplinary and perhaps other decisions should be expanded and expressly stated in the legislation and provision should be made for appeal or review.

We are coming to our last page. The idea of expressly referring to the rights of pupils is a sound one. However Section 58.9(2) should be expanded. For example,

although school divisions are already subject to the Canadian Charter of Rights and Freedoms and the Manitoba Human Rights Code, special mention of at least some of the rights referred to in those documents might be helpful. In particular it might be a good idea to state that the expressive, religious, conscientious and related rights of pupils be honoured to the greatest extent consistent with legitimate pedagogical requirements of the school and the rights of others. Perhaps the schools should be put under an express duty "to act reasonably, fairly and in good faith" in dealing with pupils, analogous to the duty read into collective agreements by Section 80 of The Labour Relations Act. Additionally, a provision dealing with the rights of pupils and also of parents should contain a general right to challenge a decision concerning a pupil and should set up an appeal review mechanism to deal with such matters.

New Section 58.10, clause (b) Perhaps some parameters or limits concerning substantive disciplinary or regulatory powers of schools should be expressly seen in legislation. Perhaps Section 58.10 should be clarified to ensure that it does not create a penal offence under section 237 of The Public Schools Act.

Section 14. New Section 101(6) Perhaps teachers and other staff should be given express confidentiality rights to their records.

Thank you for your kind attention.

Mr. Chairperson: Thank you, Mr. Lipsett. Did you have any comments to make about Bill 33? We will just read Bill 33, have that—

Mr. Lipsett: Yes, I thought I would waive that.

Mr. Chairperson: Bill 33 comments of the presenter have been circulated as if he read those into the record.

Mr. Lipsett: That is all we could do, fine; so any questions, fine.

* (2340)

Mr. Chairperson: Thank you for a very concise presentation on the very complicated issues you have dealt with. Questions?

Ms. Mihychuk: Thank you for your presentation. It was very, very interesting, and I am going pursue some of your comments in terms of the rights of the pupil.

Mr. Lipsett: Are we on Bill 47 still?

Ms. Mihychuk: Yes. Under Bill 47 it is interesting to note that the government has presented three rights of pupils. The right to be tested is No. 1 in the list of rights. It may seem that the right to test may be more appropriate under the school's authority or a teacher's authority for a right. Have you an opinion?

Mr. Lipsett: That is a valid point, although I am not necessarily opposing it in as a right, although I will admit many students would find it rather odd to consider exams a right, but more importantly, our main concern is that any testing be done in the fairest possible method, any evaluation be done in the fairest possible method and there be some mechanism for appeal or review. If my memory serves me correctly, this was dealt with by the original Panel on Education and Legislative Reform and our response, which incidentally was also written by yours truly, but that is beside the point—yes, you might have a valid point but, again, we are not worried about whether you call testing a right or a duty or a purgatory even, as long as it is fair and there are review mechanisms.

Ms. Mihychuk: Under 58.9 again, the Rights of pupils, the third section is actually the right to be accompanied by an adult. Are you suggesting that in fact that be extended to the right to appeal, as well, or the right to representation in assessment, suspension and expulsion?

Mr. Lipsett: There might be separate issues there. Certainly, at the initial hearing—first of all, it depends where it is. Before a school board, I would suggest that full procedural protection, including the right to be represented, maybe by council even or maybe to call witness just like at a disciplinary hearing of a professional, be expressly provided, and maybe there should be an independent appeal mechanism also as again the government's own panel recommended, but even in more informal matters, such as a decision by the principal to suspend a person for seven days, even there at least a basic, minimal procedure should be allowed, including the right to be represented if the student chose.

But again, this whole area of procedural protection in discipline should be expanded in principle. I do not see why a student facing suspension from Grade 11, which could ruin his career or her career, is entitled to less procedural protection than a doctor facing a loss of his or her registration by the College of Physicians and Surgeons—as I said, in principle. There are practical differences, of course.

Ms. Mihychuk: In terms of records, there is a certain movement to provide fairly detailed public presentation of assessment records. These would include marks or perhaps other achievement records on individual students. Would you consider a person's grade to be confidential?

Mr. Lipsett: We have not gone into quite all those details in formulating policy. We just want to point out that in this wording, there should at least be a presumption of confidentiality for most issues. A lot depends what the norms and practices are in the schools. Obviously, graduation lists or honours lists are usually, I guess, public knowledge. I mean, graduations are public ceremonies.

On the other hand, and this is just my own opinion, I do not see any need to make it public knowledge whether a student had—do they use Bs, or do they still use percentages in high school; I do not even remember—a B or a C. I do not see why that should be made public. If the student needs that information for application for a job or a university, he or she should apply to the school, and then they should release it. Offhand, I cannot see why that should be made public. Personal matters should be kept personal.

Ms. Mihychuk: MAST presented a concern about the legislation which would allow pupils, once they have reached the age of majority, to decide on the release of their own records, and MAST was arguing that this could, in effect, not provide parents with that information, of their graduating results. Do you feel that that is a serious concern, and does MARL have a position in terms of the age of majority? Is it the right of a pupil to have access to their records and decide who is going to have access to them?

Mr. Lipsett: You are asking whether or not parents, after the age of majority, should have access?

Ms. Mihychuk: Yes, that was for clarification. The school trustees association felt that it was a serious concern that parents would not have the inherent right to receive the marks, that that ability would then be placed on to the student who has reached the age of majority, and they would decide who would see their marks.

Mr. Lipsett: We have not really considered that particular part on committee, but just from the top of my head I would think that once a child reaches the adult age, his or her rights to his or her privacy should be complete. His parents have no more legal jurisdiction over him, and if he or she wants to be a good son or daughter and share it with his or her family, that is his or her prerogative. Once a pupil is no longer a child, they should have the full rights to privacy vis-à-vis the world, but again, that is just an off-the-cuff opinion.

Ms. Friesen: I am taking note of your suggestions on Bill 32, and particularly the ones dealing with personnel records, I think, are useful for us to remember.

I wanted to ask you, on Bill 47 where there are sections which deal with the liability of parents and children for lost, stolen or damaged property, I wondered if you were prepared to comment on the case law on that, and particularly perhaps the most recent—I think it is known colloquially as the Zellers case?

Mr. Lipsett: Yes, we probably will be making a presentation on Bill 58 - the parental liability act. Unless the Zellers case has gone to the Court of Appeal, I think the Queen's Bench Justice—was it Mr. Justice Jewers—was quite correct, that under those circumstances the parents are not liable.

In this case, I think it is a 14-year-old who allegedly stole something from the store. Obviously he or she was not doing it at the direction of the parents for the parents' benefit. I think even Bill 58 is unfair. It is another matter.

Let us say the parents of a 7-year-old child leave the child alone with a firearm and then somebody gets shot. Sure, the parents should be liable then. There was a Manitoba Court of Appeal, the Supreme Court decision even that involved a school division—I think it might have been St. James. This was 20 years ago where a father of a 14-year-old boy gave the boy a snowmobile with

inadequate instructions on how to use it. It smashed into a school, it caused an explosion, \$100,000 damage. The father was held partially liable. Under those circumstances, it is foreseeable the ordinary principle of negligence. But to say that a parent on the Bill 58 thing is liable if a 15-year-old kid commits an act of vandalism, unless he can prove that he was a good parent, I respectfully think that is repugnant, and in the school system even more so, because it is pointed out when a kid—I am sorry, when a pupil is at school, the school has a direct responsibility and to say that—let us say that a 14-year-old is horsing around in class and accidentally spills some Bunsen burner over and causes a \$100,000 fire, to hold the family liable seems to me, quite frankly, unconscionable. At least Bill 58 limits liability to \$5,000. This is completely unlimited. As I said, with the greatest respect, I consider it unconscionable.

* (2350)

Mrs. McIntosh: Thank you very much. I am just trying to get an understanding. You had indicated that you do not agree with the publication of marks, for example, or the—

Mr. Lipsett: That, we have not looked at that closely. That is just the top of my head. I see no reason to publish marks. Prize winners, yes; graduation lists, of course, unless maybe privacy is expressly requested, but presumably it would not be in most cases. But I do not see why it is necessary to publish marks of individuals unless they are requested. Where are you going to go further, are you going to publish I.Q. scores or health records? I really do not think there is any social benefit for it.

Mrs. McIntosh: Yes, and I am not saying we are going to do that. I am just trying to get a clarification because it is all right to reveal marks if their high marks or award-winning marks, but that is it. Is that what you are saying? I am just hearing some inconsistency, because I am not quite sure what your final message is here. If you say it is all right to reveal some marks, but not others, what are you really telling me?

Mr. Lipsett: I did not say marks, but it is how you understand, but correct me if I am wrong—'63 was when I graduated from high school, and, believe me, I did not win any academic awards there. As I understand the

situation, graduations are public, prizes are public, but marks are not. If it has changed since then, I am not aware of the fact, but I see no need just to release a student's academic transcript to the public as a matter of course. That should be, presumptively, private, and if he or she needs it for a job or university application, the onus is on him or her or his or her parents to apply for it.

Mrs. McIntosh: I guess you are attaching some value then that if the mark is, quote, good and it gets an award or something, then you can reveal it even if the student does not want it revealed?

Mr. Lipsett: No, I did not say that. I said even in cases of awards if for some reason, which would be quite rare—but if for some reason, a child wants that to be kept confidential, maybe it should be respected. It would be very rare, but—

Mrs. McIntosh: Okay, that is the consistency. So you are saying if a student wishes confidentiality, even if it is something sort of customary, like a Governor-General medal or something, it should be given confidentiality as per the child's request.

Mr. Lipsett: I would say yes.

Mrs. McIntosh: Okay, thank you. Thank you for that clarification. I appreciate it.

Mr. Chairperson: Thank you very much for your presentations. You did it very concisely with a difficult subject, Mr. Lipsett.

Ms. Cerilli: I just want to ask one question. I really enjoyed your presentations. They turned a lot of assumptions on their head, I think.

I just want to ask you a general question in terms of the privacy issues on the disclosure of grades to the public and those kinds of issues: Was there a legal interpretation that went along with this bill? Has there been any legal counsel that dealt with these issues, or what is the perspective of this?

Mr. Lipsett: Off hand, I do not recall any cases in Canada that deal with the specific issue of whether or not grades are presumptively confidential or not. I mean, this legislation is to clarify the law, presumably. I suppose

you could legislate them to be public knowledge, but I would recommend against it.

Ms. Cerilli: I think I need to more clearly ask my question. I do not know if you are a lawyer.

Mr. Lipsett: I have a law degree. I am doing legal research; I am not practising.

Ms. Cerilli: Okay, so there is a legal point of view, then, in this brief. That this is a legal point of view is what I am trying to get at. I am wondering if the concerns that you have on privacy, especially the right to request that grades would be kept private, and how that would have implications, because the reference in Bill 47 is that the grades are going to be used to assess the effectiveness of education programs.

Mr. Lipsett: We might be referring to different sections. Which section are you referring to?

Ms. Cerilli: I am referring now to subsection (x) under Clause 6(1), I think it is, in Bill 47.

Mr. Lipsett: I am trying to figure—clause (x), did you say?

Ms. Cerilli: Clause 6(2). I beg your pardon.

Mr. Lipsett: Oh, new clause (x). The only reason I am mentioning it there is that if there is that the wording could be capable of doubt, so we should close all possible loopholes. I see what you are getting at now. Just let me refer to the bill. I have got it here. Yes, I see what you are talking about: 6(2), which would amend 41(1)—yes, here we are. New clause (v). It says in the legislation: “(v) provide to school advisory councils, local school committees and school committees any information that is reasonably necessary for their operation.”

Well, we dealt with that last year also, when the advisory committees were set up. They should not have anything to do with the direct personnel matters, whether it includes students' grades. They should deal with general policies, issues but, no, I think it should be expressly made clear that they do not get any personal records of students, including individual grades. A student is answerable to the teachers, to the principals

and the school boards, but he does not need an extra level of bureaucracy to be answerable to. I think that should be expressly removed from information available to the advisory councils.

Mr. Chairperson: Thank you very much for your submissions, Mr. Lipsett.

Mr. Lipsett: Thank you very much. Good night.

Ms. McGifford: Mr. Chair, on a point of clarification.

Mr. Chairperson: Yes, Ms. McGifford.

Ms. McGifford: I was stopped in the hallway by prospective presenters, and they are not clear as to what we have agreed upon at one o'clock. Now my understanding is that we agreed at one o'clock to canvass the audience. If anybody wishes to present, we will hear that person; otherwise, we will adjourn at one o'clock, and the presenters will be called back at a date determined by the House leaders. The Clerk will then call these people and notify them. Is that--

Mr. Chairperson: That is a clear articulation of it.

Mrs. McIntosh: That is my understanding, too, Mr. Chairman.

I am wondering, as well, given that there were no presenters on Bill 12 and it is a fairly straightforward bill, if at the end of the presenters--and the people then are free to leave, if they do not wish to stay--the committee could remain and deal with Bill 12, because it is a straightforward bill, with no presenters, and it was to be done first here tonight. The only reason we have not done it first was because we decided to let the out-of-townners present, and now we have carried on without going back to Bill 12, which I had staff waiting here for. We did not go back to it as I thought we would.

So the committee members, I know, do not mind working late. Their concern was mainly for the comfort of the audience, to allow them to go at once, so with respect, could we do Bill 12 after the last presenter?

Mr. Chairperson: Can we get agreement on that without taking up further time of the presenters?

Ms. Cerilli: No, I do not want to agree to that until Ms. Friesen, who is our Education critic, is back from her break, so if you can raise that again when Ms. Friesen is back.

Mr. Chairperson: Can we hold that and we will deal with that without taking up more time.

We will now deal with presenter No. 4, Earle Ferguson and Sylvia Jansen or Michael Thomas, University of Manitoba Faculty Association. For the information of the next presenters, just in case people have lost track, Dr. Marsha Hanen will be the next presenter and then Susan Kushneryk, Alden Turner, Dr. Allen Mills. That is the sequence.

You may begin your presentation, Earle Ferguson.

* (2400)

Mr. Earle Ferguson (President, University of Manitoba Faculty Association): Thank you, Mr. Chairman. Honourable minister, members of the committee, thank you for this opportunity to make this presentation. I would like to introduce on my right, Ms. Sylvia Jansen, who is the executive director of our association, and I am the president of the University of Manitoba Faculty Association.

The University of Manitoba Faculty Association represents approximately 1,150 full-time faculty members and librarians at the University of Manitoba. Among the goals of UMFA, as set out in its constitution, is the requirement to advance the standards of the professions, of its members and to improve the quality of higher education in Canada. In discharging these responsibilities, the faculty association has reviewed the proposed Bill 32, The Council on Post-Secondary Education Act, and submits the following in response.

The University of Manitoba Faculty Association supports the provision of a council on post-secondary education which is more representative than the proposed council in Bill 32 and supports strongly that amendments to the bill be made to ensure that standards for higher education equal to those in other parts of the country are maintained.

In particular, UMFA supports the amendments proposed by the Manitoba Organization of Faculty

Associations. Earlier on, there was a question concerning Section 14 and the difference between Bill 32 and the UGC Act as it exists today. I would like to make a comment on that. The UGC Act provides, in an arm's-length body, the UGC approval for any expansion or new programs. Bill 32 provides for approval when programs are to be reduced. The body, the proposed council, is not at arm's length and is, in fact, required to be accountable to the minister and to the government.

On Section 14, UMFA supports that Section 14(2) be modified to read: The university or college that wishes to establish, offer, provide or create any new service, facility or program of study or expands a program of study, service or facility involving money at the disposal of the council shall first obtain the council's written approval. Further, a disposition of unspecified terms and conditions for approval is again an intrusion and should be deleted. Section 14(3) should be modified to read only: After advising the minister, the council may grant and approve under subsection (2) for a limited period.

On the preamble, since institutional autonomy is essential for ensuring the protection of academic freedom and self-governance within the university, UMFA proposes that an addition be made to the : Whereas the creation and sharing of knowledge is contingent on the securing of institutional autonomy, academic freedom and collegial decision-making arrangements.

On Section 3, the addition of the word policies is helpful, but we feel it does not change the thrust of the rest of the bill.

On Section 4, UMFA proposes that the council should establish its own framework for accountability and priorities; it should not be entirely an instrument of the minister or a cabinet committee. Therefore, we propose that Section 4 be deleted entirely.

Section 5, the composition of the council should reflect its broad mandate and be accountable more broadly than is currently proposed. We would therefore recommend that Section 5(1) be amended to read: The council is to consist of 14 members; one member will be elected by and from senates or college councils at each of the seven post-secondary institutions in Manitoba for a total of seven members. An additional seven members will be appointed by the Lieutenant-Governor-in-Council in

consultation with each of the seven post-secondary institutions in Manitoba.

Section 11, UMFA supports that the council should be acting within a framework established during its own deliberations and from consultation with post-secondary institutions and not within a framework established by the minister. Section 11(b) should therefore be amended to read: To carry out its mandate the council shall (b) within a framework established by the council in consultation with the universities and colleges.

Further, if performance indicators are to be developed, then the universities, colleges and the professional accreditation organizations should be developing them as appropriate, and not the council itself. We would therefore recommend that 11(e) be modified to state only: develop and implement, in co-operation with universities and colleges, accountability requirements for each university and college for the core functions of teaching, research and service.

In conclusion, I would like to say that the bill as it now stands, taken all together, I think is a threat to the autonomy of a university. If a university loses its autonomy, then I think it becomes very mediocre and parochial and in a way is no longer a university. Thank you.

Mr. Chairperson: Thank you, Professor Ferguson.

Mrs. McIntosh: Yes, I wonder if you could indicate to me how this bill will change the autonomy of the university from what it is right now.

Mr. Ferguson: I think because the council is accountable to the minister and to the government, it is not arms-length. I am not saying that this will happen, but I think it gives it the authority to intrude itself into the autonomy of the university.

Mrs. McIntosh: How is that different right now from the powers of the Universities Grants Commission which also is a qualified lay panel appointed by the minister to distribute funds and requires written approval for all of those things that require its approval and so on? How is this one different, in your opinion, in such a way that it would be a negative influence rather than a positive influence on the university?

Mr. Ferguson: I think we are talking about two different animals here. I think the UGC is an arms-length body. I do not think this council, the way it is set up in this bill, is. I think it gives an opening for government to really attack the autonomy of the university.

Ms. Sylvia Jansen (University of Manitoba Faculty Association): To expand on that, as Mr. Ferguson said, the Universities Grants Commission was a body that had responsibility for fiscal matters only; it was financial. It is more arms-length and its powers are specifically with respect to financial matters. The Council on Post-Secondary Education has an extremely broad mandate. There is a direct reference to government policy. The council has power to change, as the government might change, programs, instruction, the university generally, every time the government changes. It is government controlled, particularly with respect to Section 14(3) which provides for broadly unspecified terms and conditions on certain approvals, and with respect, I would say this means that there would be a kind of government control in universities that is present nowhere else in this country.

Mrs. McIntosh: I am still trying to understand, and forgive me, but you said the Universities Grants Commission was simply dealing with funding. Having read The Universities Grants Commission Act and worked with it, The Universities Grants Commission Act, of course, did much, much more than simply distribute money or certainly had much, much more power to do. The Universities Grants Commission would require written approval from the Universities Grants Commission before the university could expand a program, alter a program or service or any of those things.

The only change that has been made in that section is that we have added the word "reduce" as well, because there is no provision in there, should a university wish to reduce, to be able to do that. There is nothing that enables the university to reduce, but before they can reduce, they need to get the written approval of the new council. That is the only change. Every other one was already there, and it required written approval from the Universities Grants Commission. So it also had a number of other powers that are repeated in the new act. So I am just not clear on what you mean by the difference. You know it is—

Ms. Jansen: There are a number of questions there. I would comment that with respect to the powers, the intent of The Universities Grants Commission Act was specifically that the commission should restrict its activities to the fiscal arrangements of universities and should not interfere in a number of areas. There is no such restriction on the proposed council in Bill 32.

In addition, you mentioned the question of reduction. It is true that the Universities Grants Commission had the power to require a reduction—

Mrs. McIntosh: No, that is why we put it in, because it did not have a—

Mr. Chairperson: Honourable minister.

Ms. Jansen: In fact, if there was substantial duplication—

Mr. Chairperson: Professor Jansen.

Mr. Laurendeau: You just have to do it for Hansard; you have to wait. You might want to clarify that, Mr. Chairman.

Mr. Chairperson: Professor Jansen is now carrying on. There was an interjection by the minister that was brief.

Professor Jansen, would you please carry on.

* (0010)

Ms. Jansen: Thank you. With respect, Section 16(3) of The UGCA provided: "The commission may require, by written order, a university or college to cease to provide or offer, or to withdraw, any service, facility or program of studies involving moneys at the disposal of the commission which, in the opinion of the commission, is adequately offered or provided by another university or college or for which, in the opinion of the commission, there is no substantial justification; . . ." That provision was only on the way down. On the way up, if there were reductions that the universities might wish to make and, indeed, universities make reductions to programs and changes to program on a continual basis, the permission of the commission was not required.

In the provisions of Bill 32, the permission of the council is required, and, in addition, the council can

propose unspecified terms and conditions on those approvals.

Mrs. McIntosh: I am still trying to understand. In the act that you have just quoted, 16(3) from The Universities Grants Commission Act, which said that the commission, which you initially said it had only powers to grant money, could require by written order that the university "cease to provide or offer, or to withdraw, any service, facility or program of studies involving moneys at the disposal of the commission which, in the opinion of the commission, is adequately offered or provided by another university or college"

That, we have taken out, and we have left in the clause that says simply that the universities must get written approval to expand, increase, add or, and then we put in the word "reduce" which replaces this clause, which in my opinion, is far, far more authoritarian than what we have replaced it with.

Now, are you trying to tell me you want this rather than what we have given you? Because if that is what you want, let me know. It is far more restrictive than what we have put in the new council act.

Ms. Jansen: With respect, I repeat what we have commented earlier. The provisions in The Universities Grants Commission Act were specifically limited to fiscal arrangements of universities. They were an arm's-length body from the government and, as I said, were restricted to financial matters. They only had very limited powers. The powers provided under Bill 32 in Section 4, in Section 11, in Section 14, particularly the sections that we have referred to, in our opinion, do increase the powers of this body significantly.

Mr. Chairperson: Honourable minister, we are down to our last—

Mrs. McIntosh: Okay, and I am sincerely trying to understand. I am not trying to debate, I really am trying to understand. This clause that we have read that gave the commission, it had nothing to do, it was not just financial. They could order a program withdrawn, if they felt it was being offered some place better, period. With no input from anybody, they could order it. We are saying now, keep in the clause that is already in the

Universities Grants Commission written approval. We have added in the word "reduce" to expand, et cetera.

The clauses that you are referring to permit the minister to give broad, general direction of significant public interest to the council which, in turn, cannot order, by virtue of the clause above it, the universities to do anything outside their autonomy. Now, I fail to see how that is more imposing or more restrictive than what you had in the Universities Grants Commission, the Universities Grants Commission being a politically appointed board of qualified lay people, which is what the council will be. The only difference will be that we now have a legitimate means for the minister, with very tight controls placed upon the privilege, to communicate ideas to the university which the university is not obliged, under Section 3(2), to fulfill.

I mean even if the council said you have to put in a new program, the university has the ability to refuse to staff it. So I really do not understand your concern, I really do not. If you can help me understand why this is more oppressive than what you had before, I would be grateful.

Mr. Chairperson: Time is up as soon as you have given a brief response.

Mr. Ferguson: All right, thank you. I think what I am worried about anyway is under the mandate in 4, it says, in carrying out its mandate, the council shall operate within a framework of accountability established by the minister, and co-ordination of the council's work with the programs, policies and work of the government.

I guess the way I see this is that the Grants Commission, as it stands now, is more autonomous on its own. This way, this gives the minister direct influence to the council, who reports directly to the minister, directly to the university. Now, that may be wrong. That is kind of the way I see it at this point.

Mr. Chairperson: Your time is up. Thank you very much for your presentation.

Mrs. McIntosh: Thank you.

Mr. Chairperson: The next presentation, Dr. Marsha Hanen in her capacity as Chairperson, Council of Presidents of Universities in Manitoba.

Ms. Marsha Hanen (Chairperson, Council of Presidents of Universities in Manitoba): Mr. Chairman, Minister, members of the committee, I speak this morning on behalf of the presidents of the seven universities and colleges in Manitoba, and I wish to make four points. I will condense the verbal presentation in the interest of time, but I would appreciate the entire written presentation being part of the record, if that is acceptable.

Mr. Chairperson: Does the committee agree that the entire written presentation will be put in Hansard? [agreed]

Ms. Hanen: First point, we believe that Bill 32, in bringing the universities and colleges of Manitoba under one act and a single council, has the potential to be a positive development. However, we are in agreement that care will need to be taken to ensure that the different roles of colleges and universities are preserved and enhanced.

As well, differences among institutions are valuable in providing choice for students and the opportunity to build upon the special strengths of each institution, and those strengths must be recognized and supported. In education, a one-size-fits-all approach actually fits nobody, and we request that this be kept in mind as the council's mandate is developed.

We are pleased that the legislation contains a preamble that makes considerable reference to the importance of the mission of post-secondary education for the future of the province. We are particularly pleased to find a reference to the creation as well as sharing of knowledge as research and scholarship are among the hallmarks that characterize universities.

The following additions will, we believe, reinforce the nature of the preamble as a series of statements of an appropriate vision for the system, and there are three. We are suggesting in the first paragraph in the preamble that the words "in an atmosphere of open and critical thought" be added, so that it would read: Whereas the creation and sharing of knowledge in an atmosphere of open and critical thought is essential to meaningful citizenship, and so on.

The second one, we are suggesting that the third paragraph should be changed to read: And whereas it is

essential to promote excellence in the post-secondary education system while ensuring diversity, choice and accessibility for students.

Thirdly, we are suggesting that the fifth paragraph be changed to read: And whereas it is in the public interest to enact legislation that establishes a council to plan and co-ordinate, in consultation with universities and colleges, a strong and dynamic post-secondary education system in the province that is nationally and internationally competitive.

A third point, we were pleased to learn two weeks ago that three changes to Bill 32 are to be introduced. I refer to the inclusion of the word "policies" in Clause 3(2) and also the inclusion of "consultation with the universities and colleges" in two places.

We would suggest three further changes to Bill 32. Section 4, we are suggesting that it be changed to read: In carrying out its mandate, the council shall operate as an intermediary between the institutions and government, and then so on. Subsection 11(b)(ii): In accordance with those priorities, allocate funding to universities and colleges or to programs within universities or colleges with a view to avoiding unnecessary duplication of effort and to promoting fiscal responsibility.

Subsection 14(2) is one that we had considerable concern about. We are suggesting that should read: A university or college that wishes to establish a new program of study or facility involving money at the disposal of the council shall first obtain the council's written approval. Our concern about this latter section of the bill as it is currently worded is that it could be construed so as to prevent internal reallocation of resources, something that we know government wishes us to do. Assuming that our suggestion is accepted, the heading at the top of page 9 would then read, regulating new programs, and the definition of "reduce" on page 8 could be eliminated. So that is a slightly different approach to the change to 14(2) from the one that has been recommended.

* (0020)

The fourth point, the opportunity to affect post-secondary education in Manitoba is enormous at this juncture. We hope the government will keep in mind the

critical importance of the appointments it makes to the new council and will select persons deeply committed to and broadly knowledgeable about post-secondary education for this vitally important role.

We further urge that the cabinet level committee envisioned in the Roblin report be put in place as quickly as possible in order to provide a clear and regular channel for communication at a senior level between government and institutions.

This ends my comments on behalf of the seven universities and colleges.

If I may, on behalf of the University of Winnipeg, I wish to make two additional comments.

First, the government's approvals processes for universities have in the past been ill suited to the kind of innovation and reallocation of resources that universities are attempting to accomplish. As a primarily undergraduate university focused on excellence, forward thinking and innovation, we need the opportunity to make program changes and resource reallocation without the lengthy and convoluted processes we sometimes encounter. The emphasis in the bill on regulation suggests this could become worse instead of better and I urge strongly that this would be counterproductive.

Secondly, the definition of denominational theological program creates significant difficulties for the University of Winnipeg. It is very different from the parallel reference in The UGC Act. Our Faculty of Theology is nondenominational or interdenominational by design and our masters programs, especially the M. Div., are carried out by a consortium that involves a number of faith communities. We require a clarification of the intent of this definition in order to be able to be helpful in formulating a substitute. I certainly hope that it was not intended to exclude our Faculty of Theology from the definition of post-secondary education. Thank you.

Mrs. McIntosh: Thank you for an excellent presentation. We can tell why you guys are all presidents. It is a very good presentation, and I think your comments in one, I heartily agree, under two, I think you have got two—one, two, three under two—and we will take a serious look at those. I do not think they would pose a problem. We will just check with our legislative

drafters. We will thank you for your comments on the amendments we are proposing so far and we will take a look at the other points you have made on page 3, because they are absolutely worth examining, and we will do that. I cannot give you an immediate response on those, but they look worthwhile at first blush. No intention to exclude the Faculty of Theology at all, so we will check that wording, and your criticism in (a) is also very constructive, and I thank you for it.

I really do not have anything to say except, we will take a look at these. It is a good brief, it has got some good points and we appreciate them very much, and please thank the other presidents as well. We will do what we can to try to address these concerns in the bill.

Ms. Friesen: Mr. Chairman, I have a number of questions. I think, as the minister has said, there are some very practical solutions here and some I think important proposals which carry a great deal of weight since they come not just from universities but from the universities and colleges, and they are the result of, I think, a considerable exercise in consensus here. I am concerned about the process of developing this bill and wondered if you could tell us about your discussions with the interim transition committee and why it was not possible to develop these in consultation with the interim transition committee over the last six months.

Ms. Hanen: I do not know the answer to that question, but I can tell you about process. We were each invited one week after the interim transition committee was announced, we were each invited to meet with the committee for one hour, and this we did. We did, I believe, all express the hope that we would be able to meet again and there would be an opportunity for dialogue, but that did not occur. The first time that we actually had a discussion was when the bill was quite close to being presented and, at that point, it was presented, not the bill but the general outline of the bill was presented to us. So that was the process, and I cannot tell you why that was the process.

Ms. Friesen: Mr. Chairman, I am interested in, on page 3, the proposal that the council shall operate as an intermediary between the institutions and government, and I wondered if you could elaborate on that a little and give us some sense of how you see that being different than what is being proposed and how you might see it

working. Perhaps you have examples in mind from other provinces or other institutions.

Ms. Hanen: I think that there has been quite a lot of discussion about whether the new council will be arm's length or not, and arm's length means different things to different people but, from the point of view of the presidents, it is quite important that the council should operate as an intermediary. If you want to use the term arm's length that is fine. Our view is that it should operate as an intermediary so that the government's views are filtered through the council, but that it should not be, the council should not be under the direct control nor should the universities be under the direct control of government directives.

Ms. Friesen: Mr. Chairman, on the last page you talk, and I guess on the first page as well, about the innovations that universities are required to make and want to make and in fact are very active in making, and one of the assumptions that has always puzzled me about the Roblin commission and about much of the government's perspective on this particular bill is that there seems to be, and to me it is always quite stunning, that they assume that universities are places where innovation and change do not exist rather than universities, in fact, being at the forefront of much of the innovation in research and teaching and in community service. I wondered if you would take this opportunity to perhaps give us some sense of your experience as president of the University of Winnipeg of the kinds of changes and innovations that you have seen over your term as president.

Ms. Hanen: Well, I mean, this would take quite a long time to do in detail but, at the University of Winnipeg, there has been an ongoing planning process which began when I came. Certainly there were other things before, but I can speak from the time that I came. There was an ongoing planning process. There has been very deep and careful curriculum review, and this is an ongoing process. Curricula—as a matter of fact, I have a package that thick to finish reading to chair senate tomorrow, and that is a curriculum package which involves a lot of deletions of courses and some new courses and some changes to existing courses and things of that sort. It involves three new programs in co-operation with Red River Community College. So there are a number of things of that sort. We have done very careful, co-operative work

with Red River and with the University of Manitoba. So I would say there has been quite a lot of innovation over the last number of years.

Mrs. McIntosh: You have done a lot of very innovative work there.

I was just reading over again your Section 4: "In carrying out its mandate, the council shall operate as an intermediary between the institutions and the government." With those words you may have finally been able to identify for us what I have been trying to tell people about establishing a legitimate, legal form of communication, a channel of communication between government and the universities which hitherto they have been denied.

This wording—when I keep saying a channel for communication that has firm controls around it, that does allow us to talk about issues of importance to Manitoba—may in fact describe it in a way that is understandable to people. So we will take a very careful look at it and see if in fact it does that.

I really want to thank you for this, Marsha.

* (0030)

Ms. Hanen: Well, that would be our hope, and the other place that we would hope the communication would be established would be through the cabinet level committee. We think those two features would help a great deal with the communication.

Mr. Chairperson: Thank you very much, Dr. Hanen, for your presentation this morning.

The next presenter is Susan Kushneryk, University of Winnipeg Students' Association.

Ms. Susan Kushneryk (University of Winnipeg Students' Association): Thank you, Mr. Chair, Madam Minister, and members of the committee.

Although I registered independently as president of the University of Winnipeg Students' Association, I would ask permission of the committee to expand our group presenting to include representatives from the Red River Community College Students' Association.

Mr. Chairperson: I thought maybe there had been some transfers. I recognize some of those faces. You can please identify yourselves, and then when you present, each of you, please identify your name first and maybe your—

Ms. Cheryl Herda (Red River Community College Students' Association): Certainly. My name is Cheryl Herda. I am the president of the Students' Association at Red River Community College. The students from the University of Winnipeg and the Red River Community College as well as various other institutions have met throughout the summer and early fall to discuss Bill 32. We, as elected student representatives of both the University of Winnipeg and Red River Community College, would like to present our views and concerns about the bill tonight.

On the whole, we endorse the government's efforts to develop accountability measures for teaching, as outlined in Section 11(e), to ease transferability of credits, as outlined in Section 11(f), and to examine the issue of tuition fees, as outlined in Section 12(b).

When we speak of teaching, we speak of an important function that comprises 40 percent of a professor's responsibility. Of course, when you are referring to a college instructor, that percentage increases by a large degree. As yet, no adequate procedure for measuring the task has been made part of the requirement for advancement within academic ranks. Although most instructors and professors are extremely knowledgeable about their fields and bring enthusiasm for learning and a love for various disciplines to their classrooms, some do not. Students currently pay substantial fees for university and college courses, and if for no other reason than the pure economic investment these students are making, those who teach should be able to do so, but should also be judged on their ability.

The easing of transferability of credits is particularly crucial for students at our institutions as more joint programs between the university and the college are developed. It is imperative for many emerging fields that students have a great deal of experience with both the practical and the theoretical. It is unfair to hinder a student because of reluctance on the part of one institution to recognize the work or the value of the work completed at another institution.

In regard to tuition, fee levels are at such a point that for students, particularly at the universities, tuition is no longer a cost that can easily be absorbed through work over the summer months or part-time work throughout the school year. Tuition is going to become more and more of an issue for Manitoba's post-secondary students. We are pleased that the government has decided to examine the ramifications of tuition and to design a policy. Beyond these efforts, however, we are concerned about certain aspects of the bill. We are concerned particularly with the lack of student involvement both in the language of the bill and with the work of the council.

Before I turn things over to Susan to complete the presentation, I would also like to stress the importance of maintaining the individualities of both the colleges and the universities. Like the speaker before us, I think it is important that the council does not try to lump the universities and colleges together in order to ease the workload of the council. I think they have to be kept completely separate and those issues have to be taken into consideration.

Mr. Chairperson: Now, Susan Kushneryk, please begin.

Ms. Kushneryk: To address the lack of the presence of "student" in the language of the bill, we would like to see a definition of student added to Section 1. The minister has already made reference to such an addition to the bill. Such a definition could read: student means a person enrolled in classes as a student at a college or university. With this amendment students will continue to be a prominent part of the council's work.

Although the bill provides for consultation with the universities and colleges, it is clear that the interests of the students may not always coincide with those of the faculty or administrations of these institutions. For this reason, we would like to see Section 13 of the bill amended to include a section (f) that reads: on a quarterly basis, in respect of all matters described in Sections 11 and 12, consult with the official student representatives of each college and university. This will serve to ensure that both students and council members are kept informed about the concerns and proposed initiatives by either group.

In addition to regular consultation with the various student representatives, we would very much like to see

a student sit as a member on the council, thus amending Section 5(1) to read that the council is to consist of 11 members appointed by the Lieutenant-Governor-in-Council, at least one of whom shall be a student. A student on the council would serve a very different role than the student representatives meeting with the council on a regular basis. A student member would serve as a constant reminder to council members that their decisions impact directly on those who are currently passing through the system and who, it could be argued, are the most vulnerable members of a system which they nonetheless support. It is crucial to have a student present to remind the council of the day-to-day experiences of a student passing through the system.

In addition to the above concerns, we support the demands of many institutions to assure autonomy with respect to academic policies and standards. Thus, as the minister has already referred to, we would like to see Section 3(2)(a) amended to read: the basic right of a university or college to formulate academic standards and policies. It is important that, though reform take place, institutions retain their ability to formulate internal academic policies which remain unique to the program which they regulate.

We acknowledge the many concerns raised by members of various institutions. These include the fear of micromanagement on the part of the government and the fear of the elimination of valuable programs in order to eliminate redundancy. We do not believe, however, that it is the intent of the government to micromanage the institutions. Beyond that, we have great confidence in the ability of our particular institutions to manage themselves internally such that governments will not want to interfere.

The interest in eliminating redundancy is particularly a concern for the University of Winnipeg, an undergraduate arts and science institution that offers many of the same programs as the University of Manitoba at the other end of the city. It is true, however, that the students vote with their feet. Enrollment declines at the University of Winnipeg were in the neighbourhood of 3.5 percent, while declines in the Faculty of Arts at the University of Manitoba, I have heard, are rumoured to be over 10 percent. Students have obviously shown a demand for the services and programs offered at the University of Winnipeg, and to ignore that would be to ignore the very

spirit of free choice espoused by all democratic governments.

In closing, I would add that the students of both institutions are looking forward to working with the new council, hopefully governed by an act which incorporates our proposed amendments. We believe that much of the significant decisions regarding the work and structure of the council will be found within its own regulations rather than the act, and we look forward to being a large part of the discussions leading to the forming of these regulations. Thank you.

Mrs. McIntosh: Thank you very much for your presentation, and thank you for coming together. I have said before and I say again, the University of Winnipeg and Red River Community College have already begun working together in these very co-operative ways, and this is a really good example, to see you coming together.

I want to indicate that we absolutely want to preserve the personalities and flavours of the institutions, and we are really clear on that. We believe in choice for people, and we do not want to have carbon copies. We do not want the institutions to be like each other, but we do support and promote partnerships and co-operative ventures which you are displaying by your presence here.

I wanted to indicate, I guess, one thing, and then I will not take any more of your time. When we talked about duplication, sometimes duplication is appropriate, sometimes it is not. If it is a redundant kind of duplication it may not be appropriate but, for example, first year Arts will all have similar courses available to the institutions. That is what I call appropriate duplication. So I think that is what you are getting at on the last page here. If it is not, let me know, but if that is what it is, that is just the comment I make back to you. So we will take your points into consideration, and thank you very much.

Ms. McGifford: Mr. Chairman, I wanted to address a question to the speaker from the University of Winnipeg, Ms. Kushneryk. I wanted to ask you, Ms. Kushneryk, if you consulted with your student board before you made your presentation this evening?

Ms. Kushneryk: Absolutely. We consulted with our student board on a variety of points. We did discuss it.

We did not come to any sort of resolution but, rather, kept it to a discussion. That is what board members wanted.

Ms. McGifford: So you discussed your presentation, but you came to no resolution. Do I take it from that then that your presentation is not necessarily reflective of the student board at University of Winnipeg?

* (0040)

Ms. Kushneryk: It is not necessarily reflective of the university board. However, I was elected by the student body to represent them with a strong mandate earlier in the year, and I think that, just as all of the other presidents representing the other institutions, I have the same mandate.

Ms. McGifford: But indeed you may be speaking today as an individual and not as the speaker for the student board at University of Winnipeg.

Ms. Kushneryk: Indeed as an individual who is president of the University of Winnipeg Students' Association.

Ms. McGifford: But not necessarily reflective of the board's position. I wanted to ask you, Ms. Kushneryk, if you could tell us about the dates of meetings that you had in order to consult with other persons from the student constituency.

Ms. Kushneryk: No, I am not able.

Ms. McGifford: Thank you.

Ms. Friesen: I wanted to ask you about page 1 of your presentation where you talk about tuition issues and you are glad that the government is examining tuition policy and designing a policy. I am concerned that the section of the bill addresses only tuition policy, and I wondered if you would support possible changes that essentially add to it to include loans, scholarships, bursaries, so that we are looking at the whole cost for a student rather than just the rather narrow version.

Ms. Herda: Yes, I definitely think that has to be included, but still keeping in mind, of course, the point that the minister was making earlier that tuition at Red

River or Assiniboine or Keewatin is going to be a lot different than it is going to be at the U of M or U of W or Brandon University, and I think that has to be taken into account.

Mr. Chairperson: Ms. Friesen, do you have another question?

Ms. Friesen: I just had one other question, and it relates, I think, more to the University of Winnipeg. It is again on the first page where you say that no adequate procedure for measuring the task of teaching has been made part of the requirement for advancement within academic ranks. I must admit I do not know specifically about the University of Winnipeg, but universities in general provide for the assessment of teaching for a promotion from lecturer to assistant professor, from assistant professor to associate professor. Many universities include it in the assessment that goes on at the promotion from associate to full professor, although not all universities, and there are many departments—in fact most universities, I believe, at that point, at the point of promotion hearings, invite presentations from students. I know the University of Manitoba, for example, puts up public notices which invites presentations from students on teaching or any other part of a professor's responsibility. Most universities that I know of have versions of teaching evaluations which can become part of the record for promotion and for tenure. So I am wondering, is there something about the University of Winnipeg that is different here that I have missed, or is this part specifically referring, say, to Red River Community College?

Ms. Herda: In a large part it does.

Ms. Kushneryk: Nonetheless, at the university, if there are reviews done of teaching that are part of that kind of review, I do apologize, we are not aware of them. There may be a problem in that students are not aware of them, and certainly if the U of M opens it up for public presentations, I think that is very admirable and I think that is something that we should look at at the University of Winnipeg, but to my knowledge, no, it is not a part of this review, and although students do fill out professor course evaluations at the end of their courses at the end of term, to my knowledge those are not necessarily a part of that review either. So indeed, if this is part of the review

I do apologize, but I think the student should be more informed of the process if that be the case.

Mr. Chairperson: We are down to less than two minutes.

Mrs. McIntosh: Susan, I would just like to follow up on the questions that Ms. McGifford was asking. You ran for president of the student body. Following up on the line of questioning started by the opposition who obviously thought it was important enough to raise, so therefore I am putting a follow-up question to your initiative and would appreciate that you not make those faces. You were elected president of the student body. You had a campaign, I presume, and during that campaign, of course, the council issue was still evident in the air and people were aware that the Roblin report was to be implemented. Presumably, people who might have had concerns about any position you had on this issue would have made them known to you during the campaign. Were you told at any point not to take the position that you have?

Ms. Kushneryk: Absolutely not, and I can assure everyone that in every classroom that we went to speak with, and I can assure you, over two weeks we went to a number of classrooms, we spoke about this new council. We were very informed about the Roblin report, about the new council, about the impending legislation. It was a very big part of our campaign.

Mrs. McIntosh: Thank you very much. I just thought that clarification was important, given the innuendo in the questions earlier.

Mr. Chairperson: Time is up unless there is leave granted. Time is up. Is there leave granted for a few more questions? [agreed]

Mr. Tweed: Mr. Chairman, more of a comment than anything, I just would, I guess, like to thank the students for bringing this forward. I think you, as we, are elected representatives of the people and, when we speak, we speak on behalf of the people that elect us, and I would like to challenge Ms. McGifford on her questioning of you. I think that you represent as a president and I do appreciate your comments, and I think that you should be commended for coming forward.

Mr. Chairperson: I would just like to caution members that it is not appropriate in front of presenters to question the quality or nature of the questioning by an honourable member, so let us end that.

Mr. Laurendeau: Mr. Chairman, I will not get into that. My question is related to the council consists of members, the appointed members. You had said that you would like to see some student representation. Had you seen the University of Manitoba presentation, the Manitoba Students' Union one, where they had recommended that the recent graduate be defined as an individual who has attended a post-secondary institution in the province of Manitoba within the past two years of the appointment? So it would be someone who had attended in the past two years. Had you thought of that at all?

Ms. Kushneryk: While we did think that the idea of a recent graduate is very admirable and we think that is a very good idea and it should be part of the council, notwithstanding any other changes. We still pursue our idea of having a student on the council, as a student does serve a different role than somebody who has graduated over the past couple of years, a role of being there, just to remind the council, as we said in our presentation, about the day-to-day experience of a student going through the process, going through the procedure, and paying the bills.

Mr. Laurendeau: Thank you very much for your presentation.

Mr. Penner: Mr. Chairman, thank you to the presenters today. Your presentation, I want to indicate, is very consistent with the discussions that I have had with university students over the summer months on this bill and on a number of other aspects of the education process. So what you have said here today confirms with what I have heard during the summer months in discussion on education at our secondary level in a general sense, and you have certainly not disappointed me from that aspect.

However, there are a number of issues which I would like to discuss with you at some point in time regarding the input from students on an ongoing basis, but I do not think time would allow it today, Mr. Chairman, so I would welcome you to come visit us at the Legislature.

I am in Room 157, and I would certainly enjoy sitting down and discussing with you future developments in education, especially at the universities.

* (0050)

Mr. Chairperson: Thank you very much for your presentation. Next, we are now at—oh, sorry, hang on. Ms. Cerilli did have her hand up earlier, and I certainly want to afford her the same opportunity that was extended to everybody else.

Ms. Cerilli: I just want to ask questions related to some of the issues that Ms. Friesen was getting out with tuition fee policy.

You mentioned that it is difficult now to work for the summer and then earn enough money to pay tuition. You also were concerned that there is no student representation on the council, and I am not sure if in the bill there is any reference to the creation of subcommittees, but I would think that it would make sense to have students on a subcommittee that would develop a tuition fee policy.

I am wondering if that is something that would make sense or if that is something you have discussed with the minister, and if you have had any other more detailed recommendations for the tuition fee policy, especially since you said that, you know, you cannot earn enough in the summer now to pay a tuition.

Ms. Kushneryk: Certainly, both ourselves and the students from Red River College, as well as the students from the University of Manitoba and Brandon, did make a presentation to the subcommittee of the interim transition committee that is specifically looking at tuition policy.

At that point, we had a variety of recommendations, one of which being that if tuition is going to continue to rise, certainly there are students who have their family backing and are able to handle that, but there are students who are not able, and that those students who are not able to handle the increased load of tuition are those that really need the attention.

We also recommended that institutions be able to maintain the power to set their own tuition fees. We did

have a couple of other recommendations, but those were the most significant. So, yes, we have looked into that, and certainly the issue of tuition is something that we will be looking at quite carefully, as well as the issues of aid and loans. I think those are going to become more and more significant.

Mr. Chairperson: Okay. The honourable minister wanted to make an observation.

Mrs. McIntosh: I just want to indicate in response to Ms. Cerilli's question that there is a tuition fee policy subcommittee and there is a student audit. It is David Gratzer, the former president of the Students' Union at the University of Manitoba, just so you know that it is in place and Mr. Gratzer was put on when he was still president of the Students' Union there and will remain on until that committee has completed its task and reported to the council once it is formed.

Mr. Chairperson: Thank you very much for that presentation.

We are now at about 12:54. What is the wish of the committee? The next presenter would be Alden Turner. It would split his presentation unless he is one of those that wishes to present now. Is Alden Turner here? Would you like, Professor Turner, to present now, because that was the arrangement? Anyone who still wants to present that goes beyond 1 a.m., we, as a committee, have agreed to hear it.

Okay, so you do not want to present. Is there anyone else here who would like to present now? There is one. Anybody else?

Well, I am afraid we have no ability to say when the House leader will call for a reconvening of the meeting, but we do know it is going to have to be before November 8, and the people's names will stay in the same order on the list. So it looks like No. 15, Professor Claudia Wright, is willing to present now. What number are you, sir? Thirteen. Well then Jim Clark, No. 13, should proceed next, and then if Dr. Wright wants to go next she will be afforded that opportunity in accordance with the agreement of the committee. Anybody else between 10 and 15 inclusive? If not, anyone after that that will want to present? That not being so, it looks like

we have two more presenters for this evening. Would Jim Clark please come forward.

Mr. Laurendeau: Mr. Chairperson, I was asked by the gentleman who had spoken on behalf of the Manitoba Association for Rights and Liberties that we might take his two briefs and put them on as if they were both read verbatim, because he had shortened his briefs down. So if we could get the leave of the committee to have them put into Hansard.

Mr. Chairperson: The committee has granted leave for that. That will be done.

Mr. Jim Clark (Private Citizen): Thank you for listening to me, although I am sure we would all prefer a more congenial hour than this.

I want to make, I guess, three basic points. One, I would like to reiterate something that has probably been implicit in a lot of what has been said, and that is the value of the university to Manitobans. Second, I would like to point out what I perceive as being the dangers of the proposed legislation, and then third, I would just like to make some general recommended changes.

Now, each point is based on over 30 years as student, teacher and researcher in universities in Ontario, Nova Scotia and now at the University of Winnipeg in Manitoba. I was just belying my youthful appearance to also emphasize that I hope that first-hand experience still counts for something when it comes to some things like universities. As well, I am going to express my opinion as a citizen as well as a participant in university affairs.

A lot of us pay lip service to the worth of a university education, but not all of us think too systematically about the myriad ways in which universities enrich our communities in the province. Given the importance of knowledge in today's society, it is highly unlikely that the benefits of universities observed over hundreds of years will be as great or greater in the foreseeable future.

I have just enumerated some of the ways in which universities contribute to Manitoba. First point, universities benefit students and ultimately all citizens in numerable economic ways—higher participation rates in the labour force, lower unemployment rates, higher salaries, reduced dependence on social assistance. These

effects are shown even when you compare universities to community colleges, and I do not make that point simply to diminish the contribution of community colleges, but just to emphasize that direct economic benefits are not necessarily most readily obtained by programs targeted to direct jobs, and so on, that universities with their general sort of programs have shown these kinds of benefits as well. The other thing I would point out is these persist and in some cases increased throughout life.

Now obviously we do not know for the current generation, but if you go back to the '20s and '30s and you follow people through their lives, you find that the difference between university graduates and nongraduates widens as time goes on, so these are lifelong benefits. Now I hesitate somewhat to raise these benefits because some people take these as an argument that the user should pay for these benefits. I would turn that argument on its head and say that university education is an investment that is wise for a citizenry to make and that they will be more than repaid through the lifetime of these individuals from these economic benefits.

Paying up front is simply too much a hardship, I think, for many, many members of society. I think that these economic benefits accrue largely because of the second point there that university students acquire a rich repertoire of personal skills, learning, writing, speaking, research and thinking. I am a cognitive psychologist. I study how people learn, remember, communicate, how people think. As well as that, I have had a lifelong interest in higher education and elementary education, so I have looked systematically at the literature. You can go out and find all kinds of evidence for these benefits. Stats Canada did a survey of university graduates a number of years and got self-reports of these things. You administer objective tests to students early on. If you look at any of the surveys of literacy, you will find dramatic changes as a function of education level, with university students being at the top, so there are these general sorts of skills and, moreover, these are the kinds of skills that business people are requesting from graduates, and university graduates tend to demonstrate these.

In addition, something we probably might not appreciate unless we have been in universities recently is they have functional competence in many technical areas now. So the students now do learn to do word processing, to use electronic mail and e-mail, to use the

World Wide Web for things, so these are an intrinsic part now of education within the university settings.

* (0100)

Just to go a little more quickly through some of the remaining points there, do not forget the university researchers bring millions of dollars into the province every year that would not come otherwise. I have just identified one such institution, the Biodiagnostics Institute which simply would not be able to operate in Manitoba without the university researchers that are available here to support their activities. They would never have come here in the first place, I do not think.

I would not either diminish the contribution of individual researchers. It is very modest but I, myself, am at an undergraduate institution. I have one graduate student from the U of M as an adjunct. I have a modest little grant that brings in \$12,000, \$15,000 every year. The student who is working with me has a scholarship for \$15,000, \$17,000 that he gets yearly. You add that up and here is this one little person and there is \$30,000 that is coming into the province that would not be coming in otherwise. If you take the thousands of faculty members that operate within the province, then I think you can appreciate maybe the benefits of these little individuals such as myself. Students we know bring millions of dollars into the province. Scholarships, which I just mentioned, student loans, personal money of nonresident students, simply would not be here without universities. And then we provide numerous services to the province. Public presentations—you may or may not right now view this as a public service.

I wanted to mention these benefits just so we do keep them in mind, that we have a highly rich resource and it is possible to do damage to things, so you cannot just go along assuming that any change is necessarily going to make things better. I do not know why universities work the way they do to produce these benefits, but I do think that a large part of it has to do with the kind of atmosphere there, where ideas, people have different ideologies, different perspectives, they wrestle things through and you present your position and then out of all of this mass bubbles up things, programs, courses, changes and so on.

I think that process is critical to the success of universities. I do not think that you can get it by

dictating on top, and that leads me to the next point of my concern about the dangers of this proposed legislation. I think it invites excessive government intrusions into the teaching and research functions of universities, intrusions that are rare in democratic countries and of ill-repute because of their harmful effects in nondemocratic countries.

If you turn over there—now I have given two examples. I did not choose these to be inflammatory. I know these are inflammatory sorts of periods in history. I just wanted to show it is not an issue of right versus left. I would be here if the numbers were opposite on the two sides of the table. Both strong right-wing ideologies and strong left-wing ideologies are bad when they intrude into the universities. One of the things I would ask you as a committee is to think about whether you can live with this legislation if the other party were the party in power, because what you are doing is you are putting in place something that every government from now on is going to have the authority that you are putting in place, and I think you have to ask yourself that question.

For me, the route for government intrusion is very clear. The minister appoints all members of the proposed commission and gives direction to that body once it is constituted. That is the first step. The second, the commission determines funding for specific programs, not just for overall university budgets. What I have in mind there is 11(ii) in the legislation which explicitly mentions individual programs. Okay, so a couple of dangers here. One that I do not think has been emphasized enough, the diversion of scarce funds to a large higher education bureaucracy. I think to do what you want this commission to do is going to require a large bureaucracy, and I think what you are almost setting up is a department of higher education corresponding to the Department of Education, and you are going to have all of the problems and expenses that are associated with that if you want this to do its job.

We will have inconsistent direction to research and teaching as government ideologies shift, whether it is the political correctness of the left, which I think has plagued universities for too long, to radical self-interests of the right. I do not like either of them when they intrude into universities. I give the example of Pinawa there because it takes time to build a research body, a group of researchers. If they go, you will not get them back easily.

You do not just snap your fingers and then suddenly reassemble that group. You have to have something that is lasting and durable, and that is what I think is at risk here when you let the possibility of ideology intrude into the process.

Remote and politically based decisions will be uninformed or even rooted in misconceptions about universities and students. I have some of my pet peeves that I have sort of listed there. I will just pick on one, okay, it was mentioned, the myth of poor teaching. I helped to administer the University of Winnipeg course evaluations. Every instructor is evaluated by every student who is in the class and gets ratings on 20 to 30 questions, and we generate a report that tells them what their average was, how many students gave them ratings of various values, what their ranking was, how many people scored higher or lower than they do, and that happens every year and it goes to the faculty member.

Susan was quite correct. There is no necessity for the faculty member to use that information or no necessity that university has access to that information. Many faculty members do include it in evaluations that we do every year. I have to sit down over the next two weeks and write a report of what I have done over the last year, including teaching, research. It will go to a departmental committee; it will go to the dean's office; it will go to a university committee; eventually it will filter up to Marsha Hanen and the president's committee. There is no end of evaluation and work, the make-work for me that goes on year after year, and I am a tenured full professor. I am still doing that year after year. That is what I have to spend my time on to be accountable in that particular way.

Mr. Chairperson: You are reading into to your question time, I just wanted you to know.

Mr. Clark: Well, maybe I prefer to listen to myself speak.

I think there is a danger of poor decisions, okay. I think good decisions come by having a broad variety of opinions and then a forum in which those opinions get wrestled out, and then good ideas emerge. My concern here is that there will be a tendency to want to be able to get things done, and if you want to get things done, then you put people who are like-minded together because you

know they are going to agree with another and they can come to a fast decision and they can get things done.

But that is not how you get good decisions, and I can tell you that as a cognitive psychologist and I can show you vast amounts of literature that suggest that. The one example I gave there was group-think, which is a particular phenomenon in psychological research where like-minded individuals—they protect their ideas and their like-mindedness and they do not let outside ideas intrude into their thinking. That is not a good way to come to decision making.

I am happy to admit that there are many important roles for government; I am not all happy with the way things operate entirely. Marsha Hanen, if she were here, would know that I am quite outspoken about that within the university setting and so on, but I just have the gut feeling that this would make things worse. For me, what I think you have to do is you have to weaken those links between the minister and the commission.

So one approach there, 3.1, a rational procedure for the selection of commission representatives. I do not think it is enough to say, let us have a student on there, because you know you can go out there and find a student who has the opinions you want. You can go out there and find a faculty member who has the opinions that you want to have on that committee. I think you need something more to ensure that you get diversity of opinions.

I think you want to limit the direct control that the minister can exert on a committee. I was talking the other day to a former chair of the UGC and his perception was that this described more a deputy minister and the department of post-secondary education rather than an arm's-length body. Finally, I would say limit the capacity of the commission to manage the universities, and I probably would say eliminate the micro managed. There are very important roles for government in universities to help us in the direction that we are going and so on, but I think you want to really be very careful about abuse, because I think you can easily destroy the benefits that universities provide to Manitobans. Thank you.

Mrs. McIntosh: Yes, I have several questions. I thank you for your presentation. I wish to reassure you right away that we very carefully thought about what would happen if someday we are not in government and another

party is. So everything in here is something that we would be just as willing to have any other partisan group controlling as we do. It has been carefully thought out that way. We have crafted it so that it will be fair and we can live with another government controlling this legislation. We believe the safeguards are there, and our legal counsel believe the safeguards are there; maybe not a psychologist, but they are legal people.

I want to just address a couple of things you have indicated here. You talked about the importance of electronics in teaching and so on.

* (0110)

Mr. Clark: I talked negatively about it.

Mrs. McIntosh: Well, you talked about the e-mail and so on. You talk about this is coming into education, that they have to be able to have the functional competence in word processing, electronic mail, et cetera, and you know that systems are being created. Would you think that perhaps it would be a good idea to have one trunk system that all institutions go onto for this type of thing that should be developed as a co-ordinated system rather than seven individual systems for maximum sharing of information?

Mr. Chairperson: Time is up. Do we have leave of the committee to have an answer to this question? Do we have leave for Ms. Friesen to put a question?

An Honourable Member: Leave.

Mr. Chairperson: Okay.

Mrs. McIntosh: Mine has two parts.

Mr. Chairperson: Okay, you can answer the question.

Mr. Clark: Yes, I do believe a great deal in co-ordination and co-operation, and it is not always easy to get, even within our own institution. You have networks—and business people know the same thing happens—that are popping up that are isolated and that are not well co-ordinated and so on. I agree with that very strongly, and I think that is the kind of place where the government could, say, decide to give the money for a university-wide, a province-wide system that would

then serve the universities, the libraries and any other institutions that could tap into that.

Mrs. McIntosh: So then it would be all right for the minister to give broad general direction to co-operate on building a distance education highway because it is of significant public interest to give that direction to a council. That is the type of thing we are talking about?

Mr. Clark: No. See, there you have gone too far. Now you have said that this is a distance education network. What I say is make the tool, the network, and give it to us to do with as we think is best.

Mrs. McIntosh: Rather than have you develop it?

Mr. Clark: No, no.

Mr. Chairperson: The minister has just spoken. Now back to Professor Clark.

Mr. Clark: I guess my point I would have mentioned here about the myth of distance education is that there are many, many aspects of education that are not adequately realized in those kinds of distance frameworks. Research on universities and higher education, for example, demonstrate that much of the learning goes on outside of the classroom; it is interactions with your peer group that are important and so on.

Maybe it is possible to realize these on a network, and some places have done that, but I think it is presumptuous to think that one is going to be able to enact a system that will achieve all of those benefits. We all probably have an appreciation of the history of putting a television in every classroom in high schools. What, they sat there and collected dust, because they were not serving an educational purpose.

So provide the tools, the resources, and let us do our job. If distance education can be done effectively and properly then we will do it. If it cannot, I will argue against it.

Mrs. McIntosh: Okay, I am trying to understand because I hear two very conflicting viewpoints in what you are saying here. I said if you would have no objection to government actually developing the system and then giving it to the universities so they could use it.

I am proposing that we have a vehicle for communication so that we could say we need an electronic connection and let the universities and colleges decide what they want and how to develop it. So what you are saying is you do not want them to have the decision to develop. You would rather that we made the decision and gave it to them.

Mr. Clark: You want to also decide what it will be used for and how it will be used.

Mrs. McIntosh: Do I?

Mr. Clark: That is my concern. So, rather than giving me a tool, a pencil, you are telling me what to write or what I can do with that pencil and how I should use it. The cross-Canada network, in fact was created by a group representative of governments and so on who realized the importance of putting a backbone across Canada—that network that could be linked into. The province as a whole would benefit, and including universities, from more of that kind of infrastructure within the province. But what you want to be cautious about is then taking control over how that network is used. For me, it is a fairly clear distinction but maybe I am not making it.

Mrs. McIntosh: I still do not understand.

Ms. Friesen: Just a couple of comments. One is, I take very well your point that in order for universities to remain focuses of creativity that the element of debate and dissent must be cultivated and preserved. The question I wanted to ask you was really if you could tell us a little more about the teaching evaluations. You have spoken of the amount of work that you do on them and the accountability within the university, could you just give us some information on how they are used in promotion and tenure proceedings at the university?

Mr. Clark: That would probably be somewhat inconsistent across department and across individuals. In our collective agreement we are required to document our contribution in three areas: teaching, research and service. Now, it is suggested what kinds of criteria or measures we might use. None are required but it is a little more explicit or clear in research when you are making a contribution. You know, you have external grants, you are publishing papers and so on, so the teaching is a little bit more difficult thing to say assess in

an objective kind of way. What we do though, every course gets evaluated. Students fill out these evaluations, I generate the statistics and for what it is worth when you take the average across all of the classes at the University of Winnipeg, the average rating is four. That is very good on a five-point scale; one being nonsatisfactory; two being satisfactory; three being good; four being very good; and, five being excellent. So the average is very good. That is why we refer to it as a myth of poor teaching in universities. It is simply not the case that there are massive amounts of poor teaching to be corrected in universities. I agree with what Susan and others have said. There are individuals that one needs to get a handle on.

I think the mechanisms are in place there, and I am not exactly sure why they do not work better than they should. Maybe there is something of a problem because of no mandatory retirement age, there is always a problem maybe that evaluations are being done by people themselves who are going back and being professors, you know, going through the same kind of processes—well, probably not. But I think the process works surprisingly well, like if you just take the objective data what is the average rating of faculty members at the University of Winnipeg? The ones that were just at the University of Manitoba where they had an outside agency do it, I am convinced if you went there and you look at the average ratings you are not going to find massive amounts of shoddy instruction going on in universities.

I mean we commit our lives to try to understand the things we are trying to explain to students. That is what we are doing there in front of the classroom. Yes, some people never learn after years, I do not think those people would be hired today as it is simply a much more stringent process. Right now you have—maybe you are seeing the effects of hiring people when it was hard to attract people to Manitoba. Well, you do not want to compound that problem and make it even more difficult to attract good people to Manitoba by compromising the university system.

Mr. Chairperson: Thank you very much. That was the extent of the questioning permitted by leave of the committee. Thank you very much for that presentation.

I would now like to call on Dr. Claudia Wright, presenter No. 15.

Ms. Claudia Wright (Private Citizen): I am going to be mercifully brief. I want to thank all of you for graciously hearing me this evening. I really should say, this morning. I am going to limit my comments to the university because that is the part of my life that I feel competent to speak about. On the other hand, I also have been extensively involved in the community, and I must indicate to you a disclosure. I am speaking on no one's behalf other than my own as a citizen of this province.

Let me begin my formal remarks. I would like to begin of course by thanking you for the opportunity to express my concerns with respect to this very important piece of legislation. The proposed amendments that you have mentioned are welcome. However, there is work to be done. I am assuming that the primary motivation for this legislation is a growing concern on the part of the general public for visible and transparent accountability for self-governing institutions.

Universities are accountable. Let me be the first to acknowledge that we have not done a very good job of explaining how we are accountable to you and to the general public. My brief is not against accountability but the manner in which this legislation proposes to achieve it.

* (0120)

Universities must be free in order to function in a manner that is faithful to their primary purpose, the critical search for truth. Those universities that have remained clearly committed to these values and their ethos have become the economic and social centres of the emergent knowledge society of the 21st Century. Nations that will be successful in these times will have a well-developed, cognitive infrastructure. Education has a relationship to knowledge-based society that is analogous to energy in an industrial model.

This is the age of knowledge, the driving force of our times, our land, labour, capital and knowledge. Knowledge is the centrepiece. Free universities are the heart of a knowledge society. As institutions they cannot be directed and driven by the government of the day.

Universities have had a historical relationship to governments that some have characterized best as that of the medieval fool at court. It was customary for others not to question the judgment nor the direction of the

sovereign's policy save the fool. Free universities are the fools of civil society informed by democratic values. We serve truth, not the government of the day.

The proposal in Section 4 of Bill 32 places the minister as part of the government of the day in the determining role of what is truth and of societal value. This is a grave error. Intellectual leadership requires a community of scholars who enjoy the academic freedom to pursue, teach and discover truth. No individual minister possesses this level of expertise or understanding. However, modern, free universities constitute an academic community that comes the nearest that we know to possessing the capacity for this kind of leadership.

I would like to draw for an example on a more recent account of the distinction between management and leadership from Steven Covey. For a moment at this morning we envision a group of producers cutting their way through the jungle with machetes. They are the producers, the problem solvers. They are cutting through the undergrowth, clearing it out. The managers are behind them sharpening their machetes, writing policy and procedures manuals, holding muscle development programs, bringing in improved technologies and setting up working schedules and compensation programs for machete wielders. The leader is the one that climbs the tallest tree, surveys the entire situation and yells "wrong jungle." In a free and democratic knowledge-based society, universities must be free to say wrong jungle. The electorate can decide whether they want to go in those directions or not. That is something for the polity to determine. This is not the role for the Minister of Education.

I propose the deletion of Section 4, because Section 4 reads, in carrying out its mandate the council shall operate within a framework of accountability established by the minister who may give the council general directions on matters that relate to its mandate and that are in the minister's opinion of significant public interest including, but not limited to, (a) priorities the council should follow, and (b) co-ordination of the council's work with the programs, policies and work of the government. The council should establish its own framework for accomplishing accountability and priority.

In your reconsideration of this section, I would draw your attention to what I believe to be a positive

adjustment that you have made from The Universities Grants Commission Act which stated in intent of the act, part three, what you have now entitled in Bill 32, Limitation. Limitation I believe is a far stronger word and a clear delineation of authority. In this spirit you have written under Limitation 3(2) it is the intention of this act that the council should restrict its activities to the fiscal arrangements of universities and should not interfere (a) with the basic right of the university to formulate academic policies and standards; (b) with the independence of the university in fixing standards of admission or of graduation; or (c) with the independence of a university in the appointment of staff. I would hope that you would be able to revisit Section 4, consider seriously its deletion and develop a relationship that is consistent with what you have articulated in limitations. Thank you again for taking the time to listen to me this morning.

Mr. Chairperson: Thank you very much, Dr. Wright.

Mrs. McIntosh: Thank you, Dr. Wright, for a very interesting presentation and I do love the wrong jungle example. It is very, very good. I just want to ask you if Section 4 were removed and that is the section where it says the minister can give broad general direction of significant public interest thing, what would you propose would be a channel for communication between the government and the university on matters of significant public interest? We give over \$220 million and we say go seek truth, and we believe in that, but when the public calls consistently and constantly as they do demanding accountability from the government for those dollars, what kind of communication channel can we set up where we can comment on matters of significant public interest and provide a general framework, a general direction within strict limitations? How would you propose we communicate those thoughts of the people who pay for the system?

Ms. Wright: I think it is representatives of the people and those of you who are sitting before me are—you are all elected—that the way to do this is through consultation. Consultation is a two-way street. Most often, we think of consultation as an exercise in sufferance when we listen to those individuals that we have to hear. We very rarely look at it as an opportunity to truly listen, to share and to understand. I think that a consultative approach is the way to go.

Mrs. McIntosh: You are aware that we are putting in amendments, because it is our intention to do this by consultation, and people ask that we would put our intention and articulate it in the act and so we will be inserting the words “in consultation with universities, colleges and students” in a couple of places in the act.

Do you feel that having an act that identifies that we are going to consult is the proper way to consult because right now we have no formal legitimate method of consulting that could not be accused in any circumstances of being called interference? We cannot talk to our boards of governors. We cannot communicate with Universities Grants Commission. Is putting something in here saying that we consult when we give broad general direction acceptable, or is there some other way that we should be consulting that would enable the people to communicate with the universities through their elected representatives?

Ms. Wright: If I may, Madam Minister. My concern is very much like my colleague, Professor Clark's. As you know, universities are places of dissent. I happen to be one of those individuals who are fearful of power in the hands of anyone that may not be immediately accountable. We have to wait as citizens until the writs drop before we can consider what we wish to do about elected members. As you correctly pointed out, what you are proposing here, you anticipate, would be used in a long-term context by whoever happens to be governing. My concern is that governments are not known for going to the population and saying we are giving up these powers. Consequently, I am very concerned about Section 4 remaining as it is. It is an explicit grant of power to the minister that is nowhere in the Grants Commission Act at all.

* (0130)

I think by strengthening those links of consultation following some of the suggestions that you heard, for instance, Dr. Hanen's, of a council that serves as an intermediary, and relying on and strengthening the accountability structures that exist within universities through encouragement—senates, boards of regions—are the way to go for our future. We have ways of doing these things.

Mrs. McIntosh: One last question, Mr. Chairman. So you would propose that we somehow legitimize the ability of the minister to go directly to the board of

governors because I cannot do that right now. But you would propose that maybe I should be able to go, say, to the senate and talk to them about these ideas or to the board of governors. Right now I would be accused of interference if I did that. We are trying to find a way that the government can—I am still looking for the suggestion as to what vehicle then. If not this, what?

Ms. Wright: I think you have an excellent vehicle now. It is my understanding that you meet regularly with the presidents of the universities. This is at the level that you should be interacting, not at the level of the board of governors nor at the level of senates.

Mrs. McIntosh: But I cannot give them broad general—I meet with them for them to inform me what is going on in the institutions, for them to be able to tell me how much more money they need or whatever. I do not tell them what to do or give them broad general directions. I cannot do that under the existing circumstances. So what I am hearing from you is that I should continue on behalf of the people to give the \$220 million and not have any way of sharing concerns with them legitimately.

Ms. Wright: No, sharing concerns is very different from giving directions. I think you have a moral and ethical obligation to share your concerns with the president, but you nor any other minister has the right to dictate the outcome of what happens in our business universities.

Mrs. McIntosh: I agree. I am not dictating, and this bill does not propose that.

Mr. Chairperson: Thank you very much for your—

Ms. Friesen: Thank you, Claudia.

Mr. Chairperson: We do have a minute or so.

Ms. Friesen: I appreciate your presentation. I particularly enjoyed the quotation from Steven Covey since it is I gather the one book that is required reading for this cabinet. So perhaps they would recognize some of it.

I noticed that you focused on Section 4, and you made your comments very clear on that. There was another area which seemed to me very directive and quite a contrast to the powers of the UGC, and that was the section, it is actually 11(e), the development of

accountability requirements for each university and college for the core functions of teaching, research and service, including the development of consistent and effective criteria for measuring their performance. Now, the minister is going to, she says, amend this so that it will be in consultation. Is that sufficient in your view to avoid the kind of direction of outcome and of, quote, interference in university business?

Ms. Wright: I would prefer that those kinds of standards be developed as they have been, by the disciplines within the university. Let me give you an example. I know that in my field, and some of the members of your staff here are graduates of our Master of Public Administration program, it is the individuals who teach in that program who examine individuals for their masters degrees and make a determination whether or not they have met the requirements that we believe are adequate for that granting of degree. By the way, that is a joint program that was developed without Grants Commission direction over the kitchen table of Paul Thomas and Bob Eadie [phonetic] which started out with 30 students and now has over 400. I think it has served the province well and is an example of how universities produce knowledge and, given opportunity, to critically examine ideas that have intrinsic value but at the same time have very important concrete results and contributions to our society as a whole. Better civil servants make for better government regardless what party is in power. We all know that.

Mr. Chairperson: Thank you very much for your submission this morning.

Now, if for no other reason than we can have some tangible evidence in the Legislature that we did something tonight, we can deal with Bill 12, which is pretty simple, and all the bald people on this side are interested in dealing with it.

Does the minister responsible have an opening statement with respect to Bill 12, The Barbers Repeal and Hairdressers Repeal Act?

Bill 12—The Barbers Repeal and Hairdressers Repeal Act

Hon. Linda McIntosh (Minister of Education and Training): Mr. Chairman, given the indication my

colleagues have given that they are already familiar with this bill, given that it has been spoken to in the House, I really do not want to take any more of the committee's time with opening remarks.

This has been requested by the industry and we feel that it is a sensible and good request and therefore we are pleased to oblige and hope that it will receive speedy passage.

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

Ms. Jean Friesen (Wolseley): Mr. Chairman, yes, I have spoken on this in the House, and I think the minister is aware that I do have a number of questions about this bill. I am quite willing to proceed with it now, but I should warn the committee that I do have a lot of concerns.

This is a bill which is asking us to take on trust that the minister is going to put in place regulations which we know to be acceptable to the industry, to the hairstylists, to the barbers and to the estheticians because this in fact does cover all three areas. I think it would be irresponsible of us to vote on this bill without hearing from the minister some of the principles that she intends to put in place in the regulations. As the minister knows, I have written to her to ask for these principles. I know it is unusual to present regulations in total, but I had asked for some principles and I said in my speech in the House that I would read into the record the letter that I got from the minister. Mr. Chairman, it is a short letter, but I do think it has an important element that we do want to see on the record.

Mr. Chairperson: Proceed.

Ms. Friesen: Thank you. It is dated September 17, and it says: Thank you for your letter regarding the proposal to replace The Barbers and Hairdressers Act and regulations with a single regulation under The Apprenticeship and Trades Qualifications Act. Over the last several years my staff have been consulting extensively with the industry's trade advisory committee. The committee continues to meet regularly on this matter and is presently in the process of drafting the new hairstylists regulation. Upon completion of the final draft to the proposed regulation, my staff will be pleased to

forward a copy to you. The new regulation will include provisions to grandparent or certify without examination individuals currently legally practising in Manitoba. For your information the current Barbers and Hairdressers Act requires all individuals working in these occupations in Winnipeg to hold a licence.

I am glad to read that into the record because there is a concern particularly on the part of barbers across Manitoba about how their qualifications will be continued into the regulation. There is an assumption here, and the minister has made a commitment, I believe, to grandparent barbers. So we are glad to see that.

However, this does not deal with estheticians, it does not deal with hairdressers/hairstylists, the new regulations that are coming into effect, and so with your permission, Mr. Chairman, what I would like to do is to ask some questions on the principles that the minister intends to bring into the regulations.

Mr. Chairperson: Yes, you may do that. Proceed.

* (0140)

Ms. Friesen: Mr. Chairman, my first question concerns the education of hairstylists under the new act. I wonder if the minister could sketch out for me, and as far as she is able in the sense of what decisions have been reached, the differences in the educational qualifications from the existing act to the new regulations. I am talking about education in a number of areas: one, there are the academic qualifications; secondly, the qualifications in terms of hours of study outside the shop; the third one is the apprenticeship qualifications, the actual hours in apprenticeship in the shop. So I want to know what changes there are in each of those areas.

Mrs. McIntosh: I thank the member for her questions. I will indicate, first of all, that the regulations are being drafted with the trade advisory committee. So they themselves are doing the drafting or participating in the drafting. The current regulation will stay in place until the new one is proclaimed, which is still a bit of time away. So, when I indicate to the member the types of things that are being considered for the regulation, it is with that understanding that the trade advisory committee itself will be influential in the final product. So these types of items may not necessarily be the final item. So

I sort of say it without prejudice—I suppose, that is what I am really trying to say.

We are looking at, so far it appears that what we will end up with will be a regulation that will ask that an applicant be 16 years of age as a minimum age requirement, that the person be a high school graduate or that would have perhaps a Manitoba senior year school standing in mathematics and science, 20G or 20S, and have either English or French 20G or 20S and that they would have a diploma showing successful completion of about 1,400 as a minimum training hours in a provincially accredited training program which would be approved by the director on the advice of the trade advisory committee and may have to maintain a standard in theory and practical examinations, a percentage standard, a fairly high one in around, say, 70 percent, that arena, and that theory and practical examination work will have to be approved by the director, again on the advice of the trade advisory committee, or in the case of a practical examination to be delivered by examiners approved by the trade advisory committee.

We will say that no person, except for the grandparenting which the member has referred to and which is a commitment we are making to those already in the field but that new people entering or people who are grandfathered and wishing to participate, but no person shall practise for money, for remuneration, in Manitoba unless they are registered as an apprentice under the regulation or hold or prominently display a valid certificate of qualification issued with an endorsement by the director authorizing the holder to practise the trade until the expiry date on the certificate. They shall then have the valid hairdressers or barbers licence.

They are also looking at the director authorizing the person who does not meet the educational requirements to become an apprentice if that person has qualifications that are equivalent in the opinion of the director. Again these are without prejudice, these are just the things they are considering for the draft regulation.

We are looking at the apprenticeship program itself in terms of granting credits for internship that has already been done, work that has already been taken, for previous training, et cetera. So looking at trying to possibly granting credits for previous training experience, the director will be looking at things like what kind of course

of study or training was completed and what experience the applicant has had prior to the application. The apprenticeship itself, we are looking at as I say being 1,400 or 1,500 hours of training and instruction over the course of two calendar years.

That is the type of content that could be expected to be seen in the regulation when it is completed. As I say, there will be other details fleshed out around it. The details might not be exactly like these, but these are some of the things that are being discussed as they develop the regulation. I do not know if that is the kind of information you are looking for to assist you or not.

Ms. Friesen: Mr. Chairman, yes, that is getting closer to it. I wonder if the minister could elaborate on apprenticeship. How will apprenticeship change in the number of hours and the regulation or inspection of it, and how will it link to the formal—if I can use that word—to the formal classroom training? One of the things I am concerned about here—as I have spoken to the teachers in the public school system who do teach cosmetics and esthetics and hairdressing, their concerns are that the way which apprenticeship is written may in fact, since we do not know what it will be, preclude some of the training programs that exist in secondary schools at the moment. Can the minister give us an assurance that the regulations will not do that? I know that it has not been, in the past, the practice to include teachers either from private colleges or from public sector in trade advisory committees so that they have informally been involved in these discussions. Could the minister tell us whether in the—will she be looking for this? Will she be safeguarding the role of the schools, both public and private, in the preparation for apprenticeship?

Mrs. McIntosh: As I say, the draft regulation is still being drafted. I am not able to absolutely confirm any of these things, but I do indicate to the member that what the industry is seeking is a simpler, more consistent regulatory structure with no negative impingement on those currently in the field, working in the field. So we have people right now that are training, we have people right now that are working. It is not our intention to make it impossible for those people to continue what they are doing in terms of training, teaching or practising. We are trying to simplify the process so that we do not have two different acts when we can have a greater consistency of approach. I do not anticipate any problem in the area

the member is concerned about. I cannot give a 100 percent guarantee until the regulations are drafted. I do not see that there should be any negative impact on those who currently teach people; it might be more opportunity for students to access training in a variety of ways.

Ms. Friesen: Would the minister undertake to consult with the teachers in private and public sector, when those regulations, as those regulations are being drafted, or before those regulations are being drafted?

Mrs. McIntosh: It may be that my staff is already doing that or looking at doing that, but I will take note of her request and discuss it with—are we already doing that? My staffperson Harvey Miller, who looks after apprenticeship, is not here right now, so I cannot confirm that with him, but I will talk to him. The deputy indicates it is something that, if we are not doing, we should be doing, but I believe we may be doing it anyhow.

Ms. Friesen: Could the minister tell us whether in the new licences or in the regulations dealing with licences that there will be requirements for—I guess, for sense of a better word—professional development? Will licences have to be renewed as they are now, and over what kind of period is that going to have an impact upon in costs, for example, for store owners who are also hairdressers?

Mrs. McIntosh: They have to pass examinations and submit documentary evidence of their training or experience. I know, particularly with chemicals and so on and new products that are going on the market all the time for hairdressers, that continuing professional development will be critical because there are safety factors involved, particularly when you get working with dyes and chemicals and elements. As to whether they have to actually rewrite, is this what you are talking about on a periodic basis? Recertification? Periodic recertification? [interjection]

* (0150)

I am sorry, to the member, I cannot answer that right now. I know there is concern about an accredited training program and they are also looking at two years—I can check that for the member. They are examining. I see a note here. They are looking at the possibility of recertification or renewing the certificate on a periodic

basis every four or five years. They have not determined it for sure. They have not indicated the exact degree of regularity, but it is a topic that they are exploring.

Ms. Friesen: Mr. Chairman, my concerns here are for the changes and I am not familiar with the regulations in this area and I just looked through the bill. That element of recertification or renewal or whatever must be part of the regulations. Could the minister tell us whether she is narrowing, is she diminishing time over which renewal has to take place or is it being enlarged? Which direction are we going in?

Mrs. McIntosh: Mr. Chair, this has yet to be decided. The trade advisory committee members will be commenting on how wide they want that space to be. I am not able to indicate if that is reducing or expanding the period of time, that four- or five-year suggestion. But that four- or five-year suggestion is not one that has been determined yet, and I know what they are doing is they are working together with the industry to try to ascertain what the field itself feels would be appropriate. A lot of that will be dependent upon their exploration of the types of product—even more so than the skill in terms of cutting, the types of product with which those hairdressers and barbers work and notwithstanding my colleagues who claim that their own heads are not genetically provided to them. [interjection] I know that the one thing they will be taking into consideration, they are looking at that renewing or proof that they are staying updated, what length of time is required to ensure that people have kept up with new products, chemicals, processes and so on.

Ms. Friesen: Could the minister tell us how the new regulations will fit with national programs. I am concerned here that we are moving toward the highest standard rather than to a lower standard. I do not know what the national standards are in terms of renewal training in apprenticeship, but does the minister have a sense of that direction? I guess the second part of that is how do we deal with how will the new regulations deal with people moving in from out of province or from out of country?

Mrs. McIntosh: We are looking for mobility between and amongst provinces, and we know that hairstylist is an apprenticeable occupation in Newfoundland, Prince Edward Island, Saskatchewan, Alberta, Northwest

Territories and the Yukon and that there are other provinces as well considering a similar position.

The thrust behind this is to try to get the access or allow the access to the interprovincial recognition of credentials. So we are looking at an ultimate standard that would be recognized nationally. But that of course then requires that all of the provinces together rise up to the single standard. This potential discussion they are having right now on the ability to get into the trade does require higher admission, does require a longer period of time in the study and so on. But it also then does provide them under the one act and put them under The Apprenticeship and Trades Qualifications Act, which I think again raises standards and credentials. We would like to provide an industry defined standard for proficiency and we would like access to the inter-provincially recognized certification.

Ms. Friesen: I wonder if the minister could give us some guidance on how hairstylists are to be distinguished from estheticians. In the old—and I am particularly interested in this, as I mentioned in my discussion in the House, because of the health and safety issues.

Hairdressers in the old act dealt with massage, with manicures, nails, the scalp. I mean, they come in close contact with skin, and in the barber's case they did shaving and waxing. Now, in the modern context many of those procedures are dealt with by estheticians, which is a very broad category. One issue I am concerned about is the loss of potential business by some small shops, formerly hairdressers who did manicures as well. Is that going to be taken away from them and put into the hands of estheticians? How are those jurisdictions to be managed.

I understand where the bill is going in terms of consistency. I can accept the minister's discussion on movement towards a national standard, but I am not sure how these distinctions are going to be made.

Mrs. McIntosh: Mr. Chairman, my staff are working with industry representatives right now to draft regulations for the new apprenticeship trades of hairstylist and esthetician and we have trade advisory committees for both of those areas, both of those occupations. Those committees have people of course from each of those occupations and a fairly wide cross

section. This bill, which will rescind The Barbers Act and the Hairdressers Act and will be doing with regulations, they are to be withdrawn. Once this bill is withdrawn, it will be withdrawn coincident with the proclamation of the new hairstylists and estheticians regulations under The Apprenticeship and Trades Qualifications Act.

So they are going to move together under the new act, and I think that should simplify the regulation for them, not complicate it. I believe that would be easier for them to be coming under the same, coming out of the Trades and Qualifications as opposed to having their separate jurisdictions. So you will have two regulations, one for hairstylists, one for estheticians.

* (0200)

Ms. Friesen: Mr. Chairman, the specific issue I mentioned of manicures, and I am considering small shops in particular where it might be affecting the business of a particular small operator if all of those types of procedures were moved to the estheticians and for example they were not able to hire somebody in that area. So has the minister considered this, and how will this be developed? Are there any principles that are going to be followed?

Mrs. McIntosh: I will take those concerns that the member has identified to Mr. Miller who is director of the Apprenticeship branch and draw them to his attention. I know that in talking through this request from the field, all of those kinds of items were brought forward, the full spectrum of work that was being done by the stylists, and everything that the department and the advisory committees have been trying to do is to ensure greater simplicity, greater ease for the field, higher standards of grandfathering those who are already there. So there is no intention to take duties away from people that had them or lose opportunities for shop operators. The detail on the question sheets, just asked, I do not have with me at this hour but I will determine it, and I can provide that to you if you like. Once the regulation is closer to being completed we will have more details such as that available.

Ms. Friesen: Mr. Chairman, the formalization of apprenticeship requires additional supervision, registration, inspection, the provision of linkages with

journey people. These are the normal processes of apprenticeship. Does the minister have a sense of what the impact of that is going to be on the resources of the department, and of course I am thinking particularly of the loss of personnel, or the dismissal of personnel in the Apprenticeship branch some months ago. The hairdressers are one of the largest groups in this form of training. I do not know, perhaps the minister could tell us in fact how many people they anticipate in this area. My sense is it is 500 or 600 people on an annual basis. Now I do not know if actually those are all new people or whether those are simply re-registrations. So could the minister tell us about the resources, the resources of her department, what is to be required that is not there now and perhaps some sense of the scale of the application of this bill?

Mrs. McIntosh: Mr. Chairman, as the member knows, we did have a reorganization at the post-secondary side of the department. We still have the people available for apprenticeship training. What we are doing as well is we will soon be announcing a task force on apprenticeship due to the fact that the federal government unfortunately is withdrawing its funding from apprenticeship, and here in Manitoba that is a 100 percent of the funding for apprenticeship. So it is going to be leaving us in a bit of a lurch.

We need to have something in place by 1997 to ensure that we have really strong, viable apprenticeship training continuing in Manitoba. It is almost a different issue than this because this is occurring independent of that process. The two, though, will impact upon each other because we now have a new trade coming under the Apprenticeship and Trades Qualifications at the same time that we are embarking upon a study to see what is the best way to deliver apprenticeship training in Manitoba once the feds pull out. So they will come in under whatever the new way will be, and that has not been fully determined or even—we have looked at several initial options, but we really do need to have the people that we are bringing on stream which, as I indicate to them, will be announced soon to help us and guide us in how to bring forward the best apprenticeship model.

Ms. Friesen: Mr. Chairman, could the minister tell us how often existing barbershops and hairdressers are inspected by the department, how frequently?

Mrs. McIntosh: They have to have a current licence, and the current licence is renewed periodically. It is not—the gentleman here is saying once, and—yes, do you know how often they are into the shops?

An Honourable Member: Not very often. We will get the information.

Mrs. McIntosh: They do not have a regular anniversary date where they say, you know, every December 3 you come in and inspect. They are inspected periodically. They are definitely inspected if there has been a complaint, so they are not on a renewal date like a driver's licence would be. So they are periodically inspected, and they are inspected absolutely if a complaint has come forward, and licences can be lifted and are lifted. Some people are given interim licences, some people are given conditional licences, depending upon what they are doing. Some people are given a licence they have to display in the window that they can only perform certain functions, and those will probably change as they come under the new single entity.

Ms. Friesen: Could the minister tell us how many inspectors there are for hairdressers and barbers?

Mrs. McIntosh: I do not have that figure without Mr. Miller here.

Ms. Friesen: Mr. Chairman, I had understood that we were doing this because the staff were here now. I do not mean to put the minister on the spot. I thought they were here and that you would have the information.

Mrs. McIntosh: At the time that I suggested that we proceed with this bill, the staff were here. I had asked if we could proceed with it, knowing the staff was here, but at that time the member for Radisson (Ms. Cerilli) indicated that she did not want to give that decision until you were here, then in the meantime the staff left. I thought it would be good to proceed anyhow, because if I had answers for your concerns we could get a lot of this debate out of the way rather than take it into the time that presenters were here. I can in fact ask Mr. Miller to give you a call with some of these questions, with some of these—I have written them down, the ones that I do not have the answers for myself. [interjection] Pardon? He probably has not been home that long, but—

Ms. Friesen: One thing that I had picked up in the minister's letter and in subsequent discussions with people in the industry, the minister had said "individuals currently legally practising in Manitoba." My sense is that both the minister and people in the industry are concerned that—and we do not know how many, but that there are people who are not practising legally. Is that a concern, and are the regulations going to be able to deal with that?

Mrs. McIntosh: Mr. Chairman, yes and no, it is not a concern insofar as people who are getting their hair cut from someone who is maybe operating out of their home without a licence and so on and are happy to have whatever haircut they get. It becomes a concern if they are operating out of an unlicensed premise some place, and they are using chemicals and processing treatments on the hair or on the scalp that could lead to damage to skin, hair or something like that. So we do try to make sure that we know where all these people are and that they are licensed and they are proficient. So it is more the safety factor that concerns us then. The styling, although people have a right to expect the styling they are seeking as well, for our purposes, the safety feature is paramount. So people who are quietly going about cutting hair without being licensed are not always easily known or found.

* (0210)

Ms. Friesen: Mr. Chair, to conclude, this is an unusual bill because we are being asked to deal with a great deal of uncertainty. I have discussed this with people in the industry, and I know that they are very keen to move ahead on this while estheticians, hairstylists and barbers thank the minister for the greater information that we have now than we had before this. I still think that there is a very difficult precedent here for people passing a bill without knowing fully what is going to replace it in an area where there are certainly health and safety considerations that affect a large number of people.

Mrs. McIntosh: I just want to indicate that part of it is the timing—we have to pass this in the fall and so on, but perhaps an indication that the bill can be passed will not be proclaimed until this regulation is ready, might be of some assistance to the member.

Mr. Chairperson: Preamble and title till the end.

Clause 1—pass; Clause 2—pass; Clause 3—pass; Preamble—pass; Title—pass. Bill as amended be reported.

Committee rise.

COMMITTEE ROSE AT: 2:13 a.m.

WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

Bill 32—The Council on Post-Secondary Education Act

Introduction. The Manitoba Association for Rights and Liberties (MARL) is a provincial, nonprofit, nongovernment volunteer organization established in 1978 as a human rights and civil liberties advocacy group. MARL's objectives are to promote respect for, and observance of fundamental human rights and liberties and to defend, extend, and foster the recognition of these rights and liberties in the province of Manitoba. We respectfully wish to make several comments concerning Bill 32.

Bill 32. MARL does not oppose the creation of this council. We acknowledge the benefit of co-operation among post-secondary educational institutions, and the need for a certain degree of co-ordination of the "post-secondary education system." However, we note that the mandate given to this council seems somewhat greater than that given to the Universities Grants Commission. For example, The Universities Grants Commissions Act, which Bill 32 would repeal, states at Section 3: It is the intention of this act that the commission should restrict its activities to the fiscal arrangements of universities and should not interfere with . . . , matters very similar to those referred to in Section 3(2)(a) to (c) of Bill 32. Furthermore, the council's power under Section 12(a) to review and evaluate post-secondary programs and services and other related matters, and related provisions seem broader than the power granted to the Universities Grants Commission to inquire into the financial arrangements and requirements of the universities and colleges—Universities Grants Commission Act, Section 13.

This expanded mandate, as well as other provisions and omissions in the new bill, seem to open the possibility that the council could interfere with the

academic or intellectual freedom of members of the university and college communities, become, at least indirectly, involved with personnel matters, or unduly interfere with the substantive academic endeavours of the universities and colleges and their members.

We are certainly not suggesting that such scenarios are the intention of the authors of the bill or even a likely occurrence. However, we will point out some specific provisions that raise these concerns, and respectfully offer some suggestions for safeguards that, hopefully, could reduce or eliminate these risks.

Preamble. We begin with the Preamble to this bill. It is problematic, not for what it states, but for what it omits. Certainly, the instrumental values of knowledge and higher education referred to in the first two paragraphs are of vital importance. But so are the intrinsic values of research, knowledge, inquiry, and higher education. Furthermore, their benefits, though important to the, . . . well-being of the province and its citizens, are also vital to all of humanity throughout the national and international community. Manitobans have benefitted, and continue to benefit from academic and research activities throughout the world. We would hope that such activities at our universities and colleges would also have benefits world wide, and that we will continue to co-operate with, and welcome, students and scholars from around the world. Failure to mention these matters could unduly narrow the vision for our post-secondary education system that the legislation might portray. It is to be hoped that this will be remedied.

Furthermore, the Preamble omits reference to fundamental and traditional academic values such as academic and intellectual freedom, independent research, critical inquiry and evaluation of ideas, search for truth, and freedom of expression. If a preamble purports to contain some or all of the values connected with, or purposes of higher education, these omissions create a very unbalanced picture indeed. Furthermore, these vital values and concepts are somewhat vulnerable. Various circumstances and sources, including increased government and private sector involvement, fiscal restraints, reliance on outside funding, internal and wider community pressures, and political correctness, can create or exacerbate risks to these already endangered but essential academic norms. Mentioning them in the Preamble, and/or elsewhere, could at least alert the

council and the public of the need to give them some protection.

Section 3. We respectfully suggest that the limitations in Section 3(2) should not be subject to the power to regulate programs under Section 14, but that those powers, as well as all the powers in this act, be subject to, or at least should have to take into consideration, the limitations in this subsection.

Additionally, we believe Section 3(2) should be further amended by prohibiting interference with, something like, if not these precise words: (d) The academic and intellectual freedom of faculty and staff members and students in accordance with academic responsibility and standards.

Section 11(e). It seems that this could needlessly open the door to outside interference with these core functions of the universities and colleges and could lead to inappropriate pressure in these matters. For example, this could touch on matters dealing with the substance of teaching and research, or regulatory and disciplinary jurisdiction concerning faculty members. It seems that universities and colleges, in conjunction with their faculty unions, are in a better position to deal with these matters in accordance with the well-developed norms of academic freedom and responsibility and with appropriate procedural protections. It might be better to eliminate this clause completely or at least insert safeguards to eliminate or reduce the risks referred to earlier.

Section 12. In exercising powers under Section 12, protection is needed for individuals and/or groups who could be implicated by attempts to review, evaluate, or report. Perhaps some substantive limits ought to be imposed; i.e., prevention of wide-ranging inquiries into alleged misconduct or incompetence, or attempts to duplicate what really are discipline or personnel matters.

At any rate, some protection may be needed for the privacy and reputations of persons concerned. Additionally, appropriate procedural protection according to the norms of natural justice and fairness perhaps ought to be expressly enacted.

Ideally, personnel matters should be expressly removed from the possible scope of this section. It might be advisable to add a subsection which would read

something like: 12(2) Nothing in this section shall authorize the council, or a person or committee appointed by it to review, evaluate, or report on the competence or conduct of any individual or group of individuals, or to have access to any individual's personal records without the consent of that individual.

Section 25. The expression, or any other matters concerning the council or this act, could be quite wide and might be used as an indirect route to investigate matters which, as noted earlier, ought not be investigated by the council itself. Perhaps any invitations stated concerning the jurisdiction of the council ought to be expressly stated to apply here as well.

Additionally, an express prohibition on the investigation of the conduct or activities of individuals or access to personal records might be appropriate here as well.

Section 26. The protection from liability provided for in Section 26 seems too wide. Certainly, the individuals referred to must have immunity from damages for good faith attempts to perform their duties. However, it seems inappropriate to protect the council, or the Crown, from liability for actions that might be tortious ultra vires or otherwise unlawful. Furthermore, care is needed to avoid unduly restricting any judicial review that might otherwise be available from the council's purported actions.

Thank you for your kind attention.

Edward H. Lipsett
Manitoba Association for Rights and Liberties (MARL)

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Bill 33—The Education Administration Amendment Act

On this bill I am not speaking for MARL. I am only speaking in my individual capacity, Edward Lipsett, private citizen. I respectfully wish to make several brief suggestions.

Section 2(b), adding new subsection 3(1). It is at least possible that this wording could be construed as allowing release of information relating to individual pupils. This would amount to an unacceptable invasion of the pupil's privacy. This bill should be amended to make it clear

that only statistical information could be released. Furthermore, the nature of the information and the manner of its release must not be able to identify a particular individual directly or indirectly.

Section 3, adding new subsection after Clause 4(1)(r). Here again the wording is capable of creating a risk to the privacy of individual pupils. Some protection for their privacy ought to be written into the legislation itself instead of being left to the discretion of the minister.

Section 4, amendment of subsection 8(1), adding these words seem to expand the scope of possible evaluation. These new words, or indeed the current wording of 8(1), could be interpreted as providing for evaluation or investigation which might involve the conduct, progress or qualification of particular pupils or staff members. It seems that express provision is advisable to prevent such interpretation. Whenever evaluation might involve individuals, even in an indirect or unintentional manner, safeguards are needed to provide adequate protection for their substantive and procedural rights, reputation and privacy. Thank you.

Edward Lipsett
Private Citizen

* * *

Bill 47—The Public Schools Amendment Act

Introduction. The Manitoba Association for Rights and Liberties, MARL, is a provincial, nonprofit, nongovernment volunteer organization established in 1978 as a human rights and civil liberties advocacy group. MARL's objectives are to promote respect for and observance of fundamental human rights and civil liberties and to defend, extend, and foster the recognition of these rights and liberties in the province of Manitoba. We respectfully wish to make several comments concerning Bill 47.

Section 6(2) which would amend subsection 41(1), new clause (v). It should be expressly stated that this does not include pupil files, personnel records of teachers or other staff or other personal information.

New clause (x). It might be necessary here also to state clearly that this does not include personal information concerning any individual.

Section 8, new Section 42.6. This provision might leave too much discretion to disclose such information to third parties. It might be better to state a general principle that pupil records, and the information contained in them, are presumed confidential. Perhaps the legislation should expressly state that they can only be made available or disclosed to a third party: (i) with the consent of the parent or pupil; (ii) when otherwise expressly required or authorized by law, e.g. court order or other legislative provisions; (iii) in case of emergency or necessity.

Section 10, new Section 58.4(1). It might be appropriate to provide for an appeal from the principal's decision to the school board, where the pupil and/or parents would be entitled to a hearing, if the decisions were based on (e), or otherwise were based on an alleged fault or lack of qualification of the pupil.

New Section 58.6. Perhaps in the case of older children, at least 16, the right to select the program should belong to the pupil rather than the parent. Perhaps even at a younger age, beginning of high school, a child who is mature enough to make a reasoned decision should be entitled to choose his/her program of studies him or herself, or at least be able to challenge the parents' decision. If parents have unrealistic expectation of their children, or if their decision would deny the child the opportunity that he/she is capable of, is it fair to leave the child without a remedy?

New Section 58.6(g). The right should perhaps exist concerning suspensions, and other important decisions, as well.

New Section 58.7, clause (a). We respectfully suggest that this clause be deleted completely. Although parents' co-operation with the school system is certainly to be hoped for, we do not believe this is an appropriate matter for creating a legally enforceable obligation. Matters of how parents raise their children, how families operate, and the nature and extent of the parents' involvement in the education of their children should be largely free of state regulation or intrusion. Undue state involvement in these areas could seriously violate the privacy and liberty of families and their members.

Furthermore, this particular clause might be unduly vague or uncertain. It is unclear what parents are actually

to do or how they are to co-operate or ensure the child's compliance. Additionally, it seems to leave a considerable amount of discretion to the school officials to determine the circumstances when it would apply and what is expected of the parents under those circumstances.

To the extent that this clause could impose a duty on parents concerning what to teach or say to their children, or how to discipline their children, it would involve a direct intrusion into family life that would, as mentioned earlier, be inappropriate. Additionally, in certain circumstances, parents may, for religious, philosophical or other reasons, disagree with certain aspects of the school's student discipline and behaviour management policies. Requiring active co-operation with or endorsement of those policies by parents, or requiring parents to teach, instruct or encourage their child to comply could infringe the parents' freedom of conscience, religion or expression under those circumstances.

Attempting to enforce parental co-operation could create serious practical problems as well. It must be remembered that while the pupils are at school, they are under the school's care and supervision, and at that precise time there is very little, if anything, parents can do to control their children. Attempting to monitor or evaluate the child's and parents' home and family life to ensure co-operation might be impossible without an especially severe degree of intrusion. Additionally, there are cases where, despite sincere and diligent efforts by parents, their children are effectively beyond their control. Attempting to legislate parental co-operation might put additional strains and stresses on individuals and families who are already overstressed, and might even prove to be counterproductive to the goal of encouraging appropriate behaviour by pupils.

We note that Section 237 of The Public Schools Act states: Every person who contravenes, or who omits, fails, neglects or refuses to comply with any provision of this act or the regulations is guilty of an offence, and if no penalty is specifically provided therefore, is liable, on summary conviction, to a fine of not less than \$10 and not more than \$200, and in default of immediate payment thereof, to imprisonment of not more than six months.

That section would, it seems, apply to this proposed new clause. The possibility, however remote, of

imprisonment makes this provision, in our respectful opinion, that much more unacceptable. We would therefore respectfully request that this proposed clause not be enacted.

New Section 58.8. We respectfully suggest that this proposed section be deleted. First we will deal with the potential liability of the child. The common law already provides for liability of children in tort under limited circumstances. We believe that expanding these circumstances would be unfair or oppressive. At any rate, even if a child is theoretically liable, pursuing him or her in an action for damages is often not a particularly realistic or practical option, as children often do not have the funds to satisfy any judgment awarded against them and do not carry liability insurance. From that perspective, we acknowledge that there is a degree of logic in attaching liability to the parents. However, as will be explained, we believe that such action is unfair in principle and of limited practicability, and we respectfully oppose that aspect of this section as well.

We respectfully oppose imposing liability on the parents as envisaged in this section. This is for several reasons. The main reason, we suggest, is that at least in most circumstances holding an innocent person responsible for the actions of another individual is inherently unfair. We acknowledge that the common law, and various statutory provisions, do sometimes depart from this principle. For example, an employer is usually vicariously liable for the torts of an employee in the course of employment. However, the law ought to be very reluctant to extend concepts of vicarious responsibility, and in this case it would be particularly inappropriate.

We note that in some circumstances, the common law of negligence could render a parent liable when his/her failure to provide adequate supervision of a child in a foreseeable dangerous situation, e.g., a child being left alone with firearms, causes harm to a third party. However, it would be most unfair to extend or expand this concept to a general or presumptive liability of a parent for the wrongdoing of a child.

It would be especially unfair to impose liability on parents for actions of their children while at school. When a child is at school, he/she is under the direct control and supervision of the school. It is impossible for

the parent to control the child at that time. Indeed, the common law of negligence imposes liability on the school personnel and/or school division, if their failure to provide adequate supervision for a child results in foreseeable injury to a third party or the child himself or herself. It would seem almost a perversion of basic principles to render parents liable for the actions of their children while at school.

There are also humanitarian and practical reasons why these provisions should not be enacted. It is usually easier for the school division, or its insurers, to bear the loss than for the family. Indeed, in some cases this liability could financially and emotionally devastate a family. Furthermore, if this measure is intended as a form of social control to discourage wrongful behaviour by the children or to encourage more positive parental influence over children, it may prove counterproductive. The knowledge of a pupil that he or she has a huge unsatisfied judgment debt and that much of his or her future earnings could be seized to satisfy, it could serve as a disincentive to diligence in one's studies and preparation for employment and could encourage a pupil to drop out of school and even the labour market. A financially ruinous judgment would only exacerbate the stressful circumstances that parents often find themselves in and might lead to a breakdown rather than improvement of the family situation. We, therefore, respectfully request that proposed Section 58.8 not be enacted.

New Section 58.9(2). (a) Perhaps provision should be made allowing a pupil to challenge or appeal from evaluations in certain circumstances. (c) Though this is definitely a step in the right direction it seems too limited. For example, why limit these to expulsion? Sometimes suspensions have very serious consequences. It seems that this is a bare minimum that a pupil should be entitled to at any level of decision making, including the principal or superintendent. It seems that procedural protections of pupils facing disciplinary and perhaps other decisions should be expanded and expressly stated in legislation and provision should be made for appeal or review.

The idea of expressly referring to the rights of pupils is a sound one; however, Section 58.9(2) should be expanded. For example, although school divisions are already subject to the Canadian Charter of Rights and Freedoms and the Manitoba Human Rights Code, special

mention of at least some of the rights referred to in those documents might be helpful. In particular, it might be a good idea to state that the expressive, religious, conscientious, and related rights of pupils be honoured to the greatest extent consistent with the legitimate pedagogical requirements of the school and the rights of others. Perhaps the schools should be put under an express duty to act reasonably, fairly and in good faith in dealing with pupils, analogous to the duty read into collective agreements by Section 80 of The Labour Relations Act. Additionally, a provision dealing with the rights of pupils and also the rights of parents should contain a general right to challenge a decision concerning a pupil and should set up an appeal or review mechanism to deal with such matters.

New Section 58.10. (b) Perhaps some parameters or limits concerning substantive disciplinary or regulatory powers of schools should be expressly stated in legislation. Perhaps Section 58.10 should be clarified to ensure that it does not create a penal offence under Section 237 of The Public Schools Act.

Section 14, new Section 101(6). Perhaps teachers and other staff should be given express confidentiality rights to their records.

Thank you for your kind attention.

Edward H Lipsett
Manitoba Association for Rights and Liberties (MARL)

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To the Standing Committee on Law
Amendments - Bill 32
October 21, 1996

I speak this evening on behalf of the presidents of the seven universities and colleges in Manitoba. I wish to make four points:

1. We are pleased with the government's initiative, arising from the Report of the University Education Review Committee, in bringing the universities and colleges of Manitoba under one act and a single council. This has the potential, in our view, to be a very positive development, and we all look forward to the opportunity of working together more closely, enhancing our many

existing collaborations, and developing new areas of co-operation in the interests of increasing the quality and innovativeness of the post-secondary system of Manitoba. We are unanimous in this view, and in our commitment to co-operate with government to create a nationally and internationally competitive post-secondary system.

We also agree that care will need to be taken to ensure that the different roles of colleges and universities are preserved and enhanced. As well, differences among institutions are valuable in providing choice for students and the opportunity to build upon the special strengths of each institution, and those strengths must be recognized and supported. In education, a "one size fits all" approach actually fits nobody, and we hope this will be kept in mind as the council's mandate is developed.

2. We are delighted that the legislation contains a preamble that makes considerable reference to the importance of the mission of post-secondary education for the future of the province. These points are truly central to the purpose of the legislation, and we are most pleased that that has been recognized in so clear a manner. We are particularly pleased to find a reference to the creation as well as sharing of knowledge, as research and scholarship are among the hallmarks that characterize universities.

The following additions will, we believe, reinforce the nature of the preamble as a series of statements of an appropriate vision for the system:

- (i) Change the first paragraph to read: "WHEREAS the creation and sharing of knowledge in an atmosphere of open and critical thought is essential to meaningful citizenship and participation in a democratic society;"
- (ii) Change the third paragraph to read: "AND WHEREAS it is essential to promote excellence in the post-secondary education system while ensuring diversity, choice and accessibility for students;"
- (iii) Change the fifth paragraph to read: "AND WHEREAS it is in the public interest to enact legislation that establishes a council to plan and co-ordinate, in consultation with universities and colleges, a strong and dynamic post-secondary

education system in the province that is **nationally and internationally competitive;**"

We hope you will agree that these changes help to outline the features of the kind of post-secondary system that the body of the legislation is designed to create.

3. We were pleased to learn, two weeks ago, that three changes to Bill 32 are to be introduced:

Clause 3(2)(a) will now read: Subject to the power to regulate programs under Section 14, in carrying out its mandate, the council may not interfere with (a) the basic right of a university or college to formulate **policies** and standards.

Subsection 11(b) will now read: . . . within a framework established by the minister **after consultation with the universities and colleges.**

Subsection 12(e) will now read: **in consultation with the universities and colleges** establish policies for tuition fees charged by universities and colleges.

The inclusion of the word "policies" in Clause 3.2 helps to alleviate concerns that were shared by all parts of the post-secondary community. The inclusion of the consultation with the universities and colleges in 11(b) and 12(e) begins to address our concerns about the dangers of unilateral government action in an area so complex as post-secondary education. The system will thrive only if institutions and governments work in partnership to achieve both short- and long-term objectives of the province. This will necessitate a move away from an emphasis on regulation and control toward an atmosphere of innovation, creativity, trust and co-operation.

In this spirit, we would suggest three further changes to Bill 32.

Section 4—Change to read: "In carrying out its mandate, the council shall operate **as an intermediary between the institutions and government, and within a framework of accountability established by the minister, who may give the council general direction on matters that relate to its mandate that are, in the minister's opinion, of significant public interest.**"

Subsection 11(b)(ii)—Change to read: "In accordance with those priorities, allocate funding to universities and colleges, or to programs within universities or colleges, with a view to avoiding unnecessary duplication of effort and to **promoting fiscal responsibility.**"

Subsection 14(2)—Change to read: "A university or college that wishes to establish a new program of study or facility involving money at the disposal of the council shall first obtain the council's written approval."

Our concern about this latter section of the bill as it is currently worded is that it could be construed so as to prevent internal reallocation of resources—something that we know government wishes us to be able to do.

Assuming our suggestion is accepted, the heading at the top of page 9 would then read: "Regulating new programs", and the definition of "reduce" on page 8 could be eliminated.

4. The opportunity to affect post-secondary education in Manitoba in a positive way is enormous at this juncture. We hope the government will keep in mind the critical importance of the appointments it makes to the new council, and will select persons deeply committed to and broadly knowledgeable about post-secondary education for this vitally important role.

We further urge that the cabinet level committee envisioned in the Roblin Report be put in place forthwith, in order to provide a clear and regular channel for communication at a senior level between government and institutions. Only in this way will the potential for post-secondary education to make its full contribution to the social, economic, intellectual and artistic life of Manitoba be realized.

This ends my comments on behalf of the seven universities and colleges.

On behalf of the University of Winnipeg, I wish to make two additional comments:

(a) Government's approvals, processes for universities have, in the past, been ill-suited to the kind of innovation and reallocation of resources that

universities are attempting to accomplish. As a primarily undergraduate university focused on excellence, forward thinking and innovation, we need the opportunity to make program changes and resource reallocation within much shorter time frames than are currently provided. The emphasis in the bill on regulation suggests this could become worse instead of better, and I urge strongly that this would be counterproductive.

- (b) The definition of "denominational theological program" creates significant difficulties for the University of Winnipeg. Our Faculty of Theology is non-denominational or inter-denominational by design, and our master's programs, especially the M.Div., are carried out by a consortium that involves a number of faith communities. We require clarification of the intent of this definition in order to be able to be helpful in formulating a substitute. I certainly hope that it was not intended to exclude our Faculty of Theology from the definition of "post-secondary education."

Presentation by Dr. Marsha P. Hanen
President & Vice Chancellor, The University of
Winnipeg, and as Chair of (COPUM) the Council of
Presidents of the Universities in Manitoba

* * *

Legislative Assembly
Legislative Building
Winnipeg, Manitoba
R3C 0V8

Dear Assembly Members:

The Past Presidents' Council of the Manitoba Association of School Business Officials has had opportunity to review Bill 72 and Bill 47. Enclosed you will find our association's comments regarding the suggested changes for both of these bills.

In addition to our comments on Bill 72, Section 131.5(c), a letter from Don Cornell, Secretary-Treasurer, Brandon School Division No. 40, to John D. Carlyle, Deputy Minister of Manitoba Education and Training, is attached for your consideration. Please note that the

concerns mentioned by Mr. Cornell will cause significant problems for school divisions and require serious consideration.

The Manitoba Association of School Business Officials appreciates the opportunity to provide comments in reference to changes to The Public Schools Act.

We trust our comments will be of assistance to you in your deliberations. Please feel free to call if you have any questions or concerns.

Yours truly,

Ed Klassen
President
The Manitoba Association of School Business Officials
Inc.

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Manitoba Association of School Business Officials
Presentation of Comments Regarding Bill 47
and the Proposed Changes to The Public Schools Act

September 16, 1996

The position of MASBO with reference to specific changes to The Public Schools Act as outlined in Bill 47 is as follows:

Appointment of auditor Section 41(8) to 41.1(3) - no concerns.

Section 70(b) Tendering - MASBO strongly supports this change.

Section 178(2) - delete the words "an estimate of" and "proposed." Currently the final budgets are submitted to the minister.

Section 201(2) - Investing money - fully supported.

* * *

October 11, 1996

Education Committee
Legislative Assembly

Clerk of the Legislature
Fax (204) 945-0038

Re: The Council on Post-Secondary Education Act: Bill
32

Bill 32, which is currently before you for study, raises one very important question. Should public universities, funded in part from the provincial purse, be governed as a branch of the public service? The amendments proposed in Bill 32 go a very long way in that direction.

As representatives of the academic staff of the University of Alberta, we have been in recent discussions with our own government on this matter. We have found, and we believe our minister would agree, that it is essential, for the interests both of the university and the public, that university autonomy be guaranteed in legislation. Institutional autonomy is the pattern that has been set for most public and private universities in the Western World for centuries. Some states, Germany, for

instance, guarantee university autonomy in the constitution. At the very least it should be guaranteed in the legislation establishing universities.

We suggest, therefore, that your committee amend the draft of the legislation before you. From our distance it would be presumptuous to suggest specific amendments but dialogue with the Manitoba Organization of Faculty Associations would appear advisable.

We wish you well in your deliberations. May you defend the universities as independent institutions in service of the people of Manitoba.

Yours sincerely,

W. Reuben Kaufman
President
Association of Academic Staff, University of Alberta
Edmonton, Canada